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**CHAPTER I ZONING REGULATIONS**

**SECTION I - 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
Roadside Office	RO
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 II 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 II, Section IV or
  - b) The development was approved in accordance with the provisions of Chapter IV, 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<sup>1</sup>, 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<sup>2</sup> fee; and
- 3) Independent consulting and peer review escrow account to be established with the Town in accordance with Chapter II, Section IX of this Code.

All fees shall be non-refundable except unexpended escrow deposits, which shall be refunded in accordance with Chapter II, Section IX, Subsection B of this Code.<sup>3</sup>

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 II, Section I.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

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<sup>1</sup> Amended September 3, 1996

<sup>2</sup> Amended December 1, 2009

<sup>3</sup> Amended September 3, 1996

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<sup>1</sup>**

- (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<sup>2</sup>, 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<sup>3</sup> fee; and
- (c) Independent consulting and peer review escrow account to be established with the Town in accordance with Chapter II, Section IX of this Code.<sup>4</sup>

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<sup>1</sup> Amended August 5, 2003

<sup>2</sup> Amended September 3, 1996

<sup>3</sup> Amended December 1, 2009

<sup>4</sup> Amended September 3, 1996

- (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 II - 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 III, 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 II, Section I.E., 6 of this Code.<sup>1</sup>
- 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.

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<sup>1</sup> Amended December 2, 2003



- 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 IV prior to the issuance of permits or occupancy of the building if no permits are required.

### **SECTION III - 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<sup>1</sup>**

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 certified by a registered land surveyor or registered civil engineer or a plumbing inspector appointed by the Town. 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.
- 2) In all districts, the approval of building permit applications shall be subject to evidence of satisfactory subsurface soil conditions for drainage

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<sup>1</sup> Amended December 5, 2000

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 I, Section III (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, 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 IV - 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. The action of the Code Enforcement Officer may be modified or reversed by the Board of Appeals, by majority vote.

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 II, Section I.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 V of Chapter I 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 IV 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:

- i) The need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
- ii) The granting of a variance will not alter the essential character of the locality;
- iii) The hardship is not the result of action taken by the applicant or a prior owner;
- iv) The granting of the variance will not substantially reduce or impair the use of abutting property; and
- v) 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<sup>1</sup> shall be paid by the appellant to the Town of Gorham the time of filing his appeal, which shall not be refundable. 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.

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<sup>1</sup> Amended September 3, 1996



- 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.<sup>1</sup>
- 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 I, Section III (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.

**E. SPECIAL EXCEPTION STANDARDS**

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<sup>1</sup> Amended September 3, 1996

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 unhealthy 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 II, Section I C(3)(b).<sup>1</sup>

#### **F. SPECIAL EXCEPTION FEES<sup>2</sup>**

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<sup>3</sup> fee; and

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<sup>1</sup> Amended March 1, 2011

<sup>2</sup> Amended September 3, 1996

<sup>3</sup> Amended December 1, 2009

3. Independent consulting and peer review escrow account to be established with the Town in accordance with Chapter II, Section IX of this Code.

All fees shall be non-refundable except unexpended escrow deposits, which shall be refunded in accordance with Chapter II, Section IX, 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<sup>1</sup>**

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.

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<sup>1</sup> Amended September 3, 1996

## **SECTION V - 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. <sup>1</sup>
<u>Accessory Apartment</u>	A separate dwelling unit that has been added on, or created within, a single family house for the purpose of providing separate living accommodations. <sup>2</sup>
<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>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. <sup>3</sup>
<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 II, I.E.)
<u>Auxiliary Public Utility Structure</u> <sup>4</sup>	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.  a) Such utility structures must remain unoccupied except for required maintenance. b) Vegetative screening is required where such structures abut residential uses, and may be required along a public and/or private way.
<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.

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<sup>1</sup> Amended December 5, 2000

<sup>2</sup> Amended September 4, 2001

<sup>3</sup> Amended November 1, 2005

<sup>4</sup> Amended April 6, 2010

<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> <sup>1</sup>	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> <sup>2</sup>	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.
<u>Bed and Breakfast Establishment with Dining as an Accessory Use</u> <sup>3</sup>	Public Dining for up to seven days per week is allowed as an accessory use for a Bed and Breakfast Establishment
<u>Billboard</u>	A structure, either free standing or attached to a building, the surface of which is available for hire for advertising purposes.
<u>Building</u>	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.
<u>Building, Principal</u> <sup>4</sup>	The primary building on a lot or a building that shelters or encloses the principal use on a lot.
<u>Building Footprint</u>	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. <sup>5</sup>

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<sup>1</sup> Amended August 4, 2009  
<sup>2</sup> Amended August 4, 2009  
<sup>3</sup> Amended August 4, 2009  
<sup>4</sup> Amended January 5, 2010  
<sup>5</sup> Amended August 5, 2008

Business and Professional Offices

Offices for the conduct of business and involve no sales of tangible<sup>1</sup> products available on the premises, except as a minor and ancillary use as would be directly related to the conduct of a given profession,<sup>2</sup> or storage of materials or equipment which are used off the premises. 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<sup>3</sup>
- 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.<sup>4</sup>

Caretaker Unit<sup>5</sup>

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.

Cluster Residential Development

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.

Code Enforcement Officer

Shall mean the head of the Gorham Land and Building Department with duties as prescribed in the Town Administrative Code.

Commercial Outdoor Recreation Facilities

Private recreation facilities such as miniature golf courses, swim clubs, tennis clubs, driving ranges and similar facilities.

Condominium

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.<sup>6</sup>

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<sup>1</sup> Amended April 6, 1999

<sup>2</sup> Amended May 2, 2006

<sup>3</sup> Amended May 2, 2006

<sup>4</sup> Amended April 6, 1999

<sup>5</sup> Amended July 5, 2011

<sup>6</sup> Amended December 7, 1999

Corner Lots

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.

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.

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.

Country Club

Land area and buildings containing golf courses, a clubhouse, and customary accessory uses, open only to members and their guests.<sup>1</sup>

Coverage

That percentage of the plot or lot area covered by the building area.

Day Care Home

A home or other facility used generally to provide day care services or baby-sitting services for twelve (12) or fewer children.

Day Care Center

A home or other facility used generally to provide day care services or baby-sitting services for thirteen (13) or more children.

Drive-through Service

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:

- 1) A separate, defined stacking lane is provided which will accommodate a minimum of five vehicles.
- 2) The transaction occurs at a defined service window or terminal.
- 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.
- 4) The architectural design of the service window or terminal shall be compatible with the principal use.

Dwelling

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.

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<sup>1</sup> Amended October 7, 2003



<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 II, 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>Flood Insurance Rate Map</u>	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.
<u>Floor Area</u>	The sum of the horizontal areas of a floor(s) of a structure enclosed by the exterior walls. <sup>1</sup>
<u>Floor Area Ratio</u>	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.
<u>Forest Management Activities</u>	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 II, E.)
<u>Forested wetland</u>	A freshwater wetland dominated by woody vegetation that is six (6) meters tall or taller.
<u>Fraternity House</u> <sup>2</sup>	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.
<u>Fraternal Organization</u> <sup>3</sup>	A group of people formally organized for a non-profit common interest, usually cultural, religious, or entertainment, with regular meetings, rituals,

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<sup>1</sup> Amended April 6, 1999

<sup>2</sup> Amended October 5, 2010

<sup>3</sup> Amended October 5, 2010

Effective Date: Notwithstanding any provisions to the contrary, this amendment shall be effective July 6, 2010.

Effective Date: Notwithstanding any provisions to the contrary, this amendment shall be effective July 6, 2010.

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 II, 1.E.)<sup>1</sup>

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 II, Section I.E.)<sup>2</sup>

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.<sup>3</sup>

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

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<sup>1</sup> Amended February 2, 2010  
<sup>2</sup> Amended February 2, 2010  
<sup>3</sup> Amended October 7, 2003

increased inland body of water is completely surrounded by land held by a single owner. (Applies to Shoreland Area Protection, Chapter II, 1.E.)<sup>1</sup>

Ground cover<sup>2</sup>

Small plants, fall leaves, needles and twigs and the partially decayed organic matter of the forest floor. (Applies to Shoreland Area Protection, Chapter II, Section I.E<sup>3</sup>).

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.<sup>4</sup>

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 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; conforms with the following conditions:

- 1) The occupation or profession shall be carried on wholly within the principal building or within a building or other structure accessory thereto.
- 2) Not more than two people outside the family shall be employed in the home occupation. There shall be no stock in trade.
- 3) 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.
- 4) No nuisance, offensive noise, vibration, smoke, dust, odors, heat, glare, or electrical disturbance shall be generated.
- 5) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in the neighborhood.
- 6) In addition to the off-street parking provided to meet the normal requirements of the dwelling, adequate off-street parking shall be provided for the vehicles of each employee and the vehicles of the maximum number of users the home occupation may attract during peak operating hours.

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<sup>1</sup> Amended February 2, 2010

<sup>2</sup> Amended February 2, 2010

<sup>3</sup> Amended February 2, 2010

<sup>4</sup> Amended December 5, 2000

- 7) The home occupation shall not utilize more than 20% of the total floor area of the dwelling unit.

A home occupation shall include, but not be limited to, the following:

art studio  
bed and breakfast<sup>1</sup>  
day care home  
dressmaking shop  
hairdressing shop  
teaching or tutoring facilities  
office of a physician, dentist, optometrist, lawyer, engineer, architect, or accountant  
office of a real estate broker or agent  
office of an insurance agent or broker

A home occupation shall not be interpreted to include the following:

facilities for the repair of motor vehicles  
day care center

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.<sup>2</sup>

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.

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.<sup>3</sup>

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.<sup>4</sup>

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<sup>1</sup> Amended August 4, 2009  
<sup>2</sup> Amended December 5, 2000  
<sup>3</sup> Amended August 4, 2009  
<sup>4</sup> Amended August 5, 2008

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.

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.

Lot

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.

Luminous Surface Material or Paint

A surface material or paint that contains a phosphorescent or fluorescent substance that makes it glow in the dark.<sup>1</sup>

Manufactured Housing Unit

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:

1. The unit is constructed with a pitched roof having a pitch of 4 in 12 or greater.
2. The roof is covered with asphalt composition shingles, fiberglass shingles, approved wood shingles or shakes, or similar residential roofing material.
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.

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<sup>1</sup> Amended August 5, 2008

4. The minimum horizontal dimension of the unit as installed on the site is 14 feet.
5. The minimum floor area of the unit shall be 750 square feet.

Mobile Home

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.

Mobile Home Park

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.

Mobile Vending Unit

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.

Modular Housing Unit

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.

Motel

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.

Multi-Family Housing

A building arranged, intended or designed to be designed to be occupied by three or more families living in independent dwelling units.

Native<sup>1</sup>

Indigenous to the local forests. (Applies to Shoreland Area Protection, Chapter II, Section I.E).

Net Acreage

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

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<sup>1</sup> Amended February 2, 2010

the parcel. The following original land areas shall be considered unsuitable and shall be deducted in the following order:<sup>1</sup>

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.
2. Areas that are, because of existing land uses, natural features, or lack of access, isolated and unavailable for building purposes or for 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 high-intensity soils map prepared by a certified soil scientist in accordance with the National Cooperative Soil Survey Classification:
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 map prepared by a certified soil scientist in accordance with the National Cooperative Soil Survey Classification. This deduction is to account for the marginal development suitability of these soils if public sewer and water are not available.

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<sup>1</sup> Amended January 7, 2003

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.<sup>1</sup>

\*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.<sup>2</sup>

Non-conforming Use

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.

Normal High-Water Line

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.<sup>3</sup> (Applies to Shoreland Area Protection, Chapter II, Section I.E.)<sup>4</sup>

Occupant

For the purposes of the sign provisions of Chapter II, Section III, Signs, any distinct use that occupies a separate and identifiable space within a building.<sup>5</sup>

Overpumping

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.<sup>6</sup>

Parking Space

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

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<sup>1</sup> Amended January 7, 2003

<sup>2</sup> Amended August 5, 2008

<sup>3</sup> Amended February 2, 2010

<sup>4</sup> Amended February 2, 2010

<sup>5</sup> Amended August 5, 2008

<sup>5</sup> Amended December 5, 2000

<sup>6</sup> Amended December 5, 2000



passenger vehicles. Parking space or access thereto shall be construed as to be usable year round.

Personal Services

Includes barber, hairdresser, beauty parlor, shoe repair, shoe shine, laundry, laundromat, dry cleaner, photographic studio, and businesses providing similar services of a personal nature.

Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over Or Beyond The Normal High Water Line or Within A Wetland

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 II, I.E.)<sup>1</sup>

Piggery

A building or portion thereof, or an enclosure or designed for the keeping of pigs.

Primary Front Façade

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.<sup>2</sup>

Principal Use<sup>3</sup>

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.

Public Sewer

A common sewer controlled by a public, governmental authority.

Public Water

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 II, I.E.)<sup>4</sup>

Recharge Area

Areas composed of porous sand and gravel, or other areas that collect precipitation or surface water and carry it to aquifers.<sup>5</sup>

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<sup>1</sup> Amended February 2, 2010

<sup>2</sup> Amended August 5, 2008

<sup>3</sup> Amended January 5, 2010

<sup>4</sup> Amended February 2, 2010

<sup>5</sup> Amended December 5, 2000

<u>Repair Services</u>	Businesses providing for the repair 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; 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. <sup>1</sup>
<u>Retail Store</u>	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.
<u>River</u>	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, Chapter II, I.E.) <sup>2</sup>
<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 <sup>3</sup> 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. <sup>4</sup>
<u>Service Drop</u>	Any utility line extension which does not cross or run beneath any portion of a water body provided that: <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</li> </ol>

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<sup>1</sup> Amended April 6, 1999  
<sup>2</sup> Amended February 2, 2010  
<sup>3</sup> Amended October 5, 2010  
<sup>4</sup> Amended November 1, 2005

Effective Date: Notwithstanding any provisions to the contrary, this amendment shall be effective July 6, 2010.

- a. the extension, regardless of length, will be made by the installation of telephone wires to existing utility poles, or
- 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 II, I.E.)<sup>1</sup>

Setback, Normal High Water Line

The nearest horizontal distance from the normal high-water line of a water body or tributary stream, or upland edge of a wetland,<sup>2</sup> to the nearest part of a structure, road, parking space or other regulated object or area. (Applies to Shoreland Area Protection, Chapter II, Section I.E.)<sup>3</sup>

Shed

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.<sup>4</sup>

Shore Frontage

The length of a lot bordering on a water body or wetland<sup>5</sup> measured in a straight line between the intersections of the lot lines with the shoreline. (Applies to Shoreland Area Protection, Chapter II, Section I.E.)<sup>6</sup>

Sign

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.

Sign, Building

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.<sup>7</sup>

Sign, Business

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.<sup>8</sup>

Sign, Business Identification

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.<sup>9</sup>

Sign, Directory

A freestanding or building sign that lists the tenants or occupants of a building, project, or development.<sup>1</sup>

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<sup>1</sup> Amended February 2, 2010  
<sup>2</sup> Amended February 2, 2010  
<sup>3</sup> Amended February 2, 2010  
<sup>4</sup> Amended March 1, 2011  
<sup>5</sup> Amended February 2, 2010  
<sup>6</sup> Amended February 2, 2010  
<sup>7</sup> Amended August 5, 2008  
<sup>8</sup> Amended August 5, 2008  
<sup>9</sup> Amended August 5, 2008

<u>Sign, Freestanding</u>	A sign that is permanently attached to the ground and is not attached to a building or structure. <sup>2</sup>
<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. <sup>3</sup>
<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. <sup>4</sup>
<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. <sup>5</sup>
<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. <sup>6</sup>
<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. <sup>7</sup>
<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. <sup>8</sup>
<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. <sup>9</sup>
<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. <sup>10</sup>
<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. <sup>11</sup>

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<sup>1</sup> Amended August 5, 2008  
<sup>2</sup> Amended August 5, 2008  
<sup>3</sup> Amended August 5, 2008  
<sup>4</sup> Amended February 2, 2010  
<sup>5</sup> Amended August 5, 2008  
<sup>6</sup> Amended August 5, 2008  
<sup>7</sup> Amended August 5, 2008  
<sup>8</sup> Amended August 5, 2008  
<sup>9</sup> Amended August 5, 2008  
<sup>10</sup> Amended August 5, 2008  
<sup>11</sup> Amended August 5, 2008

<u>Sign Face</u>	The area of the surface of a sign upon which the words, symbols, or graphics appear. <sup>1</sup>
<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 I 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, of flows to another water body or wetland within the shoreland area.. (Applies to Shoreland Area Protection, Chapter II, Section I.E.) <sup>2</sup>
<u>Street</u>	A way established and maintained under public authority, or a fifty (50) foot wide recorded private way approved by the Planning Board, or a way shown on a plan of a subdivision duly approved by the Planning Board. <sup>3</sup>
<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. <sup>4</sup>
<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:<sup>5</sup></p> <ol style="list-style-type: none"> <li>1. boundary walls, fences;</li> <li>2. retractable awnings;</li> <li>3. paving of driveways 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; and</li> <li>2. patios, terraces and decks</li> </ol>

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<sup>1</sup> Amended August 5, 2008  
<sup>2</sup> Amended February 2, 2010  
<sup>3</sup> Amended September 2, 1997  
<sup>4</sup> Amended February 1, 2011  
<sup>5</sup> Amended January 7, 1997

<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 II, Section 9(L). (Applies to Shoreland Area Protection, Chapter II, Section I.E.) <sup>1</sup>
<u>Trailer</u>	Trailer shall mean any vehicle used or so constructed as to permit its being used as a conveyance on the public streets and highways and duly licensed as such, and constructed in such a manner as will permit occupancy thereof as a temporary dwelling for one or more persons. A trailer shall not be construed as a mobile home for the purposes of this Code.
<u>Trailer Park</u>	An area occupied or designed to be occupied by trailers for seasonal use only from May through October.
<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. 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. <sup>2</sup>
<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 vegetations is dominated by woody stems that are

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<sup>1</sup> Amended February 2, 2010

<sup>2</sup> Amended February 2, 2010

six (6) meters or taller. (Applies to Shoreland Area Protection, Chapter II, Section I.E.)<sup>1</sup>

Variance

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.

Village Character

A pattern of land use and building development that is consistent with the "selected concepts" set out in Section III. Alternative Concepts, of the Gorham Main Street Master Plan.<sup>2</sup>

Water Body

Any great pond, river, stream. (Applies to Shoreland Area Protection, Chapter II, 1.E.)<sup>3</sup>

Water Crossing

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 II, Section I.E.)<sup>4</sup>

Wetland

A freshwater wetland. (Applies to Shoreland Area Protection, Chapter II, E.)

Yard

An unoccupied space, open to the sky, on the same lot with a building or structure.

Yard Front

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.<sup>5</sup>

Yard Rear

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.<sup>6</sup>

Yard Side

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.<sup>7</sup>

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<sup>1</sup> Amended February 2, 2010

<sup>2</sup> Amended April 6, 1999

<sup>3</sup> Amended February 2, 2010

<sup>4</sup> Amended February 2, 2010

<sup>5</sup> Amended January 7, 1997

<sup>6</sup> Amended January 7, 1997

<sup>7</sup> Amended January 7, 1997

## **SECTION VI - 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 II, Section IV, of this Code.<sup>1</sup>

### **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, and except the keeping of animals other than household pets.
- 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.<sup>2</sup>
- 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<sup>3</sup>, 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, except fraternity houses.<sup>4</sup>
- 13) Accessory Apartments<sup>5</sup>

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<sup>1</sup> Amended January 7, 2003

<sup>2</sup> Amended October 5, 2010 Effective Date: Notwithstanding any provisions to the contrary, this amendment shall be effective July 6, 2010.

<sup>3</sup> Amended October 5, 2010 Effective Date: Notwithstanding any provisions to the contrary, this amendment shall be effective July 6, 2010.

<sup>4</sup> Amended October 5, 2010 Effective Date: Notwithstanding any provisions to the contrary, this amendment shall be effective July 6, 2010.

<sup>5</sup> Amended September 4, 2001



- 14) Bed and Breakfast Establishments<sup>1</sup>

**C. SPECIAL EXCEPTIONS**

- 1) Day Care Center.
- 2) The keeping of farm animals, including poultry, provided that a minimum lot area of six (6) acres in one parcel is owned or leased by the applicant as evidenced by a written instrument on record at the Cumberland County Registry of Deeds.

Notwithstanding the provisions of this Subsection C, keeping of farm animals is exempt from special exception review and minimum lot area if kept meeting the requirements under Chapter II, Section XII – Keeping of Urban Farm Animals.<sup>2</sup>

- 3) School, hospital, church or any other institution of education, religious, philanthropic, fraternal organization<sup>3</sup> 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.
- 4) Bed and Breakfast Establishment with public dining as an accessory use.<sup>4</sup>
- 5) Inn<sup>5</sup>

**D. SPACE STANDARDS<sup>6</sup>**

	<u>Watered &amp; Sewered</u>	<u>Unsewered</u>
Minimum lot size	15,000 sq.ft.** <sup>7</sup>	20,000 sq.ft.
Minimum area per dwelling unit	10,000 sq.ft. <sup>8</sup>	20,000 sq.ft.
<b>Minimum street frontage</b>	<b>80 ft.</b>	<b>80 ft.</b>
<b>Minimum front yard</b>	<b>25 ft.</b>	<b>25 ft.</b>
<b>Minimum rear and side yards</b>	<b>15 ft.*</b>	<b>15 ft.*</b>

\*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.<sup>9</sup>

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

<sup>1</sup> Amended August 4, 2009

<sup>2</sup> Amended May 3, 2011

<sup>3</sup> Amended October 5, 2010

Effective Date: Notwithstanding any provisions to the contrary, this amendment shall be effective July 6, 2010.

<sup>4</sup> Amended August 4, 2009

<sup>5</sup> Amended August 4, 2009

<sup>6</sup> Amended January 7, 1997

<sup>7</sup> Amended June 3, 1997

<sup>8</sup> Amended June 3, 1997

<sup>9</sup> Amended August 5, 1997

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.<sup>1</sup>

**E. PERFORMANCE STANDARDS**

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

**SECTION VII - 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 II, Section IV 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, piggery, and the raising of poultry.
- 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<sup>2</sup>, 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.<sup>3</sup>
- 11) Golf courses and country clubs.
- 12) Roadside stands.

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<sup>1</sup> Amended April 6, 2010

<sup>2</sup> Amended October 5, 2010

Effective Date: Notwithstanding any provisions to the contrary, this amendment shall be effective July 6, 2010.

<sup>3</sup> Amended October 5, 2010

Effective Date: Notwithstanding any provisions to the contrary, this amendment shall be effective July 6, 2010.

- 13) Accessory Apartments<sup>1</sup>
- 14) Reuse of an existing agricultural building for non-residential use that meets the Performance Standards of Subsection E<sup>2</sup>
- 15) Rural Entrepreneurial Use that meets the Performance Standards of Subsection E<sup>3</sup>
- 16) Bed and Breakfast Establishment<sup>4</sup>

**C. SPECIAL EXCEPTIONS**

- 1) Day Care Center.
- 2) Cemeteries.
- 3) Sawmill, piggery or the keeping<sup>5</sup> of poultry.

Notwithstanding the provisions of this subsection C, piggery and keeping of poultry is exempt from special exception review if kept meeting the requirements under Chapter ((, Section XII – Keeping of Urban Farm Animals.<sup>6</sup>

- 4) Mineral extraction.
- 5) School, hospital, church or any other nonresidential institution of education, religious, philanthropic, fraternal organization<sup>7</sup> 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<sup>8</sup>.
- 8) Inn<sup>9</sup>

**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	

<sup>1</sup> Amended September 4, 2001

<sup>2</sup> Amended November 1, 2005

<sup>3</sup> Amended November 1, 2005

<sup>4</sup> Amended August 4, 2009

<sup>5</sup> Amended May 3, 2011

<sup>6</sup> Amended May 3, 2011

<sup>7</sup> Amended October 5, 2010

Effective Date: Notwithstanding any provisions to the contrary, this amendment shall be effective July 6, 2010.

<sup>8</sup> Amended August 4, 2009

<sup>9</sup> Amended August 4, 2009

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.<sup>1</sup>

**E. PERFORMANCE STANDARDS**

- 1) The performance standards contained in Chapter II of this Code shall be fully observed.
- 2) Rural Entrepreneurial Uses Including the Reuse of Existing Agricultural Buildings<sup>2</sup>  
In addition to the performance standards of Chapter II, 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, 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.
  - 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 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

<sup>1</sup> Amended April 6, 2010

<sup>2</sup> Amended November 1, 2005

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 l).<sup>1</sup> 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.<sup>2</sup>
- 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 II, Section III – 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 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.
- l) 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.<sup>3</sup>

#### **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.

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<sup>1</sup> Amended July 3, 2007

<sup>2</sup> Amended July 3, 2007

<sup>3</sup> Amended July 3, 2007

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%.<sup>1</sup>

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%.<sup>2</sup>

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<sup>1</sup> Amended January 7, 2003  
<sup>2</sup> Amended January 7, 2003

## **SECTION VIII - RURAL DISTRICT<sup>1</sup>**

### **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 II, Section IV of this Code<sup>2</sup>.

### **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<sup>3</sup>.
- 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<sup>4</sup>, 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.

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<sup>1</sup> Amended January 7, 2003

<sup>2</sup> Amended January 7, 2003

<sup>3</sup> Amended October 5, 2010

<sup>4</sup> Amended October 5, 2010

Effective Date: Notwithstanding any provisions to the contrary, this amendment shall be effective July 6, 2010.

Effective Date: Notwithstanding any provisions to the contrary, this amendment shall be effective July 6, 2010.

- 16) Facilities for the processing of agriculture products.
- 17) Funeral Home
- 18) Accessory Apartments<sup>1</sup>
- 19) Reuse of an existing agricultural building for a non-residential use that meets the Performance Standards of Subsection E<sup>2</sup>
- 20) Rural Entrepreneurial Use that meets the Performance Standards of Subsection E<sup>3</sup>
- 21) Bed and Breakfast Establishment<sup>4</sup>

**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<sup>5</sup> 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.<sup>6</sup>
- 6) Inn<sup>7</sup>

**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 <sup>8</sup>	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	

<sup>1</sup> Amended September 4, 2001

<sup>2</sup> Amended November 1, 2005

<sup>3</sup> Amended November 1, 2005

<sup>4</sup> Amended August 4, 2009

<sup>5</sup> Amended October 5, 2010

Effective Date: Notwithstanding any provisions to the contrary, this amendment shall be effective July 6, 2010.

<sup>6</sup> Amended August 4, 2009

<sup>7</sup> Amended August 4, 2009

<sup>8</sup> Amended January 7, 2003



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.<sup>1</sup>

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.<sup>2</sup>

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

- 1) The performance standards contained in Chapter II of the Code shall be fully observed.
- 2) Rural Entrepreneurial Uses Including the Reuse of Existing Agricultural Buildings<sup>3</sup>

In addition to the performance standards of Chapter II, 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

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<sup>1</sup> Amended January 7, 2003

<sup>2</sup> Amended April 6, 2010

<sup>3</sup> Amended November 1, 2005

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 II, Section III – 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.

**SECTION IX - VILLAGE CENTERS DISTRICT<sup>1</sup>**

**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.<sup>2</sup>
- 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<sup>3</sup>, 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.

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<sup>1</sup> Amended April 6, 1999

<sup>2</sup> Amended October 5, 2010

Effective Date: Notwithstanding any provisions to the contrary, this amendment shall be effective July 6, 2010

<sup>3</sup> Amended October 5, 2010

Effective Date: Notwithstanding any provisions to the contrary, this amendment shall be effective July 6, 2010.

- 13) Drive-through service, as defined in Section V of this Chapter, when accessory to financial institutions.
- 14) Bed and Breakfast Establishment<sup>1</sup>
- 15) Bed and Breakfast Establishment with public dining as an accessory use.<sup>2</sup>
- 16) Inn<sup>3</sup>

**C. SPECIAL EXCEPTIONS**

- 1) Day Care Center.
- 2) School, hospital, church or any other institution of education, religious, philanthropic, fraternal organization<sup>4</sup> 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: *	
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:	35 feet
Maximum building coverage:	None*

\*Space standards for residential uses shall be the same as for those in the Urban Residential 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.<sup>5</sup>

**E. PERFORMANCE STANDARDS**

<sup>1</sup> Amended August 4, 2009

<sup>2</sup> Amended August 4, 2009

<sup>3</sup> Amended August 4, 2009

<sup>4</sup> Amended October 5, 2010

<sup>5</sup> Amended April 6, 2010

Effective Date: Notwithstanding any provisions to the contrary, this amendment shall be effective July 6, 2010.

The performance standards contained in Chapter II 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<sup>1</sup> 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 may require that entrances to uses in this district be combined to the maximum extent possible.
- 4) Each building shall be limited to a maximum of one entrance and exit to Main Street at a point determined by the Planning Board.

## **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.<sup>2</sup>
- 5) Municipal building or use.
- 6) Park or playground.
- 7) Accessory building or use including home occupations.
- 8) Rooming house.
- 9) Funeral home.

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<sup>1</sup> Amended January 5, 2010

<sup>2</sup> Amended October 5, 2010

Effective Date: Notwithstanding any provisions to the contrary, this amendment shall be effective July 6, 2010.

- 10) Place of public assembly, including indoor theater.
- 11) School, hospital, church, or any other institution of educational, religious, philanthropic, fraternal organization<sup>1</sup>, 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 V of this Chapter, when accessory to financial institutions.
- 14) Bed and Breakfast Establishment<sup>2</sup>
- 15) Bed and Breakfast Establishment with public dining as an accessory use<sup>3</sup>
- 16) Inn<sup>4</sup>

**C. SPECIAL EXCEPTIONS**

- 1) Day Care Center.
- 2) School, hospital, church or any other institution of education, religious, philanthropic, fraternal organization<sup>5</sup> 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: *	
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:	35 feet
Maximum building coverage:	None*

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<sup>1</sup> Amended October 5, 2010      Effective Date: Notwithstanding any provisions to the contrary, this amendment shall be effective July 6, 2010.

<sup>2</sup> Amended August 4, 2009

<sup>3</sup> Amended August 4, 2009

<sup>4</sup> Amended August 4, 2009

<sup>5</sup> Amended October 5, 2010      Effective Date: Notwithstanding any provisions to the contrary, this amendment shall be effective July 6, 2010.

\*Space standards for residential uses shall be the same as for those in the Urban Residential 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.<sup>1</sup>

## **E. PERFORMANCE STANDARDS**

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

The general performance standards of Chapter II,  
The Site Plan approval criteria and standards of Chapter IV, Section IX 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.

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<sup>1</sup> Amended April 6, 2010

- 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, 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.

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

The amount of off-street parking required by Chapter II, Section II 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.<sup>1</sup>

**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

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<sup>1</sup> Amended January 5, 2010



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 II, Section III, 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.
- 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 X URBAN COMMERCIAL DISTRICT<sup>1</sup>**

**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 IX, Subsection B, Village Centers District.
- 2) Retail businesses and service establishments.
- 3) Accessory uses and buildings including a caretaker unit.<sup>2</sup>
- 4) Municipal building or use.
- 5) Rooming house, excluding fraternity housing.<sup>3</sup>
- 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<sup>4</sup>, 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<sup>5</sup>
- 12) Bed and Breakfast Establishment with public dining as an accessory use<sup>6</sup>
- 13) Inn<sup>7</sup>

**C. SPECIAL EXCEPTIONS**

- 1) Day Care Center.

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<sup>1</sup> Amended April 6, 1999

<sup>2</sup> Amended July 5, 2011

<sup>3</sup> Amended October 5, 2010

Effective Date: Notwithstanding any provisions to the contrary, this amendment shall be effective July 6, 2010.

<sup>4</sup> Amended October 5, 2010

Effective Date: Notwithstanding any provisions to the contrary, this amendment shall be effective July 6, 2010.

<sup>5</sup> Amended August 4, 2009

<sup>6</sup> Amended August 4, 2009

<sup>7</sup> Amended August 4, 2009

- 2) School, hospital, church or any other institution of education, religious, philanthropic, fraternal organization<sup>1</sup> 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: * |   |
| Minimum street frontage:          | None*   |
| Minimum front yard:               | 25 feet*  |
|                                   | Minimum side and rear yards:10 feet*<br>except as otherwise required by the<br>buffer provisions of this Code |
| Maximum building height:          | 35 feet*  |
| Minimum open space:               | 25% of lot area.  |

\*Except that space standards for residential uses shall be the same as for the Urban Residential District.

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.<sup>2</sup>

**E. PERFORMANCE STANDARDS**

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

- The general performance standards of Chapter II,
- The Site Plan approval criteria and standards of Chapter IV, Section IX 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.

<sup>1</sup> Amended October 5, 2010

Effective Date: Notwithstanding any provisions to the contrary, this ordinance shall be effective July 6, 2010.

<sup>2</sup> Amended April 6, 2010

- 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, side, or rear yard or setback. Along Main Street, no parking shall be located between the sidewalk and the wall of any building that is located within one hundred (100) feet of the Main Street property line. Along other streets, no parking shall be located between the sidewalk and the front wall of any building.

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

The amount of off-street parking required by Chapter II, Section II 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.<sup>1</sup>

If the front wall of a building is located more than thirty feet from the property line, the front yard<sup>2</sup> 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.<sup>3</sup>

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

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<sup>1</sup> Amended January 5, 2010

<sup>2</sup> Amended January 5, 2010

<sup>3</sup> Amended January 5, 2010

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 II, Section III, 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.
- 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 XI - 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 X, Subsection B and C, Urban Commercial District.
- 2) Auto-oriented businesses.
- 3) Accessory uses and buildings including a caretaker unit.<sup>1</sup>
- 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<sup>2</sup>
- 10) Bed and Breakfast Establishment with public dining as an accessory use<sup>3</sup>
- 11) Inn<sup>4</sup>

**C. SPECIAL EXCEPTIONS**

- 1) Mobile Vending Unit.

**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

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<sup>1</sup> Amended July 5, 2011

<sup>2</sup> Amended August 4, 2009

<sup>3</sup> Amended August 4, 2009

<sup>4</sup> Amended August 4, 2009

	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.<sup>1</sup>

**E. PERFORMANCE STANDARDS**

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

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<sup>1</sup> Amended April 6, 2010

## **SECTION XII - 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<sup>1</sup> 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.<sup>2</sup>
- 7) Municipal and governmental uses.
- 8) Public utility facilities including substations, pumping stations and sewage treatment plants.
- 9) Mineral extraction.

### **C. SPECIAL EXCEPTIONS**

- 1) (Reserved)<sup>3</sup>

### **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. <sup>4</sup>
Minimum side and rear yards	20 <sup>5</sup> ft.* except as otherwise required by the buffer provisions of this Code and except where the side and/or rear yards

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<sup>1</sup> Amended July 5, 2011

<sup>2</sup> Amended June 5, 2001

<sup>3</sup> Amended June 5, 2001

<sup>4</sup> Amended April 2, 2013

<sup>5</sup> Amended April 2, 2013

Maximum building height  
Maximum building coverage

abut a residential use<sup>1</sup> 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.  
None  
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.<sup>2</sup>

**E. PERFORMANCE STANDARDS**

The general performance standards contained in Chapter II 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 than 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

<sup>1</sup> Amended April 2, 2013  
<sup>2</sup> Amended April 6, 2010

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.

Effective date: Notwithstanding any law to the contrary, this ordinance amendment shall take effect as of (November 30, 1998.)<sup>1</sup>

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<sup>1</sup> Amended February 2, 1999

## **SECTION XIII - COMMERCIAL/OFFICE DISTRICT<sup>1</sup>**

### **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.<sup>2</sup>
- 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<sup>3</sup> 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
- 15) Residential uses, including one-family dwellings, two-family dwellings, apartment buildings and multi-family housing
- 16) Day Care Homes as Home Occupations

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<sup>1</sup> Amended September 17, 1996

<sup>2</sup> Amended October 5, 2010

Effective Date: Notwithstanding any provisions to the contrary, this amendment shall be effective July 6, 2010.

<sup>3</sup> Amended October 5, 2010

Effective Date: Notwithstanding any provisions to the contrary, this amendment shall be effective July 6, 2010.

- 17) Bed and Breakfast Establishment<sup>1</sup>
- 18) Bed and Breakfast Establishment with public dining as an accessory use<sup>2</sup>
- 19) Inn<sup>3</sup>

**C. SPECIAL EXCEPTIONS**

- 1) Day Care Centers
- 2) School, hospital, church or any other institution of educational, religious, philanthropic, fraternal organization<sup>4</sup> 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) Residential Uses

Standards for residential uses shall be the same as the standards of the Suburban Residential District.

- 2) Non-Residential Uses

Standards for non-residential uses shall be as follows:

Minimum lot size	60,000 square feet
Minimum street frontage	200 feet
Minimum front yard - local or collector street	50 feet or two (2) times the building height, whichever is greater
Minimum front yard - arterial street	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 building height	35 feet
Maximum floor area ratio	0.35
Minimum landscaped buffer on any side abutting an arterial street	50 feet
Minimum landscaped buffer on any side abutting a collector or local street	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

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<sup>1</sup> Amended August 4, 2009  
<sup>2</sup> Amended August 4, 2009  
<sup>3</sup> Amended August 4, 2009  
<sup>4</sup> Amended October 5, 2010

Effective Date: Notwithstanding any provisions to the contrary, this amendment shall be effective July 6, 2010.



this district. Structures must meet setback requirements. Additional screening and buffering can be requested by the Planning Board.<sup>1</sup>

**E. PERFORMANCE STANDARDS**

The following performance standards shall apply in addition to the standards contained in Chapter II of this ordinance:

- 1) All non-residential uses shall be supplied with public water service.
- 2) All non-residential uses which generate a design sewerage flow in accordance with the Maine State Plumbing Code of more than 3,000 gallons per day shall be serviced with public sewer.
- 3) 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, which structures exist as of the date of enactment of this zoning ordinance amendment on September 17, 1996. 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.
- 4) Projects involving more than one building shall provide an internal circulation system to minimize entrances to the project.
- 5) Parking lots shall have internal landscape islands designed to reinforce the desired circulation pattern and to provide a visual break and buffer.
- 6) The location of all entrances to a collector or arterial street shall meet the minimum sight distance requirements of the Maine Department of Transportation for the posted speed limit.
- 7) All non-residential uses shall be served by underground utilities.
- 8) 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

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<sup>1</sup> Amended April 6, 2010

## **SECTION XIV - 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 VI, Subsection B of this Chapter.
- 2) Business and professional offices.
- 3) Drive-through service, as defined in Section V or this Chapter, when accessory to financial institutions.
- 4) Bed and Breakfast Establishment<sup>1</sup>

### **C. SPECIAL EXCEPTIONS**

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

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

The standards set forth at Section VI, 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

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<sup>1</sup> Amended August 4, 2009

<sup>2</sup> Amended August 4, 2009

<sup>3</sup> Amended August 4, 2009

	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.<sup>1</sup>

#### **F. PERFORMANCE STANDARDS**

The performance standards contained in Chapter II 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 II, Section II, 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

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<sup>1</sup> Amended April 6, 2010

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 IV of this Code, shall also be subject to review by a local Architectural Review Board, from the time such a Board has been established.

**SECTION XV - 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.<sup>1</sup>

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

**1. Open Space reservation**

- a. For sewer 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.

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<sup>1</sup> Amended April 6, 2010

- 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 II, Section VII 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 XVI - NARRAGANSETT DEVELOPMENT DISTRICT**

### **A. PURPOSE**

To allow a wide range of non-residential uses subject to performance standards with the following objectives:

- 1) Promote innovative and attractive non-residential planned development;
- 2) Promote good quality commercial, light industrial, and specialty enterprises which produce sustainable growth in the economic base and job opportunities;
- 3) Promote efficient use of land and of such public facilities as streets and utilities;
- 4) Promote commercial development which complements uses within Gorham Village and is compatible in respect to the character and scale of Gorham Village.

### **B. PERMITTED USES**

- 1) Commercial/Light Industrial Uses
  - a) Retail stores;
  - b) Shopping centers;
  - c) Drive-through services;
  - d) Motels;
  - e) Business or professional offices;
  - f) Research and development laboratories, which are exclusively located indoors;
  - g) 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) Bed and Breakfast Establishment with public dining as an accessory use<sup>1</sup>
  - k) Inn<sup>2</sup>
- 2) Other Uses
  - a) Mini park facilities;
  - b) Indoor recreational facilities;
  - c) Utility substations;
  - d) Schools, day care homes and centers, nursery schools, hospitals, churches or any other institutions of an educational, philanthropic, fraternal or social nature;

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<sup>1</sup> Amended August 4, 2009

<sup>2</sup> Amended August 4, 2009



- e) Uses and buildings that are accessory to the above-mentioned uses, including caretaker units<sup>1</sup> and parking lots, are also permitted uses.

**C. DIMENSIONAL STANDARDS**

- 1) Net Acreage - The density of all developments shall be based on the established net acreage of the proposed site. Net acreage shall be determined in accordance with Chapter I., Section V. (Net Acreage). Deductions under this net acreage provision shall be subtracted from the gross acreage of the proposed site.
- 2) Non-residential Density - The total gross floor area of all the non-residential uses 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.
- 3) Dedicated open space - Developments shall reserve thirty percent (30%) of the gross acreage as dedicated open space, excluding landscaping and buffer yard requirements.
- 4) Non-residential Space Standards
  - a) Minimum lot size - Fifty thousand (50,000) square feet.
  - b) Minimum street frontage - One hundred, fifty (150) feet.
  - c) Minimum front yard - 80 feet or three (3) times the building height whichever is greater.
  - d) Minimum side and rear yard - 50 feet or two (2) times the building height whichever is greater.
  - e) Maximum building height - 50 feet or four stories, whichever is less.
- 5) Residential Space Standards - Space standards for existing residential uses shall be the same as for the Suburban Residential District.
- 6) 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.<sup>2</sup>

**D. PERFORMANCE STANDARDS**

- 1) 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:

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<sup>1</sup> Amended July 5, 2011

<sup>2</sup> Amended April 6, 2010

- 1) Abutting an arterial or collector street - A buffer yard of ten (10) feet in width containing at least one (1) canopy tree, two (2) under story trees, and three (3) shrubs per one hundred (100) feet of frontage.
  - 2) Abutting a local street and facing non-residential 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 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 shall be deciduous or 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 last 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 specifications 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 required 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 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.

**E. DENSITY BONUS PROVISIONS AND STANDARDS**

A maximum density bonus of thirty percent (30%) for non-residential uses shall be granted by the Planning Board if the proposed density bonuses promote the purposes of said district. Density bonuses shall be applied to gross floor area and maximum impervious surface requirements.

- 1) Parking - Placement of bilevel parking garages or ground-level lots behind structures effectively concealing these parking areas from the street shall qualify for a bonus of fifteen percent (15%) above the allowable base density.
- 2) Traditional architecture - Developing a site design which incorporates a traditional village scale, massing and streetscape compatible with historic Gorham Village shall qualify for a bonus of ten percent (10%) above the allowable base density.
- 3) Dedicated open space/mini park facilities - Increasing the dedicated open space area by a minimum of ten percent (10%) of the total gross acreage of the tract shall qualify for a bonus of five percent (5%) above the allowable base density.
- 4) Bike paths/greenway systems - Providing for convenient and safe pedestrian and bicycle access to and within the development shall qualify for a bonus of five percent (5%) above the allowable base density.
- 5) Day care - Development of a public use day care facility for children of employees shall 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.
- 6) Public transportation/public transit - Providing public transportation to town residents shall qualify for a bonus of up to five percent (5%) above the allowable base density.
- 7) Public art - Use of art features such as sculptures, special landscaping, fountains, and murals which lend identity and individuality to the development in a positive manner shall qualify for a bonus of up to five percent (5%) above the allowable base density on a per square-foot basis.

## **SECTION XVII - 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<sup>1</sup>. 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.<sup>2</sup>

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<sup>3</sup>, 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,<sup>4</sup> 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.

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<sup>1</sup> Amended April 6, 2004

<sup>2</sup> Amended April 6, 2004

<sup>3</sup> Amended April 6, 2004

<sup>4</sup> Amended April 6, 2004

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.<sup>1</sup>

**R. 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**

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<sup>1</sup> Amended April 6, 2004

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 any provisions of law to the contrary, this Ordinance upon passage, shall be retroactive to March 1, 2004. 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.<sup>1</sup>

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<sup>1</sup> Amended April 6, 2004

## **SECTION XVIII – DEVELOPMENT TRANSFER OVERLAY DISTRICT<sup>1</sup>**

### **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

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<sup>1</sup> Amended September 5, 2006

- 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>Standard</b>	<b>If the underlying zone is any district other than Rural</b>	<b>If the underlying zone is Rural</b>
Minimum net acreage per dwelling unit	6,000 sq. ft.	9,000 sq. ft.
Minimum lot size: - one-family dwelling - two-family dwelling - multi-family dwelling or apartment - non-residential use	8,500 sq. ft. 15,000 sq. ft. 20,000 sq. ft. 15,000 sq. ft.	12,750 sq. ft. 22,500 sq. ft. 30,000 sq. ft. 15,000 sq. ft.
Minimum street frontage: - one-family dwelling - two-family dwelling - multi-family dwelling or apartment - non-residential use	75 feet 100 feet 120 feet 100 feet	75 feet 125 feet 150 feet 100 feet
Minimum front yard for one and two-family dwellings: - access or sub-collector street or private way - collector street or service road - arterial street	15 feet 30 feet 70 feet	15 feet 30 feet 70 feet
Maximum front yard for one and two-family dwellings: - access or sub-collector street or private way - collector street or service road - arterial street	25 feet* none none	25 feet* none none
Minimum front yard for multi-family dwellings, apartments and non-residential uses: - access or sub-collector street or private way - collector street or service road - arterial street	20 feet 30 feet 70 feet	20 feet 30 feet 70 feet
Minimum side and rear yards: - one-family dwelling - two-family dwelling	10 feet 15 feet	10 feet 15 feet



- multi-family dwelling, apartment, or non-residential use	30 feet or height of building whichever is greater	30 feet or height of building whichever is greater
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.

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.<sup>1</sup>

## **E. PERFORMANCE STANDARDS**

In addition to the performance standards of Chapter II, 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

<sup>1</sup> Amended April 6, 2010

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 II. Section IV – Residential and the plan shall show how these criteria will be addressed.

## **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.<sup>1</sup>

## **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.

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<sup>1</sup> Amended May 4, 2010