

# **LAND USE AND DEVELOPMENT CODE**

**Town of Gorham, Maine**

**Effective August 1, 1972**

**Amended through February 6, 2024**

## AMENDMENTS

### **CHANGE ALL ROMAN NUMERALS IN LAND USE AND DEVELOPMENT CODE TO ORDINAL NUMBERS – December 5, 2016**

#### **CHAPTER 1 – ZONING REGULATIONS**

- Section 1-4 – Board of Appeals – D. Appeal Procedure- *Amendment to add section to allow for a refund of Zoning Board of Appeals fees when CEO determination is overturned* – April 5, 2022
- Section 1-5 – Definitions – *Amendment to add definitions for “Construction Services,” “Farm/Roadside Stand,” and “Home Occupation”* – November 22, 2016
- Section 1-5 – Definitions – *Amend definition for “Day Care Center” and “Day Care Home”* – November 14, 2017
- Section 1-5 – Definitions – *Amend definition for “Net Acreage” - and “Net Residential Density”* – September 4, 2018
- Section 1-5 – Definitions – *Add definitions for “Self-Storage Facility” and “Warehousing Facilities”*-August 4, 2020
- Section 1-5 – Definitions – *Amendment to add definition for “Mixed-Use Developments”* – January 5, 2021
- Section 1-5 – Definitions - Section 1-6 – Urban Residential District – *Amendment to D. Space Standards-* January 5, 2021
- Section 1-5 – Definitions – *Amendment to add definition for “private ways”* – January 5, 2021
- Section 1-5 – Definitions – *Change definition for “street”* – January 5, 2021
- Section 1-5 – Definitions – *Amendment to add definitions for Adult-Use Marijuana Cultivation Facility, Adult-Use Marijuana Products Manufacturing Facility, Adult-Use Marijuana Testing Facility, Medical Marijuana Business, Medical Marijuana Caregiver, Medical Marijuana Manufacturing Facility, and Medical Marijuana Testing Facility* – April 6, 2021
- Section 1-5 – Definitions – *Amendment to add definitions for Agriculture, Agritourism, Farming, Marketing-* April 5, 2022
- Section 1-5 – Definitions – *Change definition for “Accessory Apartment”* – January 3, 2023
- Section 1-5 – Definitions – *Amendment to add definitions for Mixed-use Building, Mixed-use Development and Indoor Recreation Facility* – September 5, 2023
- Section 1-5 – Definitions – *Amendment to add definition for “Landscape Buffer”* – January 2, 2024
- Section 1-5 - B. Permitted Uses – *Amendment to include outdoor storage as an accessory use* – January 2, 2024
- Section 1-8 – Rural District – B. Permitted Uses – *Amendment to add Landscape Companies, Contractors’ Yards and Similar and Compatible Uses* – April 4, 2017
- Section 1-8 – Rural District – B. Permitted Uses – *Amendment to add Marijuana Cultivation or Manufacturing Facility* – July 7, 2020
- Section 1-8 – Rural District – B. Permitted Uses – *Amendment to add Medical Marijuana Business when inside existing agricultural building* – April 6, 2021
- Section 1-8 – Rural District – B. Permitted Uses – *Amendment to add Agritourism; Performance Standards for Agritourism Activity* – April 5, 2022
- Section 1-9 – Village Centers District – Subsection 1, Little Falls Village Center District – *Amendment to B. Permitted Uses* – January 5, 2021
- Section 1-9 – Village Centers District – Subsection 1, Little Falls Village Center District – *Amendment to D. Space Standards* – January 5, 2021
- Section 1-9 – Village Centers District – Subsection 1, Little Falls Village Center District – *Amendment to E. Performance Standards* – January 5, 2021
- Section 1-9 – Village Centers District – Subsection 1, Little Falls Village Center District- *Amendment to B, Permitted Uses – Add Office of Contractor or Tradesman-* July 5, 2022
- Section 1-9 – Village Centers District – Subsection 2 – Gorham Village Center District - *Amendment to B. Permitted Uses* – January 5, 2021
- Section 1-9 – Village Centers District – Subsection 2 – Gorham Village Center District - *Amendment to D. Space Standards* – January 5, 2021
- Section 1-9 – Village Centers District – Subsection 2 – Gorham Village Center District - *Amendment to E. Performance Standards* – January 5, 2021
- Section 1-9 – Village Centers District – Subsection 2 – Gorham Village Center District – *Amendment to B, Permitted Uses – Add Office of Contractor or Tradesman* – July 5, 2022
- Section 1-9 – Village Centers District - Subsection 2 E. Performance Standards – *Amendment to 13. Lighting to allow exterior string lighting for restaurant outdoor dining* - August 2, 2022
- Section 1-10 – Urban Commercial District – *Amendment to B. Permitted Uses* – January 5, 2021
- Section 1-10 – Urban Commercial District – *Amendment to D. Space Standards* – January 5, 2021
- Section 1-10 – Urban Commercial District – *Amendment to E. Performance Standards* – January 5, 2021

Section 1-10 – Urban Commercial District – B. Permitted Uses - *Amendment to Add Office of Contractor or Tradesman* – July 5, 2022

Section 1-10 – Urban Commercial District – Subsection 2 F. Performance Standards – *Amendment to 13. Lighting to allow exterior string lighting for restaurant outdoor dining* – August 2, 2022

Section 1-11 - Roadside Commercial District – B. Permitted Uses - *Amendment to add Mobile Vending Units* - March 6, 2018

Section 1-11 – Roadside Commercial District – B. Permitted Uses – *Amendment to add Self-Storage Facilities; Add E. Performance Standards* – August 4, 2020

Section 1-11 – Roadside Commercial District – B. Permitted Uses – *Amendment to add Office of Contractor or Tradesman* – July 5, 2022

Section 1-11 – Roadside Commercial District – B. Permitted Uses – *Amendment to add eavy Machinery and Equipment retails sales and services* – August 2, 2022

Section 1-11 – Roadside Commercial District – E. Performance Standards – *Amendment to 2) b), Utilities – to remove number 2. underground utilities* – August 1, 2023.

Section 1-12 - Industrial District – B. Permitted Uses - *Amendment to add Mobile Vending Units* – March 6, 2018

Section 1-12 – Industrial District – B. Permitted Uses - *Amendment to add Marijuana Cultivation or Manufacturing Facility* – July 7, 2020

Section 1-12 – Industrial District – B. Permitted Uses – *Amendment to add Medical Marijuana Business* – April 6, 2021

Section 1-12 – Industrial District – B Permitted Uses – *Amendment to add Office of Contractor or Tradesman* – July 5, 2022

Section 1-12 – Industrial District – B. Permitted Uses- *Amendment to add Heavy Machinery and Equipment retails sales and services* – August 2, 2022

Section 1-13 – Commercial Office District –*Changed to Mosher Corner Mixed Use – Change Permitted Uses; Special Exceptions; and Performance Standard* - October 5, 2021

Section 1-13- Mosher Corner Mixed Use – B. Permitted Uses – *Amendment to add Home Occupations as Permitted Use* – October 5, 2021

Section 1-13 – Mosher Corner Mixed Use – B. Permitted Uses – *Amendment to add Office of Contractor or Tradesman* – July 5, 2022

Section 1-13 – Mosher Corner Mixed Used – E. Performance Standards – *Amendment to 2) b), Utilities – to remove number 3. underground utilities* – August 1, 2023.

Section 1-14 – Office Residential District – B. Permitted Uses – *Amendment to add Retail Sales; F. Performance Standards- Add Performance Standard 13-* May 16, 2017

Section 1-14 – Office-Residential District – B. Permitted Uses – *Amendment to add Personal Services*, April 2, 2019

Section 1-14 – Office Residential District – B. Permitted Uses – *Amendment to add Office of Contractor or Tradesman* – July 5, 2022

Section 1-16 - Narragansett Development District – B. Permitted Uses - *Amendment to add Mobile Vending Units* – March 6, 2018

Section 1-16 – Narragansett Development District – B. Permitted Uses – *Amendment to add Personal Services* – April 6, 2021

Section 1-16 – Narragansett Development District – D. Dimensional Standards – *Amendment to 2) d), Minimum and Side Rear Yard* – April 6, 2021

Section 1-16 – Narragansett Mixed-Use District – B. Permitted Uses – *Amendment to add Accessory Uses Including Home Occupations* – October 5, 2021

Section 1-16 – Narragansett Mixed-Use District – E. Performance Standards – *Amendment to 5), Public Utilities – to remove letter b) underground utilities* – August 1, 2023.

Section 1-18 – Development Transfer Overlay District – *Amendment to D. Space Standards* – January 5, 2021

Section 1-18 – Development Transfer Overlay District – *Amendments to E. Performance Standards, 2. Design Standards* – January 5, 2021

Section 1-20 – McLellan-Sampson House – *Amendment to create new Chapter Section for Conditional Zone for McLellan-Sampson House* - December 1, 2015

Section 1-21 - *Amendment to create new Chapter Section for Olde Canal Industrial District* – September 5, 2017

Section 1-21 – Olde Canal Industrial District – B. Permitted Uses – *Amendment to add Marijuana Cultivation or Manufacturing Facility* – July 7, 2020

Section 1-21 – Olde Canal Industrial District – B. Permitted Uses - *Amendment to add Medical Marijuana Business* – April 6, 2021

Section 1-21 – Olde Canal Industrial District – B. Permitted Uses – *Amendment to add Office of Contractor or Tradesman* – July 5, 2022

Section 1-22 - *Amendment to create new Chapter Section for Agricultural/Industrial District* – October 3, 2017

Section 1-22 - Agricultural/Industrial District – B. Permitted Uses - *Amendment to add Mobile Vending Units as permitted uses* – March 6, 2018

Section 1-22 – Agricultural/Industrial District – B. Permitted Uses – *Amendment to add Office of Contractor or Tradesman* – July 5, 2022

Section 1-22 – *Amendments regarding the standards in the Agricultural Industrial District* – April 4, 2023

Section 1-23 – *Amendment to create new Chapter Section for Small Dwelling Overlay District* – December 4, 2018

Section 1-24- *Amendment to create new Chapter Section for Urban Residential Expansion District*- February 1, 2022

Section 1-24 – Urban Residential Expansion District – B. Permitted Uses - *Amendment to add agricultural uses into the Urban Residential (Village) Expansion Zoning District.* – April 4, 2023

Section 1-24 – Urban Residential Expansion District – E. Performance Standards – *Amendment to 2) & 3), Utilities – to remove letter a. under both 2) & 3), underground utilities* – August 1, 2023.

Section 1-25 – *Amendment to create new Chapter Section for South Gorham Commercial District* – January 3, 2023

Section 1-25 – South Gorham Commercial District – D. Site Performance Standards – *Amendment to 12), Public Utilities – remove letter b), underground utilities* – August 1, 2023.

Section 1-25 – South Gorham Commercial District – *Section title amended to South Gorham Commercial Corridor District* – September 5, 2023

Section 1-26 – White Rock Mixed Use District – *New section added* – August 17, 2023

Section 1-27 – South Gorham Crossroads District – *New section added* – September 5, 2023

## **CHAPTER 1A – PLANNED UNIT DEVELOPMENT**

Section 1A-6 – Planned Unit Development Site Plan Approval – B – 8. Application for Planned Unit Development Site Plan/Subdivision Approval – *Amendment pertaining to underground utilities* – August 1, 2023.

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

Section 2-2 – Off-Street Parking Standards – *Amendments to include “Mobile Vending Units” and “Mobile Vending Units with Exterior Seating”* - March 6, 2018

Section 2-2 – Off-Street Parking – *Amendment to delete in Section 2-2 - C. Parking, Loading and Traffic, C. Access and Parking Layout* – August 4, 2020

Section 2-2 – Off-Street Parking Standards – *Amendments to Add Mixed-Use Developments* – January 5, 2021

Section 2-2 – *Off-Street Parking Standards* – *Amendment to remove Accessory Apartments* – January 3, 2023

Section 2-3 – Signs: *Amendments pertaining to Village Shared Entrance Signs* – October 6, 2015

Section 2-3 – Signs: *Amendments pertaining to Farm Stand Directional Signs* – March 1, 2016

Section 2-3 – Signs: *Amendment pertaining to Projecting Signs* – April 5, 2016

Section 2-3 – Signs: *Amendment pertaining to Barber Poles* – March 7, 2017

Section 2-3 – Signs: *Amendments to include Sandwich Board/A-Frame Signs* – August 7, 2018

Section 2-4 – Residential – B. *Amendment pertaining to Multi-Family Housing* – December 4, 2018

Section 2-4 – Residential – C: *Amendments pertaining to Accessory Apartments* – July 7, 2015

Section 2-4 – Residential – *Amendments to add new section D. Mixed-Use Developments* – January 5, 2021

Section 2-4 – Residential – *Amendments pertaining to standards for Section A. Clustered Residential Development* – March 2, 2021

Section 2-4 – Residential – *Amendments pertaining to B. Performance Standards for Multi-Family Housing* – June 7, 2022

Section 2-4 – Residential – *Amendments pertaining to C. Accessory Apartments* – January 3, 2023

Section 2-4 – Residential – *Amendment pertaining to A. Clustered Residential Development – 6, f) underground utilities* – August 1, 2023

Section 2-4 – Residential – *Amendment pertaining to B. Performance Standards for Multi-Family Housing – 1, b) underground utilities* – August 1, 2023

Section 2-4 – Residential – *Amendment pertaining to B. Performance Standards for Multi-Family Housing – 1, b) underground utilities* – August 1, 2023

Section 2-4 – Residential – *Amendment pertaining to A. Clustered Residential Development – 6, b) streets* – February 6, 2024

Section 2-5 – Street Design Standards – Public Ways - *Amendment pertaining to Sidewalk Extensions* - January 2, 2018

Section 2-5 – Street Design Standards – Private Ways – *Amendment pertaining to Standards for Private Ways* – July 2, 2019



Section 2-5 – Minimum Standards for the Design and Construction of Streets and Ways – *Amendment to Add 25-lot Paved Private Ways* – January 5, 2021

Section 2-5 – Minimum Standards for the Design and Construction of Streets and Ways – *Amendments to the Street Acceptance Process* – January 5, 2021

Section 2-5 – Minimum Standards for the Design and Construction of Streets and Ways – *D. New definitions added* – February 6, 2024

Section 2-5 – Minimum Standards for the Design and Construction of Streets and Ways – *H. Amendment to add Standards for Access Management* – February 6, 2024

Section 2-6 – Campground Overlay District - Establishment – *Amendment pertaining to 8) – underground utilities* – August 1, 2023

Section 2-10 – Amended Section Title – *Provision of Utilities* – August 1, 2023

Section 2-10A – Amended to add Section – *Provision of Underground Utilities* – August 1, 2023

Section 2-11– Fire Protection Water Supply – *Amendment pertaining to Standards for Installation of Fire Services* – December 4, 2018

Section 2-12 - *Amendment to add agricultural uses into the Urban Residential (Village) Expansion Zoning District.* – April 4, 2023

Section 2-14 – *Amendment regarding dog kennel standards setbacks* – April 4, 2023

Section 2-15 – Amendment to add Section - *Home Occupation Standards* – November 22, 2016

Section 2-15 – Home Occupation Standards – *Amendment to add Medical Marijuana Caregiver* – April 6, 2021

Section 2-15 – Home Occupation Standards – *Amendment to add standards for Home Occupations for Medical Marijuana Caregivers* – April 6, 2021

Section 2-16 – Amendment to add Section – *Mobile Vending Units* – March 6, 2018

Section 2-16 – Amendment to permit mobile vending units identified in Mobile Vending Unit Overlay District – August 2, 2022

Section 2-17 – Amendment to add Section – *Adult Use-Marijuana Cultivation for Personal Use* – August 6, 2019

Section 2-18 – Amendment to add Section – *Outdoor Dining* – August 2, 2022

### **CHAPTER 3 – SUBDIVISION**

Section 3-3 – Preliminary Plan - Requirements – *Amendment pertaining to High Intensity Soils Survey* – September 4, 2018

Section 3-3 – Preliminary Plan – *Amendment pertaining to B. Requirements – 18) underground utilities* – August 1, 2023

Section 3-5 – Post Approval Activities – A. Performance Guarantee - *Amendment to permit Subdivision Development in separate and distinct phases* – April 5, 2022

### **CHAPTER 4 – SITE PLAN REVIEW**

Section 4-3 – Classification of Projects, Section 4-7 – Procedures for Review of Minor Developments, Section 4-8 – Procedures for Major Developments – *Amendment pertaining to C. Proposed Development Activity – 9. underground utilities* – August 1, 2023

Section 4-9 – Approval Criteria and Standards – *Amendment pertaining to J. Utilities, underground utilities* – August 1, 2023

Section 4-13 – Post Approval Activities – *Amendments pertaining to Site Plan Review* – June 7, 2022

### **CHAPTER 5 – FLOODPLAIN MANAGEMENT**

### **CHAPTER 6 – WIRELESS TELECOMMUNICATIONS FACILITIES**

### **CHAPTER 7 – IMPACT FEES**

Section 7-2 – Middle School Impact Fees –*Amendment to reinstate a Middle School Impact Fee* – 7 September 3, 2019

Section 7-1 – Impact Fee Waiver – *Amendment to waive impact fees* - January 7, 2020

Section 7-3 – *Amendments regarding Recreation Impact Fees and expansion of eligible projects* – April 4, 2023

### **ZONING MAP AMENDMENTS**

Expand Development Transfer Overlay District to include areas of Mosher's Corner and the vicinity of Lowell Road – July 7, 2020

Amend Rural zoning district to Suburban Residential zoning district in the area between Wards Hill Road southerly to the Little River – July 7, 2020

Amendment to add Urban Residential Expansion District and Amend Suburban Residential zoning district to reflect changes to area adjacent to Little Falls Area – February 1 2022

Mobile Vending Unit Overlay District Map – August 2, 2022

Amend Rural and Suburban Residential zoning districts to Urban Residential Expansion District in the area of South Street to Brackett Road. And amend Rural zoning district to Suburban Residential in the area of New Portland Road and Lowell Road – October 4, 2022

Amend Rural and Suburban Residential zoning districts to Urban Residential Expansion District in the area around Gray Road, Libby Avenue and Queen Street and bounded by the Little River to the north and the Presumpscott River to east – January 3, 2023

Amendment to add South Gorham Commercial Corridor district and amend the Rural and Suburban Residential Districts, in the area along County Road, to South Gorham Commercial Corridor – January 3, 2023

Amendment to zoning map in the area between the Gorham By-Pass and South Street to the Urban Residential Expansion District – April 4, 2023

Amendment to zoning map to expand the Agricultural Industrial Zoning District – April 4, 2023

## **PREFACE**

This Code has been prepared for the purpose of codifying in a single document the various land use regulations and development review procedures ordinarily distributed among the zoning ordinance, subdivision regulations, site review ordinance and street acceptance ordinance.

The text is divided into five chapters. The first chapter consists of the basic content of the zoning ordinance: what uses can go where and related procedures for appeal and routine administration.

Chapter 1A sets forth the requirements, review procedures and criteria for designation of Planned Unit Development Districts and the development of PUDS.

The second chapter deals with performance standards for those uses, including standards relating to environmental protection, mineral extraction and gravel pit operations, buffering, parking and loading, traffic and access, signs, clustered residential and multifamily residential development, public streets and private ways, campgrounds and trailer parks, manufactured housing units, and fees charged for independent consulting.

The third chapter sets forth the criteria and procedures for reviewing subdivision proposals in the Town, supplementing the state subdivision statute.

The fourth chapter contains the standards and procedures for reviewing the site plans of commercial, retail, industrial, institutional, or multifamily residential uses.

The fifth chapter contains a federally required floodplain management ordinance, customized for the Town of Gorham.

The sixth chapter contains a wireless telecommunications facilities ordinance.

The seventh chapter sets forth provisions for the adoption of impact fees associated with specific capital projects.

The appendix consists of a series of applications and review checklists for the use of the municipal staff and developers in reviewing proposed developments.

## TABLE OF CONTENTS

### CHAPTER 1: ZONING REGULATIONS

SECTION 1-1 – GENERAL.....	3
Purpose.....	3
Establishment of Zones.....	3
Zoning Maps.....	3
Compliance Required.....	4
Conflict with other Ordinances.....	4
Separability.....	5
Changes and Amendments.....	5
Contract Zoning.....	6
SECTION 1-2 – NON CONFORMANCE.....	8
SECTION 1-3- ADMINISTRATION.....	10
Enforcement Officer.....	10
Legal Action and Violations.....	10
Fines and Penalties.....	10
Building Permit.....	10
Application.....	10
Certificate of Occupancy.....	11
Fee.....	12
Driveway Permits.....	12
Emergency Housing.....	12
SECTION 1-4 – BOARD OF APPEALS.....	14
Appointment and Composition.....	14
Powers and Duties.....	14
Conditions.....	16
Appeal Procedure.....	16
Special Exception Standards.....	18
Special Exception Fees.....	18
Notification.....	19
SECTION 1-5 - DEFINITIONS.....	20
SECTION 1-6 – URBAN RESIDENTIAL DISTRICT.....	36
Purpose.....	36
Permitted Uses.....	36
Special Exceptions.....	36
Space Standards.....	37
Performance Standards.....	37
SECTION 1-7 – SUBURBAN RESIDENTIAL DISTRICT.....	38
Purpose.....	38
Permitted Uses.....	38
Special Exceptions.....	38
Space Standards.....	39
Performance Standards.....	39
Density Bonus.....	41
SECTION 1-8 – RURAL DISTRICT.....	42
Purpose.....	42
Permitted Uses.....	43
Special Exceptions.....	43
Space Standards.....	43
Performance Standards.....	44

SECTION 1-9 – VILLAGE CENTERS DISTRICT.....	46
Subsection 1 – Little Falls Village Center District.....	46
Purpose.....	46
Permitted Uses.....	46
Special Exceptions.....	46
Space Standards.....	47
Performance Standards.....	47
Subsection 2 – Gorham Village Center District.....	48
Purpose.....	48
Permitted Uses.....	48
Special Exceptions.....	48
Space Standards.....	49
Performance Standards.....	49
SECTION 1-10 – URBAN COMMERCIAL DISTRICT.....	54
Purpose.....	54
Permitted Uses.....	54
Special Exceptions.....	54
Space Standards.....	54
Performance Standards.....	55
SECTION 1-11 – ROADSIDE COMMERCIAL DISTRICT.....	60
Purpose.....	60
Permitted Uses.....	60
Special Exceptions.....	60
Space Standards.....	60
Performance Standards.....	61
SECTION 1-12 – INDUSTRIAL DISTRICT.....	62
Purpose.....	62
Permitted Uses.....	62
Special Exceptions.....	62
Space Standards.....	62
Performance Standards.....	63
SECTION 1-13 – MOSHER CORNER MIXED USE.....	64
Purpose.....	64
Permitted Uses.....	64
Special Exceptions.....	65
Space Standards.....	65
Performance Standards.....	65
SECTION 1-14 – OFFICE-RESIDENTIAL DISTRICT.....	67
Purpose.....	67
Permitted Uses.....	67
Special Exceptions.....	67
Space Standards, Residential and Accessory.....	67
Space Standards, Non-Residential.....	67
Performance Standards.....	68
SECTION 1-15 – MANUFACTURED HOUSING PARK OVERLAY DISTRICT.....	70
Purpose.....	70
Selection Criteria.....	70
Permitted Uses.....	70
Special Exception.....	70
Space Standards.....	70
Performance Standards.....	71

Other Requirements.....	72
SECTION 1-16 - NARRAGANSETT MIXED –USE DEVELOPMENT DISTRICT.....	73
Purpose.....	73
Permitted Uses.....	73
Dimensional Standards.....	74
Performance Standards.....	74
Density Bonus Provisions and Standards.....	75
SECTION 1-17 – BLACK BROOK AND BRACKETT ROAD SPECIAL PROTECTION DISTRICT.....	77
Purpose.....	77
Applicability.....	77
Prohibited Activities.....	77
Development to Extend Public Water.....	77
Limited Water Resource Management Area.....	78
Abandonment of Wells.....	78
Enforcement and Violations.....	78
Conflict with Other Ordinances.....	78
Separability.....	78
Expiration.....	79
SECTION 1-18 – DEVELOPMENT TRANSFER OVERLAY DISTRICT.....	80
Purpose.....	80
Applicability.....	80
Permitted Uses.....	81
Space Standards.....	81
Performance Standards.....	82
SECTION 1-19 – 10 PREBLE STREET CONDITIONAL ZONE.....	86
Purpose.....	86
Permitted Uses.....	86
Space Standards.....	86
Performance Standards.....	86
SECTION 1-20 – MCLELLAN-SAMPSON HOUSE CONDITIONAL ZONE.....	87
Purpose.....	87
Permitted Uses.....	87
Space Standards.....	87
Performance Standards.....	87
SECTION 1-21 – OLDE CANAL INDUSTRIAL DISTRICT.....	88A
Purpose.....	88A
Permitted Uses.....	88A
Space Standards.....	88A
Performance Standards.....	88B
SECTION 1-22 – AGRICULTURAL/INDUSTRIAL DISTRICT.....	88C
Purpose.....	88C
Permitted Uses.....	88C
Space Standards.....	88C
Performance Standards.....	88D
SECTION 1-23 – SMALL DWELLING OVERLAY DISTRICT.....	
Structure Requirements.....	88G
Space Standards.....	88G
Bonus Unit Provisions.....	88G
Off-street Parking Standards.....	88G

SECTION 1-24 – URBAN RESIDENTIAL EXPANSION DISTRICT	
Purpose.....	88I
Permitted Uses.....	88I
Special Exceptions.....	88I
Space Standards.....	88I
Performance Standards.....	88J
SECTION 1-25 – SOUTH GORHAM COMMERICAL CORRIDOR DISTRICT	
Purpose.....	88K
Permitted Uses.....	88K
Dimensional Standards.....	88L
Site Performance Standards.....	88L
SECTION 1-26 – WHITE ROCK MIXED USE DISTRICT	
Purpose.....	88S
Permitted Uses.....	88S
Special Exceptions.....	88S
Space Standards.....	88T
Performance Standards.....	88T
SECTION 1-27 – SOUTH GORHAM CROSSROADS DISTRICT	
Purpose.....	88V
Permitted Uses.....	88V
Dimensional Standards.....	88W
Site Performance Standards.....	88X
<u>CHAPTER 1A: PLANNED UNIT DEVELOPMENT</u>	
SECTION 1A-1 – PURPOSE.....	89
SECTION 1A-2 - PERMITTED USES.....	90
Allowable base density.....	92
Affordable Housing.....	92
Open Space.....	93
Off-street parking.....	94
Buffer Yards.....	94
Traffic Impacts.....	96
Public Utilities and Service Impacts.....	96
Dimensional Standards.....	96
SECTION 1A-4 - DENSITY BONUS PROVISIONS AND STANDARDS.....	98
SECTION 1A-5 - PLANNED UNIT DEVELOPMENT ZONING DESIGNATION.....	100
Pre-application conference.....	100
Application for Zoning Amendment.....	100
General Plan for Planned Unit Development.....	100
Review Procedures for General Plan and Zoning Amendment.....	102
Required findings.....	103
Amendments to General Plan.....	103
SECTION 1A-6 - PLANNED UNIT DEVELOPMENT SITE PLAN APPROVAL.....	105
SECTION 1A-7 - WAIVER.....	108
<u>CHAPTER 2: GENERAL STANDARDS OF PERFORMANCE</u> .....	109
SECTION 2-1 - ENVIRONMENTAL.....	111
Soil Suitability.....	111
Prevention of Erosion.....	111
Mineral Exploration, Excavation and Gravel Pits.....	112

Floodplain Management.....	123
Shoreland Area Protection.....	124
Waste Water Pollution.....	142
Air Pollution.....	143
Noise Abatement.....	143
Buffer Areas.....	144
SECTION 2-2 - PARKING, LOADING AND TRAFFIC.....	146
Off-Street Parking Standards.....	146
Off-Street Loading Standards.....	149
Access and Parking Layout.....	150
Corner Clearances.....	151
Future Roads.....	151
SECTION 2-3 - SIGNS.....	152
Applicability.....	152
Computation of Sign Area and Height.....	152
Exempt Signs.....	153
Prohibited Signs, Displays and Related Materials.....	153
Performance Standards.....	155
Permitted Residential Signs.....	159
Permitted Non-Residential Signs.....	159
Village Environment.....	159
Roadside Environment.....	162
Industrial/Business Park Environment.....	163
Residential Environment.....	165
Official Business Directional Signs.....	166
Industrial Park Identification Signs.....	167
Portable Signs.....	167
Continuation and Termination of Nonconforming Signs.....	168
Allowance of Additional Wall Signs or Wall Sign Area.....	169
Allowance to Additional Freestanding Signs for Corner Lots.....	169
SECTION 2-4 - RESIDENTIAL.....	171
Clustered Residential Development.....	171
Performance Standards for Multi-Family Housing.....	173
Accessory Apartments.....	174
SECTION 2-5 - MINIMUM STANDARDS FOR THE DESIGN AND CONSTRUCTION OF STREETS AND WAYS.....	175
Purpose.....	175
General.....	175
Access to Adjoining Land.....	175
Definitions.....	176
Acceptance of Streets and Ways.....	177
Street Design Standards – Public Ways.....	179
Street Construction Standards and Specifications.....	180
Standards for Private Ways.....	188
Subdivision, Private Way and Site Construction Monitoring of Public Improvements.....	189
Street Classification Tables and Road Schematics (following p.190)	
SECTION 2-6 – CAMPGROUND OVERLAY DISTRICT.....	192
SECTION 2-7 – INSTALLATION OF MANUFACTURED HOUSING UNITS.....	193
SECTION 2-8 – BED AND BREAKFAST FACILITIES (INCLUSIVE OF BED AND BREAKFAST, BED AND BREAKFAST ESTABLISHMENT WITH AND WITHOUT PUBLIC DINING, AND INN)	194



SECTION 2-9 – INDEPENDENT CONSULTING AND PEER REVIEW FEES.....	196
SECTION 2-10 – THE PROVISION OF PUBLIC WATER SUPPLY.....	197
SECTION 2-11 – FIRE PROTECTION WATER SUPPLY.....	201
SECTION 2-12 – KEEPING OF URBAN FARM ANIMALS.....	204
SECTION 2-13 – WIND ENERGY SYSTEMS.....	206
Authority.....	206
Purpose.....	206
Conflict with Other Ordinances.....	206
Severability.....	206
Permit Requirements.....	206
Definitions.....	206
Permitted Uses .....	207
Non-Conformance Exception.....	207
Performance Standards .....	207
MET Towers.....	209
SECTION 2-14 – DOG KENNEL STANDARDS.....	211
Purpose.....	211
Standards.....	211
SECTION 2-15 – HOME OCCUPATION STANDARDS.....	213
SECTION 2-16 – MOBILE VENDING UNITS.....	214A
SECTION 2-17 – ADULT-USE MARIJUANA CULTIVATION FOR PERSONAL USE.....	214C
SECTION 2-18 – OUTDOOR DINING.....	214E
<u>CHAPTER 3: SUBDIVISION</u> .....	215
SECTION 3-1 – AUTHORITY AND ADMINISTRATION.....	216
Purpose.....	216
Authority.....	216
Administration.....	216
Enforcement.....	216
Fines and Penalties.....	216
Variation.....	217
Conflict with Other Ordinances.....	217
Appeals.....	217
Severability.....	217
SECTION 3-2 – PRE-APPLICATION.....	218
Conference.....	218
SECTION 3-3 – PRELIMINARY PLAN.....	219
Application.....	219
Requirements.....	219
Preliminary Plan Review.....	221
SECTION 3-4 – FINAL PLAN.....	223
Application.....	223
Requirements.....	223
Final Plan Review.....	225
SECTION 3-5 – POST APPROVAL ACTIVITIES.....	225

<u>CHAPTER 4: SITE PLAN REVIEW</u> .....	229
SECTION 4-1 – PURPOSE .....	230
SECTION 4-2 – APPLICABILITY.....	231
SECTION 4-3 – CLASSIFICATION OF PROJECTS.....	232
SECTION 4-4 – REVIEW AND APPROVAL AUTHORITY.....	233
SECTION 4-5 – OPERATION OF SITE PLAN REVIEW COMMITTEE.....	234
SECTION 4-6 – CLASSIFICATION PROCEDURES.....	234
SECTION 4-7 – PROCEDURES FOR AN ADMINISTRATIVE REVIEW OF DEVELOPMENTS.....	234
SECTION 4-8 – PROCEDURES FOR MAJOR DEVELOPMENTS.....	240
SECTION 4-9 – POST APPROVAL CRITERIA AND STANDARDS.....	248
SECTION 4-10 – POST APPROVAL ACTIVITIES.....	254
SECTION 4-11 – FEES.....	257
SECTION 4-12 – WAIVERS.....	258
SECTION 4-13 – APPEAL OF PLANNING BOARD ACTIONS .....	258A
<u>CHAPTER 5: FLOODPLAIN MANAGEMENT</u> .....	259
SECTION 5-1 – PURPOSE AND ESTABLISHMENT.....	260
SECTION 5-2 – PERMIT REQUIRED.....	260
SECTION 5-3 – APPLICATION FOR PERMIT.....	260
SECTION 5-4 – APPLICATION AND INDEPENDENT CONSULTING FEES.....	262
SECTION 5-5 – REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS.....	263
SECTION 5-6 – DEVELOPMENT STANDARDS.....	265
SECTION 5-7 – CERTIFICATE OF COMPLIANCE.....	270
SECTION 5-8 – REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS.....	272
SECTION 5-9 – APPEALS AND VARIANCES.....	268
SECTION 5-10 – ENFORCEMENT AND PENALTIES.....	274
SECTION 5-11 – VALIDITY AND SEVERABILITY.....	275
SECTION 5-12 – CONFLICT WITH OTHER ORDINANCES.....	275
SECTION 5-13 – DEFINITIONS APPLICABLE TO CHAPTER.....	275
SECTION 5-14 – ABROGATION.....	280

SECTION 5-15 – WARNING AND DISCLAIMER OF LIABILITY.....	281
<u>CHAPTER 6– WIRELESS TELECOMMUNICATIONS FACILITIES.....</u>	<u>283</u>
SECTION 6-1 – AUTHORITY.....	283
SECTION 6-2 – PURPOSE .....	283
SECTION 6-3 – APPLICABILITY.....	283
SECTION 6-4 – REVIEW AND APPROVAL AUTHORITY.....	286
SECTION 6-5 – APPROVAL PROCESS.....	287
SECTION 6-6 – STANDARDS OF REVIEW.....	293
SECTION 6-7 – AMENDMENT TO AN APPROVED APPLICATION.....	297
SECTION 6-8 – NONCONFORMING FACILITY.....	298
SECTION 6-9 – MAINTENANCE.....	299
SECTION 6-10 – ABANDONMENT.....	300
SECTION 6-11 – APPEAL PROCEDURE.....	301
SECTION 6-12 – ADMINISTRATION AND ENFORCEMENT.....	302
SECTION 6-13 – PENALTIES.....	303
SECTION 6-14– CONFLICT AND SEVERABILITY.....	304
SECTION 6-15 – DEFINITIONS.....	305
SECTION 6-16– EFFECTIVE DATE.....	308
<u>CHAPTER 7 – IMPACT FEES.....</u>	<u>309</u>
SECTION 7-1 – GENERAL .....	310
Purpose.....	310
Authority.....	310
Payment of Impact Fees.....	310
Impact Fee Accounts.....	310
Use of Impact Fees.....	310
Refund of Impact Fees.....	311
Waiver of Impact Fees.....	311
Review and Revision.....	311
SECTION 7-2 – MIDDLE SCHOOL FACILITIES IMPACT FEE #1 RESERVED.....	312
SECTION 7-3 – RECREATIONAL FACILITIES AND OPEN SPACE IMPACT FEE #2.....	313
Description of the Improvements.....	313
Need for the Improvement.....	313
Activities Subject to the Fee.....	313
Calculation of the Fee.....	314
Effective Dates.....	315
SECTION 7-4– FORT HILL WATER MAIN EXTENSION IMPACT FEE Description of the Improvement.....	316

Need for the Improvement.....	316
Activities Subject to the Fee.....	317
Calculation of the Fee.....	317
Effective Dates.....	317

## CHAPTER 1: ZONING REGULATIONS

### SECTION 1-1 - GENERAL

- Purpose
- Establishment of Zones
- Zoning Maps
- Compliance Required
- Conflict with other Ordinances
- Separability
- Changes and Amendments
- Contract Zoning

### SECTION 1-2- NON CONFORMANCE

### SECTION 1-3- ADMINISTRATION

- Enforcement Officer
- Legal Action and Violations
- Fines
- Building Permit
- Application
- Certificate of Occupancy
- Fee
- Driveway Permits
- Emergency Housing

### SECTION 1-4 - BOARD OF APPEALS

- Appointment and Composition
- Powers and Duties
- Conditions
- Appeal Procedure
- Special Exception Standards
- Special Exception Fees
- Notification

### SECTION 1-5 - DEFINITIONS

### SECTION 1-6 - URBAN RESIDENTIAL DISTRICT

### SECTION 1-7 - SUBURBAN RESIDENTIAL DISTRICT

### SECTION 1-8- RURAL DISTRICT

### SECTION 1-9- VILLAGE CENTERS DISTRICT

- Subsection – Little Falls Village Center District
- Subsection – Gorham Village Center District

### SECTION 1-10 - URBAN COMMERCIAL DISTRICT

### SECTION 1-11 - ROADSIDE COMMERCIAL DISTRICT

### SECTION 1-12 - INDUSTRIAL DISTRICT

### SECTION 1-13 – MOSHER CORNER MIXED USE

### SECTION 1-14 - OFFICE-RESIDENTIAL DISTRICT

### SECTION 1-15 - MANUFACTURED HOUSING PARK OVERLAY DISTRICT

SECTION 1-16 - NARRAGANSETT MIXED-USE DEVELOPMENT DISTRICT

SECTION 1-17 – BLACK BROOK AND BRACKETT ROAD SPECIAL PROTECTION  
DISTRICT

SECTION 1-18 – DEVELOPMENT TRANSFER OVERLAY DISTRICT

SECTION 1-19 - 10 PREBLE STREET CONDITIONAL ZONE

SECTION 1-20 – MCLELLAN-SAMPSON HOUSE CONDITIONAL ZONE

SECTION 1-21 – OLDE CANAL INDUSTRIAL DISTRICT

SECTION 1-22 – AGRICULTURAL/INDUSTRIAL DISTRICT

SECTION 1-23 – SMALL DWELLING OVERLAY DISTRICT

SECTION 1-24 – URBAN RESIDENTIAL EXPANSION DISTRICT

SECTION 1-25 – SOUTH GORHAM COMMERCIAL CORRIDOR DISTRICT

SECTION 1-26 – WHITE ROCK MIXED USED DISTRICT

SECTION 1-27 – SOUTH GORHAM CROSSROADS DISTRICT

## **CHAPTER 1 ZONING REGULATIONS**

### **SECTION 1-1 - GENERAL**

#### **A. PURPOSE**

This Chapter is designed for all the purposes of zoning embraced in Maine Revised Statutes and has been drafted as an integral part of a Comprehensive Plan for the Town of Gorham, Maine, to promote the health, safety and general welfare of its residents. Among other things, it is designed to encourage the most appropriate use of land throughout the Town; to promote traffic safety; to provide safety from fire and other hazards; to provide adequate light and air; to prevent overcrowding of real estate; to promote a wholesome home environment; to prevent housing development in unsanitary areas; to provide an adequate street system; to promote the coordinated development of unbuilt areas; to encourage the formation of community units; to provide an allotment of land area in new developments sufficient for all the requirements of community life; to conserve natural resources; and to provide for adequate public services.

#### **B. ESTABLISHMENT OF ZONES**

To implement the provisions of this Chapter, the Town of Gorham is hereby divided into the following classes of Districts:

Urban Residential	UR
Suburban Residential	SR
Rural	R
Village Centers	VC
Urban Commercial	UC
Roadside Commercial	RC
Industrial	I
Office-Residential	OR
Shoreland Overlay District	
Resource Protection Subdistrict	
Stream Protection Subdistrict	

#### **C. ZONING MAPS**

The location and boundaries of the above districts are hereby established as shown on a map entitled "Zoning Map of the Town of Gorham," dated 1975, and on the "Official Shoreland Zoning Map," adopted June 2, 1992, as amended, prepared by the Gorham Planning Board and kept on file at the Gorham Municipal Office, which maps with all explanatory matter thereon, and all amendments thereto, shall be deemed to be and are hereby made part of this Code. When uncertainty exists with respect to district boundaries as shown upon the "Zoning Map of the Town of Gorham," or amendments thereto, the following shall apply:

- 1) Unless otherwise indicated, district boundary lines are the center lines, plotted at the time of adoption of this Code of streets, alleys, parkways, waterways, or rights-of-way of public utilities and railroads or such lines extended.
- 2) Other district boundary lines which are not listed in the preceding paragraph shall be considered as lines paralleling a street and at distances from the center lines of such streets as indicated by the official Zoning Maps on file in the Gorham Municipal Office. In the absence of a written dimension, the graphic scale on the official Zoning Maps shall be used.

**D. COMPLIANCE REQUIRED**

- 1) No building or structure shall be erected, altered, enlarged, rebuilt, moved or used and no premises shall be used unless in conformity with the provisions of this Code except as otherwise provided in Section 2 of this Chapter.
- 2) The regulations specified by this Code for each class of district shall be minimum requirements and shall apply uniformly to each class or kind of structure or land.
- 3) Land within the lines of a street on which a lot abuts shall not be considered as part of such lot for the purposes of meeting the area requirements of this chapter notwithstanding the fact that the fee to such land may be in the owner of such lot.
- 4) No part of a yard, or other open space, or off-street parking or loading space about or in connection with any building and required for the purpose of complying with this Code, shall be included as part of a yard, open space or off-street parking or loading space similarly required for any other building.
- 5) When a lot of record at the time of enactment of this Code is transected by a Zoning District Boundary, the regulations set forth in this chapter applying to the larger part by area of such lot may also be deemed to govern in the smaller area beyond such zoning district boundary but only to an extent not more than fifty (50) linear feet in depth beyond said zoning district boundary.
- 6) In any district, notwithstanding limitations imposed by other sections of this Code, single lots of record at the effective date of adoption or amendment of this Code may be built upon consistent with other provisions of this Code. Such lots shall be in separate ownership and not contiguous with other lots in the same ownership. This provision shall apply even though such lots fail to meet the minimum requirements for area or width, or both, which are applicable in the district, provided that yard dimensions and other requirements, not involving area or width, or both, of the lot shall conform to the regulation for the district in which such lot is located. Variance of yard and other requirements not involving area or width shall be obtained only through action of the Board of Appeals.
- 7) More than 1 principal building shall be located on a lot only if one of the following conditions have been met:
  - a) The development was approved in accordance with the provisions of Chapter 2, Section 2-4 or
  - b) The development was approved in accordance with the provisions of Chapter 4, or
  - c) The street frontage requirement, without variance, is met for each principal building or structure located on the lot, and the placement of the buildings will allow division of the lot in conformance with the space and bulk regulations of the District in which it is located.

**E. CONFLICT WITH OTHER ORDINANCES**

Wherever the requirements of this Code are inconsistent with the requirements of any other ordinance or statute, the more restrictive requirement shall apply.



**F. SEPARABILITY**

In the event that any section, subsection or any portion of this Code shall be declared by any court of competent jurisdiction to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection or other portion of this Code; to this and, the provisions of this Code are hereby declared to be severable.

**G. CHANGES AND AMENDMENTS**

Any proposal to amend the official zoning map of the Town or to amend any provision of this Chapter shall be accompanied by a nonrefundable fee in such amount(s) and for such purpose(s) as the Town Council may from time to time establish by Council order, which shall be paid at the time the request is filed with the Planning Board. This fee shall be waived if the request is initiated by the Town. A proposed amendment shall be considered Town-initiated if it is proposed by the Town Council, Planning Board, Board of Appeals, the Town's Comprehensive Plan, or staff charged with the administration or enforcement of this Chapter.

To help recover costs incurred by the Town in the review, administration, site inspection, and public notice associated with the proposed amendment, 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 proposed amendment:

- 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.

Such proposed amendments shall be heard by the Planning Board, which shall, after public hearing, make a recommendation on the proposal to the Town Council. In accordance with state law, the Town Council shall act on the proposal after notice and hearing. Such notice shall be given in a newspaper of general circulation in the Town no less than seven days in advance of the public hearing. No proposal to amend the official zoning map shall be entertained within one year from the date of denial of the same request.

Copies of amendments to Chapter 2, Section 2-1.E. and/or to the Shoreland Overlay District depicted on the Official Shoreland Zoning Map, attested and signed by the Town Clerk, shall be submitted to the Commissioner of Environmental Protection following adoption by the Town Council and said amendments shall not become effective unless approved by the Commissioner; provided, however, that if the Commissioner fails to act upon any such amendments within forty-five (45) days after receipt of such amendment, such amendment shall be deemed approved; that notwithstanding 1 M.R.S.A. Section 302, such amendment, upon approval or deemed approval by the Commissioner, shall have an effective date retroactive to their effective date under Town charter; and that such amendment shall govern all applications for a shoreland zoning permit submitted to the Town within said forty-five (45) day period if such amendment is approved or deemed approved. Amendments to the Shoreland Overlay District depicted upon the Official Shoreland Zoning Map shall be shown on said map within thirty (30) days after the approval or deemed approval by the Commissioner of said amendment.

## H. CONTRACT ZONING

- (l) Pursuant to 30-A M.R.S.A., Section 4352(8), conditional or contract zoning is hereby authorized for:
- a) non-residential development where, for reasons such as the unusual nature or unique location of the development proposed, the Town Council finds it necessary or appropriate to impose, by agreement with the property owner or otherwise, certain conditions or restrictions not generally applicable to other properties similarly zoned, or
  - b) residential development where the Town Council finds that, due to the nature of location of the proposed development, there will be significant public benefit to the community as a result of the rezoning and that such public benefit is consistent with and advances the goals and policies of the Town's adopted Comprehensive Plan, provided that appropriate conditions or restrictions, not generally applicable to other properties similar zoned, are imposed by agreement with the property owner.

All rezoning under this section shall establish rezoned areas which are compatible with the existing and permitted uses within the original zones. Contract or conditional zoning involving residential uses shall be allowed only when those residential uses are allowed by the original zoning. Nothing in this section shall authorize a rezoning, or an agreement to change or retain a zone, which is inconsistent with the Town's Comprehensive Plan.

- (2) Any proposal to amend the official zoning map of the Town through the establishment of a contract zone shall be accompanied by a non-refundable fee in such amount(s) and for such purpose(s) as the Town Council may from time to time establish by Council order, which shall be paid at the time the request is filed with the Planning Board.

To help recover costs incurred by the Town in the review, administration, site inspection, and public notice associated with the contract zone proposal, 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 contract zone proposal:

- (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.
- (3) The Planning Board and the Town Council shall each conduct a public hearing prior to any property being rezoned under this section. Notice of this hearing shall be posted in the Town Clerk's office at least fourteen (14) days prior to each public hearing and shall be published in a newspaper of general circulation within the Town at least two (2) times, the date of the first publication to be at least seven (7) days prior to each hearing.

Notice shall also be sent to all abutters and abutters of abutters to the property to be rezoned at their last-known address. This notice shall contain a copy of the proposed conditions and restrictions, with a map indicating the property to be rezoned.

- (4) Conditions and restrictions imposed under the authority of this section shall relate only to the physical development and operation of the property and may include, by way of example:
- (a) Limitations on the number and types of uses permitted;
  - (b) Restrictions on the scale and density of development;
  - (c) Specifications for the design and layout of building and other improvements;
  - (d) Schedules for commencement and completion of constructions;
  - (e) Performance guarantees securing completion and maintenance of improvements, and guarantees against defects;
  - (f) Preservation of open space and buffers, and protection of natural areas and historic sites;
  - (g) Contributions toward the provision of municipal services required by the development; and
  - (h) Provisions for enforcement and remedies for breach of any condition restriction.
- (5) No proposal to amend the official zoning map shall be entertained within one year from the date of denial of the same request.

## **SECTION 1-2 - NONCONFORMANCE**

- 1) Any lawful use of buildings, structures, premises, land or parts thereof existing at the effective date of this Code and made non-conforming by the provisions of this chapter or any amendments thereto may be continued subject to the provisions of this section.
- 2) If any non conforming use of land or buildings, or parts thereof, ceases or is discontinued for any reason for a period of one year or more, irrespective of the intent of the owner or occupier thereof not to abandon said use, the use may not be resumed and the property shall be used only for purposes allowable in the district where located.
- 3) Whenever a non conforming use is changed to a permitted use, such use shall not thereafter revert to non-conforming status notwithstanding any other provisions of this chapter.
- 4) The Board of Appeals may grant permission for the enlargement or physical replacement of any use or structure made legally non-conforming by the district provisions of this chapter; provided, however, no enlargement or physical replacement of any such structure may encroach any further into any setback than the existing structure. In reviewing all such applications for enlargement or physical replacement, the Board of Appeals shall use criteria established herein for the consideration of special exceptions. The above notwithstanding, the Code Enforcement Officer, except in an Industrial Zone, may issue a building permit pursuant to Section 1-3, D. of this Chapter for the enlargement or physical replacement and/or expansion of a non-conforming single family structure or residential accessory structure not located within the shoreland zoning overlay district without Board of Appeals approval, provided that the enlargement or physical replacement does not make the structure more nonconforming than that which currently exists and that the Code Enforcement Officer determines that such enlargement or physical replacement meets the criteria established herein for the consideration of special exceptions. Replacement and/or expansion of nonconforming structures within the shoreland zoning overlay district will be reviewed by the Board of Appeals in accordance with the requirements set forth in Chapter 2, Section 2-1.E., 6 of this Code.
- 5) The Board of Appeals may grant permission for the conversion of a legally existing non-conforming use into another non-conforming use if the Board finds that the new non-conforming use will be more conforming to the intent of the Zoning Ordinance and more compatible with the existing development of the neighborhood than the existing use. The existing non-conforming use shall be discontinued if the conversion is approved by the Board of Appeals. In determining the conformance of the proposed use, the Board of Appeals shall find:
  - 1) That the existing use was legally established, was made non-conforming by the adoption or amendment of the Land Use and Development Code and is not a home occupation.
  - 2) That the proposed use is of the same character or less obnoxious than the current non-conforming use to be changed from. The determination as to whether such a use is of the same character or less obnoxious is to be made by a reference to the most restrictive zoning district where the current non-conforming use is permitted in the Town. Any use permitted in that zone may be substituted for a current non-conforming use as the same or less obnoxious use so long as the Board finds that the conversion meets the other standards thereof.
  - 3) That the proposed use shall not create a traffic hazard nor increase an existing traffic hazard.
  - 4) That the amount of parking required to meet the minimum ordinance requirements for the proposed use shall be existing on the site.
  - 5) That the amount of noise, odors, vibrations, smoke, dust and air discharges of the proposed use shall be equal to or less than the present use.

- 6) That the amount of surface water runoff from the site shall not be increased.
- 7) That the hours of operations of the proposed use are compatible with the surrounding land uses.
- 8) That the proposed use shall not increase the adverse impact on surrounding properties.

If the Board of Appeals approves the conversion of one non-conforming use to a new use, the project shall be reviewed and approved by the Planning Board under the Site Plan Review requirements of Chapter 4 prior to the issuance of permits or occupancy of the building if no permits are required.

## **SECTION 1-3 - ADMINISTRATION**

### **A. ENFORCEMENT OFFICER**

It shall be the duty of the Code Enforcement Officer or other person duly authorized by the Town of Gorham to enforce the provisions of this chapter. If the Code Enforcement Officer shall find that any of the provisions of this chapter are being violated, he shall notify in writing the owner or occupant, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal buildings or structures or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this Code to insure compliance with or to prevent violation of its provisions.

### **B. LEGAL ACTION AND VIOLATIONS**

When any violation of any provisions of this Code shall be found to exist, the Town Council or the Code Enforcement Officer may institute any and all actions and proceedings either legal or equitable that may be appropriate or necessary for the enforcement of the provisions of this chapter, the same to be brought in the name of the Town. This provision shall not prevent any person aggrieved by a violation of this Code from taking appropriate legal action against the violator.

### **C. FINES AND PENALTIES**

The fines and penalties contained in 30A MRSA Section 4452 shall apply to any violations of this Ordinance.

### **D. BUILDING PERMIT**

No building or other structure shall be erected, moved, added to, or structurally altered without a permit therefore, issued by the Code Enforcement Officer. No building permit shall be issued except in conformity with the provisions of this Code, except after written order from the Board of Appeals. If the building or part is not substantially completed within 18 months of the issuing of the permit, the permit shall lapse. It may be renewed without charge upon application.

### **E. APPLICATION**

- 1) Unless excused by the Code Enforcement Officer, all applications for building permits shall be accompanied by plans drawn to scale, showing the actual dimensions and shape of the lot to be built upon; the exact sizes and locations on the lot of buildings already existing, if any, the location and dimensions of the proposed building or alteration and the proposed sewage disposal system as required by the Maine State Plumbing Code. The Code Enforcement Officer may require at his discretion additional tests to be performed under his observation and at the expense of the applicant. The application shall include such other information as lawfully may be required by the Code Enforcement Officer to determine conformance with and provide for the enforcement of this Code.
  - a. All newly created lots less than 60,000 sq.ft. of lot area shall be surveyed by a State of Maine Registered Surveyor and all property corners shall be marked with permanent markers. For the purpose of this section a permanent marker shall be one of the following: a granite monument; a concrete monument; an iron pin; or a drill hole in ledge. A stamped copy of the official boundary survey shall be given to the Code Enforcement Officer for the record and part of the building permit review.

- b. Newly created lots greater than 60,000 sq.ft. may require a survey by a State of Maine Registered Surveyor if the Code Enforcement Officer determines that the proposed structure proximate to a front, side, rear, or shoreland setback warrants concerns about a given setback not meeting the minimum allowed. Should a boundary survey be warranted, all property corners shall be marked with permanent markers. For the purpose of this section a permanent marker shall be one of the following: a granite monument; a concrete monument; an iron pin; or a drill hole in ledge. A stamped copy of the official boundary survey shall be given to the Code Enforcement Officer for record and part of the building permit review.
  - c. If any part of the structure is proposed to be located closer than 5 feet to the minimum front, side, rear or shoreland setback required by the applicable zoning district regulations; or if the Code Enforcement Officer determines that special conditions such as complex curves in the property lines, or other unusual features of lot shape or topography, the Code Enforcement Officer may require that the foundation be set and pinned by a professional land surveyor.
- 2) 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. Such evidence shall be furnished by reference to the Soils Map of the Town prepared by the United States Soil Conservation Service, and on-site investigations approved by the Code Enforcement Officer. Where poor site conditions are shown to exist, approval of the application shall be subject to the installation of remedial measures which comply fully with all applicable State and local codes for health, plumbing, sanitation, conservation, and pollution abatement. Soil characteristics shall be based on suitability for use of properly installed disposal system continuously year round and the following points of consideration shall be made: ground water table, texture, pans, depth, permeability, percolation rate, flooding, slope, effect on ground water, that soil completely handles all free effluent without its return to the surface; six feet of depth is needed, extremely stony or very rocky is automatically very poor or unsuited, flooding is automatically very poor or unsuited, slopes of 15% to 25% or greater are rated poor for all soil which is otherwise suited because of likelihood of resurfacing and expense of installation.
  - 3) No building or structure of any kind shall be erected and no alteration of the natural contour of the land by grading or filling for any purpose shall be permitted in an area subject to periodic flooding or standing water.
  - 4) For subdivisions approved after the effective date of this amendment, no building permit shall be issued until an all-weather road access to the building lot for the Town's emergency vehicles has been provided satisfactory to the public works director. At a minimum, such road access shall be constructed of gravel to a 12-inch depth.

#### **F. CERTIFICATE OF OCCUPANCY**

It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a Certificate of Occupancy shall have been issued therefore by the Code Enforcement Officer and endorsed to the effect that the proposed use of the building or land conforms with the requirements of this chapter.

No Building Permit shall be issued until an application has been made for a Certificate of Occupancy, and the Certificate of Occupancy shall be issued in conformity with the provisions of this Code upon completion of the work.

A temporary Certificate of Occupancy may be issued by the Code Enforcement Officer for a period of six months during construction or alterations for partial occupancy of a building pending its completion, provided that such temporary certificate may require such conditions and safeguards as will protect the safety of the occupants and the public.

The Code Enforcement Officer shall maintain a public record of all Certificates of Occupancy.

Failure to obtain a Certificate of Occupancy prior to use of the premises shall be a violation of this Code.

No Certificate of Occupancy shall be issued until the applicant has presented evidence to the Code Enforcement Officer that any restrictions or conditions of approval imposed by the Planning Board or Board of Appeals have been recorded in the Cumberland County Registry of Deeds, either by means of notation(s) on a recorded plan or by filing of such other certificate as will provide record notice of such conditions of approval. The cost of recording any such plan of certificate shall be borne by the applicant. If a Building Permit has been previously issued for the pertinent use, and if the aforementioned evidence has been previously supplied, pursuant to Chapter 1, Section 1-3 (D) (2) of this Code, then redundant evidence shall not be required before Issuance of a Certificate of Occupancy.



**G. FEE**

The application for a building permit shall be accompanied by a fee. The fee shall be determined from the schedule of building permit fees adopted by order of the Town Council. No building permit shall be issued until the fee is paid.

**H. DRIVEWAY PERMITS**

Prior to the construction or alteration of any driveway or access road within the full width of right-of-way of any town road, on a private way or public way, or if within the compact area, of a state or state-aid highway, a written driveway permit shall be obtained from the Code Enforcement Officer. The building permit for any project involving the construction or alteration of a driveway or access road shall be issued only after the appropriate driveway permit has been issued.

- 1) The Town Engineer or his designee shall inspect each proposed driveway location, determine the suitability of its location and design with particular emphasis on traffic safety, drainage and erosion control, and prepare a report on the need for a culvert or other improvements within the public right-of-way.
- 2) The owner of the property served by the driveway or access road shall be responsible for the costs involved in installing a culvert and the work shall be performed by a private contractor.
- 3) The Town Engineer or his designee shall determine that the location and design of any driveway or access road is suitable for the intended use and the Code Enforcement Officer shall collect a sum of money sufficient to cover the installation of a culvert if necessary, prior to the issuance of any driveway permit.
- 4) The application for a driveway permit shall be accompanied by a fee as set forth in the schedule of driveway permit fees adopted by order of the Town Council. No driveway permit shall be issued until the fee is paid.

**I. EMERGENCY HOUSING**

- 1) Use Permitted - The installation of a temporary mobile home or other prefabricated housing unit as emergency housing on a residential lot in the Town of Gorham shall be permitted under certain conditions for not more than one year. Emergency housing installations may be approved only to replace the principal place of residence of a Gorham resident which has been rendered uninhabitable by a natural disaster such as fire, flood, or earthquake. The use of emergency housing shall be limited to a period of not more than one year.
- 2) The Town Council of the Town of Gorham is authorized to issue a special permit for the installation of an emergency housing unit. The issuance of a special permit shall require the affirmative vote of a majority of the Town Council.
- 3) Procedure - The nature of the permit requires timely action; therefore, no public hearing or posting of the permit application shall be required. However, abutting property owners shall be given written notice at least 48 hours prior to the meeting at which the permit is considered.
- 4) Report of CEO Required - The Code Enforcement Officer shall inspect the residence destroyed and the proposed site of the emergency housing, and shall report to Council prior to the issuance of the special permit. The CEO's report shall detail the damage to the residence, its habitability, and the suitability of the proposed emergency housing site with specific reference to water supply and sewage disposal.

- 5) Criteria for Issuing Permit - The Town Council shall find that the following criteria have been met prior to issuing a special permit for emergency housing:
- a) That the principal residence of a Gorham resident, which shall be owned, not rented, has been damaged by a natural act, such as fire, flood, or earthquake, so as to render it uninhabitable.
  - b) The presence of the resident on the site is necessary to protect buildings or physical property, to maintain a business or agricultural activity, or to rebuild the damaged property.
  - c) That the site has available an adequate water supply and a suitable sewage disposal system which complies with Town and State regulations.
  - d) That the resident intends to reconstruct or replace the damaged structure with a permanent dwelling which complies with all applicable local codes and ordinances within one year of the issuance of the Special Permit.
- 6) Installation Standards - The installation of the temporary housing unit shall be under the supervision of the CEO. The CEO shall establish standards of installation necessary to protect the health and safety of the occupants as well as the general welfare of neighboring residents and the general community. In addition, the placement of the temporary unit shall conform to all yard requirements of this code unless altered by the Board of Appeals.
- 7) Guarantee of Removal - The intent of this section is that emergency housing be allowed for not more than one year while a permanent dwelling is being reconstructed or replaced. To assure that the temporary unit is removed at the conclusion of the year, no temporary housing permit shall become effective, and no unit shall be installed until a performance guarantee has been tendered to the Town. This performance guarantee shall be in the form of a certified check, savings account passbook or faithful performance bond running to the Town of Gorham. The amount of guarantee shall be determined by the Town Council but in no case shall be less than \$1,000 and its return shall be conditioned on the removal of the temporary housing up to or before one year of the issuance of the Special Permit.
- 8) Action Required - Within 90 days of the issuance of a Special Permit the applicant shall apply for a Building Permit to reconstruct the property and shall commence reconstruction of the property. If a Building Permit is not issued within 90 days and work commenced, the action of Council shall be void and the temporary housing shall be immediately removed and the grounds shall be cleaned of debris within one year.

## **SECTION 1-4 – BOARD OF APPEALS**

### **A. APPOINTMENT AND COMPOSITION**

- 1) The Municipal Officers shall appoint members of the Board of Appeals to the Town of Gorham.
- 2) The Board shall consist of seven (7) members serving staggered terms of three (3) years. To facilitate the transition from the five (5) member board to the seven (7) member board, appointments during the transition shall be made in the following manner:
  - (a) Members serving existing five (5) year terms shall serve to the expiration of their current terms.
  - (b) One new member shall be appointed in April of 1984 to a three (3) year term expiring in 1987.
  - (c) One new member shall be appointed in April of 1984 to a two (2) year term expiring in 1986.
  - (d) The five (5) year term expiring in 1984 shall be filled by a member serving a three (3) year term.
  - (e) All subsequent appointments shall be for three (3) year terms.

The Board shall elect annually a chairman and secretary from its membership. The secretary shall provide for the keeping of the minutes of the proceedings of the Board of Appeals, which shall show the vote of each member upon each question. All minutes of the Board shall be public record. A quorum shall consist of four members. All decisions shall be by majority vote of those present and voting.

- 3) A Municipal Officer may not serve as a member.
- 4) Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the members, except the member who is being challenged.
- 5) A member of the Board may be dismissed for cause by the Municipal Officers before the expiration of his term.

### **B. POWERS AND DUTIES**

Appeals shall lie from the decision of the Code Enforcement Officer to the Board of Appeals and from the Board of Appeals to the Superior Court as provided by law.

The Board of Appeals shall have the following powers and duties:

- 1) Administrative Appeals. To hear and decide where it is alleged there is an error in any order, requirement, decision, or determination made by the Code Enforcement Officer in the enforcement of this Code, except.
  - a) Notices of violation, requirements, decisions, or determinations concerning any provision of or approval under, Chapter 1, Section 1-4, E. Special Exception Standards, Chapter 3 (Subdivision), or Chapter 4 (Site Plan Review) of this Code, shall not be appealable to the Board of Appeals.

- b) Decisions or determinations by the Code Enforcement Officer not to undertake an enforcement action shall not be appealable to the Board of Appeals.

Also, to hear and decide where it is alleged there is an error in any order, requirement, decision or determination made by the Planning Board or Code Enforcement Officer pursuant to Chapter 2, Section 2-1.E. Such action of the Planning Board or Code Enforcement Officer may be modified or reversed by the Board of Appeals by majority vote.

- 2) Variance Appeals. To hear and grant, upon appeal, in specific cases variances as defined in Section 1-5 of Chapter 1 hereto. Further, in the Shoreland Overlay District, variances may be granted by the Board of Appeals from water setback, shore frontage, and percent of lot coverage and for substantial expansions of nonconforming buildings and structures. In granting by majority vote any variance, the Board of Appeals may prescribe conditions and safeguards as are appropriate under this Code.

A variance may be granted by the Board only where strict application of the ordinance, or a provision thereof, to the petitioner and his property would cause undue hardship. The words "undue hardship" as used in this subsection mean:

- a) That the land in question cannot yield a reasonable return unless a variance is granted;
- b) That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
- c) That the granting of a variance will not alter the essential character of the locality; and
- d) That the hardship is not the result of action taken by the applicant or a prior owner.

3) Single-Family Dwelling Set-Back Variance Appeals

- A) Notwithstanding Section 4 B 2) above, the Board of Appeals may grant a variance from the set-back provisions of this Code for a single family dwelling only when strict application of the zoning ordinance to the petitioner and the petitioner's property would cause undue hardship. "Undue hardship" as used in this subsection B, 3) means:
  - 1) The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
  - 2) The granting of a variance will not alter the essential character of the locality;
  - 3) The hardship is not the result of action taken by the applicant or a prior owner;
  - 4) The granting of the variance will not substantially reduce or impair the use of abutting property; and
  - 5) That the granting of the variance is based upon demonstrated need, not convenience, and no other feasible alternative is available.

- B) This subsection B, 3) applies only to variances from set-back requirements for a single-family dwelling that is the petitioner's primary year-round residence.
- C) A variance under this subsection B, 3) may not exceed 20% of the set-back requirements and may not be granted if the variance would cause the area of the dwelling to exceed the maximum permissible lot coverage under this Code.
- D) In granting by majority vote any variance hereunder, the Board of Appeals may prescribe conditions and safeguards as are appropriate under this Code.

**C. CONDITIONS**

In hearing appeals under this section, the Board of Appeals shall take into consideration the following:

- location, character and natural features
- fencing and screening
- landscaping, topography, and natural drainage
- vehicular access, circulation and parking
- pedestrian circulation
- signs and lighting
- all potential nuisances

In granting appeals under this section, the Board of Appeals may impose such conditions as it deems necessary in furtherance of the intent and purpose of this Code.

**D. APPEAL PROCEDURE**

- 1) In all cases, a person aggrieved by a decision of the Code Enforcement Officer shall commence his appeal within thirty (30) days after issuance of a written decision by the Code Enforcement Officer. The appeal shall be filed with the Town Clerk on forms to be approved by the Board of Appeals, and the aggrieved person shall specifically set forth on said form the grounds for said appeal. A fee 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 appellant to the Town of Gorham the time of filing his appeal, which shall not be refundable, except as otherwise provided in this subsection. Each appeal shall be filed on a separate form. A separate fee shall be assessed for each appeal except that a single fee shall be assessed for multiple appeals filed by the same appellant, concerning the same property, and scheduled to be heard by the Board of Appeals at the same proceeding.
- 2) Before taking action on any appeal, the Board of Appeals shall hold a public hearing. The Town Clerk shall cause notice of the appeal to be published in a newspaper of general circulation in the Town at least seven days prior to the date of hearing. The notice shall be in a form which the Town Clerk deems to be an adequate summary of the appeal.
- 3) Following the filing of an appeal, the Town Clerk shall notify forthwith the Board of Appeals, the Code Enforcement Officer and the Planning Board, and the appeal shall be in order for hearing at the next meeting of the Board of Appeals following by at least 7 days the mailing of notices but within sixty (60) days of the formal appeal except that those appeals requiring Planning Board recommendation to the Board of Appeals shall be heard by the Board of Appeals within sixty (60) days following Planning Board recommendation.

- 4) In appeals for enlargement or physical replacement of non-conforming uses, and for special permits for earth material removal, the Town Clerk shall notify by mail the owners of all property within 500 feet of the property involved of the nature of the appeal and of the time and place of the public hearing thereon.
- 5) In the case of administrative and variance appeals, the Town Clerk shall notify by mail only the owners of property abutting the property for which an appeal is taken of the nature of the appeal and of the time and place of the public hearing thereon.
- 6) For the purposes of this section, the owners of property shall be considered to be the parties listed by the Assessor of Taxes for the Town of Gorham as those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Board of Appeals.
- 7) Written notice of the decision of the Board of Appeals shall be sent to the appellant, the Code Enforcement Officer, the Chairman of the Planning Board and the Chairman of the Town Council within thirty (30) days of the date of the hearing of the appeal of application.
- 8) At any hearing, a party may appeal by agent or attorney. Hearing shall not be continued to other times except for good cause.
- 9) The Code Enforcement Officer or his representative as designated by the Town Manager shall attend all hearings and may present to the Board of Appeals all plans, photographs, or other material he deems appropriate for an understanding of the appeal.
- 10) A right of appeal under the provisions of this chapter secured by vote of the Board of Appeals shall expire if the work or change involved is not commenced within six months of the date of which the appeal is granted, and if the work or change is not substantially completed within one year of the date on which such appeal is granted, unless as otherwise provided for in the appeal.
- 11) If the Board of Appeals shall deny an appeal, a second appeal of a similar nature shall not be brought before the Board within one year from the date of the denial by the Board of the first appeal, unless in the opinion of a majority of the Board, substantial new evidence shall be brought forward, or unless the Board finds, in its sole and exclusive judgment, that an error or mistake of law or misunderstanding of facts shall have been made.
- 12) The applicant shall record any restrictions or conditions of approval imposed by the Board of Appeals before any Building Permit or Certificate of Occupancy shall be issued, pursuant to Chapter 1, Section 1-3 (D) (2) and (G) of this Code.
- 13) A copy of each variance granted by the Board of Appeals shall be submitted to the Department of Environmental Protection within fourteen (14) days of the decision granting the variance.
- 14) Notwithstanding Section 1-4.D above, in the event that the Board of Appeals reverses any order, requirement, decision, or determination made by the Code Enforcement Officer in conjunction with an administrative appeal filed under Section 1-4B.1, the applicant shall be entitled to a refund of the application fee paid for that appeal within thirty (30) days of the date that the Board of Appeals' decision becomes final and unappealable.

## **E. SPECIAL EXCEPTION STANDARDS**

The Planning Board shall have the power and duty to approve, deny, or approve with conditions special exceptions only as expressly provided in the applicable zoning districts. The applicant shall have the burden of proving that his/her application is in compliance with the following standards. After the submission of a complete application, the Planning Board shall approve a special exception application or approve it with conditions only if it makes a positive finding based on the information presented that the proposed use, with any conditions attached, meets the following standards:

1. The proposed use will not create or aggravate hazards to vehicular or pedestrian traffic on the roads and sidewalks, both off-site and on-site, serving the proposed use as determined by the size and condition of such roads and sidewalks, lighting, drainage, and the visibility afforded to pedestrians and the operators of motor vehicles on such roads;
2. The proposed use will not cause water pollution, sedimentation, erosion, contaminate any water supply nor reduce the capacity of the land to hold water so that a dangerous or unhealthy condition results;
3. The proposed use will not create unhealthful conditions because of smoke, dust, or other airborne contaminants;
4. The proposed use will not create nuisances to neighboring properties because of odors, fumes, glare, hours of operation, noise, vibration or fire hazard or unreasonably restrict access of light and air to neighboring properties;
5. The proposed waste disposal systems are adequate for all solid and liquid wastes generated by the use;
6. The proposed use will not result in damage to spawning grounds, fish, aquatic life, bird, or other wildlife habitat, and, if located in a shoreland zone, will conserve (a) shoreland vegetation; (b) visual points of access to waters as viewed from public facilities; (c) actual points of access to waters; and (d) natural beauty.

A special exception permit granted by the Planning Board will expire if the use does not commence within two years of the date of said approval. The Planning Board may extend such approval for one additional year upon the applicant's written request submitted prior to the expiration of the initial two-year period provided the applicant demonstrates that said use cannot commence within the initial two-year period of time because other required permits have not been issued or the special exception approval was appealed. This provision shall not apply to mineral extraction uses, which shall be subject to the provisions of Chapter 2, Section 2-1 C(3)(b).

## **F. SPECIAL EXCEPTION FEES**

To help recover costs incurred by the Town in the review, administration, site inspection, and public notice associated with the special exception 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 special exception 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 special exception 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.

**G. NOTIFICATION**

Abutting property owners shall be notified by mail of a pending application for special exception review. This notice shall indicate the time, date, and place of Planning Board consideration of the application.



## **SECTION 1-5 - DEFINITIONS**

Except where specifically defined herein, all words used in this Code shall carry their customary meanings. Words used in the present tense include the future, and the plural includes the singular; the word "lot" includes the word "plot"; the word "building" includes the word "structure"; the word "shall" is always mandatory; "occupied" or "used" shall be considered as though followed by the words "or intended, arranged, or designed to be used or occupied".

<u>Abandonment</u>	For the purposes of this ordinance only, any well or borehole of such condition as to be of no possible further use. A properly capped dry well at the time of drilling may not be considered abandoned. Abandonment requires the complete sealing of a well or borehole with grout or other impermeable material to prevent contamination of the aquifer.
<u>Accessory Apartment</u>	A separate dwelling unit that has been added on, or created within, a lot with a single family house for the purpose of providing separate living accommodations.
<u>Accessory use</u>	A use customarily incidental and subordinate to the principal building or use and located on the same lot with such principal building or use.
<u>Accessory Building,</u>	A subordinate building or a portion of the main building, the use of which is incidental to that of the main or principal building.
<u>Adult-Use Marijuana Cultivation Facility</u>	A "cultivation facility," as that term is defined in 28-B M.S.S.A., § 102(13), as may be amended or recodified.
<u>Adult-Use Marijuana Products Manufacturing Facility</u>	A "products manufacturing facility," as that term is defined in M.R.S.A. § 102(43), as may be amended or recodified.
<u>Adult-Use Marijuana Testing Facility</u>	An adult-use "testing facility," as that term is defined in M.R.S.A. § 102(54), as may be amended or recodified.
<u>Agriculture</u>	The science, art, or practice of cultivating the soil, producing crops, and raising livestock and in varying degrees the preparation and marketing of the resulting products.
<u>Agricultural Building, Existing</u>	A non-residential building that has been used for an agricultural use or in conjunction with an agricultural activity for at least ten (10) years to April 1, 2005.
<u>Agritourism</u>	Any agricultural activity carried out on a farm or ranch that members of the general public are allowed to view or participate in, including farming, ranching, historical and cultural activities, harvest-your-own activities and attractions related to farming or ranching, including, but not limited to, marketing or selling of any products from the farm or ranch. Example of agritourism include farm markets; roadside stands; enjoyment of the farm environment; harvest-your-own operations; ice cream/bakery facilities; Maine Maple events; Christmas tree farm, including your own operations; wineries, winery tours and tastings; local product retail operations; corn mazes; farm-related interpretive facilities and exhibits; agricultural education programs and experiences; agriculturally related fairs and festivals; on-site farm, garden and nursery tours; trails; farm stay; recreation related operations; horseback riding; weddings; corporate events/retreats; and banquets. An activity is an agritourism activity whether or not the participant pays to view or participate in the activity.
<u>Apartment Building</u>	A building arranged, intended, or designed to be occupied by three or more families living in independent dwelling units.

<u>Aquaculture</u>	The growing or propagation of harvestable freshwater, estuarine, or marine plant or animal species. (Applies to Shoreland Area Protection, Chapter 2, Section 2-1.E.)
<u>Automotive Salvage Repair</u>	A business facility designed for the storage, repair, or disassembly of severely damaged automotive vehicles for resale in their entirety or as spare parts, or rebuilding, restoration, or crushing.
<u>Auxiliary Public Utility Structure</u>	<p>A structure not to exceed 500 square feet in gross floor area and 16 feet in height, operated by a public utility, including but not limited to pumping stations, excluding wireless telecommunications towers and wind turbines.</p> <p>a) Such utility structures must remain unoccupied except for required maintenance.</p> <p>b) Vegetative screening is required where such structures abut residential uses, and may be required along a public and/or private way.</p>
<u>Area of Special Flood Hazard</u>	The land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in this Ordinance.
<u>ATV</u>	All-Terrain Vehicle.
<u>All-Terrain Vehicle</u>	A motor driven, off-road, recreational vehicle capable of cross-country travel on land, snow, ice, marsh, swampland or other natural terrain. It includes, but is not limited to, a multi-track, multi-wheel or low pressure tire vehicle; a motorcycle or related 2-wheel, 3-wheel, or belt-driven vehicle; an amphibious machine or other means of transportation deriving motive power from a source other than muscle or wind. For purposes of this ordinance, All-Terrain Vehicle does not include a snowmobile, a construction or logging vehicle used in the performance of its common function; a farm vehicle used for farming purposes; a vehicle used exclusively for emergency, military, law enforcement or fire control purposes.
<u>Base Flood</u>	The flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.
<u>Bed and Breakfast</u>	A single family dwelling occupied by the owner as his/her principal place of residence that accommodates paying guests for a limited duration with sleeping and dining facilities; payable on a per-diem basis; having no more than three (3) guest rooms and limited to serving breakfast to said overnight guests shall be considered a home occupation accessory to principal use of the dwelling and shall be allowed under the standards applicable to home occupations. For purposes of this definition, principal place of residence means that the owner of the land and buildings must be in residence on the premises while the bed-and-breakfast business is conducted.
<u>Bed and Breakfast Establishment</u>	A single family dwelling occupied by the owner as his/her principal place of residence that accommodates paying guests for a limited duration with sleeping and dining facilities; payable on a per-diem basis; having more than three but less than ten sleeping rooms; and in which some bath, sitting room and dining rooms are used in common by such guests. All dining facilities are limited to use by overnight guests of that particular establishment. For purposes of this definition, principal place of residence means that the owner of the land and buildings must be in residence on the premises while the bed-and-breakfast business is conducted. The residence of the owner must be in the main building where all bed and breakfast activities occur. Additional buildings on the lot that meet space, set back and parking requirements may be used for additional bed and breakfast activities. This use is considered a commercial use.

Bed and Breakfast  
Establishment with  
Dining as an Accessory Use

Public Dining for up to seven days per week is allowed as an accessory use for a Bed and Breakfast Establishment

Billboard

A structure, either free standing or attached to a building, the surface of which is available for hire for advertising purposes.

Building

Any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of persons, animals or chattel. Each portion of a building, separated from other portions by a fire wall, shall be considered as a separate structure.

Building, Principal

The primary building on a lot or a building that shelters or encloses the principal use on a lot.

Building Footprint

The total area of the ground surface enclosed within the downward projection of the exterior walls of a building or the vertical planes created by the exterior surface of the vertical support members of a building or portion of a building without exterior walls.

Business and  
Professional Offices

Offices for the conduct of business and involve no sales of tangible products available on the premises, except as a minor and ancillary use as would be directly related to the conduct of a given profession, or storage of materials or equipment which are used off the premises. Professional offices include, but are not limited to, the following: office facility of a salesman, sales representative or a manufacturer's representative; office facility of an architect, engineer, broker, dentist, physician, optometrist, psychiatrist, insurance agent, land surveyor, lawyer, musician, real estate agent or accountant; office facility of a minister, rabbi or other religious leader, provided that the office is open to the public or congregation. The following uses are not considered business and professional offices;

- 1) Distribution facilities
- 2) Sales offices involving on-premises display and sales of materials, except as a minor and ancillary use as described above
- 3) Offices of building contractors involving the storage of materials or equipment.

Business  
Services

An activity that supplies a direct service to business, including, by way of example, advertising, credit reporting and collection, mailing and reproduction, care of buildings, personnel supply, computer and data processing, market research, and management and public relations.

Campground

A parcel of land upon which one or more campsites are located, established, or maintained for occupancy by camping units as temporary living quarters for recreation, education, or vacation purposes.

Camping Unit

Any tent, trailer, cabin, lean-to, recreation vehicle, or similar structure established in a campground as temporary living quarters for recreational, education, or vacation purposes.

Caretaker Unit

An accessory dwelling unit that is incorporated into, and is part of, a non-residential use and is occupied by an owner or an employee of the business occupying the principal use, and having a gross floor area of less than two thousand (2,000) square feet.

<u>Cluster Residential Development</u>	A form of development which allows a developer to create smaller lots than required by the applicable zoning district regulations in return for setting aside a portion of the tract as permanent open space owned and maintained jointly by the individual lot owners.
<u>Code Enforcement Officer</u>	Shall mean the head of the Gorham Land and Building Department with duties as prescribed in the Town Administrative Code.
<u>Commercial Outdoor Facilities</u>	Private recreation facilities such as miniature golf courses, swim recreation clubs, tennis clubs, driving ranges and similar facilities.
<u>Commercial School</u>	A for-profit business facility or institution which provides instruction or tutoring by previous arrangement for a particular skill or subject to a group of students in a classroom or similar type setting and may include private lessons as an ancillary service. By way of example only, commercial schools may include schools for performing arts, fine arts, photography, driving, pottery, business, beauty, sports, language or driving.
<u>Condominium</u>	Means real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions under a declaration, or an amendment to a declaration, duly recorded pursuant to the Maine Condominium Act (33 MRSA 1601-101-1604-118), as may be amended from time to time. Real estate is not a condominium unless the undivided interest in the common elements are vested in the unit owners. Any real estate development consisting exclusively of clustered, detached, single family residences is not a condominium, unless so designated in the declaration.
<u>Conference Center or Banquet Hall</u>	A facility designed with multiple rooms or buildings for the use of conferences, seminars, weddings, family gatherings, parties, and like or similar events.
<u>Construction Services</u>	The business for members of the building trades. This includes, but is not limited to, plumbing, painting, carpentry, masonry, or electrical installation.
<u>Corner Lots</u>	<p>In districts where yards are required: Such corner lots, located at the intersection of two streets, shall be deemed to have a side rather than a front yard between the principal building and the side street. Such side yard shall not be less than the front yard requirements of uses located on the side street.</p> <p>Such corner lots located at the intersection of two streets, shall be deemed to have a side rather than a rear yard between the principal building and the abutting property on the side street. Such side yard shall not be less than the side yard requirements of uses located on the side street.</p> <p>All such side yards described above shall conform with the specific regulations related to yard space and related building height contained in the district provisions of this Code.</p>
<u>Country Club</u>	Land area and buildings containing golf courses, a clubhouse, and customary accessory uses, open only to members and their guests.
<u>Coverage</u>	That percentage of the plot or lot area covered by the building area.
<u>Day Care Center</u>	A home or other facility used generally to provide day care services or baby-sitting services for thirteen (13) or more persons.

<u>Day Care Home</u>	A home or other facility used generally to provide day care services or baby-sitting services for twelve (12) or fewer persons.
<u>Dog Kennel</u>	A facility for the boarding and/or daycare of dogs including accessory activities such as grooming or training.
<u>Drive-through Service</u>	<p>A retail or service activity in which the customer the customer does not leave his/her motor vehicle to complete the transaction, and which complies with the following requirements:</p> <ol style="list-style-type: none"> <li>1) A separate, defined stacking lane is provided which will accommodate a minimum of five vehicles.</li> <li>2) The transaction occurs at a defined service window or terminal.</li> <li>3) The service window or terminal is located a minimum of sixty (60) feet, with the maximum to be established at Site Plan Review, from the point of egress onto the nearest street right-of way.</li> <li>4) The architectural design of the service window or terminal shall be compatible with the principal use.</li> </ol>
<u>Dwelling</u>	A building designed or used as the living quarters for one or more families. The term shall not be deemed to include a hotel, motel, rooming house, mobile home, manufactured housing unit or trailer, but shall include a modular housing unit consisting of two or more units of which neither unit is a complete dwelling unit and which is constructed in accordance with the BOCA Building Code.
<u>Dwelling Unit</u>	A room or group of rooms forming a habitable unit for one family with facilities used or intended to be used for living, sleeping, cooking and eating. The term shall not be deemed to include trailers.
<u>Essential Services</u>	The construction, alteration or maintenance of gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services. (Applies to Shoreland Area Protection, Chapter 2, Section 2-1.E.)
<u>Family</u>	One or more persons occupying a premises and living as a single housekeeping unit as distinguished from a group occupying a rooming house or motel.
<u>Farming</u>	The commercial production of agricultural products as a livelihood and includes dairy farming; raising livestock, freshwater fish, fur-bearing animals or poultry; producing, cultivating, growing and harvesting fruit, produce or horticultural commodities; or any practices on a farm or ranch that are incidental to or in conjunction with these farming operations, as defined by the Maine Revised Statues, Title 7, Section 251, as amended.
<u>Farm/Roadside Stand</u>	A building or structure used for the retail sales of fresh fruits, vegetables, flowers, herbs or plants. In addition, it may involve the accessory sales of other unprocessed foodstuffs, home processed for products such as jams,

jellies, pickles, sauces or baked goods and home-made accessories. The floor area devoted to the sales of these accessory items shall not exceed 50% of the total sales area. No commercially packaged handicrafts of commercially processed or packaged foodstuffs shall be sold at a roadside stand.

Flood Insurance  
Rate Map

The official map on which the Federal Emergency Management Agency has delineated both the areas of special flood hazards and the risk premium zones applicable to the Town of Gorham, Maine.

Floor Area

The sum of the horizontal areas of a floor(s) of a structure enclosed by the exterior walls.

Floor Area  
Ratio

A measure of the intensity of the use of a piece of property determined by dividing the sum of the gross floor area of all floors of all principal buildings or structures by the total area of the parcel.

Forest Management  
Activities

Timber cruising and other forest resources evaluation activities, pesticide or fertilizer application, management planning activities, timber stand improvement, pruning, regeneration of forest stands, and other similar or associated activities, exclusive of timber harvesting and the construction, creation or maintenance of roads. (Applies to Shoreland Area Protection, Chapter 2, Section 2-1.E.)

Forested wetland

A freshwater wetland dominated by woody vegetation that is six (6) meters tall or taller.

Fraternity House

Any building or structure, and the use thereof, traditionally affiliated with a college or university, regardless of whether any such affiliation is currently recognized formally or not, providing common living, dining, kitchen, study and/or sleeping areas for college or university students as members of the fraternity, and their guests. The term shall be deemed to include similarly defined sorority houses, but shall not be deemed to include fraternal organizations, such as the Masons or the Elks.

Fraternal Organization

A group of people formally organized for a non-profit common interest, usually cultural, religious, or entertainment, with regular meetings, rituals, and formal written membership requirements, excluding Fraternities/ Sororities. Examples of such groups include, but are not limited to, the Masons, the Odd Fellows, and the Lions Club.

Freshwater wetland

Freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

1. of ten or more contiguous areas; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook such that in a natural state, the combined surface area is in excess of 10 acres; and
2. inundated or saturated by surface or ground water at a frequency and a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition. (Applies to Shoreland Area Protection, Chapter 2, Section 2-1.E.)

Front Building  
Line

Line parallel to the front lot line transecting that point in the building face which is closest to the front lot line. This face includes porches,

whether enclosed or unenclosed but does not include steps.

Functionally  
Water Dependent Uses

Those uses that require, for their primary purpose, location on submerged lands or that require direct access to, or location in, coastal and inland waters and which cannot be located away from these waters. The uses include, but are not limited to, commercial and recreational fishing and boating facilities, excluding recreational boat storage buildings, fish processing, fish storage and retail and wholesale fish marketing facilities, waterfront dock and port facilities, shipyards and boat building facilities, marinas, navigation aids, basins and channels, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or processing water and which cannot reasonably be located or operated at an inland site, and uses which primary provide general public access to waters. (Applies to Shoreland Area Protection, Chapter 2, Section 2-1.E.)

Funeral Home

A building used for the preparation of the deceased for the burial and display of the deceased and rituals connected therewith before burial or cremation. A funeral home, as defined for purposes of this code, includes a funeral chapel.

Golf Course

A tract of land laid out for at least nine holes for playing the game of golf and improved with tees, greens, fairways, and hazards that may include a clubhouse and shelter. See Country Club.

Great pond

Any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty (30) acres except for the purposes of this Ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner. (Applies to Shoreland Area Protection, Chapter 2, Section 2-1.E.)

Ground cover

Small plants, fall leaves, needles and twigs and the partially decayed organic matter of the forest floor. (Applies to Shoreland Area Protection, Chapter 2, Section 2-1.E.)

Groundwater

All the water found beneath the surface of the ground that is present in soil pore space or in bedrock cracks or fractures. In this Code, the term refers to the subsurface water present in aquifers, wells, recharge areas, and discharge areas.

Height of  
Building

The vertical measurement from grade to the highest point of the roof beams in flat roofs; to the highest point on the deck of mansard roofs; to a level midway between the level of the eaves and highest point of pitched roofs or hip roofs; or to a level two-thirds of the distance from the level of the eaves to the highest point of gambrel roofs. For this purpose, the level of the eaves shall be taken to mean the highest level where the plane of the roof intersects the plane of the outside wall on a side containing the eaves.

Home Crafts

The business activities whereby the commodity for sale is completely manufactured by the resident craftsman. Home crafts may include, but are not limited to, the following: artists, jewelers, sculptors, dressmaking, seamstresses and tailors, and include such activities as model making, bakery, rug weaving, lapidary work and furniture making.

Home Occupation

An occupation or profession which is: accessory to a residential use and is customarily carried on in a dwelling unit or in a building or other structure

accessory to a dwelling unit; carried on by a member of the family residing in the dwelling unit; clearly incidental and secondary to the use of the dwelling unit for residential purposes.

Hotel

A facility offering travelers and other paying guests short-term lodging accommodations to the general public and providing additional services, such as restaurants, entertainment, conference center, and recreational facilities.

Household Pets

Those animals normally considered as household companions, and not including horses, cows, sheep, goats, mink, swine, chickens, turkeys or any animals raised for sale or for the sale of their products.

Hydraulic or Hydro Fracturing

The process of putting hydraulic pressure on the bedrock surrounding a borehole for the purpose of enhancing the flow rate of ground water that may be produced from the borehole.

Impervious Coverage Ratio

A measure of the intensity of the use of a piece of property determined by dividing the total area of the site covered by impervious surface including roofs, parking lots, roads, access drives, service areas, paved drainage ways, and similar impervious surfaces by the total area of the parcel.

Indoor Recreation Facility

A permanent structure containing facilities for recreational activities such as tennis, platform games, swimming, exercise rooms, handball and similar activities.

Inn

Single or multi-family dwelling or other building converted in its entirety to an establishment for the purpose of accommodating paying guests for a limited duration with sleeping and dining facilities; payable on a per-diem basis; having between ten (10) and twenty-five (25) sleeping rooms, and which may also include public dining for up to seven days a week. The inn shall include a single family dwelling unit to be occupied by the owner or manager. Additional buildings on the lot that meet space, set back and parking requirements may be used for additional bed and breakfast activities. This use is considered a commercial use.

Instructional Services

An instructional service is a use in which the practitioner provides the client with special instruction in a specific area of study. Instructional services include, but are not limited to the following: music, dance, arts and crafts, and tutoring.

Interior Window Sign Or Display

A sign or display located inside a window so that it is intended to be seen from the outside through the window. A sign permanently attached to or permanently painted on the inside of the window is a wall sign.

Junk Yard

A lot or part thereof, exposed to the elements, which is used for the sale or for the storage for sale of second-hand products or materials, for the storage of any three or more automobiles or trucks which cannot pass the state inspection test in their existing condition.

Landscape Buffer

Landscape buffer shall contain an adequate mix of trees, shrubs, plants, hardscapes, berms, topography, and other landscaping features that adequately break up the proposed development.

Light Industrial Use

The fully enclosed assembly or fabrication of materials, but excluding basic processes such as smelting, refining, distilling, forging, brewing and similar processes involving converting raw materials to a finished or semi-finished product.

Light Industrial Uses shall meet the following criteria:

1. There shall be no exterior storage or assembly of materials or products.
2. There shall be no activity which is defined as a high hazard by Section 305.0 of the BOCA Basic Building Code/1981.
3. Noise levels at the property boundary shall not exceed 65 DBA.
4. No vibrations or odors shall be noticeable at the property line.



<u>Lot</u>	A parcel of land in single ownership occupied or capable of being occupied by one building and the accessory buildings or uses customarily incidental to it, including such open spaces as are required by this Code, and having frontage upon a street as defined herein.
<u>Luminous Surface Material or Paint</u>	A surface material or paint that contains a phosphorescent or fluorescent substance that makes it glow in the dark.
<u>Manufactured Housing Unit</u>	<p>A mobile home constructed after June 15, 1976, which the manufacturer certifies is constructed in compliance with the United States Department of Housing and Urban Development Standards and which meets the following additional standards, or a Modular Home constructed after January 1, 1984, which the manufacturer certifies is constructed in compliance with the State of Maine's Manufactured Housing Act and Regulations and complies with the following additional standards:</p> <ol style="list-style-type: none"> <li>1. The unit is constructed with a pitched roof having a pitch of 4 in 12 or greater.</li> <li>2. The roof is covered with asphalt composition shingles, fiberglass shingles, approved wood shingles or shakes, or similar residential roofing material.</li> <li>3. The exterior wall surfaces are covered with materials similar to traditional site-built housing units. These materials may include clapboards, simulated clapboards such as conventional vinyl or metal siding, wood shingles or shakes or similar materials, but shall not include smooth, ribbed or corrugated metal or plastic panels.</li> <li>4. The minimum horizontal dimension of the unit as installed on the site is 14 feet.</li> <li>5. The minimum floor area of the unit shall be 750 square feet.</li> </ol>
<u>Marketing</u>	The promotion of buying and selling a product or service, including agritourism, which means attracting visitors to a farm to attend events and activities that are accessory uses to the primary farm operation.
<u>Medical Marijuana Business</u>	A medical marijuana manufacturing facility, a medical marijuana testing facility, and/or a medical marijuana caregiver that operates in a location that is not the caregiver's primary residence, or in the case of a caregiver that is a registered entity, the primary residence of any of the entity's officers or managers. A medical marijuana caregiver business does not include or encompass a medical marijuana caregiver store or a medical marijuana dispensary, neither of which are authorized to operate in Gorham.
<u>Medical Marijuana Caregiver</u>	A "registered caregiver," as that term is defined in 22 M.R.S.A. §2422(11), as may be amended or recodified.
<u>Medical Marijuana Manufacturing Facility</u>	A "manufacturing facility," as that term is defined in 22 M.R.S.A. §2422(4-R), and further specified in 22 M.R.S.A. §2423-F, as both may be amended or recodified.
<u>Medical Marijuana Testing Facility</u>	A "marijuana testing facility" as that term is defined in 22 M.R.S.A. §2422(5-C), as may be amended or recodified.
<u>Mixed-use Building</u>	A building or structure which accommodates, allows or includes a variety of complementary and integrated uses each of which is permitted in the underlying zoning district, such as, but not limited to, residential, office, services, manufacturing, retail, public, and recreation.
<u>Mixed-Use Development</u>	The development or proposed development of a neighborhood or tract of land with a variety of complementary and integrated uses each of which is permitted in the underlying zoning district, such as, but not limited to, residential, office, services, manufacturing, retail, public, and recreation.

<u>Mobile Home</u>	A factory-built housing unit constructed after June 15, 1976, which the manufacturer certifies is constructed in compliance with the United States Department of Housing and Urban Development Standards, meaning a structure, transportable in one or more sections, which, in the traveling mode, is 14 feet or more in width and has 750 or more square feet of floor area, and which is built on a permanent chassis and designed to be used as a dwelling unit, with or without permanent foundations, when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained herein, and which does not comply with the definition of a manufactured housing unit.
<u>Mobile Home Park</u>	A contiguous parcel of land having a minimum area of 25 acres and plotted for the development of a minimum of 25 mobile home lots which are to be rented, leased or sold.
<u>Mobile Vending Unit</u>	A vehicle, trailer, van, pushcart or portable structure which is temporarily located on private property for the purpose of operating a retail business or service business and removed from the site every day, but which does not include such structures temporarily located on any particular private property for such purposes for less than one-half hour. It shall not include such uses as construction offices during the duration of a building project or sales as part of an approved farmers market, fair or similar event.
<u>Modular Housing Unit</u>	A residential dwelling unit designed for transportation, after fabrication, to the site where it is to be occupied as two or more component parts which must be assembled into a livable dwelling unit on site. No component part of the Modular Housing Unit shall be a complete dwelling unit. A Modular Housing Unit must be placed on a permanent foundation and comply with all regulations of this code governing dwellings.
<u>Motel</u>	A building or group of detached or connected buildings designed or intended or used primarily for the providing of sleeping accommodations for automobile travelers and having a parking space adjacent to a sleeping room. An automobile court or a tourist court with more than one unit or a motel lodge shall be deemed to be a motel.
<u>Motocross Track</u>	An area of land for the primary purpose of racing or riding dirt bikes, motorcycles or ATVs over a natural or simulated rough terrain. A motocross track shall not be considered an activity or a facility of a social nature.
<u>Multi-Family Housing</u>	A building arranged, intended or designed to be designed to be occupied by three or more families living in independent dwelling units.
<u>Native</u>	Indigenous to the local forests. (Applies to Shoreland Area Protection, Chapter 2, Section 2-1.E).
<u>Net Acreage</u>	<p>The area of any parcel generally suitable, in its natural state, for development and theoretically related to the natural capacity of the land to support a certain intensity of use. The net acreage shall be determined by subtracting unsuitable areas from the gross acreage of the parcel. The following original land areas shall be considered unsuitable and shall be deducted in the following order:</p> <ol style="list-style-type: none"> <li>1. Fifteen (15) percent of the total acreage of the parcel as an estimated allowance for new access roads and parking areas, whether or not the actual area devoted to these uses is greater or less than 15 percent.</li> <li>2. Areas that are, because of existing land uses, natural features, or lack of access, isolated and unavailable for building purposes or for</li> </ol>

- use in common with the remainder of the parcel, as determined by the Town Planner, whose determination is subject to Planning Board review in the event of a dispute.
3. Areas within a floodway or 100-year flood hazard area, as shown on the Federal Flood Boundary and Floodway Map or Federal Flood Insurance Rate Map.
  4. Wetland areas, defined as hydric soil in conjunction with hydrophytic vegetation, or land which has been created by filling or draining a wetland or pond.
  5. Areas of rights-of-way and easements, except for new access roads deducted above and rights-of-way or easements for landscaped buffer strips and walking/bicycle paths not part of a street right-of-way.
  6. Stream channels, as measured from the top of banks, and other surface water bodies, as measured from the high water mark.
  7. Areas of 33 percent sustained slope or more. Slope areas of 20 to 33 percent shall also be deducted unless the developer can demonstrate to the Planning Board's satisfaction that these slopes will be used as part of the overall plan for the development, that they are stable for structures, if so utilized, and that any slope development will minimize soil erosion and comply with Maine State Plumbing Code.
  8. Areas of unreclaimed gravel or borrow pits.
  9. Areas with very poorly drained soils areas, as measured from a Class A high-intensity soils survey as identified under Maine Association of Professional Soils Scientists guidelines for Maine Certified Soil Scientists for Soil Identification and Mapping.
  10. For sites not served by public sewer and water, fifty (50) percent of the areas with poorly drained soils, and twenty-five (25) percent of the areas with soils with multiple drainage classifications, one of which is poorly drained (i.e., poorly drained to somewhat poorly drained), as measured from a high-intensity soils survey and map prepared by a certified soil scientist in accordance with the Maine Association of Professional Soils Scientists guidelines for Maine Certified Soil Scientists for Soil Identification and Mapping. This deduction is to account for the marginal development suitability of these soils if public sewer and water are not available.
  11. Other areas that the Planning Board determines could not, in their natural state, be incorporated into conventional subdivision lots of the minimum required area.

No building or structure shall be sited in areas treated as 100 percent deductions from the parcel's gross area. Siting of structures in areas treated as 50 percent deductions shall be discouraged but permitted where the applicant/developer demonstrates that measures will be taken to minimize erosion, sedimentation, and seasonal wetness, that these areas are stable for the siting of structures and that proposed subsurface waste disposal systems are sited away from marginal soils and otherwise meet the State of Maine Subsurface Waste Disposal Rules.

#### Net Residential Density

The maximum number of dwelling units allowed on a parcel of land. The net residential density of a parcel is determined by dividing the net acreage\* of the parcel by the minimum lot area per dwelling unit.

\*See definition of net acreage

#### Nit

A measure of the brightness or lighting intensity of a LED sign equal to 1 candela per square meter.

<u>Non-conforming Use</u>	A building, structure or use of land existing at the time of enactment of this Code, and which does not conform to the regulations of the district or zone in which it is situated.
<u>Normal High-Water Line</u>	That line which is apparent from visible markings, changes in the character of the soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high-water are considered part of the river or great pond. (Applies to Shoreland Area Protection, Chapter 2, Section 2-1.E.)
<u>Occupant</u>	For the purposes of the sign provisions of Chapter 2, Section 2-3, <u>Signs</u> , any distinct use that occupies a separate and identifiable space within a building.
<u>Office of a Contractor or Tradesman</u>	The principal place of business for a contractor or tradesman where administrative, marketing, and financial operations occur. No storage of materials or equipment shall occur on site as part of the use.
<u>Online Retail Sales</u>	The sale of goods and services from the seller to the customer over the internet using a web browser or a mobile app.
<u>Overpumping</u>	Pumping a well at a flow rate and duration sufficient to mobilize fine sediment out of bedrock fractures (or out of soil for screened wells) to increase the flow rate of groundwater into a well. Such pumping often causes large draw downs in the well.
<u>Parking Space</u>	Parking space shall mean an area of not less than 200 square feet, exclusive of drives or aisles giving access thereto, accessible from streets or aisles leading to streets and usable for the storage or parking of passenger vehicles. Parking space or access thereto shall be construed as to be usable year round.
<u>Patio</u>	An outdoor space located at ground level for dining or lounging that is constructed with bricks, paving stones, concrete, or similar materials.
<u>Personal Services</u>	A service based on the intellectual or manual efforts of an individual rather than a salable product. Personal services include, but are not limited to, the following: barber, hairdresser, beauty parlor, spa, barbershop, shoe repair, shoe shine, photographic studio, and businesses providing similar services of a personal nature.
<u>Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over Or Beyond The Normal High Water Line or Within A Wetland</u>	Temporary: Structures which remain in or over the water for less than seven (7) months in any period of twelve (12) consecutive months.  Permanent: Structures which remain in or over the water for seven (7) months or more in any period of twelve (12) consecutive months. (Applies to Shoreland Area Protection, Chapter 2, Section 2-1.E.)
<u>Piggery</u>	A building or portion thereof, or an enclosure or designed for the keeping of pigs.
<u>Primary Front Façade</u>	The apparent or dominant front wall of a building as seen from the adjacent street or property including projections or recessed sections of the front wall but not including parts of the

building that are located significantly behind the apparent front wall or that are designed so that they do not appear to be part of the front wall.

Principal Use

Primary or predominant use. An activity that is conducted in conjunction with another principal use and such activity that either: (1) constitutes only an incidental or insubstantial part of the total activity that takes place on a lot, or (2) is commonly associated with the principal use and integrally related to it, is regarded as accessory to the principal use.

A use is regarded as “incidental or insubstantial” if it is both incidental or insubstantial in and of itself and in relation to the principal use. Quantitative measures for consideration in this determination include the percentage and total amount of square footage attributed to the second use and sales or income derived from the second use.

Private Way

A lane established and maintained under private authority on a recorded private way plan approved by the Planning Board.

Public Sewer  
Public Water

A common sewer controlled by a public, governmental authority.  
A common water service controlled by a public, governmental authority.

Recent Flood  
Plain Soils

The following soil series as described and identified by the Cooperative Soil Survey:

Alluvial, Cornish, Charles, Fryeburg, Hadley, Limerick, Lovewell, Medomak, Ondawa, Podunk, Rumney, Saco, Suncook, Sunday, Winooski. (Applies to Shoreland Area Protection, Chapter 2, Section 2-1.E.)

Recharge Area

Areas composed of porous sand and gravel, or other areas that collect precipitation or surface water and carry it to aquifers.

Recreational Vehicle

A vehicular-type portable structure without permanent foundation that can be towed, hauled, or driven that is primarily designed as a temporary living accommodation for recreational, camping and travel use including, but not limited to, travel trailers, truck campers, camping trailers, and self-propelled motor homes. A recreational vehicle shall not be construed as a mobile home for the purposes of this Code.

Repair Services

Businesses providing for the repair and maintenance of personal and business property such as radios and televisions; electrical and electronic equipment; watches, clocks, and jewelry; furniture and upholstery; musical instruments, sporting equipment; small engines and equipment; small appliance,; bicycles, electric bicycles and similar items but not including the repair of motor vehicles, boats, recreational vehicles, or heavy equipment. Retail sales of parts and supplies shall be allowed provided such sales are accessory to the repair service.

Retail Store

Includes enclosed restaurant, cafe, shop, and store for the sale of retail goods, and shall exclude any drive-up service, free-standing retail stand, gasoline service and motor vehicle repair service, new and used car sales and service, trailer and mobile home sales and service, and similar uses.

River

A free-flowing body of water including its associated flood plain wetlands from that point at which it provides drainage for a watershed of twenty-five (25) square miles to its mouth. (Applies to Shoreland Area Protection,

<u>Roadside Stand</u>	A building or structure used for the retail sales of fresh fruits, vegetables, flowers, herbs or plants. In addition, it may involve the accessory sales of other unprocessed foodstuffs, home processed food products such as jams, jellies, pickles, sauces or baked goods and home-made handicrafts. The floor area devoted to the sales of these accessory items shall not exceed 50% of the total sales area. No commercially packaged handicrafts or commercially processed or packaged foodstuffs shall be sold at a roadside stand.
<u>Rooming House</u>	Any dwelling in which more than three persons, whether individually or as families are housed for compensation with or without meals. This shall be deemed to exclude fraternity and sorority houses.
<u>Rural Entrepreneurial Use</u>	A small, low-impact non-residential use that meets the performance standards for a Rural Entrepreneurial Use for the district in which it is located.
<u>Self-Service Storage Facility</u>	A structure containing separate, individual, and private storage spaces of varying sizes leased or rented to individuals for varying periods of time. Outdoor storage shall not be considered an accessory use to this permitted use.
<u>Service Drop</u>	<p>Any utility line extension which does not cross or run beneath any portion of a water body provided that:</p> <ol style="list-style-type: none"><li>1. in the case of electric service<ol style="list-style-type: none"><li>a. the placement of wires and/or the installation of utility poles is located entirely upon the premises of the customer requesting service or upon a roadway right-of-way; and</li><li>b. the total length of the extension is less than one thousand (1,000) feet</li></ol></li><li>2. in the case of telephone service<ol style="list-style-type: none"><li>a. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or</li><li>b. the extension requiring the installation of new utility poles or placement underground is less than one thousand (1,000) feet in length. (Applies to Shoreland Area Protection, Chapter 2, Section 2-1.E.)</li></ol></li></ol>
<u>Setback, Normal High Water Line</u>	The nearest horizontal distance from the normal high-water line of a water body or tributary stream, or upland edge of a wetland, to the nearest part of a structure, road, parking space or other regulated object or area. (Applies to Shoreland Area Protection, Chapter 2, Section 2-1.E.)
<u>Shed</u>	An accessory detached building used for residential storage, allowed in all districts. If a shed is less than 150 square feet in total area and has a height of less than 15 feet, the shed need only meet a 5 foot side and/or rear yard setback requirement. Only one shed per lot shall be allowed to have the reduced setback. Additional sheds on the lot must meet the otherwise applicable setbacks for the zoning district in which they are located.

<u>Shore Frontage</u>	The length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline. (Applies to Shoreland Area Protection, Chapter 2, Section 2-1.E.)
<u>Sign</u>	Any structure or part thereof attached thereto or painted or represented thereon, which shall display or include any letter, word, model, banner, flag, pennant, insignia, device or representation used as, or which is in the nature of an announcement, direction or advertisement. The word "sign" does not include the flag, pennant or insignia of any nation, state, city or other political unit, or of any political, educational, charitable, philanthropic, civic, professional, religious or like campaign, drive, movement, or event.
<u>Sign, Building</u>	A sign that is painted directly onto a wall or window or that is permanently attached to and supported by the building or structure to which it is attached.
<u>Sign, Business</u>	A sign displaying the name of the business or other occupant of the building or structure to which the sign applies or information about the business/occupant.
<u>Sign, Business Identification</u>	A small sign attached to the underside or hanging from a canopy over a pedestrian walkway identifying the entrance to the building or a use within the building.
<u>Sign, Directory</u>	A freestanding or building sign that lists the tenants or occupants of a building, project, or development.
<u>Sign, Freestanding</u>	A sign that is permanently attached to the ground and is not attached to a building or structure.
<u>Sign, Ground-mounted</u>	A freestanding sign that is supported by a base or pedestal, or by vertical supporting members such that the width of the base or pedestal or the distance between the supporting members is at least seventy-five percent (75%) of the width of the sign face.
<u>Sign, Information/Direction</u>	An on-site freestanding or building sign that provides information or direction to users of a property about the location of entrances and exits, parking, traffic flow, hours of operation or other noncommercial messages.
<u>Sign, Project</u>	A permanent sign identifying a project, building, or development that contains the name of the facility. In addition to the name of the project, the sign may include the name of the primary occupant of the project provided that this is less than forty percent (40%) of the sign area.
<u>Sign, Pole or Pylon</u>	A freestanding sign that is supported by a single vertical supporting member or base that is less than seventy-five percent (75%) of the width of the sign face.
<u>Sign, Projecting</u>	A building sign that extends from the supporting wall so that the sign face(s) is at a right angle to the wall on which it is mounted.
<u>Sign, Readerboard</u>	A portion of a permanent sign with moveable or interchangeable letters or other characters or symbols including signs with electronic changeable letters, characters, or symbols that identifies a business/occupant.
<u>Sign, Sandwichboard</u>	A small, non-illuminated, moveable sign that may include a space for changeable messages that identifies a business/occupant or provides information about the business/occupant that is placed on a sidewalk or other pedestrian area.

<u>Sign, Site</u>	A temporary sign at a construction site or development project that identifies the project and the firms involved with the design, construction, and financing of the project.
<u>Sign, Wall</u>	A building sign that is applied to, painted on, or attached to a wall, window, or other vertical surface so that the sign face is essentially parallel to the wall. A wall sign includes signs placed on pitched roofs so that the sign face is in a vertical orientation.
<u>Sign Face</u>	The area of the surface of a sign upon which the words, symbols, or graphics appear.
<u>Special Exception</u>	A special exception is a use that would not be appropriate generally or without restriction throughout the zoning district but which, if controlled as to number, area, location, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity, or general welfare. Such uses may be permitted in such zoning districts as special exceptions, if specific provision for such special exceptions is made in Chapter 1 of this Code.
<u>Stream</u>	A free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map, or if not available, a 15-minutes series topographic map, to the point where the body of water becomes a river, or flows to another water body or wetland within the shoreland area.. (Applies to Shoreland Area Protection, Chapter 2, Section 2-1.E.)
<u>Street</u>	A road established and maintained under public authority, or a fifty (50) foot wide recorded road shown on a plan of a subdivision duly approved by the Planning Board.
<u>Street Frontage</u>	The width of the lot measured along a street line, provided that access to the lot is possible from that street. Limited access roads, which cannot be used for access onto abutting lots, shall not be used to meet street frontage requirements, including but not limited to the Bernard P. Rines Highway section of Route 112.
<u>Structure</u>	<p>Anything built for (i) use or occupancy by or (ii) support shelter or enclosure of persons, animal, goods or property of any kind. For the purpose of this ordinance, the term "structure" shall not include:</p> <ol style="list-style-type: none"> <li>1. boundary walls, fences;</li> <li>2. retractable awnings;</li> <li>3. patios, paving of driveways and/or sidewalks, except in the Shoreland Overlay District;</li> <li>4. doghouses (pet shelters) provided the foot print does not exceed twelve sq. ft. and the height is less than five feet; and</li> <li>5. mailboxes and lamp posts.</li> </ol> <p>For the purposes of this ordinance, the term "structure" shall include, without limitation:</p> <ol style="list-style-type: none"> <li>1. swimming pools;</li> <li>2. terraces and decks; and</li> <li>3. patios, paving of driveways, and/or sidewalks within the Shoreland Zone.</li> </ol>



<u>Subdivision</u>	The division of a tract or parcel of land into three (3) or more lots as defined by the Maine Revised Statutes Annotated, Title 30, Sec. 4956, as amended, within any five (5) year period.
<u>Substantial Improvement</u>	Any repair, reconstruction, or improvement of structure, the cost of which equals or exceeds 50% of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For purposes of this definition "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or for any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historical Places.
<u>Timber Harvesting</u>	The cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting or removal of trees shall be regulated pursuant to Chapter 2, Section 2-9(L). (Applies to Shoreland Area Protection, Chapter 2, Section 2-1.E.)
<u>Tributary Stream</u>	A channel between defined banks created by the action of surface water which is characterized by the lack of terrestrial vegetation or by the presence of a bed devoid of topsoil containing waterborne deposits or exposed soil, parent material or bedrock, and which is connected hydrologically with other water bodies and flows to a water body or wetland as defined. "Tributary stream" does not include rills or gullies forming because of accelerated erosion in disturbed soils where the natural vegetation cover has been removed by human activity.
<u>Turning Circle</u>	A street segment forming a circle at the closed end of a cul-de-sac street, with a curve radius of 100 feet as measured to the outside line of the right-of-way.
<u>Upland Edge</u>	The boundary between upland and wetland. The upland edge is formed where the soils are not saturated for a duration sufficient to support wetland vegetation; or where the soils support the growth of wetland vegetation, but such vegetation is dominated by woody stems that are six (6) meters or taller. (Applies to Shoreland Area Protection, Chapter 2, Section 2-1.E.)
<u>Variance</u>	A variance is a relaxation of the terms of this Code where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the Code will result in unnecessary or undue hardship. As used in this Code, a variance is authorized only for relief from the Space Standards applying to the district in which the property is located. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance, nor shall a variance be granted because of the presence of non-conforming uses in the particular district or adjoining district.
<u>Village Character</u>	A pattern of land use and building development that is consistent with the "selected concepts" set out in <u>Section III. Alternative Concepts</u> , of the Gorham Main Street Master Plan.

<u>Warehousing Facilities</u>	A building used primarily for the storage of goods and materials by the owner of the goods or operated for a specific commercial establishment or a group of establishments in a particular industrial or economic field. Warehousing may be for long-term or short-term storage.
<u>Water Body</u>	Any great pond, river, stream. (Applies to Shoreland Area Protection, Chapter 2, 2-1.E.)
<u>Water Crossing</u>	Any project extending from one bank to the opposite bank of a river stream, tributary stream, or wetland, whether under, through, or over the water or wetland. Such projects include but may not be limited to roads, fords, bridges, culverts, and water lines, and cables as well as maintenance work on these crossings. (Applies to Shoreland Area Protection, Chapter 2, Section 2-1.E.)
<u>Wetland</u>	A freshwater wetland. (Applies to Shoreland Area Protection, Chapter 2, Section 2-1.E.)
<u>Yard</u>	An unoccupied space, open to the sky, on the same lot with a building or structure.
<u>Yard Front</u>	An open unoccupied space on the same lot with the building or structure between the front line of the building or structure and the front line of the lot and extending the full width of the lot.
<u>Yard Rear</u>	An open unoccupied space on the same lot with the building or structure between the rear line of the building or structure and the rear line of the lot and extending the full width of the lot.
<u>Yard Side</u>	An open unoccupied space on the same lot with the building or structure situated between the building and the side line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line.

## **SECTION 1-6 –URBAN RESIDENTIAL DISTRICT**

### **A. PURPOSE**

To preserve the physical, aesthetic and social quality of Gorham's urban area and, consistent with this stated goal, to provide therein for the location of a variety of residential and service uses in accordance with the standards of this chapter. To this end, residential development shall not exceed the net residential density allowable herein and may preferably occur in accordance with the provisions of Chapter 2, Section 2-4, of this Code.

### **B. PERMITTED USES**

- 1) One or two-family dwellings, exclusive of mobile homes and exclusive of trailers.
- 2) Nursing home, home for the aged.
- 3) Municipal building or use.
- 4) Municipally owned parks and playgrounds.
- 5) Telephone exchange, without business office.
- 6) Any agricultural building or use except a sawmill. Keeping of animals other than household pets shall conform to the requirements of Chapter 2, Section 2-12: Keeping of Urban Farm Animals.
- 7) Accessory residential uses, including home occupations.
- 8) Manufactured housing units on single-family residential lots in designated manufactured housing sub-districts.
- 9) Rooming house, apartment building or multifamily housing, except fraternity housing.
- 10) Announcement sign or bulletin board for the use of a public, charitable or religious institution, occupying the premises for which the sign or board is located.
- 11) Public utility facilities including substations, pumping stations and sewage treatment facilities.
- 12) School, hospital, church, or any other institution of educational, religious, philanthropic, fraternal organization, or social nature which is not used for residential or commercial purposes, which has less than two thousand (2,000) square feet of floor area and generates less than two hundred (200) vehicle trips during any twenty-four hour period, except fraternity houses.
- 13) Accessory Apartments
- 14) Bed and Breakfast Establishments

### **C. SPECIAL EXCEPTIONS**

- 1) Day Care Center.
- 2) School, hospital, church or any other institution of education, religious, philanthropic, fraternal organization or social nature which is not used for residential purposes and has two thousand (2,000) or more square feet of floor area or generates two hundred (200) or more vehicle trips during any twenty-four hour period.

3) Bed and Breakfast Establishment with public dining as an accessory use.

4) Inn

**D. SPACE STANDARDS**

	<u>Watered &amp; Sewered</u>	<u>Unsewered</u>
Minimum lot size	10,000 sq.ft.**	20,000 sq.ft.
Minimum area per dwelling unit	10,000 sq.ft.	20,000 sq.ft.
Minimum street frontage	80 ft.	80 ft.
Minimum front yard	25 ft.	25 ft.
Minimum rear and side yards	15 ft.*	15 ft.*

\*Buildings higher than 30 feet shall have side and rear yards not less than 50% of building height.

\*\*The June 3, 1997 amendment to the minimum lot size shall apply prospectively only, from that date forward, and only to (1) lots newly created after that date as evidenced by a deed on record in the Cumberland County Registry of Deeds on or before that date or (2) lots not part of a subdivision plan approved on or before that date or lots in a proposed subdivision plan grand fathered by law on or before that date.

Maximum building height	None	None
Maximum building coverage	25%	25%

Notwithstanding the provisions of this subsection D, an auxiliary public utility structure is exempt from the minimum lot size, building coverage, and street frontage requirements of this district. Structures must meet setback requirements. Additional screening and buffering can be requested by the Planning Board.

**E. PERFORMANCE STANDARDS**

The performance standards contained in Chapter 2 of this Code shall be fully observed.

## **SECTION 1-7 - SUBURBAN RESIDENTIAL DISTRICT**

### **A. PURPOSE**

Gorham is a desirable residential community, and much growth is occurring outside of existing built-up areas. The purpose of the suburban residential district is to designate areas where new low-density residential growth can occur in a manner which provides a high quality living environment while minimizing local service costs. Development within this district may occur in accordance with the cluster development provisions of Chapter 2, Section 2-4 of this Code.

### **B. PERMITTED USES**

- 1) One and two-family dwellings, exclusive of mobile homes.
- 2) Nursing homes or homes for the aged.
- 3) Municipally owned parks and playgrounds.
- 4) Accessory uses and buildings including home occupations.
- 5) Agricultural buildings and uses except a sawmill. Keeping of animals other than household pets shall conform to the requirements of Chapter 2, Section 2-12: Keeping of Urban Farm Animals.
- 6) Manufactured housing units on single-family residential lots in designated manufactured housing sub-districts.
- 7) Municipal buildings or uses.
- 8) Apartment buildings or multifamily housing.
- 9) Public and private utility facilities, including substations, pumping stations, and treatment facilities, but excluding business offices.
- 10) School, hospital, church, or any other nonresidential institution of educational, religious, philanthropic, fraternal organization, or social nature which has less than two thousand (2,000) square feet of floor area and generates less than two hundred (200) vehicle trips during any twenty-four hour period, except fraternity housing.
- 11) Golf courses and country clubs.
- 12) Roadside stands.
- 13) Accessory Apartments
- 14) Reuse of an existing agricultural building for non-residential use that meets the Performance Standards of Subsection E
- 15) Rural Entrepreneurial Use that meets the Performance Standards of Subsection E
- 16) Bed and Breakfast Establishment

### **C. SPECIAL EXCEPTIONS**

- 1) Day Care Center.
- 2) Cemeteries.

- 3) Sawmill
- 4) Mineral extraction.
- 5) School, hospital, church or any other nonresidential institution of education, religious, philanthropic, fraternal organization or social nature and has two thousand (2,000) or more square feet of floor area or generate two hundred (200) or more vehicle trips during any twenty-four hour period.
- 6) Veterinary clinics, exclusive of kennels or boarding facilities.
- 7) Bed and Breakfast Establishment with public dining as an accessory use.
- 8) Inn

**D. SPACE STANDARDS**

Minimum lot size	60,000 square feet
Minimum lot area per dwelling unit	40,000 square feet
Minimum street frontage	200 feet*
Minimum front yard local street	50 feet
Minimum front yard collector or arterial street	70 feet
Minimum side and rear yards	20 feet
Maximum building height	None

\*May be reduced up to 50% for lots fronting on turning circles provided that the lot width at the front setback line is equal to or greater than the minimum street frontage required.

Notwithstanding the provisions of this subsection D, an auxiliary public utility structure is exempt from the minimum lot size and street frontage requirements of this district. Structures must meet setback requirements. Additional screening and buffering can be requested by the Planning Board.

**E. PERFORMANCE STANDARDS**

- 1) The performance standards contained in Chapter 2 of this Code shall be fully observed.
- 2) Rural Entrepreneurial Uses Including the Reuse of Existing Agricultural Buildings  
In addition to the performance standards of Chapter 2, any Rural Entrepreneurial Use or the Reuse of an Existing Agricultural Building for a Non-Residential Use shall meet the following standards:
  - a) Notwithstanding the minimum lot size requirement of Subsection D, a Rural Entrepreneurial Use or the Reuse of An Existing Agricultural Building shall be permitted only on a lot with an area of at least three (3) acres. If the lot contains another principal use(s), the lot must have at least three (3) acres for the Rural Entrepreneurial Use or Reuse of an Existing Agricultural Building in addition to the area required for the other principal use(s).
  - b) The total floor area for all buildings and structures used as part of the Rural Entrepreneurial Use(s), but not including any part of a basement that is used only for storage or mechanical uses, shall be not more than one (1) percent of the area of the lot on which it is located or five thousand (5,000) square feet,

- c) whichever is less. The five thousand (5,000) square foot limitation shall not apply to the Reuse of an Existing Agricultural Building provided the total floor area for all buildings and structures used for such Reuse, excluding any part of a basement that is used only for storage or mechanical uses, shall not be more than one (1) percent of the area of the lot on which it is located.
- d) Vehicular access to the lot on which the use is located shall be from a public street that is classified by the Town as an arterial street, collector street, industrial or commercial street, or service road. In addition, the Reuse of an Existing Agricultural Building may get its vehicular access from a sub-collector if the lot on which it will be located is at least five (5) acres in area.
- d) The total number of peak hour trip ends generated by the use based upon the ITE Trip Generation Manual shall not exceed one (1) trip end per two hundred (200) square feet of gross floor area occupied by the non-residential use.
- e) The use of the building shall be limited to low-impact non-residential activities such as, but not limited to, personal, business, and repair services, business and professional offices, light industrial uses, research facilities, and warehousing and storage, and shall not involve the retail sale of goods except as accessory to another principal use. Any use that is listed as a special exception in the Suburban Residential District shall not be allowed as a Rural Entrepreneurial Use or the Reuse of an Existing Agricultural Building and shall be allowed only with approval of a special exception for that use.
- f) The non-residential activity shall occur completely within the building and there shall be no outside storage of materials, equipment, or products; except non-residential activities stated in standard I). No equipment or machinery associated with the use other than normal heating and ventilation units shall be located or operated outside of the building.
- g) The Reuse of an Existing Agricultural Building shall maintain the architectural character of the existing building and changes to the exterior of the structure shall be limited to minor changes and/or additions needed to provide access or light or to comply with code requirements. The design of any new, expanded, or reused building other than an Existing Agricultural Building shall be residential or rural/agricultural in character with a pitched roof with a minimum roof pitch of 5:12. Exterior materials shall be similar to those used on existing residential or agricultural buildings in the district.
- h) Parking associated with the use shall not be located in any required setback. If the building is located within one hundred feet of the front lot line, no parking shall be permitted between the front lot line and the front wall of the building extending the full width of the lot. Parking shall be screened from view from public streets or abutting properties in residential use through landscaping, fencing, or topography.
- i) The use shall not produce noise, odors, fumes, vibrations, lighting or electrical interference at the boundaries of the parcel that exceed the levels produced by typical single-family residential uses.
- j) The hours of operation of the use shall be compatible with surrounding uses and may be limited by the Planning Board as part of the approval of the site plan to assure compatibility.
- k) Notwithstanding the provisions of Chapter 2, Section 2-3 – Signs, the non-residential activity may have one (1) non-illuminated, double-sided sign with an area of not more than twenty-four (24) square feet per side. If there is more

- l) than one business entity occupying the building, there shall be a single, non-illuminated, double-sided sign with an area of not more than forty-eight (48) square feet per side for all of the businesses.
- m) The non-residential activity not occurring completely within the building will be compatible with the surrounding uses as determined through the application of standards a) through k) of this section and may be limited by the Planning Board as part of the approval of the site plan to assure compatibility.

**F. DENSITY BONUS**

Many parts of the Suburban Residential Zone have public water available and public sewerage is planned in limited areas. Since the availability of these utilities reduces the development limitations imposed by soil characteristics, provision is made for a density bonus if one or both of these utilities will be utilized in the development.

If public water or public sewer is utilized in the development, one additional dwelling unit may be constructed for each three acres of the net acreage of the site. Individual lot sizes and frontage requirements may be reduced by up to 25%.

If public water and public sewer are utilized in the development, one additional dwelling unit may be constructed for each 1.5 acres of the net acreage of the site. Individual lot sizes and frontage requirements may be reduced by up to 50%.



## **SECTION 1-8 - RURAL DISTRICT**

### **A. PURPOSE**

The Town of Gorham contains large amounts of land which are either in current agricultural use or which have soils which are suited for agricultural use. The Town recognizes that the continuation of agriculture within the Town is of economic, recreational, and scenic benefit to the residents of the Town as well as the greater region. Development within this district may occur in accordance with the cluster development provisions of Chapter 2, Section 2-4 of this Code.

### **B. PERMITTED USES**

- 1) One and two-family dwellings, exclusive of mobile homes.
- 2) Permanent housing for agricultural workers as part of a farm.
- 3) Agricultural buildings and uses.
- 4) Roadside stands.
- 5) Municipally owned parks and playgrounds.
- 6) Accessory uses and buildings, including home occupations.
- 7) Sawmill, piggery or the raising of poultry.
- 8) Manufactured housing units on single-family residential lots in designated manufactured housing sub-districts.
- 9) Municipal buildings or uses.
- 10) Apartment buildings or multifamily housing, except fraternity housing.
- 11) Public and private utility facilities, including substations, pumping stations, and treatment facilities, but excluding business offices.
- 12) School, hospital, church, or any other institution of educational, religious, philanthropic, fraternal organization, or social nature which is not used for residential purposes, which has less than two thousand (2,000) square feet of floor area and generates less than two hundred (200) vehicle trips during any twenty-four hour period.
- 13) Mineral extraction.
- 14) Agriculturally related business uses, including machinery sales and service, seed and fertilizer sales, and similar uses.
- 15) Golf courses and country clubs.
- 16) Facilities for the processing of agriculture products.
- 17) Funeral Home
- 18) Accessory Apartments
- 19) Reuse of an existing agricultural building for a non-residential use that meets the Performance Standards of Subsection E
- 20) Rural Entrepreneurial Use that meets the Performance Standards of Subsection E

- 21) Bed and Breakfast Establishment
- 22) Dog Kennel
- 23) Landscape Companies, Contractors' Yards and Similar and Compatible Uses that Meet the Performance Standards of Subsection F
- 24) Marijuana Cultivation or Manufacturing Facility when inside an existing agricultural building
- 25) Medical Marijuana Business when inside an existing agricultural building
- 26) Agritourism

**C. SPECIAL EXCEPTIONS**

- 1) Day Care Center.
- 2) Cemeteries.
- 3) Communication and transmission facilities, including relay stations, transmission towers, and antennas.
- 4) School, hospital, church or any other institution of education, religious, philanthropic, fraternal organization or social nature which has two thousand (2,000) or more square feet of floor area or generates two hundred (200) or more vehicle trips during any twenty-four hour period.
- 5) Bed and Breakfast Establishment with public dining as an accessory use.
- 6) Inn

**D SPACE STANDARDS**

Minimum lot size for residential lots which are not a part of a subdivision	60,000 sq.ft. per dwelling unit
Minimum lot area per dwelling unit for residential subdivisions or multi-family housing	60,000 sq.ft.
Minimum lot size for non-residential lots	60,000 sq.ft. **
Minimum street frontage	200 ft. *
Minimum front yard	
*local street	50 ft.
*collector or arterial street	70 ft.
Minimum side and rear yard	
*residential	20 ft.
*non-residential	50 ft.
Maximum building height	None

\*May be reduced up to 50% for lots fronting on turning circles provided that the lot width at the front setback line is equal to or greater than the minimum street frontage required.

\*\*The minimum lot area per dwelling unit shall be used to calculate the net residential density or the maximum number of dwelling units that can be placed on a parcel. Individual lots in a subdivision may vary in size as long as the subdivision conforms to the overall net residential density of the parcel, no lot for a single-family home is smaller than 40,000 square feet in area, and the individual lots are laid out to reflect the development suitability of the parcel.

Notwithstanding the provisions of this subsection D,

1. A lot listed on the National Register of Historic Places need not meet the minimum lot size or street frontage requirements so long as the lot is subject to either a conservation easement or deed restriction limiting its use or development solely to non-commercial conservation or historic purposes.
2. An auxiliary public utility structure is exempt from the minimum lot size and street frontage requirements of this district. Structures must meet setback requirements. Additional screening and buffering can be requested by the Planning Board.

**E. PERFORMANCE STANDARDS**

- 1) The performance standards contained in Chapter 2 of the Code shall be fully observed.
- 2) Rural Entrepreneurial Uses Including the Reuse of Existing Agricultural Buildings

In addition to the performance standards of Chapter 2, any Rural Entrepreneurial Use or the Reuse of an Existing Agricultural Building for a Non-Residential Use shall meet the following standards:

- a) Notwithstanding the minimum lot size requirement of Subsection D, a Rural Entrepreneurial Use or the Reuse of An Existing Agricultural Building shall be permitted only on a lot with an area of at least five (5) acres. If the lot contains another principal use(s), the lot must have at least five (5) acres for the Rural Entrepreneurial Use or Reuse of an Existing Agricultural Building in addition to the area required for the other principal use(s).
- b) The total floor area for all buildings and structures used as part of the Rural Entrepreneurial Use(s), but not including any part of a basement that is used only for storage or mechanical uses, shall be not more than one (1) percent of the area of the lot on which it is located or five thousand (5,000) square feet whichever is less. The five thousand (5,000) square foot limitation shall not apply to the Reuse of an Existing Agricultural Building provided the total floor area for all buildings and structures used for such Reuse, excluding any part of a basement that is used only for storage or mechanical uses, shall be not be more than one (1) percent of the area of the lot on which it is located.
- c) Vehicular access to the lot on which the use is located shall be from a public street that is classified by the Town as an arterial street, collector street, industrial or commercial street, or service road. In addition, the Reuse of an Existing Agricultural Buildings may get its vehicular access from a sub-collector if the lot on which it will be located is at least five (5) acres in area.
- d) The total number of peak hour trip ends generated by the use based upon the ITE Trip Generation Manual shall not exceed one (1) trip end per two hundred (200) square feet of gross floor area occupied by the non-residential use.
- e) The use of the building shall be limited to low-impact non-residential activities such as, but not limited to, personal, business, and repair services, business and professional offices, light industrial uses, research facilities, and warehousing and storage, and shall not involve the retail sale of goods except as accessory to another principal use. Any use that is listed as a special exception in the Rural District shall not be allowed as a Rural Entrepreneurial Use or the Reuse of an Existing Agricultural Building and shall be allowed only with approval of a special exception for that use.

- f) The non-residential activity shall occur completely within the building and there shall be no outside storage of materials, equipment, or products. No equipment or machinery associated with the use other than normal heating and ventilation units shall be located or operated outside of the building.
- g) The Reuse of an Existing Agricultural Building shall maintain the architectural character of the existing building and changes to the exterior of the structure shall be limited to minor changes and/or additions needed to provide access or light or to comply with code requirements. The design of any new, expanded, or reused building other than an Existing Agricultural Building shall be residential or rural/agricultural in character with a pitched roof with a minimum roof pitch of 5:12. Exterior materials shall be similar to those used on existing residential or agricultural buildings in the district.
- h) Parking associated with the use shall not be located in any required setback. If the building is located within one hundred feet of the front lot line, no parking shall be permitted between the front lot line and the front wall of the building extending the full width of the lot. Parking shall be screened from view from public streets or abutting properties in residential use through landscaping, fencing, or topography.
- i) The use shall not produce noise, odors, fumes, vibrations, or electrical interference at the boundaries of the parcel that exceed the levels produced by typical single-family residential uses.
- j) The hours of operation of the use shall be compatible with surrounding uses and may be limited by the Planning Board as part of the approval of the site plan to assure compatibility.
- k) Notwithstanding the provisions of Chapter 2, Section 2-3 – Signs, the non-residential activity may have one (1) non-illuminated, double-sided sign with an area of not more than thirty-two (32) square feet per side. If there is more than one business entity occupying the building, there shall be a single, non-illuminated, double-sided sign with an area of not more than forty-eight (48) square feet per side for all of the businesses.

F. **PERFORMANCE STANDARDS FOR LANDSCAPE COMPANIES, CONTRACTORS' YARDS AND SIMILAR AND COMPATIBLE USES**

- 1) The Town's Code Enforcement Officer will determine whether the proposed business use is to be classified as a landscape company, contractor's yard or similar and compatible uses.
- 2) The proposed use shall be reviewed and approved under Chapter 4, site plan review.
- 3) The performance standards contained in Chapter 2 of the Code shall be fully observed. In addition to the performance standards of Chapter 2 uses shall meet the following standards:
  - a) Notwithstanding the minimum lot size requirement of Subsection D, the proposed uses shall be permitted only on a lot with an area of at least five (5) acres. If the lot contains another principal use, the lot must have at least five (5) acres for the proposed use in addition to the area required for the other principal use(s).
  - b) The gross floor area for structures for the use shall be limited to a maximum gross floor area of 1,000 sq.ft. Any structures shall utilize a New England Village character design and shall have a compatible style with the surrounding residential structures.
  - c) Vehicular access to the lot on which the use is located shall be from one of the following streets: Ossipee Trail, County Road, Deering Road, Fort Hill Road,

Wood Road, Spiller Road, Dow Road, Farrington Road, Mighty Street, Huston Road, Dingley Spring Road, Sebago Lake Road, and North Gorham Road.

- d) Parking associated with the use shall not be located in any required setback. If the structure for the proposed business is located within one hundred feet of the front lot line, no parking shall be permitted between the front lot line and the front wall of the building extending the full width of the lot. Parking shall be screened from view from public streets or abutting residential zoned properties through the use of landscaping, fencing, or topography and shall also be subject to the requirements of subsection h(i).
- e) The use shall not produce noise, odors, smoke, dust, heat, glare, fumes, or vibrations at the property line of the parcel that exceed the levels produced by typical single-family residential uses.
- f) On site business operations shall be limited to 7:00 a.m. to 6:00 p.m.-Monday through Friday and 8:00 a.m. to 6:00 p.m. on Saturday. These limited hours of operation are waived for snow plow contractors during snow events. No business activities shall be permitted on Sunday.
- g) Signs shall comply with Chapter 2, Section 3– Signs and shall not be internally illuminated. Signage can only be illuminated during normal business hours.
- h) Outside storage of equipment, materials, and / or commercial vehicles, may be permitted provided they are fully screened from public view by fencing and/or a solid screen of landscaping or terrain. Outside storage of equipment and/or materials shall be limited to five percent (5%) of the lot area or to a maximum of 10,000 sq.ft. and such storage shall be done on a gravel pad and shall be screened from public view. When adjacent to a residential use or zone a one hundred (100) foot landscape buffer shall be provided.
- i) The Planning Board or Site Plan Review Committee may reduce the required buffer to fifty (50) feet provided that the abutting property owner/s provide the Town signed letters agreeing to the reduced setback. When located adjacent to a commercial use or zone a fifty (50) foot buffer shall be provided. Landscape buffers shall conform to the following standards:
  - i. No portion of the “landscaped buffer” shall be used for storage of equipment or inventory, service and loading, parking or any buildings or structures.
  - ii. A detailed landscaping plan, prepared by a landscape architect, shall be prepared for the landscaped buffer area and submitted as part of Site Plan Review, for all lots with a perimeter setback. The landscaped buffer area shall be designed to provide effective visual and auditory buffering from abutting residential properties, create an attractive appearance for the proposed new development and maintain an attractive gateway to Gorham consistent with the goals and objectives of the Town of Gorham Comprehensive Plan. Existing natural features and vegetation or fencing may be incorporated into the plan for the buffer area if they are found to create an effective visual and auditory buffer by the Planning Board or Site Plan Review Committee. All such buffer areas shall be maintained for the life of the proposed business use.
- j) No more than five (5) people may be employed in the business use. There shall be only minimal retail sales or wholesale sales taking place from the premises and the items for sale shall be directly related to the approved business use.
- k) Services of equipment and / or vehicles shall be limited to minor repairs such as oil changes, fueling, and tire changes. No major vehicle repairs (painting, body work, etc.) shall be permitted on site. On-site service of equipment / vehicles shall be limited to those vehicles or equipment associated with the approved business use.

**G. PERFORMANCE STANDARDS FOR AGRITOURISM ACTIVITY**

- 1) The farm must be an existing and operating working farm.
- 2) Agritourism activity must be incidental to the agricultural use of the property.
  - a) Events that have under 100 (100) attendees or less at any one time are required to have ten (10) acres under continuous ownership or leased farmland uses for the location where the agritourism activity will occur.
  - b) Events that have one hundred (100) to two hundred and fifty (250) attendees at any one time are required to have twenty (20) acres or more under continuous ownership or leased farmland areas for the location where the agritourism activity will occur.
- 3) Permits: Events under this section are exempt from site plan review. Events with more than one hundred (100) attendees at any one time are required to get an Agritourism Event Permit from the Code Office for each event. The applicant will identify how the event will comply with standards outlined in this section.
- 4) Applicants, vendors, and owners are required to obtain all required local, state and federal permits for each agritourism activity.
- 5) The attendance at any such event shall be limited to two hundred and fifty (250) attendees at any one time. The number of events with over one hundred (100) attendees at any one time shall be limited to 10 events in a calendar year with no more than 3 events occurring in a calendar month. Events that occur over multiple days shall constitute a separate event for each day the event occurs.
- 6) The use of any structure for agritourism activities is required to meet all local state and/or federal codes including but not limited to building and fire codes.
- 7) Adequate bathroom facilities, either portable or permanent, shall be provided to accommodate all attendees.
- 8) Any service, sale or consumption of alcoholic beverages shall be in compliance with state law.
- 9) Such events may include the provision of goods and services by third-party vendors, including but not limited to catered food preparation and serving and musical performances or other entertainment. Third-party vendors are required to obtain all required local, state and federal permits for the events they are participating in.
- 10). Agritourism activities are required to meet the Town's noise standards under Chapter 2, Performance Standards Section 2-1 Environmental, H. Noise Abatement.
- 11) Signage may be used as prescribed by Chapter 2, Section 2-3.
- 12) Hours of event operations are limited to:
  - a) Sunday through Thursday, 8:00 a.m. to 8:00 p.m.
  - b) Friday through Saturday, 8:00 a.m. to 10:00 p.m.
  - c) Setup and take down for an event is considered to be separate from the hours of operation of the event and shall not be considered part of the event itself. Setup or take down shall not occur between the hours of 11:00 p.m. and 7:00 a.m.
- 13) Events that do not conform to the standards above may be considered under Contract Zoning, Chapter 1, Section 1-1.
- 14) Vehicular access into the agritourism activity will provide for safe and convenient access.
- 15) None of the agritourism activity shall be located in any required, side, rear or front setbacks.
- 16) Maine State sponsored events shall be exempt from obtaining a permit.

## **SECTION 1-9 - VILLAGE CENTERS DISTRICT**

### **SUBSECTION 1. LITTLE FALLS VILLAGE CENTER DISTRICT**

#### **A. PURPOSE**

To provide space within Little Falls Village for small, local, retail sales, commercial service, and office uses which are in keeping with the scale and character of the Village while minimizing the traffic problems and interruptions created by such development. In addition, the rehabilitation and reuse of existing structures is encouraged.

#### **B. PERMITTED USES**

- 1) Local retail stores (individual stores shall not have more than seven thousand (7,000) square feet of gross floor area).
- 2) Personal, business, and repair services.
- 3) Business and professional offices.
- 4) Residential uses including one-family dwellings, two-family dwellings, apartment buildings and multi-family housing but excluding mobile homes and trailers, except fraternity housing.
- 5) Municipal building or use.
- 6) Park or playground.
- 7) Accessory building or use including home occupations.
- 8) Rooming house.
- 9) Funeral home.
- 10) Place of public assembly, including indoor theater.
- 11) School, hospital, church, or any other institution of educational, religious, philanthropic, fraternal organization, or social nature which is not used for residential purposes, which has less than two thousand (2,000) square feet of floor area and which generates less than two hundred (200) vehicle trips during any twenty-four hour period.
- 12) Public utility facilities including substations, pumping stations, and exchange buildings.
- 13) Drive-through service, as defined in Section 1-5 of this Chapter, when accessory to financial institutions.
- 14) Bed and Breakfast Establishment
- 15) Bed and Breakfast Establishment with public dining as an accessory use.
- 16) Inn
- 17) Residential dwelling units part of a mixed use development
- 18) Office of Contractor or Tradesman

#### **C. SPECIAL EXCEPTIONS**

- 1) Day Care Center.

- 2) School, hospital, church or any other institution of education, religious, philanthropic, fraternal organization or social nature which is not used for residential occupancy and has two thousand (2,000) or more square feet of floor area or generates two hundred (200) or more vehicle trips during any twenty-four hour period.

**D. SPACE STANDARDS**

Minimum lot size:	None*
Minimum area per dwelling unit:	10,000 sq. ft.**
Minimum street frontage	None*
Building setback:	New buildings constructed in the Village Center District shall be located in such a manner as to maintain the established relationship of buildings to the street. No building shall be setback further than the average of the existing setbacks in the block in which the building is located or if an existing building is being demolished, than the pre-existing setback, whichever is greater.
Minimum side and rear yards:	10 feet* except as otherwise required by the buffer provisions of this Code.
Maximum building height:	None
Maximum building coverage:	None*

\*Space standards for residential uses shall be the same as for those in the Urban Residential District. The Urban Residential District space standards do not apply to mixed-use buildings.

\*\* Minimum area per dwelling unit for existing buildings being converted to mixed-use buildings may utilize the space standards under Chapter 2, Section 2-4 Residential, d. Mixed-Use Developments

Notwithstanding the provisions of this subsection D, an auxiliary public utility structure is exempt from the minimum lot size and street frontage requirements of this district. Structures must meet setback requirements. Additional screening and buffering can be requested by the Planning Board.

**E. PERFORMANCE STANDARDS: SITE DEVELOPMENT**

The performance standards contained in Chapter 2 of this Code shall apply and the following additional requirements shall be placed on uses within this district:

- 1) No portion of the lot in front of the front building line shall be used for accessory structures off-street parking, service or loading.
- 2) The Planning Board may waive or reduce the off-street parking requirements if:
  - a) An existing building is being converted to another permitted use, or
  - b) Adequate off-street parking is available in public cooperative off-street parking facilities within 300 feet of the site.
- 3) The Planning Board shall require that entrances to uses in this district be combined to the maximum extent possible. Provisions shall be made for the interconnection of non-resident parking lots on adjacent parcels where feasible and appropriate to allow vehicular circulation between lots without having to go onto the public street. Such interconnections shall be designed to minimize the potential for the parking areas to be used as a "short-cut" by traffic.
- 4) Each building shall be limited to a maximum of one entrance and exit to Gray Road at a point determined by the Planning Board.



- 5) Parking shall be designed to reinforce the “village character.” No off-street parking shall be located within any required front setback. No portion of the lot in front of the front building line shall be used for off-street parking.

Parking may be located in the side and rear setbacks if the Planning Board determines that the proposed design constitutes a creative parking solution that maximizes parking, encourages shared parking and/or cross access with adjacent properties. When allowing parking spaces within any side or rear setback the Planning Board shall review a landscape plan provided by a licensed landscape architect detailing how the proposed parking spaces' visual impacts shall be minimized to the abutters and from public rights-of-way through the use of plantings, stonewalls, hardscape features, berms, and/or fencing.

- 6) Buildings shall be compatible with the “village character.” The exterior surface of all facades that are visible from a public street shall use traditional New England materials or materials which replicate traditional materials such as vinyl clapboard siding, or metal or plastic roofing that simulates shake or shingle roofing. The use of flat concrete block, corrugated or flat metal, fiberglass, or plastic panels, reflective materials, stucco, or products such as T-111 or plywood on facades visible from public streets is not permitted. The treatment of accessory buildings and structures shall be compatible with the principal building and shall use similar materials, details, and level of trim.

Roofs shall be designed to maintain the “village character.” All new buildings and additions shall have pitched or gabled roofs to the extent practical. If a pitched roof is not practical, false building fronts shall be used to imitate pitched roofs. Accessory buildings, canopies, and other structures shall have roof lines that are visually compatible with the roof line of the principal building.

## **SUBSECTION 2. GORHAM VILLAGE CENTER DISTRICT**

### **A. PURPOSE**

To provide space within Gorham Village for small, local, retail sales, commercial service, and office uses which are in keeping with the scale and character of the Village while minimizing the traffic problems and interruptions created by such development. In addition, the rehabilitation and reuse of existing structures is encouraged.

### **B. PERMITTED USES**

- 1) Retail stores having less than seven thousand (7,000) square feet of floor area on any floor.
- 2) Personal, business, and repair services.
- 3) Business and professional offices.
- 4) Residential uses including one-family dwellings, two-family dwellings, apartment buildings and multi-family housing but excluding mobile homes, trailers, and fraternity housing.
- 5) Municipal building or use.
- 6) Park or playground.
- 7) Accessory building or use including home occupations.
- 8) Rooming house.
- 9) Funeral home.
- 10) Place of public assembly, including indoor theater.
- 11) School, hospital, church, or any other institution of educational, religious, philanthropic, fraternal organization, or social nature which is not used for residential purposes, which has less than two thousand (2,000) square feet of floor area and which generates less than two hundred (200) vehicle trips during any twenty-four hour period.
- 12) Public utility facilities including substations, pumping stations, and exchange buildings.
- 13) Drive-through service, as defined in Section 5 of this Chapter, when accessory to financial institutions.
- 14) Bed and Breakfast Establishment
- 15) Bed and Breakfast Establishment with public dining as an accessory use
- 16) Inn
- 17) Residential dwelling units part of a mixed-use development
- 18) Office of Contractor or Tradesman

### **C. SPECIAL EXCEPTIONS**

- 1) Day Care Center.

- 2) School, hospital, church or any other institution of education, religious, philanthropic, fraternal organization or social nature which is not used for residential occupancy and has two thousand (2,000) or more square feet of floor area or generates two hundred (200) or more vehicle trips during any twenty-four hour period.

#### **D. SPACE STANDARDS**

Minimum lot size:	None*
Minimum area per dwelling unit: *	10,000 sq. ft. **
Minimum street frontage	None*
Building Setback:	New buildings constructed in the Village Centers District shall be located in such a manner as to maintain the "village character" with respect to the relationship of buildings to the street. No building shall be setback further than the average of the existing setbacks in the block in which the building is located or if an existing building is being demolished, than the preexisting setback, whichever is less subject to the performance standards of Subsection E.
Minimum side and rear yards:	10 feet* except as otherwise required by the buffer provisions of this Code.
Maximum building height:	None
Maximum building coverage:	None*

\*Space standards for residential uses shall be the same as for those in the Urban Residential District. These Urban Residential District space standards do not apply to mixed-use buildings.

\*\* Minimum area per dwelling unit for existing buildings being converted to mixed-use buildings may utilize the space standards under Chapter 2, Section 2-4 Residential, D. Mixed-Use Developments

Notwithstanding the provisions of this subsection D, an auxiliary public utility structure is exempt from the minimum lot size and street frontage requirements of this district.

Structures must meet setback requirements. Additional screening and buffering can be requested by the Planning Board.

#### **E. PERFORMANCE STANDARDS**

All buildings, structures, and uses shall conform to the following additional performance standards:

The general performance standards of Chapter 2,  
The Site Plan approval criteria and standards of Chapter 4, Section 4-9 where applicable,  
and  
The following additional performance standards.

If there is conflict between the various standards of performance, the more restrictive provision shall apply.

##### **1. Access into the Site**

In addition to being safe and convenient, vehicular access into the site shall be designed to minimize traffic delays on the streets providing access to the site and shall meet the following requirements:

- a. Entrances to uses in this district shall be combined to the maximum extent possible.
- b. Each parcel having frontage on Main Street shall be limited to a

maximum of one entrance from Main Street at a location determined by the Planning Board to be consistent with the purposes of this zoning district. The Planning Board may further restrict access from Main Street when alternative access is available.

- c. A parcel that does not have frontage on Main Street shall not be granted vehicular access from Main Street except in cases where:
  - 1) Access will be provided through a combined entrance with another parcel, and
  - 2) The Planning Board determines that the increased use will not have a negative impact on Main Street traffic flow.

## **2. Egress from the Site**

Vehicular egress from the site shall be designed to minimize the impact on Main Street traffic and the degradation of the character of the village and shall meet the following requirements:

- a. Exits from uses in this district shall be combined to the maximum extent possible.
- b. The creation of new vehicle exits onto Main Street shall be permitted only if the Planning Board finds that no other reasonable alternative exists. In this case, each parcel shall be limited to a maximum of one exit onto Main Street at a location determined by the Planning Board to be consistent with the purposes of this zoning district.
- c. A parcel that does not have frontage on Main Street shall not be granted vehicular egress to Main Street except in cases where:
  - 1) Egress will be provided through a combined exit with another parcel, and
  - 2) The Planning Board determines that the increased use will not have a negative impact on Main Street traffic flow.

## **3. Vehicular Circulation Between Parking Lots**

Provisions shall be made for the interconnection of non-residential parking lots on adjacent parcels where feasible and appropriate to allow vehicular circulation between lots without having to go onto the public street. Such interconnections shall be designed to minimize the potential for the parking areas to be used as a "short-cut" by traffic.

## **4. Parking Locations**

Parking shall be designed to reinforce the "village character". No off-street parking shall be located within any required front setback. No portion of the lot in front of the front building line shall be used for off-street parking.

Parking may be located in the side and rear setbacks if the Planning Board determines that the proposed design constitutes a creative parking solution that maximizes parking, encourages shared parking and/or cross access with adjacent properties. When allowing parking spaces within any side or rear setback the Planning Board shall review a landscape plan provided by a licensed landscape architect detailing how the proposed parking spaces' visual impacts shall be minimized to the abutters and from public rights-of-way through the use of plantings, stonewalls, hardscape features, berms, and/or fencing.

**5. Reduction in Off-street Parking**

The amount of off-street parking required by Chapter 2, Section 2-2 may be reduced for uses in this district in accordance with the provisions of that section.

**6. Relationship of the Building to the Street**

Buildings shall be located on the lot in a manner that reinforces the “village character”. Where an established village scale setback relationship exists, a new building shall maintain the established relationship. The area between the front wall of the building and street shall be used for pedestrian amenities, walkways, and landscaping. For buildings on corner lots, the setback relationship of both streets shall be maintained where possible to avoid the creation of “empty lots.” In no event shall any accessory structure be located closer than any principal structure to a street abutting the lot.

**7. Pedestrian Relationships and Facilities**

Where sidewalks exist or can be constructed in front of the parcel, the site shall be designed to provide for pedestrian access to the front entrance of the building without the need to cross parking areas or access drives. The walkway to the front entrance shall be constructed with materials that contrast with the paving of the vehicular areas, that provide a safe and inviting access to the building, and that are visually compatible with other pedestrian facilities in the neighborhood. If a sidewalk is interrupted or crossed by a proposed driveway, access road, or other vehicular facility, the sidewalk material or design must be maintained across the driveway or another visually compatible method used to clearly delineate the sidewalk from the drive.

**8. Motor Vehicle Facilities and Services**

The locations and design of facilities for motor vehicles including driveways, access roads, drive through facilities, and service areas shall be compatible with the “village character”. Vehicular and service facilities shall not be located between the building and the street. Access drives, driveways, and entrances or exits to drive through services shall not pass between the building and the sidewalk where a sidewalk exists or will be created. Overhead doors and service areas shall be located on the side or rear of the building and shall be screened from view from a public street. Drive through services shall be designed to keep vehicular activity to the side and/or rear of the building and shall prevent the queuing of vehicles between the building and the street or in other areas where it is visually intrusive.

**9. Street Facades**

All buildings shall be designed so that the front wall of the building and any wall facing Main Street that is not a front wall have the visual appearance of a front facade. The façade shall incorporate pedestrian scale design features such as doors and windows to create a “village character”. Windows or architectural treatments designed to simulate windows shall comprise no less than twenty (20) percent of the exterior wall surface. The façade shall be designed to avoid large areas of blank wall space.

**10. Signs**

In addition to the requirements of Chapter 2, Section 2-3, all signs shall maintain the “village character”, be of a pedestrian scale, and shall be located to be visually compatible with the site and the building. All signs shall also comply with the following standards:

- a) Freestanding signs shall be limited to a maximum height of eight (8) feet.
- b) Signs shall not be located on roofs.
- c) Attached or projecting signs shall not extend above the roofline for flat roofs or the ridge line of pitched roofs.
- d) Internally illuminated signs shall be prohibited.

#### **11. Roof Lines**

Roofs shall be designed to maintain the “village character”. All new buildings and additions shall have pitched or gabled roofs to the extent practical. If a pitched roof is not practical, false building fronts shall be used to imitate pitched roofs. Accessory buildings, canopies, and other structures shall have roof lines that are visually compatible with the roof line of the principal building.

#### **12. Building Materials**

Buildings shall be compatible with the “village character”. The exterior surface of all facades that are visible from a public street shall use traditional New England materials or materials which replicate traditional materials such as vinyl clapboard siding, masonry units that replicate shake or clapboard siding, or metal or plastic roofing that simulates shake or shingle roofing. The use of flat concrete block, corrugated or flat metal, fiberglass, or plastic panels, reflective materials, stucco, or products such as T-111 or plywood on facades visible from public streets is not permitted. The treatment of accessory buildings and structures shall be compatible with the principal building and shall use similar materials, details, and level of trim.

#### **13. Lighting**

Exterior lighting shall be compatible with the “village character”. 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 following standards:

- a) At a minimum, light fixtures shall have a total cutoff of light at no more than ninety (90) degrees and a beam cutoff of no more than seventy-five (75) degrees.
- b) The illumination of parking lots shall provide for a uniformity ratio of not more than 4:1 (ratio of average to minimum illuminance) to provide for an even distribution of light.
- c) The maximum illumination level within parking lots shall be not more than 6.0 footcandles measured at the ground surface.
- d) The maximum illumination level at the property line with abutting properties in a residential district shall be not more than 0.2 footcandles.
- e) The illumination of other areas and facilities may be greater than the level established for parking lots provided that the lighting level and design are consistent with the guidelines of the Illuminating Engineering Society of North America (IESNA) Lighting Handbook.
- f) Building mounted or wall pack lighting fixtures that have lamps or reflectors that are exposed to angles greater than forty-five (45) degrees above nadir are prohibited.
- g) The maximum light fixture height shall be twenty (20) feet.

- h) Awnings shall not be illuminated in a manner that results in light being emitted through the awning material or that results in the awning appearing to be illuminated.
- i) The color of light fixtures and poles shall be compatible with the “village character”. No colors intended to accent the fixtures or poles shall be permitted.
- j) Lamps in exterior light fixtures shall be incandescent, metal halide, or high pressure sodium. Low pressure sodium lamps are prohibited.
- k) The use of exterior string lighting shall be prohibited except as part of seasonal holiday displays and is allowed only when associated with restaurant outdoor dining. Lights may not be blinking, running, or otherwise activated.
- l) Lighting that outlines the building or building features shall be prohibited.
- m) Period or historical fixtures that do not meet these requirements may be used as an alternative to conventional lighting provided that if the fixtures are not cutoff fixtures the maximum initial lumens generated by each fixture shall not exceed 2,000 for incandescent lamps and 8,500 for metal halide lamps if the lamp is internally recessed within the fixture or is shielded by internal louvers or refractors and the mounting height shall not exceed fifteen (15) feet above the adjacent ground.
- n) A photometric point by point analysis, on a grid no larger than 20 feet, shall be submitted to the Planning Board for review for all major developments requiring site plan review, applications involving increased security risks such as banks and ATM's, and applications for uses regularly open after 9:00 PM. The grid shall extend to all project property boundaries.

## **SECTION 1-10 URBAN COMMERCIAL DISTRICT**

### **A. PURPOSE**

To provide general sales, services and business space in the Town of Gorham. Within this district, the redevelopment of parcels in a manner that is consistent with the “village character” is encouraged.

### **B. PERMITTED USES**

- 1) Any building or use listed under Section 1-9, Subsection B, Village Centers District.
- 2) Retail businesses and service establishments.
- 3) Accessory uses and buildings including a caretaker unit.
- 4) Municipal building or use.
- 5) Rooming house, excluding fraternity housing.
- 6) Funeral home.
- 7) Place of public assembly, including indoor theater.
- 8) School, hospital, church, or any other institution of educational, religious, philanthropic, fraternal organization, or social nature which is not used for residential occupancy which has less than two thousand (2,000) square feet of floor area and which generates less than two hundred (200) vehicle trips during any twenty-four hour period.
- 9) Public utility facilities including substations, pumping stations, and exchange buildings.
- 10) Drive-through service which is accessory to a permitted use.
- 11) Bed and Breakfast Establishment
- 12) Bed and Breakfast Establishment with public dining as an accessory use
- 13) Inn
- 14) Residential dwelling units part of a mixed-use development
- 15) Office of Contractor or Tradesman

### **C. SPECIAL EXCEPTIONS**

- 1) Day Care Center.
- 2) School, hospital, church or any other institution of education, religious, philanthropic, fraternal organization or social nature which is not used for residential occupancy which has two thousand (2,000) or more square feet of floor area or which generates two hundred (200) or more vehicle trips during any twenty-four hour period.

### **D. SPACE STANDARDS**

- 1) Urban Commercial District:  
Minimum lot size: None\*  
Minimum area per dwelling unit: \* 10,000 sq. ft.\*\*



Minimum street frontage:	None*
Minimum front yard:	25 feet*
	Minimum side and rear yards: 10 feet* except as otherwise required by the buffer provisions of this Code
Maximum building height:	None
Maximum impervious coverage ratio	0.75

\*The space standards for residential uses shall be the same as for the Urban Residential District. The Urban Residential District space standards do not apply to mixed-use buildings.

\*\*Minimum area per dwelling unit for existing buildings being converted to mixed-use buildings may utilize the space standards under Chapter 2, Section 2-4 Residential, D. Mixed-Use Developments`.

Notwithstanding the provisions of this subsection D, an auxiliary public utility structure is exempt from the minimum lot size, street frontage requirements, and open space requirements of this district. Structures must meet setback requirements. Additional screening and buffering can be requested by the Planning Board.

## **E. PERFORMANCE STANDARDS**

All buildings, structures, and uses shall conform to the following additional performance standards:

The general performance standards of Chapter 2,  
The Site Plan approval criteria and standards of Chapter 4, Section 4-9 where applicable,  
and  
The following additional performance standards

If there is conflict between the various standards of performance, the more restrictive provision shall apply.

### **1. Access into the Site**

In addition to being safe and convenient, vehicular access into the site shall be designed to minimize traffic delays on the streets providing access to the site and shall meet the following requirements:

- a. Entrances to uses in this district shall be combined to the maximum extent possible.
- b. Each parcel having frontage on Main Street shall be limited to a maximum of one entrance from Main Street at a location determined by the Planning Board to be consistent with the purposes of this zoning district. The Planning Board may further restrict access from Main Street when alternative access is available.
- c. A parcel that does not have frontage on Main Street shall not be granted vehicular access from Main Street except in cases where:
  - 1) Access will be provided through a combined entrance with another parcel, and
  - 2) The Planning Board determines that the increased use will not have a negative impact on Main Street traffic flow.

### **2. Egress from the Site**

Vehicular egress from the site shall be designed to minimize the impact on Main Street traffic and the degradation of the character of the village and shall meet the following requirements:

- a. Exits from uses in this district shall be combined to the maximum extent possible.
- b. The creation of new vehicle exits onto Main Street shall be permitted only if the Planning Board finds that no other reasonable alternative exists. In this case, each parcel shall be limited to a maximum of one exit onto Main Street at a location determined by the Planning Board to be consistent with the purposes of this zoning district.
- c. A parcel that does not have frontage on Main Street shall not be granted vehicular egress to Main Street except in cases where:
  - 1) Egress will be provided through a combined exit with another parcel, and
  - 2) The Planning Board determines that the increased use will not have a negative impact on Main Street traffic flow.

### **3. Vehicular Circulation Between Parking Lots**

Provisions shall be made for the interconnection of non-residential parking lots on adjacent parcels where feasible and appropriate to allow vehicular circulation between lots without having to go onto the public street. Such interconnections shall be designed to minimize the potential for the parking areas to be used as a "short cut" by traffic.

### **4. Parking Locations**

Parking shall be designed to reinforce the "village character." No off-street parking shall be located within any required front setback. No portion of the lot in front of the front building line shall be used for off-street parking. Parking may be located in the side and rear setbacks if the Planning Board determines that the proposed design constitutes a creative parking solution that maximizes parking, encourages shared parking and/or cross access with adjacent properties. When allowing parking spaces within any side or rear setback the Planning Board shall review a landscape plan provided by a licensed landscape architect detailing how the proposed parking spaces' visual impacts shall be minimized to the abutters and from public rights-of way through the use of plantings, stonewalls, hardscape features, berms, and/or fencing.

### **5. Reduction in Off-street Parking**

The amount of off-street parking required by Chapter 2, Section 2-2 may be reduced for uses in this district in accordance with the provisions of that section.

### **6. Relationship of the Building to the Street**

Buildings shall be located on the lot in a manner that reinforces the "village character". Where an established village scale setback relationship exists, a new building shall maintain the established relationship. If an established setback relationship does not exist, the building shall be located so that the front wall of the building is either:

- a. Within thirty feet of the front property line, or
- b. More than one hundred feet from the front property line

If the front wall of a building is located within thirty (30) feet of the property line, the area between the building and street shall be used for pedestrian amenities, walkways, and landscaping. No accessory buildings are permitted within this area.

If the front wall of a building is located more than thirty feet from the property line, the front yard shall be treated with structural elements, accessory buildings, and/or landscaping to establish a visual sense of a village scale setback. In no event shall any accessory structure be located closer than any principal structure to a street abutting the lot.

For new buildings on corner lots, the setback relationship of both streets shall be maintained where possible to avoid the creation of “empty corners.”

## **7. Pedestrian Relationships and Facilities**

Where sidewalks exist or can be constructed in front of the parcel, the site shall be designed to provide for pedestrian access to the front entrance of the building without the need to cross parking areas or access drives if the front wall of the building is located within one hundred (100) feet of the property line. The walkway to the front entrance shall be constructed with materials that contrast with the paving of the vehicular areas, that provide a safe and inviting access to the building, and that are visually compatible with other pedestrian facilities in the neighborhood. If a sidewalk along the street is interrupted or crossed by a proposed driveway, access road, or other vehicular facility, the sidewalk material or design must be maintained across the driveway or another visually compatible method used to clearly delineate the sidewalk from the drive.

Provisions shall be made for pedestrian circulation between buildings and uses within a site or on adjacent parcels if the buildings do not have a direct relationship to the sidewalk or if the front wall of the building is located more than one hundred (100) feet from the property line.

## **8. Motor Vehicle Facilities and Services**

The locations and design of facilities for motor vehicles including driveways, access roads, drive through facilities, and service and fueling areas shall be compatible with the “village character”. Service facilities shall not be located between the front wall of the building and the street or between the building and Main Street. Access drives, driveways, and entrances or exits to drive through services shall not pass between the front wall of the building and the sidewalk where a sidewalk exists or will be created if the building is located within one hundred (100) feet of the street. Overhead doors and service areas shall be located on the side or rear of the building and shall be screened from view from a public street. Facilities for the dispensing of fuel shall be located at the side of the principal building. Drive through services shall be designed to keep vehicular activity to the side and/or rear of the building and shall prevent the queuing of vehicles between the front wall of the building and the street or in other areas where it is visually intrusive or creates traffic problems.

## **9. Street Facades**

All buildings shall be designed so that the front wall of the building and any wall facing Main Street that is not a front wall have the visual appearance of a front facade. The facade shall incorporate pedestrian scale design features such as doors and windows to create a “village character”. Windows or architectural treatments designed to simulate windows shall comprise no less than twenty (20) percent of the exterior wall surface. The facade shall be designed to avoid large areas of blank wall space.

## **10. Signs**

In addition to the requirements of Chapter 2, Section 2-3, all signs shall maintain the “village character”, be of a pedestrian scale, and shall be located to be visually compatible with the site and the building. All signs shall comply with the following standards:

- a) Freestanding signs shall be limited to a maximum height of eight (8) feet.
- b) Signs shall not be located on roofs.
- c) Attached or projecting signs shall not extend above the roofline for flat roofs or the ridge line of pitched roofs.
- d) Internally illuminated signs shall be prohibited.

## **11. Roof Lines**

Roofs shall be designed to maintain the “village character”. All new buildings and additions shall have pitched or gabled roofs to the extent practical. If a pitched roof is not practical, false building fronts shall be used to imitate pitched roofs. Accessory buildings, canopies, and other structures shall have rooflines that are visually compatible with the roofline of the principal building.

## **12. Building Materials**

Buildings shall be compatible with the “village character.” The exterior surface of all facades that are visible from a public street shall use traditional New England materials or materials which replicate traditional materials such as vinyl clapboard siding, masonry units that replicate shake or clapboard siding, or metal or plastic roofing that simulates shake or shingle roofing. The use of flat concrete block, corrugated or flat metal, fiberglass, or plastic panels, reflective materials, stucco, or products such as T-111 or plywood on facades visible from public streets is not permitted. The treatment of accessory buildings and structures shall be compatible with the principal building and shall use similar materials, details, and level of trim.

## **13. Lighting**

Exterior lighting shall be compatible with the “village character”. Exterior lighting shall be designed to provide only the minimum lighting necessary to ensure adequate vision, safety, and comfort in parking areas and to not cause glare beyond the limits of the property boundaries. Lighting shall also conform to the following standards:

- a) At a minimum, light fixtures shall have a total cutoff of light at no more than ninety (90) degrees and a beam cutoff of no more than seventy-five (75) degrees.
- b) The illumination of parking lots shall provide for a uniformity ratio of not more than 4:1 (ratio of average to minimum illuminance) to provide for an even distribution of light.
- c) The maximum illumination level within parking lots shall be not more than 6.0 footcandles measured at the ground surface.
- d) The maximum illumination level at the property line with abutting properties in a residential district shall be not more than 0.2 footcandles.
- e) The lighting of canopies shall not be used to attract attention to the business. Areas under canopies shall be illuminated so that the uniformity ratio (ratio of average to minimum illuminance) shall be no greater than 3:1 with an average illumination level of not more than 30 foot candles.

- f) Light fixtures located on canopies shall be mounted so that the lens cover is recessed or flush with the ceiling of the canopy.
- g) The illumination of other areas and facilities may be greater than the level established for parking lots provided that the lighting level and design are consistent with the guidelines of the Illuminating Engineering Society of North America (IESNA) Lighting Handbook.
- h) Building mounted or wall pack lighting fixtures that have lamps or reflectors that are exposed to angles greater than forty-five (45) degrees above nadir are prohibited.
- i) The maximum light fixture height shall be twenty (20) feet for parking lots with less than twenty thousand (20,000) square feet of area, twenty-five (25) feet for parking lots with twenty thousand (20,000) to eighty thousand (80,000) square feet of area and thirty (30) feet for lots larger than eighty thousand (80,000) square feet.
- j) Awnings shall not be illuminated in a manner that results in light being emitted through the awning material or that results in the awning appearing to be illuminated.
- k) The color of light fixtures and poles shall be compatible with the "village character". No colors intended to accent the fixtures or poles shall be permitted.
- l) Lamps in exterior light fixtures shall be incandescent, metal halide, or high pressure sodium. Low pressure sodium lamps are prohibited.
- m) The use of exterior string lighting shall be prohibited except as part of seasonal holiday displays and is allowed only when associated with restaurant outdoor dining. Lights may not be blinking, running, or otherwise activated.
- n) Lighting that outlines the building or building features shall be prohibited.
- o) Period or historical fixtures that do not meet these requirements may be used as an alternative to conventional lighting provided that if the fixtures are not cutoff fixtures the maximum initial lumens generated by each fixture shall not exceed 2,000 for incandescent lamps and 8,500 for metal halide lamps if the lamp is internally recessed within the fixture or is shielded by internal louvers or refractors and the mounting height shall not exceed fifteen (15) feet above the adjacent ground.
- p) A photometric point by point analysis, on a grid no larger than 20 feet, shall be submitted to the Planning Board for review for all major developments requiring site plan review, applications involving increased security risks such as banks and ATM's, and applications for uses regularly open after 9:00 PM. The grid shall extend to all project property boundaries.

**SECTION 1-11 - ROADSIDE COMMERCIAL DISTRICT**

**A.     PURPOSE**

To provide general sales, services and business space in the Town of Gorham.

**B.     PERMITTED USES**

- 1)     Any building or use listed under Section 1-10, Subsection B and C, Urban Commercial District.
- 2)     Auto-oriented businesses.
- 3)     Accessory uses and buildings including a caretaker unit and accessory outdoor storage meeting the requirements outlined in Section E. Performance Standards f).
- 4)     Used car lot.
- 5)     Gasoline station and/or repair garage.
- 6)     Public utility facilities including substations, pumping stations, and sewage treatments plants.
- 7)     Light Industrial Uses of ten thousand (10,000) square feet or less of gross building floor area.
- 8)     Commercial outdoor recreation facilities.
- 9)     Bed and Breakfast Establishment
- 10)    Bed and Breakfast Establishment with public dining as an accessory use
- 11)    Inn
- 12)    Mobile Vending Units
- 13)    Self-Service Storage Facility
- 14)    Office of Contractor or Tradesman
- 15)    Heavy machinery and equipment sales and services

**C.     SPECIAL EXCEPTIONS**

- 1)     (Reserved)

**D.     SPACE STANDARDS**

Minimum lot size:	None
Minimum area per dwelling unit:	*
Minimum street frontage:	None*
Minimum front yard:	50 feet*
Minimum side and rear yards:	30 feet except as otherwise required by the buffer provisions of this Code and except when the side and/or rear yards abut a residential district in which case a minimum of 30 feet for commercial uses and 50 for light industrial uses or 50% of the building or outdoor stored material height, whichever is greater, shall be required.

Maximum building height:	None
Maximum building or outdoor stored material coverage:	None*

\*Except that space standards for residential uses shall be the same as those of the Suburban District.

Notwithstanding the provisions of this subsection D, an auxiliary public utility structure is exempt from the minimum lot size and street frontage requirements of this district. Structures must meet setback requirements. Additional screening and buffering can be requested by the Planning Board.

## **E. PERFORMANCE STANDARDS**

- 1) The performance standards contained in Chapter 2 of this Code shall be fully observed.
- 2) The following additional performance standards shall also apply.
  - a) Lot Layout
    - 1) Lots abutting multiple streets shall be oriented so the front of the building faces the street of lower classification unless the Planning Board grants access to the street of higher classification allowed under this section. For lots with frontage on both Main Street or Ossipee Trail and another street, the buildings, parking lots and access drives shall be located a minimum of twenty five (25) feet from Main Street or Ossipee Trail. Lots with frontage on Main Street shall meet the design standards within this section.
    - 2) All generators, HVAC units, outdoor storage areas, and dumpster pads shall be landscaped and located behind buildings and structures so that they are not visible from any public street or residential properties. The Planning Board may allow generators, HVAC units, outdoor storage areas, and dumpster pads to be located so they are not located behind the buildings if the Board finds that the proposed locations are required to provide for a better overall design of the lots/ development and that are sufficiently buffered from public roads and residential properties.
    3. Lots will be designed to have not more than one double-loaded row of parking between the building and the street or private way providing access to the lot. The access aisle to the parking space shall be only the minimum necessary to provide access to the parking spaces.
  - b) Utilities
    1. All developments and subdivisions shall connect to public water and sewer meeting the requirements for the Portland Water District and the Town of Gorham.
      - a. The Planning Board may grant a waiver for public water main extension if the lot is located greater than 200' from the nearest watermain and the proposal meets the Determination of Unreasonable Costs under Chapter 2, Section 2-10 The Provisions of Public Water Supply.

- b. The Planning Board may grant a waiver for public sewerage main extension if the lot is located greater than 200' and the costs to connect into the system is greater than 3 times the costs for an onsite sewerage disposal system as identified by the Planning Board."
- c) Buffer yards and landscaping buffering shall conform to following standards:
  - 1. There shall be at least a 25' wide landscaped buffer between any public or private road.
  - 2. There shall be at least a 15' landscaped buffer between any abutting properties with residential uses. That there shall be at least a 10' landscaped buffer between any other abutting developed parcels.
  - 3. The landscape buffer shall contain an adequate mix of trees, shrubs, plants, hardscapes, berms, topography, and other landscaping features that adequately break up the proposed development.
  - 4. The Planning Board may allow the use of native forested area in place of the required landscaped buffer if the Board finds that the existing forest buffer is a minimum of 35' wide and provides the required screening to adequately break up the view of the development. That no cutting of existing trees will be allowed in the native forested buffer area. Dead, diseased, and dying trees may be removed with the approval of the Town Planner.
  - 5. The landscape buffer area shall require a plan to be prepared by a registered landscape architect or qualified landscaping firm. The plan shall provide all the required submission requirements outlined under Chapter 3: Subdivision and/or Chapter 4: Site Plan Review. The name of the landscape professional and firm preparing the plan along with their credentials shall be provided with the landscape plan.
- d) Building Design Standards:
  - 1. The predominant exterior building materials shall be of high quality materials, including but not limited to, wood or vinyl clapboard siding, masonry units that replicate shake or clapboard siding, brick, sandstone, wood native stone and tinted/ textured concrete masonry units and/ or glass products or metal or plastic roofing that simulates shake or shingle roofing. Simulated material may be substituted for any of the aforementioned building materials.
  - 2. At least three different materials shall be used for the primary front façade for the building facing the primary street the building access and/ or Main Street. The Planning Board may waive the building material to two different materials if it finds the building design has enough architectural details to sufficiently break up the massing of the building. Glass for use in windows and doors



shall not be considered one of the required building materials. All facades that have frontage on a street or private way shall be considered a primary façade.

3. Exterior building materials shall not include smooth-faced concrete block, tilt-up concrete panels, or T-111. Prefabricated steel panels are excluded unless they contain architectural details with intricate designs. Metal roofs may be allowed if compatible with the overall architectural design of the building.
4. Building and other structure Colors: Exterior colors shall be on low reflectance, colors. The use of high intensity colors such as neon and fluorescent colors for the façade and/ or roof of the building are prohibited except as approved for building trim.

e) Access Management:

1. Entrances and uses in this district shall be combined to the maximum extent possible. Developments must allow for pedestrian and vehicular access into the lot's driveways, sidewalks, and/or parking lots from the abutting properties.
2. For lots with frontage on Main Street, Ossipee Trail, 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. A parcel that does not have frontage on Main Street or Ossipee Trail shall not be granted vehicular access from street except in cases where:
  - a. Access will be provided through a combined entrance with another parcel which has frontage on the street.
4. Lots with access on Main Street or Ossipee Trail must have driveways located so that they are a minimum of 400' from another driveway on the same side of the street unless:
  - a. The Planning Board finds that the distance would provide for an unsafe circumstance.
  - b. The driveway's spacing to abutting properties' driveways cannot be spaced to meet the 400' minimum requirement. The Planning Board shall provide for a driveway spacing to the greatest extent possible.

f) Outdoor Storage of equipment, supplies, machinery, commercial vehicles, and other materials may be permitted pursuant to the following:

1. Outdoor storage shall be an accessory use to the primary permitted use on the property. Outdoor storage areas shall be limited to the following:
  - a. Locations that are visible from the street or an adjacent primary residential or commercial structure:
    - i. Lots up to five acres = 25% of the lot area
    - ii. Lots between five and ten acres = 15% of the lot area or 1.25 acres whichever is greater.
    - iii. Lots above ten acres = 10% of the lot area or 1.5 acres whichever is greater.
  - b. Locations that are not visible from the street or adjacent primary residential or commercial structure:

- i. 25% of the lot area based upon the applicant successfully demonstrating to the Board or Site Plan Review Committee that visibility is precluded by topography, vegetation or by other means.
  - ii. The applicant shall provide written documentation to the Board or Site Plan Review Committee that all means used to satisfy the intent of this Section are either owned or under acceptable lease by the applicant and will be preserved and remain undisturbed for the duration of the permitted outdoor storage use.
2. Outdoor storage areas shall be fully screened from the street view (except for necessary access drives) by buildings, fences, walls, landscape buffers or by topographic features such as earthen berms, or a combination thereof. The proposed method of enclosure shall have a height sufficient to completely screen the storage area and shall have a minimum height of eight (8) feet.
3. Existing topography, vegetation, buildings or other structures may be utilized in whole or in part, to achieve the screening noted above. The applicant must demonstrate to the satisfaction of the Board or Site Plan Review Committee that these existing features meet the intent of this regulation.
4. No outdoor storage shall be permitted in any areas of Special Flood Hazards as defined by the Federal Emergency Management Agency (FEMA).
5. Outdoor storage areas shall not extend beyond the front face of the subject parcels primary building, furthermore these areas shall not extend into the zone's minimum front, side and rear yard setbacks. Outdoor storage buffers shall accommodate adequate space for snow storage, maintain clear sight lines for safe vehicle and pedestrian access and be comprised of durable materials that will be suitable for all-weather outdoor exposure.
6. All loading/unloading areas shall be interior or adjacent to the permitted outdoor storage area and be oriented away from the street and neighboring properties, in order to maintain public safety and minimize disturbance to abutting properties.
7. Outdoor storage areas shall not be utilized for retail/commercial display purposes, unless explicitly authorized by the Board or Site Plan Review Committee.
8. No temporary or permanent storage of any State regulated waste product or material shall be permitted under this Section.
9. The Board or Site Plan Review Committee shall consider the impact upon public safety, public health, sanitation and aesthetics when considering applications under this Section and they may regulate such outdoor storage based upon the quantity, location, enclosure/screening and nature of materials to be stored.

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**SECTION 1-12- INDUSTRIAL DISTRICT**

**A. PURPOSE**

To provide areas within the Town of Gorham for manufacturing, processing, treatment, research, warehousing and distribution and to which end all the performance standards set forth in this Code shall apply.

**B. PERMITTED USES**

- 1) Manufacturing, processing and treatment.
- 2) Warehousing and outdoor storage.
- 3) Road and rail distribution facilities.
- 4) Research facilities.
- 5) Wholesale businesses and wholesale business establishments, but excluding junk yards.
- 6) Accessory uses and buildings, including retail and service uses accessory to another permitted use and also including a caretaker unit for residential use provided that there shall be no more than one residential unit on a property and such unit shall be resided in by an owner of the property, an employee of the industrial operation, or a person who serves as a security person. In the event that the principal industrial use or other permitted use terminates, then the accessory residential use shall also terminate.
- 7) Municipal and governmental uses.
- 8) Public utility facilities including substations, pumping stations and sewage treatment plants.
- 9) Mineral extraction.
- 10) Mobile Vending Units
- 11) Marijuana Cultivation or Manufacturing Facility
- 12) Medical Marijuana Business
- 13) Office of Contractor or Tradesman
- 14) Heavy machinery and equipment retail sales and services

**C. SPECIAL EXCEPTIONS**

- 1) (Reserved)

**D. SPACE STANDARDS**

Minimum area of lot	None*
Minimum area per dwelling unit	*
Minimum street frontage	None*
Minimum front yards	30 feet except where the front yard abuts a residential use or district, in which case a minimum of 50 feet shall be provided.
Minimum side and rear yards	20 ft.* except as otherwise required by the buffer provisions of this Code and except where the side and/or rear yards abut a residential use or district in which case a minimum of 30 ft. or 50% of the building or outdoor stored material height, whichever is greater, shall be required.
Maximum building height	None
Maximum building coverage	None*

\*Except that space standards for residential uses shall be the same as for the Suburban Residential and Rural Districts.

Notwithstanding the provisions of this subsection D, an auxiliary public utility structure is exempt from the minimum lot size and street frontage requirements of this district. Structures must meet setback requirements. Additional screening and buffering can be requested by the Planning Board.

## **E. PERFORMANCE STANDARDS**

The general performance standards contained in Chapter 2 of this Code shall be fully observed and the following additional standards shall be required of uses within this district.

- 1) There shall be no new access or curb cuts to Main Street, Libby Avenue or New Portland Road from any lots in the Industrial District, when an alternative access exists as of November 30, 1998, provided however, if no such alternative exists then there can be only one access or curb cut per lot in existence at the date of adoption of this ordinance. The Planning Board may allow additional access points onto Main Street or New Portland Road if the developer demonstrates that additional access would provide for better traffic circulation and improved traffic safety, without reducing the level of service on the main travel way.
- 2) Except where it abuts existing industrial zoned land, all land zoned industrial after November 30, 1998 shall have a "perimeter setback" of one hundred feet (100'), which shall be subject to the restrictions set out below. The Planning Board may reduce the perimeter setback by up to 50% if it finds that doing so would result in a better plan of development for the project site.
  - a) No portion of the "perimeter setback" shall be used for storage of equipment or inventory, service and loading, parking or any buildings or structures. Subject to Paragraph 1) above, access roads and utilities may cross the "perimeter setback" to provide access to and from a street but shall be designed to minimize the disruption of the "perimeter setback." No direct access to parking stalls shall be provided from an access road located within the "perimeter setback."
  - b) A landscaped buffer area, as provided in Subparagraph 2) c) below, shall be designed and maintained within the "perimeter setback."
  - c) A detailed landscaping plan, prepared by a landscape architect, shall be prepared for the landscaped buffer area and submitted as part of Site Plan Review, for all lots, with a perimeter setback." The landscaped buffer area shall be designed to provide effective visual and auditory buffering from abutting residential properties, create an attractive appearance for the proposed new development and maintain an attractive gateway to Gorham consistent with the goals and objectives of the Town of Gorham Comprehensive Plan. Existing natural features and vegetation may be incorporated into the plan for the buffer area if they are found to create an effective visual and auditory buffer by the Planning Board. All such buffer areas shall be maintained for the life of the project.
- 3) Fencing, screening, landscaped berms, natural features, or combination thereof, shall be utilized to shield from the view of abutting residential properties and public ways, along the perimeter setback of the Industrial District, all loading and unloading operations, storage and repair work areas, commercial vehicle parking, and waste disposal and collection areas.

## **SECTION 1-13 – MOSHER CORNER MIXED USE**

### **A. PURPOSE**

To provide areas in the Town of Gorham which accommodate a suitable mix of retail commercial businesses and professional offices in a manner which maintains the attractiveness of the major entrances to Gorham, protects the physical environment, maintains the traffic capacity of existing major roads and protects abutting property owners.

### **B. PERMITTED USES**

- 1) Retail Stores
- 2) Service Establishments
- 3) Personal services
- 4) Business and professional offices and professional out-patient clinics
- 5) Shopping Centers
- 6) Municipal buildings or uses
- 7) Park or playground
- 8) Rooming house, excluding fraternity housing
- 9) Funeral home
- 10) Places of public assembly, including indoor theater
- 11) School, hospital, church, or any other institution of educational, religious, philanthropic, fraternal organization or social nature which is not used for residential purposes, which has less than two thousand (2,000) square feet of floor area and generates less than two hundred (200) vehicles trips during any twenty-four hour period.
- 12) Public and private utility facilities, including substations, pumping station(s) and treatment facilities.
- 13) Drive-through service which is accessory to a permitted use
- 14) Accessory buildings and uses, including occupations
- 15) Residential uses, including one-family dwellings, two-family dwellings, apartment buildings and multi-family housing
- 16) Day Care Homes as Home Occupations
- 17) Bed and Breakfast Establishment
- 18) Bed and Breakfast Establishment with public dining as an accessory use
- 19) Inn
- 20) Office of Contractor or Tradesman

- 20) Officers for executives, administrative, and data processing activities
- 21) Commercial Schools which have less than two thousand (2,000) square feet of floor Area
- 22) Medical or quick care facilities

**C. SPECIAL EXCEPTIONS**

- 1) Day Care Centers
- 2) School, hospital, church or any other institution of educational, religious, philanthropic, fraternal organization or social nature which is not used for residential occupancy which has two thousand (2,000) or more square feet of floor area or which generates two hundred (200) or more vehicle trips during any twenty-four hour period.
- 3) Places of public assembly, including indoor theaters, which have more than two thousand (2,000) square feet of floor area
- 4) Commercial Schools which have more than two thousand (2,000) square feet of floor area

**D. SPACE STANDARDS**

- 1) Residential Uses

	<u>Sewered</u>	<u>Unsewered</u>
Minimum Lot Size	20,000 sq.ft.	40,000 sq.ft.
Minimum area per dwelling unit	20,000 sq.ft.	40,000 sq.ft.
Street frontage	100'	150'
front setbacks		
MDOT numbered routes	80'	80'
Local Roads	25'	15'
Side/rear setbacks	15'	15'

- 2) Non-Residential Uses

Standards for non-residential uses shall be as follows:

Minimum lot size	30,000 square feet
Minimum street frontage	100 feet
Minimum front yard - local or collector street	50 feet or two (2) times the building height, whichever is greater
Minimum front yard - State Numbered Routes	80 feet or three (3) times the building height, whichever is greater
Minimum side and rear yard	50 feet or two (2) times the building height, whichever is greater
Maximum Impervious Coverage ratio	0.60
Minimum landscaped buffer on any side abutting a State Numbered Route	50 feet
Minimum landscaped buffer on any side abutting all other streets	25 feet

Notwithstanding the provisions of this subsection D, an auxiliary public utility structure is exempt from the minimum lot size, street frontage, and floor area ratio requirements of this district. Structures must meet setback requirements. Additional screening and buffering can be requested by the Planning Board.

**E. PERFORMANCE STANDARDS**

1) The performance standards contained in Chapter 2 of this Code shall be fully observed.

2) The following additional performance standards shall also apply.

a) Lot Layout

1. For Lots with frontage on Main Street no parking lots shall be located between any building façade facing Main Street and Main Street.
2. All generators, storage areas, electrical transformer pads, HVAC ground mounted units, above-ground propane tanks, and dumpster pads shall be landscaped and located behind the buildings and structures so that they are not visible from any public street or residential properties. The Planning Board may allow generators, storage areas, and dumpster pads to be located so they are not located behind the buildings if the Board finds that the proposed locations are required to provide for a better overall design of the lots/development and that they are sufficiently buffered from public roads and residential properties.

b) Utilities

1. All non-residential uses and subdivisions shall be supplied with public water service meeting the requirements of the Portland Water District.
2. All non-residential uses and subdivisions shall connect to public sewer meeting the requirements of the Portland Water District and the Town of Gorham.
  - a. The Planning Board may grant a waiver for the requirements of the extension of public sewer main extension if the lot is located greater than 200 feet from the nearest connection to a public sanitary sewer and the costs to connect into the system is greater than 2 times the costs for an onsite sewerage disposal system as identified by the Planning Board.

c) Buffer yards and landscaping buffering shall conform to the following standards:

1. The required setback between any public road and/or any residential zoning district or property shall be designated as a buffer area unless it is part of a mixed-use project and the residential/commercial uses are developed as part of an integrated development and provide an aesthetically pleasing environment.
2. A landscaped buffer area shall be designed and maintained to minimize the adverse impact on abutting properties and the public and to soften the appearance of the structure(s) and in particular, to minimize the adverse impact on any structures which exist on abutting lots located outside this district. Landscaped buffers should include a mix of evergreen and deciduous trees, shrubs, and plants. Hardscape features such as, but not limited to, stonewalls and decorative metal or wooden fences are also encouraged in the buffer area to provide and shall the buffer and balance the plantings. No building, parking or service areas shall be located in the



buffer area. Access roads may cross the buffer area to provide access to and from a street, but shall be designed to minimize the disruption of the buffer area. No direct access to parking stalls shall be provided from an access road located in a buffer area.

3. The landscaped buffer area shall require a plan to be prepared or reviewed by a registered landscape architect or qualified landscaping firm. The plan shall provide all the required submission requirements outlined under Chapter 3: Subdivision and/or Chapter 4: Site Plan Review. The name of the landscape professional and firm preparing the plan along with their credentials shall be provided with the landscape plan.
3. Parking lots shall have internal landscape islands designed to reinforce the desired circulation pattern and to provide a visual break and buffer.

d) Building Design Standards

1. All principal buildings and structures for non-residential purposes shall be of a traditional New England Village design to be compatible with the predominant scale and character of the existing Gorham Village architecture.
2. The predominant exterior building materials shall be of high quality materials, including but not limited to, wood or vinyl clap board siding, masonry units that replicate shake or clapboard siding, brick, sandstone, wood, native stone and tinted/textured concrete masonry units and/or glass products or metal or plastic roofing that simulates shake or shingle roofing. Simulated material may be substituted for any of the aforementioned building materials.
3. At least three different materials shall be used for the primary front façade for the building facing the primary street the building access and/or Main Street/Mosher Road. The Planning Board may waive the building materials to two different materials if it finds the building design has enough architectural details to sufficiently break up the massing of the building. Glass for use in windows and doors shall not be considered on the required building materials. All facades that have frontage on streets or private ways shall be considered a primary façade.

e) Access Management

1. Projects involving more than one building and/or lot shall provide an internal circulation system to minimize entrances to the project.
2. Entrances and uses in this district shall be combined to the maximum extent possible. Developments must allow for pedestrian and vehicular access into the lot's driveways, sidewalks, and/or parking lots from the abutting properties.
3. For lots with frontage along Main Street, Mosher Road 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.
4. A parcel that does not have frontage on Main Street or Mosher Road shall not be granted vehicular access from the street except in cases where:
  - a. Access will be provided through a combined entrance with another parcel which has frontage along the street.
5. Lots with access on Main Street or Mosher Road must have driveways located so that they are a minimum 400' from another driveway on the same side of the street unless:
  - a. The Planning Board finds that the distance would provide for unsafe circumstances.
  - b. The driveway's spacing to abutting properties' driveways cannot be spaced to meet the 400' minimum requirement. The Planning Board shall provide for a driveway spacing to the greatest extent practical.
6. Lots with frontage on Mosher Road and/or Main Street are required to install sidewalks for the lot frontage should sidewalks not be located along Mosher Road and/or Main Street.

7. The internal pedestrian access shall connect to the sidewalks located on Mosher Road and/or Main Street. The requirement for off-site sidewalk extension shall be modified by the Planning Board or Site Plan Review Committee provided the following conditions are met:
  - a. For projects are under site plan review the costs for off-site sidewalks exceed a cost of \$1,000 per 2,000 sq.ft. of gross commercial floor area or for projects proceeding under subdivision review the costs for off-site sidewalks exceed a cost of \$10,000 per lot. Subdivision lots that have been reviewed under this provision are not required to be reviewed again under site plan review.
  - b. In place of a full sidewalk extension, the applicant is required to extend to the nearest sidewalk the following lengths towards the proposed development:
    - i. For roads with existing closed drainage systems and curbing, the applicant shall extend the sidewalk 200' for each 5,000 sq.ft. of gross floor area under site plan review or 400' for each lot.
    - ii. For roads without existing closed drainage systems and curbing, the applicant shall extend the sidewalk 100' and close in the drainage system for each 5,000 sq.ft. of gross floor area under site plan review or 250' for each lot.
    - iii. 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. The lot is also subject to the connection of pedestrian improvements located of the lot as required under Chapters 23 and 4 of the Land Use and Development Code. .

## **SECTION 1-14 - OFFICE-RESIDENTIAL DISTRICT**

### **A. PURPOSE**

To provide space within the Town of Gorham for a mixture of residential uses and business and professional offices in close proximity to the existing commercial areas of the Town. These office uses are intended to be in keeping with the existing character and scale of the area. The reuse and rehabilitation of existing structures is encouraged for new office uses.

### **B. PERMITTED USES**

- 1) Any building or use identified as a permitted use in the Urban Residential District under Section 1-6, Subsection B of this Chapter
- 2) Business and professional offices and professional out-patient clinics
- 3) Drive-through service, as defined in Section 1-5 or this Chapter, when accessory to financial institutions
- 4) Bed and Breakfast Establishment
- 5) Retail Sales having a gross floor area of less than 4,000 sf
- 6) Personal Services having a gross floor area of less than 2,000 sf
- 7) Office of Contractor or Tradesman

### **C. SPECIAL EXCEPTIONS**

- 1) Any building or use identified as a special exception in the Urban Residential District under Section 1-6, Subsection C of this Chapter.
- 2) Bed and Breakfast Establishment with public dining as an accessory use
- 3) Inn

### **D. SPACE STANDARDS FOR RESIDENTIAL AND ACCESSORY RESIDENTIAL USES**

The standards set forth at Section 1-6, Subsection D, Urban Residential District, of this Chapter shall apply to all residential and accessory residential uses in this district.

### **E. SPACE STANDARDS FOR NON-RESIDENTIAL USES**

A structure existing at the date of adoption of this Section that does not conform to any of the following space standards may be converted or rehabilitated to an allowed non-residential use, provided that such conversion involves no exterior enlargement of the existing structure or additional area for vehicular parking or access. Conversions involving exterior enlargement or additional parking or access areas shall adhere to all applicable space standards.

Minimum lot size	20,000 square feet
Minimum street frontage	80 feet
Building setback	New buildings constructed in this district shall be located in such a manner as to maintain the relationship to the street established by existing neighboring structures. Where no such relationship exists, the minimum setback shall be 40 feet.
Minimum side and rear yards	20 feet
Maximum building height	30 feet or two stories, whichever is less.
Maximum floor area ratio	0.15

Maximum impervious coverage ratio	0.40
Maximum gross floor area per each principal structure	8,000 square feet
Maximum gross floor area per lot	20,000 square feet

Notwithstanding the provisions of this subsection E, an auxiliary public utility structure is exempt from the minimum lot size, street frontage, floor area ratio, and impervious coverage requirements of this district. Structures must meet setback requirements. Additional screening and buffering can be requested by the Planning Board.

## **F. PERFORMANCE STANDARDS**

The performance standards contained in Chapter 2 of this Code shall be fully observed, with the following additional restrictions or allowances to be placed on uses within this district.

- 1) No portion of lot in front of the front building line shall be used for off-street parking, service, or loading.
- 2) All new non-residential uses shall be supplied with public water service.
- 3) All lots that generate a design sewerage flow, calculated in accordance with the Maine State Plumbing Code, of more than 3,000 gallons per day shall be serviced by public sewer.
- 4) The Planning Board may waive or reduce the off-street parking requirements of Chapter 2, Section 2-2, Subsection A of this Code if:
  - a) An existing building is being converted to another permitted or special exception use, or
  - b) Adequate off-street parking is available in public or cooperative off-street parking facilities within 300 feet of the site.
- 5) Any parking lot shall have a maximum of 32 parking spaces. Adjacent parking lots shall be separated by a landscaped buffer strip at least 25 feet wide.
- 6) No portion of a required rear or side yard may be used for parking if such yard abuts a residential zone or use.
- 7) For non-residential uses, the required front setback, side yard, and rear yard shall be maintained as landscaped buffer areas. These areas shall be vegetated and designed to minimize any adverse effects on aesthetic or environmental qualities as perceived by abutting properties and the public, and to screen or mitigate the appearance of such non-residential uses. No building, parking, or service areas are to be located in the buffer areas. Access roads may cross buffer areas to provide access to and from a street but shall be designed to minimize the disruption of the buffer areas. No parking shall be permitted along the segment of an access road that crosses a buffer area.

Where principal structure(s) in non-residential use would occur on the same lot with principal structure(s) in residential use, such structures shall be separated by a minimum of 35 linear feet of landscaped buffer area.

- 8) Projects involving more than one principal building shall provide an internal circulation system to minimize entrances to the project.

- 9) To minimize vehicle turning conflicts and traffic congestion, the Planning Board may require that entrances to uses in this district be combined to the maximum extent possible.
- 10) To minimize vehicle turning conflicts and traffic congestion, the Planning Board may limit each building to one point of street entrance and exit at a point determined by the Board.
- 11) No new access road shall be created that will provide vehicular access to Main Street from property lacking Main Street frontage.
- 12) All new non-residential uses, if subject to site Plan Review under Chapter 4 of this Code, shall also be subject to review by a local Architectural Review Board, from the time such a Board has been established.
- 13) All principal buildings and structures for non-residential purposes shall be of a traditional New England Village design to be compatible with the predominant scale and character of the existing Gorham Village architecture.

## **SECTION 1-15 - MANUFACTURED HOUSING PARK OVERLAY DISTRICT**

### **A. PURPOSE**

To allow a number of environmentally suitable locations in Town for the expansion of existing manufactured home parks and the development of new manufactured home parks in accordance with M.R.S.A. Title 30-A, Section 4358. A manufactured housing park shall be defined as parcel of land under unified ownership approved by the municipality for the placement of three (3) or more manufactured homes.

### **B. SELECTION CRITERIA**

The following criteria shall be used in selection of manufactured home park overlay districts.

- 1.. Expansion of existing Manufactured Home Parks
- 2.. Environmental suitability
- 3.. Proximity to municipal services (including public sewer and water or likelihood the area will be served by public sewer and water in the future)
4. Areas that can be adequately buffered
5. Areas served by roads adequate to accommodate additional traffic.

### **C. PERMITTED USES**

1. Any building or use identified as a permitted use in the underlying district
2. Manufactured home parks as defined, subject to subdivision review by the Planning Board.

### **D. SPECIAL EXCEPTION**

1. Any building or use identified as a special exception in the underlying district.

### **E. SPACE STANDARDS FOR MANUFACTURED HOME PARKS**

1. Minimum lot size:

Lots served by public sewer	6,500 square feet
Lots served by individual subsurface waste disposal system	20,000 square feet
2. Minimum lot width:

Lots served by public sewer	50 feet
Lots served by individual sub-surface waste disposal systems	100 feet

Notwithstanding the provisions of this subsection E, an auxiliary public utility structure is exempt from the minimum lot size and street frontage requirements of this district.

Structures must meet setback requirements. Additional screening and buffering can be requested by the Planning Board.

**F. PERFORMANCE STANDARDS FOR MANUFACTURED HOME PARKS**

**1. Open Space reservation**

- a. For sewerred project, an area no less than 10% of the project area shall be set aside as open space.
- b. Such space shall be accessible and usable by all residents of the park. Parking space, driveways and buffer areas are not considered usable open space.
- c. For all manufactured home parks proposals, dedication of open space is strongly encouraged.

**2. Buffering**

- a. A 50-foot wide buffer strip shall be provided along all property boundaries that:
  - 1) Abut residential land which has a gross density of less than half of that proposed in the park.
  - 2) Abut residential land that is zoned at a density of less than half of that proposed in the park.
- b. The buffer shall not have within it any structures or utilities, except utilities may cross the buffer.
- c. Reasonable natural screening requirements shall be required for the first 25 feet of a buffer as measured from the external boundary of the park.
- d. Substantial buffering and screening are strongly encouraged for all proposed manufactured home parks.

**3. Groundwater impact**

- a. For unsewered manufactured home park proposals, the person or firm developing or expanding a manufactured housing park shall have the burden of proof of demonstrating that the development shall not pollute a public water source or aquifer or violate any provision of State law relating to land use development, subdivision or use.

**4. Streets and Traffic**

- a. All streets within a park shall be designed by a Professional Engineer, registered in the State of Maine, and shall be built according to accepted engineering standards.
- b. No manufactured home lot shall have vehicle access onto a State highway or other access limited road.
- c. A traffic impact analysis shall be required if the park will generate more than 200 vehicle trips per day.
- d. For parks expected to generate 200 vehicle trips per day or more, there shall be at least two entrances from public streets or roads.

**G. OTHER REQUIREMENTS**

1. No lot in a manufactured home park created under this provision shall be sold or conveyed without the prior approval of the Planning Board. Any such lot sold or conveyed shall meet the lot requirements and other standards of the district in which it is located.
2. Manufactured homes or manufactured home lot development shall not be permitted within 250 feet of the Presumpscot River, including North Gorham and Dundee Ponds and of the Little River below its convergence with Martin Brook.
3. The requirements and standards of the Town's Mobile Home Park Ordinance shall also be applied to the expansion and development of manufactured housing parks under this section. However, in the case of conflicting requirements or standards, the provisions of this section, State law and the Town's subdivision regulations shall control.
4. The requirements and standards of the Chapter 2, Section 2-7 of the Land Use and Development Code, "Installation of Manufactured Housing Units," shall also be applied to the expansion and development of manufactured housing parks under this section. However, in the case of conflicting requirements or standards, the provisions of State law shall control.



## **SECTION 1-16 – NARRAGANSETT MIXED-USE DEVELOPMENT DISTRICT**

### **A. PURPOSE**

To allow a mixed-use zoning district subject to performance standards with the following objectives:

- 1) Promote innovative and attractive mixed-use planned development with access off internal streets when feasible;
- 2) Promote good quality commercial, light industrial, and specialty enterprises and/or mixed use growth which sustainable growth in the economic base and job opportunities;
- 3) Promote efficient use of land and of such public facilities as streets, utilities, and when economically feasible extension of public water and sewer;
- 4) Promote commercial and residential development which complements uses within Gorham Village and is compatible in respect to the character of Gorham Village.

### **B. PERMITTED USES**

- 1) Commercial Uses
  - a) Drive-through services;
  - b) Business or professional offices;
  - c) Research and development laboratories, which are exclusively located indoors;
  - d) Production, fabrication, processing, assembling, packing, storing and distribution of:
    - 1) Precision electrical or precision mechanical equipment
    - 2) Optical goods, business machines, precision instruments, surgical and dental instruments
    - 3) Pharmaceutical, toiletry and cosmetics
    - 4) Any other use of the same general character as any of the uses listed above
  - e) Printing, engraving, bookbinding and other similar services
  - f) Offices for executive, administrative and data processing activities
  - g) Inn, motel and hotel
  - h) Commercial schools
  - i) Indoor/outdoor recreational facilities
  - j) Utility substations
  - k) Schools, day care centers, nursery schools, churches or any other institutions of an educational, philanthropic, fraternal or social nature with less than 2,000 sq.ft. of gross floor area or less than 200 vehicle trips in a day
  - l) Office of a contractor or tradesman
  - m) Conference center or banquet hall
  - n) Automotive repair
  - o) Business services
  - p) Repair services which are exclusively located indoors
  - q) Use and buildings that are accessory to the above-mentioned uses, including caretaker units and parking lots
  - r) Medical or quick care facilities
  - s) Light industrial
- 2) Commercial Uses which are only permitted as part of a mixed use development

- a) Retail stores with less than 7,000 sq. ft. of gross floor area
  - b) Shopping centers with individual stores having less than 7,000 sq. ft. of gross floor area
  - c) Personal Service with 2,000 sq.ft. or less of gross floor area
- 3) Residential Uses – as part of a mixed use development
- a) Multi-family housing as part of a mixed use development
  - b) Residential uses on the upper floors with commercial uses located on the first floor
  - c) Accessory uses including home occupations

**C. SPECIAL EXCEPTION USES**

- 1) Schools, day care centers, nursery schools, hospitals, churches or any other institutions of an educational, philanthropic, fraternal or social nature with more than 2,000 sq. ft. of gross floor area or less than 200 vehicle trips in a day.

**D. DIMENSIONAL STANDARDS**

- 1) Development Standards - The developable area of all lots shall be based on the gross lot area of the proposed site.

The total gross floor area of all the non-residential uses shall not exceed thirty percent (30%) of the gross area of the parcel dedicated to such uses. No more than seventy percent (70%) of the gross lot area of the non-residential parcel may be covered with buildings, structures, accessory uses such as parking lots and other impervious surfaces.

- 2) Non-residential Space Standards
  - a) Minimum lot size – Twenty thousand (20,000) square feet.
  - b) Minimum street frontage - One hundred (100) feet.
  - c) Minimum front yard -50 feet along Narragansett Street and a 25 foot minimum or 65 feet maximum for all other streets.
  - d) Minimum side and rear yard - 20 feet or for structures taller than 40' in height, the required setback is one and a half (1.5) times the building height
  - e) Maximum building height - 50 feet or four stories, whichever is greater,
- 3) Mixed-Use Residential Space Standards - Space standards for mixed-use development
  - a) Minimum lot size – 20,000 sq. ft.
  - b) Minimum net acreage per dwelling unit – 6,000 sq. ft.
  - c) Minimum street frontage – Seventy-five (75) feet
  - d) Minimum front yard – 50 feet along Narragansett Street and a 25 foot minimum or 50 foot maximum for all other streets
  - e) Minimum side and rear yard – 20 feet or two (2) times the building height, whichever is greater`

- f) Maximum building height – 50 feet or four stories, whichever is greater
  - g) Residential gross floor area shall be limited to 40% of the total gross floor area of a mixed-use structure or development
- 4) Notwithstanding the provisions of this subsection C, an auxiliary public utility structure is exempt from the minimum lot size, street frontage, net acreage, gross floor area, and dedicated open space requirements of this district.

## **E. PERFORMANCE STANDARDS**

### **1) Lot Layout**

- a) Lots abutting multiple streets shall be oriented so the front of the building faces the street of lower classification. Lots with frontage on Narragansett Street shall meet the standards listed in item 6 within this section. For lots with frontage on both Narragansett Street and another street, the buildings, parking lots and access drives shall be located a minimum of 50 feet from Narragansett Street.
- b) Large parcels shall be developed to create a business or office park environment. Mixed-uses are permitted in an office/business park type of development.
- c) Mixed-use developments can consist of a mix of residential and commercial lots and/or a mix of residential and commercial buildings.

### **2) Buffer yards**

- a) Screening of non-residential uses: Non-residential uses shall be screened from adjacent residential zoning districts and developments by a buffer yard of twenty (20) feet in width containing at least three (3) canopy trees, six (6) under-story trees and nine (9) shrubs per one hundred (100) feet of length along the perimeter of the lot line adjacent to the residential use.
- b) Screening along public roadways: Development adjacent to public roadways shall be screened as follows:
  - 1. Abutting Narragansett Street and Bernard Rines Bypass – a buffer yard forty (40) feet in width containing at least four (4) canopy trees, eight (8) under story trees, and twelve (12) shrubs per one hundred (100) feet of frontage.
  - 2. Abutting a local street and facing non-residential or mixed uses: A buffer yard of ten (10) feet in width containing at least one (1) canopy tree per one hundred (100) feet of frontage.
  - 3. Abutting a public street and facing a residential use: A buffer yard of fifteen (15) feet in width containing at least two (2) canopy trees, four (4) under story trees and six (6) shrubs per one hundred (100) feet of frontage.
- c) Canopy trees deciduous, shade or evergreen trees planted at 3 to 3-1/2 inches in caliper with a mature height of at least 35 feet. Under story trees shall be deciduous shade, fruit or evergreen trees planted at 2 to 2-1/2

inches in caliper with a mature height of at least 12 feet.

- d) Alternative buffers and screening: In lieu of compliance with the above buffer yard and screening requirements, a developer may submit a detailed plan and specification for landscaping and screening which will afford a degree of buffering and screening equivalent to or exceeding that provided by the above requirements.
  - e) Parking lot landscaping: At least ten percent (10%) of the interior surface of any parking area containing twenty (20) or more parking spaces shall consist of landscaped islands which shall be composed of shrubs and trees and other landscaping materials. The interior surface of a parking area shall be derived by computing the area within the general perimeter of contiguous areas containing parking spaces, maneuvering areas behind the spaces and landscaping areas within such perimeter, except that required setback areas and buffers shall not be included in the interior area computation.
  - f) Screening of refuse collection 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.
  - g) Maintenance of landscaping: All required landscaping and screening shall be maintained or replanted as necessary so as to continue its effectiveness.
- 3) Parking Lot Standards
- a) 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.
  - b) All other parking shall be located to the side and rear of the building.
- 4) Lot Access
- a) Entrances to uses in this district shall be combined to the maximum extent possible.
  - b) For lots with frontage on both Narragansett 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.
  - c) A parcel that does not have frontage on Narragansett Street shall not be granted vehicular access from Narragansett Street except in cases where:
    - 1. Access will be provided through a combined entrance with another parcel which has frontage on Narragansett Street
    - 2. The driveway will meet State and local requirements
    - 3. The Planning Board determines that the increased use will not have a negative impact on Narragansett Street traffic flow

5) Public Utilities

- a) All large scale developments and subdivisions shall connect to public sewer and water meeting the requirements of the Portland Water District and the Town of Gorham.
  - 1. The Planning Board may grant a waiver for the requirements of the extension of public sewer if the lot is located greater than 100 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 requirements of the extension of public water if the lot is located greater than 200 feet 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.

6. Narragansett Street: Design Standards – Buildings with frontage along Narragansett Street shall conform to the below standards.

- a) All non-residential principal buildings and structures with frontage along Narragansett Street shall be designed in a traditional New England Village style.
- b) All buildings shall be designed so that the front wall of the building and any wall facing Narragansett Street that is not a front wall has the visual appearance of a front façade. The façade shall incorporate pedestrian scale design features such as doors and windows to create a “village character.” Windows or architectural treatments designed to simulate windows shall comprise no less than twenty percent (20%) of the exterior wall surface. The façade shall be designed to avoid large blank wall space.
- c) Roofs shall be designed to maintain the New England village character. All new buildings and additions shall have pitched or gabled roofs to the extent possible. If a pitched roof is not practical, false building fronts shall be used to imitate pitched roofs. Accessory buildings, canopies, and other structures shall have roof lines that are visually compatible with the roof line of the principal building.
- d) Buildings shall be compatible with the “village character.” The exterior surface of all facades that are visible from a public street shall use traditional New England materials or materials which replicate traditional materials such as vinyl clapboard siding, masonry units that replicate shake or clapboard siding, or metal or plastic roofing that simulates shake or shingle roofing. The use of flat concrete block, corrugated or flat metal, fiberglass, or plastic panels, reflective materials, stucco, or products such as T-111 or plywood on facades visible from public streets is not permitted. The treatment of accessory buildings and structures shall be compatible with the principal building and shall use similar materials, details, and level of trim.

7) Narragansett Mixed-Use Development District – Design Standards Except as outlined above, all buildings, structures and lots within the Narragansett Mixed-Use Development District shall comply with the below standards.

- a) Building and Other Structure Materials

1. The predominant exterior building materials shall be of high quality materials, including, but not limited to, wood or vinyl clapboard siding, masonry units that replicate shake or clapboard siding, brick, sandstone, wood, native stone and tinted/textured concrete masonry units and/or glass products or metal or plastic roofing that simulates shake or shingle roofing. Simulated material may be substituted for any of the aforementioned building materials.
2. At least three different building materials shall be used for the primary façade of a building facing the primary street the building accesses. The Planning Board may waive the building material to two different materials if it finds the building design has enough architectural detail to sufficiently break-up the massing of the building. Glass for use in windows and doors shall not be considered one of the required building materials. All façades that have frontage on a street shall be considered a primary façade.
3. Building(s) shall be located on the property with the principal building entrance oriented toward the primary focal point of the property/development.
4. Exterior building materials shall not include smooth-faced concrete block, tilt-up concrete panels, or T-111. Prefabricated steel panels are excluded unless they contain architectural details with intricate designs. Metal roofs may be allowed if compatible with the overall architectural design of the building.
5. Customer Entrances: The customer entrance(s) shall be clearly defined and highly visible by using features such as canopies, porticos, overhangs, recesses/projection, and raised corniced parapets over the door, arcades, arches, wing walls. Integral planters are highly encouraged.
6. Roof Design: Roofs shall be designed to reduce the apparent exterior mass of a building, add visual interest and be appropriate to the architectural style of the building. The following design elements are highly encouraged: variations within one architectural style; visible roof lines and roofs that project over the exterior wall of a building enough to cast a shadow on the ground; and overhanging eaves, sloped roofs and multiple roof elements. Architectural methods shall be used to conceal flat roof tops. All roof-top mechanical equipment shall be screened so that it is not visible from grade.
7. Building and Other Structure Colors: Exterior colors shall be of low reflectance, subtle, neutral or muted earth tone colors. The use of high intensity colors such as black, neon, metallic or fluorescent colors for the facade and/or roof of the building are prohibited except as approved for building trim.
8. Mechanical Equipment and Service Areas. The location of loading docks and service areas shall be to the sides and/or rear of a building, except when a site abuts Narragansett Street, in which case the said areas shall be located to the sides of the building that do not face Narragansett Street or the Bernard Rines Bypass.

9. The architectural design of the buildings shall incorporate features which screen, contain and conceal all heating, ventilation, air conditioning units, trash enclosures, dumpsters, loading docks and service yards. Landscaping, fencing, berms and similar features may be used to accomplish this goal.
  10. Fencing, screening, landscaped berms, natural features or combination thereof, shall be utilized to shield from the view of abutting residential properties and public ways all loading and unloading operations, storage and repair work areas, commercial vehicle parking, and waste disposal and collection areas. Screens at least as high as the equipment they hide shall be of a color and material matching or compatible with the dominant colors and materials found on the facades of the principal building. Chain link or cyclone fencing (with or without slats) shall not be used to satisfy this requirement.
  11. Equipment that would remain visible despite the screening due to differences in topography (i.e., a site that is at a lower grade than surrounding roadways) shall be completely enclosed except for vents needed for air flow, in which event such vents shall occupy no more than 25% of the enclosure façade.
- 7) Bike paths/greenway systems – the applicant shall provide for convenient and safe pedestrian and bicycle access to and within the development. The requirement for off-site sidewalk extension shall be modified by the Planning Board or Site Plan Review Committee provided the following conditions are met:
- a) For projects under site plan review the costs for off-site sidewalks exceeds a cost of \$1,000 per 2,000 sq.ft. of gross commercial floor area or for projects proceeding under subdivision review the costs for off-site sidewalks exceeds a cost of \$10,000 per lot. Subdivision lots that have been reviewed under this provision are not required to be reviewed again under site plan review.
  - b) In place of a full sidewalk extension, 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 5,000 sq.ft. of gross floor area under site plan review or 400' for each lot;
    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 5,000 sq.ft. of gross floor area under site plan review or 250' for each lot;
    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.

#### **E. DENSITY BONUS PROVISIONS AND STANDARDS**

Residential Density Bonus: The applicant can buy bonus dwelling units above what is allowed under the net acreage calculation provided that the Planning Board finds the residential units are adequate for the development proposed and do not exceed minimum net acreage of one

dwelling unit per 2,000 sq. ft. The bonus units shall require the developer to pay a Development Transfer Fee. The Development Transfer Fee shall be calculated by multiplying the number of bonus units determined by the Planning Board times the per unit Development Transfer Fee established by the Town Council. The total Development Transfer Fee for the subdivision or project shall be divided by the total number of approved dwelling units in the subdivision or project to determine the Development Transfer Fee for each dwelling unit. The per dwelling unit Development Transfer Fee shall be paid to the Town at the time of the issuance of the building permit for each dwelling unit in the project.



## **SECTION 1-17 - BLACK BROOK AND BRACKETT ROAD SPECIAL PROTECTION DISTRICT**

### **A. PURPOSE**

The purpose of this subsection is to further the maintenance of safe and healthful conditions; to prevent and control groundwater pollution and the migration of groundwater pollution; to ensure that new and existing development in this district has safe water for consumption and use; to prevent activities that might disrupt ground water remediation activities or water quality monitoring activities; to prevent the possibility of abandoned wells providing a means for contaminants to enter the ground water; and to anticipate the impact of further development within this district.

### **B. APPLICABILITY**

The Black Brook and Brackett Roads Special Protection District applies to the area designated on the Zoning Map as the Black Brook and Brackett Roads Special Protection District, which includes the remedial Activities Area, the Water Resource Management Area and the Limited Water Resource Management Area. The restrictions of this district are in addition to any restrictions found in other sections of this Code or other State and local laws or regulations.

### **C. PROHIBITED ACTIVITIES**

The following restrictions shall apply in the Remedial Activities Area and the Water Resource Management Area.

1. The drilling of any new residential, commercial, industrial or other water supply wells is not allowed.
2. The removal of ground water by any new commercial, residential, or industrial development is not allowed.
3. Blasting is not allowed, except by the Portland Water District contractors or anyone authorized or approved by the Portland Water District to do such work, pursuant to conditions established by the Portland Water District, for the purpose of extending a water main.
4. Hydraulic fracturing, overpumping, blasting or pressure intensive methods to increase the yield of existing wells are not allowed.

### **D. DEVELOPMENT TO EXTEND PUBLIC WATER**

Any application for a subdivision, residential structure or development, except the development of accessory buildings, that occurs after March 14, 2000 within the Remedial Activities Area or Water Resource Management Area, or that occurs within the Limited Water Resource Management Area after March 14, 2000 and prior to March 1, 2004, must provide public water, at the developers expense, from a public water supply by extending a water main pursuant to the conditions established by the Portland Water District and within the restrictions established by this section, unless the developer of the lot can demonstrate to the Town that it will comply with the requirements set forth below.

Where the developer of a lot within the district proposes to supply water from a private source located outside this Special Protection District, or from an existing private water supply located within the District, the following restrictions shall apply:

1. The developer shall not undertake any activity prohibited in Subsection C in developing the required infrastructure to bring the water to the lot.
2. The developer shall also provide to the Town satisfactory evidence that the private water supply complies with all applicable State and local requirements, and

3. That the Maine Department of Environmental Protection has reviewed the proposal and has made written recommendations concerning any proposed shared use of an existing private water supply located within the District. In the event that the MDEP recommends that any conditions be placed upon a shared existing water supply, the CEO shall include such conditions on any building permits issued for structures that will share the water supply. Any work undertaken and any required studies shall be at the sole expense of the developer.

**E. LIMITED WATER RESOURCE MANAGEMENT AREA**

Any developer of a subdivision, residential structure, or commercial or industrial development which relies on or creates a private water supply well within the Limited Water Resource Management Area does so at the developer's own risk, and with the knowledge that the potential for contamination exists in the neighborhood, and that if any new water supply wells located within the Limited Water Resource Management Area are found to be contaminated with chemicals attributable to the Wyman Auto Body site, such wells must be properly abandoned at the well owner's expense, pursuant to the well abandonment procedures established in Section F. of this ordinance and in accordance with the applicable regulations established by the State of Maine.

**F. ABANDONMENT OF WELLS**

1. Applicability: These provisions shall apply to all wells abandoned after the effective date of this ordinance.
2. Notification of Department of Environmental Protection: The Town and the Maine Department of Environmental Protection shall be notified prior to abandoning any wells in the Special Protection District.
3. Sealing: Abandoned wells or boreholes shall be sealed in a manner appropriate to prevent the entry of contaminants and from the mixing of waters from separate fractures. Well casings shall not be removed without the borehole in bedrock having been permanently sealed, using practices currently accepted by the water well industry.
4. Open borehole filling: Open boreholes shall be filled in a manner appropriate to prevent the possibility of personal injury.

**G. ENFORCEMENT AND VIOLATIONS**

The Code Enforcement Officer is authorized to enforce violations of this Section in accordance with the provisions set forth in Title 30-A, M.R.S.A., Section 4452.

**H. CONFLICT WITH OTHER ORDINANCES**

Wherever the requirements of this Section are inconsistent with the requirements of any other ordinance or statute, the more restrictive requirement shall apply.

**I. SEPARABILITY**

In the event that any section, subsection or any portion of this Code shall be declared by any court of competent jurisdiction to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection or other portion of this Code. The provisions of this Code are hereby declared to be severable.

**J.     EXPIRATION**

The provisions of this ordinance shall remain in force until amended or repealed by the Gorham Town Council upon recommendation of the Planning Board and the Maine Department of Environmental Protection.

Effective Date: Notwithstanding the provisions of 1 M.R.S.A. Section 302 or any other provision of law, these amendments, up passage, shall be retroactive to March 1, 2004.

## **SECTION 1-18 – DEVELOPMENT TRANSFER OVERLAY DISTRICT**

### **A, PURPOSE**

The purpose of the Development Transfer Overlay District is to create livable, walkable neighborhoods in areas of the community where public sewerage is available or planned while minimizing development in other areas of the community where intensive development is not desired. This will be accomplished by allowing well-planned, higher density residential development in designated areas with public sewerage in exchange for the payment of a development transfer fee. The development transfer fee will be used by the Town to purchase conservation land and/or easements and open space.

### **B. APPLICABILITY**

The provisions of this overlay district are optional. A land owner within the overlay district may choose to develop in accordance with the provisions of this overlay district or the provisions of the underlying zoning district. If the owner chooses to develop in accordance with these provisions, all subsequent development on the parcel shall then be subject to these requirements.

The provisions of this overlay district may only be utilized by new residential subdivisions or projects that are subject to site plan review and that meet all of the following provisions:

- 1) The development is located within the Development Transfer Overlay District as shown on map of the Development Transfer Overlay District adopted by the Town Council as part of the Official Zoning Map;
- 2) The development will be served by public water and by the public sewerage system of the Town of Gorham and all buildings with plumbing facilities within the development will be connected to the sewer system; and
- 3) The owner or developer will pay a development transfer fee in accordance with the provisions of E.1.

The provisions of this district supplement and modify the provisions of the underlying zoning district. Where the provisions of the overlay district differ from or conflict with the provisions of the underlying district, these provisions shall govern if the property owner has chosen to develop in accordance with the overlay district provisions. The plan of any development approved in accordance with the overlay district must include a plan note stating that the plan was approved in accordance with the Development Transfer Overlay District, that a development transfer fee will be required to be paid prior to the issuance of the building permit for each dwelling unit in the development, and that all future development of the original parcel or lots created as part of the approval must be done in accordance with the provisions of the overlay district.

The provisions of the overlay district only apply to subdivisions and other developments approved in accordance with the overlay district and may not be applied to a lot(s) that is not located within a subdivision that was approved and developed in accordance with the provisions of the overlay district including the following:

- 1) lots within a subdivision that was approved prior to the effective date of this section,
- 2) lots in a subdivision that was approved and developed in accordance with the provisions of the underlying zoning district, or
- 3) lots that are not part of a subdivision.

**C. PERMITTED USES**

Only uses allowed in the underlying zoning district shall be permitted in the overlay district. Uses that are permitted uses in the underlying zoning district remain permitted use and uses that are special exceptions in the underlying zoning district remain special exception uses.

**D. SPACE STANDARDS**

The following space standards apply to the subdivision or project and to the lots within the subdivision based upon the underlying zoning district.

<b><u>Standard</u></b>	<b><u>If the underlying zone is any district other than Rural</u></b>	<b><u>If the underlying zone is Rural</u></b>
Minimum net acreage per dwelling unit	5,000 sq. ft.	9,000 sq. ft.
Minimum lot size:		
One-family dwelling	8,500 sq. ft.	12,750 sq. ft.
Two-family dwelling	15,000 sq. ft.	22,500 sq. ft.
Multi-family dwelling or apartment	20,000 sq. ft.	30,000 sq. ft.
Mixed-use	15,000 sq. ft.	15,000 sq. ft.
Minimum street frontage:		
One-family dwelling	60 feet	75 feet
Two-family dwelling	75 feet	125 feet
Multi-family dwelling or apartment	100 feet	150 feet
Mixed-use	100 feet	100 feet
Minimum front yard for one and two-family dwellings:		
Access or sub-collector street or private way	15 feet	15 feet
Collector street or service road	30 feet	30 feet
Arterial street	70 feet	70 feet
Maximum front yard for one and two-family dwellings:		
Access or sub-collector street or private way	25 feet*	25 feet*
Collector street or service road	none	none
Arterial street	none	none
Minimum front yard for multi-family dwellings, apartments and mixed-uses:		
Access or sub-collector street or private way	20 feet**	20 feet**
Collector street or service road	30 feet**	30 feet**
Arterial street	70 feet**	70 feet**
Minimum side and rear yards:		
One-family dwelling	10 feet	10 feet
Two-family dwelling	15 feet	15 feet
Multi-family dwelling, apartment, or mixed-use	30 feet***	30 feet***
Maximum building height	None	None

\* Not more than ten percent (10%) of single and two-family dwellings within a subdivision may have a front yard or setback of more than twenty-five (25) feet provided that:

- 1) any lot with a front yard greater than twenty-five (25) feet may not abut another lot with a front setback of more than twenty-five feet, and
- 2) any lot with a front yard greater than twenty-five feet must be identified on the approved subdivision plan and the maximum front yard for the lot specified on the plan.

\*\* New buildings constructed on existing roads shall be located in such a manner as to maintain the established relationship of buildings to the street. No building shall be set back further than the average of the existing neighboring structures' setbacks in the block in which the building is located or if an existing building is being demolished, than the pre-existing setback. Where no such relationship exists, the minimum setback shall be as identified per street classification.

\*\*\* New buildings constructed in existing neighborhoods shall be located in such a manner as to maintain the established relationship of existing neighboring structures to the side setbacks. Where no such relationship exists, the minimum setback shall be identified per use type.

Notwithstanding the provisions of this subsection D, an auxiliary public utility structure is exempt from the minimum lot size and street frontage requirements of this district. Structures must meet setback requirements. Additional screening and buffering can be requested by the Planning Board.

## **E. PERFORMANCE STANDARDS**

In addition to the performance standards of Chapter 2, all new subdivisions and developments that are approved in accordance with the provisions of the Development Transfer Overlay District must conform to the following performance standards. If these standards conflict with the performance standards of the underlying zone, these standards apply.

### **1. Development Transfer Fee and Calculations**

- a) Calculation of the Fee – The development transfer fee that must be paid by a subdivision or development shall be based upon the number of “bonus units” included in the approved subdivision or development plan. “Bonus units” are approved dwelling units in excess of the number of dwelling units that could be built on the site in accordance with the provisions of the underlying zone.

The number of “bonus units” shall be determined by the Planning Board as part of the approval of the subdivision or site plan. The number of bonus units shall be calculated by determining the maximum number of dwelling units that could be developed on the site based on the underlying zoning, site conditions, and allowable density bonuses and subtracting those units from the number of approved dwelling units.

The maximum number of dwelling units allowed in the underlying zone shall be calculated as follows:

- 1) If the underlying zone has a maximum density provision based upon net residential density or net acreage per dwelling unit, the maximum number of units allowed under the underlying zoning shall be calculated based upon this requirement and calculated by dividing the net acreage of the area proposed to be subdivided by the per unit factor, plus any additional units allowed in the underlying district for the use of public sewerage and/or public water.
- 2) If the underlying zone does not have a maximum density requirement based upon net residential density or net acreage per dwelling unit, the maximum number of units allowed under the underlying zoning 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 size for one family dwellings or the minimum lot area per dwelling unit for two-family dwellings or multifamily housing plus any additional units allowed in the underlying district for the use of public sewerage and/or public water.

The total development transfer fee for a subdivision or project shall be calculated by multiplying the number of “bonus units” determined by the Planning Board times the per unit Development Transfer Fee established by the Town Council.

- b) Payment of the Fee – The total development transfer fee for the subdivision or project shall be divided by the total number of approved dwelling units in the subdivision or project to determine the development transfer fee for each dwelling unit. The per dwelling unit development transfer fee shall be paid to Town at the time of the issuance of the building permit for each dwelling unit in the project.
- c) Use of the Fee – Development transfer fees collected by the Town shall be deposited into a separate account and must be used only for acquiring the fee in or conservation easements on potentially developable land in areas where the Town desires to discourage growth in accordance with the priorities set forth below.

Any land acquired with development transfer fees must be permanently restricted from development and be used for conservation, passive and/or active recreation, and open space purposes. Development transfer fee revenue may be used in conjunction with other Town funds, impact fee revenue, or other private or government funding to acquire land or easements provided that the intent of this section is met.

The Town Council shall be guided by the following priorities in acquiring land or development rights/conservation easements with the development transfer fees:

- land that is adjacent to Town-owned recreational facilities or open space that is consistent with that use
- land that is adjacent to the Presumpscot or Little Rivers
- land that is currently in agricultural or silvicultural use and will remain in agricultural or silvicultural use
- land that is adjacent to land that is in agricultural or silvicultural use and that is permanently protected from development
- land with significant historical or archeological value
- land that has significant natural resource value but that is developable
- land within the viewshed from the top of Fort Hill toward Mount Washington with a priority for those parcels closest to the top of the hill
- land adjacent to or visible from arterial and rural collector roads in areas that are zoned Rural or a future low-density equivalent
- land that maintains the integrity of unfragmented habitat blocks
- other land that is identified as open space or conservation land in the Town's Comprehensive Plan including land adjacent to the principal approaches to Gorham

## **2. Design Standards**

All subdivisions and other developments are subject to the provisions of A. 6) of Chapter 2. Section 2-4 – Residential and the plan shall show how these criteria will be addressed.

### **a) Mixed-Use and Commercial Use Building Design Standards**

- 1) Projects are required to be designed by a multidisciplinary design team comprising at a minimum of a licensed landscape architect, architect, surveyor, and professional engineer.
- 2) Plan sets are required to include at a minimum photometric plans, architectural renderings, landscape plans, stormwater management plans and details to include treatment, and any plans or information required under Chapter 3 and/or 4. A visual plan and written assessment are also required which identify how the proposed development fits with existing

neighboring structures, maintains the character of the overall neighborhood, and incorporates the required design criteria under this section and any underlying zoning district's standards.

- 3) New buildings and structures shall be designed to meet any underlying zoning district's architectural requirements. Buildings' designs shall also:
  - a) Orient service entrances, exterior fire escapes, exterior generators, waste disposal areas and other similar uses toward service lanes and away from the view of streets and public areas.
  - b) Position service areas to minimize conflicts with abutting uses.
  - c) Minimize the visual impacts of mechanical and HVAC equipment on the public way and surrounding neighborhoods.
  - d) Minimize the visual impacts of utility connections.
  - e) Maintain the average perceived size of the buildings at the sidewalk.
  - f) Traditional spacing patterns created by the repetition of uniform building widths along the street should be maintained.
  - g) New buildings should incorporate a base, middle, and a cap in the design.
  - h) Position taller portions of a structure away from neighboring buildings of lower scale.
  - i) Establish a sense of human scale in the building design.
  - j) 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.

### **3. Additional Standard for One and Two-Family Lots**

If a subdivision approved in accordance with these overlay provisions contains individual lots that will be developed with one or two-family dwellings, the layout of those lots should be deeper than they are wide to provide a suitable, private rear yard. At least eighty percent (80%) of lots within the subdivision that will contain single-family or two-family dwellings must have an average lot depth that is at least one hundred forty percent (140%) of the lot width as measured between the side lot lines of the lot at the rear of the required minimum front yard.

### **4. Access Limitations**

Access to subdivisions or developments shall be designed to minimize the number of entrances onto arterial or collector roads. Direct vehicular access to individual lots or uses from existing roads classified as arterials, collectors or sub-collectors shall not be allowed unless the Planning Board finds that there is no reasonable alternative access.

### **5. Open Space**

A portion of any new subdivision or project with more than ten lots or units must be set aside within the development and permanently protected as open space to serve the residents of the project. This requirement is in addition to any requirement for the payment of a recreational facilities or open space impact fee. The total combined area of the open space set aside within the subdivision shall be a minimum of ten percent (10%) of the gross area of the parcel. This open space



must include an area of usable land as defined by the net acreage provision that is at least five percent (5%) of the total net acreage of the parcel (For example, if the net acreage of the parcel is twenty acres then at least 5% or one acre of the open space must be usable land).

The required open space within the subdivision or project may be used for the following types of uses:

- formal open spaces such as greens, commons, and parks
- passive recreation areas
- natural resource or conservation areas

At least fifty percent (50%) of the required usable land within the open space shall be developed for formal spaces or recreation facilities. The Planning Board may waive or reduce this requirement if it finds that, due to the scale of the development, compliance with this requirement will not result in usable open space.

The setting aside of less-than-lot-sized pieces of land for specific formal spaces or recreation facilities is only permitted in a Development Transfer Overlay District approved subdivision. These areas can be aggregated to meet the 50% of the required usable open space and shall be developed for formal recreation facilities use. Formal recreation facilities shall include, but not be limited to, school bus stops with waiting shelters and/or benches or structures of any type, public monuments, small parks or gardens with structures such as benches or fountains, playground sets, basketball courts, trail heads with amenities, picnic tables, etc., and may occupy less-than-lot sized areas within the development.

Where appropriate the Planning Board may require buffering or screening from adjoining residential properties.

No parcels less than required lot size may be set aside for any other open space requirements prescribed in the Development Transfer Overlay District standards such as passive recreation areas, or natural resource or conservation areas.

## **6. Parking Lot Locations**

Parking lots for five or more vehicles to serve multi-family housing, apartments, and non-residential uses shall be located to the side or rear of the building where feasible. No parking lots for these uses shall be permitted in the required front yard area.

**SECTION 1-19 – 10 PREBLE STREET CONDITIONAL ZONE**

**A. PURPOSE**

To preserve the physical, aesthetic and social quality of Gorham's urban area and, consistent with this stated goal, to provide therein for the location of a variety of residential and service uses in accordance with the standards of this chapter. To this end, residential development shall not exceed the net residential density allowable herein and may preferably occur in accordance with the provisions of Chapter 2, Section 2-4, of this Code.

**B. PERMITTED USES**

- 1) One, two, or three-family dwellings, exclusive of mobile homes and exclusive of trailers.
- 2) Municipal building or use.
- 3) Municipal or private parking lots
- 4) Municipally owned parks and playgrounds.
- 5) Accessory residential uses, including home occupations.
- 6) Accessory Apartments
- 7) Business and professional offices.

**C. SPECIAL EXCEPTIONS**

- 1) Reserved

**D. SPACE STANDARDS**

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Minimum lot size	None
Minimum area per dwelling unit	1,000 sq.ft.
Minimum street frontage	None
Minimum front yard	5 ft.
Minimum rear and side yards	5 ft

Buildings higher than 30 feet shall have side and rear yards not less than 50% of building height.

Maximum building height	None
Maximum building coverage	None

**E. PERFORMANCE STANDARDS**

The performance standards contained in Chapter 2 of this Code shall be fully observed.

## **SECTION 1-20 – MCLELLAN HOUSE CONDITIONAL ZONE**

### **A. PURPOSE**

To preserve the historic importance of the McLellan House and its surrounding grounds (a five foot curtilage around the footprint of the building) and to maintain the physical, aesthetic and social quality of Gorham's urban area and to provide for the location of a variety of residential and service uses in accordance with the standards of this chapter. To this end, residential development shall not exceed the net residential density allowable herein, including the provisions of Chapter 2, Section 2-4, of this Code.

### **B. PERMITTED USES**

- 1) One, two, or three-family dwellings, exclusive of mobile homes and trailers.
- 2) Municipal building or use.
- 3) Municipal or private parking lots
- 4) Municipally owned parks and playgrounds.
- 5) Accessory residential uses, including home occupations.
- 6) Accessory Apartments
- 7) Business and professional offices.

### **C. SPECIAL EXCEPTIONS**

- 1) Reserved

### **D. SPACE STANDARDS**

Minimum lot size	6,000 sq. feet
Minimum area per dwelling unit	1,000 sq.ft.
Minimum street frontage	60 ft.
Minimum front yard	25 ft.

Any new building constructed shall be located in such a manner as to maintain the established relationship of building to South Street. No building shall be set further than the average of the existing setback for principal building on either side of the lot.

Minimum rear and side yards 5 ft.

Buildings higher than 30 feet shall have side and rear yards not less than 50% of building height.

Maximum building height	30ft.
Maximum building coverage	25%

### **E. PERFORMANCE STANDARDS**

The performance standards contained in Chapter 2 of this Code shall be fully observed and any building renovations shall be consistent with the below Historic Preservation Review Standards as determined by the Planning Staff.

1. Every reasonable effort shall be made to provide a compatible use for the property which requires minimal alteration and/or replacement to the character-defining features of the structure, object or site and its environment or to use a property for its originally intended purpose.
2. The distinguishing original qualities or character of a structure, object or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features are not allowed unless highly impracticable economically.
3. All sites, structures and objects shall be recognized as products of their own time, place and use. Alterations that have no historical basis or create a false sense of historical development, such as adding conjectural features or elements from other properties, are not allowed unless highly impracticable economically.
4. Changes which may have taken place in the course of time are evidence of the history and development of a structure, object or site and its environment. Changes that have acquired significance in their own right shall not be destroyed.
5. Distinctive features, finishes, and construction techniques or examples of skilled craftsmanship which characterize a structure, object or site shall be treated with sensitivity.
6. Deteriorated historic features shall be repaired rather than replaced unless economically impracticable. Where the severity of deterioration requires replacement of a distinctive feature, the new feature should match the feature being replaced in composition, design, texture and other visual qualities and, where possible, materials. Repair or replacement of missing historic features should be based on accurate duplications of features, substantiated by documentary, physical or pictorial evidence rather than on conjectural designs or the availability of different architectural elements from other structures or objects.
7. The surface cleaning of structures and objects, if appropriate, shall be undertaken with the gentlest means possible. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be undertaken.
8. Every reasonable effort shall be made to protect and preserve the house's architectural significance.
9. Contemporary design for alterations and additions to the existing house shall not be discouraged when such alterations and additions do not destroy significant cultural, historical or architectural materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the size, scale, color, material and character of the property, neighborhood and environment.
10. Wherever possible, new additions or alterations to the house shall be undertaken in such a manner that, if such additions or alterations were to be removed in the future, the essential form and integrity of the property would be unimpaired.

**A.     PURPOSE**

To provide areas within the Town of Gorham for manufacturing, processing, research, warehousing, heavy equipment sales, and large scale office buildings and to which end all the performance standards set forth in this Code shall apply.

**B.     PERMITTED USES**

- 1)       Manufacturing, processing and treatment.
- 2)       Warehousing and outdoor storage.
- 3)       Road distribution facilities.
- 4)       Research facilities.
- 5)       Wholesale businesses and wholesale business establishments, but excluding junk yards.
- 6)       Accessory uses and buildings, including retail and service uses accessory to another permitted use and also including a caretaker unit for residential use provided that there shall be no more than one residential unit on a property and such unit shall be resided in by an owner of the property, an employee of the industrial operation, or a person who serves as a security person. In the event that the principal industrial use or other permitted use terminates, than the accessory residential use shall also terminate.
- 7)       Municipal and governmental uses.
- 8)       Public utility facilities including substations, pumping stations and sewage treatment plants.
- 9)       Heavy machinery and equipment retail sales and service.
- 10)      Office buildings with over 10,000 sq.ft. of gross floor area.
- 11)      Hotel with or without convention halls.
- 12)      For-Profit Schools.
- 13)      Marijuana Cultivation or Manufacturing Facility
- 14)      Medical Marijuana Business
- 15)      Office of Contractor or Tradesman

**C.     SPECIAL EXCEPTIONS**

- 1)       (Reserved)

**D.     SPACE STANDARDS**

Minimum area of lot	60,000 square feet
Minimum street frontage	100 feet
Minimum front yards	30 feet except where the front yard abuts a residential use or district, in which case a minimum of 50 feet shall be provided.
Minimum side and rear yards	20 ft. except as otherwise required by the buffer provisions of this Code and except where the side and/or rear yards abut a residential use or district in which case a minimum of 30 ft. or 50% of the building or outdoor stored material height, whichever is greater, shall be required.

Maximum building height	None
Maximum building coverage	None

Notwithstanding the provisions of this subsection D, an auxiliary public utility structure is exempt from the minimum lot size and street frontage requirements of this district. Structures must meet setback requirements. Additional screening and buffering can be requested by the Planning Board.

**E. PERFORMANCE STANDARDS**

The general performance standards contained in Chapter 2 of this Code shall be fully observed.

## **SECTION 1-22- AGRICULTURAL / INDUSTRIAL DISTRICT**

### **A. PURPOSE**

To provide areas within the Town of Gorham for agricultural uses to occur in close proximity to manufacturing, processing, treatment, research, warehousing and distribution and to which end all the performance standards set forth in this Code shall apply.

### **B. PERMITTED USES**

- 1) Manufacturing, processing and treatment.
- 2) Warehousing
- 3) Road and rail distribution facilities.
- 4) Research facilities.
- 5) Wholesale businesses and wholesale business establishments, but excluding junk yards.
- 6) Accessory uses and buildings, including retail and service uses accessory to another permitted use and also including a caretaker unit for residential use provided that there shall be no more than one residential unit on a property and such unit shall be resided in by an owner of the property, an employee of the industrial operation, or a person who serves as a security person. Agricultural buildings and uses are allowed to have up to three accessory residential units located on any of the farm parcel(s) in addition to the farmhouse. In the event that the principal industrial or agricultural use or other permitted use terminates, then the accessory use except for a residential use shall also terminate. The three accessory residential units are allowed to remain.
- 7) Municipal and governmental uses.
- 8) Public utility facilities including substations, pumping stations and sewage treatment plants.
- 9) Agricultural buildings and uses.
- 10) Facilities for the processing of agriculture products.
- 11) Agriculturally related business uses, including machinery sales and service, seed and fertilizer sales, and similar uses.
- 12) Food Processing, less than 12,000 sq. feet.
- 13) Retail Stores less than 12,000 sq. feet.
- 14) Park and Playground
- 15) Mobile Vending Units
- 16) Office of Contractor or Tradesman

### **C. SPECIAL EXCEPTIONS**

- 1) (Reserved)

### **D. SPACE STANDARDS**

Minimum area of lot	40,000 sq.ft.
Minimum street frontage	100 feet
Minimum front yards	30 feet except where the front yard abuts a residential use or district, in which case a minimum of 50 feet shall be provided.
Minimum side and rear yards	20 ft.* except as otherwise required by the buffer provisions of this Code and except where the side and/or rear yards

abut a residential use or district in which case a minimum of 30 ft. or 50% of the building or outdoor stored material height, whichever is greater, shall be required.

Notwithstanding the provisions of this subsection D, an auxiliary public utility structure is exempt from the minimum lot size and street frontage requirements of this district. Structures must meet setback requirements. Additional screening and buffering can be requested by the Planning Board.

#### **E. PERFORMANCE STANDARDS**

The general performance standards contained in Chapter 2 of this Code shall be fully observed.

1. All land shall have a "perimeter setback" of one hundred feet (100') along Main Street and/ or seventy-five feet (75') along Mosher Road. The Planning Board may reduce the perimeter setback by up to 50% if it finds that doing so would result in a better plan of development for the project site.
  - a. No portion of the "perimeter setback" shall be used for storage of equipment or inventory, service and loading, parking or any buildings or structures. All access roads and utilities may cross the "perimeter setback" to provide access to and from a street but shall be designed to minimize the disruption of the "perimeter setback." No direct access to parking stalls shall be provided from an access road located within the "perimeter setback."
  - b. A landscaped buffer area, as provided in Subparagraph 2) c) below, shall be designed and maintained within the "perimeter setback."
  - c. A detailed landscaping plan, prepared by a landscape architect, shall be prepared for the landscaped buffer area and submitted as part of Site Plan Review for all lots with a perimeter setback." The landscaped buffer area shall be designed to provide effective visual and auditory buffering from abutting residential properties, create an attractive appearance for the proposed new development and maintain an attractive gateway to Gorham consistent with the goals and objectives of the Town of Gorham Comprehensive Plan. Existing natural features and vegetation may be incorporated into the plan for the buffer area if they are found to create an effective visual and auditory buffer by the Planning Board. All such buffer areas shall be maintained for the life of the project.
2. Fencing, screening, landscaped berms, natural features or combination thereof, shall be utilized to shield from the view of abutting residential properties and public ways all loading and unloading operations, storage and repair work areas, commercial vehicle parking, and waste disposal and collection areas.
3. Building and Other Structure Requirements: Building(s) shall be located on the property with the principal building entrance oriented toward the primary focal point of the property/development.



- a. Customer Entrances: The customer entrance(s) shall be clearly defined and highly visible by using features such as canopies, porticos, overhangs, recesses/projection, raised corniced parapets over the door, arcades, arches, wing walls. Integral planters are highly encouraged.
- b. Roof Design: Roofs shall be designed to reduce the apparent exterior mass of a building, add visual interest and be appropriate to the architectural style of the building. The following design elements are highly encouraged: variations within one architectural style; visible roof lines and roofs that project over the exterior wall of a building enough to cast a shadow on the ground; and overhanging eaves, sloped roofs and multiple roof elements. Architectural methods shall be used to conceal flat roof tops.
- c. Building and Other Structure Materials:
  - 1) The predominant exterior building materials shall be of high quality materials, including, but not limited to, brick, sandstone, wood, native stone and tinted/textured concrete masonry units and/or glass products. Simulated material may be substituted for any of the aforementioned building materials.
  - 2) At least three different building materials shall be used for the primary façade of a building facing the primary street the building fronts. The Planning Board may waive the building material to 2 different materials if it finds the building design has enough architectural detail to sufficiently break-up the massing of the building. Buildings on corner lots shall be considered to have 2 primary facades. Any side of the building facing Main Street shall also be considered a primary façade. Glass for use in windows and doors shall not be considered one of the required building materials.
  - 3) Exterior building materials shall not include smooth-faced concrete block, tilt-up concrete panels, or T 1-11. Prefabricated steel panels are excluded unless they contain architectural details with intricate designs. Metal roof may be allowed if compatible with the overall architectural design of the building.
- d. Building and Other Structure Colors: Exterior colors shall be of low reflectance, subtle, neutral or muted earth tone colors. The use of high intensity colors such as black, neon, metallic or fluorescent colors for the facade and/or roof of the building are prohibited except as approved for building trim.
- e. Mechanical Equipment, Outdoor Storage, and Service Areas. The location of loading docks, outdoor storage yards and all other service areas shall be located to the sides and/or rear of a building, except when a site abuts either Main Street/ State Route 25 or Mosher Road/ State Route 237, in which case the said areas shall be located to the sides of the building that do not face Main Street/State Route 25 or Mosher Road/ State Route 237.
  - 1) All outdoor storage yards, loading docks, service areas and mechanical equipment or vents larger than eight inches in diameter shall be concealed by screens at least as high as the equipment they hide, of a color and material matching or compatible with the dominant colors and materials found on the facades of the principal building. Chain link or cyclone fencing (with or without slats) shall not be used to satisfy this requirement.

- 2) Equipment that would remain visible despite the screening, due to differences in topography (i.e., a site that is at a lower grade than surrounding roadways) shall be completely enclosed except for vents needed for air flow, in which event such vents shall occupy no more than 25% of the enclosure façade.
- 3) The architectural design of the buildings shall incorporate design features which screen, contain and conceal all heating, ventilation, air conditioning units, trash enclosures, dumpsters, loading docks and service yards.

## **SECTION 1-23 – SMALL DWELLING OVERLAY DISTRICT**

**A. Structure Requirements:** Residential buildings eligible for conversion into small dwelling unit buildings must have been constructed prior to or in 1925. Additions are allowed but cannot increase the size of the building by more than 25% and the additions need to meet all underlying zoning space standards. Commercial buildings and residential buildings built after 1925 cannot be used for conversion to small dwelling unit buildings.

**B. Space Standards:** The standard residential density for the lot is based on the underlying zoning district's space standards. Lot owners located in the overlay district are allowed to convert the standard residential density to small dwelling units based on the below formula:

- |    |                             |                        |
|----|-----------------------------|------------------------|
| 1) | 1 bedroom apartment         | 1/3 of a dwelling unit |
| 2) | 2 bedroom apartment         | 2/3 of a dwelling unit |
| 3) | 3 or more bedroom apartment | 1 dwelling unit        |

**C. Bonus Unit Provisions:** Existing structures and lots that could support and meet the required performance standards for additional small dwelling units may add dwelling units as identified under Chapter 1, Section 1-18 Development Transfer Overlay District, E. Performance Standards, 1. Development Transfer Fee and Calculations.

Fee Based Calculation:

- |    |                             |                         |
|----|-----------------------------|-------------------------|
| 1) | 1 bedroom apartment         | 1/3 of a bonus unit fee |
| 2) | 2 bedroom apartment         | 2/3 of a bonus unit fee |
| 3) | 3 or more bedroom apartment | 1 full bonus unit fee   |

**D. Off-street Parking Standards:** Conversion of existing buildings into small dwelling unit structures must meet the following requirements:

- |    |                             |                    |
|----|-----------------------------|--------------------|
| 1) | 1 bedroom apartment         | 1 parking space    |
| 2) | 2 bedroom apartment         | 1.5 parking spaces |
| 3) | 3 or more bedroom apartment | 2 parking spaces   |

Half parking spaces are required to be rounded up to the next full number. Parking is not allowed within the front yard setback as identified in the underlying zoning district or no portion of the lot between the street to the front building line shall be used for off-street parking.

**E. Buffering requirements:** The conversion and development of the site shall comply with the requirements under Chapter 2: General Standards of Performance, Section 2-1: Environmental, I. Buffer Areas.

**F. Town Review Requirements:** The conversion of existing buildings into multiple small dwelling units shall be subject to review and approval under the provisions of the Chapter 3: Subdivision and Chapter 4: Site Plan. The conversion also must meet all the requirements under Chapter 2: General Standards of Performance, except it is not required to meet the standards under Chapter 2, Section 2-4 Residential, B. Performance Standards for Multi-family Housing.

**G. Public Utilities:** Structures are required to be connected to public water and sewer meeting the requirements of the Portland Water District and the Town of Gorham.

**H. Fire and Building Codes:** The conversation of the structure shall comply with all applicable Fire and Building Code requirements.

**I. Minimum Apartment Sizes:** The total floor area of an apartment 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

## **SECTION 1-24 – URBAN RESIDENTIAL EXPANSION DISTRICT**

### **A. PURPOSE**

To expand and add to the physical, aesthetic and social quality of Gorham's urban area, consistent with the Comprehensive Plan's goals of providing a location for a variety of residential and service uses in accordance with the standards of this Chapter. To this end residential development shall not exceed the net residential density allowable herein and may preferably occur in accordance with the provisions of Chapter 1, Section 1-18, of this Code.

### **B. PERMITTED USES**

- 1) One or two-family dwellings, exclusive of mobile homes and exclusive of trailers.
- 2) Nursing home, home for the aged.
- 3) Municipal building or use.
- 4) Municipally owned parks and playgrounds.
- 5) Accessory residential uses, including home occupations.
- 6) Manufactured housing units on single-family residential lots.
- 7) Rooming house, apartment building or multifamily housing, except fraternity housing
- 8) Public utility facilities including substations, pumping stations and sewage treatment facilities.
- 9) School, hospital, church, or any other institution of educational, religious, philanthropic, fraternal organization or social nature which is not use for residential or commercial purposes, which has less than two thousand (2,000) square feet of floor area and generates less than two hundred (200) vehicle trips during any twenty-four hour period, except fraternity houses.
- 10) Accessory apartments.
- 11) Bed and breakfast establishments.
- 12) Any agricultural building or use except sawmill. Keeping of animals other than household pets shall conform to the requirements of Chapter 2, Section 2-12: Keeping of Urban Farm Animals.

### **C. SPECIAL EXCEPTIONS**

- 1) School, hospital, church or any other institution of education, religious, philanthropic, fraternal organization or social nature which is not used for residential purposes and has two thousand (2,000) or more square feet of floor area or generates two hundred (200) or more vehicle trips during any twenty-four hour period.
- 2) Bed and Breakfast Establishments with public dining as an accessory use.

### **D. SPACE STANDARDS**

	<u>Sewered</u>	<u>Unsewered</u>
Minimum lot size for residential lots which are not part of a subdivision	20,000 sq. ft.	40,000 sq. ft.
Minimum lot area per dwelling units for a subdivision, or multifamily housing*	20,000 sq. ft.	40,000 sq. ft.

Minimum street frontage	100 feet	150 feet
Minimum front yard	25 feet	25 feet
Minimum rear and side yards	15 feet	15 feet

\* The net residential density identified under Section 1-5, Definitions, shall be used to calculate the maximum number of dwelling units that can be placed on a parcel. Each lot in a subdivision shall have the minimum area per dwelling unit for the number of dwelling units proposed to be on a given lot.

Maximum building height	None	None
Maximum building coverage	25%	25%

Notwithstanding the provisions of this subsection D, an auxiliary public utility structure is exempt from the minimum lot size, building coverage, and street frontage requirements of this district. Structures must meet setback requirements. Additional screening and buffering can be requested by the Planning Board.

## **E. PERFORMANCE STANDARDS**

1. The performance standards contained in Chapter 2 of this Code shall be fully observed.
2. Non-residential developments and uses shall be developed to meet the following requirements:
  - a. All principal buildings and structures for non-residential purposes shall be of a traditional New England Village design to be compatible with the predominant scale and character of the existing Gorham Village architecture
3. Residential developments shall be developed to meet the following requirements:
  - a. Layout of a street network shall be completed in a grid style to ensure two (2) points of connection for each street. The Planning Board may waive the requirement for two (2) points of connection for a portion of the development if the Planning Board finds that no other alternate street network is possible with 2 points of connection or it would be a financial hardship to complete the required 2 points of connection. For purposes of this Section, a financial hardship shall be considered to exist if establishing the two (2) points of connection would utilize more than twenty-five (25) percent of cost of the entire development.

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 Expansion Space Standards. The request for waiver shall include two plans. One plan shall show a street/private way layout having two (2) points of connection, and the other plan shall show a street/private way layout with a dead end street/private way plan. The road layouts shown on both plans must be approved by the Planning Board.

If the Planning Board grants a waiver of the requirement for two (2) points of connection for dead end streets or private ways providing access to more than 4 lots and/or dwelling units, the street or private way shall be of a cul-de-sac design meeting all the relevant requirements under Chapter 2, Section 2-5, Minimum Standards for the Design and Construction of Streets and Ways.

Private ways serving a single lot and a single dwelling unit are exempt for the requirement for two (2) points of connection.

- b. Principal single-family, two-family, and multi-family buildings and structures shall be of a traditional New England design to be compatible with the predominant scale and character of the existing Gorham Village architecture.

## **SECTION 1-25 – SOUTH GORHAM COMMERCIAL CORRIDOR DISTRICT**

### **A. PURPOSE**

To provide opportunity for a mixed-use growth area centered on a mix of small-scale non-residential uses, a wide range of residential uses, and mixed-use projects. Large non-residential buildings should not front directly on the district's main streets.

### **B. PERMITTED USES**

#### **1) Residential Uses**

One and two-family dwellings as part of a Mixed-use Development only

Nursing homes or homes for the aged

Manufactured housing units on single-family residential lots in designated manufactured housing sub-districts

Apartment buildings or multifamily housing/Apartment buildings or multifamily housing, except fraternity housing

Accessory Apartments

Residential dwelling units above the first floor as part of a Mixed-Use Building

#### **2) Non-Residential Uses**

Accessory uses and buildings including home occupations

Banks

Bed and Breakfast Establishment

Business Personal and Repair Service Establishments as defined in Chapter I, Section V of the Land Use and Development Code

Business and Professional Services

Convenience Stores, either with or without associated gasoline sales

Day Care Centers

Distilling and brewing

Funeral Home

Municipal buildings or uses

Municipally owned parks and playgrounds

Public and private utility facilities, including substations, pumping stations and treatment facilities, but excluding business offices

Retail stores

Roadside stands

School, hospital, church or any other institution of education, religious, philanthropic, fraternal organization or social nature which is not used for residential occupancy

Sit-down restaurants

Conference Center or Banquet Hall

Hotel

Inn

Motel

Light Industrial Use, only on lots not fronting on County Road

Home Occupations

Camper and Trailer Sales

**C. DIMENSIONAL STANDARDS**

1) Minimum Lot Size

Public Water & Sewer - 10,000 sq ft

Unsewered - 20,000 sq ft

2) Minimum area per dwelling unit

Public Water & Sewer - 10,000 sq ft

Unsewered - 20,000 sq ft

3) Minimum street frontage

80 feet

0 feet if two lots share one curb-cut from County Road

4) Front yard setback

County Road and South Street – Minimum 30 feet, maximum 50 feet

All other internal streets and access drives – Maximum 20 feet

5) Minimum side and rear yard setbacks

10 feet, except buildings higher than 30 feet shall have side and rear yard setbacks at least 50% of the building height.

6) Maximum building height

50 feet or four stories, whichever is greater

**D. SITE PERFORMANCE STANDARDS**

1) Light Industrial Use buffer.

Any Light Industrial Use that is not incorporated into a Mixed-Use Building must be setback 50 feet from any property lines abutting a residential use.



2) Master Site Development Plan for phased projects.

Master Site Development Plan is intended to show an overall development scheme for a large property so that the Planning Board can ensure that development of large sites, with potential town-wide or regional impacts, proceeds in an orderly sequence with coordinated phasing. Master Site Development Plans are to assure adequate provisions are made to protect public health and safety, taking into account such factors as traffic safety and access; water supply and sewage disposal; management of stormwater, erosion, and sedimentation; protection of the environment; and other criteria as noted below.

- a) A Master Site Development Plan is required when
  - i) the subject property has a cumulative lot area of more than five (5) acres, or
  - ii) where the use is expected to generate more than 50 peak hour vehicle trips, or
  - iii) the site is designed as a cohesive development program consisting of multiple buildings and associated site improvements proposed to be built in phases.
- b) A Master Site Development Plan must show:
  - i) Public and private rights-of-way which should be consistent with Gorham's street standards ordinance. Any deviation from these standards must be noted on the plan. If extensions of streets are proposed in later phases, the Master Site Development Plan must also show the location of turnarounds where the right-of-way ends at the phase line delineations shown as per (ii) below
  - ii) Phase delineations showing the extent of site work and development proposed for each phase
  - iii) Areas designated for stormwater control, management or retention. All stormwater management site improvements must be made as part of the first phase of the Master Site Development Plan
  - iv) Areas designated for open space and green space, as well as for sidewalks, paths and greenways as required by section D(7) below.
  - v) Parking sufficient to meet the requirements of Chapter 2, Section 2-2. However, the use of on-street parking is encouraged on internal drives and new streets. Mixed-use Development proposals may include parallel or angled on-street parking. If such new on-street parking proposed as part of a phase of the Master Site Development Plan receives Final Approval from the Planning Board, it can be used to satisfy the requirements of Chapter 2, Section 2-2.
- c) A Master Site Development Plan approval shall not be construed as final authorization for development. Approval shall be a preliminary approval for the overall project site, and confer pending proceeding status upon the development with the effect of maintaining the applicability of regulations in effect at the time of approval, as long as the Master Site Development Plan remains valid, including permissible extensions, if granted.
  - i) Each phase of the approved Master Site Plan must receive Final Approval from the Planning Board.
  - ii) The approved plan shall not be released for recording until the required performance guarantee has been posted for the first phase. If an approved plan has not been recorded within one (1) year of the

original approval, it shall become null and void. All subsequent phases must receive final approval and be recorded within five (5) years of the Master Site Plan approval, or those phases will become null and void.

- 3) All buildings, structures, and uses shall conform to the following additional performance standards:
  - a) The general performance standards of Chapter 2.
  - b) The Site Plan approval criteria and standards of Chapter 4, Section 4-9 where applicable, and
  - c) If there is conflict between the various standards of performance, the more restrictive provision shall apply.
- 4) Vehicular Access and Circulation
  - a) Access. In addition to being safe and convenient, vehicular access into the site shall be designed to minimize traffic delays on the streets providing access to the site and shall meet the following requirements:
    - i) Entrances to uses in this district shall be combined to the maximum extent possible.
    - ii) Each parcel shall be limited to a maximum of one entrance. Lots with Frontage on two streets must locate the entrance on the street of lower volume or classification. The Planning Board may approve an additional entrance on a second street as part of Site Plan Review.
    - iii) A parcel that does not have frontage on a street shall not be granted vehicular access from that street except in cases where access will be provided through a combined entrance with another parcel.
    - iv) Provisions shall be made for the interconnection of parking lots on adjacent parcels where feasible and appropriate to allow vehicular circulation between lots without having to go onto the public street. Such interconnections shall be designed to minimize the potential for the parking areas to be used as a "short cut" by traffic.
  - b) Circulation
    - i) Internal drives are encouraged to develop street frontage for existing buildings and provide more opportunity for infill development
    - ii) Internal drives shall be designed to provide maximum mobility for pedestrians and cyclists as well as motorists
    - iii) Internal drives may be used for loading zones provided the volume and frequency of deliveries can be accommodated
    - iv) Internal drives are subject to street construction standards in Section 2-5 of the Gorham Land Use and Development Code. The Gorham Planning Board may waive standards to promote traffic calming and pedestrian safety, mobility, and comfort.
- 5) Parking
  - a) On street parking is encouraged on internal drives
  - b) Off-street parking shall be located to the rear of buildings, or as far from Route 22/114 to the maximum extent practicable

- c) No off-street parking shall be located within any required front, side, or rear yard or setback. No portion of the lot in front of the front building line shall be used for off-street parking. Parking may be located in the side and rear setbacks if the Planning Board determines that the proposed design constitutes a creative parking solution that maximizes parking, encourages shared parking and or/cross access with adjacent properties.
  - d) The amount of off-street parking required by Chapter 2, Section 2-2 may be reduced for uses in this district in accordance with the provisions of that section
- 6) Relationship of the Building to the street
- a) At least one building entrance shall be located on the side of the building that fronts the street.
  - b) The area between the building and street shall be used for pedestrian amenities, walkways, and landscaping
  - c) For new buildings on corner lots, the setback relationship of both streets shall be maintained where possible to avoid the creation of “empty corners”
- 7) Pedestrian Relationships and Facilities
- a) Where sidewalks exist or can be constructed in front of the parcel, the site shall be designed to provide for pedestrian access to the front entrance of the building without the need to cross parking areas or access drives.
  - b) The walkway to the front entrance shall be constructed with materials that contrast with the paving of the vehicular areas, that provide a safe and inviting access to the building, and that are visually compatible with other pedestrian facilities in the neighborhood.
  - c) If a sidewalk along the street is interrupted or crossed by a proposed driveway, access road, or other vehicular facility, the sidewalk material or design must be maintained across the driveway or another visually compatible method used to clearly delineate the sidewalk from the drive.
  - d) Provisions shall be made for pedestrian circulation between buildings and uses within a site or on adjacent parcels if the buildings do not have a direct relationship to the sidewalk or if the front wall of the building is located more than one hundred (100) feet from the property line.
- 8) Bike paths/greenway systems
- The applicant shall provide for convenient and safe pedestrian and bicycle access to and within the development. The requirement for off-site sidewalk extension, if necessary, shall be modified by the Planning Board or Site Plan Review Committee provided the following conditions are met:
- a) For projects under site plan review, the costs for off-site sidewalks exceeds a cost of \$1,000 per 2,000 sq.ft. of gross commercial floor area or for projects proceeding under subdivision review the costs for off-site sidewalks exceeds a cost of \$10,000 per lot. Subdivision lots that have been reviewed under this provision are not required to be reviewed again under site plan review.
  - b) In place of a full sidewalk extension, the applicant is required to extend the nearest sidewalk the following lengths towards the proposed development:
    - i) For streets with existing closed drainage systems and curbing the applicant shall extend the sidewalk 200' for each 5,000 sq.ft. of gross floor area under site plan review or 400' for each lot;

- ii) For streets without existing closed drainage systems and curbing the applicant shall extend the sidewalk 100' and close in the drainage system for each 5,000 sq.ft. of gross floor area under site plan review or 250' for each lot;
- iii) For existing public streets 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.

9) Street Facades

All buildings shall be designed so that the front wall of the building and any wall facing any public street that is not a front wall have the visual appearance of a front facade. Windows or architectural treatments designed to simulate windows shall comprise no less than twenty (20) percent of the exterior wall surface. The facade shall be designed to avoid large areas of blank wall space.

10) Signs

All signs must conform with the standards of Chapter 2, Section 2-3.G., standards for signs in a Village Environment.

11) Block Standards.

- a) Land must be divided with Streets to create Blocks conforming with Block perimeter, below.
- b) Blocks shall be generally rectangular in shape, but are expected to respond to natural features and the block pattern of the surrounding street network.
- c) Blocks shall be a minimum width so as to provide two rows of developable lots.
- d) Block perimeter. No block shall have a perimeter of more than 1,600 feet. The Planning Board may grant a waiver to reduce block perimeter length in accordance with the provisions of Chapter 3 if part of a subdivision plan or Chapter 4 if part of a site plan.
- e) Portions of development sites abutting areas of undeveloped land, areas unsuitable for development, or pre-existing incomplete blocks may be granted a waiver from the block size requirements in accordance with the provisions of Chapter 3 if part of a subdivision plan or Chapter 4 if part of a site plan.

12) Public Utilities

- a) All projects requiring site plan review and subdivisions shall connect to public sewer and water meeting the requirements of the Portland Water District and the Town of Gorham.
  - i) The Planning Board may grant a waiver for the requirements of the extension of public sewer if the lot is located more than 1,000 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.
  - ii) The Planning Board may grant a waiver for the requirements of the extension of public water if the lot is located more than 1,000 feet 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.

13) Building and Other Structure Materials

- a) The predominant exterior building materials shall be of high-quality materials, including, but not limited to, wood or vinyl clapboard siding, masonry units that replicate shake or clapboard siding, brick, sandstone, wood, native stone and tinted/textured concrete masonry units and/or glass products or metal or plastic roofing that simulates shake or shingle roofing. Simulated material may be substituted for any of the aforementioned building materials.
- b) At least three different building materials shall be used for the primary façade of a building facing the primary street the building accesses. The Planning Board may waive the building material to two different materials if it finds the building design has enough architectural detail to sufficiently break-up the massing of the building. Glass for use in windows and doors shall not be considered one of the required building materials. All façades that have frontage on a street shall be considered a primary façade.
- c) Exterior building materials shall not include smooth-faced concrete block, tilt-up concrete panels, or T-111. Prefabricated steel panels are excluded unless they contain architectural details with intricate designs. Metal roofs may be allowed if compatible with the overall architectural design of the building.

14) Building Entrances

- a) Building(s) shall be located on the property with the principal building entrance oriented toward the primary focal point of the property/development.
- b) Building entrance(s) shall be clearly defined and highly visible by using features such as canopies, porticos, overhangs, recesses/projection, and raised corniced parapets over the door, arcades, arches, wing walls. Integral planters are highly encouraged.

15) Roof Design

Roofs shall be designed to reduce the apparent exterior mass of a building, add visual interest and be appropriate to the architectural style of the building. The following design elements are highly encouraged: variations within one architectural style; visible roof lines and roofs that project over the exterior wall of a building enough to cast a shadow on the ground; and overhanging eaves, sloped roofs and multiple roof elements. Architectural methods shall be used to conceal flat roof tops. All roof-top mechanical equipment shall be screened so that it is not visible from grade at the closest public street.

16) Mechanical Equipment and Service Areas

The location of loading docks and service areas shall be to the sides and/or rear of a building.

17) Screening

- a) The architectural design of the buildings shall incorporate features which screen, contain and conceal all heating, ventilation, air conditioning units, trash enclosures, dumpsters, loading docks and service yards. Landscaping, fencing, berms and similar features may be used to accomplish this goal.
- b) Fencing, screening, landscaped berms, natural features or combination thereof, shall be utilized to shield from the view of abutting residential properties and the closest public way all loading and unloading operations, storage and repair work areas, commercial vehicle parking, and waste disposal and collection areas. Screens at least as high as the equipment they hide shall be of a color and material matching or compatible with the dominant colors and materials found on the facades of the principal building. Chain link or cyclone fencing (with or without slats) shall not be used to satisfy this

requirement.

18) Lighting

Exterior lighting shall be designed to provide only the minimum lighting necessary to ensure adequate vision, safety, and comfort in parking areas and to not cause glare beyond the limits of the property boundaries. Lighting shall also conform to the following standards:

- a) At a minimum, light fixtures shall have a total cutoff of light at no more than ninety (90) degrees and a beam cutoff of no more than seventy-five (75) degrees.
- b) The illumination of parking lots shall provide a relatively even distribution of light over the entire parking lot area.
- c) The maximum illumination level within parking lots shall be not more than 6.0 footcandles measured at the ground surface.
- d) The maximum light fixture height shall be twenty (20) feet for parking lots with less than twenty thousand (20,000) square feet of area, twenty-five (25) feet for parking lots with twenty thousand (20,000) to eighty thousand (80,000) square feet of area and thirty (30) feet for lots larger than eighty thousand (80,000) square feet.
- e) The maximum illumination level at the property line with abutting properties in a residential district shall be not more than 0.2 foot candles.
- f) The lighting of canopies shall not be used to attract attention to the business. Areas under canopies shall be illuminated so that the uniformity ratio (ratio of average to minimum illuminance) shall be no greater than 3:1 with an average illumination level of not more than 30 foot candles.
- g) Light fixtures located on canopies shall be mounted so that the lens cover is recessed or flush with the ceiling of the canopy.
- h) The illumination of other areas and facilities may be greater than the level established for parking lots provided that the lighting level and design are consistent with the guidelines of the Illuminating Engineering Society of North America (IESNA) Lighting Handbook.
- i) Building mounted or wall pack lighting fixtures that have lamps or reflectors that are exposed to angles greater than forty-five (45) degrees above nadir are prohibited.
- j) Awnings shall not be illuminated in a manner that results in light being emitted through the awning material or that results in the awning appearing to be illuminated.
- k) Period or historical fixtures that do not meet these requirements may be used as an alternative to conventional lighting provided that if the fixtures are not cutoff fixtures the maximum initial lumens generated by each fixture shall not exceed 2,000 for incandescent lamps and 8,500 for metal halide lamps if the lamp is internally recessed within the fixture or is shielded by internal louvers or refractors and the mounting height shall not exceed fifteen (15) feet above the adjacent ground.
- l) A photometric point by point analysis, on a grid no larger than 20 feet, shall be submitted to the Planning Board for review for all major developments requiring site plan review, applications involving increased security risks such as banks and ATM's, and applications for uses regularly open after 9:00 PM. The grid shall extend to all project property boundaries.

## **SECTION 1-26 – WHITE ROCK MIXED-USE DISTRICT**

### **A. PURPOSE**

To expand and add to the commercial and limited mixed-use area to the North Gorham area consistent with the Comprehensive Plan's goals. To this end, residential development shall be limited to mixed-use and/or multi-family and developed in accordance with the standards below.

### **B. PERMITTED USES**

- 1) Nursing home, home for the aged.
- 2) Residential units as part of a mixed-use development.
- 3) Municipal building or use.
- 4) Parks and playgrounds.
- 5) Accessory uses and buildings, including home occupations and outdoor storage.
- 6) Rooming house, apartment building or multifamily housing, except fraternity housing.
- 7) Business and professional offices and professional out-patient clinics.
- 8) Public utility facilities including substations, pumping stations and sewage treatment facilities.
- 9) Commercial school, hospital, church, or any other institution of educational, religious, philanthropic, fraternal organization, or social nature which is not used for residential or commercial purposes, which has less than two thousand (2,000) square feet of floor area and generates less than two hundred (200) vehicle trips during any twenty-four hour period, except fraternity houses.
- 10) Accessory Apartments
- 11) Inn
- 12) Bed and Breakfast Establishments
- 13) Recreational Vehicles Sales and Service
- 14) Personal and business services
- 15) Office of Contractor or tradesman.
- 16) Retail stores having a gross floor area of less than 2,500 square feet.
- 17) Light Industrial Uses of five thousand (5,000) square feet or less of gross floor area.
- 18) Auto-oriented businesses.
- 19) Any agricultural building or use except a sawmill.

### **C. SPECIAL EXCEPTIONS**

- 1) Commercial school, hospital, church or any other institution of education, religious, philanthropic, fraternal organization or social nature which is not used for residential purposes and has two thousand (2,000) or more square feet of floor area or generates two hundred (200) or more vehicle trips during any twenty-four hour period.

- 2) Bed and Breakfast Establishment with public dining as an accessory use.
- 3) Day Care Center

#### **D. SPACE STANDARDS**

	<u>Public Water Supply</u>	<u>Private Water Supply</u>
Minimum lot size for residential lots	40,000 sq.ft.	60,000 sq.ft.
Minimum lot area per residential dwelling unit	20,000 sq.ft.	40,000 sq.ft.
Minimum lot area per residential dwelling unit in a mixed-use building	*	20,000 sq.ft.

\* the lots' maximum residential unit density shall be set by design requirements of a private septic system designed and installed on the lot meeting all the requirements of the State of Maine Subsurface Wastewater Disposal Rules.

Minimum street frontage	150 ft.	200 ft.
Minimum front yard		
MDOT numbered routes	50 ft.	50 ft.
Local Roads	25 ft.	25 ft.
Minimum rear and side yards	15 ft.	15 ft.
Maximum building height	40' or three stories whichever is greater	
Maximum impervious area coverage	0.75	0.75

Notwithstanding the provisions of this subsection D, an auxiliary public utility structure is exempt from the minimum lot size, building coverage, and street frontage requirements of this district. Structures must meet setback requirements. Additional screening and buffering can be requested by the Planning Board.

#### **E. PERFORMANCE STANDARDS**

- 1) The performance standards contained in Chapter 2 of this Code shall be fully observed.
- 2) Developments and uses shall be developed to meet the following requirements:
  - a) Lot Layout and Utilities:
    1. The lots and buildings shall be served by underground utilities.
    2. All generators, storage areas, electrical transformer pads, HVAC ground mounted units, above-ground propane tanks, and dumpster pads shall be landscaped and located behind the buildings and structures so that they are not visible from any public street or residential properties. The Planning Board/ Site Plan Review Committee may allow generators, storage areas, and dumpster pads to be located so they are not located behind the buildings if the Board or Committee finds that the proposed locations are required to provide for a better overall design of the lots/development and that they are sufficiently buffered from public roads and residential properties.
    3. That parking lots between the front wall of a building and the street shall be limited to a double-row of parking spaces, access driveway, and driveway into the building. All other parking shall be located to the side and rear of the building.
  - b) Buffer Yards and landscaping buffering shall conform to the following standards:



1. That a 25' landscaped buffer shall be required along the lot's frontage on a public street or private way.
2. That a 15' landscaped buffer shall be required along the side or rear property line where parking lots, dumpsters, and/ or storage areas are located abutting residential uses or properties.
3. The landscaped buffer area shall be designed and maintained to minimize the adverse impact on abutting properties and the public and to soften the appearance of the structure(s) and in particular, to minimize the adverse impact on any structures which exist on abutting lots located outside this district. Landscaped buffers should include a mix of evergreen and deciduous trees, shrubs, and plants. Hardscape features such as, but not limited to, stonewalls and decorative metal or wooden fences are also encouraged in the buffer area to provide a better overall buffer and balance the plantings.
4. No building, parking or service areas shall be located in the buffer area. Access roads may cross the buffer area to provide access to and from a street, but shall be designed to minimize the disruption of the buffer area. No direct access to parking stalls shall be provided from an access road located in a buffer area.

c) Building Design Standards:

1. All principal buildings and structures for non-residential or mixed-use purposes shall be of a traditional New England Village design to be compatible with the predominant scale and character of the existing architecture in the area.
2. The predominant exterior building materials shall be of high quality materials, including but not limited to, wood or vinyl clap board siding, masonry units that replicate shake or clapboard siding, brick, sandstone, wood, native stone and tinted/textured concrete masonry units and/or glass products or metal or plastic roofing that simulates shake or shingle roofing. Simulated material may be substituted for any of the aforementioned building materials.
3. At least three different materials shall be used for the primary front façade for the building facing the primary street the building access and/or Sebago Lake Road/ North Gorham Road. The Planning Board or Site Plan Review Committee may waive the building materials to two different materials if it finds the building design has enough architectural details to sufficiently break up the massing of the building. Glass for use in windows and doors shall not be considered one of the required building materials. All facades that have frontage on streets or private ways shall be considered a primary façade.

d) Access Management:

1. A parcel that does not have frontage on Sebago Lake Road or North Gorham Road shall not be granted vehicular access from the street except in cases where:
  - a. Access will be provided through a combined entrance with another parcel which has frontage along the street.
2. Lots with access on Sebago Lake Road or North Gorham Road must have driveways located so that they are a minimum 300' from another driveway on the same side of the street unless:

- a. The Planning Board finds that the distance would provide for unsafe circumstances.
- b. The driveway's spacing to abutting properties' driveways cannot be spaced to meet the 300' minimum requirement. The Planning Board shall provide for a driveway spacing to the greatest extent practical.

## **SECTION 1-27 – SOUTH GORHAM CROSSROADS DISTRICT**

### **A. PURPOSE**

To provide a mixed-use area of higher density residential development and a range of non-residential uses, including small locally focused retail and services, as well as compatible regionally focused business and services, including hotels, indoor recreation facilities, and light industrial uses.

### **B. PERMITTED USES**

- 1) Residential Uses
  - Accessory Apartment
  - Apartment Building
  - Multi-family Housing
- 2) Non-Residential Uses
  - Golf Course
  - Country Club
- 3) Non-Residential Uses each of which is permitted in the district as part of a Mixed-Use Building or Mixed-Use Development
  - Accessory Building
  - Auxiliary Public Utility Structure
  - Business and Professional Offices
  - Business Services
  - Commercial School
  - Conference Center or Banquet Hall
  - Day Care Center
  - Essential Services
  - Funeral Home
  - Gasoline Station

Hotel

Home Occupation

Indoor Recreation Facility

Light Industrial Use

Municipal building or use.

Office of a Contractor or Tradesman

Personal Services

Place of public assembly, including indoor theater.

Public Utility Facilities, including electrical substations and pumping stations

Repair Services

Retail Store

School, hospital, church or any other institution of education, religious, philanthropic, fraternal organization or social nature which is not used for residential occupancy

**C. DIMENSIONAL STANDARDS**

- 1) Minimum lot size

Public Water & Sewer – 15,000 sq. ft.

Unsewered – 20,000 sq. ft.

- 2) Minimum area per dwelling unit:

None

- 3) Minimum street frontage:

80 ft.

- 4) Front yard:

Principal Building – 25 feet maximum

Accessory Building – 25 feet minimum

- 5) Minimum side and rear yards:

10 feet, except buildings higher than 30 feet shall have side and rear yards not less than 50% of the building height.

- 6) Maximum building height:

50 feet or four stories, whichever is greater

- 7) Notwithstanding the provisions of this subsection D, an Auxiliary Public Utility structure is exempt from the minimum lot size and street frontage requirements of this district. Structures must meet setback requirements. Additional screening and buffering can be requested by the Planning Board.
- 8) Residential gross floor area shall be at least 50% of the total gross floor area of a mixed-use structure or at least 60% of the gross floor area as part of a Mixed-use Development.

#### **D. SITE PERFORMANCE STANDARDS**

- 1) Master Site Development Plan for phased projects.

Master Site Development Plan is intended to show an overall development scheme for a large property so that the Planning Board can ensure that development of large sites, with potential town-wide or regional impacts, proceeds in an orderly sequence with coordinated phasing. Master Site Development Plans are to assure adequate provisions are made to protect public health and safety, taking into account such factors as traffic safety and access; water supply and sewage disposal; management of stormwater, erosion, and sedimentation; protection of the environment; and other criteria as noted below.

- a) A Master Site Development Plan is required when the subject property has a cumulative lot area of more than five (5) acres, and the site is designed as a cohesive development program consisting of multiple buildings and associated site improvements proposed to be built in phases.
- b) A Master Site Development Plan must show:
  - i) Public and private rights-of-way which should be consistent with Gorham's road standards ordinance. Any deviation from these standards must be noted on the plan. If extensions of roads are proposed in later phases, the Master Site Development Plan must also show the location of turnarounds where the right-of-way ends at the phase line delineations shown as per (ii) below.
  - ii) Phase delineations showing the extent of site work and development proposed for each phase.
  - iii) Areas designated for stormwater control, management or retention. All stormwater management site improvements must be made as part of the first phase of the Master Site Development Plan.
  - iv) Areas designated for open space and green space, as well as for sidewalks, paths and greenways as required by section D(7) below.
  - v) Parking sufficient to meet the requirements of Chapter 2, Section 2-2. However, the use of on-street parking is encouraged. Mixed-use Development proposals may include parallel or angled on-street parking. If such new on-street parking proposed as part of a phase of the Master Site Development Plan receives Final Approval from

the Planning Board, it can be used to satisfy the requirements of Chapter 2, Section 2-2.

- c) A Master Site Development Plan approval shall not be construed as final authorization for development. Approval shall be a preliminary approval for the overall project site, and confer pending proceeding status upon the development with the effect of maintaining the applicability of regulations in effect at the time of approval, as long as the Master Site Development Plan remains valid, including permissible extensions, if granted.
  - i) Each phase of the approved Master Site Plan must receive Final Approval from the Planning Board.
  - ii) The approved plan shall not be released for recording until the required performance guarantee has been posted for the first phase. If an approved plan has not been recorded within one (1) year of the original approval, it shall become null and void. All subsequent phases must receive final approval and be recorded within five (5) years of the Master Site Plan approval, or those phases will become null and void.
- 2) All buildings, structures, and uses shall conform to the following additional performance standards:
  - a) The general performance standards of Chapter 2.
  - b) The Site Plan approval criteria and standards of Chapter 4, Section 4-9 where applicable, and
  - c) The following additional performance standards
  - d) If there is conflict between the various standards of performance, the more restrictive provision shall apply.
- 3) Vehicular Access and Circulation

In addition to being safe and convenient, vehicular access into the site shall be designed to minimize traffic delays on the streets providing access to the site and shall meet the following requirements:

Entrances to uses in this district shall be combined to the maximum extent possible.

- a) Each parcel shall be limited to a maximum of one entrance. Lots with Frontage on two streets must locate the entrance on the street of lower volume or classification. The Planning Board may approve an additional entrance on a second street as part of Site Plan Review.
- b) A parcel that does not have frontage on a street shall not be granted vehicular access from that street except in cases where access will be provided through a combined entrance with another parcel.
- c) Provisions shall be made for the interconnection of parking lots on

adjacent parcels where feasible and appropriate to allow vehicular circulation between lots without having to go onto the public street. Such interconnections shall be designed to minimize the potential for the parking areas to be used as a “short cut” by traffic.

4) Off-street Parking

- a) Location. No off-street parking shall be located within any required front, side, or rear yard or setback. No portion of the lot in front of the front building line shall be used for off-street parking. Parking may be located in the side and rear setbacks if the Planning Board determines that the proposed design constitutes a creative parking solution that maximizes parking, encourages shared parking and/or cross access with adjacent properties.
- b) The amount of off-street parking required by Chapter 2, Section 2-2 may be reduced for uses in this district in accordance with the provisions of that section.

5) Relationship of the Building to the Street

- a) At least one building entrance shall be located on the side of the building that fronts the street.
- b) The area between the building and street shall be used for pedestrian amenities, walkways, and landscaping.
- c) For new buildings on corner lots, the setback relationship of both streets shall be maintained where possible to avoid the creation of “empty corners.”

6) Onsite Pedestrian Relationships, Facilities and Bike Paths

- a) Where sidewalks exist or can be constructed in front of the parcel, the site shall be designed to provide for pedestrian access to the front entrance of the building without the need to cross parking areas or access drives.
- b) The walkway to the front entrance shall be constructed with materials that contrast with the paving of the vehicular areas, that provide a safe and inviting access to the building, and that are visually compatible with other pedestrian facilities in the neighborhood.
- c) If a sidewalk along the street is interrupted or crossed by a proposed driveway, access road, or other vehicular facility, the sidewalk material or design must be maintained across the driveway or another visually compatible method used to clearly delineate the sidewalk from the drive.
- d) Provisions shall be made for pedestrian circulation between buildings and uses within a site or on adjacent parcels if the buildings do not have a direct relationship to the sidewalk or if the front wall of the building is located more than one hundred (100) feet from the property line.

7) Off-site Pedestrian Connections

The applicant shall provide for convenient and safe pedestrian and bicycle access to and within the development. The requirement for off-site sidewalk extension, if necessary, shall be modified by the Planning Board or Site Plan Review Committee provided the following conditions are met:

- a) For projects under site plan review, the costs for off-site sidewalks exceeds a cost of \$1,000 per 2,000 sq.ft. of gross commercial floor area or for projects proceeding under subdivision review the costs for off-site sidewalks exceeds a cost of \$10,000 per lot. Subdivision lots that have been reviewed under this provision are not required to be reviewed again under site plan review.
- b) In place of a full sidewalk extension, the applicant is required to extend the nearest sidewalk the following lengths towards the proposed development:
  - i) For roads with existing closed drainage systems and curbing the applicant shall extend the sidewalk 200' for each 5,000 sq.ft. of gross floor area under site plan review or 400' for each lot;
  - ii) For roads without existing closed drainage systems and curbing the applicant shall extend the sidewalk 100' and close in the drainage system for each 5,000 sq.ft. of gross floor area under site plan review or 250' for each lot;
  - iii) 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.

8) Street Facades

All buildings shall be designed so that the front wall of the building and any wall facing any public street that is not a front wall have the visual appearance of a front facade. Windows or architectural treatments designed to simulate windows shall comprise no less than twenty (20) percent of the exterior wall surface. The facade shall be designed to avoid large areas of blank wall space.

9) Signs

- a) All signs must conform with the standards of Chapter 2, Section 23.G., standards for signs in a Village Environment.

10) Block Standards.

- a) Land must be divided with Streets to create Blocks conforming with Block perimeter, below.
- b) Blocks shall be generally rectangular in shape, but are expected to

respond to natural features and the block pattern of the surrounding street network.

- c) Blocks shall be a minimum width so as to provide two rows of developable lots.
- d) Block perimeter. No block shall have a perimeter of more than 1,600 feet. The Planning Board may grant a waiver to reduce block perimeter length in accordance with the provisions of Chapter 3 if part of a subdivision plan or Chapter 4 if part of a site plan.
- e) Portions of development sites abutting areas of undeveloped land, areas unsuitable for development, or pre-existing incomplete blocks may be granted a waiver from the block size requirements in accordance with the provisions of Chapter 3 if part of a subdivision plan or Chapter 4 if part of a site plan.

#### 11) Public Utilities

- a) All projects requiring site plan review and subdivisions shall connect to public sewer and water meeting the requirements of the Portland Water District and the Town of Gorham.
  - i) The Planning Board may grant a waiver for the requirements of the extension of public sewer if the lot is located more than 1,000 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.
  - ii) The Planning Board may grant a waiver for the requirements of the extension of public water if the lot is located more than 1,000 feet 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.
- b) All developments are required to have underground utilities.

#### 12) Building and Other Structure Materials

- a) The predominant exterior building materials shall be of high-quality materials, including, but not limited to, wood or vinyl clapboard siding, masonry units that replicate shake or clapboard siding, brick, sandstone, wood, native stone and tinted/textured concrete masonry units and/or glass products or metal or plastic roofing that simulates shake or shingle roofing. Simulated material may be substituted for any of the aforementioned building materials.
- b) At least three different building materials shall be used for the primary façade of a building facing the primary street the building accesses. The Planning Board may waive the building material to two different materials if it finds the building design has enough architectural detail to sufficiently break-up the massing of the building. Glass for use in windows and doors shall not be considered one of the required building



materials. All façades that have frontage on a street shall be considered a primary façade.

- c) Exterior building materials shall not include smooth-faced concrete block, tilt-up concrete panels, or T-111. Prefabricated steel panels are excluded unless they contain architectural details with intricate designs. Metal roofs may be allowed if compatible with the overall architectural design of the building.

13) Building Entrances

- a) Building(s) shall be located on the property with the principal building entrance oriented toward the primary focal point of the property/development.
- b) Building entrance(s) shall be clearly defined and highly visible by using features such as canopies, porticos, overhangs, recesses/projection, and raised corniced parapets over the door, arcades, arches, wing walls. Integral planters are highly encouraged.

14) Roof Design

Roofs shall be designed to reduce the apparent exterior mass of a building, add visual interest and be appropriate to the architectural style of the building. The following design elements are highly encouraged: variations within one architectural style; visible roof lines and roofs that project over the exterior wall of a building enough to cast a shadow on the ground; and overhanging eaves, sloped roofs and multiple roof elements. Architectural methods shall be used to conceal flat roof tops. All roof-top mechanical equipment shall be screened so that it is not visible from grade at the closest public street.

15) Building and Other Structure Colors

Exterior colors shall be of low reflectance, subtle, neutral or muted earth tone colors. The use of high intensity colors such as black, neon, metallic or fluorescent colors for the facade and/or roof of the building are prohibited except as approved for building trim.

16) Mechanical Equipment and Service Areas

The location of loading docks and service areas shall be to the sides and/or rear of a building.

17) Screening

- a) The architectural design of the buildings shall incorporate features which screen, contain and conceal all heating, ventilation, air conditioning units, trash enclosures, dumpsters, loading docks and service yards. Landscaping, fencing, berms and similar features may be used to accomplish this goal.
- b) Fencing, screening, landscaped berms, natural features or combination thereof, shall be utilized to shield from the view of abutting residential properties and the closest public way all loading and unloading

operations, storage and repair work areas, commercial vehicle parking, and waste disposal and collection areas. Screens at least as high as the equipment they hide shall be of a color and material matching or compatible with the dominant colors and materials found on the facades of the principal building. Chain link or cyclone fencing (with or without slats) shall not be used to satisfy this requirement.

18) Lighting

Exterior lighting shall be designed to provide only the minimum lighting necessary to ensure adequate vision, safety, and comfort in parking areas and to not cause glare beyond the limits of the property boundaries. Lighting shall also conform to the following standards:

- a) At a minimum, light fixtures shall have a total cutoff of light at no more than ninety (90) degrees and a beam cutoff of no more than seventy-five (75) degrees.
- b) The illumination of parking lots shall provide a relatively even distribution of light over the entire parking lot area.
- c) The maximum illumination level within parking lots shall be not more than 6.0 footcandles measured at the ground surface.
- d) The maximum light fixture height shall be twenty (20) feet for parking lots with less than twenty thousand (20,000) square feet of area, twenty-five (25) feet for parking lots with twenty thousand (20,000) to eighty thousand (80,000) square feet of area and thirty (30) feet for lots larger than eighty thousand (80,000) square feet.
- e) The maximum illumination level at the property line with abutting properties in a residential district shall be not more than 0.2 foot candles.
- f) The lighting of canopies shall not be used to attract attention to the business. Areas under canopies shall be illuminated so that the uniformity ratio (ratio of average to minimum illuminance) shall be no greater than 3:1 with an average illumination level of not more than 30 foot candles.
- g) Light fixtures located on canopies shall be mounted so that the lens cover is recessed or flush with the ceiling of the canopy.
- h) The illumination of other areas and facilities may be greater than the level established for parking lots provided that the lighting level and design are consistent with the guidelines of the Illuminating Engineering Society of North America (IESNA) Lighting Handbook.
- i) Building mounted or wall pack lighting fixtures that have lamps or reflectors that are exposed to angles greater than forty-five (45) degrees above nadir are prohibited.
- j) Awnings shall not be illuminated in a manner that results in light

being emitted through the awning material or that results in the awning appearing to be illuminated.

- k) Period or historical fixtures that do not meet these requirements may be used as an alternative to conventional lighting provided that if the fixtures are not cutoff fixtures the maximum initial lumens generated by each fixture shall not exceed 2,000 for incandescent lamps and 8,500 for metal halide lamps if the lamp is internally recessed within the fixture or is shielded by internal louvers or refractors and the mounting height shall not exceed fifteen (15) feet above the adjacent ground.
- l) A photometric point by point analysis, on a grid no larger than 20 feet, shall be submitted to the Planning Board for review for all major developments requiring site plan review, applications involving increased security risks such as banks and ATM's, and applications for uses regularly open after 9:00 PM. The grid shall extend to all project property boundaries.

## CHAPTER 1A: PLANNED UNIT DEVELOPMENT

### SECTION 1A-1 - PURPOSE

### SECTION 1A-2 - PERMITTED USES

### SECTION 1A-3 - STANDARDS

- Allowable base density
- Affordable Housing
- Open Space
- Off-street parking
- Buffer Yards
- Traffic Impacts
- Public Utilities and Service Impacts
- Dimensional Standards

### SECTION 1A-4 - DENSITY BONUS PROVISIONS AND STANDARDS

### SECTION 1A-5 - PLANNED UNIT DEVELOPMENT ZONING DESIGNATION

- Pre-application conference
- Application for Zoning Amendment
- General Plan for Planned Unit Development
- Review Procedures for General Plan and Zoning Amendment
- Required findings
- Amendments to General Plan

### SECTION 1A-6 - PLANNED UNIT DEVELOPMENT SITE PLAN APPROVAL

### SECTION 1A-7 - WAIVER

## **CHAPTER 1A - PLANNED UNIT DEVELOPMENT**

### **SECTION 1A-1 - PURPOSE**

To allow, upon detailed application based on extensive and intensive advanced planning, and after specific "Required Findings" by the Gorham Town Council in accordance with Section 1A-5-E of this chapter, the creation of Planned Unit Developments of mixed uses within any of the zoning districts named in Chapter 1, Section 1-1-B, of this Land Use and Development Code, with the following goals:

- A. Reduced dependency on standard dimensional requirements without reduction in open space provisions.
- B. Conservation of natural features and resources, and the character of existing landscape and natural systems.
- C. Efficient use of land and of such public facilities as streets and utilities.
- D. Innovative, interesting, and attractive combinations of commercial, industrial, professional, and residential uses.
- E. Energy conservation through design, layout, and orientation of structures.
- F. Site-sensitive approaches to design and layout with innovation and variety in type of structures.
- G. Possible allowance of increased density of occupancy in exchange for intensive planning pursuant to this chapter.

### **SECTION 1A-2 - PERMITTED USES**

- A. Planned unit developments shall permit the following uses, which shall be subject to the Performance Standards set forth in the Land Use and Development Code:

#### **1. Residential Uses**

- a. detached single-family dwellings;
- b. two family dwellings (duplex);
- c. attached single-family dwellings or townhouse units;
- d. multi-family housing or apartment buildings;
- e. manufactured housing

#### **2. Commercial/Light Industrial Uses**

- a. retail stores;
- b. personal services;
- c. drive-through services, excluding drive-through restaurants and gasoline stations and/or repair garages;
- d. motels
- e. business or professional offices;
- f. research and development laboratories, including research and development of manufactured, processed or compounded products. Research and development laboratories shall consist only of buildings and structures containing facilities and equipment as may be required for the purposes of such laboratories, including pilot experimental facilities;
- g. manufacture, production, fabrication, processing, assembling, packing, storing and distribution of:

- 1) Precision-electrical or precision-mechanical equipment;
- 2) Optical goods, business machines, precision instruments, surgical and dental instruments;
- 3) Pharmaceutical, toiletry, and cosmetics;
- 4) Any other use of the same general character as any of the uses listed above;

- h. printing, engraving, bookbinding and other similar services;
- i. offices for executive, administrative and data processing activities.
- j. accessory uses and buildings.

### **3. Other Uses**

- a. recreation or park facilities open to the public;
- b. private recreation facilities;
- c. municipal buildings or uses;
- d. congregate living facilities;
- e. nursing homes;
- f. utilities;
- g. schools, day care homes and centers, nursery schools, hospitals, churches or any other institutions of an educational, philanthropic, fraternal or social nature;
- h. golf courses; and
- i. cemeteries.

Uses and buildings that are accessory to the above mentioned uses, including parking lots, are also permitted uses.

- B. A proposed planned unit development with one or more of the "residential uses" listed in Section 1A-2.A.1. shall be required to contain at least one of the "commercial/light industrial uses" listed in Section 1A-2.A.2. and at least one of the "Other Uses" listed in Section 1A-2.A.3.
- C. A proposed planned unit development with one or more of the "commercial/light industrial uses" listed in Section 1A-2.A.2 shall be required to also contain at least one of the "Other Uses" listed in Section 1A-2.A.3.
- D. No more than 70% and no less than 20% of the established net acreage of the PUD shall be devoted to any one of the permitted use categories in Section 1A-2.A. of this chapter and which are required to be contained in such PUD pursuant to Sections 1A-2.B. and 1A-2.C. above.

## **SECTION 1A-3 - STANDARDS**

- A. Planned unit developments shall contain not less than twenty (20) acres.
- B. Planned unit developments shall be served by public sewer and public water. Public sewer shall mean the two municipal sewer systems.
- C. The standards set forth in Chapter 2, Section 2-1 (General Standards of Performance - Environmental) and of Chapter 2, Section 2-5 (Site Design Standards) shall be met, where relevant. The Town Council may waive any of the requirements contained in said sections in accordance with the provisions of Section 1A-7 of this Chapter.

### **D. Allowable base density**

#### **1. Net acreage**

The density of all PUDs shall be based on the established net acreage of the proposed PUD [site. Net](#) acreage shall be determined in accordance with Chapter 1, Section 1-5 (Net Acreage). Deductions under this net acreage provision shall be subtracted from the gross acreage of the proposed PUD. The net acreage shall be further reduced if after determination of residential and/or non-residential densities, the proposed PUD does not meet the 30% open space requirement of Section 1A-3.F.

#### **2. Residential Density**

Net area dedicated for residential uses shall be established by determining the portion of the net area to be used for residential uses, as defined in Section 1A-2, Subsection A. Maximum numbers of dwelling units per acre dedicated to residential uses, by underlying zoning district are as follows:

<u>District</u>	<u>With public sewer and water</u>
Urban Residential, Office-Residential, Village Centers, Urban Commercial	5.5
Suburban Residential Roadside Office, Roadside Commercial, Industrial	5.5
Rural	Not Allowed

#### **3. Non-residential Density**

The total gross floor area of the non-residential uses set forth in Section 1A-2 of this chapter shall not exceed thirty percent (30%) of the net acreage of the parcel dedicated to such uses. No more than seventy percent (70%) of the net acreage of the non-residential parcel may be covered with buildings, structures, accessory uses such as parking lots and other impervious surfaces.

### **E. Affordable Housing**

- 1. A minimum of five percent (5%) of any proposed rental or owner-occupied

housing units shall be reserved for occupancy by low and moderate income households. The monthly rental or mortgage payments for these housing units shall not exceed 30% of the low and moderate income household's gross monthly income. For the purposes of this chapter, low and moderate income households shall mean households with incomes of less than or equal to 80% of the area median income, adjusted by family size, as established by the Maine State Housing Authority, or the Department of Economic and Community Development.

2. The housing units reserved for low and moderate income households shall be identical in external design and construction to the other units in the project and shall be integrated throughout the planned unit development. The developer must enter into a binding agreement with the town to maintain the affordability of these reserved housing units.

**F. Open space**

1. Planned unit developments shall reserve not less than thirty percent (30%) of the gross acreage as dedicated open space.
2. In addition to the open space required in Section 1A-3.F.1. of this chapter, multi-family residential development in the planned unit development shall provide private and common outdoor space in conformance with the requirements of Chapter 2, Sections 2-4.B.7. and 8. (Performance Standards for Multi-Family Housing).
3. Provision and maintenance of open space provided pursuant to the preceding two subsections shall comply with the following requirements:
  - (a) Open space shall have adequate access, shape, size, dimension, character, location and topography to promote the purposes set forth in Section 1A-1 of this chapter.
  - (b) There shall be no further subdivision or development of this dedicated open space land.
  - (c) Open space land shall be subject to a conservation easement or an agreement with the Town for its preservation as open space or in the alternative shall be deeded as follows:
    - (i) To the town or state for recreational or conservation purposes; or
    - (ii) To a private non-profit association or land trust legally constituted for conservation purposes; or
    - (iii) To a community association consisting of the residents or owners of the development for open space purposes.
  - (d) The following shall be required if any or all of the open space is to be deeded to a community association consisting of the residents or owners of the development:
    - (i) The formation and incorporation by the developer of one or more appropriate community associations shall be required prior to site plan approval;
    - (ii) Covenants for mandatory membership in the association



setting forth the owner's rights, interests, and privileges in the association and the common land, shall be reviewed by the Town Attorney and approved by the Planning Board and included in the deed for each lot or unit;

- (iii) The community association shall have the responsibility of maintaining the open space and operating and maintaining recreational facilities and lands;
  - (iv) The association shall levy charges against all property owners to defray the expenses connected with the maintenance of open space and recreational facilities; and
  - (v) The developer shall maintain control of such open space and be responsible for its maintenance until development sufficient to support the association has taken place.
4. If the planned unit development is developed in phases, the provision of open space shall be phased with the construction of improvements to insure that a proportionate share of the total dedicated open space is preserved with each phase.
5. Open space shall be defined as lands permanently dedicated for one or more of the following uses: agricultural cultivation or grazing, gardening, forestry, natural resource conservation, wetland preservation, wildlife habitat, undeveloped park land, scenic preservation, outdoor recreation or common open space areas, including significant buffer yards, that are part of an integrated or interconnected open space system. Lands dedicated for use as recreation or park facilities open to the public or as private recreation facilities pursuant to Section 1A-2.A.3 shall be included in open space and counted toward the open space requirement. At least fifty percent (50%) of the open space designated to satisfy the minimum dedicated open space requirement shall be land suitable for development as determined by accordance with Chapter 1, Section 1-5. Streets and other impervious surface areas shall be excluded from the calculation of the minimum dedicated open space requirement; however, lands occupied by paved bicycle paths or similar common recreational facilities, not including tennis courts or buildings, may be counted as dedicated open space provided such impervious surfaces constitute no more than five percent (5%) of the total required dedicated open space. For the purposes of this subsection, "significant buffer yards" shall be large enough to be considered as usable open space and shall have a minimum dimension of 15 feet and a minimum area of 825 square feet.

**G. Off-street parking**

1. The number, design and construction of parking spaces, lots, bays and drives shall conform to the applicable requirements of Chapter 2, Section 2-2 (Parking, Loading, and Traffic). The Planning Board may waive this requirement if it determines that the proposed off-street parking scheme will adequately meet the parking needs of the proposed development.

**H. Buffer yards**

1. **Screening of non-residential uses** - In addition to the requirements of Chapter 2, Section 2-1 (General Standards of Performance - Buffer Areas), non-residential uses shall be screened from residential uses within and abutting the planned unit development by a buffer yard of twenty (20) feet in width containing at least three (3) canopy trees, six (6) understory trees and nine (9) shrubs per one hundred (100)

feet of length along the perimeter of the lot line abutting the residential use. The Town Council may waive this requirement in accordance with the provisions of Section 1A-7 of this chapter.

2. **Screening Along Public Roadways** - Uses within the planned unit development which abut public roadways shall be screened as follows:

(a) **Residential uses**

- (i) **Abutting an Arterial Street** - A buffer yard of twenty (20) feet in width containing at least five (5) canopy trees, ten (10) understory trees and fifteen (15) shrubs per one hundred (100) feet of frontage.
- (ii) **Abutting a Collector Street** - A buffer yard of fifteen (15) feet in width containing at least two (2) canopy trees, four (4) understory trees and six (6) shrubs per one hundred (100) feet of frontage.
- (iii) **Abutting a Local Street** - A buffer yard of ten (10) feet in width containing at least one (1) canopy tree per one hundred (100) feet of frontage.

(b) **Non-Residential uses**

- (i) **Abutting an Arterial or Collector Street** - A buffer yard of ten (10) feet in width containing at least one (1) canopy tree, two (2) understory trees, and three (3) shrubs per one hundred (100) feet of frontage.
- (ii) **Abutting a Local Street and Facing Non-Residential Use** - A buffer yard of ten (10) feet in width containing at least one (1) canopy tree per one hundred (100) feet of frontage.
- iii) **Abutting a Public Street and Facing Residential Use** - A buffer yard of fifteen (15) feet in width containing at least two (2) canopy trees, four (4) understory trees and six (6) shrubs per one hundred (100) feet of frontage.

3. 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 1/2 inches in caliper with a mature height of at least 12 feet.

4. **Existing Vegetation**

Notwithstanding the foregoing, existing vegetation shall be retained and maintained to the extent possible so as to permit such vegetation to fulfill or contribute to buffer and screening requirements.

5. **Alternative Buffers and Screening**

In lieu of compliance with the above buffer yard and screening requirements, a developer may submit a detailed plan and specifications for landscaping and screening which will afford a degree of buffering and screening equivalent to or exceeding that provided by the above requirements.

**6. Screening of Refuse Collection Facilities**

Uses within the planned unit 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 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.

**7. Maintenance of Landscaping**

All required landscaping and screening shall be maintained or replanted as necessary so as to continue its effectiveness.

**I. Traffic Impacts** - Traffic impacts shall be measured by levels of service calculated in accordance with the date and procedures of the Highway Capacity Manual Special Report 209 published by the Highway Research Board. The applicant must demonstrate the feasibility of, and agree to provide, the road improvements and traffic control devices necessary to accommodate increased traffic generated by the planned unit development.

**J. Public Utilities and Service Impacts**

1. The planned unit development, at completion, must not exceed the capacities of the public water supply, stormwater management facilities, sewers, solid waste disposal facilities, public safety, emergency, and educational services of the town. Public facilities constructed in connection with the planned unit development shall be constructed and located so as to minimize costs of municipal operation and maintenance. Where a proposed project at any point during its development would exceed the capacity of any of the services listed above, the applicant, prior to final site plan approval of the PUD by the Planning Board, shall negotiate, with the appropriate authority as determined by the Town, a strategy and program for mitigation. Where a capacity shortfall exists, the applicant shall be required to make the necessary improvements, or agree to pay for their pro rata share for the improvement, to accommodate the increased demand on facilities and services generated by the planned unit development. The results of these negotiations shall be subject to review and comment by the Planning Board and review and approval by the Town Council.

**K. Dimensional Standards**

1. Public or Private street setback - No principal or accessory structure shall be closer than fifty (50) feet to a collector street right-of-way and not closer than twenty-five (25) feet to a local street right-of-way or easement.
2. Building separation - No structure under thirty (30) feet in height shall be located within fifteen (15) feet of any other structure. Buildings higher than thirty (30) feet shall be separated by a distance equivalent to 50% of the height of the tallest building. In no instance shall buildings be more than four stories in height.
3. Perimeter boundary
  - (i) The applicable yard requirement of the abutting zone shall be used to determine perimeter boundary set back for buildings and structures, including accessory structures and parking areas.

- (ii) No portion of an active recreational use shall be located within fifty (50) feet of an abutting residential development.
  - (iii) Where a planned unit development adjoins or borders an existing residential zoning district or development sharing frontage on the same side of a public or private street, the minimum front yard requirement of the abutting residential zone or development shall apply for a minimum of two hundred (200) feet from such common border within the planned unit development frontage.
- 4. The Town Council may waive the requirements of Section 1A-3.K (Dimensional Standards) in accordance with the provisions of Section 1A-7 of this chapter.

## **SECTION 1A-4 - DENSITY BONUS PROVISIONS AND STANDARDS**

- A. A maximum density bonus of twenty-five (25) percent over the allowable base density for residential and nonresidential uses as set forth in Section 1A-3 of this chapter may be approved in accordance with the following standards. The density bonuses may be granted, at the discretion of the Town Council, if the proposed density bonuses promote the purposes of the planned unit development zoning district set forth in Section 1A-1 of this chapter. For residential uses, density bonuses shall be applied to the maximum number of dwelling units. For nonresidential uses, density bonuses shall be applied to gross floor area and maximum impervious surface requirements.
1.     Dedicated open space - Increasing the dedicated open space area by a minimum of ten (10) percent of the net acreage of the tract may qualify for a bonus of up to five (5) percent above the allowable base density.
  2.     Active recreation - Facilities and areas for active recreation exceeding by fifty (50) percent the minimum requirement of Chapter 2, Section 2-4.B.8 may qualify for a bonus of up to five (5) percent above the allowable base density. Active recreation facilities may include, but are not limited to tennis courts, swimming pools, ball fields, picnic or cookout facilities and tot lots.
  3.     Bike paths/greenway systems - An integrated system of bike paths or pedestrian greenways may qualify for a density bonus of five (5) percent above the allowable base density.
  4.     Solar access/energy efficiency - Design, layout and construction of a planned unit development providing solar access to forty (40) percent of the dwelling units and ensuring through appropriate deed restrictions that dwelling units will effectively utilize solar energy systems for water and space heating purposes, or design and construction of all structures in a planned unit development in compliance with current Energy Efficiency Building Performance Standards of the Maine Office of Energy Resources pursuant to 10 M.R.S.A. 1411 et seq., may qualify for a bonus of five (5) percent above the allowable base density.
  5.     Moderate Pricing - Providing a minimum of ten percent (10%) of all dwelling units to be marketed and sold to moderate income household with incomes of less than or equal to 80% of the area median income, adjusted by family size, as established by the Maine State Housing Authority or the Department of Economic and Community Development, which require monthly mortgage payments not exceeding 30% of the household's gross monthly income, may qualify for a bonus of up to ten percent (10%) above the allowable base density.

Designated moderately priced units shall be identical in external design and construction to the other units in the project and shall be integrated throughout the planned unit development. The developer must enter into a binding agreement with the town to maintain the affordability of these units.
  6.     Rental units - Providing a minimum of ten percent (10%) of all dwelling units as rental housing for households with incomes of less than or equal to 80% of the area median income, adjusted by family size, as established by the Maine State Housing Authority or the Department of Housing and Urban Development, which have monthly rental payments not exceeding 30% of the households' gross monthly income, may qualify for a bonus of up to ten percent (10%) above the allowable base density. The developer must enter into a binding agreement with the town to maintain the designated units at twenty percent (20%) below market rate for households with incomes of less than or equal to 80% of the area median income.

7.     Underground parking - Providing for parking below structures for at least seventy-five percent (75%) of the dwelling units or fifty percent (50%) of the required spaces for non-residential uses may qualify for a bonus of up to ten percent (10%) above the allowable base density.
8.     Day Care - Development of a public use day care facility for children may qualify for a bonus of up to five percent (5%) above the allowable base density. The developer must enter into a binding agreement with the town to dedicate the facility for day care and to provide a viable management and operations structure.
9.     Public transportation/public transit - Providing public transportation to town residents may qualify for a bonus of up to five percent (5%) above the allowable base density.

## **SECTION 1A-5 - PLANNED UNIT DEVELOPMENT ZONING DESIGNATION**

- A. Pre-application conference** - Prior to the submission of a planned unit development zoning amendment application, the applicant shall meet with the Town Council to generally discuss the planned unit development proposal.
- B. Application for Zoning Amendment** - An application to amend the zoning map to establish a planned unit development district shall be submitted to the Planning Board and administered in accordance with the provisions of Chapter 1, Section 1-1.G (Changes and Amendments) and this Section. The application shall include:
1. Fees and deposits, in accordance with the requirements of Chapter 4, Section 4-4 (Site Plan Review - Administration) for non-residential development and in accordance with Section 3-3.A. of the subdivision regulations for residential development.
  2. Deeds of current owners of all property within the proposed planned unit development with volume and page references as recorded in the Cumberland County Registry of Deeds and as listed in the Town's tax records.
  3. The names and current mailing addresses of all persons owning property within five hundred (500) feet of the proposed development, including tax map and lot designations as listed on the tax records.
  4. A general plan as described below.
- C. General Plan for Planned Unit Development** - All applications to amend the zoning map to establish a planned unit development district shall be accompanied by the following:
1. Maps and plans at a scale of either 1"=100' or 1"=40', as appropriate to the site, prepared by a licensed surveyor, registered engineer, landscape architect and/or architect licensed in the State of Maine, which shall include:
    - a. Survey of bounds showing courses and distances, zoning districts and lot lines within the tract and of all abutting property, existing easements burdening and benefiting the tract, and structures existing on the tract and within five hundred (500) feet of its boundaries.
    - b. A high-intensity soils survey prepared and certified by a state-licensed soil scientist, showing location and boundaries of soil areas and their names in accordance with the National Cooperative Soil Survey Classification, and complying with mapping standards of the Maine Association of Professional Soil Scientists.
    - c. Flood hazard areas, including base flood elevations.
    - d. Topographic contours at a maximum of two (2) foot intervals showing existing grades.
    - e. Existing vegetation, land forms and water bodies.
    - f. Roadway plans for primary and secondary traffic circulation patterns showing proposed and existing rights-of-way and easements.
    - g. Utility plans for public water, sanitary sewer, storm sewer, natural gas and underground electrical utilities.

- h. Delineation of any areas to be declared under the Maine Condominium Act and any areas to be subdivided within the planned unit development, with tentative lot lines for any proposed subdivision.
  - i. Delineation of development phases and acreage of each phase.
  - j. Delineation of residential and non-residential use areas.
  - k. Delineation of required and proposed bonus open space.
  - l. Each sheet shall be individually identified in its relationship to the whole with the inclusion of the title of the development, name(s) and established location (residence) of the developer and (if different) the owner(s), signature and seal of the person responsible for that sheet, a meridian arrow for sheets with directional significance, and clear indication of the applicable scale(s) of graphic representation.
2. Land Use analysis including:
- a. Calculation of net acreage for residential and non-residential density in accordance with Chapter 1, Section 1-5 (Net Acreage) and information demonstrating how the calculations were derived.
  - b. Number and types of residential units.
  - c. Number, types and floor areas of non-residential structures.
  - d. Acreage of open space and the percentage of open space to gross acreage and net acreage.
  - e. Density provided and proposed density bonuses.
  - f. Summary table of residential uses, non-residential uses, and open space planned for each development phase and for the entire development.
3. Statements addressing the following:
- a. A traffic analysis, which shall include:
    - (i) A description of the traffic circulation network within the vicinity of the proposed development or within one mile of the site, whichever is determined to be greater; existing and proposed public transportation services and facilities.
    - (ii) A description of current traffic volumes, capacities and levels of service based on three twenty-four-hour weekday counts on all roadways for all streets and intersections within the vicinity of the proposed development or within one mile of the site, whichever is determined to be greater. Average daily traffic and average peak hour volumes shall be based on these counts.
    - (iii) Traffic projections for the proposed development, prepared according to the data and procedures contained in the Institute of Traffic Engineers "Trip Generation Manual", indicating total



average weekly and peak hour trips allocated to proposed phases and uses.

- (iv) Calculation according to the data and procedures contained in the Highway Capacity Manual Special Report 209 of the Highway Research Board of roadway service volumes at level of service C for arterials and level of service D for collectors providing access to the site.
  - (v) Calculation of capacity at level of service C for intersections within the vicinity of the proposed development or within one mile of the site, whichever is determined to be greater.
  - (vi) Analysis of projected traffic impacts from the planned unit development together with projected impacts of other developments approved for construction and utilizing the same elements of the traffic circulation network.
  - (vii) Recommended traffic circulation network improvements and traffic control devices.
- b. Market analysis justifying proposed uses.
  - c. Relationship of the planned unit development to surrounding land uses and to the Comprehensive Plan for the Town of Gorham; and interrelationship of land uses within the planned unit development.
  - d. The proposed storm water management system, including calculation of existing and post-development run-off.
  - e. Impacts of proposed development on water, sewer, public safety, emergency, and educational services of the town, supported by evidence that utilities are adequate to serve the demands of the proposed development.

**D. Review Procedures for General Plan and Zoning Amendment**

An application for planned unit development zoning amendment shall be accepted for review by the Planning Board unless the Town Planner determines that the application is incomplete. The sequence of the review procedures shall be as follows:

1. The Planning Board shall schedule a public hearing and consider the application, and then shall send its recommendation, including its recommendation regarding waiver and density bonus requests, and proposed findings to the Town Council.
2. In addition to the notice provisions set forth in Chapter 1, Section 1-1.G., the Planning Board and the Town Council shall send written notice of the application consideration to all owners of property within five hundred (500) feet of the proposed planned unit development.
3. The Town Council shall schedule a public hearing to review the application.
4. The Town Council shall approve, approve with modifications, or disapprove the general plan. A vote to approve the general plan with or without modification shall constitute an approval of amendment to the zoning map allowing a planned

unit development in accordance with the general plan as approved. Disapproval of the general plan shall constitute a denial of the application for zoning map amendment.

5. Following Town Council approval of an application for planned unit development zoning designation, the property rezoned shall be labeled "PUD" on the official zoning map of the Town of Gorham with a notation that any development within this zone must be in accordance with the general plan approved in conjunction with approval of the amended zoning designation. No permits for development shall be issued within any area designated as "PUD" unless site plan approval is obtained pursuant to Section 1A-6 of this chapter. If site plan approval for one or more phases of the general plan is not granted within three (3) years and if site plan approval for the final phase is not granted within ten (10) years of such PUD zoning designation, the Town Council shall reserve the right, after notice and hearing, to rezone the undeveloped portion of the property to its prior zoning classification.

**E. Required findings** - Approval of a planned unit development zoning designation shall be based on findings by the Town Council as follows:

1. That the General Plan is consistent with the purposes of the PUD Ordinance (Section 1A-1 of this chapter);
2. That the General Plan is consistent with the Comprehensive Plan for the Town of Gorham;
3. That the General Plan is consistent with Section 1A-3, Standards, of this chapter;
4. That the General Plan is consistent with Chapter 2, General Standards of Performance, of the Gorham Land Use and Development Code, or as waived by the Town;
5. In the event that the General Plan contemplates construction over a period of years, that the terms and conditions intended to protect the interests of the public and the residents, occupants, and owners of the proposed development in the full completion of the development are adequate; and
6. That the proposed density bonuses meet the density bonus provisions of Section 1A-4 of this chapter and have been approved by the Town Council.

**F. Amendments to General Plan**

1. Minor Amendments - Amendments to the approved general plan which do not substantially change the concept of the planned unit development may be approved by the Planning Board upon recommendation of the Town Planner. Such minor changes may include but not be limited to small site alterations such as realignment of minor roads or relocation of utility lines due to engineering necessity, provided that the overall count approved in the General Plan and provided that the capacities of public services and utilities are not exceeded. The developer shall request such amendment in writing, clearly setting forth the reasons for such changes. If the change is approved, the general plan shall be so amended, as shall any site plan application affected by such amendment.
2. Major Amendments - Amendments to the approved general plan which are

substantial deviations from the concept of the approved planned unit development or which involves a change from one to another permitted use set forth in Section 1A-2, or any change in use involving a significant change in development impact, shall require review and a recommendation by the Planning Board and approval by the Town Council.

3. Variances - The Board of Appeals shall not be authorized to grant or approve any variance from the requirements set forth in this chapter.

## **SECTION 1A-6 - PLANNED UNIT DEVELOPMENT SITE PLAN APPROVAL**

- A.**     **Pre-application Conference** - Prior to the submission of a planned unit development site plan/subdivision plan, the applicant shall meet with the Planning Board at least once to generally discuss the proposed project.
- B.**     **Application for Planned Unit Development Site Plan/Subdivision Approval** - Following approval of a general plan and planned unit development zoning designation, application for site plan/subdivision approval for one or more phases or all of the general plan shall be submitted to the Planning Board and administered in accordance with the provisions of Chapter 3 (Subdivision Ordinance), Chapter 4 (Site Plan Review) and this chapter. The application shall include:
1.       Fees and deposits, in accordance with the requirements of Chapter 4, Section 4-4 (Site Plan Review - Administration) for non-residential development and in accordance with Section 3-3.A of the subdivision regulations for residential development.
  2.       All of the exhibits and information required by Chapter 4, Section 4-6 (Site Plan Review - Submission Requirements) and by Section 3-3.B of the Subdivision Ordinance.
  3.       Delineation of residential, non-residential and open space areas on the parcel, as well as all proposed building and structure locations.
  4.       Indication of proposed uses of all buildings and structures.
  5.       Location and dimensions of all fences, walls, decks, ramps, pools, patios, accessory structures, walkways, bike paths, and surfaced areas.
  6.       Location of refuse collection container locations.
  7.       Location and planting plans for required buffer yards.
  8.       Location of electrical service lines and all utility connections for attached residential and all non-residential uses. Utilities shall be underground in accordance with Land Use Code Chapter 2-10 Section 2-10A "Provision of Underground Utilities".
  9.       Delineation of steep slopes, wetlands, watercourses, and other site features excluded in the net acreage calculation prescribed in Chapter 1, Section 1-5 (Net Acreage).
  10.      Plans and profiles of all proposed streets.
  11.      A detailed tabulation of:
    - a.       Net acreage calculation for residential and non-residential uses.
    - b.       Acreage of parcel dedicated to residential, non-residential and open space uses.
    - c.       Number, type and number of bedrooms of dwelling units, gross floor area of non-residential structures and acreage of open space in each phase of development.

- d. Total area of impervious surfaces in square feet at full development.
- 12. Estimated costs for public improvements at each phase for bonding purposes.
- 13. Final drafts of all documents necessary for the formation of a management system for ownership and/or maintenance of all open space and other commonly used areas including, but not limited to, recreation areas, private streets, parking areas, parks, gardens, landscaped buffers and the like, which shall include:
  - (a) an analysis showing projected management costs and the revenue base to support such costs;
  - (b) documents which provide for the following (where applicable): reasonable quorums and voting procedures; mandatory automatic membership of all owners; mandatory and lienable payment of common expenses by owners; personal responsibility of owners for payment of assessments; maintenance, management, and, when appropriate, replacement by the association of all roadways, utility and safety systems, landscaping, or structures within the common areas owned by lot or unit owners or by the association; delivery of basic services by the association; maintenance of adequate liability, property, and casualty insurance by the association; and
  - (c) deeds covenants and agreements and/or declarations creating perpetual restrictions upon and reservations of the lot or unit owners' right to use common areas, which rights and restrictions shall not be severable from the appurtenant lots or units.
- C. Review Procedures for Planned Unit Development Site Plan/Subdivision - An application for planned unit development site plan/subdivision review shall be accepted for review by the Planning Board unless the Town Planner determines that the application is incomplete. The sequence of the review procedures shall be as follows:
  - 1. The Planning Board shall send written notice of the application consideration to all owners of property within five hundred (500) feet of the proposed planned unit development.
  - 2. The Planning Board shall review the site plan and approve or approve with modifications, or disapprove the site plan/subdivision plan.
  - 3. Following Planning Board approval of a planned unit development site plan/subdivision plan, a plat dedicating any approved public streets, easements, public facilities or utilities or land to the town shall be submitted to the Planning Board in form sufficient for recording in the Cumberland County Registry of Deeds, to be signed by the Planning Board and, no later than 30 days thereafter, recorded in said Registry of Deeds. Two copies of the signed plat shall be submitted to the town for inclusion in its records.
  - 4. No building permit, certificate of occupancy, or other permit or approval administered by the municipality shall be issued for any structure or use within the planned unit development unless indicated on an approved site plan/subdivision plan.
- D. Required Findings - Approval of a planned unit development site plan shall be based on findings of the Planning Board as follows:

1. That the Site Plan is consistent with the approved General Plan
2. That the Site Plan is consistent with Section 1A-3, Standards of this chapter, or as waived by the Town;
3. That the Site Plan is consistent with Chapter 2 of the Gorham Code, General Standards of Performance, or as waived by the Town;
4. That the Site Plan is consistent with the standards for Subdivision and Site Plan applications in the Gorham Code, as applicable to the PUD application.

## **SECTION 1A-7 - WAIVER**

- A. Only as specifically authorized within this Chapter, the Town Council may waive certain requirements by an affirmative vote of at least five of the seven members. The applicant shall submit a waiver request in writing at the time of general plan application. Waivers may be considered by the Town Council at a later date at the request of the Planning Board. The Town Council shall not grant a waiver unless it finds the following conditions are met:
1. The waiver has been requested in writing by the applicant in the general plan application submission;
  2. The granting of a waiver shall not have a significantly adverse effect upon the environment, the public health and safety or the cost of providing municipal services;
  3. The granting of the waiver shall promote the purposes set forth in Section 1A-1.
  4. The granting of the waiver shall not be in conflict with the Comprehensive Plan;
  5. Where it is proposed to vary any engineering standard, a report from the Public Works Director or the Town's Consulting Engineer has been requested and considered.
  6. In granting a waiver, the Council shall state upon its records the reasons for granting any waiver.

## CHAPTER 2: GENERAL STANDARDS OF PERFORMANCE

### SECTION 2-1 - ENVIRONMENTAL

- Soil Suitability
- Prevention of Erosion
- Mineral Exploration, Excavation and Gravel Pits
- Floodplain Management
- Shoreland Area Protection
- Waste water pollution
- Air pollution
- Noise abatement
- Buffer Areas

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

- Off-Street Parking Standards
- Off-Street Loading Standards
- Access and Parking Layout
- Corner Clearances
- Future Roads

### SECTION 2-3 - SIGNS

- Residential
- Non-residential
- Industrial Park Identification Signs
- Portable Signs
- General

### SECTION 2-4 - RESIDENTIAL

- Clustered Residential Development
- Performance Standards for Multi-family Housing
- Accessory Apartments

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

- Purpose
- General
- Access to Adjoining Land
- Definitions
- Acceptance of Streets and Ways
- Street Design Standards - Public Ways
- Street Construction Standards and Specifications
- Standards for Private Ways
- Subdivision, Private Way and Site Construction Monitoring of Public Improvements

### SECTION 2-6 - SEASONAL AND RECREATIONAL

- Campgrounds and Trailer Parks

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

### SECTION 2-8 – BED AND BREAKFAST FACILITIES (inclusive of Bed and Breakfast, Bed and Breakfast Establishments With and Without Public dining, and Inns)

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

### SECTION 2-10 - THE PROVISION OF PUBLIC WATER SUPPLY

### SECTION 2-11 - FIRE PROTECTION WATER SUPPLY

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



## SECTION 2-13 – WIND ENERGY SYSTEMS

Authority

Purpose

Conflict with Other Ordinances

Severability

Permit Requirements

Definitions

Permitted Uses

Non-Conformance Exception

Performance Standards

MET Towers

## SECTION 2-14 – DOG KENNEL STANDARDS

## SECTION 2-15 – HOME OCCUPATION STANDARDS

## SECTION 2-16 – MOBILE VENDING UNITS

## SECTION 2-17 – ADULT-USE MARIJUANA

## SECTION 2-18 – OUTDOOR DINING

## **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

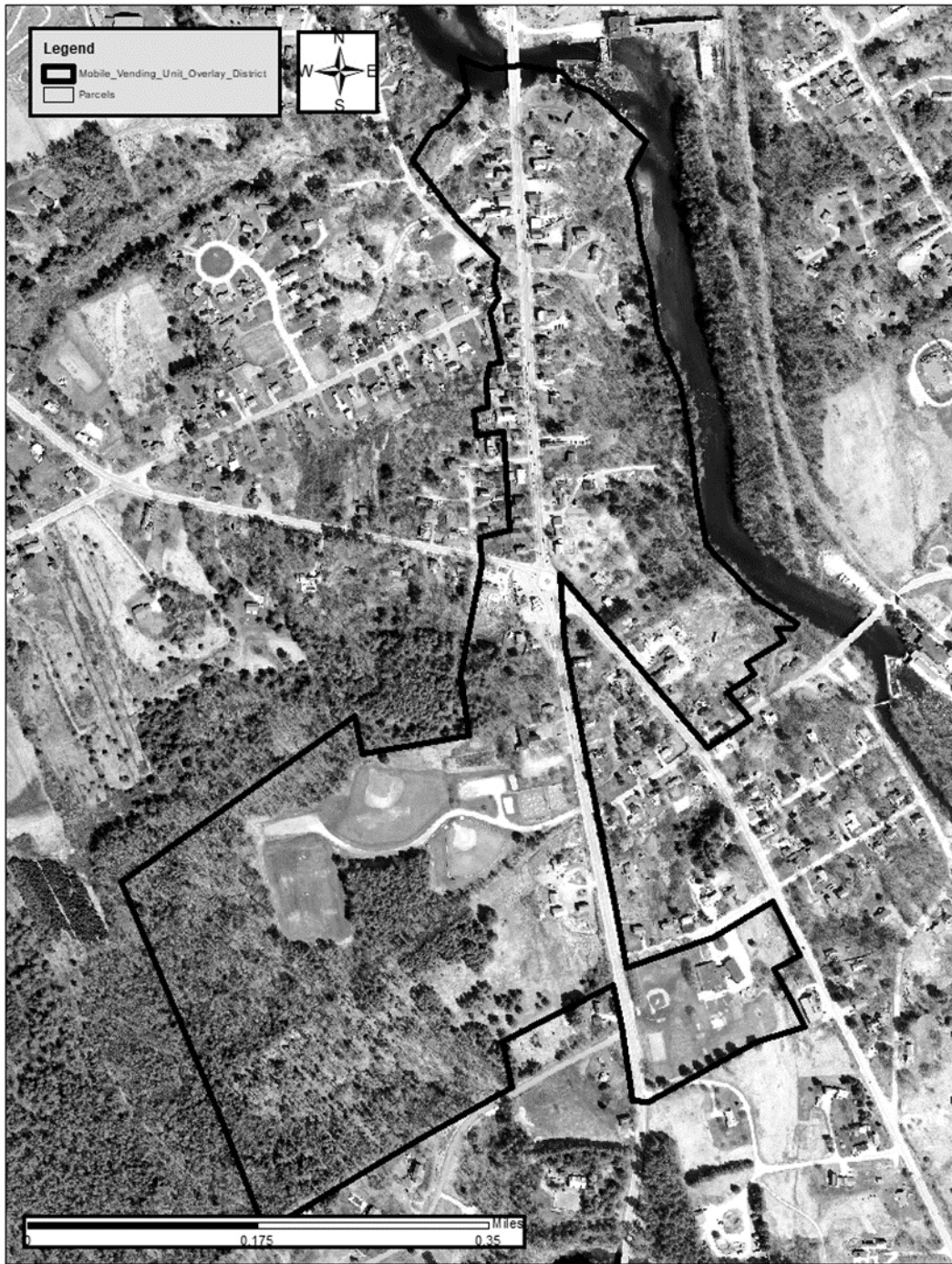
- (b) Names and addresses of the current owner of the property and of the medical marijuana caregiver, and a copy of the deed or rental lease if the medical marijuana caregiver is not the property owner
  - (c) Evidence that the medical marijuana caregiver's operation was in existing operation as defined 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.



214B

## 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.

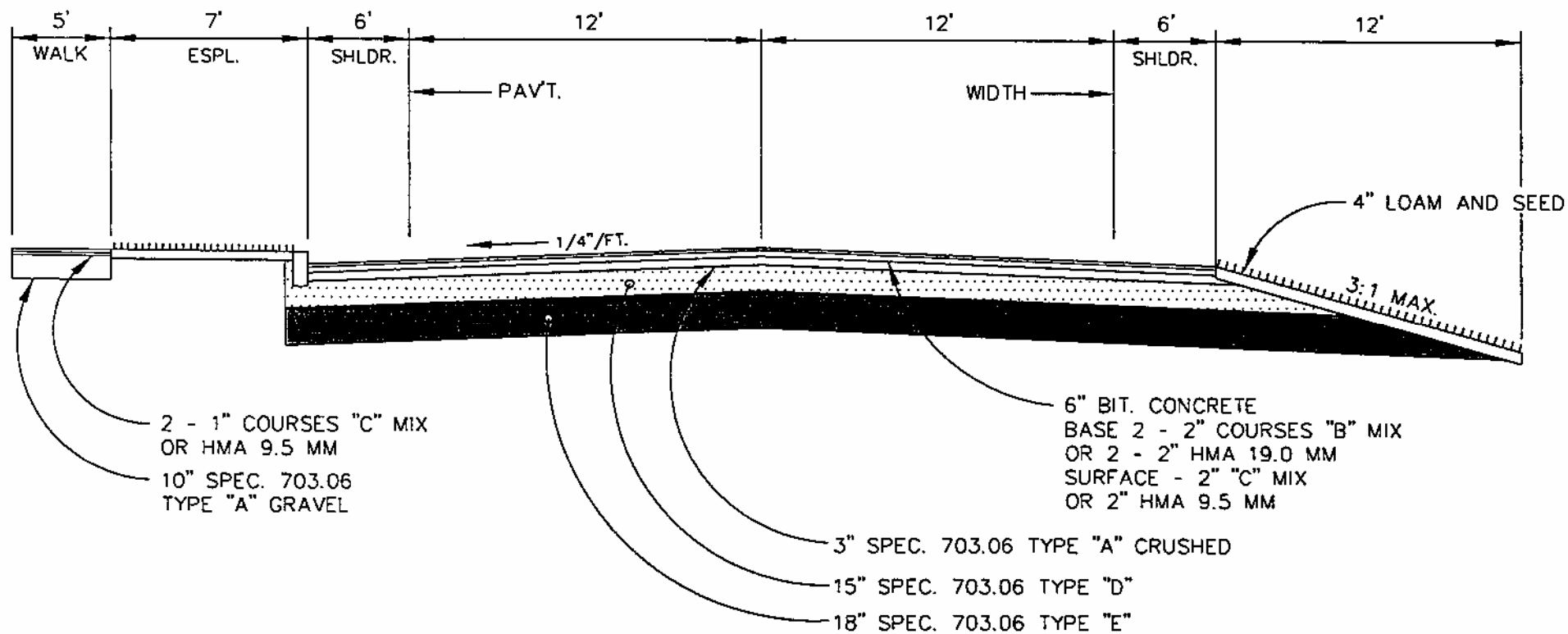


FIGURE 1  
ARTERIAL  
 NTS

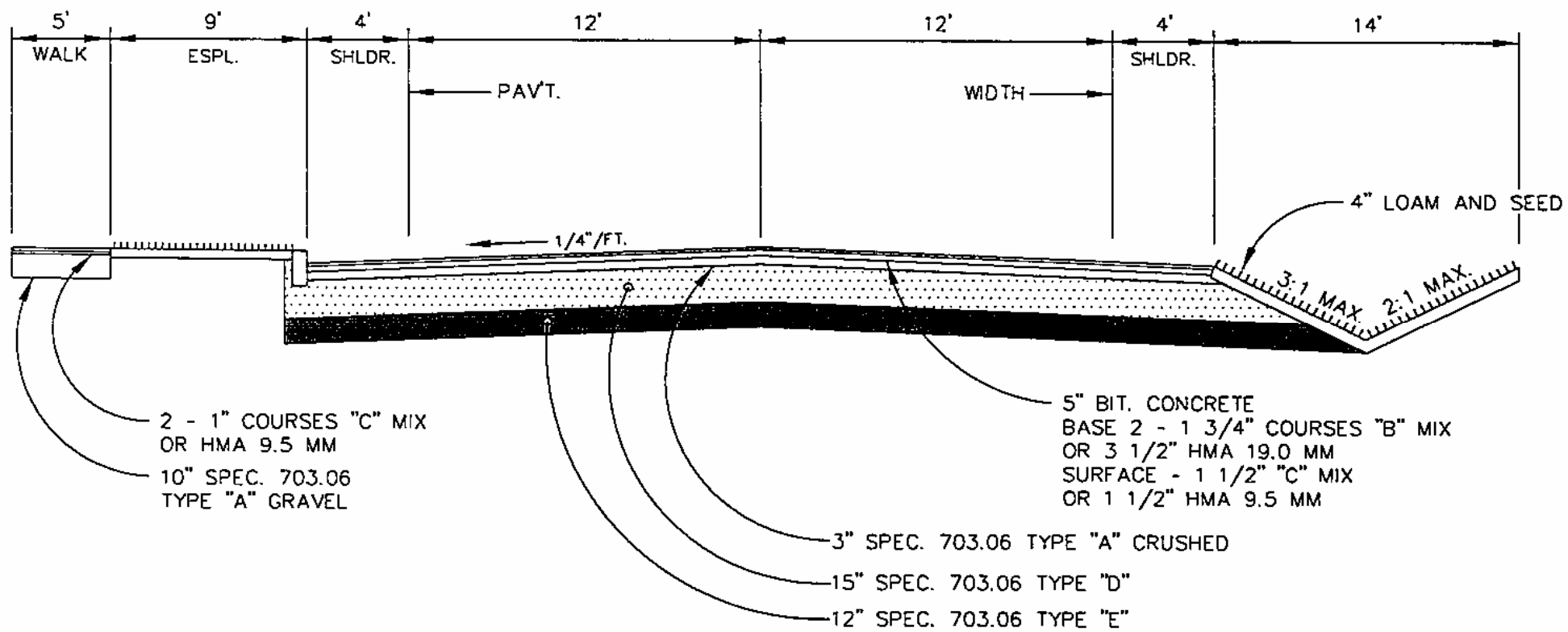


FIGURE 2  
COLLECTOR  
 NTS

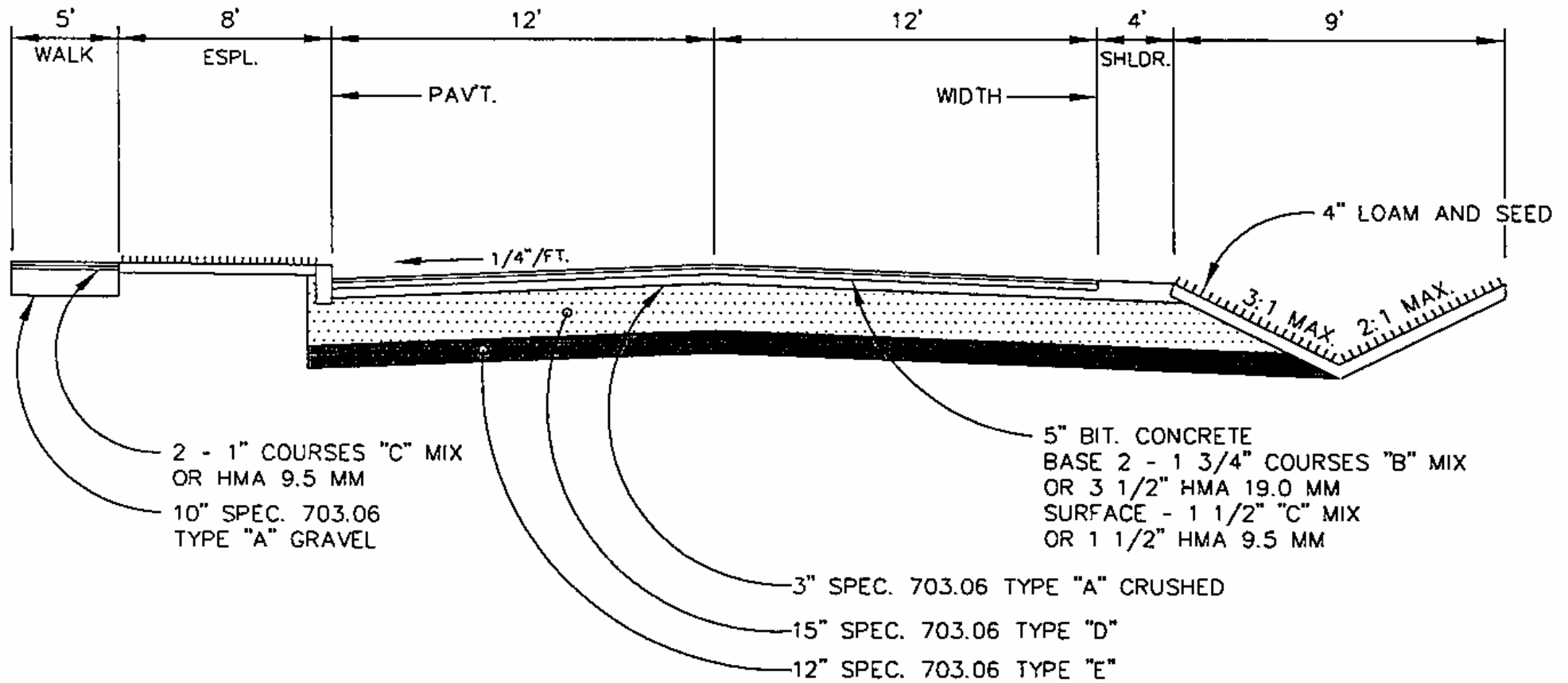


FIGURE 3  
URBAN SUBCOLLECTOR  
 NTS

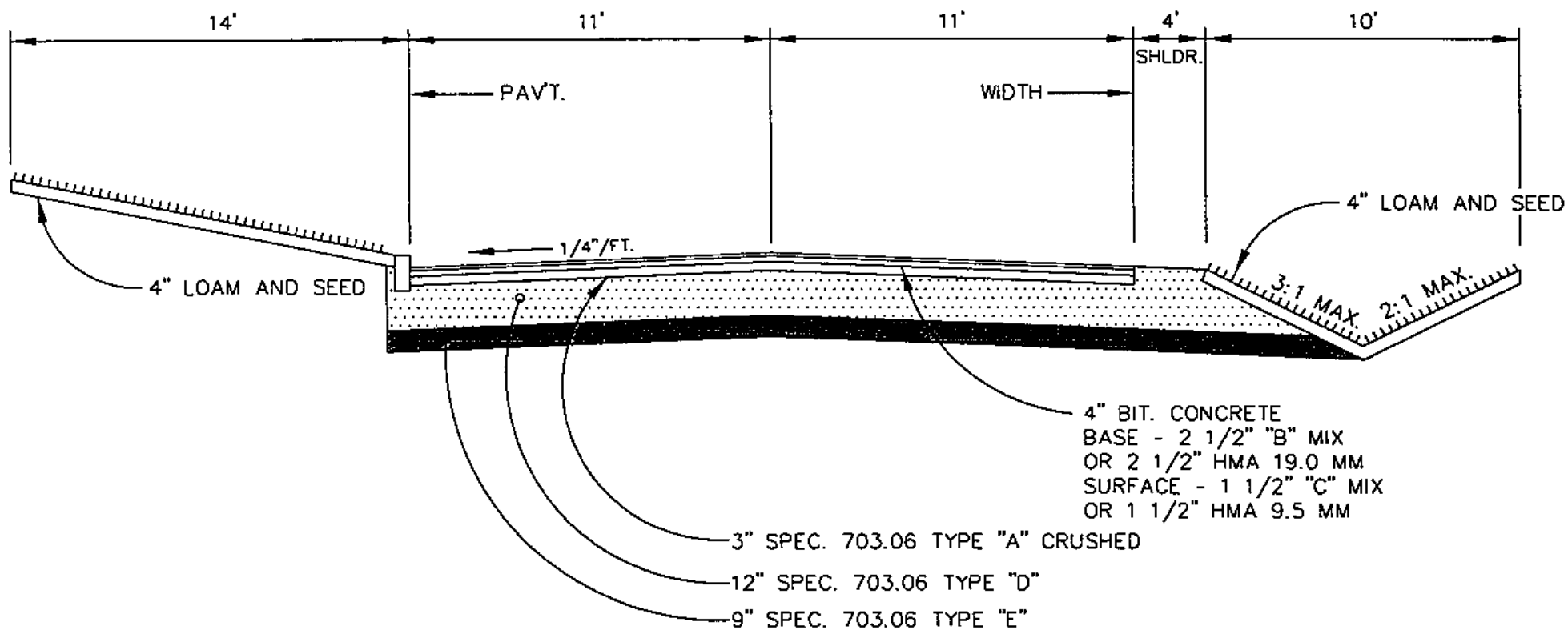


FIGURE 4  
RURAL SUBCOLLECTOR  
 NTS

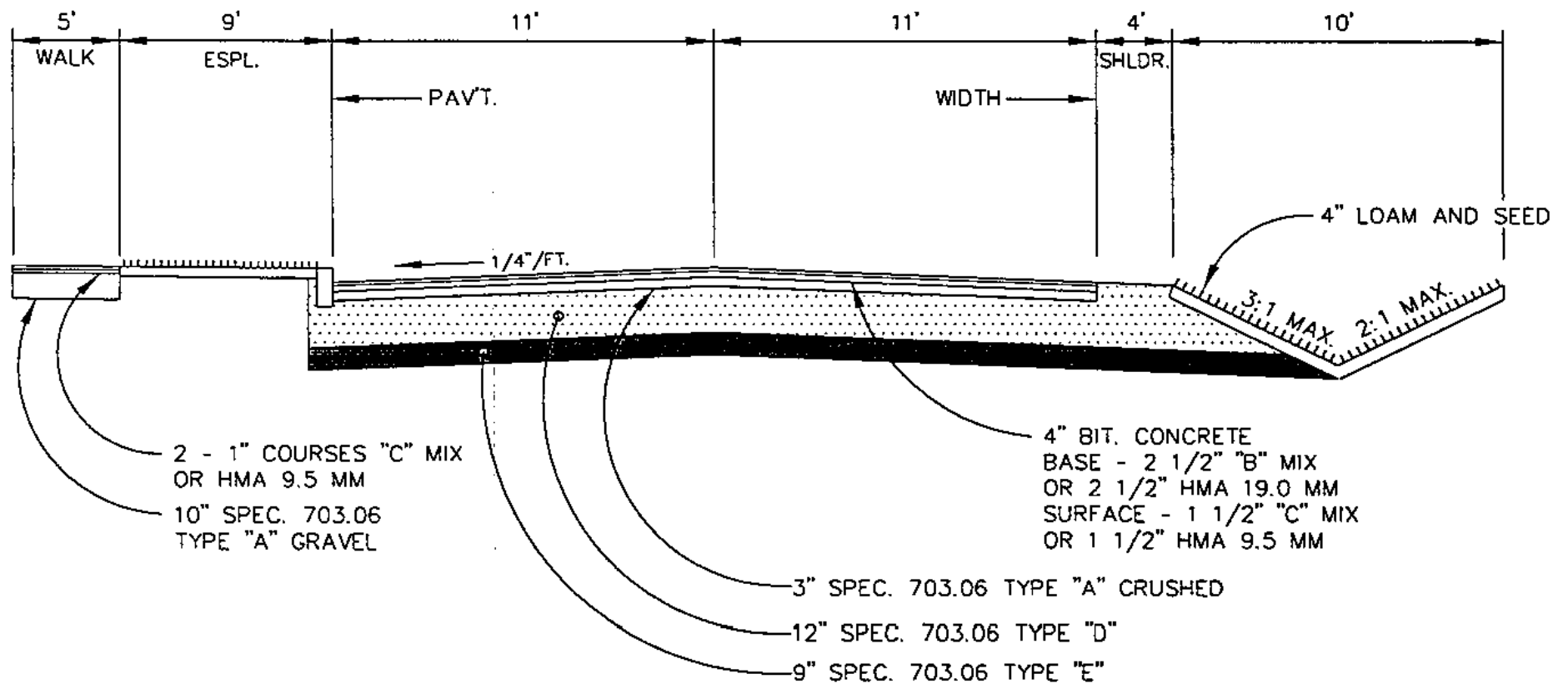


FIGURE 5  
URBAN ACCESS  
 NTS

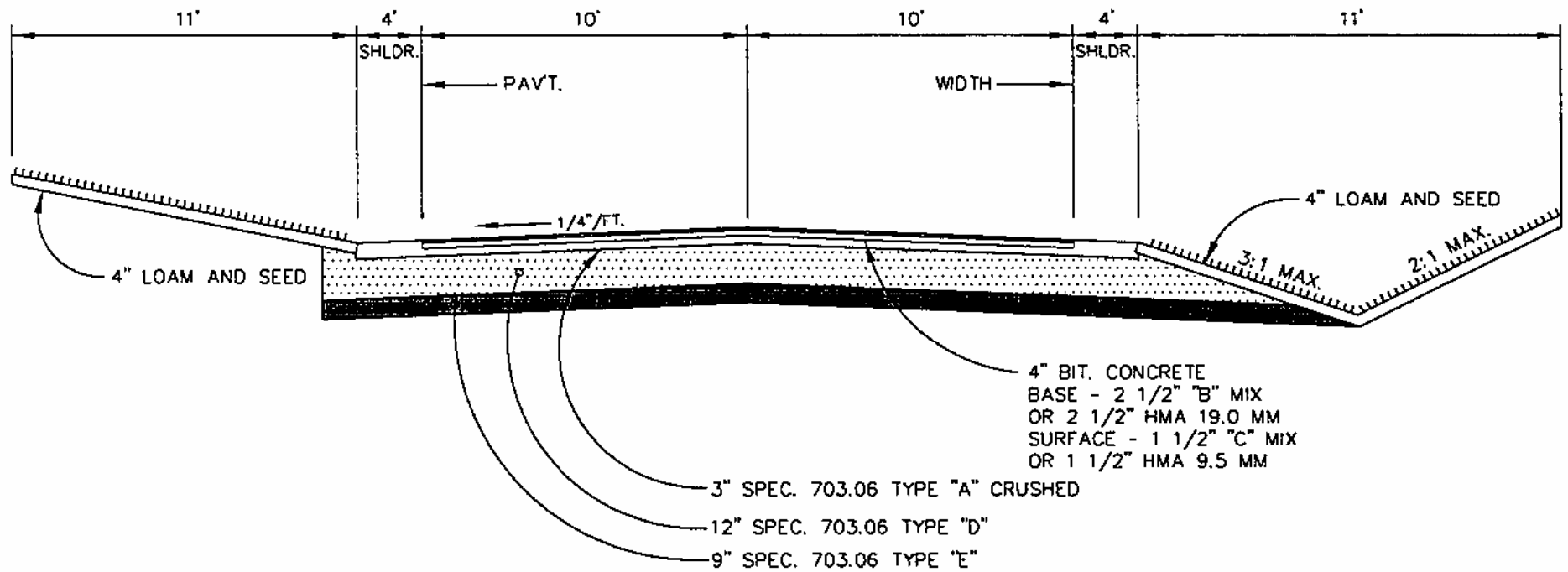


FIGURE 6  
RURAL ACCESS  
 NTS



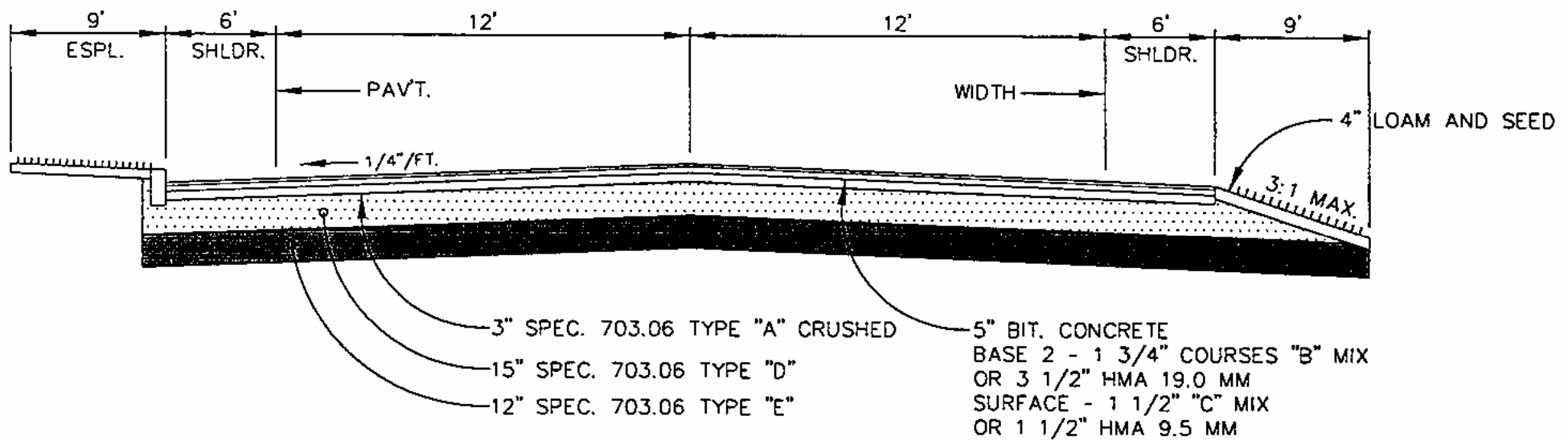


FIGURE 7  
INDUSTRIAL/COMMERCIAL  
NTS

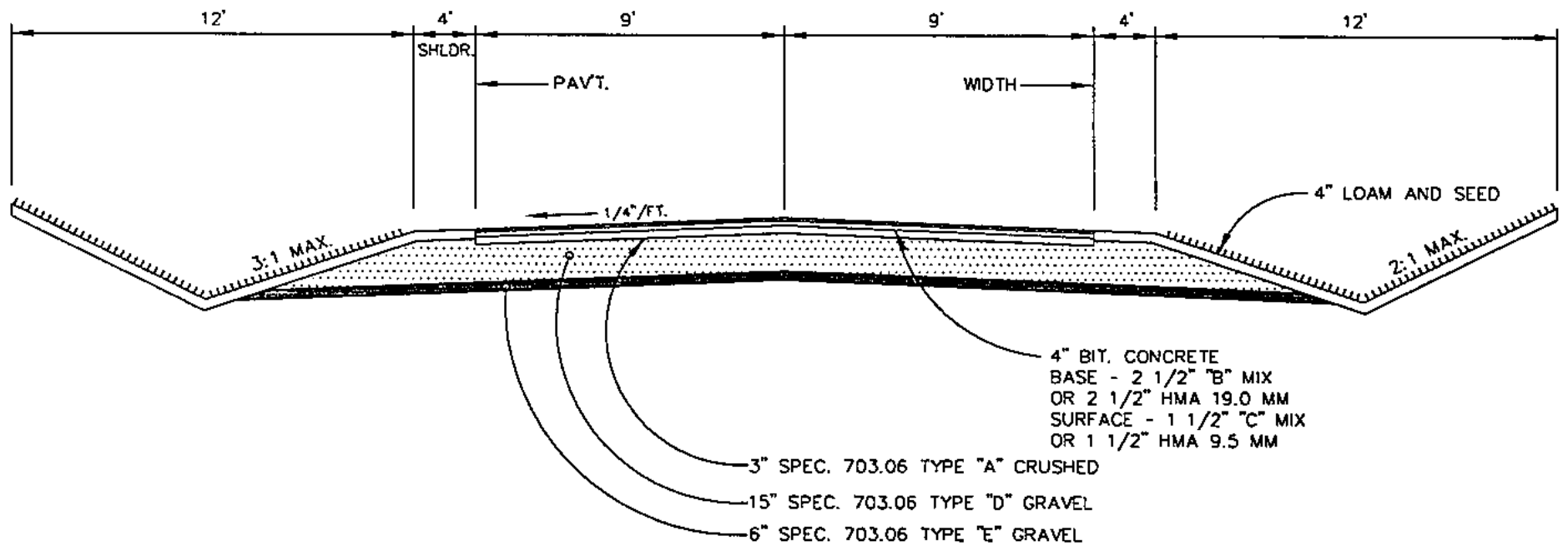


FIGURE 8  
SERVICE  
 NTS

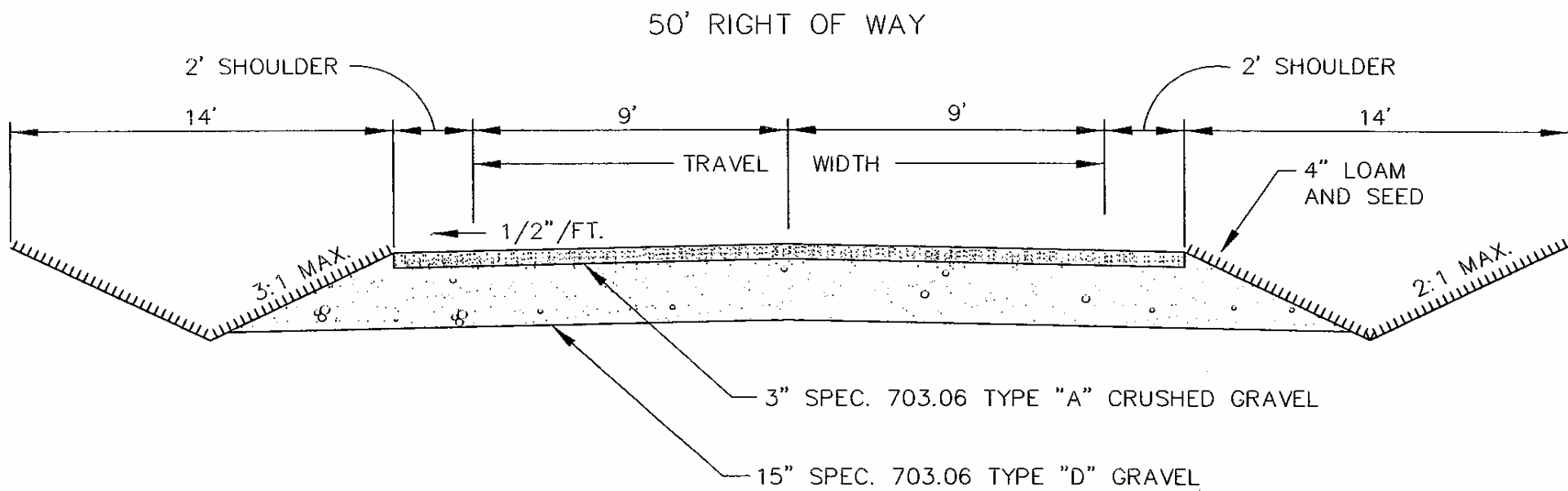


FIGURE 9  
GRAVEL PRIVATE WAY  
 NTS

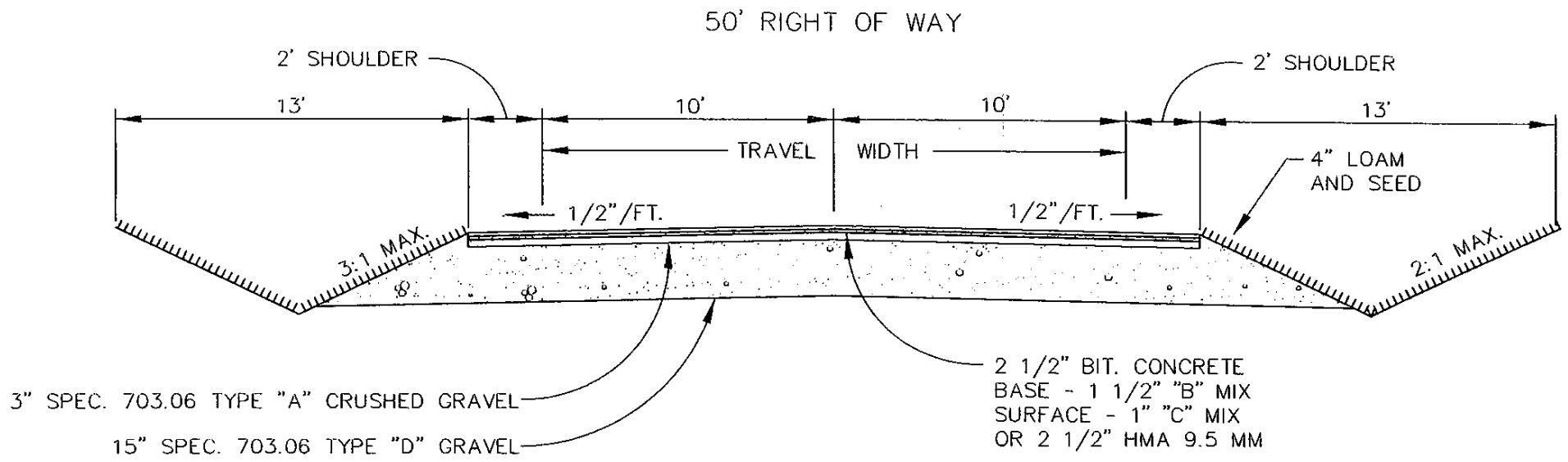


FIGURE 10  
PAVED PRIVATE WAY  
NTS

**	NOTE: MAX. GRADE: LOWER PERCENTAGE PREFERRED; HIGHER PERCENTAGE W/TOWN ENGINEER APPROVAL
	NOTE: AASHTO means the latest edition of "A Policy on Geometric Design of Highways and Streets" by the American Association of State Highway and Transportation Officials.

TABLE 2

Adopted 11/04/97

<b>STREET CLASSIFICATION &amp; DESIGN STANDARDS</b>				
	<b>PRIVATE WAYS</b>			
	<b>Gravel 1 Lot</b>	<b>Gravel 2-6 Lots</b>	<b>Paved 7-10 Lots</b>	<b>Paved 25 Lots</b>
Right of Way Width	50'	50'	50'	50'
Shoulder Width	2'	2'	2'	2'
Shoulder Type	Gravel	Gravel	Gravel	Gravel
Sidewalk	None	None	None	None
Min. Pavement Width (Add 8' of width for each lane of on-street parking)	12'	18'	20'	20'
Minimum Grade	0.70%	0.70%	0.70%	0.70%
Maximum Grade **	6-10%	6-10%	6-12%	6-12%
Min. Centerline Radius	60'	60'	130'	200'
Min. Tangent between curves of reverse alignment	-	-	100'	200'
Min. angle of st. intersection for 60' from the intersection	90	90	90	90
Min. dist. Between st. intersections				
Same Side	-	200'	200'	300'
Opposite Side	-	200'	200'	200'
Max. Grade at Intersections within 60' of intersection	2%	2%	2%	2%
Curb Radii at Intersections				
90 .....	15'	15'	15'	25'
70 - 90.....	15'	15'	30'	30'
90 - 100 .....	15'	15'	30'	30'
Design Speed (mph)	N/A	N/A	25	25
Sight Distance				
K Factor-Crest Vertical Curve	N/A	N/A	20	20
K Factor-Sag Vertical Curve	N/A	N/A	30	30
ADT - Average Daily Traffic	N/A	0-60	0-110	0-250
Max. Length (Dead End Ways)	None	None	None	None
Turn around at Dead End	****	****	****	****
Stormwater Drainage	*	*	*	*
*	<b>NOTE: AS REQUIRED BY THE TOWN ENGINEER</b>			
**	<b>NOTE: MAX. GRADE: LOWER PERCENTAGE PREFERRED; HIGHER PERCENTAGE W/TOWN ENGINEER APPROVAL</b>			
****	<b>NOTE: PRIVATE WAYS SHALL MEET THE DESIGN REQUIREMENTS OF SECTION V.F.,4,a</b>			

MINIMUM STANDARDS AND DIMENSIONS												
	PUBLIC STREETS								PRIVATE WAYS <sup>1</sup>			
<b>MATERIAL</b>	<b>Arterial</b>	<b>Collector</b>	<b>Urban Subcollector</b>	<b>Rural Subcollector</b>	<b>Urban Access</b>	<b>Rural Access</b>	<b>Industrial/ Commercial</b>	<b>Service</b>	<b>Gravel 1 Lot</b>	<b>Gravel 2-6 Lots</b>	<b>Paved 7-10 Lots</b>	<b>Paved 25 Lots</b>
Aggregate Sub-Base Courses												
Type E	18'	12"	12"	9"	9"	9"	12"	6"	-			9"
Type D	15"	15"	15"	12"	12"	12"	15"	15"	12"	15"	15"	12"
Crushed Aggregate Base Course	3"	3"	3"	3"	3"	3"	3"	3"	3"	3"	3"	3"
1 1/2" Crushed, Type A, or Reclaimed												
Hot Bituminous Pavement:												
Total Thickness Compacted	6"	5"	5"	4"	4"	4"	5"	4"	-	-	2 1/2"	3 1/2"
Base Course, B-Mix	2 - 2"	2 - 1 3/4"	2 - 1 3/4"	2 1/2"	2 1/2"	2 1/2"	2 - 1 3/4"	2 1/2"	-	-	1 1/2"	2"
Base Course, HMA 19.0 mm	2 - 2"	3 1/2"	3 1/2"	2 1/2"	2 1/2"	2 1/2"	3 1/2"	2 1/2"	-	-	-	2"
Surface Course, C-Mix	2"	1 1/2"	1 1/2"	1 1/2"	1 1/2"	1 1/2"	1 1/2"	1 1/2"	-	-	1"	1 1/2"
Surface Course, HMA 9.5 mm	2"	1 1/2"	1 1/2"	1 1/2"	1 1/2"	1 1/2"	1 1/2"	1 1/2"	-	-	2 1/2"	1 1/2"
Bituminous Concrete Sidewalk:												
Crushed Aggregate Base Course		10"	10"		10"							10"
Pavement Surface Course C-Mix or HMA 9.5 mm		2 - 1"	2 - 1"		2 - 1"							1"

NOTE: ALL METHODS AND MATERIALS TO MEET SPECIFIED CURRENT M.D.O.T. STANDARDS

## CHAPTER 3: SUBDIVISION

### SECTION 3-1 - AUTHORITY AND ADMINISTRATION

- Purpose
- Authority
- Administration
- Enforcement
- Fines and Penalties
- Variation
- Conflict with Other Ordinances
- Appeals
- Severability

### SECTION 3-2 - PRE-APPLICATION

- Conference

### SECTION 3-3 - PRELIMINARY PLAN

- Application
- Requirements
- Preliminary Plan Review

### SECTION 3-4 - FINAL PLAN

- Application
- Requirements
- Improvement Guarantee
- Final Plan Review

### SECTION 3-5 – POST APPROVAL ACTIVITIES



## CHAPTER 3      SUBDIVISION

### SECTION 3-1 - AUTHORITY AND ADMINISTRATION

#### A.      PURPOSE

The purpose of this chapter of the Land Use and Development Code is to provide uniform procedures and standards for observance by the Planning Board, other Officers of the Town, and developers in regulating new subdivisions in the Town of Gorham.

#### B.      AUTHORITY

In accordance with the provisions of Maine Revised Statutes, the following regulations governing the development of the Town are adopted by the Town of Gorham.

#### C.      ADMINISTRATION

- 1)      The Gorham Planning Board, hereinafter called the Planning Board, shall administer this chapter.
- 2)      Whenever a subdivision of three (3) or more lots is proposed for a parcel or assembly of parcels of land, and before any contract or offer for the conveyance of the proposed development or any portion thereof shall have been made, and before any plat of subdivision into three or more lots shall have been recorded by the registry of deeds, and before any permit for the erection of a structure within such development shall be issued, and before any improvements, including the installation of roads or utilities, shall be undertaken, and before the sale of a third lot shall have been made from a parcel for which a subdivision plat has not been approved, the developer or his authorized agent shall obtain the endorsement of the Planning Board for Final Approval of such development. All developments shall be executed in strict conformance with approved plans.
- 3)      As to any intended development, the developer or his authorized agent shall prepare and formally submit to the Planning Board both a Preliminary Plan for study, and modification where required, and a Final Plan, the Final Plan shall not be submitted until the developer has received from the Planning Board written notice that a legal majority of the Planning Board has approved the Preliminary Plan. These requirements may be waived by the Planning Board in accordance with Subsection F following.
- 4)      Abutting property owners shall be notified by mail of a pending application for subdivision review. This notice shall indicate the time, date, and place of Planning Board consideration of the application.

#### D.      ENFORCEMENT

When the violation of any provision of this chapter shall be found to exist, the Town Council or the Code Enforcement Officer is hereby authorized and directed to institute in the name of the Town any and all actions and proceedings that may be appropriate or necessary to the enforcement of the provisions of this chapter.

#### E.      FINES AND PENALTIES

Any person, firm, corporation or other legal entity who conveys or offers to convey, including by rental or lease, land within a proposed development before receiving Final Approval as required by this Chapter shall be subject to the fines and penalties contained in 30-A MRSA Section 4452.

F. VARIATION

- 1) A variation in the strict application of this chapter or a provision thereof may be permitted only where in the opinion of the Planning Board, strict application to the developer and his property would cause undue hardship, or would not be in the best interest of the Town, or would be waived according to Paragraph 2 following.
- 2) The Planning Board may waive the procedures leading up to the Final Approval required under Sections 3-3 and 3-4 of this chapter when, in its opinion, the development is not of potential impact so as to require governance by this chapter or provisions thereof. The developer may make such request in writing to the Planning Board without appearing in person before it. In so waiving the requirements of those sections, the Planning Board shall nonetheless require a satisfactory description of the nature and extent of the development proposed in drawings and otherwise as necessary to provide a basis on which to give approval. The documents necessary to making application for a Building Permit may be sufficient for this purpose.

G. CONFLICT WITH OTHER ORDINANCES

In any case where a provision of this chapter is found to be in conflict with a provision of any other ordinance or code of the Town existing on the effective date of this Code, the provision which establishes the higher standard for the promotion of health and safety shall prevail.

H. APPEALS

An appeal from any order, relief, or denial of the Planning Board may be taken by any party to Superior Court in accordance with the Maine Rules of Civil Procedure, Rule 80B. The hearing before Superior Court shall be a trial de novo without jury.

I. SEVERABILITY

The invalidity of any section, subsection, paragraph, sentence, clause, phrase or word of this chapter shall not be held to invalidate any other section, subsection, paragraph, sentence, clause, phrase or word of this chapter; to this end, the provisions of this chapter are hereby declared to be severable.

## SECTION 3-2 - PRE-APPLICATION

### A. CONFERENCE

- 1) Prior to formal application for approval, the developer may appear before the Planning Board to discuss the proposed development. No binding commitments shall be made between the Town and the developer at this conference.
- 2) If the developer chooses to meet with the Planning Board in this manner, he shall make request by due process that he be scheduled upon the agenda of a regular meeting of the Planning Board. At that meeting he shall appear with information sufficient to:
  - a) Locate the site and identify the zoning classification.
  - b) Describe the site: its area, shape, and existing features, both natural and man-made.
  - c) Describe the general intent of development. If possible, materials (such as a sketch plan) should be informally submitted to Planning Board staff to allow staff review prior to the meeting.
- 3) The Planning Board shall respond generally by indicating to the developer its concerns and by making suggestions as to what may be possible.

## SECTION 3-3 - PRELIMINARY PLAN

### A. APPLICATION

Complete written application for approval shall be filed with the staff of the Planning Board, together with the Preliminary Plan and all supporting information, at least three weeks prior to a regularly scheduled meeting of the Board. Such written application shall be on forms as prescribed by the Planning Board.

To help recover costs incurred by the Town in the review, administration, site inspection, and public notice associated with the 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 Preliminary Plan application:

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

No fees shall be refunded except unexpended escrow deposits, which shall be refunded in accordance with Chapter 2, Section 2-9, Subsection B of this Code. If a subdivision application is also subject to site plan review under Chapter 4 of this Code, or municipal review under any other ordinance, then the applicant shall pay only the larger review fee exclusive of escrow deposit.

### B. REQUIREMENTS

The Preliminary Plan application submitted by the developer shall consist of four copies of all materials necessary to provide the following information. Where practical, sheet size of drawings shall be 24" x 30". The developer may request a waiver of requirements not relevant or not of substantial import to his proposal, in which case he shall list them.

- 1) Names of: project, Owner, Developer, Surveyor and/or Engineer and/or Architect.
- 2) Graphic and written scale, north point, date.
- 3) Location within the Town, abutting owners, boundaries of tract with accurate distances and bearings.
- 4) Zoning District classification, proposed uses, special exceptions and variances required.
- 5) As applicable: building areas, lot areas and lot coverage ratios; net residential density ratios; street frontages; front, side and rear setbacks; buffer strips; and distances between structures.
- 6) Proposed dedications to open space or public use, and proposed restrictive covenants.
- 7) Proposed construction schedule and phasing of improvements. Plans requiring phasing shall be designed so that each subdivision phase must be recorded in the registry of deeds as a distinct and separate plan. The required Planning Board signature block shall be added to each of the phased subdivision plans.
- 8) Identification, approximate dimensions locating and sizing major features of the development as proposed for approval, including as applicable, streets, drives,

maneuvering space, parking areas, number of spaces, easements and rights-of-way, both within and adjacent to the development; lots or other divisions of land; heights and shapes of existing and proposed structures; and other improvements and facilities.

- 9) Widths and cross-sections including curbs and sidewalks of all proposed and existing streets as prescribed in Chapter 2, Section 2-5.C.1 of this Code; sight distances at proposed intersections with existing streets; directions of traffic flow; means of access for general, service, and emergency vehicles.
- 10) Existing and proposed topography in contours of two foot intervals with all elevations referred to U.S.G.S. datum, and indicating all grading and filling.
- 11) Location and boundaries of soil areas and their names in accord with a Class A Soil Survey as identified in the Maine Association of Professional Soil Scientists guidelines for Maine Certified Soil Scientists for Soil Identification and Mapping and identifying each soil for any separate area of one-eighth of an acre or larger in size. Such study may be peer reviewed as to its accuracy by a third party licensed soil scientist hired by the Town to provide technical assistance to the Planning Board.

The requirement for a Class A survey may be waived to a Class B survey by the Planning Board for subdivisions and subdivision amendments not required to provide the net acreage calculation required under Chapter 1 and/or where public water supply is available to serve the lots.

The requirement for a Class A survey may be completely waived by the Planning Board for subdivision amendments not creating new lots within the subdivision.

- 12) Location of any tests or studies made, such as percolation tests, sample borings, bearing studies, etc.
- 13) Location of existing and proposed modification of natural features such as water bodies, springs, streams, swamps and wetlands, woodlands, cleared areas, trees over 5 inch diameter, gullies and ravines, ledge and outcroppings.
- 14) Proposed planting, including buffer and screening provisions and integration with natural features.
- 15) Existing pattern of surface drainage, modifications proposed to it, flow on and from existing and proposed paved areas.
- 16) Location, size and type of existing and proposed sanitary and storm sewers identifying direction of flow. Description of proposed disposal of storm water and sewage, if connection to public storm and sanitary sewers is not proposed.
- 17) Location, size and type of existing and proposed water supply for both general consumption and fire protection.
- 18) Location of existing and proposed electric and telephone service in accordance with Land Use Code Chapter 2-10 Section 2-10A "Provision of Underground Utilities".
- 19) Proposed means of snow removal, garbage and trash collection, and facilities necessary thereto.
- 20) Proposed storage areas, including facilities for maintenance of the proposed development.
- 21) Proposed outdoor recreation facilities.
- 22) Proposed conservation provisions.

- 23) Where application is made for approval of development of only a portion of a larger tract, the developer shall submit a plan indicating the general form of future development over the remainder and its relationship to the proposed development as submitted for approval.
- 24) Submissions for preliminary subdivision approval shall include evidence that affirmatively demonstrates that the developer has the financial capacity to undertake the proposed development, including the following information:
  - a) Accurate and complete cost estimates of the development;
  - b) Time schedule for construction;
  - c) One of the following three items:
    1. A letter from a financial institution, governmental agency, or other funding agency indicating a commitment to provide a specified amount of funds and the purposes for which the funds may be utilized; or
    2. In cases where funding is required but there can be no commitment of money until approvals are received, a letter of "intent to fund" from the appropriate funding institution indicating the amount of funds and their specified uses; or
    3. Copies of bank statements or other evidence indicating availability of funds when the developer will personally finance the development.
  - d) Any other information deemed relevant by the Planning Board for the specific project.

C. PRELIMINARY PLAN REVIEW

- 1) The Planning Board shall review the Preliminary Plan of the proposed development as submitted. It shall verify the provision of all information as required under the preceding subsection B, and shall accept or deny any waivers requested as listed by the developer at its discretion. It may require the developer to undertake further studies as it deems necessary to ascertain that the public convenience, safety, health and welfare are protected, that the Town will not in the future incur extraordinary expense as a result of the development, either on or off the site, and that the environment will not be harmed unduly.  
  
The applicant shall submit such additional information within twelve (12) months of said Planning Board request. The failure to timely submit such information will result in the application being placed on the next Planning Board meeting agenda for final review.
- 2) The Planning Board shall include in its review the following general and specific requirements that the development as proposed for approval:
  - a) Shall be in conformance with the Comprehensive Plan of the Town, and with all pertinent State and local codes and ordinances, including the Performance Standards related to specific types of development which are stipulated in Chapter 2.
  - b) Will not cause congestion or unsafe conditions with respect to use of the highways or public roads, existing or proposed on or off the site.
  - c) Will not place an unreasonable burden by either direct cause or subsequent effect on the ability of the Town to provide municipal services including utilities, waste removal, adequate roads, fire and police protection, school facilities and transportation, recreational facilities, and others.

- d) Has sufficient water supply available for present and future needs as reasonably foreseeable.
  - e) Will provide for adequate solid and sewage waste disposal for present and future needs as reasonably foreseeable.
  - f) Will not result in undue pollution of air, or surficial or ground waters, either on or off the site. The Planning Board shall consider at least: the nature, location and course of all potential contaminants to the air or water; and particularly in respect to pollution of water, the elevation of the proposed development above bodies of water in the vicinity, the extent of flood plains, the nature of soil and subsoil both in their function as aquifers and in their ability to adequately support waste disposal-- the topography of the land and its relation to the movement and disposal of effluents, and the availability, adequacy and suitability of streams for the disposal of effluents.
  - g) Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.
  - h) Will not affect the shoreline of any body of water in consideration of pollution, erosion, flooding, destruction of natural features and change of ground water table so that a dangerous or unhealthy condition may result.
  - i) Will respect fully the scenic or natural beauty of the area, trees, vistas, topography, historic sites and rare or irreplaceable natural or manmade assets.
  - j) Financial Capacity to Meet Subdivision Regulations. The applicant must have adequate financial resources to construct the proposed improvements and meet the criteria standards of these regulations. The Board will not approve any plan if the applicant has not proven its financial capacity to undertake it.
- 3) Every subdivision shall be responsible for providing open space and recreational land and facilities to meet the additional demands created by the residents of the subdivision. This requirement shall be met by the payment of a Recreational Facilities and Open Space Impact Fee in accordance with Chapter 7.
- 4) The requirements of this paragraph shall apply if an applicant chooses to create open space and/or recreational land and facilities within the subdivision in addition to paying the impact fee. The reserved land shall remain private property owned in common by a homeowners association and must be of suitable dimension, topography and general character for the proposed-use and must be reasonably accessible and open to use by residents of the development and may, at the applicant's option, be open to the residents of the Town.
- a) Land Improvements: The applicant shall improve the land according to the proposed use of the land and the requirements of the Planning Board.
  - b) Owners Association: The Planning Board shall require as a condition of approval for any subdivision with common recreational land and facilities and/or open space, that the lot owners form a homeowners association by written agreement to provide for the perpetual care of the recreation land and shall specify the rights and responsibilities of each lot owner with respect to the repair and maintenance of the land reserved for recreational or open space purposes. The homeowner's association agreement shall be in a form acceptable to the town attorney and, upon approval by the Planning Board, shall be recorded in the Cumberland County Registry of Deeds within ninety (90) days of the date of subdivision approval by the Planning Board. The agreement shall also contain a provision that allows the Town, at its option, to repair and maintain this land and charge the costs

to the lot owners through the homeowners association in the event that the association fails to maintain the property as agreed, after the Town has first provided reasonable notice and an opportunity to cure.

- 5) The Planning Board shall decide on the acceptability of the Preliminary Plan and shall issue its approval, conditional approval, or denial. It shall note all specific aspects which do not meet with its approval either in specifically satisfying the criteria listed in Subsections B and C above, in meeting the Performance Standards stipulated in Chapter 2, or in generally providing for the protection and preservation of the public's health, safety and welfare. The Planning Board may grant its conditional approval of any or all aspects of the Preliminary Plan pending any changes required in order to bring it into conformance with its approval, or pending the results of further studies required of the developers as provided for in Subsection C:1 above.
- 6) The Planning Board shall issue a written notice through its minutes or otherwise, of its decision within sixty days after complete application for a proposed development has been submitted. By mutual agreement between the Planning Board and the applicant, this period may be extended as necessary to permit the developer to seek an appeal on land use from the Zoning Board of Appeals.

#### SECTION 3-4 - FINAL PLAN

##### A. APPLICATION

A request for Final Approval shall be made by the developer in writing to the Planning Board, and shall be accompanied by the Final Plan, a Performance Guarantee and other materials as described herein. Application for Final Approval shall be made on forms as prescribed by the Planning Board.

##### B. REQUIREMENTS

- 1) The Final Plan shall be prepared by a registered professional surveyor or a registered professional engineer. The Final Plan shall include the original drawn on permanent transparency material and three dark-line prints, all prepared to the same scale as the Preliminary Plan unless otherwise prescribed by the Planning Board as being necessary to show all details clearly. The seal(s) of the registered professional surveyor and/or engineer, and/or architect responsible for the Final Plan shall be affixed to all sheets. The plan drawing shall list all others submitted with it to include them by reference as part of the Final Plan. It shall also provide space for the Signatures of a legal majority of the Planning Board and the date of approval following the words, "Approved: Town of Gorham Planning Board." The following information shall be required:
  - a) All information required of the Preliminary Plan.
  - b) The identification and location of all monuments, existing and proposed.
  - c) Information sufficient to establish on the ground the exact location, direction, width and length of every street and way line, easement, property line and boundary line.
  - d) The location, size and type of planting and landscaping for such parks, esplanades or other open spaces as may be proposed or prescribed.
  - e) Longitudinal profiles, radii of curves, and angles of intersections for all proposed streets.
- 2) The Final Plan shall be accompanied by the following documents as applicable:



- a) Private restrictions and easements, conditions of sale and trusteeships, and their periods of existence.
- b) A statement from the Superintendent of the Portland Water District of conditions on which the District will supply water, and approving the size and location of mains, valves and hydrants proposed.
- c) A statement from the Fire Chief of the Town of Gorham approving the number, size and location of hydrants and their supply mains proposed.
- d) A statement from the Public Works Director if connection to public storm sewers is proposed approving the location, diameter, slope and invert elevations of the storm sewers proposed.
- e) Statements of approval of the means of sanitary sewerage proposed from the appropriate State Agencies having jurisdiction, together with evidence of suitability of soil and/or water bodies to dispose of the effluent from the proposed treatment of sanitary wastes and from storm water run-off.
- f) Offers of cession in a form certified as satisfactory by the Town Attorney of all land included in streets, highways, parks or other open space ultimately to be dedicated for public use, or not specifically reserved by the developer.
- g) Proof from the Board of Appeals of the granting of an appeal for a variance or special exception, if required, and any conditions imposed.

C. FINAL PLAN REVIEW

- 1) The Planning Board shall review the Final Plan of the proposed development as submitted. It shall verify the provision of all information as required under the above subsections, and the provision of any additional information requested during the Preliminary Review. It shall examine any changes made subsequent to the Preliminary Plan for satisfactory correction.
- 2) The Planning Board shall approve or deny the Final Plan, taking into consideration the general and specific requirements listed under this Chapter.
- 3) No Final Plan shall be approved by the Planning Board unless submitted by the developer or his authorized agent within 12 months from the Issuance of Preliminary Approval.
- 4) The Planning Board shall issue a written notice directed to the applicant through its minutes or otherwise, of its decision within thirty days after application for Final Approval has been submitted.
- 5) The approval of a Final Plan by the Planning Board shall not be deemed an acceptance by the Town of the dedication of any street, or other public way or grounds.
- 6) The approval of a Final Plan shall be certified on the original tracing by the signatures of a legal majority of the members of the Planning Board.
- 7) Two signed copies of the Final Plan as approved shall be retained by the Planning Department (1) and the Assessing Department (1). One (1) original mylar of the signed plan shall be recorded in the Registry of Deeds. A mylar copy of the recorded mylar shall be returned to the Planning Department.
- 8) No subdivision plan shall be released for recording at the Registry of Deeds until the required performance guarantee has been posted. If an approved plan is not recorded in the Registry of Deeds within one (1) year of the original approval, it shall become null and void. If a plan has received phased approval, the first phase shall be recorded within one (1) year of the original approval and subsequent phases shall be recorded within five (5) years of the original approval. If a phased plan is not recorded within those time periods, the phases that have not been recorded shall become null and void.
- 9) Municipal subdivision approval granted prior to August 1, 1972 of any final plan or other subdivision plat shall be deemed withdrawn unless said plan is recorded in the Cumberland County Registry of Deeds by August 1, 1982.

SECTION 3-5 - POST APPROVAL ACTIVITIES

A. Performance Guarantee:

- 1) Purpose: Improvement guarantees shall be provided to ensure that the applicant has the financial capability to properly install and maintain the required street, utility, and other improvements.
- 2) Types of Guarantees. The applicant shall provide one of the following performance guarantees for an amount adequate to cover 125% of the total construction costs of all required improvements. Performance and maintenance guarantees shall be provided

by a variety of means including, but not limited to the following, which must be approved as to form and enforceability by the Town Manager and Town Attorney:

- a. Escrow Account: Either a certified check payable to the municipality or a savings account or certificate of deposit naming the municipality as sole owner;
  - b. Security Bond: A performance bond payable to the municipality issued by a surety bonding company authorized to do business in the State of Maine;
  - c. Letter of Credit: An irrevocable letter of credit, from a bank or other reputable lending or financial institution.
- 3) Contents of Guarantee: The performance guarantee must contain the following:
  - a. Construction schedule; and
  - b. Cost estimates for each phase of construction taking into account as-built drawings, survey monumentation, required legal documents, provisions for inspections of each phase of construction, and a date after which the applicant will be in default and the municipality shall have access to the funds to finish construction.
- 4) Escrow Account. A cash contribution for the establishment of an escrow account must be made by either a certified check made out to the Town of Gorham, the direct deposit into a savings account, or the purchase of a certificate of deposit.
  - a. For any account opened by the applicant, the Town of Gorham must be named as owner or co-owner, and the consent of the Town must be required for any withdrawal.
  - b. The Town shall be authorized to make withdrawals without the signature of the applicant, pursuant to the performance schedule.
- 5) Performance Bond. A performance bond must detail the conditions of the bond, the method for release of the bond or portions of the bond to the applicant, and the procedures for collection by the municipality. The bond documents must specifically reference the subdivision for which approval is sought and the approved costs estimates.
  - a. The applicant shall submit a draft copy of the performance bond to the Town Planner for review and approval prior to issuance of the final performance bond.
- 6) Letter of Credit. An irrevocable letter of credit from a bank or other reputable lending institution with offices in the region must indicate that funds have been set aside for the construction of the subdivision.
  - a. The letter of credit must use the template established by the Town of Gorham, unless waived by the Town Manager in consultation with the Town Attorney.
- 7) Phasing of Development: The Planning Board may approve plans to develop a subdivision in separate and distinct phases. If the subdivision is located in the Rural or Rural-Manufactured Housing zoning district, and the subdivision has ten (10) lot or more, subdivision phases shall be limited so that no more than five (5) lots are allowed in an individual phase. For all other zones, if the subdivision has fifty (50) lots or more, subdivision phases shall be limited so that no more than twenty-five (25) lots are allowed in an individual phase. Only one (1) phase will have building permits issued at a time until at least ninety percent (90%) of the certificates of occupancy have been issued for that phase and all required improvement for that phase have been

completed, except for finish paving of streets. In no event shall more than two (2) phases of the subdivision be under construction at the same time. The phases must be designed so that they can be recorded at the Registry of Deeds as separate and distinct plans. No phased plans will be released for recording at the Registry of Deeds until the performance guarantee for that phase has been established as required under this section.

- 8) Release of Guarantee. While partial draws are permitted, the amount of each must be no less than twenty percent (20%) of the original amount. The developer shall submit to the Town Planner a copy of the approved schedule of values identifying items substantially completed and being requested for release. The Town Planner shall send a copy of such notice to the appropriate municipal officials: The Zoning Administrator, Fire Chief, Town's Inspecting Engineer, and/or the Public Works Director or the Director's designee. The respective municipal officials shall inspect all improvements of which such notice has been given and shall file a report with the Town Planner indicating either approval, partial approval, or rejection. Prior to the release of any part of the performance guarantee, the Town Manager, or his designee, shall determine to his/her satisfaction, in part upon the report of the Town's consulting engineer or other qualified individual retained by the municipality and departments who may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion or phase of the subdivision for which the release is requested.
- 9) Default: If upon investigation, the Town or the Town's consulting engineer finds that any of the required improvements have not been constructed in general conformance with the plans and specifications filed as part of the application, he or she shall report in writing to the Code Enforcement Officer, the Town Manager, the Town Planner, and the applicant or builder. The Town Manager, or his designee, shall take any steps necessary to preserve the municipality's rights.
- 10) Performance guarantees for subdivision containing streets designed to the Town's public way standards and meant to be offered to the Town for acceptance are subject to the provisions under Chapter 2, Section 2-5: Minimum Standards for the Design and Construction of Streets and Ways, E. Acceptance of Streets and Ways, 4), h).

B. Improvements

In no event shall building permits be issued for more than 50% of the lots or units within a development until:

- 1) All required off-site public improvements have been completed, unless otherwise approved by the Planning Board, based upon the Board's determination that extenuating circumstances exist and an adequate performance guarantee is in place to ensure the completion of the uncompleted public improvements. For purposes of this section only, extenuating circumstances may include, but are not limited to, delays in related Town, State or federal improvement projects that impact the required public improvements or delays caused by weather or unforeseen site conditions. The Planning Board's decision on whether extenuating circumstances exist to excuse completion of required off-site improvements prior to the issuance of more than 50% of the building permits shall be final.
- 2) All required streets are either constructed or the guarantee required by Chapter 2, Section 2-5.E.4.f has been posted with and accepted by the Town.
- 3) All required stormwater facilities and erosion control measures have been installed, as required by the approved plan, other than those facilities required as part of the development of an individual lot.

- 4) Where the Planning Board has approved a phased development, this limitation shall apply to each separate phase. Public improvements both on- and off-site shall be assigned to a phase of development as part of the Planning Board's approval of the subdivision.

CHAPTER 4: SITE PLAN REVIEW

SECTION 4-1 - PURPOSE

SECTION 4-2 - APPLICABILITY

SECTION 4-3 - CLASSIFICATION OF PROJECTS

SECTION 4-4 - REVIEW AND APPROVAL AUTHORITY

SECTION 4-5 - OPERATION OF SITE PLAN REVIEW COMMITTEE

SECTION 4-6 - CLASSIFICATION OF PROCEDURES

SECTION 4-7 - PROCEDURES FOR MINOR DEVELOPMENTS

SECTION 4-8 - PROCEDURES FOR MAJOR DEVELOPMENTS

SECTION 4-9 - APPROVAL CRITERIA AND STANDARDS

SECTION 4-10 – POST APPROVAL ACTIVITIES

SECTION 4-11 - FEES

SECTION 4-12 - WAIVERS

SECTION 4-13 - APPEAL OF PLANNING BOARD ACTIONS

## CHAPTER 4 SITE PLAN REVIEW

### SECTION 4-1 - PURPOSE

- A. In an era of increasing complexity in urban life, the development of private land can have a profound impact upon the cost and efficiency of public services, and upon those facilities and environmental qualities conducive to the well-being of citizens, such as open space and the efficiency and safety of vehicular and pedestrian movement. The regulations of Chapters I, II, and III of the Land Use and Development Code of the Town of Gorham are sufficient to advance those objectives and to protect the health, safety, convenience and general welfare of the citizens of the Town of Gorham where development involves only the construction of single and two-family dwellings and agricultural building units; but those regulations need to be supplemented when development involves commercial, retail, industrial, institutional uses or multiple family residential development to address site-specific concerns.
- B. The purpose and objectives of these site plan review requirements and the site review procedures for uses other than single-family and duplex dwellings in residential zones and agricultural uses and structures in Rural and Residential Districts are to:
- 1) Encourage originality, flexibility and innovation in site planning and development, including the architecture, landscaping and graphic design of the development;
  - 2) Discourage monotonous, drab, unsightly, dreary and inharmonious developments;
  - 3) Conserve the Town's natural beauty and visual character and charm by insuring that structures, signs and other improvements are properly related to their sites, and to surrounding sites and structures, with due regard to the aesthetic qualities of the natural terrain and landscaping, and that proper attention is given to exterior appearances of structures, signs, and other improvements;
  - 4) Protect and enhance the Town's appeal to its residents and visitors and thus support and stimulate business and industry and promote the desirability of investment and occupancy in business, commercial and industrial properties;
  - 5) Stabilize and improve property values and prevent blighted areas and, thus, increase tax revenues;
  - 6) Achieve the beneficial influence of pleasant environments for living and working on behavioral patterns and, thus, decrease the cost of governmental services;
  - 7) Foster civic pride and community spirit so as to improve the quality and quantity of citizen participation in local government and in community growth, change and improvement;
  - 8) Sustain the comfort, health, tranquility and contentment of residents and attract new residents by reason of the Town's favorable environment; and
  - 9) Conserve and protect the natural environment;

And, thus, to promote and protect the health, welfare and safety of the Town.

## SECTION 4-2 - APPLICABILITY

- A. The requirements of this section shall apply to the following:
- 1) The construction of any new, nonresidential building or structure, except for nonresidential structures that are less than 250 square feet in area and that meet the following requirements:
    - a. The proposed structure meets all applicable dimensional requirements for the zoning district in which it is located;
    - b. The proposed structure will not be located in any area designated on an approved site plan or subdivision plan as open space, buffering, or drainage;
    - c. The proposed structure will not be located in the Urban Commercial or Village Centers Districts; and
    - d. All other state and local permits required for the construction of the proposed structure have been secured.
  - 2) The expansion of an existing nonresidential building or structure, except for additions to nonresidential structures that are less than 250 square feet in additional area cumulatively over a 5-year period and that meet the following requirements:
    - a. The proposed addition meets all applicable dimensional requirements for the zoning district in which it is located;
    - b. The proposed addition will not be located in any area designated on an approved site plan or subdivision plan as open space, buffering, or drainage;
    - c. The proposed addition will not be located in the Urban Commercial or Village Centers Districts; and
    - d. All other state and local permits required for the construction for the proposed addition have been secured.
  - 3) The conversion of an existing building, in whole or in part, from residential to nonresidential use;
  - 4) The construction of any new residential structure or development containing three (3) or more dwelling units;
  - 5) The modification or expansion of an existing residential structure which results in an increase in the number of dwelling units in the structure to three (3) or more;
  - 6) The conversion of an existing nonresidential building or structure into a residential use with three (3) or more dwelling units;
  - 7) Except as otherwise provided under Chapter 2, Section 2-1 (C), earth moving, removal, grading or filling activities which involve more than one thousand (1,000) cubic yards of material and which is not associated with a building construction project;
  - 8) The construction or expansion of impervious surface such as, but not limited to: pavement, concrete, brick, stone and gravel including access drives and parking lots involving an area of more than one thousand (1,000) square feet;
  - 9) The establishment of a new nonresidential use even if no buildings or structures are proposed. except as provided in Subsection B.2 of this section, or
  - 10) The construction of any residential condominium development as defined in Chapter 1, Section 1-5.
- B. 1) This section does not apply to the construction or modification of single-family



homes or two-family homes that are not part of a residential condominium development, the construction or modification of a residential unit in conjunction with a lawful home occupation, the placement of manufactured housing on individual lots, agricultural buildings or structures, agriculture and forest management and timber harvesting activities.

- 2) Notwithstanding the requirements of Subsection A.9) above, site plan review shall not be required for a change of use from an existing nonresidential use to a new nonresidential use if the following standards are met:
  - a. The new nonresidential use is a permitted use in the zoning district in which it is proposed;
  - b. The new nonresidential use will not substantially increase traffic or require the addition of any new curb cuts or driveways or the modification of any existing curb cut or driveway. For purposes of this section a substantial increase in traffic shall consist of any one or more of the following:
    - i. An increase in vehicle trips of 20% or more as determined using standards set forth in the Institute of Traffic Engineers Trip Generation Manual, latest edition, as may be amended from time to time;
    - ii. An increase in the number of parking spaces required by Chapter 2, Section 2-2(A); or
    - iii. The proposed addition of a drive through service window; or
  - c. The new non-residential use will not create a substantial fire or safety hazard as determined by the Fire Chief;
  - d. The hours of operation will not exceed 6:00 A.M. to 10:00 P.M.
  - e. The new nonresidential use will not require substantial changes to the existing exterior of the building or to the lot in any district, except the Urban Commercial and Village Centers Districts, where any proposed changes to the exterior of the building or to the lot itself will require site plan review under the requirements of Chapter 1, Sections 1-9 and 1-10; and
  - f. The area of the change of use in the existing building does not exceed 20,000 SF of floor area in the Industrial District or 5000 SF of floor area in any other District.
- C. No land, building or structure shall be used or occupied and no building permit, sign permit, plumbing permit, or certificate of occupancy shall be issued for a development within the scope of this chapter unless and until a final plan of the development has been approved in accordance with the procedures set forth below.

#### SECTION 4-3 - CLASSIFICATION OF PROJECTS

- A. Projects subject to site plan review shall be divided into two (2) classes, Minor Developments and Major Developments.
  - 1) A Minor Development project shall be subject to staff review and shall include any project which:
    - a. Involves the construction or addition of fewer than twenty thousand (20,000) square feet of gross floor area in a nonresidential building or structure in the Industrial, Olde Canal Industrial, Agricultural/Industrial, and Narragansett

Mixed-Use Districts. Lots in Planning Board approved commercial, industrial or business park subdivisions shall allow for minor development review equal to the building sizes outlined in the subdivision approval.

- b. Involves the addition of less than twenty percent (20%) of the existing gross floor area but not more than ten thousand (10,000) square feet of floor area in a nonresidential building or structure in any district other than the Industrial, Olde Canal Industrial, Agricultural/Industrial, and Narragansett Mixed-Use Districts within any three-year period. Lots in Planning Board approved commercial, industrial, or business park subdivisions shall allow for minor development review equal to the building sizes outlined in the subdivision approval.
- c. Involves the construction of less than ten thousand (10,000) square feet of floor area in a nonresidential building or structure in the Rural, Mosher Corner Mixed-Use, or Roadside Commercial Districts within any three-year period. Lots in Planning Board approved commercial, industrial, or business park subdivisions shall allow for minor development review equal to the building sizes outlined in the subdivision approval.
- d. Involves the construction of less than two thousand (2,000) square feet of floor area in a nonresidential building or structure in the Urban Residential, Suburban Residential, Village Centers, Urban Commercial, Office Residential, or Village Expansion Districts, 10 Preble Street Conditional Zone and McLellan-Sampson House Conditional Zone, within any three-year period.
- e. Involves the construction of a residential structure with four (4) or fewer units..
- f. Involves the modification or expansion of an existing residential structure in which the number of dwelling units after construction will be four (4) or less.
- g. Involves the conversion of an existing residential building, in whole or in part, to a nonresidential use with the exception of bed and breakfast establishments with public dining as an accessory use and inns, which shall be reviewed as major developments under this Chapter.
- h. Involves earth moving, removal, grading or filling activities which involve ten thousand (10,000) cubic yards of material or less and which are not subject to the gravel pit provisions of Chapter 2, Section 2-1(C). Lots in Planning Board approved commercial, industrial, or business park subdivisions shall allow for minor development review equal to the amount of fill outlined as part of the subdivision approval.
- i. Involves the construction or expansion of an impervious surface excluding structures such as, but not limited to: pavement, concrete, brick, stone and gravel with fewer than ten thousand (10,000) square feet of area within any three-year period. Lots in Planning Board approved commercial, industrial, or business park subdivisions shall allow for minor development review equal to the imperious surfaces outlined in the subdivision approval.

- 2) Major development - A major development shall be any project requiring site plan review which is not classified as a Minor Development Project.

#### SECTION 4-4 - REVIEW AND APPROVAL AUTHORITY

- A. Major Developments - The Planning Board is authorized to review and act on all site plans for major developments. In considering site plans under this section, the Planning Board may act to approve, disapprove or approve the project with such conditions as are authorized by this Chapter.

- B. Minor Developments - The Site Plan Review Committee shall consist of the Town Planner, Town Engineer, Code Enforcement Officer, or their designees. It is authorized to review all site plans for minor developments and may approve, disapprove, or approve the project with such conditions as are authorized by this Chapter. Actions of the Site Plan Review Committee to approve an application or approve an application with conditions shall require the affirmative vote of all members of the Committee or their designees. The disapproval of one (1) or more members shall constitute denial of the application.

#### SECTION 4-5 - OPERATION OF THE SITE PLAN REVIEW COMMITTEE

The Town Planner shall serve as Chairman of the Site Plan Review Committee and shall be responsible for calling meetings of the Committee, presiding at its meetings, and maintaining the records of the Committee. In the absence of the Town Planner or his designee, the Town Engineer shall serve as chairman pro tem.

If any member of the Site Plan Review Committee shall be unable to attend any meeting of the Committee, he may designate another member of that department to serve in his place. Such designation shall be in writing and shall apply only to that meeting. This designee shall have all the power and authority as the department head.

The Site Plan Review Committee shall meet as needed on a day agreeable to the members of the Committee. Meetings of the Committee shall be advertised in the same manner as those of other Town committees and shall be open to the public.

If a vacancy exists in any of the positions serving on the Committee, the Town Manager shall name an interim committee member with appropriate expertise in the respective department, until such vacancy is filled.

#### SECTION 4-6 - CLASSIFICATION PROCEDURES

Upon receipt of an application for site plan review, the Town Planner shall classify the application as a Major Development or Minor Development.

#### SECTION 4-7 - PROCEDURES FOR AN ADMINISTRATIVE REVIEW OF DEVELOPMENTS

- A. Pre-application Conference - Applicants for site plan review of a Minor Development are encouraged to schedule a pre-application conference with the Town Planner. The purpose of this meeting is to familiarize the applicant with the review procedures and submission requirements, and the approval criteria and to familiarize the Town Planner with the nature of the project. No decisions relative to the plan may be made at this meeting.

In connection with the pre-application review, the Town Planner may determine that an on-site inspection be held to familiarize the Site Plan Review Committee with the project site. The on-site inspection shall be scheduled by the Town Planner and shall be attended by the applicant and/or the applicant's representative and members of the Site Plan Review Committee.

- B. Application Procedure - The owner or his representative shall submit a formal application for Minor Site Plan Review and approval to the Office of the Town Planner. The application shall consist of:
- 1) A fully executed and signed copy of the application for site plan review (provided by the Town);
  - 2) Seven (7) copies of a site plan and supporting documentation as described in Subsection C; and
  - 3) The required publishing and public notice, application, and field inspection fees.

Upon receipt of an application, the Planning Office shall provide the applicant with a dated receipt showing the nature of the application and the fees paid.

Within ten (10) working days of receipt of an application for a Minor Site Plan Review, the Town Planner shall review the application and determine if the application meets the submission requirements set forth in Subsection C. Prior to determining the completeness of the application and considering waiver requests, the Town Planner may solicit the input of other department heads, including those who participate in the Site Plan Review Committee. If the application is complete, the Town Planner shall notify the applicant and the Chairman of the Planning Board in writing of this determination and the action on any waivers and shall provide copies of the application to the Code Office, Town Engineer, and any other Department Head as needed. If the application is incomplete, the Town Planner shall notify the applicant in writing of this determination, specify what additional materials or information are required to complete the application, and advise the applicant that the revised application package will be re-reviewed for completeness when it is resubmitted.

In addition, if the application is deemed to be complete, the Town Planner shall notify all abutters to the site as shown on the Assessor's records, in writing, that an application has been filed. This notice shall contain a brief description of the proposed activity and the name of the applicant. It shall advise the party that a copy of the application is available for inspection, that written comments on the application will be received and considered by the Site Plan Review Committee if submitted by the end of the departmental review period, and that they may request that the application be considered by the Committee at a meeting of the Committee. Failure of any abutter to receive such notice shall not be grounds for delay of any consideration of the application or denial of the project.

C. Submission Requirements - The application for site plan review of a Minor Site Plan Review shall contain at least the following exhibits and information:

1) Seven (7) copies of written materials plus seven (7) sets of site plans, maps, or drawings containing the information listed below. The written materials shall be contained in a single report. The site plan, maps, or drawings shall be at a scale sufficient to allow review of the items listed under approval criteria, but in no case shall be more than fifty (50) feet to the inch for that portion of the tract of land being proposed for development:

a. General Information

1. Record owner's name, address, and phone number and applicant's name, address and phone number if different.
2. Location of all building setbacks, yards and buffers required by this Ordinance.
3. Names and addresses of all abutting property owners, including those in neighboring towns, if applicable.
4. Sketch map showing general location of the site within the Town based upon a reduction of the Town tax maps.
5. Boundaries of all contiguous property under the control of the owner or applicant regardless of whether all or part is being developed at this time.
6. The assessing tax map and lot number of the parcel or parcels.
7. A copy of the deed to the property, option to purchase the property or

other documentation to demonstrate right, title or interest in the property on the part of the applicant.

8. The name, registration number and seal of the architect, engineer and/or similar professional who prepared the plan.
9. A general description of the proposed activity or use.

b. Existing Conditions

1. Zoning classification(s) of the property and the location of zoning district boundaries if the property is located in two (2) or more zoning districts or abuts a different district.
2. Location and size of any existing sewer and water mains, culverts and drains, on-site sewage disposal systems, wells, and power and telephone lines and poles on the property to be developed and of any that will serve the development from abutting streets or land.
3. Location, names, and present widths of existing streets and rights-of-way within or adjacent to the proposed development.
4. Location, dimensions and ground floor elevations of all existing buildings on the site.
5. Location and dimensions of existing driveways, streets, parking and loading areas and walkways on the site.
6. Location of intersecting roads or driveways within two hundred (200) feet of the site.
7. Location of open drainage courses, floodplains, wetlands, stands of trees, and other important natural features, with a description of such features to be retained.
8. The direction of existing surface water drainage across the site.
9. Location, front view and dimensions of existing signs.
10. Location and dimensions of any existing easements and copies of existing covenants or deed restrictions.
11. Location of the nearest fire hydrant, dry hydrant or other water supply for fire protection and any existing fire protection systems.

c. Proposed Development Activity

1. Location and dimensions of all provisions for water supply and wastewater disposal and evidence of their adequacy for the proposed use including test pit data if on-site sewage disposal is proposed.
2. The direction of proposed surface water drainage across the site.
3. Provisions for handling solid wastes including the location and proposed treatment of any on-site collection or storage facilities.
4. Location, dimensions, and ground floor elevations of all proposed buildings or expansion on the site.

5. Location and dimensions of proposed driveways, parking and loading areas, and walkways.
  6. Location, front view, materials, and dimensions of proposed signs together with the method for securing the sign.
  7. Location and type of exterior lighting.
  8. Proposed landscaping and buffering.
  9. Schedule of construction, including anticipated beginning and completion dates.
  10. Location of all utilities, including fire protection systems.
  11. Statement of any hazardous materials that will be stored or used on the site.
- d. Wind Energy Systems – Additional Plan Requirements
1. Property lines and physical dimensions of the property directly abutting the properties in all directions and properties for which easements have been granted.
  2. Location of the wind system tower.
  3. Location of all residential structures within 250 feet of the proposed wind system tower.
  4. Location of all overhead utility and telephone lines within 250 feet of the proposed wind system tower.
  5. Location of all public and private road rights-of-way within 250 feet of the proposed wind system tower.
  6. Location of other rights-of-way, including but not limited to, railroads and utility corridors within 250 feet of the proposed wind system tower.
  7. Location of other Wind Energy Systems, telecommunication towers, MET towers, and water towers within 250 feet of the proposed wind system tower.
  8. Wind Energy Systems supported by lattice tower(s) are required to submit the following:
    - a. Elevation drawings of the proposed wind tower system in relation to other structures and existing vegetation.
    - b. Photo representations of the proposed facility taken from the perspectives determined by the Site Plan Review Committee or the Town Planner during the pre-application conference. Each photo must be labeled with the line of sight, elevation, and the date taken imprinted on the photograph. The photos must show the color of the facility and method of screening.
    - c. A narrative discussing:
      - i. The tree line elevation within 100 feet of the facility.

- ii. The extent to which the proposed facility would be visible from abutting properties and from designated scenic resources.

e. Supplemental Information

If the Town Planner determines that the project has the potential for having significant adverse impact on traffic flow or safety or on the environment, he may require the applicant to submit a traffic impact assessment and/or an environmental impact assessment.

The Town Planner may require the applicant to provide a boundary survey of the parcel if the property lines are not clearly and easily determined on the ground.

The applicant shall delineate on the plan or supply such other information, studies and/or reports from qualified professionals that the Town Planner may request under this section when the Town Planner determines said information to be reasonably necessary to make any of the determinations required by this Chapter, or to impose or carry out conditions of approval. The applicant shall submit such additional information within twelve (12) months of said request. The failure to timely submit such information will result in the application being placed on a subsequent Site Plan Review Committee meeting agenda for final review.

f. Approval Block

Space shall be provided on the plan for the three signatures of the Site Plan Review Committee and the date, together with the following words, "Approved: Town of Gorham Site Plan Review Committee.

The applicant may request a waiver of any of the submission requirements. Such request shall be in writing and shall be made at the time of submission of the application. The request shall specify why the waiver is being sought. The Town Planner shall review any requests for waivers and shall act on those requests prior to determining the completeness of the application. Upon request, the Town Planner shall waive any such submission requirement as he determines unnecessary to allow the Site Plan Review Committee to determine the application's compliance with the approval standards.

- D. Review Procedures - Within ten (10) days of the application being determined to be complete, all the Department Heads and review staff shall review the application and shall provide the Town Planner with a written review of the application. These reviews shall evaluate the application's conformance with the approval criteria and standards and identify any areas in which the department has questions about conformance with local ordinances. If any department fails to respond within the ten (10) working day review process, this shall mean that the department has no concerns about the project.

1) No adverse comments

If no adverse comments are received by the Town Planner as a result of the department review process and if no adverse written comments or written requests for a meeting of the Committee are received from an abutter to the project by the end of the ten (10) working day review period, the Town Planner shall:

- a. Declare the application approved, sign the site plan, and have the members of the Site Plan Review Committee sign the site plan,

- b. Notify the applicant and Chairman of the Planning Board in writing of the approval, and
- c. Notify any abutter who requested to be notified or who commented on the application of the action.

2) Site Plan Review Committee meeting

The Site Plan Review Committee shall consider the application at a regular meeting of the Committee within 30 days of the application being considered complete. The Town Planner shall notify the applicant, Chairman of the Planning Board, media, and any abutters who commented on the application or requested a Committee meeting in writing of the date, time, and place of the meeting.

The applicant and/or his representatives shall be allowed to make a presentation on the application, address any comments made by the staff or public, and present any revisions to address these issues.

Any abutters may comment on the application or ask questions of the applicant and/or his representatives. The focus of the Committee's review shall be on those areas of the application that produced adverse comments or raised questions.

The Site Plan Review Committee shall consider if the application complies with the standards and criteria of Section 4-9. If the Committee finds that the application conforms to these requirements, the Committee shall vote to approve the application. Approval by the Committee shall require the affirmative vote of all members of the Committee. The applicant may request a continuation of the Site Plan Review Committee's meeting if only two members are present.

The applicant, Planning Board, and any abutters who provide written comments shall be notified in writing of the Committee's action. The minutes of the Committee shall be adequate notification.

3) Appeal to the Planning Board

Any party aggrieved by the decisions of the Site Plan Review Committee may seek an appellate review by the Planning Board. The appellant shall have ten (10) days in which to file such an appeal with the Chairman of the Planning Board. The appeal shall be in writing and shall specify why the appellant believes the action of the Committee was in error. The appeal shall be accompanied by a fee in such amount(s) and for such purpose(s) as the Town Council may from time to time establish by Council order.

If an appeal is filed, the application shall be placed on the agenda of the next regular meeting of the Planning Board. The appellant, applicant, and any abutters who provide written comments or requested a Committee meeting shall be notified in writing of the Planning Board meeting. The Town Planner shall provide members of the Planning Board with copies of the application, supporting material, staff review comments, abutters' comments, and minutes of the staff workshop and Committee meeting at which the application was considered.

The Planning Board shall review on an appellate basis the existing record of materials and shall determine if the application conforms to the approval criteria and standards. If the Board finds that the application conforms to the standards, it shall approve the application; otherwise, it shall deny the same.

The Town Planner shall notify the appellant, applicant and abutters who participated in the review of the action of the Planning Board.



#### SECTION 4-8 - PROCEDURES FOR MAJOR DEVELOPMENTS

- A. Pre-application conference - Applicants for site plan review of a major development are required to schedule a pre-application conference with the Planning Director. The purpose of this meeting is to review procedures and submission requirements, review the approval criteria, and familiarize the Director with the nature of the project. The Planning Director may ask other department heads/representatives to participate in the conference. No decisions relative to the site plan may be made at this meeting. Where appropriate to facilitate expeditious review, the Planning Director may schedule a pre-application conference site walk.
- B. Application Procedure - The owner or his representative shall submit a formal application for review and approval of a major development to the Office of the Planning Director. The application shall consist of:
- 1) A fully executed and signed copy of the application for site plan review (provided by the Town),
  - 2) One (1) original of the site plan on durable, permanent transparency material,
  - 3) Fifteen (15) copies of a site plan and supporting documentation as described in Subsection C,
  - 4) The required publishing and public notice, application, and independent consulting and peer review fees.

Upon receipt of an application, the Planning Office shall provide the applicant with a dated receipt showing the nature of the application and the fees paid.

Within fifteen (15) working days of receipt of an application for a major development, the Planning Director shall review the application and determine if the application meets the submission requirements set forth in Subsection C. The Planning Director shall review any requests for a waiver from the submission requirements and shall act on these requests prior to determining the completeness of the application. Prior to determining the completeness of the application and considering waiver requests, the Planning Director may solicit the input of other department heads. Upon request, the Planning Director shall waive any such submission requirement as he determines unnecessary to allow the Planning Board to determine the application's compliance with the approval standards; provided, however, if the Planning Board determines that such submission is necessary, it may require the same. If the application is complete, the Planning Director shall notify the applicant and the Chairman of the Planning Board in writing of this determination and shall provide copies of the application to the Planning Office, Code Enforcement Office, Engineering Department, Police Department, and Fire Department. If the application is incomplete, the Planning Director shall notify the applicant in writing of this determination, specify what additional materials or information are required to complete the application, and advise the applicant that the revised application package will be re-reviewed for completeness when it is resubmitted.

C. Submission Requirements

The application for site plan review of a major development shall contain at least the following exhibits and information:

- 1) Fifteen (15) copies of written materials plus fifteen (15) sets of site plans, maps, or drawings containing the information listed below. The written materials shall be contained in a single report. The site plans, maps, or drawings shall be at a scale sufficient to allow review of the items listed under approval criteria, but in no case shall be more than fifty (50) feet to the inch for that portion of the tract of land being proposed for development:
  - a. General Information

1. Record owner's name, address, and phone number and applicant's name, address and phone number if different
2. Location of all building setbacks, yards and buffers required by this Ordinance
3. Names and addresses of all abutting property owners, including those in neighboring towns, if applicable
4. Sketch map showing general location of the site within the Town based upon a reduction of the Town tax maps
5. Boundaries of all contiguous property under the control of the owner or applicant regardless of whether all or part is being developed at this time
6. The bearings and distances of all property lines and the sources of this information. The Planning Board may waive the requirement of a formal boundary survey when sufficient information is available to establish, on the ground, all property boundaries.
7. Assessing tax map and lot number of the parcel or parcels
8. A copy of the deed to the property, option to purchase the property or other documentation to demonstrate right, title or interest in the property on the part of the applicant
9. The name, registration number and seal of the architect, engineer and/or similar professional who prepared the plan.
10. A general description of the proposed activity or use.

b. Existing Conditions

1. Zoning classification(s) of the property and the location of zoning district boundaries if the property is located in two (2) or more zoning districts or abuts a different district.
2. Location and size of any existing sewer and water mains, culverts and drains, on-site sewage disposal systems, wells, and power and telephone lines and poles on the property to be developed and of any that will serve the development from abutting streets or land.
3. Location, names, and present widths of existing streets and rights-of-way within or adjacent to the proposed development.
4. Location, dimensions and ground floor elevations of all existing buildings on the site.
5. Location and dimensions of existing driveways, streets, parking and loading areas and walkways on the site.
6. Location of all buildings within fifty (50) feet and the location of intersecting roads or driveways within two hundred (200) feet of the site.
7. Location of open drainage courses, floodplains, wetlands, stands of trees, and other important natural features, with a description of such features to be retained.

8. Direction of existing surface water drainage across the site.
  9. Location, front view and dimensions of existing signs.
  10. Location and dimensions of any existing easements and copies of existing covenants or deed restrictions.
  11. Location of the nearest fire hydrant, dry hydrant or other water supply for fire protection and any existing fire protection system.
  12. Existing topography of the site shown with contour lines with a two-foot interval.
- c. Proposed Development Activity
1. A grading plan showing the proposed changes in the topography of the site at a two-foot contour interval. This plan may be combined with the site plan.
  2. Location and dimensions of all provisions for water supply and wastewater disposal and evidence of their adequacy for the proposed use including test pit data if on-site sewage disposal is proposed.
  3. Provisions for handling solid wastes including the location and proposed treatment of any on-site collection or storage facilities.
  4. Location, dimensions, and ground floor elevations of all proposed buildings or expansion on the site.
  5. Location and dimensions of proposed driveways, parking and loading areas, and walkways.
  6. Location, front view, materials, and dimensions of proposed signs together with the method for securing the sign.
  7. Location and type of exterior lighting.
  8. Storm water drainage and erosion control program showing:
    - a. The existing and proposed method of handling storm water runoff.
    - b. The direction of flow of the runoff through the use of arrows.
    - c. Location, elevation, and size of all catch basins, dry wells, drainage ditches, swales, retention basins, and storm sewers.
    - d. Engineering calculations used to determine drainage requirements based upon the 25-year 24-hour storm frequency, if the project will significantly alter the existing drainage pattern due to such factors as the amount of new impervious surfaces (such as paving and building area) being proposed and the pre and post development rates of runoff; provided, if clearly warranted in the professional opinion of the Town Engineer, the Town Engineer may require information on the storm frequency greater than that for the 25-year 24-hour storm.

- e. Methods of controlling erosion and sedimentation during and after construction
- 9. Location and nature of electrical, telephone and any other utility services to be installed at the site in accordance with Land Use Code Chapter 2-10 Section 2-10A "Provision of Underground Utilities".
- 10. Building plans showing, at a minimum, the first floor plan and elevations of all proposed principal and accessory buildings and structures and a schedule of the type, color, and texture of exterior surface materials.
- 11. A planting schedule keyed to the site plan indicating the varieties and sizes of shrubs, trees, and other plants to be installed at the site.
- 12. Location and nature of any proposed fire protection systems.
- 13. A statement of any hazardous materials that will be stored or used on the site.
- 14. A schedule of construction, including anticipated beginning and completion dates.
- d. Assessments of the Impact of the Project
  - 1. A groundwater impact analysis prepared by groundwater hydrologist for projects involving on-site water supply or sewage disposal facilities with a capacity of two thousand (2,000) gallons per day or greater. In addition, the Planning Board may require such an analysis if it determines that the relationship of the project to other activities creates concern about the quality or quantity of the groundwater.
  - 2. A traffic impact analysis demonstrating the impact of the proposed project on the capacity, level of service, and safety of adjacent streets, if the project will provide parking for fifty (50) or more vehicles or generate more than one hundred (100) trips during the A.M. or P.M. peak hour based on the latest edition of the Trip Generation Manual of the Institute of Traffic Engineers.
- e. Approval Block
 

Space shall be provided on the site plan for the seven (7) signatures of the Planning Board and the date, together with the following words, "Approved: Town of Gorham Planning Board".

The applicant may request a waiver of any of the submission requirements. Such request shall be in writing and shall be made at the time of submission of the application. The request shall specify why the waiver is being sought. The Planning Director shall review any requests for waivers and shall act on those requests prior to determining the completeness of the application.

- D. Review Procedures - Within twenty (20) days of the application being determined to be complete, the Planning Department, Code Enforcement Office, Engineering Department, Police Department, and Fire Department shall review the application and shall provide the Planning Director with a written review of the application. These reviews shall evaluate the application's conformance with the approval criteria and standards and identify any areas in which the department has questions about conformance with local ordinances.

- 1) Staff report - The Planning Director or his representative shall prepare a written report summarizing the review comments and the application's conformance with the approval criteria. This report shall be provided to the applicant within thirty-five (35) days of the application being determined to be complete. If the staff report does not identify any issues with the application, a site walk shall be scheduled. If, however, the staff identifies concerns, a staff workshop shall be scheduled prior to scheduling a site walk.
- 2) Staff workshop - If the staff report identifies any concerns with the application or any areas in which the staff does not believe that the approval criteria are met, the Planning Director shall schedule a staff workshop with the applicant. This workshop is intended to provide the applicant with guidance on how the application could be modified to comply with the review criteria and standards to address concerns raised in the review process. This meeting shall be attended by the Planning Director and the applicant and/or his representative. Any department that provided adverse comment on the application shall also be represented at the staff workshop. The staff shall work with the applicant to attempt to resolve all issues.

Within five (5) days of the staff workshop, the applicant shall advise the Planning Director of his intention with regard to the pending application. If the applicant desires, the Planning Director shall proceed with the processing of the application as submitted and schedule a site walk or the applicant may submit revised and/or supplemental material before processing of the application proceeds.

- 3) Supplemental submission - Based upon the results of the staff workshop, the applicant may choose to revise the application and/or submit additional materials. These materials should address or rebut the issues raised in the staff review. Fifteen (15) copies of all new or revised materials shall be submitted. Revised materials shall be clearly labeled as revised and shall include the date of the revisions.

Within fifteen (15) days of receiving a supplemental submission, the Planning Director shall

Distribute copies of the supplemental materials to the department heads for review.

Prepare a revised staff report summarizing the current status of the application and the application's conformance with the approval criteria.

Provide the applicant and Chairman of the Planning Board with the revised staff report.

Schedule a site walk for the Planning Board.

- a) Request for Additional Information by Planning Board and Expiration of Application – The Planning Board may request the applicant to provide additional information, studies and/or reports from qualified professionals when the Planning Board determines that such information is necessary for the Planning Board to make any of the determinations required by this Chapter or to impose or carry out conditions of approval. The applicant shall submit such additional information within twelve (12) months. The failure to timely submit such information will result in the application being placed on the next Planning Board meeting agenda for final review.
- 4) Site walk – Site walks may be called by the Planning Board Chairman or a majority of the members of the Planning Board. The site walk shall be held within thirty (30) days of the Planning Board's calling for a site walk. This time

may be extended with the consent of the applicant if inclement weather or snow cover make a site walk impractical. The site walk shall be an official meeting of the Planning Board and notice of the site walk shall be provided to the Planning Board, staff, applicant, abutters, and the media in accordance with Town procedures.

The Town Planner shall provide informational packets to the members of the Planning Board. These packets shall include:

- The application and any supplemental submissions.
- The site review report
- Any correspondence from the applicant or abutters.

The applicant and/or his representative shall attend the site walk. The applicant shall be responsible for assuring that the major features of the proposed development (i.e., roads, buildings, waterways, etc.) or such features as requested by the Planning Board can be visually identified at the physical site location.

The site walk shall be directed by the Chairman of the Planning Board. The Chairman shall coordinate the inspection of the site and shall direct the discussion to assure that all members of the Planning Board and others in attendance receive the same information.

- 5) Public hearing - A public hearing on the application shall be held by the Planning Board at its first regularly scheduled meeting following the site walk. This public hearing shall be scheduled by the Chairman of the Planning Board.

The Planning Department shall publish notice of the public hearing in a newspaper having general distribution in Gorham at least seven (7) days prior to the hearing. The department shall also provide the abutters to the site with written notice of the public hearing at least seven (7) days prior to the hearing. Failure of an abutter to receive a notice of the public hearing shall not be grounds for postponement of the hearing or denial of the application.

The public hearing shall be conducted by the Chairman of the Planning Board. The applicant and/or his representatives shall be allowed to present the application. Abutters or other parties with standing shall be allowed to present information or ask questions of the Board and/or applicant.

- 6) Consideration by the Board - Following the public hearing, the Planning Board shall consider the application and its conformance with the approval criteria and standards. Within sixty (60) days of the public hearing, the Planning Board shall complete its review of the application and shall take action on the application. The Board may extend this review period with the consent of the applicant.

If the applicant submits a revised application or supplemental submissions while the application is under consideration by the Planning Board, the Planning Board shall have at least thirty (30) days from the receipt of this material in which to make its decision, notwithstanding the sixty (60) day limit provided for above.

- 7) Conditions of approval - The Planning Board may impose conditions on the approval of a site plan review for a major development. Any conditions imposed by the Planning Board must relate directly to the approval criteria and standards.

- 8) Improvement guarantee - The Planning Board may require the posting of an improvement guarantee in such amount as is reasonably necessary to ensure the proper installation and one year of maintenance of all off-site improvements required as conditions of approval. The nature and duration of the guarantee shall be structured to achieve this goal without adding unnecessary costs to the applicant.

a. Application

1. As a condition of final site plan approval, the Planning Board may require and shall accept in accordance with the standards adopted by ordinance, the following guarantees:
  - a) The furnishing of a performance guarantee in an amount equal to one hundred twenty five (125%) percent of the cost of installation for proposed public or quasi-public off-site improvements.
  - b) Provision for a maintenance guarantee for a period not to exceed one (1) year after final acceptance of the improvement, in an amount not to exceed fifteen (15%) percent of the cost of the improvement. In the event improvements are covered by a performance or maintenance guarantee to another governmental agency, which guarantee is at least as stringent as that required hereunder, no performance or maintenance guarantee, as the case may be, shall be required by the Planning Board for such improvements.
  - c) The time allowed for installation of the off-site improvements for which the performance guarantee has been provided may be extended by the Planning Board, but for no more than two additional years.
2. Upon substantial completion of all required improvements, the developer shall notify the Planning Board of the completion or substantial completion of improvements, and shall send a copy of such notice to the appropriate municipal officials: the Director of Planning and Zoning, the Fire Chief, and/or the Town Engineer. The respective municipal officials shall inspect all improvements of which such notice has been given and shall file a report with the Planning Board indicating either approval, partial approval, or rejection of such improvements with a statement of reasons for any rejection. The cost of the improvements as approved or rejected shall be set forth.
3. The Planning Board shall approve, partially approve, or reject the improvements on the basis of the report of the municipal officials.
4. Where partial approval is granted, the developer shall be released from all liability except for that portion of improvements not yet approved.

a. Form of Guarantee

Performance and maintenance guarantees may be provided by a variety of means including, but not limited to, the

following, which must be approved as to form and enforceability by the Town Manager and Town Attorney:

1. Security Bond. The applicant may obtain a security bond from a surety bonding company authorized to do business in the state.
2. Letter of Credit. The applicant may provide an irrevocable letter of credit from a bank or other reputable lending institution.
3. Escrow Account. The applicant may deposit cash, or other instruments readily convertible into cash at face value into a non interest bearing agreement with the Town, which shall stipulate that the Town can withdraw the money upon forty-eight (48) hours advance notice to the applicant.



## SECTION 4-9 - APPROVAL CRITERIA AND STANDARDS

The following criteria shall be used by the Site Plan Review Committee and the Planning Board in reviewing applications for site plan review and shall serve as minimum requirements for approval of the application. The application shall be approved unless the Site Plan Review Committee or the Planning Board determines that the applicant has failed to meet one or more of these standards. In all instances, the burden of proof shall be on the applicant and such burden of proof shall include the production of evidence sufficient to warrant a finding that all applicable criteria have been met.

- A. Utilization of the Site - The plan for the development will reflect the natural capabilities of the site to support development. Buildings, lots, and support facilities will be clustered in those portions of the site that have the most suitable conditions for development. Environmentally sensitive areas such as wetlands, steep slopes, flood plains and unique natural features will be maintained and preserved to the maximum extent. Natural drainage areas will be preserved to the maximum extent.
- B. Access to the Site - Vehicular access to the site will be on roads which have adequate capacity to accommodate the additional traffic generated by the development. For developments which generate one hundred (100) or more peak hour trips based on the latest edition of the Trip Generation Manual of the Institute of Traffic Engineers, intersections on major access routes to the site within one (1) mile of any entrance road which are functioning at a Level of Service of C or better prior to the development will function at a minimum at Level of Service C after development. If any intersection is functioning at a Level of Service D or lower prior to the development, the project will not reduce the current level of service.

The Planning Board of Site Plan Review Committee may approve a development not meeting this requirement if the applicant demonstrates that:

- 1) A public agency has committed funds to construct the improvements necessary to bring the level of access to this standard, or
  - 2) The applicant will assume financial responsibility for the improvements necessary to bring the level of service to this standard and will guarantee the completion of the improvements within one (1) year of approval of the project.
- C. Access into the Site - Vehicular access into the development will provide for safe and convenient access.
  - 1) Any exit driveway or proposed street will be so designed as to provide the minimum sight distance to meet the Maine Department of Transportation standards.
  - 2) Points of access will be located to avoid hazardous conflicts with existing turning movements and traffic flows.
  - 3) The grade of any proposed drive or street will be a -2.0% for a minimum of five (5) feet from the existing pavement edge or to the centerline of the existing drainage swale. From the above control point, a grade of not more than -3% shall be required for a minimum of two (2) car lengths or forty (40) feet.
  - 4) The intersection of any access drive or proposed street will function at a Level of Service of C following development if the project will generate an ADT of one thousand (1,000) or more vehicle trips, or at a level which will allow safe access into and out of the project if less than one thousand (1,000) trips are generated.
  - 5) Projects generating an ADT of one thousand (1,000) or more vehicle trips will provide two (2) or more separate points of vehicular access into and out of the site.
- D. Internal Vehicular Circulation - The layout of the site will provide for the safe movement of

passenger, service and emergency vehicles through the site.

- 1) Nonresidential projects will provide a clear route for delivery vehicles with appropriate geometric design to allow turning and backing for WB-40 vehicles.
  - 2) Clear routes of access will be provided and maintained for emergency vehicles around all buildings and will be posted with appropriate signage (fire lane - no parking).
  - 3) The layout and design of parking areas will provide for safe and convenient circulation of vehicles throughout the lot and will prohibit vehicles from backing out onto a street.
  - 4) All roadways will be designed to harmonize with the topographic and natural features of the site. The road network will provide for vehicular and pedestrian safety, all season emergency access, snow storage, and delivery and collection services.
- E. Pedestrian Circulation - The development plan will provide for a system of pedestrian circulation within and to the development. If the project is located in a village area, this system will connect with existing sidewalks if they exist in the vicinity of the project.
- F. Storm water Management - Adequate provisions will be made for the disposal of all storm water collected on streets, parking areas, roofs or other impervious surfaces through a storm water drainage system and maintenance plan which will not have adverse impacts on abutting or downstream properties:
- 1) To the extent possible, the plan will detain storm water on the land at the site of development, and do so through the wise use of the natural features of the site. Storm water runoff systems will detain or retain water falling on the site such that the rate of flow from the site does not exceed the predevelopment rate. Discharge of additional storm water caused by the development onto adjacent properties will be prohibited unless written easements are obtained from the owners of such adjacent properties.
  - 2) If the post development runoff is greater than predevelopment runoff, the developer will demonstrate that downstream channel or system capacity is sufficient to carry the flow without adverse effects, or will be responsible for the improvements to provide the required increase in capacity.
  - 3) All natural drainage ways will be preserved at their natural gradients and will not be filled or converted to a closed system except as approved by the Planning Board and appropriate state agencies.
  - 4) The design of storm water drainage systems will be based upon a storm frequency established by the Town Engineer, consistent with the frequency that would otherwise be required under the Town's subdivision ordinance, and shall provide for the disposal of storm water without damage to streets, adjacent properties, or downstream properties.
  - 5) The design of the storm drainage systems will be fully cognizant of upstream runoff which must pass over or through the site to be developed.
  - 6) The biological and chemical properties of the receiving waters will not be degraded by the storm water runoff from the development site. The use of oil and grease traps in manholes, the use of on-site vegetated waterways, and the reduction in use of deicing salts and fertilizers may be required, especially where the development storm water discharges into a gravel aquifer area or other water supply source.
- G. Erosion Control - For all projects, building and site designs and roadway layouts will fit and utilize existing topography and desirable natural surroundings to the fullest extent possible. Filling, excavation and earth moving activity will be kept to a minimum. Parking lots on sloped

areas will be terraced to avoid undue cuts and fills, and the need for retaining walls. Natural vegetation will be preserved and protected wherever possible.

During construction, soil erosion and sedimentation of watercourses and water bodies will be minimized by an active program meeting the requirements of the Cumberland County Soil and Water Conservation District's Best Management Practices.

- H. Water Supply - The development will be provided with a system of water supply that provides each use with an adequate supply of water meeting the standards of the State of Maine for drinking water. When required by Chapter 2, Section 2-9., the project shall be served by public water provided by the Portland Water District.

If a public water supply system is to be used, the developer has secured in writing a statement from the Water District that the proposed water supply system conforms with its design and construction standards, will not result in an undue burden on the source or distribution system, and will be installed in a manner adequate to serve domestic water and fire protection needs.

- I. Sewage Disposal - A sanitary sewer system will be installed at the expense of the developer if the project is located within a sewer service area as identified by the sewer user ordinance. The Site Plan Review Committee or Planning Board may allow individual subsurface waste disposal systems to be used where sewer service is not available.

- 1) Upstream sewage flows will be accommodated by an adequately sized system through the proposed development for existing conditions and potential development in the upstream area or areas tributary to the proposed development.
- 2) All components of sanitary sewerage facilities that connect to the Town system have been designed by a professional engineer registered in the State of Maine and will be tested in full compliance with the design specifications and construction practices as established by the Town Engineer. The construction of sewer lines will include the construction of laterals to the property line of each lot where individual lots are created.
- 3) All individual on-site systems will be designed by a licensed soil evaluator in full compliance with the Maine State Plumbing Code, as amended. Upon the recommendation of the Local Plumbing Inspector, the Site Plan Review Committee or Planning Board may require the location of reserve areas for replacement systems.

- J. Utilities - The development will be provided with electrical and telephone service adequate to meet the anticipated use of the project in accordance with Land Use Code Chapter 2-10 Section 2-10A "Provision of Underground Utilities".

- K. Natural Features - The landscape will be preserved in its natural state insofar as practical by minimizing tree removal, disturbance and compaction of soil, and by retaining existing vegetation insofar as practical during construction.

- 1) Extensive grading and filling will be avoided as far as possible.
- 2) Cutting of trees on the northerly borders of the development will be avoided to the extent possible to retain a natural wind buffer.

- L. Groundwater Protection - The proposed site development and use will not adversely impact either the quality or quantity of groundwater available to abutting properties or public water supply systems. Projects involving on-site water supply or sewage disposal systems with a capacity of two thousand (2,000) gallons per day or greater have demonstrated that the groundwater at the property line will comply, following development, with the standards for safe drinking water as established by the State of Maine.

- M. Exterior Lighting - The proposed development will provide for adequate exterior lighting to provide for the safe use of the development in nighttime hours.

- 1) All exterior lighting will be designed and shielded to avoid undue adverse impact on neighboring properties and rights-of-way.
  - 2) Lighting shall be provided, at a minimum, in the following areas:
    - a. Entrances to facilities and recreation areas;
    - b. Street intersections;
    - c. Pedestrian crossings; and
    - d. Entrance roads.
- O. Waste Disposal - The proposed development will provide for adequate disposal of solid wastes and hazardous wastes.
- 1) All solid waste will be disposed of at a licensed disposal facility having adequate capacity to accept the project's wastes.
  - 2) All hazardous wastes will be disposed of at a licensed hazardous waste disposal facility and evidence of a contractual arrangement with the facility has been submitted.
- P. Landscaping - The development plan will provide for landscaping to define street edges, break up parking areas, soften the appearance of the development and protect abutting properties from adverse impacts of the development.
- (1) The use of Invasive Terrestrial Plants is not allowed in any landscaping on the site per the standards and requirements under Chapter 2, Section 2-1, J. Invasive Terrestrial Plants.
- Q. Shoreland Relationship - The development will not adversely affect the water quality or shoreline of any adjacent water body. The development plan will provide for access to abutting navigable water bodies for the use of occupants of the development.
- R. Technical and Financial Capacity. The applicant has demonstrated that he has the financial and technical capacity to carry out the project in accordance with this Code and the approved plan.
- S. Buffering - The development will provide for the buffering of adjacent uses where there is a transition from one type of use to another use and to screen service and storage areas. The buffer areas required by the district regulations will be improved and maintained.
- (1) The use of Invasive Terrestrial Plants is not allowed in any landscaping on the site per the standards and requirements under Chapter 2, Section 2-1, J. Invasive Terrestrial Plants.
- T. Noise – The applicant has demonstrated that the development will comply with the following noise regulations:
- The maximum permissible hourly A-weighted equivalent sound level produced by any activity regulated by this Ordinance shall be established by the time period and type of land use listed below in Table 1. The term **A-weighted equivalent sound level** shall be as defined by applicable American National Standards Institute (ANSI) Acoustical Terminology.

Table 1: Sound Level Limits: A-weighted hourly equivalent sound level

District	Sound Level Limit (dBA)	
	Daytime (7 am–7pm)	Nighttime (7 pm–7am)
Residential: <i>Urban, Suburban, Rural, Village Center, Office Residential</i>	60	50
Industrial/Commercial: <i>Urban Commercial, Roadside Commercial, Industrial, Commercial/Office, Narragansett Development</i>	70	60
The district classification of a lot is determined by that lot's zoning classification. Where two lots of differing district classifications abut, the residential sound level limit will apply.		

Sound level limits shall apply at all lot lines of the facility or development where the sound is produced including all Residential District lot lines. Measurements shall be taken in accordance with this Noise Ordinance, which is generally consistent with appropriate ANSI standards. Sound levels shall be measured at a height of at least five (5) feet (1.52 meters) above the ground surface using a Type 1 or Type 2 sound level meter (as defined by ANSI S1.4) at all major lot lines. The sound level meter and microphone shall be field calibrated at the site prior to and after conducting the sound level measurements. The sound level meter, microphone and field calibrator shall also have been calibrated by a certified acoustic laboratory within 12 months of field measurements.

Short duration repetitive sounds are a sequence of repetitive sounds which occur more than once within an hour, each clearly discernible as an event and causing an increase in the sound level of at least 6 dBA on the fast meter response above the sound level observed immediately before and after the event, each typically less than ten seconds in duration, and which are inherent to the process or operation of the development.

When routine operation of a development produces short duration repetitive sound, the following maximum limits shall apply:

- (i) For the purposes of determining compliance with the above sound level limits, 5 dBA shall be added to the measured hourly  $L_{Aeq}$  whenever short duration repetitive sounds result from routine operation of the development. The resultant adjusted A-weighted hourly equivalent sound shall not exceed the sound level limit (dBA) permitted in the district established by Table 1.
- (ii) In addition to the hourly equivalent sound level ( $L_{Aeq}$ ), the maximum sound level ( $L_{AFmax}$ ) of the short duration repetitive sounds shall not exceed the following limits:
  - (a) At any protected lot line for which the zoning is in a Residential District (see Table 1):
    - 65 dBA between 7:00 a.m. and 7:00 p.m., and
    - 55 dBA between 7:00 p.m. and 7:00 a.m.
  - (b) At any protected lot line for which the zoning is in an Industrial/Commercial District (see Table 1):
    - 75 dBA between 7:00 a.m. and 7:00 p.m., and
    - 65 dBA between 7:00 p.m. and 7:00 a.m.

The noise levels established by this section do not apply 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, 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.

As part of the project application to the Town of Gorham, sufficient evidence shall be provided to demonstrate that a proposed new development or modification to an existing development will comply with applicable sound level limits of this section. Submissions to the Planning Board shall include the following:

1. Site Area Map – with scale or dimensions, showing the location and arrangement of the proposed development in relation to surrounding land uses, lot lines, and zoning districts.
2. Noise Sources - descriptions, operating hours, and sound levels (octave band when appropriate) for noise sources associated with a proposed development.
3. Noise Controls – descriptions, sketches with scales or dimensions, locations, and expected noise reduction of proposed noise control measures required to meet the applicable sound level limits.
4. Combined Sound Level – calculations showing the combined sound level of all regulated noise sources for a proposed development and comparison to the applicable sound level limits.

Once a proposed development begins routine operation, the Planning Board may require demonstration that a proposed development meets the applicable sound level limits. Such a demonstration shall require that sound level measurements include representative daytime and/or nighttime periods for a duration adequate to quantify the loudest modes of routine operation. Measurements shall be conducted during suitable weather conditions and shall be generally consistent with applicable ANSI standards. Compliance measurements shall be conducted during periods of no measurable precipitation, when the ground is not covered with new, freshly fallen snow and downwind when the wind speed measured at 33 feet (10 meters) above the ground is equal to or greater than 5 miles per hour (1.52 meters per second). Wind speed can be measured on-site or taken from the Portland Jetport. A sound testing report shall be provided to the Town that includes a description of measurement procedures, identification of sound level instrumentation and calibration, descriptions of measurement locations, sound level measurements and field observations, measurement and analysis of short duration repetitive sounds, and weather conditions (wind speed and direction, temperature, humidity, cloud cover). Justification for measurements during weather conditions that do not adhere to the requirements set forth in this Noise Ordinance, if any, shall also be provided.

## SECTION 4-10 – POST APPROVAL ACTIVITIES

### A. Recording of Approved Plan or Decision Document

1. The conditions of approval, waivers granted by the Planning Board or Site Plan Review Committee, along with variances granted by the Board of Appeals, must be added to the approved Site Plan and the Plan shall be recorded at the Cumberland County Registry of Deeds within thirty (30) days of the date of written notice of approval by the Planning Board.
2. The applicant shall submit three (3) copies of the plans for signature. The final recording copy for any site plan may be signed by the Planning Board at the close of the meeting only if the original and three (3) paper copies have been filed with the Planning Division by noon on Monday one (1) week prior to a Planning Board meeting. Two (2) signed copies of the approved Site Plan or Decision Document shall be retained by the Town, the Planning Division (1) and the Assessing Division (1). One (1) original of the signed plan or Decision Document shall be recorded in the Registry of Deeds. Should a site plan not be completed by a professional engineer, surveyor, or landscape architect then a decision document shall be completed by the Town for recording in the Registry of Deeds. A copy of the recorded site plan or Decision Document shall be returned to the Planning Division prior to a pre-construction meeting being held.
3. No approved site plan or Decision Document shall be released for recording at the Registry of Deeds until the required performance guarantee has been posted for off-site public improvements. If an approved plan or Decision Document is not recorded in the Registry of Deeds within one (1) year of the original approval, it shall be come null and void.

### B. Performance Guarantee and Inspection Escrow

#### 1. Performance Guarantee

- a) Purpose: Improvement guarantees shall be provided to ensure that the applicant has the financial capability to properly construct the project as approved by the Planning Board or Site Plan Review Committee.

#### b) Types of Guarantees

- 1) Off-site improvements: The applicant shall provide a performance guarantee for an amount adequate to cover 150% of the total construction costs of all required improvements located off private property and located on public property and/or rights-of-ways. Off-site improvements are required to have performance guarantees in place prior to the final plan or Decision Document being released for recording at the Registry of Deeds. The Town Planner may allow a temporary occupancy permit to be issued prior to completion of all off-site improvements but are required to be completed within a year from issuance of the temporary occupancy permit.
- 2) On-Site Improvements: The applicant shall provide a performance guarantee for an amount adequate to cover 125% of the total construction costs of all remaining site improvements not completed prior to issuance of a temporary or final occupancy permit. The applicant shall complete all required improvements as soon as possible but the remaining improvements are required to be completed within a year from issuance of the temporary occupancy permit.

- 3) Performance and maintenance agreements shall be provided by a variety of means including, but not limited to, the following, which must be approved as to form and enforceability by the Town Manager and Town Attorney:
  - i. Escrow Account: Either a certified check payable to the municipality or a savings account or certificate of deposit naming the municipality as sole owner;
  - ii. Security Bond: A performance bond payable to the municipality issued by a surety bonding company authorized to do business in the State of Maine;
  - iii. Letter of Credit: An irrevocable letter of credit from a bank or other reputable lending or financial institution.
- c) Contents of Guarantee: The performance guarantee must contain the following:
  - 1) Construction schedule; and
  - 2) Cost estimates for each phase of construction taking into account all construction costs for site improvements, provisions for inspections of each phase of construction, and a date after which the applicant will be in default and the municipality shall have access to the funds to finish construction.
- d) Escrow Account: A cash contribution for the establishment of an escrow account must be made by either a certified check made out to the Town of Gorham, with a direct deposit into a savings account or the purchase of a certificate of deposit.
  - 1) For any account operated by the applicant, the Town of Gorham must be named as owner or co-owner, and the consent of the Town must be required for any withdrawal.
  - 2) The Town of Gorham shall be authorized to make withdrawals without the signature of the applicant pursuant to the performance schedule.
- e) Performance Bond: A performance bond must detail the conditions of the bond, the method for release of the bond or portions of the bond to the applicant, and the procedures for collection by the municipality. The bond documents must specifically reference the site plan for which approval is sought and the approved costs estimates.
  - 1) The applicant shall submit a draft copy of the performance bond to the Town Planner for review and approval prior to issuance of the final performance bond.
- f) Letter of Credit: An irrevocable letter of credit from a bank or other reputable lending institution with offices in the region must indicate that funds have been set aside for the construction of the site plan.
  - 1) The letter of credit must use the template established by the Town of Gorham, unless waived by the Town Manager in consultation with the Town Attorney.
- g) Phasing of Development: The Planning Board or Site Plan Review Committee



may approve plans to develop a site plan in separate and distinct phases. The phases must be designed so that they can be recorded at the Registry of Deeds as separate and distinct plans. No phased plans will be released for recording in the Registry of Deeds until the performance guarantee for the off-site improvement for that phase has been established as required under this section.

- h) Release of Guarantee: While partial draws are permitted, the amount of each must be no less than twenty percent (20%) of the original amount. The developer shall submit to the Town Planner a copy of the approved schedule of values identifying items substantially completed and being requested for release. Prior to the release of any part of the performance guarantee, the Town Manager or his designee shall determine to their satisfaction, in part upon the report of the Town's consulting engineer or other qualified individual and departments who may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion or phase of the subdivision for which the release is requested.
- i) Default: If upon investigation the Town or Gorham or the Town's consulting engineer finds that any of the required improvements have not been constructed in general performance with the plans and specifications filed as part of the application, they shall report in writing to the Town Manager, the Town Planner, the Code Enforcement Officer, and the applicant or builder. The Town Manager or his designee shall take any steps necessary to preserve the municipality's rights
- j) An escrow account for field inspection and compliance work equivalent to two and one-half percent (2.5%) of the approved estimated costs of both off and on site improvements prior to the start of construction must be established with the Town Planner by the developer to guarantee payment in advance of the pre-construction meeting being held.

#### C. Submission of AutoCAD Plans

Prior to the project that require a survey plan a State of Maine licensed surveyor shall submit information in an AutoCAD.dwg or .dxf format (preferably .dwg) electronically to the Town Planner prior to a pre-construction meeting being held.

#### D. Pre-construction Meeting

Prior to the start of construction, the applicant shall schedule with the Town Planner a pre-construction meeting with Town staff. At a minimum, the applicant, design engineer or other design professional, and his earthwork construction contractor shall be in attendance.

#### SECTION 4-11 - FEES

To help recover costs incurred by the Town in the review, administration, site inspection, and public notice associated with the 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 site plan application:

- A. Publishing and public notice fee;
- B. Review 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 site plan application is also subject to subdivision review or municipal review under any other ordinance, the applicant shall pay only the larger review fee amount exclusive of escrow deposit.

#### SECTION 4-12 - WAIVERS

The Planning Board shall have the authority to waive specific site plan review requirements as may be reasonable and within the general purpose and intent of this district by an affirmative vote of at least five of the seven members, if the granting of a waiver shall not have a significantly adverse impact on the environment, the public health and safety, or the cost of providing municipal services. The applicant shall submit a waiver request in writing accompanying the site plan application submission. The Planning Board shall state upon its records the reasons for granting any specific site plan waiver.

#### SECTION 4-13 - APPEAL OF PLANNING BOARD ACTIONS

Appeal of any actions taken by the Planning Board with respect to this Chapter shall be to the Superior Court in accordance with the Maine Rules of Civil Procedure, Rule 80B.

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CHAPTER 5: FLOODPLAIN MANAGEMENT

SECTION 5-1 – PURPOSE AND ESTABLISHMENT

SECTION 5-2 - PERMIT REQUIRED

SECTION 5-3 - APPLICATION FOR PERMIT

SECTION 5-4 - APPLICATION AND INDEPENDENT CONSULTING FEES

SECTION 5-5 - REVIEW OF FLOOD HAZARD DEVELOPMENT PERMIT APPLICATION

SECTION 5-6 - DEVELOPMENT STANDARDS

SECTION 5-7 - CERTIFICATE OF COMPLIANCE

SECTION 5-8 - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS

SECTION 5-9 - APPEALS AND VARIANCES

SECTION 5-10 - ENFORCEMENT AND PENALTIES

SECTION 5-11 - VALIDITY AND SEVERABILITY

SECTION 5-12 - CONFLICT WITH OTHER ORDINANCES

SECTION 5-13 - DEFINITIONS APPLICABLE TO CHAPTER

SECTION 5-14 - ABROGATION

SECTION 5-15 - WARNING AND DISCLAIMER OF LIABILITY

## CHAPTER 5 - FLOODPLAIN MANAGEMENT

### SECTION 5-1 – PURPOSE AND ESTABLISHMENT

Certain areas of the Town of Gorham, Maine are subject to periodic flooding, causing serious damages to properties within these areas. Relief is available in the form of flood insurance as authorized by the National Flood Insurance Act of 1968.

Therefore, the Town of Gorham, Maine has chosen to become a participating community in the National Flood Insurance Program, and agrees to comply with the requirements of the National Flood Insurance Act of 1968 (P.L. 90-488, as amended) as delineated in this Floodplain Management Ordinance.

It is the intent of the Town of Gorham, Maine to require the recognition and evaluation of flood hazards in all official actions relating to land use in the floodplain areas having special flood hazards.

The Town of Gorham has the legal authority to adopt land use and control measures to reduce future flood losses pursuant to Title 30-A MRSA, Sections 3001-3007, 4352 and 4401-4407.

The National Flood Insurance Program, established in the aforesaid Act, provides that areas of the Town of Gorham having a special flood hazard be identified by the Federal Emergency Management Agency and that floodplain management measures be applied in such flood hazard areas. This Ordinance establishes a Flood Hazard Development Permit system and review procedure for development activities in the designated flood hazard areas of the Town of Gorham, Maine.

The areas of special flood hazard, Zones A and A1-30, are identified by the Federal Emergency Management Agency in a report entitled "Flood Insurance Study - Town of Gorham, Maine, Cumberland County," dated April 15, 1981 with accompanying "Flood Insurance Rate Map" dated October 15, 1981 and "Flood Boundary and Floodway Map" dated October 15, 1981, which are hereby adopted by reference and declared to be a part of this Ordinance.

### SECTION 5-2 - PERMIT REQUIRED

No "new construction" (as defined in Section 5-13) or new placement of any "structure," including "manufactured home," nor new sewage disposal system shall be permitted in an area of special flood hazard.

Before any construction activities involving existing structures or other "development" begins within any areas of special flood hazard established in Section 5-1, a Flood Hazard Development Permit shall be obtained from the Code Enforcement Officer. This permit shall be in addition to any other building permits which may be required pursuant to the codes and ordinances of the Town of Gorham, Maine.

### SECTION 5-3 - APPLICATION FOR PERMIT

The application for a Flood Hazard & Development Permit shall be submitted to the Code Enforcement Officer and shall include:

- A. The name and address of the applicant;
- B. An address and a map indicating the location of the construction site within the Town;
- C. A site plan showing location of existing and/or proposed development, including but not limited to structures, sewage disposal facilities, water supply facilities, areas to be cut and filled, storage or extraction areas, and the dimensions of the lot;
- D. A statement of the intended use of the structure and/or development;
- E. A statement of the cost of the development including all materials and labor;

- F. A statement as to the type of replacement sewage system proposed and a copy of a Subsurface Wastewater Application (HHE-200 form);
  - G. Specification of dimensions of any existing structure and any proposed improvement;
- [Items H-K.2 apply only to new construction and substantial improvements.]
- H. The elevation in relation to the National Geodetic Vertical Datum (NGVD), or to a locally established datum in Zone A only, of the:
    - 1. Base flood at the proposed site of all substantially improved structures, which is determined:
      - a. In Zones A1-30, from data contained in the "Flood Insurance Study - Town of Gorham, Maine," as described in Section 5-1; or,
      - b. In Zone A, to be the elevation of the ground at the intersection of the floodplain boundary and a line perpendicular to the shoreline which passes along the ground through the site of the proposed building;
    - 2. Highest and lowest grades on the site adjacent to the walls of any substantially improved building;
    - 3. Lowest floor (as defined in Section 5-13), including basement, of any substantially improved structures; and whether or not such structures contain a basement; and
    - 4. level, in the case of non-residential structures only, to which any substantially improved structure will be flood proofed;
  - I. A description of an elevation reference point established on the site of all substantially improved structures;
  - J. Either an Elevation Certificate (FEMA Form 81-31, 08/99, as amended) completed by a Professional Land Surveyor, registered professional engineer or architect; or, for non-residential structures to be flood proofed, a Flood proofing Certificate (FEMA Form 81-65, 02/97, as amended) completed by a registered professional engineer or architect. These Certificates verify that the elevations shown on the application are accurate;
  - K. Certifications as required in Section 5-6 by a registered professional engineer or architect that:
    - 1. Flood proofing methods for any non-residential structures will meet the flood proofing criteria of Section 5-3.H.4.; Section 5-6.G.; and other applicable standards in Section 5-6;
    - 2. Engineered hydraulic openings in foundation walls will meet the standards of Section 5-6.L.3.;
    - 3. Bridges will meet the standards of Section 5-6.M.;
    - 4. Containment walls will meet the standards of Section 5-6.N.;
  - L. A description of the extent to which any water course will be altered or relocated, or flood waters displaced or impeded, as a result of the proposed development; and,
  - M. A statement of construction plans describing in detail how each applicable development standard in Section 5-6 will be met.



#### SECTION 5-4 - APPLICATION AND INDEPENDENT CONSULTING FEES

A non-refundable application fee 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 to the Code Enforcement Officer and a copy of a receipt for the same shall accompany the application.

An additional fee may be charged to the applicant if the Code Enforcement Officer or Board of Appeals needs the assistance of an independent professional engineer or other expert. If the Town determines that an independent consultation is necessary, the applicant shall establish, before the Town retains any such consultant, an escrow account with an original deposit in such amount(s) and for such purpose(s) as the Town Council may from time to time establish by Council order. Such account shall be administered, and funds expended and/or refunded, pursuant to Chapter 2, Section 2-9 of this Code.

The expert's fee shall be paid in full by the applicant within 10 days after the Town submits a bill to the applicant. Failure to pay the bill shall constitute a violation of the ordinance and be grounds for the issuance of a stop work order. An expert shall not be hired by the municipality at the expense of an applicant until the applicant has either consented to such hiring in writing or been given an opportunity to be heard on the subject. An applicant who is dissatisfied with a decision of the Code Enforcement Officer may appeal that decision to the Board of Appeals.

## SECTION 5-5 - REVIEW STANDARDS FOR FLOOD HAZARD DEVELOPMENT PERMIT APPLICATIONS

The Code Enforcement Officer shall:

- A. Review all applications for the Flood Hazard Development Permit to assure that proposed development sites are reasonably safe from flooding and to determine that all pertinent requirements of Section 5-6 (Development Standards) have, or will be, met;
- B. Utilize, in the review of all Flood Hazard Development Permit applications, the base flood data contained in the "Flood Insurance Study - Town of Gorham, Maine," as described in Section 5-1. In special flood hazard areas where base flood elevation data are not provided, the Code Enforcement Officer shall obtain, review, and reasonably utilize any base flood elevation and floodway data from federal, state or other sources, including information obtained pursuant to Section 5-3, paragraph H. 1.b.; Section 5-6, paragraph K; and Section 5-8, paragraph D, in order to administer Section 5-6 of this Chapter;
- C. Interpret the location of boundaries of special flood hazard areas shown on the maps described in Section 5-1 of this Chapter;
- D. In the review of Flood Hazard Development Permit applications, determine that all necessary permits have been obtained from those federal, state, and local government agencies from which prior approval is required by federal or state law, including but not limited to Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334;
- E. Notify adjacent municipalities, the Maine Department of Environmental Protection, and the Maine Floodplain Management Program in the Maine State Planning Office prior to any alteration or relocation of a water course and submit copies of such notifications to the Federal Emergency Management Agency;
- F. Issue one of the following Flood Hazard Development Permits based on the type of development:
  - 1. Issue a two-part Flood Hazard Development Permit for elevated structures. Part I shall authorize the applicant to build a structure to and including the first horizontal floor only above the base flood level. At that time the applicant shall provide the Code Enforcement Officer with a second Elevation Certificate completed by a Professional Land Surveyor, registered professional engineer or architect based on the Part I permit construction, "as built," for verifying compliance with the elevation requirements of Section 5-6, paragraphs F, G, or H. Following review of the Elevation Certificate data, which shall take place within 72 hours of receipt of the application, the Code Enforcement Officer shall issue Part II of the Flood Hazard Development Permit. Part II shall authorize the applicant to complete the construction project; or,
  - 2. Issue a Flood Hazard Development Permit for Flood proofing of Non-Residential Structures that are new construction or substantially improved non-residential structures that are not being elevated but that meet the flood proofing standards of Section 5-6.G.1.a., b., and c. The application for this permit shall include a Flood proofing Certificate signed by a registered professional engineer or architect; or,
  - 3. Issue a Flood Hazard Development Permit for Minor Development for all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. Minor development also includes, but is not

limited to: accessory structures as provided for in Section 5-6.J., mining, dredging,

filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves and piers.

- G. Maintain, as a permanent record, copies of all Flood Hazard development Permits issued and data relevant thereto, including reports of the Board of Appeals on variances granted under the provisions of Section 5-9 of this chapter, and copies of Elevation Certificates, Flood proofing Certificates and Certificates of Compliance required under the provisions of Section 5-7 of this Chapter.

## SECTION 5-6 - DEVELOPMENT STANDARDS

All development in areas of special flood hazard shall meet the following applicable standards:

- A. All development shall:
  - 1. Be designed or modified and adequately anchored to prevent flotation (excluding piers and docks), collapse, or lateral movement of the development resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  - 2. Use construction materials that are resistant to flood damage;
  - 3. Use construction methods and practices that will minimize flood damage; and,
  - 4. Use electrical, heating, ventilation, plumbing, and air conditioning equipment, and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- B. Water Supply - All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the systems.
- C. Sanitary Sewage Systems - All replacement sanitary sewage systems shall be designed and located to minimize or eliminate infiltration of flood waters into the system and discharges from the systems into flood waters.
- D. On-Site Waste Disposal Systems - On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- E. Watercourse Carrying Capacity - All development associated with altered or relocated portions of a watercourse shall be constructed and maintained in such a manner that no reduction occurs in the flood carrying capacity of the watercourse.
- F. Residential - Substantial improvement of any residential structure located within:
  - 1. Zones A1-30, shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation.
  - 2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Section 5-3, paragraph H.1.b.; Section 5-5, paragraph B; or Section 5-8, paragraph D.
- G. Non Residential - Substantial improvement of any non-residential structure located within:
  - 1. Zones AI-30, shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation, or together with attendant utility and sanitary facilities shall:
    - a. Be flood proofed to at least one foot above the base flood level so that below that elevation the structure is watertight with walls substantially impermeable to passage of water;
    - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,
    - c. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection. Such

certification shall meet the requirements of Section 5-3. K. and include a record of the elevation above mean sea level to which the structure is flood proofed and shall be provided with the application for a Flood Hazard Development Permit.,

2. Zone A shall have the lowest floor (including basement) elevated to at least one foot above the base flood elevation utilizing information obtained pursuant to Section 5-3, paragraph H.1 b; Section 5-5, paragraph B; or Section 5-8, paragraph D.

- a. Together with attendant utility and sanitary facilities meet the flood proofing standards of Section 5-6.G.I.

H. Manufactured Homes - Substantial improvement of manufactured homes located within:

1. Zones AI-30, shall:

- a. Be elevated on such that the lowest floor is at least one foot above the base flood elevation; and,
  - b. Be on a permanent foundation, which may be poured masonry slab or foundation walls, with hydraulic openings, or may be reinforced piers or block supports, any of which support the manufactured home so that no weight is supported by its wheels and axles; and,
  - c. Be securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to:
    - 1) Over-the-top ties anchored to the ground at the four corners of the manufactured home, plus two additional ties per side at intermediate points (manufactured homes less than 50 feet long require one additional tie per side); or by,
    - 2) Frame ties at each corner of the home, plus five additional ties along each side at intermediate points (manufactured homes less than 50 feet long require four additional ties per side).
    - 3) All components of the anchoring system described in Section 5-6, paragraph H. I. c. 1) & 2) shall be capable of carrying a force of 4800 pounds.

2. Zone A shall:

- a. Be elevated on a permanent foundation, as described in Section 5-6.H.1.b., such that the lowest floor (including basement) of the manufactured home is at least one foot above the base flood elevation utilizing information obtained pursuant to Section 5-3.H.1.b.; Section 5-5.B; or Section 5-8.D.; and
  - b. Meet the anchoring requirements of Section 5-6.H.1.c.

I. Recreational Vehicles - Recreational Vehicles located within:

1. Zones A1-30 shall either:

- a. Be on the site for fewer than 180 consecutive days,

- b. Be fully licensed and ready for highway use. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached additions; or,
  - c. Be permitted in accordance with the elevation and anchoring requirements for "manufactured homes" in Section 5-6.H.1.
- J. Accessory Structures - Accessory Structures, as defined in Section 5-13, located within Zones A1-30 and A, shall be exempt from the elevation criteria required in Section 5-6.F. & G. above, if all other requirements of Section 5-6 and all the following requirements are met. Accessory Structures shall:
  - 1. Be 500 square feet or less and have a value less than \$3000;
  - 2. Have unfinished interiors and not be used for human habitation;
  - 3. Have hydraulic openings, as specified in Section 5-6.L.3., in at least two different walls of the accessory structure;
  - 4. Be located outside the floodway;
  - 5. When possible be constructed and placed on the building site so as to offer the minimum resistance to the flow of floodwaters and be placed further from the source of flooding than is the primary structure; and,
  - 6. Have only ground fault interrupt electrical outlets. The electric service disconnect shall be located above the base flood elevation and when possible outside the Special Flood Hazard Area.
- K. Floodways:
  - 1. In Zones A1-30, encroachments, including fill, new construction, substantial improvement, and other development shall not be permitted in riverine areas for which a regulatory floodway is designated on the community's Flood Boundary and Floodway Map, unless a technical evaluation certified by a registered professional engineer is provided demonstrating that such encroachments will not result in any increase in flood levels within the Town during the occurrence of the base flood discharge.
  - 2. In Zones A1-30, riverine areas for which no regulatory floodway is designated, encroachments, including fill, substantial improvement, and other development, shall not be permitted unless a technical evaluation certified by a registered professional engineer is provided, demonstrating that the cumulative effect of the proposed development, when combined with all other existing development and anticipated development:
    - a. Will not increase the water surface elevation of the base flood more than one foot at any point within the Town; and,
    - b. Is consistent with the technical criteria contained in Chapter 5 entitled "Hydraulic Analyses," Flood Insurance Study - Guidelines and Specifications for Study Contractors, (FEMA 37/September 1995, as amended).
  - 3. In Zone A riverine areas for which no regulatory floodway is designated, the regulatory floodway is considered to be the channel of the river or other water

course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain. Encroachments, including fill, substantial improvement, and other development, shall not be permitted in the floodway unless a technical evaluation certified by a registered professional engineer is provided meeting the requirements of Section 5-6, paragraph K.2.

- L. Enclosed Below the Lowest Floor - Substantial improvement of any structure in Zones A1-30, and A that meets the development standards of Section 5-6, including the elevation requirements of Section 5-6, paragraphs F, G, or H, and is elevated on posts, columns, piers, piles, "stilts," or crawl spaces less than three feet in height, may be enclosed below the elevation requirements provided that all the following criteria are met or exceeded:
1. Walls, with the exception of crawl spaces less than three feet in height, shall not be part of the structural support of the building; and,
  2. Enclosed areas are not "basements" as defined in Section 5-13; and,
  3. Enclosed areas shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either:
    - a. Be engineered and certified by a registered professional engineer or architect: or,
    - b. Meet or exceed the following minimal criteria:
      - 1) A minimum of two openings having a total net area of not less than one square inch for every square foot of the enclosed area:
      - 2) The bottom of all openings shall be no higher than one foot above the lowest grade; and,
      - 3) Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the entry and exit of flood waters automatically without any external influence or control such as human intervention, including the use of electrical and other non-automatic mechanical means: and,
      - 4) The enclosed area shall not be used for human habitation; and
      - 5) The enclosed area may be used for building maintenance, access, parking vehicles or storing of articles and equipment used for maintenance of the building.
- M. Bridges - New construction or substantial improvement of any bridge in Zones A1-30 and A shall be designed such that:
1. When possible, the lowest horizontal member (excluding the pilings, or columns) is elevated to at least one foot above the base flood elevation; and
  2. A registered professional engineer shall certify that:
    - a. The structural design and methods of construction shall meet the elevation requirements of this section and the floodway standards of Section 5-6.K.; and

- b. The foundation and superstructure attached thereto are designed to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all structural components. Water loading values used shall be those associated with the base flood.
- N. Containment Walls - Substantial improvement of any containment wall located within:
  - 1. Zones A1-30 and A shall:
    - a. Have the containment wall elevated to at least one foot above the base flood elevation;
    - b. Have structural components capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy; and,  
  
Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection. Such certification shall meet the requirements of Section 5-3.K and include a record of the elevation above mean sea level to which the structure is flood proofed and shall be provided with the application for a Flood Hazard Development Permit.
- O. Wharves, Piers and Docks - Substantial improvement of wharves, piers, and docks are permitted in Zones A1-30 and A, in and over water and seaward of the mean high tide if the following requirements are met:
  - 1. Wharves, piers, and docks shall comply with all applicable local, state, and federal regulations; and
  - 2. For commercial wharves, piers, and docks, a registered professional engineer shall develop or review the structural design, specifications, and plans for the construction.



## SECTION 5-7 - CERTIFICATE OF COMPLIANCE

No land in a special flood hazard area shall be occupied or used and no structure which is constructed or substantially improved shall be occupied until a Certificate of Compliance is issued by the Code Enforcement Officer subject to the following provisions:

- A. For new construction or substantial improvement of any structure the applicant shall submit to the Code Enforcement Officer, an elevation certificate completed by a professional land surveyor, registered professional engineer, or architect, for compliance with Section 5-6, paragraphs F, G, or H.
- B. The applicant shall submit written notification to the Code Enforcement Officer that the development is complete and complies with the provisions of this ordinance.
- C. Within 10 working days, the Code Enforcement Officer shall:
  - 1. Review the elevation certificate and the applicant's written notification; and,
  - 2. Upon determination that the development conforms with the provisions of this ordinance, shall issue a Certificate of Compliance.

## SECTION 5-8 - REVIEW OF SUBDIVISION AND DEVELOPMENT PROPOSALS

The Planning Board shall, when reviewing subdivisions and other proposed developments that require review under other federal law, state law or local ordinances or regulations and all projects on 5 or more acres, or in the case of manufactured home parks divided into two or more lots, assure that:

- A. All such proposals are consistent with the need to minimize flood damage.
- B. All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
- C. Adequate drainage is provided so as to reduce exposure to flood hazards.
- D. All proposals include base flood elevation and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.
- E. Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development having any portion of its land within a Special Flood Hazard Area, are to be constructed in accordance with Section 5-6 of this ordinance. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

## SECTION 5-9 - APPEALS AND VARIANCES

The Board of Appeals of Gorham may, upon written application of an aggrieved party, hear and decide appeals from determinations of the Code Enforcement Officer in the administration of the provisions of this chapter consistent with state law and the following criteria:

- A. Variances shall not be granted for new construction of any structure, manufactured home, or sewage disposal system, as distinguished from substantially improved structures and manufactured homes or replacement sewage disposal systems.
- B. Variances shall not be granted within any designated regulatory floodway if any increase in flood levels during the base flood discharge would result.
- C. Variances shall be granted only upon:
  - 1. A showing of good and sufficient cause; and,
  - 2. A determination that should a flood comparable to the base flood occur, the granting of a variance will not result in increased flood heights, additional threats to public safety, public expense, or create nuisances, cause fraud or victimization of the public, or conflict with existing local laws and ordinances; and,
  - 3. A showing that the existence of the variance will not cause a conflict with other state, federal, or local laws or ordinances; and,
  - 4. A determination that failure to grant the variance would result in "undue hardship," which in this subsection means:
    - a. That the land in question cannot yield a reasonable return unless a variance is granted; and,
    - b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood; and,
    - c. That the granting of a variance will not alter the essential character or the locality; and,
    - d. That the hardship is not the result of action taken by the applicant or a prior owner.
- D. Variances shall only be issued upon a determination that the variance is the minimal necessary, considering the flood hazard, to offered relief.
- E. Variances may be issued by the Town for substantial improvements or other development for the conduct of a functionally dependent use, provided that:
  - 1. Other criteria of Section 5-9 and Section 5-6.K. are met; and,
  - 2. The structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threats to public safety.
- F. Variances may be issued for the repair, reconstruction, rehabilitation, or restoration of Historic Structures upon the determination that:
  - 1. The development meets the criteria of Section 5-9, paragraphs A. through D. above; and,

2. The proposed repair, reconstruction, rehabilitation, or restoration will not preclude the structure's continued designation as a Historic Structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- G. Any applicant who meets the criteria of this Section, paragraphs A through F, shall be notified by the Board of Appeals in writing over the signature of the Chairman of the Board of Appeals that:
1. The issuance of a variance to construct a structure below the base flood level will result in greatly increased premium rates for flood insurance up to amounts as high as \$25 per \$100 of insurance coverage;
  2. Construction below the base flood level increases risks to life and property; and,
  3. The applicant agrees in writing that the applicant is fully aware of all the risks inherent in the use of land subject to flooding, that the applicant assumes those risks and agrees to indemnify and defend the Town of Gorham, its officers, agents, and employees against any claims filed against it that are related to the applicant's decision to use land located in a floodplain, and that the applicant individually releases the Town of Gorham, its officers, agents, and employees from any claims the applicant may have against the Town that are related to the use of land located in a floodplain.
- H. The Board of Appeals shall submit to the Code Enforcement Officer a report of all variance actions, including justification for the granting of the variance and an authorization for the Code Enforcement Officer to issue a Flood Hazard Development Permit, which includes any conditions to be attached to said permit.

## SECTION 5-10 - ENFORCEMENT AND PENALTIES

- A. It shall be the duty of the Code Enforcement Officer to enforce the Provisions of this Chapter pursuant to 30-A MRSA §4452.
- B. The penalties contained in 30-A MRSA §4452 shall apply to any violation of this Chapter.
- C. In addition to any other actions, the Code Enforcement Officer, that a violation exists, shall submit a declaration to the Administrator of the Federal Insurance Administration requesting a denial of flood insurance. The valid declaration shall consist of:
  - 1. The name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
  - 2. A clear and unequivocal declaration that the property is in violation of a cited state or local law, regulation, or ordinance;
  - 3. A clear statement that the public body making the declaration has authority to do so and a citation to that authority;
  - 4. Evidence that the property owner has been provided notice of the violation and the prospective denial of insurance; and,
  - 5. A clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

## SECTION 5-11 - VALIDITY AND SEVERABILITY

If any section or provision of this Chapter is declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Chapter.

## SECTION 5-12 - CONFLICT WITH OTHER ORDINANCES

This Chapter shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Chapter imposes a greater restriction upon the use of land, buildings, or structures, the provisions of this Chapter shall control.

## SECTION 5-13 - DEFINITIONS APPLICABLE TO CHAPTER

Unless specifically defined below, words and phrases used in this Chapter shall have the same meaning as they have at common law and to give this Chapter its most reasonable application. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and not discretionary. These definitions are to be applied to this Chapter only and do not define words or phrases used elsewhere in this Code unless specific reference is made elsewhere to this Section.

1. "Accessory Structure" - means a small detached structure that is incidental and subordinate to the principal structure.
2. "Adjacent Grade" - means the natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
3. "Area of Shallow Flooding" - means a designated AO and AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.
4. "Area of Special Flood Hazard" - means the land in the floodplain having a one percent or greater chance of flooding in any given year, as specifically identified in the Flood Insurance Study cited in Section 5-1 of this Chapter.
5. "Base Flood" - means the flood having a one percent chance of being equaled or exceeded in any given year, commonly called the 100-year flood.
6. "Basement" - means any area of the building having its floor subgrade (below ground level) on all sides.
7. "Building" - see "Structure."
8. "Certificate of compliance" - a document signed by the Code Enforcement Officer stating that a development is in compliance with all of the provisions of this Chapter,
9. "Code Enforcement Officer" - any person responsible for performing the inspection, licensing, and enforcement duties required by a particular statute or ordinance.
10. "Development" - means, for purpose of this Chapter, any change caused by individuals or entities to improved real estate, including but not limited to the construction of additions or substantial improvements to buildings or other structures; mining, dredging, filling, grading, paving, excavation, or drilling operations; and the storage, deposition, or extraction of materials; public or private sewage disposal systems or water supply facilities.

11. "Elevated Building" - means a non-basement building (i) built, in the case of a building in zones AI-30, or A to have the top of the elevated floor, elevated above the ground level by means of pilings, columns, posts, piers, or "stilts;" and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to one foot above the magnitude of the base flood. In the case of Zones AI-30, or A, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls less than three feet in height with hydraulic openings sufficient to facilitate the unimpeded movement of flood waters.
12. "Elevation Certificate" - An official form (FEMA Form 81-31, 08/99, as amended) that (i) is used to verify compliance with the floodplain management regulations of the National Flood Insurance Program, and, (ii) is required as a condition for purchasing flood insurance.
13. "Flood" or "Flooding" – means general and temporary condition of partial or complete inundation of normally dry land areas from:
  - a. The overflow of inland or tidal waters.
  - b. The unusual and rapid accumulation or runoff of surface waters from any source.
  - c. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding unanticipated force of nature, such as flash flood or abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a) (1) of this definition.
14. "Flood Elevation Study" - means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.
15. "Flood Insurance Rate Map" (FIRM) - means an official map of the Town, on which the Administrator of the Federal Insurance Administration has delineated both the special hazard areas and the risk premium zones applicable to the Town.
16. "Flood Insurance Study" see "Flood Elevation Study."
17. "Floodplain" or "Flood-prone Area" - means any land area susceptible to being inundated by water from any source (see definition of "Flooding").
18. "Floodplain Management" - means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.
19. "Floodplain Management Regulations" - means zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances such as a floodplain ordinance, grading ordinance, and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.
20. "Flood Proofing" - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.
21. "Floodway" - see "Regulatory Floodway."
22. "Floodway Encroachment Lines" - mean the lines marking the limits of floodways on federal, state, and local floodplain maps.

23. "Freeboard" - means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed, that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions.
24. "Functionally Dependent Use" - means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.
25. "Historic Structure" - means any structure that is:
- a. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
  - b. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary of the Interior to qualify as a registered historic district;
  - c. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
    - 1.) By an approved state program as determined by the Secretary of the Interior, or
    - 2.) Directly by the Secretary of the Interior in states without approved programs.
26. "Locally Established Datum" - means, for purposes of this Chapter, an elevation established for a specific site to which all other elevations at the site are referenced. This elevation is generally not referenced to the National Geodetic Vertical Datum (NGVD) or any other established datum and is used in areas where Mean Sea Level data is too far from a specific site to be practically used.
27. "Lowest Floor" - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Section 5-6 of this Chapter.
28. "Manufactured Home" - means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For purposes of this Chapter, the term "manufactured home" also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.
29. "Mean Sea Level" - means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on the Town's flood Insurance Rate map are referenced.



30. "Minor Development" - means all development that is not new construction or a substantial improvement, such as repairs, maintenance, renovations, or additions, whose value is less than 50% of the market value of the structure. It also includes, but is not limited to: accessory structures as provided for in Section 5-6.J., mining, dredging, filling, grading, paving, excavation, drilling operations, storage of equipment or materials, deposition or extraction of materials, public or private sewage disposal systems or water supply facilities that do not involve structures; and non-structural projects such as bridges, dams, towers, fencing, pipelines, wharves, and piers.
31. "National Geodetic Vertical Datum (NGVD)" - means the national vertical datum, whose standard was established in 1929, which is used by the National Flood Insurance Program (NFIP). NGVD was based upon mean sea level in 1929 and also has been called "1929 Mean Sea Level (MSL)".
32. "New Construction" - means structures, including accessory buildings, or development for which the "start of construction" commenced on or after the effective date of this Chapter. New construction is distinguished from substantial improvement or replacement of existing development.
33. "100-Year Flood" - see "Base Flood."
34. "Regulatory Floodway" - (i) means the channel of a river or other water course and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, and (ii) in Zone A is considered to be the channel of a river or other water course and the adjacent land areas to a distance of one-half the width of the floodplain as measured from the normal high water mark to the upland limit of the floodplain.
35. "Riverine" - means relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.
36. "Special Flood Hazard Area" - see "Area of Special Flood Hazard".
37. "Start of Construction" - means the date the building permit was issued, provided the actual start of original construction or placement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for basement, footings, piers, or foundations or the erection of temporary forms.
38. "Structure" - means, for the purposes of this Chapter, a walled and roofed building. A gas or liquid storage tank that is principally above ground is also a structure.
39. "Substantial Damage" - means, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damage condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
40. "Substantial Improvement" - means any repair, reconstruction, or improvement of a structure, the value of which equals or exceeds 50% of the market value of the structure either before the improvement or repair is started or, if the structure has been damaged and is being restored, before the damage occurred. For purposes of this definition "substantial improvement" is considered to occur at the first alteration of any wall, ceiling, floor, or structural part of the building, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either (1) any project for improvement

of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or (2) any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

- 41. "Variance" - means a grant of relief by the Town from the terms of this Chapter.
- 42. "Violation" - means the failure of a structure or other development to fully comply with this Chapter.

#### SECTION 5-14 - ABROGATION

This Chapter repeals and replaces any municipal ordinance previously enacted to comply with the National Flood Insurance Act of 1968 (P.L. 90-488, as amended).

#### SECTION 5-15 - WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this Chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood height may be increased by man-made or natural causes. This Chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Chapter shall not create liability on the part of the Town of Gorham or by any officer or employee thereof for any flood damage that result from reliance on this Chapter or any administrative decision lawfully made thereunder.



## CHAPTER 6 – WIRELESS TELECOMMUNICATIONS FACILITIES

SECTION 6-1 – AUTHORITY

SECTION 6-2 – PURPOSE

SECTION 6-3 – APPLICABILITY

SECTION 6-4 – REVIEW AND APPROVAL AUTHORITY

SECTION 6-5 – APPROVAL PROCESS

SECTION 6-6 – STANDARDS OF REVIEW

SECTION 6-7 – AMENDMENT TO AN APPROVED APPLICATION

SECTION 6-8 – NONCONFORMING FACILITY

SECTION 6-9 – MAINTENANCE

SECTION 6-10 – ABANDONMENT

SECTION 6-11 – APPEAL PROCEDURE

SECTION 6-12 – ADMINISTRATION AND ENFORCEMENT

SECTION 6-13 – PENALTIES

SECTION 6-14 – CONFLICT AND SEVERABILITY

SECTION 6-15 – DEFINITIONS

SECTION 6-16 – EFFECTIVE DATE

## **CHAPTER 6 WIRELESS TELECOMMUNICATIONS FACILITIES**

### **SECTION 6-1 - AUTHORITY**

This ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution; the provisions of Title 30-A M.R.S.A. Section 3001 (Home Rule), and the provisions of the Planning and Land Use Regulation Act, Title 30-A M.R.S.A. Section 4212 et seq.

### **SECTION 6-2 - PURPOSE**

The purpose of this ordinance is to provide a set of standards for the construction of wireless telecommunications facilities in order to:

- Implement a municipal policy concerning the provision of wireless communications services, and the siting of their facilities;
- Encourage the provision of advanced telecommunications services to the largest number of businesses, institutions and residents of Gorham;
- Permit and manage reasonable access to the public rights of way of Gorham for telecommunications purposes on a competitively neutral basis;
- Ensure that all telecommunications carriers providing facilities or services within Gorham comply with the ordinances of the Town of Gorham;
- Ensure that Gorham can continue to fairly and responsibly protect the public health, safety and welfare; and to avoid potential damage to adjacent property through engineering and careful siting of tower structure;
- Minimize the total number of towers in Gorham through co-location requirements and encourage multiple users on towers and tower sites, thus helping to minimize adverse visual impacts on the community;
- Enable Gorham to discharge its public trust consistent with rapidly evolving federal and state regulatory policies, industry competition and technological development;
- Protect the scenic and visual characteristics of the community, as identified in its comprehensive plan or other municipally adopted plan, to the greatest extent possible;
- Further the goals and policies of the comprehensive plan, while promoting orderly development of the town with minimal impacts on existing uses; and
- Protect the scenic and visual character of the community.

### **SECTION 6-3 - APPLICABILITY**

This local land use ordinance applies to all construction and expansion of wireless telecommunications facilities, except as provided in Section 6-3.1.

#### **3.1 Exemptions**

The following are exempt from the provisions of this Chapter:

- A. Temporary wireless communication facilities for emergency communications by public officials;

- B. Amateur (ham) radio stations, with antennas of 25 feet or less, licensed by the Federal Communications Commission (FCC);
- C. Parabolic Antennas less than 7 feet in diameter that are an accessory use of the property;
- D. Maintenance, repair or reconstruction of a wireless telecommunications facility and related equipment provided that there is no change in the height or any other dimension of the facility;
- E. Temporary wireless telecommunications facility, in operation for a maximum period of one hundred eighty (180) days and at a location that had been previously approved by the Town;
- F. An antenna that is 25 feet or less that is an accessory use to a commercial or residential dwelling unit;
- G. Towers used to augment or facilitate the governmental business or primary governmental function of the Town of Gorham; and
- H. Towers lawfully in existence on the date of passage of this ordinance that are 110 feet or less in height (provided that any such tower may expand an additional 20 feet from the height lawfully in place on the date of passage of this ordinance without requiring any additional review or approval under this ordinance).



## **SECTION 6-4 - REVIEW AND APPROVAL AUTHORITY.**

### **6-4.1. Approval Required**

No person shall construct or expand a wireless telecommunication facility without a permit.

- A. Expansion of an existing facility and co-location. Except as otherwise provided, in Section 6-3.1H, approval by the CEO is required for any expansion of an existing wireless telecommunications facility that increases the height of the facility by no more than twenty (20) feet in total after the adoption of this ordinance; accessory use of an existing wireless telecommunications facility; or co-location on an existing wireless telecommunications facility.
- B. New construction. Approval of the Planning Board is required for construction of a new wireless telecommunications facility; and any expansion of an existing wireless telecommunications facility that increases the height of the facility by more than twenty (20) feet.

## **SECTION 6-5 - APPROVAL PROCESS**

### **6-5.1 Pre-Application Conference**

All persons seeking approval of the Planning Board under this ordinance shall meet with the Town's Planning Department no less than thirty (30) days before filing an application. At this meeting, the Planning Department shall explain to the applicant the ordinance provisions, as well as application forms and submissions that will be required under this ordinance.

### **6-5.2 Application**

All persons seeking approval of the Planning Board or Code Enforcement Officer under this ordinance must submit a completed application that complies with the requirements of the Town's Land Use and Development Code and submit other pertinent information as determined by the Town.

A. Application for Code Enforcement Officer approval. Applications for permit approval must include the following minimum materials and information:

- 1) Documentation of the applicant's right, title, or interest in the property where the facility is to be sited, including name and address of the property owner and the applicant.
- 2) A copy of the FCC license for the facility or a signed statement from the owner or operator of the facility attesting that the facility complies or will comply with FCC regulations.
- 3) Identification of districts, sites, buildings, structures or objects, significant in American history, architecture, archaeology, engineering or culture, that are listed, or eligible for listing, in the National Register of Historic Places (see 16 U.S.C. 470w(5); 36 CFR 60 and 800).
- 4) A description of the design plan proposed by the applicant to include, at least, location map and elevation drawings of the proposed facility and any other proposed structures, showing color and identifying structural materials.
- 5) Evidence that a notice of the application has been published in a newspaper of general circulation in the community.
- 6) For proposed expansion of an existing facility, a signed statement that commits the owner of the facility, and his or her successors in interest, to:
  - a) Respond in a timely, comprehensive manner to a request for information from a potential co-location applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing for a response;
  - b) Negotiate in good faith for shared use by third parties;
  - c) Allow shared use if an applicant agrees in writing to pay reasonable charges for co-location;
  - d) Require no more than a reasonable charge for shared use based on community rates and generally accepted accounting principles. This charge may include but is not limited to a pro

rata share of the cost of site selection, planning project administration, land costs, site design, construction and maintenance, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.

- B. Application for Planning Board Approval. An application for approval by the Planning Board must be submitted to the Planning Department. The application must include the following information:
- 1) Documentation of the applicant's right, title, or interest in the property on which the facility is to be sited, including name and address of the property owner and the applicant.
  - 2) A copy of the FCC license for the facility, or a signed statement from the owner or operator of the facility attesting that the facility complies with FCC regulations.
  - 3) A USGS 7.5 minute topographic map showing the location of all structures and wireless telecommunications facilities above 150 feet in height above ground level, except antennas located on roof tops, within a one (1) mile radius of the proposed facility, unless this information has been previously made available to the municipality. This requirement may be met by submitting current information (within thirty days of the date the application is filed) from the FCC Tower Registration Database.
  - 4) A site plan:
    - a) Prepared and certified by a professional engineer registered in Maine indicating location, type, and height of the proposed facility, antenna capacity, on-site and abutting off-site land uses, means of access, setbacks from property lines, and all applicable American National Standards Institute (ANSI) technical and structural codes;
    - b) Certification by the applicant that the proposed facility complies with all FCC standards for radio emissions is required; and
    - c) A boundary survey for the project performed by a land surveyor licensed by the State of Maine.
  - 5) scenic assessment, consisting of the following:
    - a) Elevation drawings of the proposed facility, and any other proposed structures, showing height above ground level;
    - b) A landscaping plan indicating the proposed placement of the facility on the site; location of existing structures, trees, and other significant site features; the type and location of plants proposed to screen the facility; the method of fencing, the color of the structure, and the proposed lighting method; and
    - c) Photo simulations of the proposed facility taken from perspectives determined by the Planning Board or the Town Planner during the pre-application conference. Each photo must be labeled with the line of sight, elevation, and with the date

taken imprinted on the photograph. The photos must show the color of the facility and method of screening.

d) A narrative discussing:

- i) The extent to which the proposed facility would be visible from within a designated scenic resources,
- ii) The tree line elevation of vegetation within 100 feet of the facility; and
- iii) The distance to the proposed facility from scenic resources and noted view points, designated in the Town's Comprehensive Plan Inventory.

6) A written description of how the proposed facility fits into the applicant's telecommunications network. This submission requirement does not require disclosure of confidential business information.

7) Written technical evidence from an engineer demonstrating that no existing building, site or structure can accommodate the applicant's proposed facility, which may consist of any one or more of the following:

- a) Evidence that no existing facilities are located within the targeted market coverage area as required to meet applicant's engineering requirements;
- b) Evidence that existing facilities do not have sufficient height or cannot be increased in height at a reasonable cost to meet the applicant's engineering requirements; and
- c) Evidence that existing facilities do not have sufficient structural strength to support applicant's proposed antenna and related equipment. Specifically:
  - i) Planned, necessary equipment would exceed the structural capacity of the existing facility, considering the existing and planned use of those facilities, and these existing facilities cannot be reinforced to accommodate the new equipment.
  - ii) The applicant's proposed antenna or equipment would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna or equipment on the existing facility would cause interference with the applicant's proposed antenna.
  - iii) Existing or approved facilities do not have space on which planned equipment can be placed so it can function effectively.

d) For facilities existing prior to the effective date of this ordinance, the fees, costs, or contractual provisions required by the owner in order to share or adapt an existing facility are unreasonable. Costs exceeding the pro rata share of a new facility development are presumed to be unreasonable. This evidence shall also be satisfactory for a tower built after the passage of this ordinance.

- 8) Identification of districts, sites, buildings, structures or objects, significant in American history, architecture, archaeology, engineering or culture, that are listed, or eligible for listing, in the National Register of Historic Places (see 16 USC 470w(5); 36 CFR 60 and 800).
- 9) A signed statement stating that the owner of the wireless telecommunications facility and his or her successors and assigns agree to:
  - a) Respond in a timely, comprehensive manner to a request for information from a potential co-location applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
  - b) Negotiate in good faith for shared use of the wireless telecommunications facility by third parties;
  - c) Allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for co-location;
  - d) Require no more than a reasonable charge for shared use, based on community rates and generally accepted accounting principles. This charge may include but is not limited to a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction and maintenance, financing, return or equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the useful life span of the facility.
- 10) A form of surety approved by the Planning Board to pay for the costs of removing the facility if it is abandoned shall be provided by a variety of means including, but not limited to, the following which must be approved as to form and enforceability by the Town Manager and Town Attorney:
  - a) Security Bond. The applicant may obtain a security bond from a surety bonding company authorized to do business in the state.
  - b) Letter of Credit. The applicant may provide an irrevocable letter of credit from a bank or other reputable lending institution.
  - c) Escrow Account. The applicant may deposit cash, or other instruments readily convertible into cash at face value, into a non interest bearing account with the Town. The applicant shall enter into an escrow agreement with the Town, which shall stipulate that the Town can withdraw the money upon forty-eight hour notice to the applicant.

#### 6-5.3. Submission Waiver

The CEO or Planning Board, as appropriate, may waive any of the submission requirements based upon a written request of the applicant submitted at the time of application. A waiver of any submission requirement may be granted only if the CEO or

Planning Board finds in writing that due to special circumstances of the application, the information is not required to determine compliance with the standards of this Chapter.

#### 6-5.4. Fees

- A. Application fee for approval by Code Enforcement Officer. A non-refundable application fee in an amount(s) and for such purposes 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 of the Wireless Telecommunications Facilities application. The application shall not be considered complete and will not be processed until this fee is paid.
- B. Application Fee for approval by Planning Board. A non-refundable application fee for Planning Board approval shall include a non-refundable payment of an application fee established by the Town Council and amended from time to time in an amount(s) and for such purposes 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 of the Wireless Telecommunications Facilities application. The application shall not be considered complete until this fee is paid.
- C. Independent Consulting and Peer Review Fees. An applicant for approval by the Planning Board shall pay all reasonable and customary fees incurred by the municipality that are necessary to review the application, per Chapter 2, Section 2-9. The peer review fee shall be paid in full prior to the release of the signed permit and prior to the start of construction.
- D. Notice of Complete Application

If the application is deemed to be complete, and requires Planning Board review, the Planning Department shall notify all abutters to the site as shown on the Assessor's records, by first-class mail. This notice shall contain a brief description of the proposed activity and the name of the applicant, give the location of a copy of the application available for inspection, and provide the date, time, and place of the Planning Board meeting at which the application will be considered. Failure on the part of any abutter to receive such notice shall not be grounds for delay of any consideration of the application nor denial of the project.

#### 6-5.5. Public Hearing

For applications for Planning Board approval under Section 6-5.2.B., a public hearing shall be held.

#### 6-5.6. Approval

- A. CEO Approval. Within thirty (30) days of receiving a complete application for approval under Section 6-5.1(A) 5.2.A., the CEO shall approve, approve with conditions, or deny the application in writing, together with the findings on which that decision is based. The time period may be extended upon agreement between the applicant and the CEO. The CEO shall approve the application if the CEO finds that the application complies with the provisions in Section 6-7.16.1 of this ordinance.

The CEO shall notify all abutters of the decision to issue a permit under this section.

- B. Planning Board Approval. Within ninety (90) days of receiving a complete application under Section 6-5.2.B, the Planning Board shall approve, approve with conditions, or deny the application in writing, together with the findings on which that decision is based. However, if the Planning Board has a waiting list of applications that would prevent the Planning Board from making a decision within the required ninety (90) day time period, then a decision on the application shall be issued within thirty (30) days of the completed public hearing. This time period may be extended upon agreement between the applicant and the Planning Board.
- C. Wireless Telecommunications Facilities Alternative Support Structures. Any wireless telecommunications facilities, which are not attached to a tower may be permitted on any alternative support structure regardless of the zoning restrictions applicable to the zoning district where the structure is located. The owner of such structure shall, by written certification to the Code Enforcement Officer, Planning Board, establish the following at the time plans are submitted for a building permit:
- 1) That the height from grade of the Telecommunications Facilities shall not exceed the height from grade of the alternative support structure by more than twenty (20) feet.

The Planning Board shall review the available design options and approve the design option that would cause the least disturbance to surrounding properties and views.

## **SECTION 6-6 - STANDARDS OF REVIEW**

To obtain approval from the CEO or the Planning Board, an application must comply with the standards in this section.

### **6-6.1. CEO Approval Standards**

An application for approval by the CEO under Section 6-5.2.A. must meet the following standards.

- A. The proposed facility is an expansion, accessory use, or co-location to a structure existing at the time the application is submitted.
- B. The applicant has sufficient right, title, or interest to locate the proposed facility on the existing structure.
- C. The proposed facility does not increase the height of the existing structure by more than twenty (20) feet.
- D. The proposed facility will be constructed with materials and colors that match or blend with the surrounding natural or built environment, and incorporate stealth design to the extent practicable.
- E. The proposed facility, to the greatest degree practicable, will not have an undue adverse impact upon districts, suites, buildings, structures or objects, significant in American history, architecture, archaeology, engineering or culture, that are listed, or eligible for listing, in the National Register of Historic Places (see 16 USC 470w(5); 36 CFR 690 and 800).

### **6-6.2. Planning Board Approval Standards**

An application for approval by the Planning Board under Section 6-5.2.B. must meet the following standards.

- A. Priority of Locations. New wireless telecommunications facilities must be located according to the priorities below, with 1 as the highest priority, 2 the next highest priority, etc. The applicant must first demonstrate that a facility of a higher priority cannot reasonably accommodate the applicant's proposed facility before approval of a new facility will be permitted.
  - 1) Co-location on an existing wireless telecommunications facility or other existing alternative support structure as defined in Section 6-15.
  - 2) New facility on public or private property in an Industrial District.
  - 3) New facility on public or private property in a Roadside Commercial District or Narragansett Development District.
  - 4) New facility on public or private property in a Rural District.
  - 5) Any other location allowed by this ordinance.
- B. Siting on Municipal Property. If an applicant proposes to locate a new wireless telecommunications facility, or expand an existing facility on municipal property, the applicant must show the following:



- 1) The proposed location complies with applicable municipal policies and ordinances.
  - 2) The proposed facility will not interfere with the intended purpose of the property.
  - 3) The applicant has a lease agreement with the municipality that includes reasonable compensation for the use of the property and other provisions to safeguard the public rights and interests in the property.
  - 4) The applicant has adequate liability insurance of a minimum of \$1,000,000 coverage and has named the Town of Gorham as an additional insured. The Town may require higher limits of coverage where circumstances require more coverage to protect the community.
- C. Design for Co-location. A new wireless telecommunications facility and related equipment must be designed and constructed to accommodate future co-location of at least two additional wireless telecommunications facilities or providers.
- D. Height. A new wireless telecommunications facility must not exceed the following maximum height standards.
- |   |  |
|---|--|
| 1a. Suburban Residential District               | 150 feet   |
| b. Manufactured Housing Park - Overlay District | 150 feet   |
| 2a. Rural District                              | Maximum height shall be 150 feet, except where there is evidence of acceptable design, an additional 20 feet of height for each additional user is permitted, up to a maximum height of one hundred ninety (190) feet.   |
| b. Roadside Commercial District                 |  |
| c. Industrial District                          |  |
| 3a. Village Center District                     | A free standing wireless telecommunication facility is not allowed. An expansion, or attachment to an alternative support structure, as defined in Section 6-15, of up to 20 additional feet of height is allowed, provided that the facility is not required to be lighted pursuant to FAA or FCC requirements. |
| b. Urban Commercial District                    |  |
| c. Urban Residential District                   |  |
| d. Office-Residential District                  |  |
| e. Commercial-Office District                   |  |
| f. Narragansett District                        |  |
| g. Any other District                           |  |
- E. Setbacks. A new or expanded wireless telecommunications facility must comply with the set back requirements for the zoning district in which it is located, or be set back one hundred ten percent (110%) of its height from all property lines, whichever is greater; provided, however, these setback requirements shall not apply to co-location on structures that exist as of the date of adoption of this ordinance.

In the districts where such towers are allowed, the setback may be satisfied by including the areas outside the property boundaries if secured by an easement. However, the setback may not be reduced to less than the standard setback for such districts in any case.

- F. Landscaping. A new wireless telecommunications facility and related equipment must be screened with plants from view by abutting properties, to the maximum extent practicable. Existing plants and natural land forms on the site shall also be preserved to the maximum extent practicable.
- G. Fencing. A new wireless telecommunications facility must be fenced to discourage trespass on the facility and to discourage climbing on any structure by trespassers.
- H. Lighting. A new wireless telecommunications facility must be illuminated only as necessary to comply with FAA or other applicable state and federal requirements. If lighting is required, the Planning Board shall review the available lighting options and approve the design option that would cause the least disturbance to surrounding properties and views. Security lighting may be approved as long as it is shielded to retain light within the boundaries of the site, to the maximum extent practicable, by using down-directional, sharp cutoff luminaries so that there is a minimum of spillage of illumination off-site.
- I. Color and Materials. A new wireless telecommunications facility must be constructed with materials and colors that match or blend with the surrounding natural or built environment, and incorporate stealth design to the maximum extent practicable. Unless otherwise required, muted colors, earth tones, and subdued hues shall be used.
- J. Structural Standards. A structural engineer, licensed in the State of Maine, must certify in writing that a new wireless telecommunications facility complies with the current Electronic Industries Association/Telecommunications Industries Association (EIA/TIA) 222 Revision Standard entitled "Structural Standards for Steel Antenna Towers and Antenna Supporting Structures."
- K. Underground Utilities and Access Road. Except for new facilities that are attached to an alternate support structure, all wireless telecommunications facilities must be serviced by underground utilities and by an access road that provides space for at least one (1) vehicular parking space on site and is secured by a gate. Lots that have Wireless Telecommunications facilities do not have to meet the frontage requirements of Chapter 1 of the Land Use and Development Code.

The access road shall be constructed to the following minimum standards:

Minimum Required Right of Way Width	30 feet
Minimum Travel Way Width	12 feet
Paved Apron, at Intersection with Paved Public Way	20 feet in length
Maximum Grade at Street Intersection	5%
Minimum Pavement Radii at Street Intersection	15 feet
Minimum Centerline Radius	60 feet
Minimum Grade	0.7%
Depth and Type of Gravel Base Required	12" Type D
Depth and Type of Surface Gravel Required	3" Type A or equal

Maximum Grade for gravel	6%
for grades less than 6.0%	Gravel
for grades steeper than 6.0%	3" bituminous
Storm Water Drainage	per Town Engineer

Terminus: A suitable turn around shall be located outside any fenced area and at the end of the access road

- L. Noise. Except during construction, repair, or replacement, operation of a back-up power generator at any time during a power failure, and testing of a back-up generator between 8 a.m. and 9 p.m. are exempt from noise standards.
- M. Advertising. No advertising or signage is allowed on wireless telecommunication facilities.
- N. Historic & Archaeological Properties. The proposed facility, to the greatest degree practicable, must have no unreasonable adverse impact upon a historic district, site or structure which is currently listed or eligible for listing on the National Register of Historic Places.

#### 6-6.3. Standard Conditions of Approval

The following standard conditions of approval shall be a part of any approval or conditional approval issued by the CEO or Planning Board . Where necessary to ensure that an approved project meets the criteria of this ordinance, the CEO or Planning Board can impose additional conditions of approval. Reference to the conditions of approval shall be clearly noted on the final approved site plan, and shall include the following language:

- A. That the owner of the wireless telecommunications facility and his or her successors and assigns agree to;
  - 1) Respond in a timely, comprehensive manner to a request for information from a potential co-location applicant, in exchange for a reasonable fee not in excess of the actual cost of preparing a response;
  - 2) Negotiate in good faith for shared use of the wireless telecommunications facility by third parties;
  - 3) Allow shared use of the wireless telecommunications facility if an applicant agrees in writing to pay reasonable charges for co-location.
  - 4) Require no more than a reasonable charge for shared use of the wireless telecommunications facility, based on community rates and generally accepted accounting principles. This charge may include, but is not limited to, a pro rata share of the cost of site selection, planning project administration, land costs, site design, construction and maintenance, financing, return on equity, depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference. The amortization of the above costs by the facility owner shall be accomplished at a reasonable rate, over the life span of the useful life of the wireless telecommunications facility.
- B. Upon request, the applicant shall certify continued compliance with all applicable FCC radio frequency emissions regulations.

#### **SECTION 6-7 - AMENDMENT TO AN APPROVED APPLICATION**

Any changes to an approved application must be approved by the CEO or the Planning Board, in accordance with Section 6-5.

## **SECTION 6-8 - NONCONFORMING FACILITY**

Except as otherwise expressly provided in this ordinance, a nonconforming structure or use may not be enlarged or increased in size or any additional wireless telecommunications facilities added. A nonconforming structure that is discontinued in use for a period of more than one hundred eighty (180) consecutive days (except while under active repair or reconstruction) shall be considered abandoned and shall lose its grandfathered status. This ordinance shall not be interpreted to legalize any structure, facility, or use existing at the time this ordinance is adopted which structure, facility, or use is in violation of any other ordinance at the time of enactment. Notwithstanding the above, the CEO may grant approval for the addition of antennas and antenna mounts to a nonconforming structure under the standards set forth elsewhere in this Chapter, provided there is no accompanying increase in height, structural mass or tower lighting. In other cases, the Board of Appeals may grant approval for the enlargement, increase in size or additional facilities of a non-conforming structure, provided that:

- A. The appearance of the structure will not be significantly [or extensively] more intrusive as viewed from abutting properties,
- B. The Board of Appeals finds that the increase will be the least amount necessary, and
- C. It complies with the Special Exception Standards found in the Land Use and Development Code.

## **SECTION 6-9 - MAINTENANCE**

- A. Tower owners shall at all times employ ordinary and reasonable care and shall install and maintain in use nothing less than commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.
- B. Tower owners shall install and maintain towers, telecommunications facilities, wires, cables, fixtures, and other equipment in substantial compliance with the requirements of the National Electric Safety Code and all FCC, state, and local regulations, and in such manner that will not interfere unreasonably with the use of other property, with regard to these electrical and safety codes.
- C. All towers, telecommunications facilities, and antenna support structures shall at all times be kept and maintained in good condition, order, and repair so that the same shall not menace or endanger the life or property of any person.
- D. All towers shall maintain compliance with current RF emission standards of the FCC.
- E. In the event that the use of a tower is discontinued by the tower owners, the tower owner shall provide written notice to the Town of Gorham of its intent to discontinue use and the date when the use shall be discontinued.

## **SECTION 6-10 - ABANDONMENT**

A wireless telecommunications facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned. The owner of an abandoned facility shall be notified in writing by the CEO to remove the facility within ninety (90) days of receipt of a written notice. The owner of the facility shall have thirty (30) days from the receipt of the notice to show that the facility has not been abandoned and has been in active use or under active repair during the period.

If the Owner fails to show that the facility has been in active operation or under active repair, he or she shall have sixty (60) days to remove the facility. If the facility is not removed within this time period, the municipality may remove the facility at the owner's expense. The owner of the facility shall pay all site reclamation costs deemed necessary and reasonable to return the site to its pre-construction condition, including the removal of roads, and re-establishment of plants.

If a surety has been given to the municipality to ensure removal of the facility, the owner of the facility may apply to the Planning Board for release of the surety when the facility and related equipment are removed to the satisfaction of the Planning Board.

## **SECTION 6-11 - APPEAL PROCEDURE**

- A. Code Enforcement Officer Decision. Any person aggrieved by a decision of the Code Enforcement Officer shall commence their appeal within thirty (30) days of the issuance of a decision by following the appeals procedure established in Chapter 1, Section 1-4 (D) Appeals Procedure of the Land Use and Development Code of the Town of Gorham, as amended from time to time.
- B. Planning Board Decision. Appeals of any actions taken by the Planning Board with respect to the ordinance shall be to the Superior Court in accordance with the Maine Rules of Civil Procedure, Rule 80B.



## **SECTION 6-12 - ADMINISTRATION AND ENFORCEMENT**

The Code Enforcement Officer shall enforce this ordinance. If the Code Enforcement Officer finds that any provision of this ordinance has been violated, the Code Enforcement Officer shall notify in writing the person responsible for such violation, indicating the nature of the violation, and ordering the action necessary to correct it. The Code Enforcement Officer shall order correction of the violation and may take any other legal action to ensure compliance with this ordinance.

The Code Enforcement Officer, with the approval of the Town Manager, is authorized to enter into administrative consent agreements for the purpose of resolving violations of this ordinance and recovering fines without court action. Such agreements shall not allow a violation of this ordinance to continue unless: there is clear and convincing evidence that the violation occurred as a direct result of erroneous advice given by an authorized municipal official upon which the applicant reasonably relied to its detriment and there is no evidence that the owner acted in bad faith; the removal of the violation will result in a threat to public health and safety or substantial environmental damage.

**SECTION 6-13 - PENALTIES**

Any person who owns or controls any building or property that violates this ordinance shall be fined in accordance with Title 30-A M.R.S.A., Sec. 4452. Each day such violation continues after notification by the CEO shall constitute a separate offense.

## **SECTION 6-14 - CONFLICT AND SEVERABILITY**

### **6-14.1 Conflicts with other Ordinances**

This ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit or provision of law. Whenever a provision of this ordinance conflicts with or is inconsistent with another provision of this ordinance or of any other ordinance, regulation, or statute, the more restrictive provision shall apply.

### **6-14.2 Severability**

If any section or provision of this ordinance is declared by the courts to be invalid or unconstitutional, such decision shall not invalidate any other part, section, or provision of this ordinance and shall remain in full force and effect.

## **SECTION 6-15 - DEFINITIONS**

Unless specifically defined below, words and phrases used in this Chapter shall have the same meaning as they have at common law and to give this Chapter its most reasonable application.

The terms used in this Chapter shall have the following meanings:

- A. "Antenna" means any system of poles, panels, rods reflecting discs or similar devices used for the transmission or reception of radio or electromagnetic frequency signals.
- B. "Antenna Height" means the vertical distance measured from the base of the antenna support structure at grade to the highest point of the structure, even if said highest point is an antenna. Measurement of tower height shall include antenna, base pad, and other appurtenances and shall be measured from the finished grade of the parcel. If the support structure is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the antenna height.
- C. "Alternative Support Structure" means any building or structure such as bell steeples, light poles and water towers and other similar structures except towers which can be used for location of wireless telecommunication facilities.
- D. "Co-location" means the use of a wireless telecommunications facility by more than one wireless telecommunications provider.
- E. "Designated Scenic Resource" means that specific location, view or corridor, as identified as a scenic resource in the municipality's adopted comprehensive plan or by a State or federal agency, that consists of:
  - 1) A three dimensional area extending out from a particular viewpoint on a public way or within a public recreational area, focusing on a single object, such as a mountain, resulting in a narrow corridor, or a group of objects, such as a downtown skyline or mountain range, resulting in a panoramic view corridor; or
  - 2) Lateral terrain features such as valley sides or woodland as observed to either side of the observer, constraining the view into a narrow or particular field, as seen from a viewpoint on a public way or within a public recreational area.
- F. "Expansion" means the addition of antennas, towers, or other devices to an existing structure.
- G. "FAA" means Federal Aviation Administration or its lawful successor, authorized by Congress.
- H. "FCC" means Federal Communications Commission or its lawful successor, authorized by Congress.
- I. "Height" means the vertical measurement from a point on the ground at the mean finish grade adjoining the foundation as calculated by averaging the highest and lowest finished grade around the building or structure, to the highest point of the building or structure. The highest point shall exclude farm building components, flagpoles, chimneys, ventilators, skylights, domes, water towers, bell towers, church spires, processing towers, tanks, bulkheads, or other building accessory features usually erected at a height greater than the main roofs of buildings.
- J. "Historic or Archaeological Resources" means resources that are:

- 1) Listed individually in the National Register of Historic Places or eligible for listing on the National Register;
  - 2) Certified or preliminary determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminary determined by the Secretary of the Interior to qualify as a registered historic district;
  - 3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior;
  - 4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either (a) by an approved state program determined in the Secretary of the Interior, or (b) directly by the Secretary of the Interior in state without approved programs; or
  - 5) Areas identified by a governmental agency such as the Maine Historic Preservation Commission as having significant value as an historic or archaeological resource and any areas identified in the municipality's comprehensive plan, which have been listed or are eligible to be listed on the National register of Historic Places.
- K. "Public Recreational Facility" means a regionally or locally significant facility, as defined and identified either by State statute or in the municipality's adopted comprehensive plan, designed to serve the recreational needs of municipal property owners.
- L. "Scenic Resources" means specific locations or corridors within the municipality, as identified in its adopted comprehensive plans or by State statute, that consist of a vehicular right of way or vantage point that contains lateral terrain features such as valley sides or woodland as observed to either side of the observer, constraining the view into a narrow or particular field.
- M. "Stealth Design" means any tower or telecommunications facility which is designed to enhance compatibility with adjacent land uses, including, but not limited to, architecturally screened roof-mounted antennas, antennas integrated into architectural elements, and towers designed to look other than like a tower such as light poles, power poles and trees. The term "Stealth" does not necessarily exclude the use of uncamouflaged lattice, guyed, or monopole tower designs.
- N. "Targeted Market Coverage Area" means the area which is targeted to be served by this proposed telecommunications facility.
- O. "Tower" means a self-supporting lattice, guyed, or monopole structure constructed from grade which supports Telecommunications Facilities.
- P. "Undue Adverse Impact" means an impact which would not have occurred without the proposed development that violates a clear, written community standard(s), such as that enunciated in a locally adopted comprehensive plan; produces an end result which is out-of-character with the development's surrounding; significantly diminishes the scenic qualities of the area; or, produces deleterious effects which stem from the result of the developer(s) which may have been prevented through mitigation activities, such as screening or coloration.
- Q. "Wireless Telecommunications Facility" means any structure, antenna, tower, or other device which provides radio/television transmission, commercial mobile wireless services, unlicensed wireless services, cellular phone services, specialized mobile radio

communications (SMR), common carrier wireless exchange phone services, specialized mobile radio communications (SMR), common carrier wireless exchange access services, and personal communications service (PCS) or pager services.

**SECTION 6-16 - EFFECTIVE DATE**

Notwithstanding any law to the contrary, Chapter 6 of this ordinance (Wireless Telecommunications Facilities) shall take effect as of October 25, 1999.

## CHAPTER 7 – IMPACT FEES

### SECTION 7-1 – GENERAL

- Purpose
- Authority
- Payment of Impact Fees
- Impact Fee Accounts
- Use of Impact Fees
- Refund of Impact Fees
- Waiver of Impact Fees
- Review and Revision

### SECTION 7-2 – MIDDLE SCHOOL FACILITIES IMPACT FEE

- Description of the Improvement
- Activities Subject to the Fee
- Calculation of the Fee
- Use of Fees Collected
- Effective Dates
- Table of Approved Fees

### SECTION-7-3 – RECREATIONAL FACILITIES AND OPEN SPACE IMPACT FEE

- Description of the Improvements
- Need for the Improvement
- Activities Subject to the fee
- Calculation of the Fee
- Effective Dates

### SECTION 7-4 - FORT HILL WATER MAIN EXTENSION IMPACT FEE

- Description of the Improvements
- Need for the Improvement
- Activities Subject to the fee
- Calculation of the Fee
- Effective Dates



## **CHAPTER 7 IMPACT FEES**

### **SECTION 7-1 GENERAL**

#### **A. PURPOSE**

The purpose of these impact fee provisions is to ensure that new development in Gorham will be accomplished in a safe and healthful manner and that such development will bear a proportional or reasonably related share of the cost of new, expanded, or modified infrastructure necessary to service the development through: 1) the payment of impact fees that shall be dedicated to paying for the needed improvements, or 2) the construction of appropriate improvements as provided for herein.

#### **B. AUTHORITY**

These impact fee provisions are adopted by the Town under the authority of 30A M.R.S.A. §4354 and its statutory and constitutional home rule provisions.

#### **C. PAYMENT OF IMPACT FEES**

The impact fees provided for under this chapter shall be determined in accordance with the provisions for calculation of each impact fee as established by the Town Council and set forth below. Where there is uncertainty as to the amount of the impact fee required to be paid by any development, the amount of the fee shall be determined by the Planning Board based upon the fee calculation methodology for that fee and the recommendation of the Town Planner. The impact fee shall be paid to the Town of Gorham in care of the Planning Department. The fee shall be paid prior to the issuance of any building, plumbing, or other permit for the development subject to the fee. The Town Council may approve the payment of impact fees over time in accordance with an approved payment schedule provided that appropriate arrangements are in place to guarantee collection of the fees.

#### **D. IMPACT FEE ACCOUNTS**

All impact fees collected under the provisions of this chapter shall be segregated and accounted for in separate impact fee accounts designated for the particular improvements in question. The impact fee accounts are as follows:

- 1) Middle School Facilities Impact Fee
- 2) Recreational Facilities and Open Space Impact Fee
- 3) Fort Hill Water Main Extension Impact Fee

#### **E. USE OF IMPACT FEES**

Impact fees collected under the provisions of this chapter shall be used only to pay for the capital cost of the infrastructure improvements specifically associated with each impact fee as described below. No portion of the fee shall be used for routine maintenance or operation activities.

The following costs may be included in the capital cost of the infrastructure improvement:

- 1) Engineering, surveying, and environmental assessment services directly related to the design, construction, and oversight of the improvement,

- 2) The actual construction of the improvement including, without limitation, property acquisition costs, demolition costs, clearing and grading of the land, and necessary capital equipment,
- 3) Mitigation costs,
- 4) Legal and administrative costs associated with construction of the improvement including any borrowing necessary to finance the project,
- 5) Debt service costs including interest if the Town borrows for the construction of the improvement,
- 6) Relocation costs, and
- 7) Similar costs that are directly related to the project.

**F. REFUND OF IMPACT FEES**

- 1) If a building permit is surrendered or lapses without commencement of construction, the developer shall be entitled to a refund, without interest, of any impact fee paid in conjunction with that project. In the case of a refund, the Town shall retain four (4) percent of the impact fee paid to offset a portion of the administrative cost of collection. A request for a refund shall be made in writing to the Town Planner and shall occur within ninety (90) days of the lapse or expiration of the permit.
- 2) Any fees collected that are not spent or obligated by contract for the specified improvement within a twenty (20) year period for the specific impact fee account by the end of the calendar quarter shall be returned to the developer or its designee without interest.
- 3) If a developer paid an impact fee pursuant to this Chapter prior to the effective date of July 1, 2019, but would have been eligible for a waiver of the fee pursuant to Section 7-1.G.4 at the time of construction of the replacement dwelling unit, the developer may apply for a refund of the impact fee paid. Such application must be made in writing to the Director of Community Development within five years of the date of construction of the replacement dwelling unit, and must go to the Town Council for a formal vote following a public hearing. If approved, the refund of the impact fee shall be paid to the developer without interest.

**G. WAIVER OF IMPACT FEES**

The Town Council may, by formal vote following a public hearing, waive the payment of a required impact fee, in whole or in part, if it finds that:

- 1) The developer voluntarily agrees to construct the improvement for which the impact fee would be collected, or
- 2) The developer is required, as part of a development approval by the Town or a state or federal agency, to make or to pay for infrastructure improvements that are of the same nature as the improvement to be funded by the impact fee, or
- 3) The infrastructure that the impact fee relates to has been created to attract industry and the fee would be charged to an industrial use, or
- 4) The residential development activity will not result in a net addition of new dwelling units because the new dwelling unit will replace a demolished dwelling unit that was previously owned and occupied by the developer.

**H. REVIEW AND REVISION**

The Town Council shall periodically review each impact fee established under this chapter at least once every five years. If the Council finds that the anticipated cost of the improvement has changed or that the identification of developments subject to the fee is no longer appropriate, the Council may propose changes in the impact fee. Any changes adopted as a result of such review shall apply to all future development but shall not be applied retroactively to projects that have already paid an impact fee.

## **SECTION 7-2 MIDDLE SCHOOL FACILITIES IMPACT FEE #1**

### **A. DESCRIPTION OF THE IMPROVEMENT**

In 2002, the Town of Gorham and the Gorham School Department identified the need to construct a new middle school to serve grades 6 through 8 and to replace the former Shaw School. The Shaw School was an older facility that was last expanded in the late 1970s and further expansion of the facility was not financially feasible. The facility had a capacity for 309 students based upon state space standards and was inadequate to meet projected enrollments. In October of 1991, there were 472 students in grades 6 through 8. From 1991 through 2002, middle school enrollment grew steadily. As of October 1, 2002, the Gorham School Department had 683 students in grades 6 through 8. Most of this growth was the result of net in-migration in the school system since the number of births to Gorham families remained relatively stable from 1987 - 2002. Much of the in-migration during that period was related to new housing rather than to turnover in the existing housing stock.

In 2003, the new Gorham Middle School was constructed with a capacity for 900 students, which was more than adequate to serve the enrollment growth projected at that time. Part of the capacity in the new middle school was intended to serve the students that lived in the existing housing stock of the community. The remaining capacity was intended to be available to accommodate middle school students who live in new housing units that have since been built or will be built in the future. Based upon an analysis of various development scenarios and enrollment projections, 600 of the 900-student capacity in the new middle school was needed to meet the needs of the residents of the Town's existing housing stock and the balance of 300 was the incremental capacity available to serve enrollment growth resulting from new residential development. This incremental capacity for 300 students in the new middle school and the share of the new middle school capacity that was available to accommodate students from new residential development were the "facilities" upon which the Middle School Facilities Impact Fee established in 2002 was based. The analysis of the establishment of that impact fee was detailed in the METHODOLOGY FOR DEVELOPING A MIDDLE SCHOOL FACILITIES IMPACT FEE, dated July 30, 2002.

In anticipation of the new middle school construction project, the Town issued debt in 2002 in the amount of \$21,225,000, \$20,375,000 of which was for the purpose of constructing a new middle school. The Town began to pay debt service on the bonds in 2003 and will continue to pay debt service through 2022. The Town also began collecting fees under the Middle School Facilities Impact Fee Ordinance in 2002, but repealed the Middle School Facilities Impact Fee in 2009 due to growing concern regarding the increasing cost to develop new homes within the community and the impacts of the economic recession beginning in 2007. The total amount of Impact Fees collected between 2002 and 2009 was \$1,063,488.20. 100% of those Impact Fees were applied to the payment of the debt service on the bonds.

The middle school enrollment in the Town was at a peak in 2002 with 694 students and experienced a slight overall decline to a middle school enrollment of 618 by the year 2010. However, the trend in school enrollment in Town between 2002 and 2009 was relatively stable according to the School District's records. In 2015, the Town experienced a spike in school enrollment and current projections through 2029 show a continued increase in overall school enrollment within the Town. The middle school enrollment as of the current school year (2018-19) is 627 and is projected to reach 824 by the 2028-29 school year. In addition, the overall trend in increasing school enrollment since 2015 has required the School Department to shift resources in a way that has placed a greater burden on the new middle school than originally anticipated when the school was constructed. For example, the enrollment within the high school has increased from 783 students in 2002 to 868 students in the current school year (2018-19). In order to accommodate these

## **SECTION 7-2 MIDDLE SCHOOL FACILITIES IMPACT FEE #1**

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In 2003, the new Gorham Middle School was constructed with a capacity for 900 students, which was more than adequate to serve the enrollment growth projected at that time. Part of the capacity in the new middle school was intended to serve the students that lived in the existing housing stock of the community. The remaining capacity was intended to be available to accommodate middle school students who live in new housing units that have since been built or will be built in the future. Based upon an analysis of various development scenarios and enrollment projections, 600 of the 900-student capacity in the new middle school was needed to meet the needs of the residents of the Town's existing housing stock and the balance of 300 was the incremental capacity available to serve enrollment growth resulting from new residential development. This incremental capacity for 300 students in the new middle school and the share of the new middle school capacity that was available to accommodate students from new residential development were the "facilities" upon which the Middle School Facilities Impact Fee established in 2002 was based. The analysis of the establishment of that impact fee was detailed in the METHODOLOGY FOR DEVELOPING A MIDDLE SCHOOL FACILITIES IMPACT FEE, dated July 30, 2002.

In anticipation of the new middle school construction project, the Town issued debt in 2002 in the amount of \$21,225,000, \$20,375,000 of which was for the purpose of constructing a new middle school. The Town began to pay debt service on the bonds in 2003 and will continue to pay debt service through 2022. The Town also began collecting fees under the Middle School Facilities Impact Fee Ordinance in 2002, but repealed the Middle School Facilities Impact Fee in 2009 due to growing concern regarding the increasing cost to develop new homes within the community and the impacts of the economic recession beginning in 2007. The total amount of Impact Fees collected between 2002 and 2009 was \$1,063,488.20. 100% of those Impact Fees were applied to the payment of the debt service on the bonds.

The middle school enrollment in the Town was at a peak in 2002 with 694 students and experienced a slight overall decline to a middle school enrollment of 618 by the year 2010. However, the trend in school enrollment in Town between 2002 and 2009 was relatively stable according to the School District's records. In 2015, the Town experienced a spike in school enrollment and current projections through 2029 show a continued increase in overall school enrollment within the Town. The middle school enrollment as of the current school year (2018-19) is 627 and is projected to reach 824 by the 2028-29 school year. In addition, the overall trend in increasing school enrollment since 2015 has required the School Department to shift resources in a way that has placed a greater burden on the new middle school than originally anticipated when the school was constructed. For example, the enrollment within the high school has increased from 783 students in 2002 to 868 students in the current school year (2018-19). In order to accommodate these

additional students, the adult education and facilities management functions that were previously housed at the high school have been relocated to the middle school.

Since 2002, the Town has experienced the construction of 1,712 new units of residential development and such development in the Town of Gorham continues to trend in a positive direction. While there is still adequate capacity to serve the trend of increasing students at the middle school and to meet the projected capacity through at least 2029, the demonstrated trends of increasing residential development and increasing school enrollment necessitate the reenactment of this Ordinance.

**B. ACTIVITIES SUBJECT TO THE FEE**

Although housing development and the number of middle school students has fluctuated at times since 2002, there has been a consistent link between new residential development in Gorham and increasing school enrollment overall. The middle school has absorbed much of the impact of the increasing school enrollment within the Town and the debt service on the new facility continues to be paid from the Town's general fund. The Town seeks to offset the impact of the cost of the new middle school by imposing an impact fee on new residential development activity that has the potential to produce school aged children. Therefore, any residential development activity anywhere in Gorham that may potentially have school aged children living in the units will be subject to the impact fee. This shall include the construction of new dwelling units whether or not such units are part of a subdivision, the conversion of an existing building that creates or increases the number of dwelling units in the building, or the expansion or alteration of an existing building that increases the number of dwelling units in the building or an increase in the number of bedrooms in a dwelling unit for which an impact fee has been paid. In the case of a development activity that increases the number of dwelling units in a building, only the new dwelling units shall be subject to the impact fee.

In the situation where the number of bedrooms within any dwelling unit for which an impact fee has been paid is being increased within twenty-four (24) months of the issuance of a certificate of occupancy, the impact fee due shall be the difference, if any, between the impact fee that would be due based upon the proposed utilization of the dwelling unit prior to the change. (For example, an existing two-bedroom single-family home is being converted into a four-bedroom home. The required impact fee for a four-bedroom home would be calculated and the fee paid for the existing two bedroom single-family home subtracted from this amount to determine the amount of the additional impact fee due.)

**C. CALCULATION OF THE FEE**

- 1) The amount of the impact fee is proportional to the average number of middle school students that typically live in a particular type of housing (single-family home, mobile home, apartment, retirement housing). The amount of the impact fee charged to each residential unit is based upon the METHODOLOGY FOR DEVELOPING A MIDDLE SCHOOL FACILITIES IMPACT FEE, dated July 30, 2002 and revised September 3, 2019. The Town Council of the Town of Gorham has determined that the methodology referenced herein establishes a fee that is reasonably related to the portion or percentage of the infrastructure (i.e., the middle school) that is made necessary by the new development to which this fee applies. \* See Table of adopted fees on page 312C

In determining the impact fee payable for each dwelling unit, the fee shall be based upon the number of bedrooms in the unit. For the purpose of the impact fee calculation, a bedroom shall include any room designated as a bedroom on the building plans and any other private room in the dwelling unit that is larger than one hundred (100) square feet, meets the bedroom egress requirements of the building code, is separable from other rooms by a door or door frame that

cooking, eating, or laundering and is not solely a bathroom, living room, family room, kitchen, dining room, laundry room, or a utility room for central heating/cooling equipment.

- 2) For any other type of residential use or where the application of the fee schedule is unclear, the Planning Board shall determine the applicable impact fee based upon the anticipated number of middle school students that would typically be expected to live in the residential use and a base impact fee of \$8,492 per middle school student.
- 3) Any residential use that is permanently limited to occupancy by residents that are at least sixty-five years of age by binding legal restrictions shall be exempt from the Middle School Facilities Impact Fee.
- 4) Any residential use that is permanently limited to occupancy by residents that are at least fifty-five years of age by binding legal restrictions that are consistent with the Federal Fair Housing provisions shall be exempt from ninety (90) percent the Middle School Facilities Impact Fee that would otherwise be applicable to the use.
- 5) In the situation where the number of dwelling units in an existing building is being increased, the impact fee due shall be the difference between the impact fee that would be due based upon the proposed utilization of the building minus the fee that would have been charged based upon the utilization of the building prior to the change. (For example, an existing single-family home is being converted into a multifamily building with four, two-bedroom apartments. The required impact fee for the four apartments would be calculated and the required fee for a single-family home subtracted from this amount to determine the amount of the impact fee due.)

#### **D. USE OF FEES COLLECTED**

The Town adopted a Comprehensive Plan in 2016, which identified the Town's goal to establish a plan to finance and develop an efficient system of public facilities and services to accommodate anticipated growth and economic development in the community. Among the policy objectives outlined in the 2016 Comprehensive Plan to meet that goal was the use of impact fees to minimize the cost to the taxpayers of providing expanded facilities to serve new development and to spread the costs of such improvements over the projects that benefit from them. In addition, a long range study conducted in 1999 identified the middle school as a priority project and the Capital Improvement Plan set forth in the 2016 Comprehensive Plan highlighted the completion of the priority projects identified in that study.

The impact fees collected under this Ordinance shall be deposited into a fund that is segregated from the Town's general revenues. Consistent with the goals identified in the 2016 Comprehensive Plan, impact fees collected under this Ordinance shall be expended for the sole purpose of paying debt service on the bonds issued to finance the construction of the Gorham Middle School in the amounts and for the time period associated with the debt service schedule of the bonds, plus a period of ten years beyond the expiration of debt service to account for the period of time during which this Ordinance was suspended and no impact fees were collected. Any impact fees collected under this Ordinance that exceed the Town's debt service payment on the bonds issued to finance the construction of the Gorham middle school shall be refunded on a prorated basis in the same manner as the fees are assessed under the Methodology referenced in Section D hereof.

#### **E. EFFECTIVE DATES**

Notwithstanding the provisions of 1 M.R.S.A. § 302 or any other law, this ordinance, when enacted, shall govern any plan or application for permits or approvals under the Land Use Code submitted on or after October 3, 2019, and any such plan or application submitted before that date, but which had not received at least one substantive review, within the

meaning of § 302, on or before that date, by the Town board or official having authority to grant any such permit or approval.

### ADOPTED FEES

Bedrooms Per Dwelling Unit	Single-Family, Manufactured Housing Unit, or Modular Home on a Lot
1 bedroom	0
2 bedrooms	\$424.60
3 bedrooms	\$1,273.80
4 bedrooms	\$1,273.80
5 or more bedrooms	\$1,698.40

Bedrooms Per Dwelling Unit	Apartment or Condo in Multi-Unit Building	Apartment or Condo in Two-Family Building	Mobile Home Manufactured Housing Unit in Mobile Home or Housing Park
1 bedroom	0	0	0
2 bedrooms	\$169.84 per unit	\$169.84 per unit	\$424.60 per unit
3 or more bedrooms	\$424.60 per unit	\$849.20 per unit	\$1,273.80 per unit



## **SECTION 7-3 RECREATIONAL FACILITIES AND OPEN SPACE IMPACT FEE #2**

### **A. DESCRIPTION OF THE IMPROVEMENTS**

The Town is planning to expand the recreational facilities in the community to serve the needs of a growing population. The Town will use the revenue generated from the recreational facilities portion of this impact fee to undertake the following improvements to expand the supply of community-wide outdoor recreation facilities:

- 1) Continue to develop the so-called Chick Property as a multi-purpose community recreational complex substantially in accordance with the June 2001 Feasibility Study and the Chick Property Master Plan approved by the Town Council.
- 2) Design and complete recreational facilities development at the Gorham Middle School.
- 3) Prepare a master plan for the reuse and development of the Weeks Road property and a Master Plan for the so-called Gorham Savings Bank property and then begin to develop recreational facilities in accordance with the approved Master Plans.
- 4) Continue to plan and design for the Little Falls Recreation area to increase the number of playing fields and other recreational facilities and to begin developing those recreational facilities.
- 5) Prepare a plan for a multi-use trail network throughout the Town and begin development of those trails including acquisition of land or easements for trail.
- 6) Undertake a new recreational master plan for the Town of Gorham and to begin developing recreational facilities improvements outlined in the master plan.
- 7) Continue to plan, design, and build recreational facilities at Shaw and Robie Parks.
- 8) The open space portion of the impact fee will be used to acquire land, conservation easements and or/development rights, prepare a master plan which identifies properties for future conservation, and improve conservation land to protect significant natural resources, conserve scenic values, preserve the community's agricultural heritage, conserve the remaining supply of viable farmland, and provide areas for low-intensity recreational activities such as walking, bird-watching, cross-country skiing, snow shoeing, biking, hunting, trapping and similar activities that are consistent with the primary use of the property as open space or farmland.

### **B. NEED FOR THE IMPROVEMENT**

The need for community recreation facilities, parks, and open space is a function of the size of the community's population. As the community grows, it needs more recreation land, fields, facilities, playgrounds, natural areas, and open space. The Town's adopted Comprehensive Plan identifies the need to expand the supply of recreational facilities and open space to serve a growing population.

The Town has 0.01069 acres of park and recreation land per capita as of June 2022. The recreational facilities portion of the fee is designed to allow the Town to maintain the current ratio of land and park and recreational facilities as the population grows and creates the need for the expanded facilities.

Gorham has a total of 911 acres of community open space or a ratio of 0.0497 acres of community open space per capita as of June 2022. The open space portion of the fee is designed to allow the Town to maintain this ratio as the Town's population grows.

### C. ACTIVITIES SUBJECT TO THE FEE

Any residential development activity that creates new dwelling units shall pay this impact fee based upon the expected population of the project considering typical occupancy rates. The following occupancy factors shall be used as a base for calculating the fee:

Single family dwellings and mobile homes	3.2 people/unit
Dwelling unit in a two-family or multi-family dwelling with:	
a. one bedroom	1.2 people/unit
b. two bedrooms	2.0 people/unit
c. three or more bedrooms	3.0 people/unit
Dwelling unit in elderly or congregate	1.2 people/unit housing

This fee shall apply to the construction of any new dwelling unit whether or not such unit is part of a subdivision. It shall apply to conversion or alteration of an existing building that creates or increases the number of dwelling units in the building. In the case of a development activity that increases the number of dwelling units in a building, the impact fee shall apply only to the new dwelling units.

### D. CALCULATION OF THE FEE

The recreational facilities and open space impact fee is the sum of the per capita cost of providing additional recreational facilities and the per capita cost of providing additional open space multiplied by the anticipated number of residents in the dwelling unit. The adjusted per capita recreational facilities fee is \$801 (see Impact Fee Methodology dated July 13, 2022). The adjusted per capita open space facilities fee is \$179. Combining the two portions of the fee results in an impact fee of \$980 per capita.

- 1) The impact fee per dwelling unit for the following types of residential units shall be:

A single family dwelling including a manufactured or modular housing unit placed on a single-family lot, a mobile home or manufactured housing unit in a mobile home park, or a detached condominium unit	\$3,136
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A dwelling unit in a two-family or multi-family dwelling including attached condominium units with:

a. one bedroom	\$1,176
b. two bedrooms	\$1,960
c. three or more bedrooms	\$2,940

A dwelling unit in elderly or congregate housing	\$1,176
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- 2) For any other type of residential use or where the application of the fee schedule is unclear, the Planning Board shall determine the applicable fee based upon the number of occupants that would be typically expected to live in the dwelling unit and the impact fee of \$980 per capita.
- 3) In the situation where the number of dwelling units in an existing building is being increased, the impact fee due shall be the difference between the impact fee that would be due based upon the proposed utilization of the building minus the fee that would have been charged based upon the utilization of the building prior to the change.

- 4) The recreational impact fee is due at the time of payment for the building permit where the dwelling units are located.

**E. EFFECTIVE DATES**

Notwithstanding the provisions of 1 M.R.S.A. §302 or any other law, this ordinance, when enacted, shall govern any plan or application for approval or permits under the Land Use and Development Code submitted on or after April 4, 2023, and any such plan or application submitted before that date, but which had not received at least one substantive review, within the meaning of §302, on or before that date, by the Town board or official having authority to grant any such permit or approved.

## **SECTION 7-4 FORT HILL WATER MAIN EXTENSION IMPACT FEE**

### **A. DESCRIPTION OF THE IMPROVEMENTS**

The Town plans to cooperate with the Portland Water District to install a sixteen (16) inch water main in the Fort Hill Road from Mercier Way to the intersection with the Huston Road, a distance of approximately 8,000 feet.

### **B. NEED FOR THE IMPROVEMENT**

Development in the Fort Hill corridor north of the current terminus of the water main has relied on groundwater supplies provided through private wells. These wells provide limited supplies. Periodically, there have been some issues with the quality of these groundwater supplies.

North of the current terminus of the water main, the Fire Department has access to only 2 all-season supplies in the Fort Hill area – the fire pond at the back side of the Fort Hill Farms development and a fire pond at the end of Long View Drive in the Martin Subdivision. These supplies leave much of the area between the terminus of the existing main and Huston Road, especially the area along Route 114, and to the west of Route 114, with almost no available supply of water for fire suppression.

Most of Gorham Village is served by public water including hydrants for fire protection water supplies. The “Village water system” is a branch of the Portland Water District with a single connection via a pump station located near Main Street in the vicinity of Libby Avenue. This results in the entire “Village water system” being a long dead end with only a single source of supply.

As a result of this configuration, fire flows and pressures within Gorham Village are limited. While these limitations have not presented serious problems in terms of providing fire protection to the existing development in Gorham Village, continued growth in and around the Village will tax the ability of the current system to provide adequate flows and pressure for fire protection.

The Portland Water District is planning to construct a new pumping station on the Huston Road. The long range plan of the District anticipates that this pump station will eventually be connected to Gorham Village through the construction of a water main in Fort Hill Road. The Water District proposes to install an oversized 16 inch main. This improvement, when and if it occurs, will provide public water service in the Fort Hill corridor from the terminus of the current main to the Huston Road intersection. This improvement will also provide a second source of supply for the “Village water system”. This interconnection will substantially improve fire flows and pressure in the portion of Gorham Village served by the existing water mains thereby providing capacity for new users in and around the Village. The planned resurfacing/reconstruction of the Fort Hill Road by the Maine Department of Transportation during 2004 combined with the Water District’s funding constraints make it unlikely that this improvement would be undertaken in the near future even with the development pressures in the area and the limited fire protection water supplies in the Village.

The Town of Gorham proposes to work with the Portland Water District to accelerate the planned extension of the Fort Hill Road water main from its terminus in the vicinity of the Gordon Farm Subdivision northerly approximately 8,000 feet to the intersection with the Huston Road. This will enable the main to be installed in 2004 prior to the planned reconstruction of the Fort Hill Road. This will enable this main to be connected to the new Huston Road pumping station in the near future. Fire hydrants will be provided upon the length of the extension.

C. ACTIVITIES SUBJECT TO THE FEE

Any development within the Fort Hill Water Main Extension Impact Fee Benefit District as shown on the map of said district dated April 26, 2004 on file with the Town Clerk shall be subject to the fee whether or not such use utilizes the Portland Water District system (see Fort Hill Water Main Extension Impact Fee Methodology dated April 27, 2004). This includes residential and nonresidential uses as well as additions to existing buildings that increase the water use of the property based upon design sewage flows from the Maine State Plumbing Code.

D. CALCULATION OF THE FEE

The base impact fee shall be \$650 per new single-family dwelling unit in Area A of the Benefit District and \$200 per new single-family dwelling unit in Area B as shown on the Fort Hill Water Main Extension Impact Fee Benefit District map dated April 26, 2004 (see Fort Hill Water Main Extension Impact Fee Methodology dated April 27, 2004). New nonresidential buildings and structures, other new residential uses, and expansions of existing buildings that increase their water use shall be charged an impact fee based upon their likely water use, or increase in water use for existing buildings, based upon the design sewage flows from the Maine State Plumbing Code and base fees of \$650 and \$200 per 300 gallons per day of design flow. The impact fee shall be set at \$650 for Area A and \$200 for Area B for development that is subject to the fee in Fiscal Year 2003-04 and 2004-05 and the fee adjusted by 3% per year to account for the potential rate of inflation. This adjustment results in the following schedule of impact fees per single-family home or 300 gallons per day of design sewage flow for all other uses:

Fiscal Year (7/1 to 6/30)	Area A	Area B
2003-04	\$650	\$200
2004-05	\$650	\$200
2005-06	\$670	\$206
2006-07	\$690	\$212
2007-08	\$710	\$219
2008-09	\$732	\$225
2009-10	\$754	\$232
2010-11	\$776	\$239
2011-12	\$799	\$246
2012-13	\$823	\$253
2013-14	\$848	\$261
2014-15	\$874	\$269
2015-16	\$900	\$277
2016-17	\$927	\$285
2017-18	\$955	\$294
2018-19	\$983	\$303

If the impact fee continues beyond 2018-19, the fee shall continue to increase at 3% per year.

E. EFFECTIVE DATES

Notwithstanding the provisions of 1 M.R.S.A. §302 or any other law, this ordinance, when enacted, shall apply to any project for which an application for a building permit under the Land Use and Development Code or other Town ordinance is submitted on or after June 1, 2004.

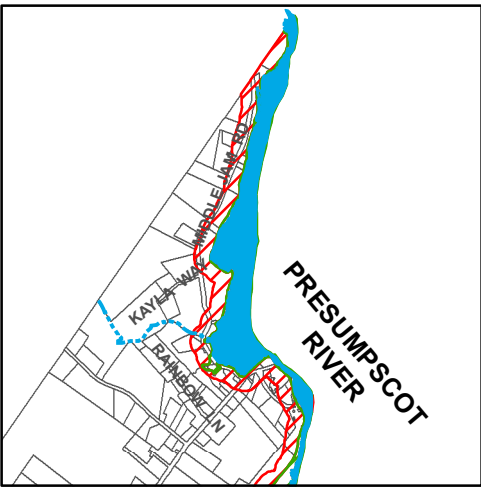
The Fort Hill Water Main Extension Impact Fee shall terminate when the Town has collected \$249,000 in impact fees under this provision.

# Town of Gorham Shoreland Zoning

EFFECTIVE: JULY 3, 2012

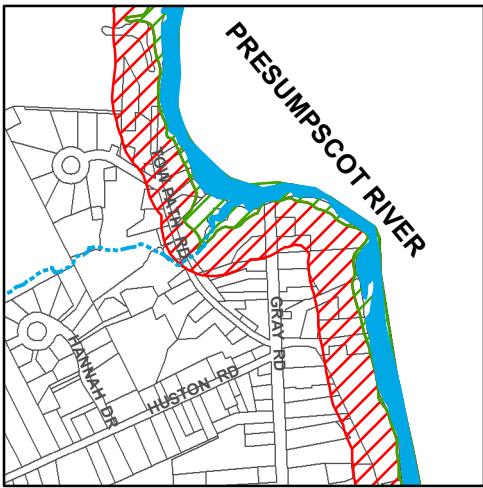
I CERTIFY THIS TO BE A TRUE COPY OF THE OFFICIAL  
SHORELAND ZONING MAP AS APPROVED BY VOTE OF  
THE TOWN COUNCIL

Cornelia Loughran, Town Clerk



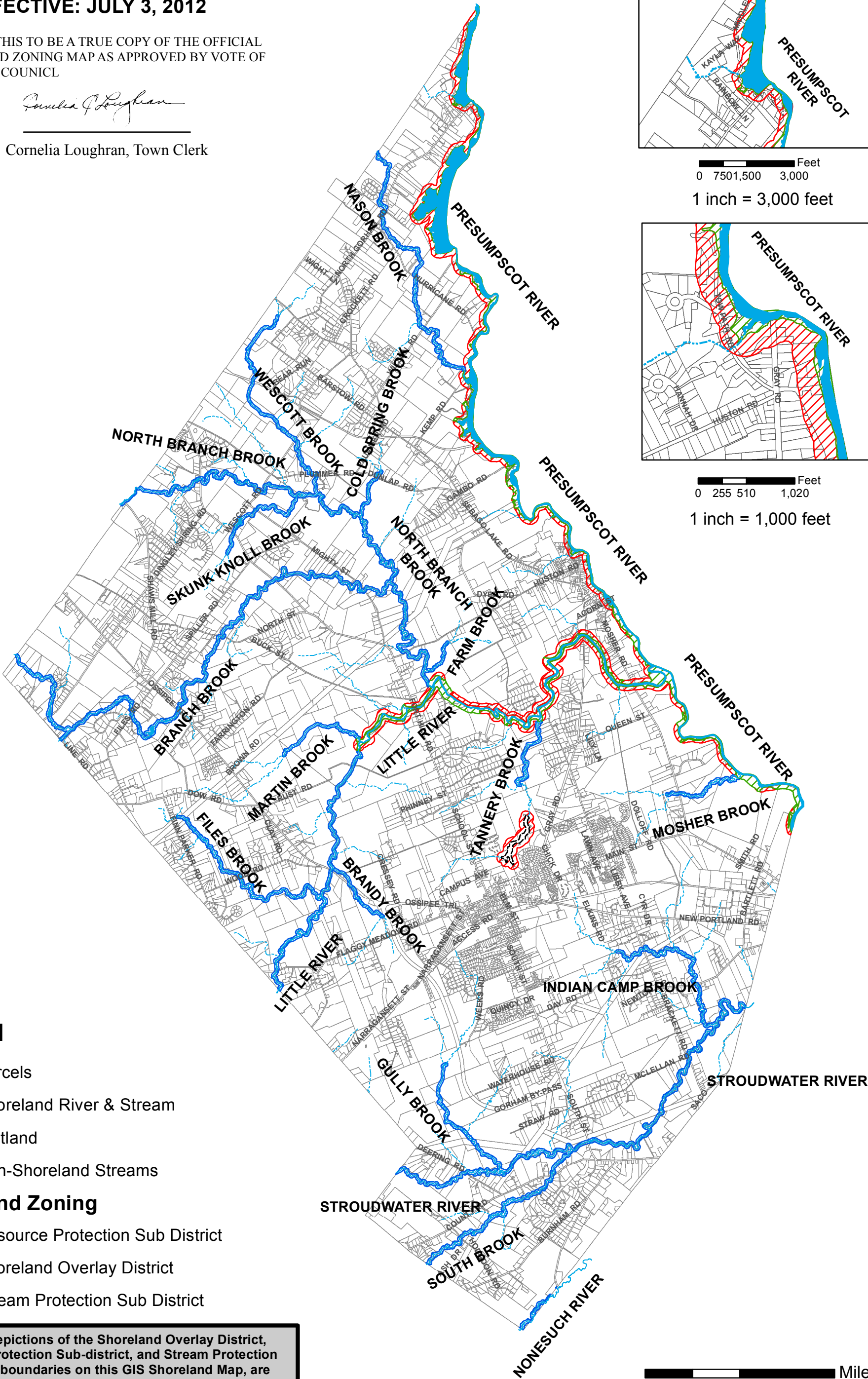
0 750 1,500 3,000 Feet

1 inch = 3,000 feet



0 255 510 1,020 Feet

1 inch = 1,000 feet



## Legend

- Parcels
- Shoreland River & Stream
- Wetland
- Non-Shoreland Streams

## Shoreland Zoning

- Resource Protection Sub District
- Shoreland Overlay District
- Stream Protection Sub District

Note: The depictions of the Shoreland Overlay District, Resource Protection Sub-district, and Stream Protection Sub-district boundaries on this GIS Shoreland Map, are merely illustrative of their approximate boundaries. The exact boundaries shall be determined by on-site inspections and measurement from the normal high water line or upland edge of a wetland.

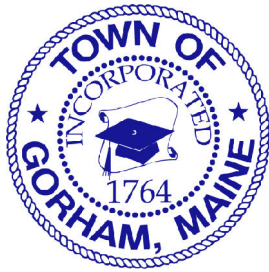
0 0.5 1 2 Miles

1 in = 1 miles

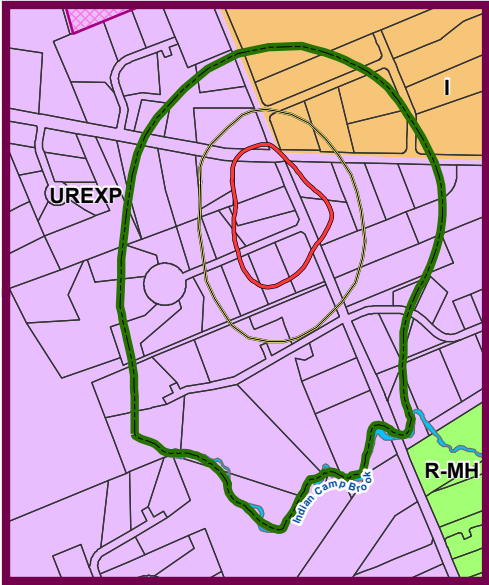


# ZONING MAP

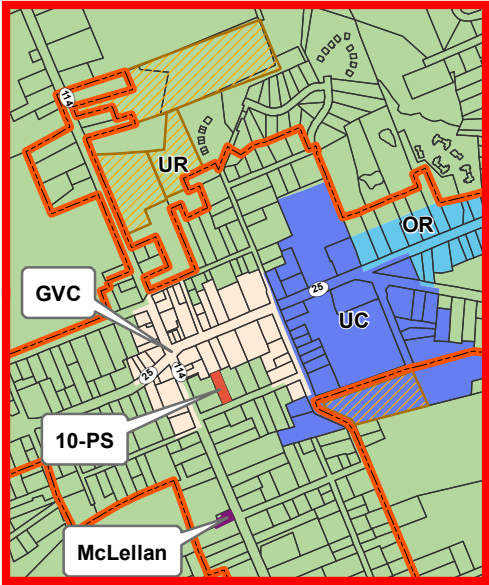
OF THE TOWN OF  
**GORHAM**  
CUMBERLAND COUNTY, MAINE  
January 2024



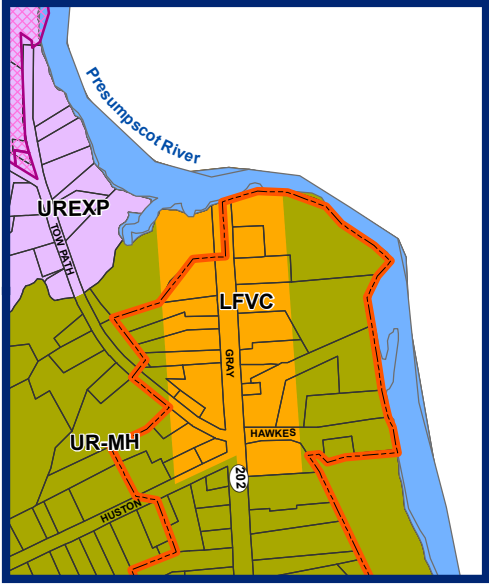
Black Brook and Brackett Road  
Special Protection District



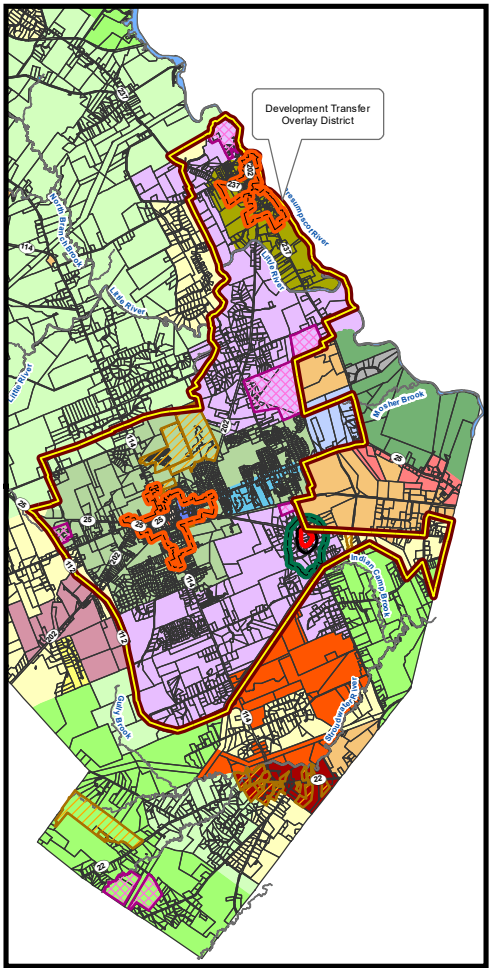
Gorham Village Center



Little Falls Village Center



Development Transfer Overlay District



**LEGEND**

- Mountain Division Trail
- State Road
- Stream
- River
- Black Brook and Brackett Road Special Protection District**
  - Remedial Activities Area
  - Water Resource Mangement
  - Limited Water Resource Management
- Contract Zones
- Manufactured Housing Park Overlay District
- Campground Overlay District
- Small Dwelling Overlay District
- Parcel Boundary

**Conditional Zoning**

- PS-10: 10 Preble Street
- McLellan: McLellan/ Sampson House

**Zoning**

- SGCC: South Gorham Commerical Corridor
- SGXR: South Gorham Crossroads
- WR: White Rock Mixed Use
- MC: Mosher Corner Mixed Use
- GVC: Gorham Village Center
- I: Industrial
- LFVC: Little Falls Village Center
- ND: Narragansett Mixed-Use Development
- OCI: Olde Canal Industrial
- AI: Agricultural Industrial
- OR: Office Residential
- R: Rural
- R-MH: Rural-Manufactured Housing
- RC: Roadside Commercial
- SR: Suburban Residential
- SR-MH: Suburban Residential-Manufactured Housing
- UC: Urban Commercial
- UR: Urban Residential
- UR-MH: Urban Residential-Manufactured Housing
- UREXP: Urban Residential Expansion

I hereby certify that this is the Zoning Map of the Town of Gorham referred to in the Gorham Land Use and Development Code Zoning Ordinance and is the Official Zoning Map for the Town of Gorham, Maine. It includes all prior revisions and is current as of this date and was voted on by the Town Council.

Laurie Nordfors, Town Clerk

*Laurie Nordfors*

When uncertainty exists with respect to the district boundaries as shown upon this Zoning Map of the Town of Gorham, or amendments thereto, the following shall apply:

- Unless otherwise indicated, district boundary lines are the center lines, plotted at the time of adoption of the Code, of streets, alleys, parkways, waterways, or rights-of-way of public utilities and railroads or such lines extended.
- Other district boundary lines which are not listed in the preceding paragraph shall be considered as lines paralleling a street and at distances from the center lines of such streets as indicated by the official Zoning Maps on file in the Gorham Municipal Office. In the absence of a written dimension, the graphic scale on the official Zoning Maps shall be used.

Amended by the Gorham Town Council on January 2, 2024 and effective this February 1, 2024.

1 inch = 6,000 feet

