

## **APPENDIX B**

### **PROPOSED TOWN OF GOSHEN CODE TEXT AMENDMENTS**

- Chapter 61: Flea Markets
- Chapter 71: Open Space Preservation and Acquisition
- Chapter 83: Subdivision of Land
- Chapter 97: Zoning
  - Appendix A: Sample Density Calculation for an Open Space Development
  - Appendix C: Water Testing Protocols



## Chapter 61: FLEA MARKETS

### § 61-1. Definitions.

For the purpose of this chapter, the following definitions shall apply:

FLEA MARKET — A sale of items of tangible personal property, wherein, on one location, there are multiple vendors who have paid a fee for the privilege of occupying the space allotted to each such vendor for the purpose of displaying and selling items of tangible personal property.

LICENSE — A license issued by the Town Clerk or Deputy Town Clerk, in the manner prescribed by this chapter, for the operation of a flea market.

SELLING AREA — The total space area utilized, indoors or outdoors, for the purpose of displaying and selling items of tangible personal property; same to include aisles, common areas, kitchen or cooking facilities and rest room facilities, but to exclude designated parking areas, provided that said designated parking areas are not utilized for the display or sale of items of tangible personal property.

TOWN — The Town of Goshen.

### § 61-2. Conditional use in certain districts.

Flea markets shall be permitted as conditional uses upon approval by the Planning Board of the Town of Goshen in accordance with Article XXI of Chapter 97 of the Code of the Town of Goshen, entitled "Zoning," in the following designated zoning district: Highway Commercial (HC) District.

### § 61-3. License required; exceptions.

- A. No person, company, firm or corporation may conduct and/or operate a flea market as hereinabove defined, without first obtaining a license and having paid the license fee hereinafter prescribed.
- B. The payment of the license fee and license fee provisions of §§ 98-5 and 98-6 below shall not apply to a bona fide charitable, eleemosynary, educational or cultural organization organized not for profit and being able to establish that it is such type of not-for-profit organization. In all other respects, this chapter shall apply to bona fide charitable, eleemosynary, educational or cultural organizations.

### § 61-4. License application.

- A. An application for a license shall contain the following information:
  - (1) Name and address of applicant.
  - (2) Street address of the location of the flea market.
  - (3) Description of the type or types of articles and merchandise to be sold or bartered.
  - (4) The signature of the applicant or his or her duly authorized agent.
  - (5) Such other information as the Town may, from time to time, reasonably require.
- B. The applicant shall file the aforementioned information with the Town Clerk or Deputy Town Clerk.

### § 61-5. Issuance of license.

Upon receipt of the application as set forth in § 98-4 hereof, compliance with the provisions of Article XXI of Chapter 97 of the Code of the Town of Goshen, entitled "Zoning," and upon receipt of the license fee

as set forth in § 98-6 hereof, the Town Clerk shall issue a license to the applicant. Said license shall be signed by the Town Clerk or such other authorized licensing officer and shall indicate the name and address of the licensee, the kind of goods to be merchandised thereunder, the amount of fee paid, the license number, the date of issuance and the date of expiration; any such license granted pursuant to this chapter to expire one year subsequent to issuance date.

**§ 61-6. License fee.**

The license fee shall be in the sum of \$100, plus the sum of \$5 per 100 square feet of selling area utilized or proposed to be utilized in the operation of the flea market.

**§ 61-7. Hours of operation.**

The hours of operation of a flea market shall be limited to two consecutive calendar days, including Sundays, and shall be conducted only between the hours of 9:00 a.m. and 5:00 p.m.

**§ 61-8. Land area requirements.**

The land area requirements applicable to flea markets shall be those as set forth in the Code of the Town of Goshen, Chapter 97 thereof, applicable to the Highway Commercial (HC) District.

**§ 61-9. License nontransferable.**

No license issued under the provisions of this chapter may be transferred from one person, company, firm or corporation to another. The designated licensee shall be the only person, company, firm or corporation authorized to engage in such business thereunder.

**§ 61-10. Penalties for offenses.**

- A. Any person, company, firm or corporation or agent thereof violating any of the provisions of this chapter shall be subject to a fine not exceeding \$250.
- B. Each and every day that any such violation continues after notification that such violation exists shall constitute a separate offense. Such notice shall be written by the Building Inspector and shall be served by mail or personal service.
- C. In addition to the aforementioned penalties and punishment, the Town Board may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this chapter.
- D. The enforcement of this chapter shall be the responsibility of the Building Inspector of the Town of Goshen.

## Chapter 71: OPEN SPACE PRESERVATION AND ACQUISITION

### § 71-1. Legislative findings.

- A. The State of New York, by various legislative enactments, including but not limited to General Municipal Law § 247 and Environmental Conservation Law § 49-0301, has emphatically stated it to be a most important state policy to provide for open space and to conserve, protect and encourage the improvement of agricultural lands, both for production of food and the preservation of such lands as valued natural and ecological resources. The Legislature has determined that the acquisition of open spaces is a valid public purpose and that the expenditure of Town funds to acquire legal interests and rights in such lands is in furtherance of such policy, and is a proper expenditure of public funds for public purposes.
- B. The Town of Goshen is in complete accord with such policy as evidenced in the Town of Goshen Open Space and Farmland Protection Plan adopted July 2003 and incorporated into the Town of Goshen Comprehensive Plan adopted July 2004 which recommends the following action:
  - (1) Given current development trends, the Town of Goshen must become proactive in identifying and preserving additional open space meeting one or more of the benefits outlined earlier in this plan.
  - (2) It is recommended that the Town pursue options to establish and build a dedicated fund for the acquisition of open space including full fee title, conservation easements, development rights, and options for purchase where appropriate. Term easements may also be utilized where applicable. Such a fund starts with the use of payment of lieu of land dedications through residential subdivision approvals. A fund can also be built from creative use of incentive zoning, municipal bonding, private donations and taxation options.
- C. The Town Board further moved toward a local funding for the acquisition of open spaces, particularly PDR, by placing the bonding proposition on the November 2, 2004, general election ballot. A majority of voters in the Town approved that proposition authorizing the expenditure of \$5,000,000 for the acquisition of open spaces including, among other things, development rights.
- D. This chapter is intended to indicate generally, and in some instances particulars, the procedures which will be employed by the Town in its pursuit of its goal to protect and conserve open spaces and agricultural lands.

### § 71-2. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

**AGRICULTURAL LANDS** — Lands used in bona fide agricultural production located in an agricultural district and receiving agricultural assessment.

**AGRICULTURAL USE AND PRODUCTION** — The use and production for commercial purposes, of all those items and products as defined in New York State Agriculture and Markets Law § 301, including, but not limited to, plants and animals useful to man including fruits, viticulture, nuts, vegetables, greenhouse plants, tree nursery, Christmas trees, forages, sod crops, grains, feed crops, dairy, processing of on-farm-produced dairy products, all domestic livestock for breeding and grazing and the equine industry, aquaculture, hydroponics and other similar uses and activities.

**ALIENATION** — The transfer or sale of any development right in real property from or by the Town of Goshen to another qualified person or entity.

**CONSERVATION EASEMENT** — An easement in gross that restricts the use of real property to conservation and related purposes described in a deed of easement or other legal document.

**DEED OR CONTRACT OF EASEMENT** — Legal document which convey and/or restrict the use of legal interests in land.

**DEVELOPMENT RIGHT** — As authorized by § 247 of the New York State General Municipal Law, as amended, shall mean the permanent legal interest and right to permit, require or restrict the use of the

premises exclusively for passive open space and agricultural production, as the term is currently defined in § 301 of the New York State Agriculture and Markets Law, and the right to prohibit or restrict the use of the premises for any purpose other than agricultural production and passive open space.

INTEREST or RIGHT — Any legally recognized interest and right in real property less than fee simple.

NEGOTIATION BEYOND FIXED CONTRACT FACTORS — Specific modification to standard agreements, easements, or other standard documents which furthers program interests.

OPEN SPACE — Parcels of land that are or may be part of a significant viewshed, harbor endangered species or abundant animal habitat, protect a vital aquifer, be adjacent to an existing conservation easement parcel, proximate to a public facility, contain a year-round stream or body of water, have an historic structure (or structures), proven native American landmarks and artifacts or border a scenic road.

OPEN SPACE COMMITTEE — The Goshen Open Space Preservation Committee.

PERMEABILITY — The ability of soils to absorb and transmit water from the surface toward the subsoil without artificial or natural barrier. This term relates to the qualitative evaluation of soils for agricultural purposes.

STRUCTURE — Anything constructed, erected or moved from other premises, and located in, on or under the ground, or attached to anything in, on or under the ground including fences.

### **§ 71-3. Town of Goshen Open Space Preservation Board (formerly "Town of Goshen Open Space Committee").**

- A. The Open Space Preservation Board is hereby constituted as a continuing agency of the Town of Goshen.
- B. It shall consist of nine members, each of whom shall be appointed by the Town Board. This group will consist of at least one farmer, two non-Goshenites, with experience in open space preservation and not more than one Town Board member.
- C. A Chair shall be annually elected by the members of the board and may succeed him/herself for additional terms not exceeding five years.

### **§ 71-4. Duties of Board.**

The Open Space Board shall have the authority to:

- A. Solicit applications from eligible landowners for PDR of qualified properties.
- B. Encourage owners of lands contiguous with already preserved lands and/or presently agriculturally assessed lands, to submit application for PDR in order to establish/maintain a critical open space mass.
- C. Meet to review all applications submitted, and within 30 days of submission of any application rank the application using the ranking system set forth in the Open Space and Farmland Protection Plan, dated July 2003 and included the Comprehensive Plan, which system may be amended from time to time by the Town Board.
- D. Prepare a report to the Town Board providing the score and reasons supporting the score of an application and including a recommendation regarding the extent of rights to be required, if any.
- E. Hold yearly informational meetings.
- F. Offer help with the PDR application process.
- G. Visit landowners who are potential applicants for PDR.
- H. Monitor, or make provision therefor, each deed-restricted parcel yearly to insure that regulations of PDR are properly observed. File a written report on each parcel, and notify owner in writing, of any noted infraction.
- I. Review any matters relating to development rights in particular as they relate to the Town.

- J. Promulgate, subject to Town Board approval, such procedural rules and regulations as may be necessary to carry out the intent of this chapter, and to administer its provisions including evaluation and ranking of applicants for purchase of development rights.

**§ 71-5. Open Space Preservation Fund.**

- A. The Town of Goshen Open Space Preservation and Acquisition Fund (the "fund") is hereby established.
- B. Deposits into the fund may include revenues of the Town from whatever source and shall include, at a minimum, all revenues from or for the amortization of indebtedness authorized for the acquisition of open spaces pursuant to § 246 of the Town Law.
- C. The fund shall also be authorized to accept gifts. Interest accrued by monies deposited in the fund shall be credited to the fund.
- D. In no event shall monies deposited in the fund be transferred to any other fund or account.
- E. Nothing contained in this chapter shall be construed to prevent the financing, in whole or in part, pursuant to the New York State Local Finance Law, of any acquisition authorized by this chapter. Monies from the fund may be utilized to repay any indebtedness or obligations incurred pursuant to the Local Finance Law, consistent with effectuating the purposes of this chapter.

**§ 71-6. Purposes of fund.**

- A. The purposes of the fund shall be exclusively:
- (1) To implement the Town's Open Space Preservation and Acquisition program.
  - (2) To acquire interests or rights in real property for the preservation of open space and agricultural lands within the Town.
- B. The acquisition of interest and rights in real property under the fund shall be in cooperation with willing sellers.

**§ 71-7. Acquisition of interest in property; public hearing and other requirements.**

- A. No interests or rights in real property shall be acquired pursuant to this chapter until a public hearing is held. However, nothing herein shall prevent the Town Board from entering into a conditional purchase agreement before a public hearing is held.
- B. No land or rights in land shall be acquired in a village within the Town unless such village has consented to such acquisition.
- C. Any resolution of the Town Board approving an acquisition of land pursuant to this chapter shall include a finding that such acquisition was the best alternative for the protection of such lands available for the Town, that such acquisition was in furtherance of goals for the equitable allocation of open space acquisition bond funds (if applicable) and that acquisition was in furtherance of other applicable program goals.

**§ 71-8. Alienation of open space program lands.**

No lands acquired pursuant to this chapter shall be alienated except by vote of a super-majority (a majority plus one) of the Town Board, subject to permissive referendum pursuant to the procedures found in Article 7 of the Town Law.

**§ 71-9. Preparation of proposal for supplemental PDR grants.**

Upon announcement of any round of grants for PDR, two Open Space Board members may be selected to study the RFP (request for proposal), check all applications for completeness, draft the proposal and submit by the deadline to the granting authority. The Open Space Board may, to the extent appropriated funds are available, hire a grant writer to be retained by the Town in order to facilitate and enhance the receipt of grants.

**§ 71-10. Gifting of open spaces and areas.**

The Town Board may accept the gift of open spaces, or rights thereto, on terms and conditions acceptable to the Town Board. If so designated, such lands and or rights, including, among other things, development rights, shall be deemed to have been acquired under the Open Space Preservation program.

**§ 71-11. Allocation of open space acquisition bond funds.**

- A. The Town Board shall distribute the authorized open space acquisition bond funds in a manner consistent with the contribution from each school district. To determine the amount, the Town shall consult with Town Assessor concerning the taxable valuation in each of the following school districts: Goshen School District and Florida Union Free School District.
- B. The Town will use the appropriate portion of the authorized open space acquisition bond funds to purchase property, preferably parkland, in the school districts of preferably, but not limited to, property not currently on the tax rolls.
- C. If the Town purchases village-owned property, the Town and village will enter into a purchase agreement to specify the types of uses for which the funds can be used to preserve or enhance open space. Any purchase agreement should also provide that the Town will not be required to maintain or develop the property unless agreed upon by the parties.

**§ 71-12. Access to legal staff.**

The Open Space Board shall have access to the Town Attorney and/or the Deputy Town Attorney in matters requiring legal opinion.

**§ 71-13. Conflict with other provisions.**

Notwithstanding the provisions of any special law, charter law, local law or resolution which may be inconsistent herewith, in whole or in part, this chapter shall in all respects control in the matter of acquisition of development rights in qualified parcels.

## **Chapter 83: SUBDIVISION OF LAND**

### **ARTICLE I Title, Scope, and Purposes**

#### **§ 83-1. Title.**

This chapter shall be known and may be cited as "The Subdivision Law of the Town of Goshen" and as Chapter 83 of the Code of the Town of Goshen.

#### **§ 83-2. Scope.**

A local law regulating the approval of subdivision plats in the Town of Goshen, authorizing the Planning Board to:

- A. Approve and conditionally approve plats showing lots, blocks, or sites, with or without streets or highways;
- B. Pass and approve the development of entirely or partially undeveloped plats already filed in the office of the Orange County Clerk.

#### **§ 83-3. Enacting clause and purposes.**

This local law (also cited as "this chapter") is enacted pursuant to the authority and power granted by Municipal Home Rule Law of the State of New York, Article 2, § 10 et seq., and §§ 271, 276, 277, and 278 of the Town Law, in conformance with the Comprehensive Plan for the Town of Goshen, to protect and promote public health, safety, comfort, convenience, economy, natural, agricultural, and cultural resources, aesthetics, and the general welfare, and for the additional purposes listed in § 97-3 of the Town of Goshen Zoning Law (hereinafter "Zoning Law").

#### **§ 83-4. Applicability.**

- A. No subdivision of any lot, tract, or parcel of land shall be effected and no street, sanitary sewer, storm sewer, water main, or other facilities in connection therewith shall be laid out, constructed, opened, or dedicated for public use and travel, or for the common use of occupants of buildings abutting thereon, except in strict accordance with the provisions of this chapter.
- B. This chapter applies to lot line adjustments, as defined herein, but does not apply to lot mergers which eliminate but do not change lot lines. (See § 83-6 below.)
- C. Applicants shall fully comply with the provisions of Article 16 of the Town Law, § 334 of the Real Property Law, § 136 of the Highway Law, applicable provisions of the Public Health Law, and with all provisions of the Town Code, as well as with the provisions of this chapter, except where waivers from this chapter are expressly authorized by the Planning Board.
- D. When any subdivision of land is proposed to be made and before any contract for the sale of land or any offer to sell such subdivision or any part thereof is made, and before any grading, clearing, construction or other improvement is undertaken on such land, the subdivider or his duly authorized agent shall apply in writing for approval of such proposed subdivision in accordance with the procedures in this chapter.
- E. This chapter applies to all lot line adjustments and subdivisions of land as defined herein, in any zoning district in the Town of Goshen. Within the RU District, as established in Chapter 97, Zoning, all subdivisions shall be open space developments, small-scale developments, or conservation density developments, as described therein.

### **§ 83-5. Policy and legislative intent.**

It is declared to be the policy of the Town of Goshen to consider land subdivision plats as part of a plan for the orderly, efficient, environmentally sound, and economical development of the Town of Goshen, consistent with the Town of Goshen Comprehensive Plan and Chapter 97, Zoning, and the requirements of the State Environmental Quality Review Act (SEQRA). The following objectives shall guide the Planning Board's decisions on land subdivisions:

- A. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health, or peril from fire, flood, or other menace.
- B. Proper provision shall be made for stormwater management, potable water supply, wastewater collection and treatment, and other needed improvements and utilities.
- C. Streets shall be of such width, grade, and location as to appropriately accommodate present and anticipated future vehicular, bicycle, and pedestrian traffic and to facilitate fire protection, while minimizing disruption of the natural environment.
- D. Park or other natural areas of suitable location, size, and character for playground or other passive or active recreational purposes shall be shown on subdivision plats, where appropriate.
- E. Proper provision shall be made for leaving undeveloped natural areas and corridors to mitigate the adverse environmental impacts of subdivision and to sustain a diversity of native vegetation and wildlife, to protect water resources, agricultural land, and scenic viewsheds, and to implement the Town's policies of protection of its environmental and cultural resources pursuant to Chapter 97, Zoning.
- F. New development shall be laid out in a manner that reflects and complements historic development patterns.

### **§ 83-6. Lot line adjustments and lot mergers.**

- A. Although a lot line adjustment does not require approval as a subdivision, lot lines may not be changed (other than for lot mergers) unless an amending map has been approved and signed by the Planning Board Chair. The map may be signed and recorded following sketch review and Planning Board approval of the final lot line adjustment map in a form acceptable for filing in the County Clerk's office. The purpose of such review shall be only to confirm compliance with zoning dimensional requirements and to ensure that existing on-site utilities and driveways are located on the parcel on which an existing building which they serve is situated.
- B. All property owners whose lots will be affected by the lot line adjustment must sign a consent to file.
- C. Other procedural requirements of this chapter, including the public hearing requirements, do not apply, unless the Planning Board determines, in the course of its review of the lot line adjustment, that there are issues that would justify holding a public hearing. Such issues may include, without limitation, the presence of an officially adopted trail corridor on the subject parcel. In such a case, the Planning Board may reclassify the lot line adjustment as a minor subdivision, hold a public hearing in accordance with the provisions of § 83-22, and require that the applicant comply with applicable rules for subdivisions. To the extent that this section may conflict with the provisions of § 276 of the Town Law, the Town Board hereby declares its intention to supersede the Town Law pursuant to the Municipal Home Rule Law, Article 2, § 10 et seq.
- D. Lot mergers, in which lot lines between lots in the same ownership are eliminated, do not require any approval under this chapter.

### **§ 83-7. Interpretation of provisions.**

All provisions of this chapter shall be construed broadly to fulfill the purposes and policies stated in §§ 83-3 and 83-5 above and the policies expressed in the Town of Goshen Comprehensive Plan (hereinafter the "Comprehensive Plan").

**§ 83-8. Self-imposed restrictions.**

Nothing in this chapter shall prohibit a subdivider from placing self-imposed restrictions not in violation of this chapter on the development. Such restrictions shall be indicated on the plat, for informational purposes only. The notation of such self-imposed restrictions on the plat shall not confer any power or obligation on the Town to enforce them, unless the Planning Board has made such restrictions a condition of approval.

**§ 83-9. Conflict with state laws.**

To the extent that any provisions of this chapter are inconsistent with the Town Law of the State of New York, Chapter 62 of the Consolidated Laws, Article 16, §§ 271 and 276, 277 and 278, the Town Board of the Town of Goshen hereby declares its intent to supersede those sections of the Town Law, pursuant to its home rule powers under Municipal Home Rule Law, Article 2, § 10 et seq., of the Consolidated Laws of the State of New York.

**§ 83-10. Severability.**

Should any section or provision of the regulations contained herein or as amended hereafter be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the regulations as a whole or any part thereof other than the part declared to be invalid.

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**ARTICLE II General Requirements and Design Standards**

**§ 83-11. Construal of provisions.**

In considering applications for subdivision of land, the Planning Board shall be guided by the standards set forth hereinafter. These standards shall be minimum requirements and may be waived by the Planning Board only under circumstances set forth in Article V of this chapter. In case of any inconsistency between this chapter and Chapter 81 of the Town of Goshen Code (Streets and Sidewalks), this Chapter 83 shall control.

**§ 83-12. General requirements.**

- A. Character of land. Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace.
- B. Conformity with Comprehensive Plan and zoning. When reviewing applications for subdivisions, the Planning Board shall consider the recommendations in the Comprehensive Plan and comply with Chapter 97, Zoning.
- C. Specifications for required improvements. All required improvements shall be constructed or installed to conform to Town specifications, as established by the Planning Board or Town Board.
- D. Preservation of existing features.
  - (1) Existing features which are important to the natural, scenic, and historic character of the Town or which add value to residential development, such as large trees, watercourses, scenic views, historic places, and similar irreplaceable assets, shall be preserved, insofar as possible, in the design of subdivisions. The conservation analysis required by § 97-20B of Chapter 97, Zoning,

shall be used to identify such features.

- (2) The Planning Board may impose restrictions designed to preserve such features, including the limitation of structures to designated building envelopes or the delineation of areas where building or site alteration is prohibited, as a condition of subdivision approval. For all open space developments and conservation density developments approved pursuant to §§ 97-20 and 97-22 of Chapter 97, Zoning, conservation easements shall be required as set forth in those sections.
  - (3) To the extent practicable, every effort shall be made to maintain existing trees, stone walls, or other features identified by the Planning Board.
  - (4) Topsoil shall not be removed from the site except with the approval of the Planning Board.
  - (5) In order to fulfill the purposes of this Subsection D, the removal of any existing features or topsoil, the unauthorized removal of existing trees pursuant to Subsection D(3) above, or the clearing, grading, and/or excavating of land without the approval required by this chapter, by Chapter 53 of the Town Code, entitled "Clearing and Grading Control," or by Chapter 97, Zoning, shall render the entire parcel of land ineligible for subdivision approval for a period of three years from the date the owner is sent a notice of violation in connection with such removal or clearing, unless the owner of the parcel either obtains the required permit or cures the violation by replanting or reclaiming the parcel substantially to its prior condition; provided that the notice of violation clearly states that the parcel will be ineligible for subdivision for three years and informs the owner of the right to cure the violation in order to avoid this restriction.
  - (6) For all parcels in the RU Zoning District that are not small-scale developments or conservation density developments as described in Chapter Zoning, the Planning Board shall require an open space development (see §§ 97-20 and 97-21) to ensure the preservation of open space.
- E. Trail map and pedestrian access. If the Town Board adopts an official trail map, as part of the Comprehensive Plan or independently thereof, all trail corridors and pedestrian ways shown therein shall be shown on any application for a subdivision or lot line adjustment, and the Planning Board shall, in connection with any approval it grants, reserve those trail corridors, or an alternative alignment acceptable to the Planning Board, for potential acquisition by the Town of Goshen or another public or not-for-profit entity for public trails. No building or other improvement, other than driveways, bikepaths, pedestrian trails, sidewalks, utilities, and drainageways, shall be placed within such trail corridors.

### **§ 83-13. Street layout and design.**

- A. Width, location, and construction. Streets shall be compatible with the existing character of the hamlet or rural area in which they are located. They shall be surveyed and shall be adequately constructed to accommodate the anticipated traffic and provide access for fire fighting, snow removal, and road maintenance equipment. The arrangement of streets shall not result in undue hardship to adjoining properties. Streets and driveways shall be constructed to the specifications in Chapter 81, unless, after review and recommendation by the Town Highway Superintendent and Town Engineer, the Planning Board determines that the specifications in Chapter 81 should be modified to fulfill the purposes of this chapter, the Comprehensive Plan, or Chapter 97, Zoning.
- B. Relation to topography. Streets shall be designed to minimize alteration of natural topography. They shall be arranged to obtain as many as possible of the building sites at or above the grades of the streets.
- C. Block size in hamlet district. Within the hamlet district, newly created blocks generally should not be less than 200 feet nor more than 400 feet in length and the average block area shall not exceed two acres, unless the Planning Board believes that an alternate layout provides a better planning scheme, given the particular natural terrain, geologic features, infrastructure requirements, and adjacent developments. In blocks exceeding 500 feet in length, the Planning Board may require the reservation

of a twenty-foot-wide easement through the block to provide for the crossing of underground utilities and pedestrian traffic where needed or desirable and may further specify, at its discretion, that a four-foot-wide paved footpath be included.

D. Intersections.

- (1) In general, all streets shall join each other so that for a distance of at least 100 feet the street is approximately at right angles to the street it joins. To this end, an oblique street should curve as it approaches an intersection. Within hamlets, this requirement may be varied in order to create visual interest, calm traffic, respond to topographic conditions or other site constraints, shape public spaces, or accommodate a diagonal street that intersects a grid layout. Where three or more streets intersect, special treatment may be required by the Board.
- (2) Except within the hamlet district, intersections of major streets by other streets shall generally be at least 500 feet apart, and a distance of at least 125 feet shall be maintained between offset intersections.
- (3) In order to provide visibility for traffic safety, corner lots shall be kept free of obstructions as required in § 97-40F of Chapter 97, Zoning. If directed by the Planning Board or Town Highway Superintendent, site alterations may be required to achieve visibility and necessary easements may be required to enable the Town to maintain visibility.

E. Required streets and street widening.

- (1) Where a subdivision borders on or contains a railroad right-of-way or limited access highway right-of-way, the Planning Board may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land (including for park purposes in residential districts or for commercial or industrial purposes in appropriate districts). Such distances shall also be determined with due regard for the requirements of approach grades and future grade separations.
- (2) In front of areas zoned and designed for commercial use, or where a change of zoning to a zone which permits commercial use is contemplated, the street width shall be increased by such amount on each side as may be deemed necessary by the Planning Board to assure the free flow of through traffic without interference by parked or parking vehicles and to provide adequate and safe parking space for such commercial or business district.
- (3) Where a subdivision borders or includes existing narrow roads that do not conform to minimum street right-of way width requirements of this chapter, and the Planning Board finds that widening is necessary to accommodate the additional lots in the proposed subdivision, the subdivider shall be required to show areas for widening or realigning such roads on the plat, marked "Reserved for Road Realignment (or Widening) Purposes." Land reserved for such purposes may not be counted in satisfying yard or area requirements of Chapter 97, Zoning; said reservations may be required to be dedicated to the Town.

F. Design standards. Streets and driveways shall comply with the standards established in Chapter 81, unless otherwise approved by the Planning Board after consulting with the Town Highway Superintendent and the Town Engineer pursuant to § 83-13A.

G. Continuation of streets into adjacent property.

- (1) The arrangement of streets in the subdivision shall provide for the continuation and interconnection of principal streets both within and between adjoining parcels and subdivisions, and for proper projection of principal streets into adjoining properties which are not yet subdivided, and shall be so noted on the subdivision plat and plans. The Planning Board shall require the use of temporary dead-end streets, in order to make possible necessary snow removal, fire protection, movement of traffic and the construction or extension, presently or when later required, of needed utilities and public services such as sewers, water and stormwater management facilities. Where, in the opinion of the Planning Board, topographic or other conditions make such continuance undesirable or impracticable, the above conditions may be modified. Such modification shall be permitted only where the presence of wetlands, water

bodies, watercourses, or steep slopes makes such continuation infeasible. The requirement of such interconnection shall not apply to private roads in conservation density developments approved pursuant to § 97-22 of Chapter 97, Zoning.

- (2) If the adjacent property is undeveloped and the street must be a dead-end street temporarily, the right-of-way and improvements shall be extended to the property line. If specifically permitted by the Highway Superintendent, a temporary tee/hammerhead, as specified in the Town Street and Highway Specifications (Chapter 81), shall be provided on all temporary dead-end streets, with the notation on the plat that land outside the street right-of-way shall revert to abutters whenever the street is continued.
  - (3) Where a subdivision includes lots substantially larger than the minimum lot size, the Planning Board may, if appropriate, require a road and lot layout that will permit future resubdivision.
- H. Connections with existing streets. Subdivisions containing 20 or more lots shall normally have at least two street connections with existing streets. Where the existence of undeveloped adjoining properties or other special circumstances make this requirement impractical, stub street connections to adjoining property shall be reserved for future dedication and connection, as deemed necessary by the Planning Board to ensure that this standard will be met over time when adjoining properties are developed. To ensure adequate access and public safety, the Planning Board may require an internal loop road configuration in addition to the requirement of stub street connections to adjoining properties.
- I. Permanent dead-end streets (culs-de-sac). The creation of new dead-end residential streets is normally permitted only in conservation density developments as provided in § 97-22 of Chapter 97, Zoning. In other types of subdivisions, dead-end streets shall only be permitted where continuation of a street is impracticable due to topographic conditions, wetlands, water bodies or watercourses or where such a street is necessary to preserve other important natural, historic, scenic, or recreational resources. Such streets shall be limited to 800 feet in length. This limit may be waived in the case of subdivisions not exceeding eight lots, where at least 80% of the parcel is permanently preserved as contiguous open space by a conservation easement. Where dead-end streets are permitted, the Board may require the reservation of a thirty-foot-wide easement to provide for continuation of pedestrian traffic and utilities to the next property or street. A circular turnaround with a minimum right-of-way radius of 50 feet or a "hammerhead" at least 100 feet in length within a defined right-of-way shall be provided at the end of a permanent dead-end street, as determined to be appropriate by the Highway Superintendent.
- J. Street names. All streets shall be named, and such names shall be subject to approval by Orange County 911 services. Names shall be sufficiently different in sound and in spelling from other street names to avoid confusion. A street which is a continuation of an existing street shall bear the same name.
- K. Pedestrian walks. The subdivision street network shall generally include a continuous network of public pedestrian walks, as appropriate to the location, either independent of or incorporated within vehicular rights-of-way, to connect all properties and public areas. The pedestrian walk network, whether independent of or combined with the vehicular road network, shall conveniently link dwellings to all possible generators of pedestrian traffic both within and outside of the subdivision, including but not necessarily limited to parking areas, recreation areas, schools, stores, bus stops and other uses. Such walks shall be so designed and constructed as to encourage their use by their proximity to generators of traffic, convenient arrangement, evenness and durability of surface, pleasant appearance and exposure to scenic areas and views. Where sidewalks cross driveways, they shall be reinforced and of the same material and elevation as that on both sides of such driveways. All ramps, sidewalks and walkways shall comply with ADA standards.
- L. Utility and drainage easements. Where topography or other conditions are such as to make impractical the inclusion of utilities or drainage facilities within street rights-of-way, perpetual unobstructed easements at least 30 feet in width for such utilities or drainage facilities shall be provided, centered on rear or side lot lines or across property outside the road lines and with

satisfactory access to the road. Wherever possible, easements shall be continuous from block to block and shall present as few irregularities as possible. Such easements shall be cleared and graded where required. Easements shall be indicated on the plat. In large-scale developments, easements along rear property lines or elsewhere for utility installations may be required by the Planning Board. Such easements shall be of the width and at the location determined by the Board after consultation with the public utility companies.

M. Required improvements.

- (1) All streets to be offered for dedication shall be graded, paved, and improved with street signs and trees. In subdivisions outside the RU District that achieve densities at or close to the maximum permitted by Chapter 97, Zoning, streets shall also be improved with sidewalks, streetlighting standards, curbs, gutters, water mains, sanitary sewers, storm drains, and fire hydrants, as applicable. In the RU District and in other areas where density will be limited to a level significantly below that permitted by zoning, the Planning Board shall require only those improvements it considers necessary for public health, safety, and general welfare. Improvements that would detract from the rural and scenic character of the Town shall not be required in such areas of low density, provided that there are adequate safeguards in place to ensure that such areas will maintain their low-density characteristics over time.
- (2) All utilities shall be installed underground according to the standards of the utility companies for such construction. Utilities shall generally be placed between the traveled way and property line, or in perpetually unobstructed easements of a width adequate for servicing, to simplify location and repair of the lines, and the subdivider shall install underground service connections to the property line of each lot before the street is paved. As to utilities required by the Planning Board, the Planning Board shall require assurance from each public utility company whose facilities are proposed to be installed. Such assurance shall be given in a letter addressed to the Board stating that such public utility company will make the installations necessary for the furnishing of its services within the time therein specified and satisfactory to the Board.
- (3) Curbs, gutters, sidewalks, street pavements, fire hydrants, streetlights, shade trees, monuments, water mains, storm sewers, sanitary sewers and any other improvements that may be required shall be designed and constructed to conform to the specifications as established by law, resolution or ordinance of the Town Board. Pedestrian easements shall be improved as required by the Town Engineer. All rights-of-way shall be prepared, graded and sloped in conformance with good nursery practice. Such grading and improvements shall be approved as to design and specifications by the Town Engineer.
- (4) Location and installation of all fire hydrants shall be in accordance with State standards.
- (5) Where required by the Planning Board, streetlighting standards in conformance with the lighting system of the Town, of a design approved by the Town Engineer, shall be installed by the subdivider in a manner and location approved by the Town Engineer, the local electrical utility company, and the Highway Superintendent. In the case of a subdivision involving a County or State highway, approval shall be obtained from the County Commissioner of the Department of Public Works or the New York State Department of Transportation, respectively. Where a new lighting district is to be created or an existing district expanded, the applicant shall petition the Town Board to create said district or expansion before final approval. The developer shall, at his expense, have installed the necessary bases, connections and utility poles for the streetlighting of the development.
- (6) Street signs of a type approved by the Highway Superintendent shall be provided by the developer and placed at all intersections in locations within the right-of-way approved by the Superintendent.
- (7) Shade trees shall be preserved and/or furnished and planted, at the expense of the subdivider, along both sides of the road within the subdivision, such trees to be guaranteed to survive one growing season. These shade trees shall be located at no more than forty-foot intervals along the front property line. All tree varieties, condition and quality are subject to the approval of the

Town Planning Board prior to and after planting. The placement of trees in relation to road pavement, sidewalks, and utilities shall be approved by the Town Engineer and Highway Superintendent. Trees shall be hardy and suitable to local soil and climate. All trees must meet the standards of the American Standard for Nursery Stock. New trees shall measure at least 1 1/2 inches in diameter as measured at a point four feet above finished grade level.

N. Monuments.

- (1) Permanent concrete monuments shall be set on right-of-way lines of the street at all intersections, angle points, points of curvature and beginning and end of streets, as required by the Town.
- (2) There shall be a clear view of adjacent monuments on the right-of-way line.
- (3) All monuments shall exist upon completion of construction of the street.
- (4) Monuments shall be made of cut granite free from imperfections or of concrete with metal bars and shall be four inches square on top with a length of 30 inches.
- (5) Monuments shall be set so that the top is flush with the finished graded surface.

O. Fire district review. The Board of Fire Commissioners of the fire protection district in which the development is located shall review road widths and locations and driveway and parking lot suitability for fire protection. Plans shall be submitted by the Planning Board to the Board of Fire Commissioners for its recommendations prior to preliminary approval. The Board of Fire Commissioners shall make its recommendations in writing or by appearance before the Planning Board within 30 days of notification. If no recommendations are made within that time, the Planning Board may deem the Board of Fire Commissioners to have made a favorable recommendation.

**§ 83-14. Stormwater management.**

- A. Minimizing impact. Subdivisions shall be designed to maintain or improve predevelopment stormwater management conditions by minimizing grading, cutting, and filling, by minimizing the use of impervious surface materials on roads, driveways, and other improved areas, by retaining existing vegetation, by using gently sloped vegetated swales, and by employing other nonstructural or structural measures including retention or detention basins, as required by § 97-42 of Chapter 97, Zoning. The Planning Board may deny any subdivision application which does not comply with this Subsection A, even if it can comply with Subsections B through E below.
- B. Land subject to flooding. All subdivision applications shall comply with Chapter 61A of the Code of the Town of Goshen, entitled "Flood Damage Prevention." Land subject to flooding or land deemed by the Planning Board to be uninhabitable shall not be platted for residential occupancy or such other uses as may increase danger to health, life or property or aggravate the flood hazard. Such land shall be set aside for uses that are not endangered by periodic or occasional inundation. Such land may also be improved in a manner that reduces the threat of localized and downstream flooding as provided in Chapter 61A of the Town Code.
- C. Stormwater management structure to accommodate lands upslope. A culvert or other stormwater management facility shall be large enough to accommodate runoff from upslope of the stormwater management improvements proposed to serve the subdivision, whether inside or outside the subdivision. The Town Engineer shall approve the design and size of the facility based on proposed runoff from the subdivision and existing conditions upstream of the subdivision. For open channels and for culverts under roadways that are the only access, the design shall be for a one-hundred-year storm. For culverts under roadways that do not constitute the only access, the design shall be for no less than a twenty-five-year storm, provided that a one-hundred-year storm will not flood buildings or farm structures at the culvert location.
- D. Stormwater management facilities basis of design. Storm sewers and open channels or roadside swales necessary to accommodate stormwater management from the subdivision shall be designed

for no less than a twenty-five-year storm. Stormwater management facilities intended to control the quantity and quality of runoff discharged by the subdivision are to be designed in accordance with "Stormwater Management Design Manual" (SMDM, NYSDEC, latest edition.) Stormwater management facilities shall be located in road rights-of-way or in perpetual easements of appropriate width to accommodate the required maintenance of the facilities.

E. Responsibility for downstream stormwater management.

- (1) The general principles described in Subsection A above shall be utilized to minimize the impacts of development on downstream stormwater management facilities for all subdivisions. For all major subdivisions, a detailed analysis of the impact shall be required. Such an analysis may be required if warranted for minor subdivisions at the discretion of the Planning Board. The detailed analysis shall be undertaken using TR20, the hydrological computer model developed by the US Department of Agriculture or similar program deemed acceptable by the Town Engineer.
- (2) The Town may form stormwater management districts if deemed necessary to ensure maintenance of stormwater management facilities.

F. House and lot drainage. Drainage of individual lots and dwellings, including footing drains, discharging to a freeflowing outlet to assure proper runoff from roofs, driveways and paved surfaces, shall be required for Planning Board approval. The installation of such facilities shall be required prior to the issuance of a certificate of occupancy.

**§ 83-15. Lots.**

A. Arrangement. The arrangement of lots shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in locating a building on each lot and in providing access to buildings on such lots from an approved public or private road. The lot layout shall generally follow applicable portions of the Rural Design Guidelines and Hamlet Design Guidelines published by the New York Planning Federation in 1994, adapted as necessary to conform to the requirements of this chapter.

B. Watercourses.

- (1) Where a subdivision is traversed by a watercourse, drainageway, channel, or stream, an easement for the maintenance of these stormwater management facilities shall be provided as required by the Town Planning Board, in no case less than 30 feet in width.
- (2) Where a watercourse separates the buildable area of a lot from the access street, provision shall be made for the installation of a culvert or other structure, of a design approved by the Highway Superintendent or Town Engineer.

C. Access from major streets. Lots shall not, in general, derive access from a major street. In order to avoid such access, the Planning Board may require construction of interior or reverse frontage roads, rear service alleys, or a network of interconnected minor and collector streets, as alternative measures to provide vehicular access to lots.

D. Driveways.

- (1) The Planning Board shall assure that driveways are suitably laid out to provide safe access to improved streets, taking into consideration the rural character of the Town and the expressed policies of minimizing environmental disruption. Common driveways are not permitted in any district.
- (2) Driveway access and grades shall conform to specifications of any applicable Town driveway regulations. The driveway grade shall have a slope of -2% for the first 25 feet from the edge of the existing street pavement, and the maximum permitted driveway grade shall be 10%. In the event that such a grade will intersect existing underground utilities or will result in inadequate cover or protection for such utilities, the Planning Board may require the subdivider to relocate such underground utilities or take measures to provide adequate cover or protection of them, all

at the subdivider's sole cost and expense and according to plans and specifications developed and submitted by the subdivider and approved by the Planning Board and utility owner.

- E. Building envelopes and limits of disturbance. The Planning Board shall require building envelopes showing limits of disturbance on all lots greater than one acre in area in the RU District, to restrict the location of structures, grading, and other land disturbance activities. The Planning Board may require building envelopes on lots of less than one acre in other districts if necessary to protect land of conservation value as determined through a conservation analysis or otherwise to fulfill the purposes of this chapter.

#### **§ 83-16. Reservations and easements.**

##### A. Parks and recreational land.

- (1) Before the Planning Board may approve a subdivision plat containing residential units, such subdivision plat shall show, when required by the Planning Board, a park or parks suitably located for playground or other recreational purposes.
- (2) Land for park, playground, or other recreational purposes may not be required unless the Planning Board has made a finding that a proper case exists for requiring that a park or parks be suitably located for playgrounds or other recreational purposes within the Town. Such findings shall include an evaluation of the present and anticipated future needs for park and recreational facilities in the Town based on projected population growth to which the particular subdivision plat will contribute. The Recreation Plan referenced in the Town's current Comprehensive Plan demonstrates that the need for parks and playgrounds exists in the Town of Goshen and that any new residential development will further contribute to this need.
- (3) Areas designated as potential recreation land in the Comprehensive Plan or Zoning Law shall be deemed to be suitably located for recreational purposes and a proper case shall be deemed to exist for requiring a reservation of all or a portion of such designated areas in any subdivision plat. To the extent that this provision may be inconsistent with Town Law § 277(4), the Town Board hereby declares its intent to supersede that section of the Town Law, pursuant to its home rule powers under Municipal Home Rule Law, Article 2, § 10 et seq., of the Consolidated Laws of the State of New York.
- (4) In the event that the Planning Board makes a finding pursuant to § 83-16A(2) above that the proposed subdivision plat presents a proper case for requiring a park or parks suitably located for playgrounds or other recreational purposes, but that suitable parks or recreation areas of adequate size to meet this requirement cannot be properly located on such subdivision plat, the Planning Board may require a sum of money in lieu thereof, in an amount per lot to be established as the "recreation fee" by the Town Board. In making such determination of suitability, the Planning Board shall assess the size and suitability of lands shown on the subdivision plat which could be possible locations for parks, recreational facilities, or recreation areas, as well as practical factors including whether there is a need for additional facilities in the immediate neighborhood and whether the location of the proposed recreational land is shown in the Comprehensive Plan or Chapter 97, Zoning. Any monies required by the Planning Board in lieu of land for park, playground, or other recreational purposes, pursuant to the provisions of this section, shall be deposited into a trust fund to be used by the Town exclusively for park, playground, or other recreational purposes, including the acquisition of property.

- B. Easements for pedestrian access. The Planning Board may require, in order to facilitate pedestrian and bicycle access from streets to schools, parks, playgrounds, natural areas set aside for the benefit of the public, or other nearby streets, perpetual unobstructed easements at least 20 feet in width, unless reduced by the Planning Board.

- C. Ownership of reservations. Ownership shall be clearly indicated on the plat for all reservations.

- D. Reserve strips prohibited. Reserve strips of land which might be used to restrict access from the

proposed subdivision to any neighboring property or to any land within the subdivision shall be prohibited.

- E. Conservation easements. For open space developments and conservation density developments conservation easements shall be granted as required by Chapter 97, Zoning, as a condition of final approval.

**§ 83-17. Potable water supply and wastewater collection and treatment.**

All subdivisions shall meet applicable potable water supply and wastewater collection and treatment regulations of the Orange County Department of Health, the New York State Department of Health, and the New York State Department of Environmental Conservation. All subdivisions shall comply with applicable water testing protocols contained in Chapter 97, Zoning, as well as any other Town water testing standards or requirements. All subdivisions containing central sewer and water systems shall comply with Article IV of this chapter.

**§ 83-18. Private roads.**

- A. General. The Town finds that it presently contains a substantial network of public roads which are costly to maintain. The Town seeks to minimize the costs of maintaining and improving its roads and wishes to encourage the use of private roads where appropriate and especially to encourage the protection of open space through the use of conservation density developments served by private roads, as provided in § 97-22 of Chapter 97, Zoning. No private road shall be created that serves more than 12 lots unless such road is built to standards acceptable for dedication to the Town.
- B. Design standards. Minimum standards for construction of private roads are provided in the Town's Roadway Specifications, Chapter 81 of the Town Code.
- C. Submission requirements. An applicant shall submit to the Planning Board a professional engineer's drawings showing the location, dimensions, and grade of the road, as well as the specifications setting forth the proposed composition of the road and proposed measures to control erosion and sedimentation during construction. The Town Engineer shall review these plans and specifications and make further recommendations for consideration by the Planning Board.
- D. Maintenance of private roads. The applicant shall provide for adequate long-term maintenance and repair of private roads. A homeowners' association shall be created to maintain the private roads serving more than four lots, as provided in § 97-22 of Chapter 97, Zoning, unless the Planning Board finds that a recorded maintenance agreement will be sufficient.
- E. The subdivision plat shall show the road clearly labeled PRIVATE ROAD, with a notation that it shall never be offered for dedication to the Town.

**§ 83-19. Landscaping requirements.**

- A. Wherever possible, existing native vegetation and trees shall be retained and land disturbance for creation of building sites and lawn areas shall be minimized.
- B. The Planning Board shall require, as a condition of subdivision approval, the planting of street trees on all lots fronting on existing and new streets. This requirement may be waived in wooded areas where existing vegetation is retained and/or in areas where such trees would block scenic views.
- C. Where lots are created with access on reverse frontage or other interior roads, the street tree planting requirements of Subsection B above shall also apply to any portion of such lots that adjoins existing roads. In addition, a buffer area of at least 50 feet shall be provided along such existing roads in which no land disturbance may occur (except as necessary for stormwater management, utilities, and pedestrian or bicycle paths) and in which either landscaped screening shall be planted or maintained

or natural vegetation shall be permitted to grow into woods. This buffer requirement may be waived in the HR District.

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## **ARTICLE III Procedure for Filing Applications**

### **§ 83-20. Subdivision approval required; conflict with other procedures.**

Whenever any subdivision of land is proposed, and before any contract for the sale of any lots in such subdivision is executed, the subdivider or his duly authorized agent shall apply in writing for subdivision approval in accordance with the following procedures. In the case of any conflict between the procedures contained in this Article III and the provisions of New York State law, State law shall control.

### **§ 83-21. Sketch plan review.**

- A. Submission of sketch plan and required data. A subdivider shall, prior to subdividing land (including implementing a lot adjustment), submit to the Building Department, at least 30 days prior to a scheduled meeting of the Planning Board, 16 copies of a sketch plan of the proposed subdivision. The sketch plan shall be drawn at a scale no smaller than one inch equals 400 feet, unless a smaller scale is needed to present the entire tract on one sheet. If the subdivision is in the RU District, the sketch plan shall indicate whether the proposed subdivision is a small-scale development, open space development, or conservation density development, as described in § 97-18B of Chapter 97, Zoning. The sketch plan shall also show the following information:
- (1) The location of the portion of the parcel which is to be subdivided in relation to the entire tract, and the distance to the nearest existing street intersection.
  - (2) A vicinity map showing all holdings of the applicant and all land within at least one mile of the property to be subdivided, drawn on a USGS quadrangle base map.
  - (3) All existing structures, wooded areas, streams, topography based on available USGS quadrangle maps, and other significant physical features within the subdivision and 200 feet thereof.
  - (4) The names of the owner and of all adjoining property owners as disclosed by the most recent municipal tax records, and the Tax Map section, block and lot numbers, if available.
  - (5) All the utilities available, and all streets which are proposed, mapped, or built.
  - (6) The proposed pattern of lots (including lot width and depth), street layout, recreation areas, systems of stormwater management, wastewater collection and treatment, and potable water supply within the subdivided area.
  - (7) All existing restrictions on the use of land including easements, covenants, conservation easements, and land use district boundary lines.
  - (8) A short-form environmental assessment form (EAF) for minor subdivisions and lot line adjustments, or Part 1 of a long-form EAF, as deemed necessary by the Planning Board.
  - (9) A conservation analysis as described in § 97-20B of Chapter 97, Zoning, regardless of the zoning district in which the land is located, except in the case of a small-scale development as described in § 97-19 of Chapter 97, Zoning.
  - (10) Trail corridors and pedestrianways, as provided in § 83-12E above, if a trail map has been adopted by the Town.
  - (11) If the subdivision is an open space development, density calculations for the land to be developed pursuant to § 97-20A of Chapter 97, Zoning.
  - (12) A statement indicating the subdivider's plans for complying with the water testing requirements

of the Town of Goshen, or the results of such tests if they have been completed.

- B. Other governmental agency requirements. The subdivider shall determine the requirements of all governmental agencies whose approval is required by this chapter, and which must eventually approve any subdivision plan coming within their jurisdiction.
- C. Review for completeness. The Town Planner, Town Engineer and Building Department shall review the proposed sketch plan for completeness in fulfilling the submission requirements in Subsection A above, and shall recommend that the application be placed on the Planning Board's meeting agenda if it finds the submission complete. If the submission is found to be incomplete, the Building Department shall issue a letter to the subdivider specifying any deficiencies.
- D. Discussion of requirements and classification.
  - (1) Prior to placing the sketch plan on the Planning Board's meeting agenda, members of the Planning Board and the Board's consultants shall conduct a site visit of the property. The subdivider or a duly authorized representative shall attend the next meeting of the Planning Board to discuss the requirements of Chapter 97, Zoning, the conservation analysis, and other requirements of this chapter, including but not limited to stormwater management, wastewater collection and treatment, potable water supply, traffic and transportation, fire protection, as well as the availability of existing services and other pertinent information shown on the sketch plan.
  - (2) The Planning Board shall classify the sketch plan as a minor or major subdivision as defined in this chapter. When the subdivision is classified by the Planning Board as a minor or major subdivision, a notation to that effect shall be made on the sketch plan. The Planning Board may require, however, when it deems necessary for protection of the public health, safety, and welfare, that a minor subdivision comply with all or some of the requirements specified for major subdivisions.
  - (3) If the applicant has applied for a small-scale development or conservation density development, the Planning Board shall determine whether or not the application complies with the provisions of § 97-19 or 97-22 of Chapter 97, Zoning, respectively. The determinations under this subsection and Subsection D(2) above are independent determinations. A small-scale development may under certain circumstances be classified as a major subdivision (see definitions).
  - (4) No more than four lots may be created in a small-scale development, as described in § 97-19 of Chapter 97, Zoning. If a small-scale development has been approved with up to four residential lots, and an applicant files an application for a fifth lot to be subdivided from the parent parcel at any time, the application for the fifth subdivided lot (and any additional lots) shall be subject to the requirements of § 97-19D of Chapter 97, Zoning, of the Code of the Town of Goshen.
  - (5) If the sketch plan is classified as a minor subdivision, the subdivider shall then comply with the procedure in § 83-22 of this chapter. If it is classified as a major subdivision, the subdivider shall comply with the procedure in § 83-23 of this chapter. If a minor subdivision has been approved with up to four residential lots, and an applicant files an application for a fifth lot to be subdivided from the parent parcel within 10 years of the original approval, the application for the fifth subdivided lot (and any additional lots) shall be subject to the requirements for major subdivisions.
- E. Study of sketch plan. The Planning Board shall determine whether the sketch plan meets the purposes of this chapter and shall, where it deems necessary, make specific recommendations, in writing to be incorporated by the subdivider in the next submission to the Planning Board. In its study of a sketch plan that includes a conservation analysis, the Planning Board shall make conservation findings pursuant to § 97-20B(4) of Chapter 97, Zoning.
- F. Public workshop option. With the applicant's consent, the Planning Board is encouraged but not required to convene an interactive public workshop in which members of the Board and the public work together and with the applicant to explore options for the property proposed for development.

## **§ 83-22. Approval of minor subdivision.**

- A. Application. Within six months after classification of the sketch plan as a minor subdivision by the Planning Board, the subdivider shall submit an application for approval of a subdivision plat. Failure to do so shall require resubmission of the sketch plan and payment of required fees to the Planning Board for classification. The subdivision plat shall conform to the layout shown on the sketch plan plus any recommendations made by the Planning Board.
- B. Fees. All applications for subdivision plat approval for a minor subdivision shall be accompanied by a fee established by the Town Board.
- C. Number of copies and required data. Sixteen copies of the subdivision plat shall be submitted to the Building Department at least 30 days prior to a scheduled meeting of the Planning Board. The subdivision plat shall include, in addition to the information required by § 83-21A to be on the sketch plan, the following information:
  - (1) A copy of conservation easements, covenants, or deed restrictions intended to cover all or part of the tract.
  - (2) The results of all required soils and water supply testing for each lot intended for building habitable structures, and a note stating that all on-site wastewater disposal and potable water supply facilities shall be designed to meet the minimum requirements of applicable Town, County, and State regulations.
  - (3) A field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a professional land surveyor licensed by the State of New York. The corners of the tract shall also be located on the ground and marked by monuments as approved by the Town Engineer and shall be referenced and shown on the plat. If recommended by the Town Engineer, the Planning Board may waive the requirement to have the lot corners marked where the land is part of a working farm operation. In the case of a tract in which less than 50% of the land is to be platted for buildable lots, or where there is a farm operation, the Planning Board may waive the requirement of a field survey of that portion of the tract which is not to be platted.
  - (4) A note indicating the maximum impervious surface coverage per lot, in compliance with § 97-20 of Chapter 97, Zoning.
  - (5) If the proposed subdivision is an open space development as described in § 97-20 of Chapter 97, Zoning, the plat shall note the total permitted lot count for the entire tract based upon the density standards in § 97-20A of Chapter 97, Zoning (including the requirements of applicable Aquifer Overlay Districts), the number of lots created by the plat, and the number of lots permitted to be platted in the future, as well as a table showing setback requirements and impervious surface coverage limits for each lot.
  - (6) Proposed subdivision name, name of the Town and County in which it is located.
  - (7) Date, North point, map scale, name and address of record owner and subdivider, if different.
  - (8) If the platted lots abut agricultural uses, the agricultural disclosure note required by § 97-47 of Chapter 97, Zoning.
  - (9) If the property to be subdivided is in an agricultural district and contains a farm operation or lies within 500 feet of a farm operation in an agricultural district, an agricultural data statement, as required by § 305-a, Subdivision 2, of the Agriculture and Markets Law (see Article VII of this chapter).
  - (10) If the application covers only a part of the subdivider's entire holdings (or those of a related person), the subdivider shall submit a map or sketch of the entire contiguous holdings, indicating acreages and the relation of the proposed subdivision to the entire holdings. The area proposed for subdivision shall be considered in light of the entire holdings.

- (11) Such other information as the Planning Board deems necessary to conduct an informed review, including but not limited to items listed in § 83-23B, as applicable.
- D. Agricultural data statement notification. Upon receipt of a minor subdivision plat application containing an agricultural data statement, the Secretary of the Planning Board shall mail a copy of the agricultural data statement to the owners of land identified by the subdivider in the agricultural data statement. The cost of mailing the notice shall be borne by the subdivider.
- E. Review for completeness. The Town Planner, Town Engineer, and Building Department shall review the proposed subdivision plat for completeness in fulfilling the submission requirements, and shall recommend that the application be placed on the Planning Board's meeting agenda if it finds the submission complete. If the submission is found to be incomplete, the Building Department shall issue a letter to the subdivider specifying any deficiencies.
- F. Subdivider to attend Planning Board meeting. The subdivider or his duly authorized representative shall attend the meeting of the Planning Board to discuss the subdivision plat.
- G. Mediation. Mediation may be employed with the applicant's consent to help resolve disputes, as provided in § 83-23F.
- H. Study of plat. The Planning Board shall study the suitability of the plat taking into consideration the conservation analysis (if one is prepared), the conservation findings made at the time of sketch plan approval, the purposes and requirements of the Comprehensive Plan and Chapter 97, Zoning (including the rural siting principles in § 97-41 of Chapter 97, Zoning, if applicable), the best use of the land being subdivided, the permitted lot count under applicable sections of Chapter 97, Zoning, and the impacts of the proposed subdivision on the functioning of farm operations in an agricultural district as shown in any agricultural data statement. Particular attention shall be given to the arrangement, location, and width of streets, and their relation to topography, potable water supply, sewage disposal, stormwater management, lot size and arrangement, the future development of adjoining lands as yet unsubdivided, and the Town's goals of protecting its natural, historic, scenic, and agricultural resources while providing affordable housing, promoting economic development, and diversifying its tax base.
- I. Date of official submission and SEQRA compliance. The time of submission of the subdivision plat shall be considered to be the date on which the application for plat approval, complete and accompanied by the required fees and all data required by Subsection C of this section, has been filed with the Secretary of the Planning Board, and the Planning Board has filed either a negative declaration or a notice of completion of a draft environmental impact statement in accordance with the State Environmental Quality Review Act (SEQRA). The Planning Board shall follow the procedures for coordination of SEQRA and subdivision approval requirements contained in § 276(6) of the Town Law.
- J. Endorsement of State and County agencies. If the site borders a County or State road, copies of the submission shall be forwarded to the Orange County Department of Public Works and/or the Western Orange Regional Office of the New York State Department of Transportation in time for their comments to be returned and read into the minutes of the public hearing. If the site lies within 500 feet of a County or State road, drainage easement, institution or park or within 500 feet of a municipal boundary, a copy of the subdivision shall be forwarded to the Orange County Department of Planning in time for its comments to be returned and read into the minutes of the public hearing. All correspondence from other agencies whose review or approval are required shall be submitted to the Planning Board prior to approval of any subdivision plat. Approval shall not be granted unless all relevant correspondence has been submitted.
- K. Public hearing. A public hearing shall be held by the Planning Board within 62 days from the date of official submission of the subdivision plat for approval or as otherwise provided in § 276(6)(d) of the Town Law. The hearing shall be advertised at the subdivider's expense in a newspaper of general circulation in the Town at least five days before the hearing and shall be coordinated with any hearing held under SEQRA. Notices shall be sent to the owners of all properties within 300 feet of the proposed subdivision and to all property owners listed in the agricultural data statement, if one is filed.

The cost of mailing the notice shall be borne by the subdivider.

- L. Action on subdivision plat. The Planning Board shall, within 62 days of the date of the close of the public hearing, act to conditionally approve, conditionally approve with modification, disapprove, or grant final approval and authorize the signing of the subdivision plat pursuant to § 276(7)(a) of the Town Law. This time may be extended by mutual consent of the subdivider and the Planning Board. If the plat has been disapproved, within five days of such disapproval the decision shall be certified by the Secretary of the Planning Board and a copy of the decision filed in the Secretary's office, with a certified copy mailed to the subdivider. In the event the Planning Board fails to take action on a subdivision plat within the time prescribed herein, or for such extended period established by the mutual consent of the subdivider and the Planning Board, the plat shall be deemed approved, and a certificate of the Town Clerk as to the date of submission and the failure to take action within such prescribed time shall be issued on demand, and shall be sufficient in lieu of written endorsement of other evidence of approval herein required. The time periods prescribed herein do not begin to run until the application has been officially submitted pursuant to Subsection I of this section.
- M. Conditional approval. Upon granting conditional approval with or without modification to the plat, the Planning Board shall empower a duly authorized officer to sign the plat upon compliance with such conditions and requirements as may be stated in its resolution of conditional approval. Within five days of the resolution granting conditional approval, the plat shall be certified by the Secretary of the Planning Board as conditionally approved. A copy of the resolution shall be filed in the Secretary's office and a certified copy of the resolution shall be mailed to the subdivider. The copy mailed to the subdivider shall include a certified statement of such requirements which, when completed, will authorize the signing of the conditionally approved plat. Upon completion of such requirements, the plat shall be signed by the duly designated officer of the Planning Board. Conditional approval of a plat shall expire 180 days after the date of the resolution granting such approval unless the requirements have been certified by the Chair of the Planning Board as completed within that time. The Planning Board may, however, extend the time within which a conditionally approved plat may be submitted for signature, if, in its opinion, such extension is warranted in the circumstances, for not to exceed two additional periods of 90 days each.

**§ 83-23. Approval of major subdivision.**

- A. Application and fees.
  - (1) Prior to the filing of an application for the approval of a major subdivision plat, the subdivider shall file an application for the consideration of a preliminary plat of the proposed subdivision, in the form described in Subsection B below. The preliminary plat shall, in all respects, comply with the requirements set forth in the provisions of §§ 276 and 277 of the Town Law, except where a waiver may be specifically authorized by the Planning Board. The application for approval of a preliminary plat shall be made at least 30 days prior to a scheduled monthly meeting of the Planning Board and shall be accompanied by a fee established by the Town Board.
  - (2) The subdivider shall also be responsible for all reasonable engineering, planning, legal, and other project review costs incurred by the Town in connection with the subdivision application. The application for approval of the preliminary plat shall be accompanied by a deposit to a project review escrow fund in an amount established by the Planning Board on the same terms as provided in § 97-68 of Chapter 97, Zoning. Any project review funds not expended by the Town in the consideration and review of the subdivider's application shall be returned to the subdivider upon completion of the subdivision process or the withdrawal of the subdivision application. All costs incurred by the Town which are in excess of the funds deposited shall be paid by the subdivider to the Town prior to final approval of the subdivision plat. The Town reserves the right to request additional deposits to the project review escrow fund if necessary to cover additional costs.
- B. Major subdivision preliminary plat and accompanying data. The following documents shall be submitted for approval:

- (1) All information required for sketch plan approval in § 83-21A, and a draft environmental impact statement if required by the lead agency under SEQRA.
- (2) Sixteen copies of the preliminary plat prepared at a scale of 100 feet to the inch, or such other scale as the Planning Board may deem appropriate, showing:
  - (a) Proposed subdivision name, name of Town and County in which it is located, date, true North point, scale, name and address of record owner, subdivider, and engineer or surveyor, including license number and seal.
  - (b) The name of all subdivisions immediately adjacent and the name of the owners of record of all adjacent property.
  - (c) Land use and overlay districts as shown on the Zoning Map.
  - (d) All parcels of land proposed to be dedicated to public use or preserved as open space and the conditions of such dedication or preservation.
  - (e) Location of existing property lines, easements, buildings, watercourses, wetlands, rock outcrops, soil types, slope analysis showing slopes of 0% to 15%, greater than 15% to 25%, and greater than 25%, wooded areas, and other significant existing features for the proposed subdivision and adjacent property. Much of this information shall have been submitted already as part of the conservation analysis required in Subsection B(1) above.
  - (f) Location of existing electric and gas service lines, sanitary and storm sewers, water mains, culverts, and drains on or adjacent to the property, with pipe sizes and elevations of stormwater management facilities and sanitary sewers.
  - (g) Contours with intervals of two feet, unless larger intervals are permitted by the Planning Board, including elevations on existing roads. A grading plan shall be provided if natural contours are to be changed more than two feet.
  - (h) The width and location of any streets or public ways or other places reserved for public facilities or other public uses in the Comprehensive Plan within the area to be subdivided, if any, and the width, location, grades, and street profiles of all private roads, driveways, or public ways proposed by the subdivider.
  - (i) The approximate location and size of all existing and proposed water lines, valves, hydrants, basins and manholes, and sewer lines. Connections to existing lines or alternate means of potable water supply or wastewater collection and disposal shall be provided in accordance with Town, County, and State standards. Profiles of all proposed water mains and sanitary and storm sewer lines shall be provided.
  - (j) Erosion and stormwater management plan in compliance with § 83-14 of this chapter and § 97-42 of Chapter 97, Zoning.
  - (k) Plans and cross-sections showing the proposed location and type of sidewalks, streetlighting standards, street trees, curbs, water mains, culverts, sanitary and storm sewers and the size and type thereof; the character, width, and depth of pavements and subbase, and the location of manholes, basins, and underground conduits.
  - (l) Preliminary designs of any bridges or culverts which may be required.
  - (m) The proposed lot lines with approximate dimensions and area of each lot.
  - (n) Where the topography is such as to make difficult the inclusion of any of the required facilities within the public areas as laid out, the boundaries of proposed permanent easements over or under private property. The permanent easements shall not be less than 30 feet in width and shall provide satisfactory access to an existing public highway or other public highway or public open space shown on the subdivision plat or the Official Map.

- (o) The results of required soil and water supply tests for each lot intended for building habitable structures, and a note stating that all on-site wastewater disposal and potable water supply facilities shall be designed to meet the minimum specifications of all applicable Town, County, and State regulations.
  - (p) A field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a professional land surveyor licensed by the State of New York. The corners of the tract shall also be located on the ground and marked by monuments as approved by the Town Engineer, and shall be referenced and shown on the plat. In the case of a tract in which less than 50% of the land is to be platted for buildable lots, if recommended by the Town Engineer, the Planning Board may waive the requirement of a field survey of that portion of the tract which is not to be platted.
  - (q) A note indicating the maximum impervious surface coverage per lot, in compliance with § 97-20 of Chapter 97, Zoning.
  - (r) If the proposed subdivision is an Open Space Development as described in § 97-20 of Chapter 97, Zoning, the total permitted lot count for the entire tract based upon the density standards in Chapter 97, Zoning (including the requirements of applicable Aquifer Overlay Districts), the number of lots created by the plat, and the number of lots permitted to be platted in the future, as well as a table showing setback requirements and impervious surface coverage limits for each lot.
  - (s) Drafts of any proposed conservation easements required by Chapter 97, Zoning, including identification of the proposed grantee of such conservation easements, and a letter of intent from such grantee agreeing to accept such conservation easement if the grantee is not the Town.
  - (t) Landscape plan in compliance with § 83-19 of this chapter.
  - (u) Such other information as the Planning Board deems necessary to conduct an informed review.
- (3) If the property to be subdivided is in an agricultural district and contains a farm operation or lies within 500 feet of a farm operation in an agricultural district, an agricultural data statement, as required by § 305-a, Subdivision 2, of the Agriculture and Markets Law (see Article VII).
- C. Relation to other lands of subdivider. If the application covers only a part of the subdivider's entire holdings (or those of a related person), the subdivider shall submit a map or sketch of the entire contiguous holdings, including all land held in the same ownership within one mile at any time within the past three years, indicating acreages and the relation of the proposed subdivision to the entire holdings. The area proposed for subdivision shall be considered in light of the entire holdings.
  - D. Agricultural data statement notification. Upon receipt of a major subdivision plat application containing an agricultural data statement, the Secretary of the Planning Board shall mail a copy of the agricultural data statement to the owners of land identified by the subdivider in the agricultural data statement. The cost of mailing the notice shall be borne by the subdivider.
  - E. Subdivider to attend Planning Board meeting. The subdivider or his duly authorized representative shall attend the meeting of the Planning Board to discuss the preliminary plat.
  - F. Mediation. At any point in the subdivision review process the Planning Board may, if it deems appropriate and the subdivider consents, appoint a mediator to work informally with the subdivider, neighboring property owners, and other interested persons to address concerns raised about the proposed subdivision. Such mediation may be conducted by a community dispute resolution center or other mediator acceptable to the Planning Board and the subdivider. The mediator shall have no power to impose a settlement or bind the parties or the Planning Board, and any settlement reached shall require Planning Board approval to assure compliance with all provisions of this chapter. The cost, if any, of such mediation may be charged to the subdivider as part of the cost of subdivision review, with the subdivider's written consent. Such cost may also be shared by others with their

written consent. The Planning Board may extend applicable time limits during the pendency of the mediation if the subdivider consents. The Planning Board or subdivider may terminate the mediation at any point.

- G. Study of preliminary plat. The Planning Board shall study the suitability of the plat taking into consideration the conservation analysis, the conservation findings made at the time of sketch plan approval, the purposes of the Comprehensive Plan and Chapter 97, Zoning (including the rural siting principles in § 97-41 of Chapter 97, Zoning, if applicable), the permitted lot count under applicable sections of Chapter 97, Zoning, the best use of the land being subdivided, and the impacts of the proposed subdivision on the functioning of farm operations in an agricultural district as shown in any agricultural data statement. The Planning Board may suggest alternatives including different lot configurations or nonresidential uses in order to protect farm operations. Particular attention shall be given to the arrangement, location, and width of streets and their relation to topography, potable water supply, sewage disposal, stormwater management, lot size and arrangement, the future development of adjoining lands as yet unsubdivided, and the Town's goals of protecting its natural, historic, scenic, and agricultural resources while providing affordable housing, promoting economic development, and diversifying its tax base.
- H. Date of official submission and SEQRA compliance. The time of submission of the preliminary plat shall be considered to be the date on which the application for approval of the preliminary plat, complete and accompanied by the required fee and project review fund deposit, and all data required by Subsection B of this section, has been filed with the Secretary of the Planning Board, and the Planning Board has filed either a negative declaration or a notice of completion of a draft environmental impact statement in accordance with the State Environmental Quality Review Act (SEQRA). The Planning Board shall follow the procedures for coordination of SEQRA and subdivision approval requirements contained in § 276(5) of the Town Law.
- I. Endorsement of State and County agencies. If the site borders a County or State road, copies of the submission shall be forwarded to the Orange County Department of Public Works and/or the Western Orange Regional Office of the New York State Department of Transportation in time for their comments to be returned and read into the minutes of the public hearing. If the site lies within 500 feet of a County or State road, drainage easement, institution or park or within 500 feet of a municipal boundary, a copy of the subdivision shall be forwarded to the Orange County Department of Planning in time for its comments to be returned and read into the minutes of the public hearing. All correspondence from other agencies whose review or approval are required shall be submitted to the Planning Board prior to approval of any subdivision plat. Approval shall not be granted unless all relevant correspondence has been submitted.
- J. Approval of the preliminary plat.
  - (1) Within 62 days of the official submission of a complete application for preliminary plat approval, the Planning Board shall hold a public hearing, which hearing shall be advertised at least once in a newspaper of general circulation in the Town at least five days before such hearing. The Town shall notify by mail all owners of land within 300 feet of the property designated for subdivision at least 10 days prior to the public hearing. The cost of mailing the notice shall be borne by the subdivider. The Planning Board may provide that the hearing be further advertised in such manner as it deems appropriate for full public consideration of such preliminary plat, including notification of the appropriate school district. Within 62 days after the date of the close of such hearing, the Planning Board shall approve with or without modification or disapprove the preliminary plat, and the ground of the modification, if any, or the ground for disapproval, shall be stated upon the records of the Planning Board. The time in which the Planning Board must take action on the plat may be extended by mutual consent of the subdivider and the Planning Board. When approving a preliminary plat, the Planning Board shall state in writing such modifications, if any, as it deems necessary for submission of the plat in final form. Within five days of the approval of the preliminary plat, it shall be certified by the Secretary of the Planning Board as granted preliminary approval and a copy filed in the Secretary's office, a certified copy mailed to the owner, and a copy forwarded to the Town Board and the appropriate School District. If the preliminary plat has been disapproved, within five days of such disapproval of the

preliminary plat, the decision shall be certified by the Secretary of the Planning Board and a copy of the decision filed in the Secretary's office, with a certified copy mailed to the subdivider. In the event the Planning Board fails to take action on a preliminary plat within the time prescribed, such preliminary plat shall be deemed granted preliminary approval. The certificate of the Town Clerk as to the date of submission, and the failure of the Planning Board to take action within such prescribed time, shall be issued on demand and shall be sufficient in lieu of written endorsement or other evidence of approval herein required. The time periods prescribed herein do not begin to run until the application has been officially submitted pursuant to Subsection H of this section.

- (2) When granting approval to a preliminary plat, the Planning Board shall state the terms of such approval, if any, with respect to:
  - (a) The modifications it requires to the preliminary plat;
  - (b) The character and extent of the required improvements for which waivers may have been requested and which in its opinion may be waived without jeopardy to the public health, safety, and general welfare;
  - (c) The amount of improvements or the amount of all performance guarantees therefor which it will require as prerequisite to the approval of the subdivision plat; and
  - (d) The terms of any required conservation easements, and other conditions that will be required to be fulfilled in connection with final plat approval.
- (3) Prior to, or within 30 days after, receiving preliminary plat approval, the applicant shall meet with the Town Board or its designated Town official(s) and submit proposed construction drawings of the infrastructure that is proposed to be dedicated to the Town. No construction of any improvements and no site preparation for such construction shall commence prior to final approval.

#### **§ 83-24. Final plat for major subdivision.**

- A. Application for approval and fees. The subdivider shall, within six months after the approval of the preliminary plat, file with the Planning Board an application for approval of the subdivision plat in final form together with the required fees, using the approved application form available from the Secretary of the Planning Board. All applications for final plat approval for major subdivision shall be accompanied by an additional deposit to the project review escrow fund if requested by the Planning Board and by a major subdivision plat fee in the amount established by resolution of the Town Board. If the final plat is not submitted within six months after the approval of the preliminary plat, the Planning Board may revoke preliminary plat approval.
- B. Major subdivision final plat and accompanying data. The plat to be filed with the County Clerk shall be printed in drafting film and ink, and shall meet specifications of the County Clerk's office. The plat shall normally be drawn at a scale of no more than 100 feet to the inch and oriented with the North point at the top of the map. When more than one sheet is required, an additional index sheet of the same size shall be filed, showing to scale the entire subdivision with lot and block numbers clearly legible. The plat shall show:
  - (1) Proposed subdivision name or identifying title and the name of the Town and County in which the subdivision is located, the name and address of record owner and subdivider, name, license number, and seal of the licensed land surveyor.
  - (2) Street lines, pedestrianways, lots, reservations, easements, areas to be dedicated to public use, required landscaping including buffer areas, and, if required by § 97-47 of Chapter 97, Zoning, an agricultural disclosure note.
  - (3) Sufficient data acceptable to the Town Engineer to determine readily the location, bearing, and length of every street line, lot line, boundary line, and to reproduce such lines upon the ground.

Where applicable, these should be referenced to monuments included in the State System of Plane Coordinates, and in any event should be tied to reference points previously established by a public authority.

- (4) The length and bearing of all straight lines, radii, length of curves and central angles of all curves, tangent bearings shall be given for each street. All dimensions and angles of the lines of each lot shall also be given. All dimensions shall be shown in feet and decimals of a foot. The plat shall show the boundaries of the property, location, graphic scale, and true North point.
- (5) Dedicated public open spaces, areas protected by conservation easements, and open spaces or recreation areas where title is reserved by the subdivider. The subdivider shall submit copies of executed or proposed deeds, conservation easements, and such other agreements or documents as are necessary to show the manner in which such areas are to be owned, maintained, and preserved. For any open space development, the plat shall clearly show the total permitted lot count for the entire tract, the number of lots created by the plat, and the number of lots permitted to be platted in the future. The final subdivision plat shall not be signed by the Planning Board until all necessary documents have been executed.
- (6) All conservation easements or covenants governing the preservation and maintenance of unceded open space.
- (7) Lots and blocks within a subdivision shall be numbered and lettered in accordance with the prevailing Town practice.
- (8) Permanent street reference monuments shall be shown, and shall be constructed in accordance with specifications of the Town Engineer. When referenced to the State System of Plane Coordinates, they shall also conform to the requirements of the State Department of Transportation. They shall be placed as required by the Town Highway Superintendent and the Town Engineer and their location noted and referenced upon the plat.
- (9) All lot corner markers shall be permanently located satisfactorily to the Town Engineer, with concrete monuments containing a metal rod, at least four inches by four inches by 30 inches and located in the ground flush with the finished grade. The Planning Board may waive this requirement for farmland used in a farm operation.
- (10) Monuments of the same type as in Subsection B(9) above shall be set at all corners and angle points of the boundaries of the original tract to be subdivided; and at all street intersections, angle points in street lines, points of curve, and such intermediate points as shall be required by the Town Highway Superintendent and Town Engineer.
- (11) A map shall be submitted to the satisfaction of the Planning Board, indicating the location of all underground utilities as actually installed. The subdivider shall provide a letter of credit or certified check as a performance guarantee for all required improvements; such performance guarantee shall not be released until such a map is submitted in a form satisfactory to the Planning Board.

- (12) In addition to the above information, the following certifications and additional information shall be provided:
- (a) Certification of title of the record owner, together with a signed and notarized consent to the subdivision application if the record owner is not the subdivider.
  - (b) Written offers of cession to the Town of all public streets, rights-of-way and open spaces shown on the plat, and copies of agreements, conservation easements, or other documents showing the manner in which spaces, title to which is reserved by the subdivider, are to be maintained. All offers of cession, conservation easements, and covenants governing the maintenance of unceded open space shall bear the certificate of approval of the Town Attorney as to their legal sufficiency.
  - (c) A certificate by the Town Engineer certifying that the subdivider has submitted a certified check or letter of credit to the Town, in sufficient amount to assure completion of all required improvements.
  - (d) Protective covenants and conservation easements in form for recording.
  - (e) Other data, such as certificates, affidavits, endorsements or dedications, as may be required by the Planning Board in the administration and enforcement of this chapter.
  - (f) Letters directed to the Chairman of the Planning Board and signed by a responsible official of the lighting agency, water company or any other utility company or governmental authority or district which provides necessary utility service and has jurisdiction in the area, approving each proposed utility installation design and including a statement as to who will construct the facility so that service will be available when required in conformity with the provisions of the filed rate schedule.
  - (g) Letter directed to the Chairman of the Planning Board and signed by a responsible official of the school system, acknowledging the number of residential lots and indicating the availability of existing school facilities for the new pupils or any needed new school sites and facilities that relate to the subdivision area.
  - (h) Letter in appropriate cases directed to the Chairman of the Planning Board and signed by a responsible official of the State Highway Department or the Orange County Superintendent of Highways, approving proposed construction on State or County rights-of-way, respectively.
- C. When officially submitted. The time of submission of the final subdivision plat shall be considered to be the date on which the application for approval of the final subdivision plat, complete and accompanied by the required fee and project review reserve fund deposit and all data required by Subsection B of this section, and all regulatory approvals required by Subsection D below, has been filed with the Secretary of the Planning Board.
- D. Endorsement of State, County, and Town agencies. Water and wastewater facility proposals contained in the subdivision plat shall be properly endorsed and approved by the appropriate regulatory agency having jurisdiction in the matter. The subdivider shall file applications for approval of plans for water or wastewater facilities with all necessary Town, County, and State agencies. Endorsement and approval by these agencies shall be secured by the subdivider before official submission of the final subdivision plat.
- E. Final plats which are in substantial agreement with approved preliminary plats. When a final plat is submitted which the Planning Board deems to be in substantial agreement with a preliminary plat approved pursuant to this section, the Planning Board shall by resolution conditionally approve with or without modification, disapprove, or grant final approval and authorize the signing of such plat, within 62 days of its receipt by the Secretary of the Planning Board.
- F. SEQRA compliance. The Planning Board shall follow the procedures for coordination of SEQRA and subdivision approval requirements contained in § 276(6) of the Town Law.

- G. Final plats which are not in substantial agreement with approved preliminary plats. When a final plat is submitted which the Planning Board deems not to be in substantial agreement with a preliminary plat approved pursuant to this section, the Planning Board shall follow the procedures contained in § 276(6)(d) of the Town Law.
- H. Conditional approval. Upon resolution of conditional approval of the final plat, the Planning Board the Planning Board shall empower a duly authorized officer to sign the plat upon compliance with such conditions and requirements as may be stated in its resolution of conditional approval. Within five days of the resolution granting conditional approval, the plat shall be certified by the Secretary of the Planning Board as conditionally approved. A copy of the resolution shall be filed in the Secretary's office and a certified copy of the resolution shall be mailed to the subdivider. The copy mailed to the subdivider shall include a certified statement of such requirements which, when completed, will authorize the signing of the conditionally approved plat. Upon completion of such requirements, the plat shall be signed by the duly designated officer of the Planning Board. Conditional approval of a final plat shall expire 180 days after the date of the resolution granting such approval unless the requirements have been certified as completed within that time. The Planning Board may, however, extend the time within which a conditionally approved plat may be submitted for signature, if, in its opinion, such extension is warranted in the circumstances, for not to exceed two additional periods of 90 days each.

**§ 83-25. Required improvements.**

- A. The following improvements will be required except when, in the special or peculiar circumstances of a particular case, the Planning Board modifies or waives a requirement by specific resolution:
  - (1) Paved streets, except in conservation density subdivisions.
  - (2) Curbs or gutters.
  - (3) Sidewalks where lots are less than 15,000 square feet in area.
  - (4) Potable water supply and fire protection system.
  - (5) Sanitary wastewater collection and treatment facilities.
  - (6) Stormwater management facilities.
  - (7) Street signs.
  - (8) Streetlighting where lots are less than 15,000 square feet in area and, where the Planning Board deems necessary, at intersections.
  - (9) Street trees.
  - (10) Seeding or sodding of planting strips with lawn grass.
- B. Modification of design of improvements. If at any time before or during the construction of the required improvements it is demonstrated to the satisfaction of the Town Engineer that unforeseen conditions make it necessary or preferable to modify the location or design of required improvements, the Town Engineer may, upon approval by a previously delegated member of the Planning Board, authorize modifications, provided these modifications are within the spirit and intent of the Planning Board's approval and do not result in the waiver or substantial alteration of the function of any improvements required by the Planning Board. The Town Engineer shall issue any authorization under this Subsection B in writing, and shall transmit a copy of such authorization to the Planning Board at its next regular meeting.
- C. Inspection of improvements. At least five days prior to commencing construction of required improvements, the subdivider shall establish with the Town Clerk an escrow account for the inspection fees required by Subsection H(3) below. The subdivider shall simultaneously notify the Town Board in writing of the time proposed to commence construction of the improvements so that the Town Board may cause inspection to be made to assure that all Town specifications and

requirements are met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Planning Board.

- D. Proper installation of improvements. If the Town Engineer shall find, upon inspection of the improvements, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the subdivider, he shall so report to the Town Board, Code Enforcement Officer and Planning Board. The Town Board shall notify the subdivider and take all necessary steps to preserve the Town's rights under the performance guarantee. No plat shall be approved by the Planning Board as long as the subdivider is in default on a previously approved plat.
- E. Performance guarantees. Before the Planning Board grants final approval of the subdivision plat, the subdivider shall file with the Town Clerk a certified check or irrevocable letter of credit to cover the full cost of the required improvements in an amount set by the Planning Board. Any such performance guarantee shall be satisfactory to the Town Board, Town Engineer and Town Attorney as to form, sufficiency, manner of execution and surety.
  - (1) The required improvements shall not be considered to be completed until the installation of the improvements has been approved by the Town Engineer and a map satisfactory to the Town Engineer has been submitted indicating the location of all underground utilities as actually installed. The security shall not be released until such a map is submitted and the maintenance guarantee required by Subsection E(3) below has been filed.
  - (2) If the subdivider does not substantially complete the improvements within one year, the Town shall review the performance guarantee amount and may update the amount and the required inspection fees, if appropriate. The Town Board may allow partial reductions in the amount of the performance guarantee as work is completed, if so recommended by the Town Engineer upon inspection of completed improvements.
  - (3) To ensure proper maintenance of the required improvements, the subdivider shall file with the Town Board a maintenance guarantee in the form of a certified check or irrevocable letter of credit in an amount equal to 10% of the full cost of the required improvements, to assure the satisfactory condition of the initial public improvements for a period of one year following their completion and acceptance by the Town Board.
- F. General liability insurance.
  - (1) Procedure. The general contractor shall file with the Town Attorney a general liability insurance policy at the same time as he files his performance guarantee. The Town Board shall approve the policy as to form. The policy shall be in force during the term of the performance guarantee and shall be extended in conformance with any extension of the performance guarantee.
  - (2) Coverage. The policy shall insure the Town and the general contractor and shall cover all operations in the development involving existence and maintenance of property and buildings and contracting operations of every nature, including all public improvements. Said policy shall have limits of liability of \$100,000 for bodily injury to each person and \$300,000 in the aggregate for each accident, and property damage liability of \$5,000 for each accident and \$25,000 in the aggregate, or such higher limits as the Planning Board may require.
- G. Supervision of construction. The construction of all required improvements shall be supervised by the Town Engineer or a registered professional engineer employed by the Town, who, after completion of construction, shall certify to the Town Board and Planning Board that all required improvements have been constructed as required and approved by the Board or as modified by the Board.
- H. Inspections.
  - (1) Routine inspection.
    - (a) All improvements will be observed by the Town Engineer and Highway Superintendent to ensure satisfactory completion. In no case shall any paving (including prime and seal coats) work be done without permission from the Town Engineer and Highway Superintendent. At least five days' notice shall be given to the Town Engineer and Highway

Superintendent prior to any such construction so that a representative of the Town may be present at the time work is to be done. The Town Engineer and Highway Superintendent shall be notified after each of the following phases of the work has been completed so that he or his representative may inspect the work:

- [1] Road subgrade.
- [2] Curb and gutter forms.
- [3] Road paving.
- [4] Sidewalk forms.
- [5] Sanitary sewers, drainage pipe and other drainage structures before backfilling.
- [6] All underground utilities prior to backfilling.

(b) If the Town Engineer and Highway Superintendent or other duly designated official does not carry out inspection of required improvements during construction, the subdivider shall not in any way be relieved of his responsibilities.

(2) Final inspection. A final inspection of all improvements will be made to determine whether the work is satisfactory and in substantial agreement with the approved final plat drawings and in compliance with the Town specifications as of the time the offer of dedication of the roads is made to the Town Board. The general condition of the site shall also be considered. Upon a satisfactory final inspection report, action will be taken to release the performance guarantee covering such improvements and utilities.

(3) Inspection fee. Any applicant who has received subdivision approval shall, prior to signing of the plat (unless another time shall be fixed by the Planning Board), deliver to the Town a certified or cashier's check to the order of the Town in an amount equal to 5% of the total cost of the required improvements, in order to cover the expense of the Town inspecting the various public improvements proposed on the subdivision plat. Said amount shall be deposited in an escrow account from which the expenses of the aforesaid inspections shall be deducted. The applicant upon notification that the escrow account at any time reaches \$5,000 or less shall replenish the fund to insure funds are available to cover the cost of inspections. If the applicant fails to maintain a balance of at least \$5,000 in the escrow account the Building Inspector shall not issue any further building permits and/or certificates of occupancy. The amount so deposited may, from time to time, be increased or reduced as circumstances dictate. If, after the developer has received a satisfactory final inspection report, there is money remaining in the escrow account, the same shall be remitted to the applicant.

I. Proper installation of improvements. If the Town Engineer shall find, upon inspection of the improvements, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the subdivider, he shall so report to the Town Board, Building Inspector and Planning Board. The Town Board shall then notify the subdivider and, if necessary, take all necessary steps to collect the sum remaining payable under the performance guarantee, and upon receipt of the proceeds thereof the Town shall install such improvements as are covered by such performance guarantee and commensurate with the building development that has taken place in the subdivision, but not exceeding in cost the amount of such proceeds. In making such determination regarding streets, highways, parks and required improvements, the Planning Board shall take into consideration the proposed type of the development. No plat shall be approved by the Planning Board as long as the subdivider or a principal in a subdivider's corporation is in default on a previously approved plat.

#### **§ 83-26. Filing of approved subdivision plat.**

A. Final approval and filing. Upon completion of the requirements in §§ 83-22, 83-24 and 83-25 of this

chapter, and notation to that effect upon the subdivision plat, the plat shall be deemed to have final approval and shall be properly signed by the duly designated officer of the Planning Board and may be filed by the subdivider in the office of the County Clerk. Any subdivision plat not filed or recorded within 62 days of the date upon which the plat is approved or considered approved by reason of the failure of the Planning Board to act shall become null and void. Plats approved in sections shall comply with applicable provisions of § 276 of the Town Law.

- B. Plat void if revised after approval. No changes, erasures, modifications, or revisions shall be made in any subdivision plat after approval has been given by the Planning Board and endorsed in writing on the plat, unless the plat is first resubmitted to the Planning Board and the Planning Board approves such modifications. In the event that any subdivision plat is recorded without complying with this requirement, it shall be considered null and void, and the Planning Board shall institute proceedings to have the plat stricken from the records of the County Clerk.

#### **§ 83-27. Public streets and recreation areas.**

- A. Public acceptance of streets. The approval by the Planning Board of a subdivision plat shall not be deemed to constitute or be evidence of any acceptance by the Town of any street, easement, or other open space on the subdivision plat.
- B. Every street shown on a plat that is filed or recorded in the office of the County Clerk or Register as provided in this chapter shall be deemed to be a private street until such time as it has been formally offered for cession to the public and formally accepted as a public street by resolution of the Town or, alternatively, until it has been condemned by the Town for use as a public street.
- C. Ownership and maintenance of recreation areas. When a park, playground, or other recreational area is shown on a plat, the approval of the plat shall not constitute an acceptance by the Town of the area. The Planning Board shall require the plat to be endorsed with appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the subdivider and the Town Board covering future deed and title, dedication, and provision for the cost of grading, developments, equipment, and maintenance of any such recreation area.

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### **ARTICLE IV Potable Water Supply and Sanitary Waste Collection and Treatment Systems**

#### **§ 83-28. Policy statements.**

It is the policy of the Town that all central sewer and water systems be owned and operated by the Town. It is required as a condition to final approval of a plat where central sewer and/or water systems are to be installed, that an improvement district be legally formed or extended. Such systems with appurtenances shall be offered for dedication to such districts without cost to the district. Potable Water supply systems shall comply with Chapter 93 of the Goshen Town Code, entitled "Water," and Sanitary waste collection and treatment systems shall comply with Chapter 79 of the Town Code, entitled "Sewers." In case of any conflict between these chapters and this Chapter 83, this chapter shall control.

#### **§ 83-29. Water and sewer facilities.**

- A. Endorsement. The proposed subdivision plat shall be properly endorsed and approved by the Orange County Department of Health. Such endorsement and approval shall be secured by the subdivider after approval of the preliminary plat by the Planning Board.
- B. Local requirements. Orange County Department of Health approval shall constitute only the minimum requirement necessary, and where considered essential by the Board, a public wastewater collection system and/or potable water system may be required for any subdivision.

- C. Sanitary wastewater facilities. In all subdivisions of five lots or more where community sanitary wastewater collection systems are neither required or proposed, the subdivider may be required to install dry sewers and laterals, to be designed and installed by the subdivider pursuant to § 83-31 below. This requirement shall not apply to conservation density developments.
- D. Dedication. Water and sewer mains and systems are to be offered for dedication to the Town or duly constituted improvement district, and upon completion of acceptance are to be maintained by the Town, and shall be located in the street rights-of-way or in perpetual unobstructed easements of a width adequate for servicing.
- E. Connections. The developer shall be responsible not only for the laterals within the development but also for any lines or connections that may be necessary to bring the service to the development. The laterals not immediately connected to a dwelling shall extend five feet onto the lot, the end of the lateral shall be fitted with a watertight cap, and the location of the lateral shall be suitably marked at the ground surface.
- F. The Planning Board may require that prior to final approval the Town Engineer shall determine the capacity of a well to adequately supply a development with water. In order to assure adequate water supply for the safety, health and comfort of the residents, a seventy-two-hour test shall be taken, during which time an amount equal to at least 450 gallons per dwelling unit shall be obtained on a sustained basis.

**§ 83-30. Potable water systems.**

Standards for potable water systems shall be as follows, unless otherwise required by the Town, County, or State:

- A. All water mains shall be Class 52 cement-lined ductile iron pipe unless otherwise approved by the Town Engineer.
- B. Hydrants shall be installed in accordance with Town, County, and State standards.
- C. Hydrants shall be as manufactured by Eddy Valve Company, or equal.
- D. All water mains shall be valved in such manner that repairs may be made without shutting down the entire system.
- E. Corporation cocks shall be installed at a forty-five-degree angle to water main and not from top of main.
- F. Curb box and cock shall be installed on each lot, same to be 18 inches inside curblin and brought to finished grade.
- G. All attempts shall be made to loop water mains.
- H. All valve boxes in street shall be brought to finished grade line of said street.
- I. All water mains shall be laid a minimum 4 1/2 feet deep to top of pipe.
- J. All service lines to buildings shall be a minimum of 3/4 inch type K copper tubing equal to that manufactured by Chase Brass, or such larger size as is required by the Water Superintendent based on site specific conditions such as service pipe length, elevation of structure, etc.
- K. All water mains shall be inspected by the Town Engineer before any backfilling is started.
- L. A water meter shall be installed in each building, same to be as manufactured by Badger Company, or equal.
- M. Before any water district is accepted by the Town, it shall meet with the approval of the Town Engineer as to capacity and output of water from wells.
- N. If necessary, proper chlorine equipment shall be installed in the proper manner to safeguard water

supply.

- O. All water mains shall be tested to withstand normal pressures plus 50%, or 100 psi, whichever is higher, as directed by the Town Engineer.

### **§ 83-31. Sanitary wastewater systems.**

The standards for sanitary wastewater collection systems shall be as follows, unless otherwise required by the Town, County, or State:

- A. Minimum size of gravity sanitary sewers shall be eight inches.
- B. Sewers shall be SDR 35 PVC pipe.
- C. Manholes shall be constructed at all changes in direction, street intersections and otherwise at five-hundred-foot intervals.
- D. All sanitary sewers shall be installed in accordance with requirements and approval of the New York State Department of Environmental Conservation.
- E. Manholes shall be precast concrete.
- F. Iron rubber coated steps shall be installed in the masonry and shall not exceed 12 inches on center.
- G. Twenty-four-inch heavy (highway type) cast iron tops shall be installed over the masonry hole.
- H. Sewer lines shall be inspected by the Town Engineer before any backfilling is started.
- I. All house sewer lines shall run from house to sewer through approved materials.
- J. All wastewater treatment plants shall be inspected during construction and shall be subject to approval by the Town Engineer before final acceptance.

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## **ARTICLE V Waivers and Area Variances**

### **§ 83-32. Waiver of requirements.**

The Planning Board may waive, when reasonable, any requirements or improvements for the approval, approval with modifications, or disapproval of subdivisions submitted for its approval. Any such waiver, which shall be subject to appropriate conditions, may be exercised in the event any such requirements or improvements are found not to be requisite in the interest of the public health, safety, and general welfare, inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the subdivision, or in conflict with the environmental, agricultural, scenic, or historic resource protection purposes of Chapter 97, Zoning.

### **§ 83-33. Application for area variance.**

If a proposed plat contains one or more lots which do not comply with Chapter 97, Zoning, dimensional regulations (including the open space development provisions of § 97-20), application may be made to the Zoning Board of Appeals for an area variance pursuant to Chapter 97, Zoning, without the necessity of a decision or determination of an administrative official charged with the enforcement of Chapter 97, Zoning. In reviewing such application, the Zoning Board of Appeals may request that the Planning Board to provide a written recommendation concerning the proposed variance.

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## **ARTICLE VI Violations and Enforcement**

### **§ 83-34. Penalties for offenses.**

Any person who violates any provision of this chapter shall be guilty of an offense against this chapter and subject to a fine of not more than \$250 or to imprisonment for a period of not more than 15 days, or to both such fine and imprisonment. In addition, any person who violates any provision of this chapter or who shall omit, neglect or refuse to do any act required thereby shall, severally, for each and every such violation forfeit and pay a civil penalty of not more than \$100. The imposition of penalties for any violation of this chapter shall not excuse the violation nor permit it to continue. The application of the above penalties or prosecution for a violation of any provision of this chapter shall not prevent the enforced removal of conditions prohibited thereby. The expenses of the Town in enforcing such removal, including legal fees, may be chargeable, in addition to criminal and civil penalties, to the offender and may be recovered in a civil court of appropriate jurisdiction. When a violation of any of the provisions is continuous, each day thereof shall constitute a separate and distinct violation subjecting the offender to additional penalty.

### **§ 83-35. Denial of applications.**

Applications for a building or zoning permit, certificate of occupancy, subdivision, special permit, site plan, use or area variance, or zoning amendment shall be denied by any Town official or board for any parcel that is in violation of this chapter.

### **§ 83-36. Building permits.**

- A. No permit for the erection of any building shall be issued unless a street giving access to such proposed structure is an existing street or appears on a recorded plat approved by the Planning Board.
- B. No such permit shall be issued unless such street has been suitably improved or a performance guarantee has been posted to cover the full cost of such improvement.
- C. No certificate of occupancy shall be issued unless the lot has suitable access from an existing public or private street.

### **§ 83-37. Utilities in streets.**

- A. No public or Town street utility or improvement shall be constructed in any street until it has become a public street and all involved agencies have issued their approvals.
- B. Subject to the discretion of the Town Board, a subsurface utility or improvement operated for revenue by the Town Board or by a special district may be constructed in a private street, provided a public easement satisfactory to the Town Board is obtained for such utility or improvement.

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## **ARTICLE VII Terminology**

### **§ 83-38. Word use and interpretation.**

Except where specifically defined herein, all words used in this chapter shall carry their customary meanings. Words defined in Chapter 97, Zoning (§ 97-84) shall carry the meanings contained in those definitions. Words used in the singular shall include the plural, and words used in the plural include the singular, unless the context clearly indicates the contrary. The masculine gender includes the feminine and neuter. The word "shall" is mandatory; the word "may" is permissive. The word "lot" includes the word "plot" or "parcel." The word "person" includes a corporation as well as an individual.

### **§ 83-39. Definitions.**

For the purpose of this chapter, certain words used herein are defined as follows.

**AGRICULTURAL DATA STATEMENT** — An identification of farm operations within an agricultural district located within 500 feet of the boundary of property upon which a subdivision is proposed, as provided in § 305-a of the Agriculture and Markets Law. An agricultural data statement shall include the following information: the name and address of the applicant; a description of the proposed subdivision and its location; the name and address of any owner of land within the agricultural district, which land contains farm operations and is located within 500 feet of the boundary of the property upon which the subdivision is proposed; and a Tax Map or other map showing the site of the proposed subdivision relative to the location of farm operations identified in the agricultural data statement.

**APPLICANT** — See "subdivider."

**BUILDING ENVELOPE** — An area of land shown on a subdivision plat as an acceptable location for the construction of buildings and other structures.

**COLLECTOR STREET** — A street which serves or is designed primarily to serve as a trafficway for a neighborhood or as a feeder to a major street.

**COMMON DRIVEWAY** — A driveway serving between two and four lots, owned in common or created by reciprocal easements.

**DRIVEWAY** — A private way providing vehicular access from a public or private road to a residence or to a commercial or noncommercial establishment.

**EASEMENT** — A duly recorded authorization by a property owner for the use of any designated part of his property by another for a specified purpose.

**ENGINEER or PROFESSIONAL ENGINEER** — A person licensed as a professional engineer by the State of New York.

**FARM OPERATION** — As defined in New York Agriculture and Markets Law, Article 25-AA, § 301(11), land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a "commercial horse boarding operation." Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

**INTERIOR ROAD** — A road constructed off of an existing public street that provides access to the interior of a parcel.

**LOT LINE ADJUSTMENT** — A modification of lot boundaries affecting any lot shown on an approved and filed plat in which a portion of one or more lots is added to an adjoining lot or lots without increasing the total number of buildable lots. A lot line adjustment is not a subdivision, but an amending map must be signed and recorded as provided in § 83-6.

**LOT/PARCEL** — An area of land with definite boundaries, all parts of which are owned by the same person(s) or entities, the boundaries of which were established either by the filing of an approved subdivision plat or by the recording of a deed prior to the adoption of Subdivision Law by the Town of Goshen on June 20, 1974. Where a parcel is divided by a public road, such division shall be deemed to create separate lots, even if such lots do not have individual tax parcel numbers or have been transferred in the same deed.

**MAJOR STREET** — A street which serves or is designated to serve heavy flows of traffic and which is used primarily as a route for traffic between communities and/or heavy traffic generating areas.

**MAJOR SUBDIVISION** — Any subdivision not classified as a minor subdivision.

**MINOR STREET** — A public or private road intended to served primarily as an access to abutting properties.

**MINOR SUBDIVISION** — Any lot adjustment or any subdivision or series of subdivisions containing no

more than four lots over a ten-year period, not involving a new street or road or the extension of municipal facilities, not adversely affecting the development of the remainder of the parcel or adjoining properties, and not in conflict with any provision or portion of the Comprehensive Plan. A small-scale development or conservation density development, as described in §§ 97-19 and 97-22 of Chapter 97, Zoning, is a minor subdivision only if it satisfies the above criteria.

**OPEN SPACE DEVELOPMENT** — A subdivision in which open space is permanently preserved pursuant to §§ 97-20 and 97-21 of Chapter 97, Zoning.

**PEDESTRIAN AND BICYCLE FACILITY** — A street, right-of-way, easement, sidewalk or other land reserved exclusively for pedestrians, bicycles, equestrians and other nonmotorized circulation.

**PLANNING BOARD** — The Planning Board of the Town of Goshen.

**PRELIMINARY PLAT** — A drawing or drawings clearly marked "preliminary plat" showing the salient features of a proposed subdivision, as specified in this chapter, submitted to the Planning Board for purposes of consideration prior to submission of the plat in final form and in sufficient detail to apprise the Planning Board of the layout of the proposed subdivision.

**PRIVATE ROAD** — A privately owned road serving no more than 12 lots, normally held in common ownership by a homeowners' association, except where the Planning Board has allowed the road to be owned by individual lot owners with cross-easements of access and a recorded maintenance agreement. (See § 83-18D.)

**REVERSE FRONTAGE ROAD** — An interior road on which lots have their front lot lines, with the rear or side portions of such lots facing existing public roads.

**ROAD/STREET** — A public or private way for pedestrian and vehicular traffic, including avenue, lane, highway, or other way, excluding a driveway or common driveway.

**SKETCH PLAN** — A first draft of a proposed subdivision showing the information specified in § 83-21, to enable the subdivider to present a conservation analysis and to save time and expense in reaching general agreement with the Planning Board as to the form of the layout and objectives of this chapter.

**SUBDIVIDER** — Any person, firm, corporation, partnership, or association who shall lay out, for the purpose of sale or development, any subdivision or part thereof as defined herein, either for himself or for others. Also referred to as the "applicant."

**SUBDIVISION** — The division of any parcel of land into two or more lots, plots, sites, or other division of land, with or without streets, for the purpose of immediate or future sale, lease, or building development, including any further subdivision of or any change to a subdivision plat filed in the office of the County Clerk which affects any area reserved thereon for public use or affects any street layout shown on such plat. A lot line adjustment or merger of adjoining lots that eliminates lot lines but does not change any lot lines is not a subdivision. (See § 83-6.) For purposes of this chapter, a parcel shall be considered already to have been subdivided into two or more lots if bisected by one or more public streets or railroad rights-of-way.

**SUBDIVISION PLAT or FINAL PLAT** — A drawing or drawings in final form showing a proposed subdivision containing all information or detail required by law and by this chapter, and which, if approved by the Planning Board, may be duly filed by the applicant in the office of the County Clerk.

**SURVEYOR** — A person licensed as a land surveyor by the State of New York.

**TOWN ENGINEER** — The duly designated engineer of the Town.

**TOWN LAW** — The Town Law of the State of New York, Chapter 62 of the Consolidated Laws.

**TRAVELED WAY** — That portion of a road which, because of its grading, base, stormwater management, and surface, is passable in all seasons by motor vehicles, including fire trucks and ambulances. As used in this chapter, "traveled way" shall refer to the average width of the road.

**WATERCOURSE** — Any stream, pond, lake, stormwater management channel or other area that is normally or seasonally filled with water. Road ditches and shallow land depressions generally referred

to as grassed waterways, swales, etc., that carry water only immediately (a few to several hours) after a runoff-producing event are not considered a watercourse. Where there is a question of whether a watercourse exists, the Planning Board shall conduct a site evaluation to determine whether or not a particular channel is a watercourse. Its determination shall be final.

ZONING LAW — The Town of Goshen Zoning Law, as amended.

## Chapter 97: ZONING

### ARTICLE I Title, Scope and Purposes

#### § 97-2. Introduction and user guide.

This chapter gives the people of Goshen regulatory tools to protect the rural character of their Town while also giving landowners a range of options and choices for the use, development and conservation of their land. It is designed to strike a balance between achieving the community's goals as expressed in the Town's Comprehensive Plan and protecting the property interests of landowners, providing a development approval process that is predictable, efficient and fair, and develops land in a way that meets the Town's needs for protected open space, recreational land and affordable housing. Within the undeveloped portions of the Town, most of which are classified as Rural (RU), there is a range of development options. An example of the method for calculating the acceptable ranges of density is contained in Appendix A of this document.

- A. How this chapter works. This section provides a brief overview of how to find information in this chapter.
- (1) This chapter divides the Town into land use districts and establishes rules for the use of land in each district. The text is accompanied by a Zoning Map which shows where the various districts are located.
  - (2) The Use Table in Article III tells what uses are allowed in each district. The definitions in Article XII explain what the different use categories in the table mean. Several of the uses are also regulated by "supplementary regulations" in Article VII, which are referenced in the Use Table.
  - (3) Article III also contains specific regulations for the AI (black dirt), CO, HC, I and HR Districts. These regulations cover lot size, setbacks and other requirements about the permissible amount, size, type and location of development on a lot.
  - (4) Most of the undeveloped land in the Town is located in the RU District. Article IV covers the range of development options that are available to landowners in that district, including small-scale development, open space development, and conservation density development. The purpose of providing this range of options is to give maximum flexibility and choice to landowners while protecting the Town's special character.
  - (5) Article V covers "overlay" districts, which are designed primarily to protect special resources from inappropriate development and to maintain the Town's scenic character. The provisions of these districts apply in addition to those of the "underlying" land use district. The Aquifer Overlay (AQ) District is particularly important because it establishes densities that are based upon limitations in the Town's groundwater resources.
  - (6) Article VI contains rules for allowing the continuation of buildings and uses that were legal under previous regulations but do not conform to this chapter. This is sometimes referred to as "grandfathering."
  - (7) Supplementary regulations in Article VII contain additional requirements for specific types of uses and structures (such as home occupations, signs and parking), as well as performance standards for all development. (Supplementary regulations for wireless communications facilities are in Article XIII.)
  - (8) Articles VIII and IX explain the procedures for obtaining various types of permits from the Town, including land use permits from the Building Inspector, special permits and site plan approval from the Planning Board, and variances from the Zoning Board of Appeals. Article X contains the procedures for amending this chapter to change the map or the text.
- B. How to use this chapter. Landowners and others who use this chapter are encouraged to meet with the Building Inspector to discuss how this chapter applies to their property. For any large-scale

development (a large business or a development of several homes) it is also a good idea to consult the Town's Comprehensive Plan to understand how to make a proposed development fit within the Town's vision of its future. The usual sequence of steps in using this chapter is as follows:

- (1) Check the Zoning Land Use District Map to determine what land use district(s) your land is in.
- (2) Consult the Use Table in Article III, along with any relevant definitions and the text of Article III, to determine whether your proposed use is allowed in that district, what permits may be needed to approve it, and what setbacks and other dimensional standards apply. Also check the specific sections that deal with the district your land is located in as well as any supplementary regulations in Article VII that may apply to your proposed use. (These are referenced in the Use Table.)
- (3) If your land is in the Rural (RU) District, review the development options provided in Article IV to determine which you want to pursue.
- (4) Check the Overlay District Map to see which of the overlay districts may apply to your land. Review the provisions of applicable overlay districts in Article V, especially the AQ Overlay (§ 97-27), to see how they may affect what you can do with your land.
- (5) If you have an existing use that is no longer permitted, or if your existing building does not comply with dimensional standards for your zoning district, read Article VI to determine the extent to which it may be continued and/or expanded.
- (6) If the Use Table indicates that your proposed use or structure can go forward with just a building permit or a zoning permit, refer to Article VIII. If the use will require a Special Use Permit or site plan approval, turn to Article IX for the procedures to follow.
- (7) If your proposed use or structure is not permitted, you may want to petition for either a variance from the Zoning Board of Appeals (as provided in § 97-69) or a zoning amendment from the Town Board (as provided in § 97-79). These options should be discussed with the Building Inspector before they are pursued. Any zoning amendment must be consistent with the Comprehensive Plan.

### **§ 97-3. Scope, authority and purposes.**

This chapter regulates the location, design, construction, alteration, occupancy and use of structures and the use of land in the Town of Goshen, dividing the Town into land use districts. This chapter is enacted pursuant to the authority and power granted by the Municipal Home Rule Law of the State of New York, Article 2, § 10 et seq., and Chapter 62, Article 16, of the New York State Town Consolidated Laws, in conformance with the Town of Goshen Comprehensive Plan, to advance the goals of the Comprehensive Plan, to protect and promote public health, safety, comfort, convenience, economy, natural, agricultural, and cultural resources, aesthetics and the general welfare, and for the following additional specific purposes:

- A. To conserve the natural resources and rural character of the Town by encouraging development in appropriate locations and by limiting building in areas where it would conflict with the Town's predominantly rural pattern and scale of settlement;
- B. To protect the Town's fragile and threatened groundwater resources;
- C. To encourage the continuation of profitable agriculture, to protect farmland from incompatible development, and to avoid regulating agricultural uses in a manner that unreasonably restricts or regulates farm structures or farming practices;
- D. To minimize negative environmental impacts of development, especially in visually and environmentally sensitive areas such as along the Wallkill River and its tributaries, in aquifer and aquifer recharge areas, and on steep slopes, erodible soils, wetlands and their buffers, floodplains, active farmlands, and other designated open space resources;

- E. In recognition of Goshen's natural beauty and environmental amenities, to protect the integrity of scenic views, ridgelines, natural terrain, existing and potential recreation areas, waterways, ground and surface water supplies, ecological systems, wetlands, wildlife habitat, and natural vegetation, and to maintain environmentally significant open space in its predominantly undeveloped state, in order to preserve the open and rural character of the Town, which enhance the Town's quality of life and the economic value of its property;
- F. To preserve and protect lands and buildings that are historically significant and to enhance the aesthetic and architectural quality of the entire community;
- G. To encourage economic activities that require large areas of contiguous open space, including agriculture, forestry, tree farming, and recreation, as well as the support services and industries that add value to these uses, such as food processing and tourist facilities;
- H. To regulate building density in order to concentrate population in appropriate locations where municipal infrastructure is available or is likely to become available, and to ensure access to light and air, conserve open space, facilitate the prevention and fighting of fires, minimize the cost of municipal services, and accomplish the other purposes enumerated in New York Town Law § 263;
- I. To integrate harmoniously different types of housing and to encourage pedestrian activity and reduce automobile traffic;
- J. To provide a range of housing opportunities with due consideration for regional housing needs;
- K. To protect residences from nonagricultural nuisances, odors, noise, pollution, and unsightly, obtrusive, and offensive land uses and activities, and to protect farmers from the impacts of residential development;
- L. To improve transportation and to maintain a network of smaller country roads in areas designated for low-density development and the protection of open space, agriculture, steep slopes, and rural character;
- M. To maintain the Village of Goshen as the Town's economic and social center, and to regulate development within the Town in a manner that does not detract from the economic viability of the Village;
- N. To encourage a range of business activities in appropriate locations which are compatible with the Town's rural character and scale, and allowing large-scale business and industry in well-buffered locations with good transportation access;
- O. To reduce traffic congestion on major roads by establishing a pattern of density, settlement and circulation that avoids exacerbating problematic intersections, reduces the need for driving, provides alternative routes between destinations, and encourages walking, bicycling and public transportation;
- P. To encourage the conservation of energy and the appropriate use of solar and other renewable energy resources;
- Q. To provide a flexible system of land use regulation that enables the Town's economy and population to grow, while preserving the most important natural, historic, scenic, architectural and cultural features; and
- R. To base such flexible land use regulations on the unique characteristics of the landscape, the needs of the people of the Town of Goshen, the rights of landowners to make economically beneficial use of their land, and the impact of proposed land uses on the natural and human environment, and to avoid patterns of development that adversely affect the scenic, historic, rural and natural character of the Town.

## **ARTICLE II Land Use and Overlay Districts**

## **§ 97-8. Establishment of districts.**

- A. Land use districts. For the purpose of this chapter, the Town of Goshen is hereby divided into the following land use districts:
- (1) Rural District (RU). The purpose of this district is to promote agriculture and compatible open space and rural uses and to guide residential development so that it protects large blocks of the Town's open space. See §§ 97-18 through 97-23.
  - (2) Agricultural-Industrial District (AI). The purpose of this district is to preserve the unique soils in prime black-dirt areas in the Town for agricultural use and to protect farm operations from the impacts of nonagricultural uses, thereby supporting the continuance of a strong agribusiness sector. See § 97-13.
  - (3) Highway Commercial District (HC). The purpose of this district is to allow commercial uses that rely heavily on automobile and truck access in locations with adequate road capacity, while minimizing their traffic and visual impact on the Town. See § 97-14.
  - (4) Commercial/Office Mixed-Use District (CO). The purpose of this district is to allow areas for well-buffered light industrial, service commercial, office and research facilities with minimal visual impact. Such districts may also include, where compatible, housing and limited retail commercial development, by site plan and/or special permit, intended to support the primary uses or to provide adaptive reuses for existing commercial or industrial buildings. See § 97-14.
  - (5) Industrial District (I). The purpose of this district is to allow industrial and related uses that are not compatible with most commercial, office, or residential uses, in isolated and well-buffered locations. See § 97-14.
  - (6) The purpose of the Hamlet Residential District (HR) is to allow the creation of adjoining residential neighborhoods at the traditional scale and density typically found in rural hamlets and villages, provided that water and sewer service is available. In the absence of water and sewer infrastructure, the HR District shall be subject to the regulations of the RU District. See § 97-15.
- B. Overlay districts. In addition to these land use districts, the following overlay districts are hereby created. The purpose of most overlay districts is to protect specific types of resources such as floodplains, stream corridors, road corridors and groundwater. Overlay districts do not change the use and dimensional requirements of the underlying land use districts unless specifically stated in this chapter. They do impose specific requirements that must be followed. On any given parcel of land, more than one overlay district may apply, and the Planning Board shall have the discretion to determine how best to reconcile the requirements of different overlay districts. Unless there is a sound reason to do otherwise, the more restrictive requirements will apply.
- (1) Flood Plain and Ponding Area Overlay District (FP). The purpose of this overlay district is to control development within areas subject to periodic inundation and ponding. See § 97-25.
  - (2) Stream Corridor and Reservoir Watershed Overlay District (SC). The purpose of this overlay district is to protect the scenic character and water resource values of designated rivers and streams and the water quality of Village of Goshen's reservoirs. See § 97-26.
  - (3) Aquifer Overlay District (AQ). The purpose of this overlay district is to protect groundwater resources that provide both public water supplies and drinking water for private wells. See § 97-27.
  - (4) Soil Mining Overlay District (SM). The purpose of this overlay district is to provide appropriate locations for soil mining to occur where it can encourage commercially viable agriculture by enabling farm operators to supplement their farm income. See § 97-28.
  - (5) Scenic Road Corridor Overlay District (SR). The purpose of this overlay district is to protect the scenic character of roads in the Town that are in areas that remain substantially undeveloped and/or provide important scenic views, pursuant to the Town's "Open Space and Farmland Preservation Plan," as it may be amended from time to time. See § 97-29.

## **§ 97-9. Zoning Maps.**

The boundaries of the land use and overlay districts are hereby established on maps titled "Town of Goshen Zoning Map — Land Use Districts" (hereinafter the "Land Use District Map"); and "Town of Goshen Zoning Map — Overlay Districts" (hereinafter the "Overlay District Map") adopted and certified by the Town Clerk, which accompany and are hereby declared to be a part of this chapter. Unofficial photo-reductions of these maps are appended to this chapter for reference purposes only.

- A. Zoning Map amendments. The Official Zoning Maps shall be kept in the office of the Town Clerk and shall be reviewed for accuracy and updated at least once annually by the Town Board or its designee. Changes may be made in district boundaries or other matter portrayed on the Zoning Maps only by a zoning amendment adopted by the Town Board pursuant to Article X of this chapter. Such changes shall be noted by the Town Clerk on the Official Zoning Maps promptly after the Town Board adopts an amendment.
- B. Final authority. Each local law adopting an amendment shall be the final authority as to the current zoning status of lands, structures and uses in the Town.
- C. Readoption of maps. At least once every 10 years the Town Board shall endeavor to readopt the Official Zoning Maps as an amendment to this chapter, which shall become the final authority as to all map amendments preceding such re-adoption.
- D. Unauthorized map changes. An unauthorized map change made by any person shall be considered a violation of this chapter, punishable under § 97-67 of this chapter.
- E. Interpretation of district boundaries. Where uncertainty exists as to the boundaries of districts shown on the Zoning Maps, the following rules shall apply:
  - (1) Boundaries indicated as approximately following the center lines of streets, highways, or railroad tracks or railways shall be construed to follow such center lines.
  - (2) Boundaries indicated as approximately following lot lines shall be construed to follow such lot lines.
  - (3) Boundaries indicated as following shorelines of ponds and streams shall be construed to follow such shorelines and, in the event of change in the shoreline due to natural causes, shall be construed as moving with the actual shoreline.
  - (4) Boundaries indicated as following center lines of streams shall be construed to follow such center lines and, in the event of change in the center line, shall be construed as moving with the actual center line.
  - (5) Boundaries indicated as parallel to or extensions of features indicated in Subsection E(1) through (4) shall be so construed. Distances not specifically indicated on the Zoning Maps shall be determined by the scale of the map.
  - (6) Where overlay district boundaries are based upon natural features such as topographic contour lines or watershed boundaries, such boundaries may be more precisely established through field investigation by a qualified professional.

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## **ARTICLE III Land Use District Regulations**

### **§ 97-10. Allowable uses by district.**

- A. Purpose. The land use district regulations in this article are intended to allow flexibility of land use to encourage business and residential development that is consistent with the character and scale of Goshen's countryside and neighborhoods. In reviewing applications for special permits and site plan approval, the Planning Board may impose any conditions it deems necessary to ensure that a proposed use will be consistent with the goals of the Comprehensive Plan and compatible with its

surroundings. The Planning Board shall deny the plan for any proposed use which does not satisfy the criteria in this chapter. Sections 97-11 through 97-22 contain regulations specific to each land use district.

- B. Use restrictions and Use Table. Structures and land shall be used only as provided in the Use Table, except as otherwise provided in this chapter. See § 97-84 for definitions of the use categories. In the event that a particular proposed use does not fit into one of the categories shown on the Use Table and is not prohibited by Subsection C, it may be allowed by special permit issued by the Town Board. (See § 97-70B.) The Use Table shows allowable uses for all districts except for the AI District, for which use regulations are contained in § 97-13.
- C. Prohibited uses in all districts.
  - (1) The following uses are prohibited in all districts:
    - (a) Any use that violates the environmental performance standards in § 97-50.
    - (b) Amusement parks and circuses and related activities except for a temporary period on special license from the Town Board.
    - (c) Junkyards, landfills, dumps, nonmunicipal facilities for the storage or treatment of sewage sludge, or other solid waste management facilities, except for composting facilities, as provided in § 97-58C.
    - (d) The removal of black dirt.
    - (e) Any building or structure or any part of a drainage or disposal system located within 100 feet of any watercourse which is part of a water supply system.
    - (f) The removal of groundwater for use outside of the Town of Goshen, including groundwater removed for use in the Village of Goshen public water supply, except pursuant to a special permit issued by the Planning Board upon a finding that groundwater recharge measures will be taken to prevent any negative impact on water quantity or quality within the Town.
  - (2) If one of these specifically prohibited uses was, when commenced, not listed as a permitted or conditional use in the Town of Goshen Zoning Law (and was therefore commenced in violation of the Zoning Law), it shall not be protected as a nonconforming use by the provisions of Article VI.
- D. Accessory uses. Uses customarily incidental and subordinate to principal uses shown on the Use Table shall be allowed on the same terms as the principal uses on the same lot or on contiguous lots, unless otherwise indicated on the Use Table. Accessory uses in connection with agriculture may occur on any lot which is part of the farm operation. Noncommercial recreational use shall be permitted as an accessory use in all districts, except that the recreational use of any motorized off-road recreational vehicle shall not be permitted within 250 feet of a residence, excluding the residence of the vehicle owner.
- E. Change of use or structure. A change of use is the establishment of a use that is in a use category (as listed on the Use Table) different from the existing use of the site or structure. A change of ownership, tenancy, or occupancy, or a change from one use to another within the same category, shall not be considered a change of use, unless the change would result in the enlargement or addition of a sign, the enlargement of a structure or construction of a new structure, or an increase of more than 10% in vehicle trip generation as indicated in current trip generation rates published by the Institute of Transportation Engineers.
  - (1) Uses by right. Any change of use of land or existing structures to a use permitted by right (without site plan review) shall require approval only from the Building Inspector. This shall not affect applicable requirements for obtaining building permits for construction or expansion of a structure from the Building Inspector under Chapter 49 of the Goshen Town Code.
  - (2) Uses by right subject to site plan review. Any change of the use of an existing structure to a use permitted by right subject to site plan review shall require site plan review only if it involves the

construction or enlargement of a structure, the clearing, excavation, or grading of more than 1,000 square feet of land, the addition of four or more parking spaces, or the enlargement, addition, or relocation of a sign.

(3) Uses by special permit.

- (a) A special permit shall be required for any change of use from a use that does not require a special permit to a use that does require a special permit.
- (b) Once a special permit has been granted, it shall apply to the approved use, as well as to any subsequent use of the property in the same use category, provided that it has no greater impact on adjoining properties, complies with all terms and conditions of the special permit, and does not involve new construction, enlargement, exterior alteration of existing structures, increased parking, or other changed use of outdoor areas. Any change to another use allowed by special permit shall require the granting of a new special permit or a special permit amendment.

- F. Change to site plan of an existing use. Modifications to the site of any use allowed by right subject to site plan review or allowed by special permit shall require an amendment to the approved site plan pursuant to § 97-78D. Such modifications include but are not limited to changes to buildings as well as changes in lighting, signage, access, parking, drainage, and landscaping.
- G. Rebuilding, replacement and expansion of structures. The rebuilding or replacement on the same footprint of any structure for a use which requires site plan review and/or a special permit shall require site plan review, even if it is a continuation of the same use.

**§ 97-11. Density and dimensional regulations generally.**

The regulations in this chapter are intended to encourage the preservation of Goshen's open space, while providing opportunities for needed housing and business uses. This is accomplished in various ways, including clustering development in nodes surrounded by open space and, where practical, in the traditional compact pattern found in the region's villages and hamlets. This chapter encourages the use of open space development to preserve significant amounts of open space. Density and dimensional regulations applicable to all districts are contained in § 97-12, and those regulations specific to each district appear in §§ 97-13 through 97-23.

**§ 97-12. Density and dimensional regulations applicable in all districts.**

A. Accessory apartments and accessory residential structures.

- (1) One accessory apartment or residential structure per single-family dwelling unit may be located as an accessory use to a single-family dwelling as provided in the Use Table. The accessory apartment or residential structure shall be connected to the same well as the principal residence.
- (2) Accessory apartments and residential structures shall not be counted as a residential unit for purposes of determining density. No permit shall be granted for an accessory apartment nor residential structure without certification of the adequacy of the public water supply and water supply service connection or, for onsite systems, the well and septic system servicing both the principle residence and the accessory apartment or residential structure. One accessory apartment per single-family dwelling may be located in an accessory structure or a principal building as provided in the Use Table.

B. Multifamily and senior citizen dwellings.

- (1) Buildings may be converted to multifamily use if permitted in the Use Table, provided that the owner occupies at least one unit in the building. Maximum density shall be established by the Planning Board based upon applicable review criteria and the characteristics of the existing building. Conversions to mixed residential and compatible nonresidential uses are encouraged.

- (2) For congregate senior citizen housing (as distinguished from Planned Adult Community housing) and residential care facilities, each bedroom shall be treated as 1/2 of a dwelling unit.
  - (3) For farm operations, dormitory and multiple-family housing shall be allowed by special permit in the RU District in compliance with the provisions of § 97-13B(4).
- C. Multiple residences on a lot. A lot may contain more than one principal residential structure and accessory apartment with site plan approval by the Planning Board, provided that the lot has enough acreage to satisfy the acreage requirements for each dwelling if the land were subdivided. For example, if an owner of a ten-acre parcel wishes to build a second house on the same property without subdividing the land, that owner may do so as long as this chapter would allow one house per five acres in that district. The second house must also comply with septic system requirements and the environmental control formula in § 97-18D. Such a lot may not be later subdivided unless the subdivided lots conform to the dimensional regulations in effect when the subdivision is proposed. A maximum of three residences, with accessory apartments, may be created under this Subsection C. No permit shall be granted for an accessory apartment nor residential structure without certification of the adequacy of the public water supply and water supply service connection or, for onsite systems, the well and septic system servicing both the principle residence and the accessory apartment or residential structure.

### **§ 97-13. AI District.**

The primary purpose of the AI Agricultural-Industrial District is to preserve those prime black-dirt areas in the Town for agricultural use and thereby support the continuance of a strong agribusiness sector. The Town also recognizes that not all soils within these areas are prime agricultural soils and thus should provide an opportunity for other uses: additional low-density residential and expanded, compatible nonagricultural business development uses that are potentially incompatible with certain agricultural practices. These additional uses are therefore provided for within the Agricultural-Industrial District through the application of guidelines and standards intended to ensure compatibility with the overall agricultural nature of the district.

- A. The following uses shall be permitted by right in the AI District, provided that site planning information is submitted that is sufficient for the Building Inspector to determine compliance with this section and other applicable sections of this chapter:
- (1) Commercial agricultural operations and accessory uses thereto;
  - (2) The keeping, breeding, raising, training and rental of horses and stabling facilities; riding instruction; and horse shows and competitions, subject to any licensing requirements, separate from zoning, that the Town may impose for large-scale events;
  - (3) Single-family dwellings and customary accessory uses, subject to the following conditions:
    - (a) No subdivision plats or residential site plans shall be approved and no building permit shall be issued unless the applicant complies with the disclosure requirements of § 97-47B. In addition, no building permit shall be issued to lot owners until such owners file a statement with the Building Inspector that they have read the disclosure and fully understand that the lot lies within the Agricultural-Industrial District, where the primary permitted activity is black-dirt farming, and that certain aspects of customary agricultural procedures (namely spraying and dusting of chemicals, noise and odors) constitute ongoing nuisances of which the lot owner is aware.
    - (b) A minimum setback of 100 feet shall be required from any dwelling unit to a lot line abutting a nonresidential use.
    - (c) Unrestricted flow of stormwater runoff from such developed property will not be allowed to drain directly into black-dirt agricultural operations. Site plans and subdivision plats must

include provisions for retention/detention ponds to contain such runoff.

(d) Minimum lot size: 80,000 square feet, subject to the environmental control formula in § 97-18D.

(e) Minimum setbacks: 50 feet front and rear, 30 feet side.

B. The following uses shall be allowed by right subject to site plan review, as provided in § 97-75:

(1) Food processing and packaging plants, including drying, food-freezing and vacuum-cooling establishments, on a lot of not less than five acres.

(2) Warehousing and wholesaling of farm products and supplies and retail establishment devoted primarily to the sale of farm products, processed food products and supplies on a lot not less than three acres in area.

(3) Trucking terminals for shipping agricultural or food products, provided that:

(a) Terminals of 1,500 square feet or less shall meet all bulk regulations in § 97-13F.

(b) Terminals of greater than 1,500 square feet shall require a five-acre minimum lot size in addition to satisfying the setback requirements in § 97-13F.

(4) Dormitory accommodations and multiple-dwelling-unit housing for agricultural workers, provided that:

(a) All such premises are constructed and operated in conformance with applicable state and federal regulations.

(b) Accessory housing and dormitory accommodations house farm operation workers that are employed and work on Town of Goshen farms. Such accommodations must be in conformity with the dimensional requirements in § 97-13F and Subsection B(4)(d) below.

(c) Dormitory accommodations and multiple dwelling units for workers, if located on a separate lot, shall require a minimum lot area of five acres and shall meet other bulk regulations in § 97-13F and Subsection B(4)(d) below.

(d) In all cases, a buffer area of 150 feet shall be maintained between a dormitory and the lot line of an abutting residential use.

(5) Public utility structures and other uses listed in and as regulated in § 97-61.

(6) Light manufacturing exclusively related to agricultural processing and other related agricultural business, on a lot not less than three acres in area.

(7) Repair garages devoted exclusively to the repair and farm-related machinery, farm vehicles or farm equipment, on a separate lot not less than three acres in area.

(8) Composting facilities located on a farm operation, in which no more than 30% of the material composted originates off of the farm operation.

C. The following uses shall be allowed by special permit granted by the Planning Board pursuant to Article IX:

(1) Conversion of an existing residential building to a two-family dwelling.

(2) Kennels, as regulated in § 97-57.

(3) Storage/warehousing and wholesale of nonfarm products, materials, equipment, etc., on a lot not less than three acres in area.

(4) Trucking terminals for shipping nonagricultural products, provided that:

(a) Terminals of 1,500 square feet or less shall meet all bulk regulations for a principal building in Subsection F.

- (b) Terminals of greater than 1,500 square feet shall require a five-acre minimum lot size.
  - (5) Manufacturing, assembling, altering, finishing, converting, fabricating, cleaning or any other processing, packing, packaging or repackaging of products or materials on a lot not less than three acres in area.
  - (6) Repair garages devoted exclusively to the repair of farm-related machinery, farm vehicles or farm equipment on a lot with a residence, provided that:
    - (a) There are not more than three nonresident employees.
    - (b) All equipment to be repaired or which has been repaired shall be stored indoors or behind a solid fence or natural landscaping barrier able to completely screen equipment from all adjacent residential properties.
    - (c) No signs other than those normally permitted in a residence district shall be allowed other than a two-square-foot double-faced sign located in the front yard.
    - (d) Facilities shall be properly maintained and subject to a renewal of approval without fee by the Planning Board if the Building Inspector finds a violation of these regulations to be in existence.
  - (7) Repair garages for nonfarm related machinery, vehicles or equipment on a lot not less than three acres in area.
  - (8) Day-care centers and nursery schools.
  - (9) Composting facilities not related on a farm operation, or located on a farm operation where more than 30% of the material composted originates off of the farm operation.
- D. Accessory uses shall be permitted, limited to the following:
- (1) Customary accessory uses, including keeping of horses as regulated in § 97-57.
  - (2) Signs as regulated in § 97-49.
  - (3) Repair garages devoted exclusively to the repair of farm-related machinery, farm vehicles or farm equipment on an existing farm or accessory to a trucking terminal, subject to the following conditions:
    - (a) Such use accessory to a trucking terminal shall be located at least 200 feet from any property line; and
    - (b) Such use shall meet the bulk requirements for a permitted use rather than an accessory use.
- E. The uses and requirements as outlined in Chapter 83, Table of Soil Groups, shall be established as the minimum standards for all nonagricultural uses and buildings. Such buildings and uses shall be permitted only on a certification by a licensed soils engineer that:
- (1) Either the site does not contain prime organic soils or contains other organic soils which are not suitable to commercial agricultural operations; and
  - (2) The site soils are suitable to support the proposed use.
- F. Unless otherwise provided, all nonresidential uses and buildings in the AI District shall meet the following bulk regulations:
- (1) Bulk regulations for nonresidential uses and buildings:
    - (a) Minimum lot area: two acres.
    - (b) Minimum road frontage: 200 feet.
    - (c) Minimum front setback: 50 feet.

- (d) Minimum side and rear setback: 50 feet.
  - (e) Maximum impervious surface coverage: 50%.
  - (f) Maximum building height: 45 feet.
- (2) In addition, any nonresidential use shall maintain a suitably landscaped two-hundred-foot buffer strip from the building or use to any lot line abutting the RU District boundary.

**§ 97-14. HC, CO and I Districts.**

The HC, CO and I Districts are locations where larger-scale commercial and other nonresidential uses are permitted, as provided in the Use Table.

A. The dimensional regulations for these districts are as shown in the table below:

**Dimensional Table for HC, CO and I Districts**

	District		
	HC	CO	I
Minimum lot area	1 acre <sup>1</sup>	1 acre <sup>1</sup>	5 acres
Minimum road frontage:			
Town road	200	200	200
County/state road	300	200	200
Minimum front yard setback:			
Town road	25	50	100
County/state road	35	150	200
Minimum side yard setback	30 <sup>2</sup>	30 <sup>2</sup>	50 <sup>2</sup>
Minimum rear yard setback	50 <sup>2</sup>	50 <sup>2</sup>	75 <sup>2</sup>
Maximum impervious surface coverage	70%	70%	70%
Maximum height <sup>3</sup>	45	35	45
Maximum footprint (in square feet) for nonresidential structures <sup>4</sup>	40,000	200,000	—

**NOTES:**

All dimensions are in feet unless otherwise indicated.

<sup>1</sup> Subject to environmental control formula in § 97-18D for residential uses only.

<sup>2</sup> One-hundred-foot setback with wooded buffer required if lot abuts a residential district.

<sup>3</sup> Above average grade. For height exceptions, see § 97-40D.

<sup>4</sup> Excluding agricultural structures and all structures legally completed or granted a building permit, special permit, site plan approval, or variance prior to the adoption of this chapter.

B. Special site design and operational considerations in the CO District. The purpose of the CO District is to allow larger-scale nonresidential uses that contribute to the Town's tax base and provide jobs, while protecting the Town's treasured scenic and rural qualities and residential areas using open space buffers. Impervious surfaces are limited to 70% of the total project area, requiring 30% to be maintained as open or undeveloped green space. This green space shall be arranged in a manner that adequately buffers buildings and parking areas from public roads and neighboring properties, while protecting wetlands, watercourses, and scenic views. CO land may not be accessed through

land that is zoned RU if such CO land has feasible road access from land zoned CO, HC or I in the Town of Goshen or from land that is located in the Villages of Goshen or Florida.

- C. Residential development is allowed in the CO District as permitted by the Use Table. Planned Adult Communities (PACs) shall not be permitted in the CO District. The maximum residential density for multifamily dwellings in the CO District shall not exceed 20% of the total floor space in any development project in the CO District. The allowable residential density for a particular site shall be based upon the application of standards for site plans and special permits. For purposes of determining the 20% maximum floor space in this subsection, density shall be measured by the total square footage of residential use and not by the number of dwelling units.
- D. All new development in the HC, CO and I Districts shall comply with the following design standards. Where alterations to existing structures and business operations require special permit or site plan approval, they shall comply with these standards to the extent practical, i.e., full compliance shall not be required if it would impose unnecessary economic hardship or discourage property owners from improving their properties. The overall design goal is to maintain and enhance the landscape character of commercial road corridors. This is to be accomplished by mitigating the visual impacts of business development through landscape, layout, and architectural standards. The design guidelines referred to in § 97-5 shall apply except where a building or site is screened from public roads and adjacent properties. The following standards shall apply in the HC and CO Districts and in the I District for buildings that are visible from public roads or properties not located in the I District:
  - (1) Building placement.
    - (a) Buildings shall be clustered together to the extent practical, preserving existing green areas and conform to the natural terrain to the extent practicable.
    - (b) Buildings shall be placed in front of their parking lots to screen the parking from the road. This requirement shall not apply if the entire site is screened from the road by natural vegetation and/or natural topography.
  - (2) Architecture.
    - (a) Existing structures with historic or architectural significance shall be retained to the extent practical. Alterations to such structures shall be compatible with the architecture of the existing structure.
    - (b) Buildings, including canopies for accessory facilities, shall have peaked roofs with a slope of at least 8:12, except that hip roofs with a slope of at least 4:12 and flat roofs that are hidden by a raised cornice shall also be permitted.
    - (c) Windows shall be vertically proportioned and balanced on facades, with width to height ratios ranging from 1:2 to 3:5. Horizontal windows may be used just below roof eaves ("eyebrow" windows) and as first-floor display windows.
    - (d) Trademarked architecture which identifies a specific company by building design features shall be prohibited, unless the applicant can demonstrate that the design is compatible with the historic architecture of the region.
    - (e) Large buildings (footprint larger than 10,000 square feet) shall generally be broken up into smaller volumes using building proportions found in the region's traditional architecture.
  - (3) Landscaping.
    - (a) A continuous green landscaped buffer shall be maintained along the road, consisting of trees, shrubs, fields, meadows, natural areas and lawns, provided that such buffer vegetation does not interfere with required sight distances. Bike paths and/or sidewalks shall be constructed within this landscaped buffer. To the extent practical, existing trees, lawns and shrubs shall be preserved.
    - (b) Undeveloped natural areas shall be managed to maximize recharge of groundwater, protection of surface water quality, and protection of wildlife habitat. Frequent mowing of

areas not used for agriculture or pedestrian access shall be discouraged in favor of management as open meadows.

- (c) The buffer yard requirements in § 97-75D(2) shall be used to determine specific buffer and landscaping requirements.
- (4) Fences. Fence materials and designs shall be appropriate to the historic character of Goshen and shall not block visual access to scenic views. Chain link fencing shall not be used in locations visible from public highways. Existing chain link fences may be replaced if coated with a dark, nonreflective finish or screened by an evergreen hedge.
- (5) Outdoor storage and enclosed buildings. All permitted and accessory uses shall be confined within completely enclosed buildings, with the exception of off-street parking spaces, off-street loading berths, accessory fuel storage and employee recreational facilities. Outdoor storage of materials, equipment or vehicles in an orderly manner is permitted in any area other than required front, rear or side yards, provided that such outdoor storage does not exceed 10% of the area of the lot and is effectively screened from public roads and from any adjacent residential district boundary. This 10% limitation may be waived by the Planning Board in the course of site plan review for those uses which by their nature require outdoor storage of material or products, such as nurseries, lumberyards, outdoor sculpture galleries, and automobile dealers. The screening requirement may be waived where it would prevent the necessary display of merchandise for public viewing, provided that the Planning Board finds that such display will be orderly and attractive.
- (6) Curb cuts. The minimum distance between curb cuts shall be 600 feet, unless the configuration of a parcel in relation to adjoining parcels makes this requirement impossible to satisfy.

#### **§ 97-15 HR District**

The HR District is intended to provide suitable locations for 'clusters' of residential development. The HR Districts are generally located within close proximity of a Village and are designed to allow a location for more compact development densities than are permitted in the RU District. Development in the HR District shall conform to the natural terrain to the greatest extent practicable.

- A. Requirement of public sewer and public water. The rules applicable to the HR Districts in this chapter shall only apply if there is public sewer and public water service available. In the absence of such infrastructure, all land zoned HR shall be subject to the land use district regulations of the RU District (including but not limited to the Use Table and the provisions of Article IV). In addition, if the applicant will be withdrawing water from the site or from another location in the Town of Goshen, the applicant shall be required to comply with applicable portions of § 97-27 and prove that such withdrawal will not adversely affect water quality or quantity.
- B. Minimum lot sizes and open space.
  - (1) Minimum lot size for a detached single family dwelling shall be 8,000 square feet.
  - (2) Minimum lot size for a two-family dwelling shall be 10,000 square feet.
  - (3) Minimum lot size for a multifamily dwelling shall be 12,000 square feet.
  - (4) Minimum lot size for an attached single-family Townhome shall be 2,500 square feet.
  - (5) The minimum lot size required shall not include constrained lands. Within the HR District, contiguous slopes containing at least 1,500 square feet with at least 10 feet of continuous horizontal width perpendicular to the slope shall be considered steep slopes.
  - (6) At least 30% of the site area must be protected as undeveloped open space, which may include

public greens, parks, playing fields, playgrounds or portions of large private residential or nonresidential lots set aside as open space and preserved with a conservation easement as provided in § 97-21. Land used for common buildings and recreational facilities, including parking areas for such facilities, shall also be counted toward the open space requirement. The preserved open space area may not include wetlands or other constrained land.

- (7) To achieve this open space set-aside, the Planning Board shall condition its approval of individual developments on the protection of open space in amounts appropriate to each parcel. These amounts may be different percentages on different parcels. Preservation of open space land must be secured either by a conservation easement or by dedication of the land to the Town as parkland.
  - (8) Where portions of an HR District were developed prior to being zoned HR, such previously developed areas shall be exempted from the 30% open space requirement.
- C. Two-family dwellings. In the HR District, two-family dwellings shall be permitted by right on all conforming lots.
  - D. Multifamily dwellings. New multifamily dwellings in the HR District shall have their front entrances on an existing or new street, with parking behind the buildings. No more than 30% of the dwelling units proposed for a development in the HR District shall contain multifamily dwellings. Multifamily dwellings may take the form of rowhouses, townhouses, apartment buildings, mixed-use buildings containing an apartment, or any other form, such as three-family and four-family houses, which fit into the traditional architectural character of Goshen, as determined by the Planning Board.
  - E. Apartments in mixed-use buildings. Apartments are encouraged to be located in the upper stories of buildings that have retail or service commercial on the ground floor, in the manner of traditional hamlet main streets.
  - F. Setbacks, build-to lines and building height. Setbacks and build-to lines shall be established at the time of site plan approval, in conformance with the practices found in traditional hamlets. In the HR District, all structures shall have a maximum height of 35 feet, subject to the exceptions set forth in § 97-40(D).
  - G. Maximum footprint. The maximum footprint of a nonresidential structure in an HR District shall be 10,000 square feet, permitted by special permit from the Town Board, or as otherwise provided in the Use Table. The Town Board may permit a structure of up to 60,000 square feet if it is a supermarket deemed essential to the hamlet's economic viability. This footprint limitation shall not apply to structures designed for indoor recreation or as community centers. Light Industrial activity shall not be permitted in the HR District, unless by special permit from the Town Board and in compliance with the conditions of the Zoning Code.
  - H. Design guidelines. Development within an HR District shall comply with the "Hamlet Design Guidelines" referred to § 97-5. The Town Board may promulgate additional design standards or guidelines to assist in the administration of this § 97-15.
  - I. Streets. Streets in the HR District shall generally be interconnected, and permanent culs-de-sac shall only be permitted where wetlands, watercourses, or steep slopes make street interconnections impractical. In such cases, pedestrian paths and public stairways shall be provided where practical. All streets in an HR District shall be offered for dedication to the Town and no street shall be gated. The requirements for streets in the Town's road specifications may be waived if such waivers are necessary to permit street designs in cluster subdivision or hamlet character.
  - J. Maximum density. The maximum residential density (i.e., the total number of dwelling units divided by total land area including open space) in the HR Districts shall be three dwelling units per acre. There shall be no entitlement to this density, but such density may be achievable if the project satisfies all of the applicable requirements of the HR Districts and other provisions of this chapter and, in addition, is consistent with the State Environmental Quality Review Act (SEQRA) analysis for the project.

- K. Dwelling units in multifamily dwellings. For purposes of this § 97-15, the number of "dwelling units" for multifamily housing shall be calculated according to the following table, based upon the number of bedrooms in each dwelling unit:

**Number of Bedrooms Fractional Units in Relation to 3-Bedroom Unit**

1	0.38
2	0.75
3 or more	1.0

- L. Affordable housing. In all residential developments, affordable housing units as described in § 97-24 shall be provided in an amount equal to 10% of the allowable unit count in Subsection J. Affordable housing units shall be dispersed within the development site. Such units shall be counted toward the maximum allowable density allowed under Subsection J. For example, if the number of dwelling units approved is 60, at least six must be affordable.
- M. Developments that include RU District land. For lots or developments that include land located in the RU District contiguous to the HR District, an applicant may perform a separate density calculation for land in each district and then design the development plan without regard to the zoning district boundary line, provided that the total number of units (based upon the "bedroom count" methodology in Subsection K above), is consistent with the combined density calculations. Unless, in the opinion of the Planning Board, there is a clearly articulated planning or environmental justification for doing otherwise, the units shall generally be clustered more densely within the HR portion of the site, with the RU portion kept in a more open and rural condition.
- N. Specific plan option. An applicant or the Town may prepare a "specific plan" in the form of a conceptual site plan that covers all or a portion of a site, including land in multiple ownerships. If prepared by an applicant, all landowners covered by such a plan must consent to this specific plan option. If prepared by the Town, landowners shall be given notice and an opportunity to object, but the Town shall have the authority to prepare such a plan without their consent, provided that the owners of at least 80% of the land area subject to the specific plan consent to its preparation. The Town shall conduct outreach to all landowners to be covered by a proposed plan and shall involve them in the process of plan preparation. The specific plan shall also be prepared with a substantial public involvement process. A specific plan shall be approved as an amendment to the Town's Comprehensive Plan following procedures required by law for such an amendment. The Town Board may, in addition, make the specific plan part of this chapter, by adopting it as a zoning amendment binding upon all landowners as provided in § 97-79. Once a specific plan is adopted as a zoning amendment, any application for development which is in substantial compliance with it may be approved by the Planning Board through site plan review. If the specific plan is prepared by the Town, the cost of such preparation, including the cost of SEQR compliance, may be allocated among the landowners through development fees charged at the time they receive development approvals, provided that there has been prior notice and opportunity for such landowners to be heard concerning the amount of such fees.
- O. Setbacks on existing lots of record. Lots in existence as of June 10, 2004, with or without structures, shall be buildable and considered conforming if they can satisfy applicable Health Department regulations and the setback requirements below. There shall be no minimum required front setbacks for such lots. Minimum side and rear setbacks on such lots shall be as follows:
- (1) Principal building: 20 feet side and rear.
  - (2) Accessory structures greater than 200 square feet: 20 feet side; 10 feet rear.
  - (3) Accessory structures 200 square feet or less: 10 feet side and rear.
- P. Planned adult community (PAC). Planned adult communities are allowed by special permit from the Planning Board in the HR and RU Districts, provided that the following criteria are satisfied:
- (1) The PAC shall qualify as housing for older persons, intended and operated for occupancy by

persons 55 years of age or older, as provided in 42 U.S.C. § 3607(b)(2)(c). Appropriate deed restrictions that enforce this requirement shall be provided in a form acceptable to the Town Attorney and shall be included in all deeds conveying title to a lot or unit and in any project offering plan. At least one resident of a dwelling unit shall be 55 years of age or older and no one under age 19 shall permanently occupy a dwelling unit. Such age restrictions shall not apply to:

- (a) Units occupied by employees of the homeowners' association or of the property owner if the units are rented; and
  - (b) Units occupied by persons under age 55 who are needed to provide a reasonable accommodation to disabled residents aged 55 or over.
- (2) The residential units may be in any combination of detached, attached, multifamily, or other configuration that satisfies the dimensional and design standards in Subsections A through O above. The units may be in separate lots, multifamily apartments, condominiums, cooperatives, or any other form of ownership approved by the Planning Board that enables the requirements in Subsection P(1) to be enforced. If land subdivision is required, a sketch plan subdivision application shall be submitted to the Planning Board as part of the special permit application submission.
  - (3) The minimum acreage for a PAC is twenty (20) acres of unconstrained land. The maximum allowable density in a PAC shall be three units per acre of unconstrained land, with the maximum total number of dwelling units in a PAC being 200.
  - (4) A minimum of 15% of the units in a PAC shall be designated as affordable housing pursuant to § 97-24.
  - (5) The PAC must be located with direct access to a State or County highway, arterial or collector route.
  - (6) The PAC must be connected to existing Town water and sewer districts, or must be included in new water and sewer districts created by the Town. In existing water and sewer districts, the Town must approve any extension thereof.
  - (7) No development shall be permitted on predevelopment slopes over 15% (development shall include cut and fill).
  - (8) A PAC must be developed to include recreation facilities and other amenities, which shall be left to the discretion of the Planning Board. A PAC may include accessory uses related to and primarily serving the PAC residents, including but not limited to clubhouses, dining facilities, storage facilities, offices for health-related services, recreation facilities, retail and service businesses not exceeding 5% of the total floor area of the PAC, work spaces for residents of the PAC (such as home offices or workshops) not exceeding 10% of the total floor area of the PAC, and such other uses as the Planning Board deems compatible with the purposes and character of the PAC.

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## **ARTICLE IV Development Options in RU District**

### **§ 97-18. General provisions.**

- A. Purposes. Under this chapter, most of the developable land in the Town of Goshen is located in the RU District. The Town therefore has a vital interest in seeing that this land is either protected from development or developed in a manner that is consistent with the goals of the Comprehensive Plan. The purposes of this article are to:
  - (1) Offer a variety of options to landowners who wish to develop tracts of land in the Town of

Goshen;

- (2) Ensure that development projects do not damage the quantity or quality of the Town's groundwater supplies, protect the Town's environmental resources and scenic views, preserve significant tracts of intact open space land, maintain the Town's predominantly rural appearance, conform to the natural terrain to the greatest extent practicable, and provide a range of housing options that meets the need for affordable housing in the Town and region;
  - (3) Encourage the creation of safe and sociable neighborhoods in which alternatives to the automobile are viable means of transportation;
  - (4) Maintain property values of land proposed for development as well as existing homes adjoining such land;
  - (5) Offer options for small-scale subdivision for landowners who seek some financial return on their land but do not wish to sell their land to developers for large-scale development.
  - (6) Permit the adaptive reuse of existing structures, and the construction of new structures compatible with the Town's rural character and historic architecture, for small-scale business purposes.
- B. Types of residential development permitted. In addition to Planned Adult Community development (see § 97-18(E) below) there are three types of residential development permitted in the RU District: small-scale development, open space development, and conservation density development.
- (1) Small-scale development is any development of land that results in the creation of no more than four new residential lots (excluding the parent parcel from which they are subdivided) covering a maximum of 25% of the area of a parcel. Small-scale development includes the development of existing residential lots. This option is designed to minimize the burden and cost of development for landowners building on existing lots or creating only a small number of lots. Ongoing studies of the groundwater resources in the Town indicate that full-scale development of large parcels with small lot sizes could have negative impacts on groundwater. However, small amounts of such development on a portion of a larger parcel, if combined with a Town program to preserve open space and reduce development in other locations, may enable the Town to preserve its groundwater quality while allowing some small lot development.
  - (2) Open space development allows units to be located or clustered on those portions of a property most suitable for development, while leaving substantial portions as undeveloped open space. Open space developments are intended to offer the landowner great flexibility, and may include a variety of lot sizes, ranging from large farm or estate lots to small hamlet-size lots. Open space development results in the preservation of contiguous open space and important environmental resources. See § 97-20.
  - (3) Conservation density developments are low-density subdivisions in which the average lot size is 20 acres or more. These help to preserve open space by keeping large amounts of land undeveloped. As an incentive to creating such subdivisions, Town road construction requirements and frontage requirements may be waived, as provided in § 97-22.
- C. Small-scale business uses. Residential structures in existence as of June 10, 2004 may be used for business purposes by special permit, if allowed by the Use Table, provided that their exterior appearance is not significantly modified and that the business use does not occupy more than 5,000 square feet of floor area. New structures not exceeding 5,000 square feet in floor area may be built that comply with this section, provided that they maintain a residential appearance and that all parking areas are screened from view from adjoining properties and public roads. Any changes to an existing structure or construction of a new structure shall comply with the design guidelines referred to in § 97-5. The uses allowed by this Subsection C may only be permitted if they have frontage on and access to a State or County highway.
- D. Environmental control formula. The environmental control formula set forth below provides a method for determining minimum lot sizes for individual lots that have on-site wells or on-lot sewage disposal

systems, regardless of any other provisions of this chapter. The environmental control formula does not create a uniform minimum lot size or determine the overall density of a development. Rather, the purpose of the formula is to determine that each individual lot has sufficient area to support an on-site well and sewage disposal system.

- (1) The basis of the environmental control formula is the classification of soil types into 15 soil groups. Each soil group has been assigned an environmental factor related to its ability to support sewage disposal systems. (See the following Soils Table.) These factors are applied to site acreage in each soil group to determine the minimum permitted lot sizes as set forth in Subsection D(2).

**Soils Table**

<b>Group No.</b>	<b>Soil Type</b>	<b>Environmental Factor</b>
I	CnA, CnB, CnC, HoA, HoB, HoC, OkA, OkB, OtB, OtC, RhA, RhB, RhC	2.0
II	AdA, AdB, UnB, UnC	1.35
III	ChB, ChC, PtB, PtC	1.0
IV	CgA, CgB, MdB, MdC, SwB, SwC, WuB, WuC	0.71
V	CoB, ScA, ScB	0.67
VI	ANC, BnB, BnC, CLC, SXC	0.67
VII	ErA, ErB, ESB, Fd, Ra, RbA, RbB	0.33
VIII	ESB, FAC, HLC, LdB, LdC, RKC, RMC, ROC, RSB	0.33
IX	Ab, AC, Ca, Ha, Ma, Sb,	0.17
X	ANF, Be, My, Tg, UF, Wa, Wd	0.1
XI	CoC, UnC	0.17
XII	AND, CLD, HLD, HoD, MdD, NaD, OtD, PtD, RhD, RKD, RMD, ROD, RSD, SwD, SXD	0.33
XIII	ANF, CLD, CoD, MNE, OVE, RKF, ROF, RSF, SXF	0.17
XIV	Cd, Ce, Pa	0.1
XV	HH	0.1

**\*NOTE:**

Compare Chapter 83 of the Code of the Town of Goshen, entitled "Subdivision of Land," Table of Soil Groups.

- (2) Calculation of minimum permitted lot size. Each proposed lot within a subdivision must have sufficient area to support an on-site well and sewage disposal system. To determine whether a proposed lot has sufficient area, use the following formula::

**Column 1**

**Column 2**

**Column 3**

Acres in each soil group x Environmental factor = Portion of lot supported by soil

- (a) The portion of each lot supported by each soil group shall be separately computed according to the formula above and the Column 3 numbers shall then be totaled. The total value in Column 3 from all soil groups on a lot must equal 1.0 or greater for the lot to meet minimum size requirements.
- (b) Environmental factors from all soil groups present at the site shall be used to determine minimum lot size, although septic systems may not be permitted on certain soil groups.

- (c) A minimum area of 5,000 square feet in a soil group or groups on which septic systems are permitted shall be required when determining minimum permitted lot size.
  - (d) As stated in Chapter 83 of the Code of the Town of Goshen, entitled "Subdivision of Land," there are soils on which septic systems shall not be allowed. [Compare Soils Table, Subsection D(1) above.]
- (3) Waiver of environmental control formula. The Planning Board may waive the environmental control formula for subdivisions within the RU District provided that the applicant demonstrates through site-specific soils and other testing and analysis to the satisfaction of the Planning Board and its engineering consultants that the lots are appropriately sized and designed to accommodate the individual and/or shared septic and water systems proposed.
- E. Planned Adult Communities (PACs) may be permitted in the RU District by special permit from the Planning Board, provided that the criteria under § 97-15(P)(1) through (8) are satisfied.
  - F. Affordable Housing. All new residential developments of 10 units or more shall provide 10% of those units as affordable as defined in § 97-24.

**§ 97-19. Standards for small-scale development.**

- A. Small-scale development is any development of land that results in the creation of no more than four new residential lots (excluding the parent parcel from which they are subdivided).
  - (1) For parcels that are greater than 32 acres, the four new lots shall consume no more than covering a maximum of 25% of the land area of a parcel. Minimum lot sizes shall be established pursuant to Subsection C below.
  - (2) For parcels of 32 acres or less, the four new lots may consume more than 25% of the land area of a parcel. The minimum lot size for such new lot shall be at least three acres in the AQ-3 District and six acres in the AQ-6 District, unless the applicant performs well tests that demonstrate to the satisfaction of the Planning Board, in consultation with the Town Engineer or hydrologist, that smaller lots will not adversely affect water supply on the lots or in the surrounding area. In such a case, the new lots shall comply with Subsection C below.
  - (3) Any approved small-scale subdivision plat shall contain a note stating that no more than four lots may be created by small-scale development and that future subdivision beyond four lots will be subject to the requirements in Subsection D below.
  - (4) For purposes of this § 97-19, the determination of parcel size shall be based on the parcel as it existed on June 10, 2004.
- B. Any lot in the RU District which was legally created and existed as of June 10, 2004, may be built upon as provided in Subsection C below. If such lot does not meet the standards in Subsection C, it shall be subject to the provisions of § 97-36.
- C. The dimensional regulations for small-scale development are based upon the Aquifer Overlay District Map, subject to the environmental control formula in § 97-18D, which may dictate a larger lot size than shown in the dimensional table below:

**Small-Scale Development Dimensional Table**

	District	
	AQ-3	AQ-6
Minimum lot size	1.5 acres	2 acres
Minimum road frontage		
Town road	150 feet	200 feet

County/state road	150 feet	200 feet
Minimum front yard setback		
Town road	30 feet	30 feet
County/state road	50 feet	50 feet
Minimum side yard setback	20 feet	30 feet
Minimum rear yard setback	30 feet	50 feet
Maximum impervious surface coverage	15%	10%
Maximum height	35 feet	35 feet

- D. If more than four residential lots are proposed for subdivision from the parent parcel at any time, the application for a fifth subdivided lot shall be treated as an application for open space development and shall be reviewed under the provisions of § 97-20. Such application shall take account the four lots previously subdivided as if they were part of the new application. The Planning Board may require substantially larger lots on the remainder of the parcel unless the applicant demonstrates, and the Planning Board finds, that such larger lot sizes are not necessary to protect the groundwater resources in the watershed where the parcel is located. Such larger lot sizes shall be as large as necessary to meet the requirements for zoning density in effect at the time of subdivision for protection of groundwater.
- E. Small-scale development may also take the form of open space development or conservation density development at the landowner's option.
- F. Small-scale development may involve the use of rear lots, which are lots where most of the land is set back from the road and access is gained through a narrow access strip. Where carefully planned, such lots can enable landowners to develop interior portions of parcels at low density and low cost, preserving roadside open space, and avoiding the construction of expensive new Town roads. The RU District is hereby declared an open development area under § 280-a, Subdivision 4, of the Town Law. Building permits may be issued for structures on lots that have no public or private road frontage and gain access by right-of-way easement over other lands, under the conditions contained in this section. Rear lots with or without access strips running to public or private roads may be created where they will not endanger public health and safety and will help preserve natural, historic, and scenic resources. The following requirements apply to rear lots:
- (1) Each rear lot shall have either a minimum frontage of 25 feet on an improved public or private road and an access strip as defined in this chapter, or a deeded right-of-way easement over other lands providing legally adequate and physically practical access to a public or private road.
  - (2) Minimum lot sizes for rear lots shall be three times the size required in Subsection B above. The area of the access strip shall not be counted in the calculation of minimum lot size.
  - (3) Except as indicated in Subsection F(2) above, rear lots shall meet all other requirements for a small-scale lot in the applicable AQ District. Minimum lot width shall be the same dimension as the minimum required road frontage. The minimum setbacks shall be 30 feet on all sides.
  - (4) There shall be no more than four adjoining lots or access strips. Subdivisions of five or more rear lots shall satisfy the requirements for conservation density subdivisions in § 97-22.
  - (5) All rear lots shall have safe access for fire, police, and emergency vehicles.
  - (6) The proposed rear lots shall not result in degradation of important natural resource and landscape features, including but not limited to ponds, streams, steep slopes, ridgelines, and wetlands.
  - (7) When necessary to satisfy the criteria in Subsection F(6) above, the Planning Board may require the applicant to grant a conservation easement or restrictive covenant enforceable by the Town that limits the area within which the house and driveway may be constructed on the rear lot.

## § 97-20. Standards for open space development.

Open space developments allow design flexibility while preserving important natural attributes of the land.

- A. Density calculation. The maximum allowable density (*i.e.*, the maximum number of dwelling units) in an open space development is described below. However, this density cannot under any circumstances exceed the density parameters of the Aquifer Overlay District described in § 97-27. The maximum density permissible in an open space development is therefore the lesser of the density allowed by § 97-27 or the density allowed by the following formula based upon the acreage of "constrained" and "unconstrained" land on the property. An example of how this density might be calculated on a sample parcel is noted in Appendix A. However, to the extent that the Appendix A example conflicts with this Section, the provisions of this Section control.
- (1) To determine unconstrained acreage, subtract from the total (gross) acreage of the proposed development parcel the acreage of constrained land as defined in § 97-84. Fractional units of acreage 0.5 or less shall be rounded down and fractional units of acreage greater than 0.5 shall be rounded up.
  - (2) The "base" number of allowable residential units on the site is 33% of the number of unconstrained acres on the property in the AQ-6 Overlay District. The "base" number of allowable residential units on the site is 50% of the number of unconstrained acres on the property in the AQ-3 Overlay District. This is the base number of units that can be built on the property (if allowed by § 97-27).
- B. Conservation analysis.
- (1) As part of any sketch plan submission for an open space development, an applicant shall prepare a conservation analysis, consisting of inventory maps, description of the land, and an analysis of the conservation value of various site features. The conservation analysis shall show lands with conservation value on the parcel and within 300 feet of the boundaries of the parcel, including but not limited to the following:
    - (a) "Constrained land" as defined in Section 97-84.
    - (b) Farmland, trail corridors, scenic viewsheds, public water supply wellheads, park and recreation land, unfragmented forest land, and historic and archaeological sites identified in the Town's Open Space and Farmland Protection Plan.
    - (c) Buffer areas necessary for screening new development from adjoining parcels [see § 97-75D(2)].
    - (d) Stone walls and trees 12 inches dbh or larger.
    - (e) Other land exhibiting present or potential future recreational, historic, ecological, agricultural, water resource, scenic or other natural resource value, as determined by the Planning Board.
  - (2) The conservation analysis shall describe the importance and the current and potential conservation value of all land on the site identified in Subsection B(1) above. In the course of its initial sketch plan review, the Planning Board shall indicate to the applicant which of the lands identified as being of conservation value are most important to preserve.
  - (3) The outcome of the conservation analysis and the Planning Board's determination shall be incorporated into the approved sketch plan showing land to be permanently preserved by a conservation easement, as well as recommended conservation uses, ownership, and management guidelines for such land. The sketch plan shall also show preferred locations for more dense development as well as acceptable locations for less dense development.
  - (4) The final determination as to which land has the most conservation value and should be protected from development by conservation easement shall be made by the Planning Board,

which shall make written findings supporting its decision (the "conservation findings"). The Planning Board shall deny an application that does not include a complete conservation analysis sufficient for the Board to make its conservation findings.

- (5) The sketch plan shall show that at least 50% of the total acreage will be preserved by conservation easement, based upon the conservation findings.

C. Road and lot configuration and frontage.

- (1) Roads shall be designed based upon the conservation analysis to maximize preservation of important natural features on the property, including but not limited to watercourses, wetlands, large trees, scenic views, agricultural fields, and stone walls. Roads shall follow the contour of the land and minimize cutting and filling.
- (2) Road access to lots shall be from interior roads rather than existing public roads to the extent practical. The minimum road frontage for lots on existing roads shall be 300 feet, unless the Planning Board determines that due to topographic conditions a lesser frontage is appropriate. The average road frontage per lot on new interior roads shall be a minimum of 70 feet, and the minimum individual lot frontage shall be 50 feet, except for rear lots that comply with § 97-19F. Applicants may be granted waivers from the road width requirements in the subdivision regulations for open space developments with 20 or fewer lots.
- (3) Lots shall be arranged in a manner that protects land of conservation value and facilitates pedestrian and bicycle circulation. The lot layout shall generally follow applicable portions of the Rural Design Guidelines and Hamlet Design Guidelines referred to in § 97-5, adapted as necessary to conform to the requirements of this chapter. Requirements of the subdivision regulations concerning the shape or geometry of lots may be waived by the Planning Board as necessary to comply with this subsection.
- (4) Road, lot and building configurations shall comply with the rural siting principles in § 97-41.

D. Types of residential development. The allowable residential units may be developed as single-family, two-family, or multifamily residences, provided that applicable site plan requirements are satisfied. The subdivision and site plan reviews shall occur concurrently in one proceeding to the extent practical.

E. Dimensional regulations.

- (1) Minimum lot sizes. The minimum lot size shall be one acre for lots with individual wells and septic systems, subject to the environmental control formula in § 97-18D which may result in a larger lot size. Constrained land may be included in individual lots and counted toward lot area, provided that it is protected from development. For lots that are connected to public sewer and public water, there shall be no minimum lot size. For lots that have either public water or public sewer (but not both), the minimum lot size shall be established by the Planning Board based upon site-specific soil and hydrological conditions.
- (2) Setbacks. Appropriate minimum setbacks in an open space development depend upon the lot sizes, the type of road frontage (State, County, Town or private) and the character of the subdivision (hamlet, suburban, or rural). Accordingly, setback (or build-to line) requirements shall be established at the time of plat approval and shall be shown in a chart on the plat.
- (3) Height. Maximum building height shall be 35 feet except as otherwise provided in § 97-40D.

F. Impervious surface coverage. The amount of pavement and building coverage is a major factor in determining the impact of a development. Therefore, limiting impervious surface coverage (including all roofed areas and areas covered with impervious pavement) is critical in maintaining environmental integrity. The maximum impervious surface coverage in an open space development shall be 10%. This applies to the entire area to be developed, including open space areas. Individual lots may have higher coverage, as long as the total impervious surface coverage for the development is within the limits prescribed. Open space subdivision plats shall show the impervious surface coverage limit for each building lot on a table in order to establish compliance with this Subsection F. Such plats may

limit impervious surfaces, other than driveways, to specified building envelopes shown on the plat.

- G. Minimum preserved open space. Since one of the major purposes of an open space development is to preserve open space, all open space development shall preserve at least 50% of the land, based upon the conservation findings. The requirements for preserving such open space are described in § 97-21 below. Preserved open space may be contained in a separate open space lot or may be included as a portion of one or more lots, provided that its ownership is not fragmented in a manner that compromises its conservation value. Such open space may be owned by a homeowners' association, private landowner(s), a nonprofit organization, or the Town or another governmental entity, as provided in § 97-21, as long as it is protected from development by a conservation easement. The required open space land may not include private yards within 50 feet of a principal structure.
- H. Partial open space subdivision. Open space development does not require planning for development of an entire large parcel of land. In order to encourage small subdivisions to follow open space development principles, there is no minimum tract size or number of lots required for an open space development. Even a single lot can be an open space development if the density and preservation requirements in Subsections A and H are satisfied.
- I. Accessory uses. Residential and nonresidential accessory uses may be combined in an open space development provided that the applicant complies with all residential density, impervious surface, and open space requirements. Permitted nonresidential uses that may be included in an open space development include:
  - (1) Common buildings for dining, recreation, and for entertaining and lodging guests of the residents.
  - (2) Child-care facilities for residents of the development as well as those outside the development.
  - (3) Office space for use by administrators of the development as well as for use by residents of the development in the conduct of their business, provided that such offices comply with the rules applicable to home occupations in § 97-51B(2).
  - (4) Storage facilities, which may be used as needed for the needs of the development and its residents. If such facilities are used for business purposes, they shall comply with the rules applicable to home occupations in § 97-51B(2).
  - (5) Recreational facilities for use by residents and their guests.

#### **§ 97-21. Permanent open space.**

Open space set aside in a development shall be permanently preserved as required by this section. Land set aside as permanent open space may be a separate tax parcel if such parcel is accepted for dedication by the Town or is conditioned to be held by a land trust or other entity deemed appropriate by the Town Board. Such land may be included as a portion of one or more large parcels on which dwellings and other structures are permitted, provided that a conservation easement is placed on such land pursuant to Subsection C below, and provided that the Planning Board approves such configuration of the open space as part of its approval. Any development permitted in connection with the setting aside of open space land shall not compromise the conservation value of such open space land.

- A. Conservation value of open space. To be eligible for open space protection pursuant to this § 97-21 it shall have recognized conservation value.
- B. Notations on plat. Preserved open space land shall be clearly delineated and labeled on the final subdivision plat or site plan as to its use, ownership, management, method of preservation and the rights, if any, of the owners of other lots in the subdivision to such land. The plat or site plan shall clearly show that the open space land is permanently reserved for open space purposes and shall

contain a note referencing deed recording information of any conservation easements required to be filed to implement such restrictions.

C. Permanent preservation by conservation easement.

- (1) A perpetual conservation easement restricting development of the open space land and allowing use only for agriculture, forestry, recreation, protection of natural resources, or similar conservation purposes, pursuant to § 247 of the General Municipal Law and/or §§ 49-0301 through 49-0311 of the Environmental Conservation Law, shall be granted to the Town, with the approval of the Town Board, or to a qualified not-for-profit conservation organization acceptable to the Planning Board. Such conservation easement shall be approved by the Planning Board and shall be required as a condition of subdivision plat approval. The Planning Board may require that the conservation easement be enforceable by the Town if the Town is not the holder of the conservation easement. The conservation easement shall be recorded in the County Clerk's office prior to or simultaneously with the filing of the final subdivision plat in the County Clerk's office.
- (2) The conservation easement shall prohibit residential, industrial, or commercial use of open space land (except in connection with agriculture, forestry, and recreation) and shall not be amendable to permit such use. Access roads, driveways, local utility distribution lines, trails, wells, septic systems and other subsurface sewage treatment facilities, temporary structures for outdoor recreation, and agricultural structures shall be permitted on preserved open space land, provided that they do not impair the conservation value of the land. Dwellings may be constructed on portions of parcels that include preserved open space land, but not within the area protected by the conservation easement.

D. Ownership of open space land.

- (1) Open space land may be owned in common by a homeowners' association (HOA), dedicated to Town, County, or State government, transferred to a nonprofit organization acceptable to the Planning Board, held in private ownership, or held in such other form of ownership as the Planning Board finds adequate to properly manage the open space land and to protect its conservation value. The ownership entity and structure shall be selected based upon the conservation analysis and management objectives established by the Planning Board for the protected open space.
- (2) If the land is owned in common by an HOA, such HOA shall be established in accordance with the following:
  - (a) The HOA shall be set up before the final subdivision plat is approved and shall comply with all applicable provisions of the General Business Law.
  - (b) Membership shall be mandatory for each lot owner, who shall be required by recorded covenants and restrictions to pay fees to the HOA for taxes, insurance, and maintenance of common open space, private roads, and other common facilities.
  - (c) The open space restrictions shall be in perpetuity.
  - (d) The HOA shall be responsible for liability insurance, property taxes, and the maintenance of recreational and other facilities and private roads.
  - (e) Property owners shall pay their pro rata share of the costs in Subsection D(2)(d) above, and the assessment levied by the HOA shall be able to become a lien on the property.
  - (f) The HOA shall be able to adjust the assessment to meet changed needs.
  - (g) The applicant shall make a conditional offer of dedication to the Town, binding upon the HOA, for all open space to be conveyed to the HOA. Such offer may be accepted by the Town, at the discretion of the Town Board, upon the failure of the HOA to take title to the open space from the applicant or other current owner, upon dissolution of the association at any future time, or upon failure of the HOA to fulfill its maintenance obligations hereunder or to pay its real property taxes.

- (h) Ownership shall be structured in such a manner that real property taxing authorities may satisfy property tax claims against the open space lands by proceeding against individual owners in the HOA and the dwelling units they each own.
- (i) The attorney for the reviewing board shall find that the HOA documents presented satisfy the conditions in Subsection D(2)(a) through (h) above and such other conditions as the Planning Board shall deem necessary.

E. Maintenance standards.

- (1) Ongoing maintenance standards shall be established, enforceable by the Town against an owner of open space land as a condition of subdivision approval, to ensure that the open space land is not used for storage or dumping of refuse, junk or other offensive or hazardous materials.
- (2) If the Town Board finds that the provisions of Subsection E(1) above are being violated such that the condition of the land constitutes a public nuisance, it may, upon 30 days' written notice to the owner, enter the premises for necessary maintenance, and the cost of such maintenance by the Town shall be assessed ratably against the landowner or, in the case of an HOA, the owners of properties within the development and shall, if unpaid, become a tax lien on such property or properties.

**§ 97-22. Conservation density development.**

Within the RU District, the Town encourages the preservation of large tracts of open space by affording flexibility to landowners in road layout and design (including the use of unpaved private roads) and road frontage requirements, provided that such landowners permanently preserve significant open space resources. The following standards shall be applied by the Planning Board in reviewing applications for a conservation density subdivision.

- A. Road frontage and construction requirements. There shall be no minimum road frontage requirements in a conservation density development. Otherwise applicable road construction requirements may be modified by the Planning Board pursuant to § 97-22 B, provided that all of the following requirements are met:
  - (1) The average lot size in the proposed subdivision is at least 20 acres.
  - (2) A perpetual conservation easement is placed on the land to be subdivided, to maintain its natural and scenic qualities, to restrict building to those locations deemed by the Planning Board not to be environmentally or visually sensitive, and to ensure that the land will not be subdivided to a density higher than one residence per 20 acres. The Planning Board may require a conservation analysis as provided for in § 97-20B in order to determine the content of such conservation easement. The Planning Board may require that the conservation easement and the plat contain "building envelopes" indicating acceptable locations for building on each lot.
  - (3) Adequate access to all parcels by fire trucks, ambulances, police cars and other emergency vehicles can be ensured by private roads and/or common driveways. Private roads serving more than four lots shall comply with applicable private road standards in the Town's highway specifications.
- B. Private road requirements. The Planning Board may approve unpaved private roads to provide access to lots in a conservation density development, provided that the Planning Board finds that the proposed subdivision will protect the rural, scenic, and natural character of the Town.
  - (1) The maximum number of lots gaining access through any portion of a private road shall be 12.
  - (2) Written approval from the Town Superintendent of Highways and the Town's Engineer shall be secured before approval of any private roads.

- (3) A homeowners' association (HOA) shall be created to own and provide for the perpetual care and maintenance of the private road. Such HOA shall meet all requirements for an open space HOA set forth in § 97-21D(2) above. The HOA shall have the power to assess the subdivision lot owners for their share of the maintenance costs of the private road. The HOA shall contract with a qualified road contractor to ensure that the road will always be maintained and kept open to permit emergency vehicle access. In the event that a private road contractor does not properly maintain the road, the Town of Goshen may assume maintenance responsibilities and charge the HOA for all reasonable costs thereof. Such costs, if unpaid for more than 60 days, shall, along with attorneys' fees for their collection, become a lien on the property and enforceable in the same manner as a property tax lien. The Planning Board shall have discretion to determine whether the applicant should be required to establish a maintenance fund at the time of approval and, if so, how much of a deposit should be required. The Planning Board shall also have discretion to determine whether a performance bond shall be posted by the applicant to ensure the proper completion of the private road and, if so, how much the performance bond shall be and what form it shall take.
- (4) The HOA shall provide at regular intervals determined by the Planning Board (not to exceed five years) a written certification from a licensed professional engineer that the physical integrity of the private road is adequate to meet its present needs and the needs which can reasonably be anticipated in the future.
- (5) The private road may never be offered for dedication to the Town of Goshen unless it conforms to Town highway specifications for rural streets in effect on the date of the offer of dedication. However, the Town Board shall be under no obligation to accept such an offer of dedication, even if the road conforms to Town highway specifications. In the event such dedication becomes necessary to ensure public safety, the cost of bringing the road up to Town highway specifications shall be borne by the HOA.
- (6) The lots in the conservation density subdivision shall be restricted by conservation easement so that they may never be subdivided beyond the number of lots permitted in Subsection A, regardless of whether the private road remains a private road.
- (7) The subdivision plat shall show the road clearly labeled "Private Road."
- (8) Road design shall comply with the standards for private roads in Chapter 83, Subdivision of Land, of the Code of the Town of Goshen.

C. Rural siting principles. The rural siting principles in § 97-41 shall apply to conservation density developments.

#### **§ 97-24. Mandatory Affordable housing.**

In any residential development in which affordable housing is mandated by other provisions of this Code, or in which the applicant otherwise agrees to be bound by this Section, it shall comply with the following requirements.

- A. Purpose. The Town Board of Goshen hereby recognizes that there is a lack of opportunity for individuals, couples and small families with moderate incomes to find housing that is affordable in the Town of Goshen. The Town Board further recognizes that there is a need to encourage the construction of housing units for rental or sale that will be affordable to households earning between 60% and 150% of the Orange County (Town of Goshen) median income and to ensure that these units remain affordable in perpetuity for the benefit of current and future residents of Goshen.

B. Definition of affordable housing units. As used throughout this section, the term "affordable housing unit" refers to a single- or multifamily housing unit that is owned or rented by an eligible household and priced so as to be affordable to the people who live and work in the Town and Village of Goshen who cannot otherwise afford market-rate housing.

C. Development standards.

(1) Physical integration. All affordable housing units must be physically integrated into the design of the development and constructed with the same quality building materials as the market-rate units. The exterior finishes for affordable housing units shall be indistinguishable from all other units. The developer may, however, substitute different appliances and interior hardware or other interior finishes where such substitutions would not adversely impact the livability of the unit. The affordable housing units shall be integrated with the market-rate units in such a manner that no more than two affordable housing units abut one another.

(2) Minimum floor area. The gross floor area per affordable housing unit shall be no less than 80% of comparable market-rate units in the development or meet the following minimum gross floor area standards, at the discretion of the Planning Board:

Unit Type	Minimum Floor Area (square feet)
1-bedroom	700
2-bedroom	900
3-bedroom	1,100
4-bedroom or more	1,500

(3) Dwelling unit size and distribution. Affordable housing units shall be located throughout the development and be distributed among one-, two-, three- or four bedroom units, in multifamily, single-family attached and single-family detached dwellings, in the same proportion as all other units in the development. However, if the total number of single-family detached dwelling units in the entire development equals or exceeds 50% of the total number of proposed dwelling units in the development, then the Planning Board may, upon request, reduce the required percentage of single-family detached affordable housing units to 20% of the total number of affordable dwelling units. The remaining affordable units shall be built as multifamily and/or single-family attached units and the number of bedrooms shall be in proportion to all other units in the development.

(4) Phasing.

(a) For any project that will be built in phases (or stages), the following schedule shall apply for all affordable housing units:

Percentage of Market-Rate Units Receiving Certificates of Occupancy	Percentage of Affordable Units Receiving Certificates of Occupancy
Up to 25%	0 (none required)
25% + 1 unit	At least 10%
50%	At least 50%
75%	At least 75%
100%	100%

(b) Certificates of occupancy shall be issued for market-rate units when the required percentage of affordable housing units for the respective phase (stage) has been completed.

(5) Waiver of permit and other fees. The Planning Board, at its discretion, may waive any site plan, subdivision and other fees directly related to the affordable housing units in an effort to assist the

applicant/developer in reducing development costs. Similarly, when a recreation fee is calculated in lieu of an approved reservation of recreation lands, the Planning Board may calculate such fee based on the total number of dwelling units exclusive of those which are affordable units.

D. Determining applicant eligibility:

- (1) Income limits. To be eligible to purchase or rent an affordable housing unit, the household's aggregate annual income shall not exceed an established percentage of the Orange County median family income for a family of a particular size as determined by the US Department of HUD, and/or the Town Board.
- (2) Other assets:
  - (a) Any family with net assets exceeding 50% of the cost of a two-bedroom affordable housing unit is deemed ineligible to own or rent an affordable housing unit.
  - (b) Any non-income-producing assets may be assigned an income-producing value and included as income by the reviewing agency when determining eligibility.
  - (c) The net worth of an applicant (individual or family) may not exceed 25% of the purchase price of an appropriate affordable unit.
- (3) Certification of income. Families must declare to the best of their knowledge that their income will not exceed 1.5 times the limits as set by the Town Board for three years from the date of application.

E. Selection priorities. Once an applicant is determined to be eligible to participate in the affordable housing program based on income limits as set forth above or as amended by resolution of the Town Board from time to time, priority preference will be given to applicants on the basis of the following factors. An "applicant" shall be defined to include any and all family members who have reached the age of majority and who will occupy the affordable housing unit as their primary residence. Applicants seeking priority preference based on voluntary service or employment must provide a certification letter from an authorized person within such organization attesting to the applicant's length of volunteer service or employment.

- (1) Volunteer Fire Department or Ambulance Corps members with a minimum of 24 months' consecutive active service: (three points) maximum six points per family.
- (2) Paid emergency service personnel, including police, fire and emergency medical services, with a minimum of 24 months' employment: (two points) maximum four points per family.
- (3) Village and Town of Goshen full-time municipal employees, minimum of 12 months' employment: (two points) maximum four points per family.
- (4) School district employees for any schools that provide educational services to students who live in Goshen, minimum of 12 months' employment: (two points) maximum four points per family.
- (5) Veteran of US Armed Services, honorably discharged: (two points) maximum four points per family.
- (6) Health care workers, including skilled professions such as nurses and medical technicians, as well as orderlies working at a facility that regularly serves patients from Goshen, with a minimum of 12 months' employment: (one point) maximum two points per family.
- (7) Elderly (65 years of age or older) or disabled residents of the Town: (one point).
- (8) Persons employed in the Town or Village of Goshen: (one point) maximum two points per family.
- (9) Town residents who reside in the Town or their immediate relatives (children or parents): (one point) maximum two points per family.

- (10) Former residents who resided in the Town: one point per family; two points per family.
- (11) Other residents of Orange County: (one point) maximum one point per family.

F. Occupancy requirements.

- (1) Standards. To prevent underutilization of affordable housing units, at the time of purchase or rent, the following schedule of minimum occupancy shall apply:

<b>Number of Bedrooms</b>	<b>Minimum Number of Persons</b>
1	1
2	2
3	3
4	4

- (2) Residency. All affordable housing units shall be the primary residence of the owners or renters. Owners may not rent their unit to others and renters may not sublet their unit. These restrictions shall not apply to the developer of the affordable units. Partial rentals, such as renting out a bedroom, and seasonal rentals are also prohibited.

G. Initial sale and resale of affordable housing units.

- (1) Financial counseling. The Town Board will periodically provide financial counseling workshops which shall be open to all eligible applicants interested in purchasing an affordable housing unit. Attendance at a counseling workshop shall be a prerequisite to purchasing an affordable housing unit.
- (2) Calculation of initial sales price. Maximum sale price shall be set by resolution of the Town Board and amended from time to time after review of relevant information that may be provided by federal and state affordable housing departments, as well as developers. The initial sales price of a unit shall be calculated such that the annual cost of the sum of principal, interest, taxes and insurance (PITI) and common charges, as applicable, shall not exceed 30% of the maximum family income allowed for such unit.
- (3) Resale of affordable housing units:
  - (a) Affordable housing units shall only be resold to eligible moderate income households of substantially similar size.
  - (b) The owner of an affordable housing unit shall notify the Town Board, or an appropriate department as may be designated by the Board, of their intent to sell prior to contact with any realtor or purchaser.
  - (c) The maximum base resale price shall be set by resolution of the Town Board and amended from time to time. The maximum base purchase price shall be calculated to include the purchase price of the affordable housing unit, adjusted for the increase in the consumer price index during the period of ownership. At no time shall the total resale price exceed the base purchase price, as set forth above, plus the cost of permanent fixed improvements and reasonable and necessary resale expenses.
  - (d) The subdivision map, original deed and any subsequent deeds or instruments used to transfer title to an affordable housing unit shall include a provision indicating that the housing unit is an affordable housing unit subject to restrictions on occupancy and resale. Evidence of the inclusion of such restrictions on, at a minimum, on the filed subdivision map shall be made prior to issuing a certificate of occupancy for any unit in the subdivision. The following paragraph or such language and/or additional restrictions as the Town Board may deem appropriate must be included in all deeds and other transfer instruments:
    - "This dwelling has been constructed for use by moderate income families pursuant to a special affordable housing program established under the Goshen Town Code and must

be the principal dwelling of the homeowner. All future sales, resale or rental of this dwelling must be to a person who is determined to be eligible pursuant to the income limitations set forth by the Goshen Town Board and at a price determined in accordance with the Town's affordable housing program." If any affordable housing unit is sold for an amount in excess of the maximum amount as set by the Town Board or the provisions of the Town's Zoning Code (Chapter 97), the Town retains the right to recapture the excess payment or unit as it deems appropriate.

H. Initial lease and renewals of affordable housing rental units.

- (1) Calculating permissible rent. Maximum monthly rent, including utilities (heat, hot water and electric), shall be set by resolution of the Town Board and amended from time to time after review of relevant information that may be provided by federal and state affordable housing departments, as well as developers. Rent for an affordable housing unit shall include an estimated cost for utilities and shall not exceed 30% of the maximum family income allowed for such unit.
- (2) Lease terms and renewal. Applicants for affordable housing rental units shall, if eligible and selected for occupancy, sign leases for a term of not more than two years. As long as the resident remains eligible and has complied with the terms of the lease, said resident shall be offered a renewal every two-years. If at any time during the term of the lease, a resident's annual gross income should exceed the maximum income limit as set by the Town Board, said resident must notify the Town Board and owner of the rental unit in writing within 30 days. Such resident may complete his/her current lease term and shall be offered a market-rate rental unit in the development, if available. In the event such market-rate unit is not available, or in case of hardship, the tenant may apply to the Town Board for such relief as may be available.
- (3) Town Board review. All lease terms shall be reviewed and approved periodically by the Town Board, or an appropriate department as designated by the Board.

I. Maintenance, upkeep and repairs.

- (1) All affordable housing units shall be maintained in a satisfactory manner as prescribed by the Town Board, or by an appropriate department as may be designated by the Board. Neither owners nor renters of affordable housing units shall make any improvements, which shall require a building permit, without prior written permission from the Town Board or an appropriate department as may be designated by the Board. Under no circumstances shall the Town Board or any agency or department approve any addition in size to the structure. The original square footage of the unit shall be maintained throughout the unit's existence.
- (2) All affordable housing units shall be maintained at the original builder's specification level. At the time of resale, the Town Board may determine that the unit has not been properly maintained and shall be authorized to impose such assessments as necessary to reasonably return the unit to its original condition. Said assessment shall be deducted from that portion of the selling price reverting to the seller of the unit.

J. Tax assessment. The Town Assessor shall consider the limited resale value of affordable housing units when determining the appropriate assessment on such units.

K. Administration. A Housing Review Board is hereby established, which is responsible for the administration of the affordable housing program. The following list identifies the responsibilities and duties of a Housing Review Board:

- (1) Accept and review applications;
- (2) Maintain eligibility priority list, annually certify and recertify applicants.
- (3) Establish lottery procedures for selecting applicants that have equal priority;
- (4) Assist Town Board/Planning Board in determining and reviewing applications to build

affordable units;

- (5) Recommend annual maximum income limits; rental prices; resale values.
- (6) Review certification from owners and lessors of rental units certifying that units are occupied by eligible families.
- (7) Maintain list of all affordable units in the Town;
- (8) Review all deed restrictions for affordable units;
- (9) Review all lease terms for affordable units; and
- (10) Promulgating rules and regulations as necessary.

L. Appeals. Any person aggrieved by a decision of the Housing Review Board may appeal such decision to the Town Board.

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## **ARTICLE V Overlay District Regulations**

### **§ 97-27. Aquifer Overlay District (AQ-3 and AQ-6).**

The Town of Goshen has determined, through hydrologic studies, that groundwater supply and quality are serious limiting factors in the development of land within the Town. In order to safeguard the Town's potable water supplies, portions of the Town are hereby divided into two Aquifer Overlay Subdistricts shown on the Overlay District Map as AQ-3 and AQ-6. All proposed uses within the AQ Overlay District, except for small-scale residential development in the RU District (see § 97-19), shall be subject to the requirements of this section. The regulations in this section set the maximum potential limit for density or intensity of development on a particular site and are based primarily upon the findings of the "Town-Wide Potable Water Planning Study," dated January 2003, (hereinafter referred to as the "Potable Water Study"), prepared by the engineering firm Schoor DePalma, referred to in the Comprehensive Plan and available in the office of the Building Inspector. The Potable Water Study divided the Town into numbered watersheds for analytical purposes. As used in this § 97-27, the term "watershed" refers to the watersheds identified in the Potable Water Study.

- A. Maximum densities for residential uses. Except as provided in Subsection B below, the maximum allowable density for residential uses that are not served by public sewer and public water shall be three acres per dwelling unit in the AQ-3 and six acres per dwelling unit in the AQ-6. This shall not apply to small-scale development (see § 97-19), except that any subsequent development of parcels from which small-scale development lots have been subdivided shall result in total densities (including the small-scale development lots) no greater than permitted by this Subsection A. For residential uses that are served by public water, if the water source is groundwater located within the Town of Goshen, the water protocols referred to in Subsection D shall be followed to determine the amount of water that may be withdrawn for the development. This may limit the permitted density within a proposed development.
- B. The maximum densities referred to in Subsection A above may be increased if an applicant can show, through site-specific hydrological analysis and project design measures, that the particular proposed project will not adversely affect the supply and quality of potable water, using the water testing protocols described in Subsection D below and Appendix C. The applicant may propose design measures to reduce impacts on potable water, which shall be considered by the Planning Board in determining an alternative allowable density. Such measures may include, without limitation, minimization of impervious surfaces, minimization of lawns and water-consumptive gardens, prohibition of or use of moisture meters on lawn sprinkler systems, use of gray water recycling, advanced subsurface wastewater discharge systems and use of water-saving plumbing fixtures that are more efficient than required by applicable building and plumbing codes. The maximum density increase provided in this subsection shall be no greater than one unit per two acres in the AQ-3 and

one unit per three acres in the AQ-6.

- C. Nonresidential uses. Nonresidential uses which are not served by public sewer and public water shall be evaluated on a case-by-case basis for their impact on groundwater supply and quality. For nonresidential uses that are served by public water, if the water source is groundwater located within the Town of Goshen, the water protocols referred to in Subsection D shall be followed to determine the amount of water that may be withdrawn for the development. Such nonresidential uses shall be subject to such restrictions on operations, use of materials, waste management, and stormwater control as the Planning Board deems necessary to protect groundwater resources from pollution. The Planning Board may deny site plan or special permit approval for any use in which the applicant cannot show that adequate protective measures will be taken to prevent potentially hazardous materials or wastes from endangering groundwater resources.
- D. Water Testing Protocols. The water testing protocols to be applied in conjunction with the requirements of this § 97-27 are contained in Appendix C of this chapter.
- E. Well monitoring and reporting. All wells that are drilled pursuant to this section or as required in the course of any development approval shall be subject to reporting requirements established by the Planning Board in order to determine the actual impact of the development on the Town's potable water supply. This well data shall be filed with the Building Inspector within one week of obtaining test results and will be used as part of an ongoing effort to refine and update the Town's groundwater information in order to improve the Town's aquifer protection system. This data will normally be collected and reported at the time the wells are first drilled and tested.
- F. Should a lot be covered by more than one Aquifer Overlay District, the Applicant may choose either to calculate the density separately for the acreage of each AQ district or to calculate the density using the total combined acreage of the involved property and the more restrictive AQ-6 guidelines. In no case shall the density permitted for individual AQ Districts be combined to gain an additional unit, and an Applicant shall not be permitted to calculate density using only a portion of the AQ-3 section of the lot as AQ-6 and not the entirety of the parcel.

#### **§ 97-28. Soil Mining Overlay District (SM).**

- A. Findings and purpose. The purpose of this overlay district is to provide appropriate locations for soil mining. The Town seeks to balance the need for soil mining to financially support bona fide agricultural operations and provide needed materials, while protecting the rural peace and quiet enjoyed by Town residents. The Town of Goshen will therefore allow commercial mining only in those locations where it will help promote the Town's goals of maintaining rural character and a viable agricultural sector with minimum disturbance to residential neighbors. The SM District has been delineated to include mineral resources located on existing commercial farm operations that have adequate highway access and sufficient buffering from nearby residences.
- B. Boundaries. The boundaries of the SM Overlay District are shown on the Overlay District Map.
- C. Effect of district. The land within the SM District is the only land in the Town of Goshen, other than the I Industrial District, where new soil mines may be permitted and where existing soil mines will be allowed to renew their permits from the New York State Department of Environmental Conservation. All new soil mining operations or expansions of existing soil mining operations shall require a special permit from the Planning Board, subject to all applicable special permit requirements in Article IX as well as the regulations in Subsection D below.
- D. Soil mining regulations.
  - (1) Soil mining shall be allowed only within the SM Overlay District and the I District, subject to a special permit, provided that the operator complies with all applicable requirements of the New York State Department of Environmental Conservation.
  - (2) Any application for a soil mining special permit shall be deemed a major project if it also requires

approval of a mining permit from the New York State Department of Environmental Conservation (DEC). Proposed soil mining that does not require a DEC permit shall be deemed a minor project.

- (3) An applicant for a major project special permit for soil mining shall submit copies of all applications and other materials submitted to the DEC in connection with its soil mining application.
  - (4) In determining whether to grant or deny a special permit application for soil mining, the Town Board shall consider all applicable special permit criteria, including but not limited to the environmental performance standards in § 97-50. If the Town Board grants a major project special permit subject to conditions, such conditions shall be limited to the following, unless the laws of New York State allow the imposition of additional conditions:
    - (a) Ingress from and egress to public thoroughfares controlled by the Town.
    - (b) Routing of mineral transport vehicles on roads controlled by the Town.
    - (c) Requirements and conditions specified in the permit issued by the DEC concerning setback from property boundaries and public thoroughfare rights-of-way, natural or man-made barriers to restrict access, dust control, and hours of operation.
    - (d) Enforcement of reclamation requirements contained in any DEC permit.
  - (5) If the Town Board finds that the imposition of the conditions in Subsection D(4) will not be sufficient to enable the proposed soil mining operation to comply with applicable special permit criteria, it shall deny the special permit application.
  - (6) In issuing a minor project special permit for soil mining, the Town Board may impose any conditions it deems necessary, including but not limited to those in Subsection D(4)(a) and (b) above.
- E. Nonconforming soil mines. A nonconforming soil mining operation may expand by mining within the boundaries of the original parcel on which the mine was legally permitted, but only to the extent allowed by an existing Department of Environmental Conservation (DEC) permit or as otherwise provided by the laws of New York State. This shall not prevent the continuation of any nonconforming industrial use of a property where soil mining products mined off site are used as a raw material.

#### **§ 97-29. Scenic Road Corridor Overlay District (SR).**

- A. Findings and purpose. Special protection of scenic road corridors is necessary to preserve the attractive rural quality of the Town. The purpose of this section is to regulate land uses within designated scenic road corridors to protect the Town's scenic beauty and rural character. This section is intended to apply to those sections of road corridors that substantially retain their scenic character and have not been subject to significant commercial or intensive residential development. The protections in § 97-14D are intended to cover areas that are or will be subject to commercial development.
- B. Boundaries. The Scenic Road Corridor Overlay District includes all land in the RU District shown on the Overlay District Map as part of the SR District, lying within 800 feet of the right-of-way of NY State Routes 17M and 17A or within 500 feet of any other roads shown on the Overlay District Map.
- C. Effect of district. Within the Scenic Road Corridor Overlay District, all of the underlying land use district regulations remain in effect, except as they are specifically modified by this section.
- D. Site plan approval requirement. Within the SR District, site plan approval shall be required for the following, even if such activities or uses are allowed by right without site plan review by the Use Table in § 97-10:
  - (1) Construction of any structure or any addition to a structure greater than 500 square feet in

footprint area, including residential structures.

- (2) Within any one-year period, in any location that is visible from the designated scenic road in winter:
    - (a) Filling or excavation of an area in excess of 5,000 square feet.
    - (b) Clear-cutting of more than 5,000 square feet of vegetation on any parcel.
    - (c) Grading or other alteration of more than 5,000 square feet of the natural landscape.
- E. Site plan approval exemptions. Within the SR District, the site plan approval requirement shall not apply to:
- (1) Agricultural uses.
  - (2) The repair and maintenance of existing structures.
  - (3) Activities carried out pursuant to a site plan or special use permit approved prior to the enactment of this section.
  - (4) Any other activity not included in Subsection D above.
- F. General standards. Within the SR District, site plan approval may only be granted if, with appropriate conditions attached, the proposed activity:
- (1) Will not result in degradation of scenic character and/or will be aesthetically compatible with its surroundings.
  - (2) Will minimize the removal of native vegetation, except where such removal may be necessary to open up scenic views and panoramas.
  - (3) Will locate and cluster buildings and other structures in a manner that minimizes their visibility from the road to the extent practical.
  - (4) Will comply with the requirements in Subsections G through J below, except where site features are screened from the road.
- G. Landscape.
- (1) A continuous green buffer, at least 100 feet deep along Routes 17M and 17A and 50 feet deep along the other scenic roads, shall be maintained. This buffer shall consist of native trees and shrubs, as well as fields, meadows, and lawn areas. Bike paths and/or sidewalks may be constructed within this landscaped buffer. This buffer requirement shall not apply in the immediate area around existing residences located within the buffer area.
  - (2) Shade trees shall be provided within 25 feet of the right-of-way at no more than 40 foot intervals. An applicant for site plan or special permit approval shall not be required to plant more than one shade tree per 1,000 square feet of floor area proposed to be developed on the parcel.
  - (3) To the maximum extent practical existing trees, lawns, and shrubs shall be preserved, unless they are proposed to be replaced by native trees or other native vegetation deemed appropriate by the Planning Board.
- H. Architecture.
- (1) Existing structures with historic or architectural significance shall be retained to the extent practical. Alterations to such structures shall be compatible with the architecture of the existing structure. New structures shall be compatible with the historic structures in their vicinity.
  - (2) Buildings visible from the scenic roads, including canopies for accessory facilities, shall have peaked roofs with a slope of at least 8:12, except that hip roofs with a slope of at least 4:12 and flat roofs that are hidden by a raised cornice shall also be permitted.
  - (3) Windows shall be vertically proportioned and balanced on facades, with width to height ratios

ranging from 1:2 to 3:5. Horizontal windows may be used just below roof eaves ("eyebrow" windows) and as first-floor display windows.

- I. Fences. Chain link fences and stockade or other fence designs that block visual access to land in the corridor shall be prohibited, unless such fences are necessary to screen a preexisting use that does not conform to the requirements of this section.
- J. Rural siting principles. New development in the SR Overlay District shall comply with the rural siting principles in § 97-41.

**§ 97-36. Existing nonconforming lots.**

- A. A lot owned individually and separately and separated in ownership from any adjoining tracts of land on the effective date of this chapter, which has a total lot area or road frontage less than prescribed in this chapter for a small-scale development lot (see § 97-19) may be used for a one-family dwelling, provided such lot shall be developed in conformity with all applicable district regulations other than the minimum lot area, road frontage, and side yards. Existing small lots meeting the above stipulations shall comply with the following in the use of such lot for a one-family dwelling:

**For Lot Frontage  
(feet)**

<b>Greater Than</b>	<b>Less Than/ Equal To</b>	<b>Minimum Side Yard (feet)</b>	<b>Total Both Side Yards (feet)</b>
100	135	20	50
80	100	12	30
60	80	10	27
49	60	7 1/2	1/3 of lot width

- B. A nonconforming lot may be subdivided only if the subdivision plat shows that every subdivided portion of such lot will be merged with adjoining properties to increase the area of such properties, thereby eliminating the nonconforming lot.
- C. Notwithstanding the foregoing provisions, any undeveloped lot in a subdivision which was not properly approved by the Planning Board or Town Board or not filed in the office of the County Clerk, and whose area or dimensions do not comply with the requirements of this chapter shall be considered a violation of this chapter and shall not be protected under Subsection A.

**ARTICLE VII Supplementary Regulations**

**§ 97-40. Supplementary dimensional regulations.**

- A. Setbacks for accessory structures and uses.
  - (1) Any accessory structure attached to a principal building and any detached barn, garage, stable, tennis court, or swimming pool shall comply with the minimum setback requirements of this chapter applicable to the principal building. Other detached accessory structures or uses may encroach into required setback areas provided that they:
    - (a) Are not used for human habitation;
    - (b) Have a footprint no larger than 200 square feet;
    - (c) Do not exceed 16 feet in height;

- (d) Do not occupy more than 10% of a rear setback area;
  - (e) Are set back at least 10 feet from side or rear lot lines;
  - (f) Are not located closer to the street than the front yard setback required for a principal building, except for fences, gates, mailboxes, newspaper receptacles, signs, sand storage bins, bus shelters, and similar roadside structures with less than 100 square feet of footprint, as well as ornamental structures such as entry pillars and statues; and
  - (g) Are not used for housing animals.
- (2) For corner lots, the setback from all streets shall be the same for accessory structures as for principal buildings.
- (3) For watercourse setbacks, see § 97-26D.
- B. Corner lots and through lots. Wherever a side or rear yard is adjacent to a street, the front setback shall apply to such side or rear yard. Corner lots shall be deemed to have two front yards, two side yards, and no rear yard. Corner lots adjacent to three streets shall be deemed to have three front yards, one side yard and no rear yard.
- C. Projections into required yards.
- (1) The following projections into required setbacks shall be permitted:
    - (a) Steps and stairs: four feet into required side or rear setback area.
    - (b) Awnings or movable canopies: six feet into any required setback area.
    - (c) Cornices, eaves, and other similar architectural features: three feet into any required setback area.
  - (2) Carport. An open or enclosed carport shall be considered a part of the building in determining compliance with setback requirements.
  - (3) Porch. An open or screened porch may project eight feet into a front setback area.
  - (4) Driveways. Driveways on lots with 100 feet or more of road frontage shall be set back at least 10 feet from side lot lines. On lots with less than 100 feet of frontage, no side yard setback shall be required.
- D. Height exceptions.
- (1) Height limits shall not apply to any flagpole, radio or television receiving antenna, spire or cupola, chimney, elevator or stair bulkhead, parapet or railing, water tank, or any similar uninhabitable structure, provided that such structure is firmly attached to the roof or side of a building and covers no more than 10% of the roof area.
  - (2) Barns, silos, solar energy systems, wireless communication facilities (subject to Article XIII), and wind energy conversion systems may exceed otherwise applicable height limits, provided that they comply with applicable sections of this Article VII, and provided that for every one foot by which such structures exceed the height limit, the minimum setback requirements are increased by one foot.
  - (3) This Subsection D shall not be construed to permit any structure that is not allowed elsewhere in this chapter.
- E. Fences (including hedges) and walls.
- (1) The setback requirements of this chapter shall not apply to retaining walls of any height or to fences less than six feet high in any side or rear yard, except where corner clearances are required for traffic safety.
  - (2) The setback requirements of this chapter shall not apply to any front yard fences or walls less

than four feet high, except that customary agricultural wire, board, or split rail fencing which does not obstruct visibility may be higher.

- F. Corner clearance/visibility at intersections. Where necessary to provide visibility for traffic safety, the Highway Superintendent or the Planning Board may require all or a portion of any corner lot to be cleared of all growth (except isolated trees) and other obstructions that block visibility of traffic on an intersecting street. The Planning Board may require excavation to achieve visibility. This provision shall not apply to intersections with traffic signals or four-way stop signs.

#### **§ 97-41. Rural siting principles.**

The following principles shall apply to open space development, conservation density development, PACs, new development within the SR Overlay District, and the siting of nonresidential uses that are subject to site plan or special permit approval. They are recommended but not required for the siting of individual residences and small-scale development.

- A. Wherever feasible, retain and reuse existing old farm roads and lanes rather than constructing new roads or driveways. This minimizes clearing and disruption of the landscape and takes advantage of the attractive way that old lanes are often lined with trees and stone walls. (This is not appropriate where reuse of a road would require widening in a manner that destroys trees or stone walls.)
- B. Preserve stone walls and hedgerows. These traditional landscape features define outdoor areas in a natural way and create corridors useful for wildlife. Using these features as property lines is often appropriate, as long as setback requirements do not result in constructing buildings in the middle of fields.
- C. Avoid placing buildings in the middle of open fields. Place them either at the edges of fields or in wooded areas. Septic systems and leach fields may be located in fields, however.
- D. Use existing vegetation and topography to buffer and screen new buildings if possible, unless they are designed and located close to the road in the manner historically found in the Town. Group buildings in clusters or tuck them behind tree lines or knolls rather than spreading them out across the landscape in a sprawl pattern.
- E. Minimize clearing of vegetation at the edge of the road, clearing only as much as is necessary to create a driveway entrance with adequate sight distance. Use curves in the driveway to increase the screening of buildings. This principle does not apply where the growth of roadside vegetation obscures important views and clearing is therefore desirable.
- F. Site buildings so that they do not protrude above treetops of hills or crest lines of hills as seen from public places and public roads. Use vegetation as a backdrop to reduce the prominence of the structure. Wherever possible, open up views by selective cutting of small trees and pruning lower branches of large trees, rather than by clearing large areas or removing mature trees.
- G. Minimize crossing of steep slopes with roads and driveways. When building on slopes, take advantage of the topography by building multilevel structures with entrances on more than one level (e.g., walkout basements and garages under buildings) rather than performing excessive grading. Use the flattest portions of the site for subsurface sewage disposal systems and parking areas.
- H. To the greatest extent practicable, the development shall conform to the natural terrain and retain the natural landscaping.

#### **§ 97-46. Steep slope regulations.**

The Town finds that the alteration of steep slope areas poses potential risks of erosion, sedimentation, landslides, and the degradation of scenic views. Accordingly, the following requirements are hereby imposed in areas with slopes exceeding 25%.

- A. For any subdivision, special permit, site plan, building permit, zoning permit, or variance that involves the disturbance of slopes greater than 25%, conditions shall be attached to ensure that:
  - (1) Adequate erosion control and drainage measures will be in place so that erosion and sedimentation do not occur during or after construction.
  - (2) Cutting of trees, shrubs, and other natural vegetation will be minimized, except in conjunction with logging operations performed pursuant to applicable guidelines of the New York State Department of Environmental Conservation.
  - (3) Safety hazards will not be created due to excessive road or driveway grades or due to potential subsidence, road washouts, landslides, flooding, or avalanches.
  - (4) Proper engineering review of plans and construction activities will be conducted by the Town to ensure compliance with this section, paid for by escrow deposits paid by the applicant.
  - (5) No certificate of occupancy will be granted until all erosion control and drainage measures required pursuant to this section have been satisfactorily completed.
- B. Slope determinations shall be made based upon the topographic information required for a particular approval, along with such other topographic information as a reviewing board or official shall reasonably require or the applicant shall offer. In cases of uncertainty or dispute, a qualified professional retained by the Town, at the applicant's expense, shall determine the location of regulated slopes.
- C. For purposes of determining the location of steep slope areas, only contiguous slopes containing at least 2,000 square feet of steep slopes with at least 10 feet of continuous horizontal width perpendicular to the slope shall be considered. Within the HR District, contiguous slopes containing at least 1,500 square feet shall be considered.

#### **§ 97-48. Off-street parking and loading.**

- A. Off-street parking.
  - (1) Purpose. The Town finds that large and highly visible parking areas represent one of the most objectionable aspects of commercial development. Such parking lots damage the historic layout and architectural fabric of hamlet areas, harm the natural environment and visual character of the community, interfere with pedestrian safety and accessibility, and reduce the quality of life in developed areas. However, the Town also recognizes that inadequate parking can diminish quality of life by creating traffic congestion, safety hazards, and inconvenience. The Town therefore seeks to balance the need for adequate parking with the need to minimize harm resulting from the provision of parking and to avoid the negative impacts of excessive parking lot construction.
  - (2) Minimum parking required for residential uses.
    - (a) For a single-family or two-family dwelling: two spaces per dwelling unit.
    - (b) For a multifamily dwelling: 1 1/2 spaces per dwelling unit.
    - (c) These requirements may be reduced for dwelling units with less than 1,000 square feet of floor space, senior citizen and Planned Adult Community housing, mixed-use development, or other appropriate circumstances if the Planning Board determines that such reductions are warranted.
  - (3) Parking requirements for nonresidential uses. The number and layout of parking spaces for

nonresidential uses shall be based on the need to protect public safety and convenience while minimizing harm to the character of the community and to environmental, historic, and scenic resources. Since nonresidential uses vary widely in their need for off-street parking, parking requirements shall be based on the specific operational characteristics of the proposed uses. The provisional parking standards in Subsection A(3)(a) below shall be applied and may be varied by the Planning Board according to the criteria in Subsection A(3)(b) below.

- (a) Provisional parking standards.
  - [1] Retail or service business uses: four spaces per 1,000 square feet of enclosed floor space, excluding space used for storage.
  - [2] Industrial/warehouse uses: two spaces per 1,000 square feet of enclosed floor space or one space per employee.
  - [3] Office uses: three spaces per 1,000 square feet of floor space.
  - [4] Lodging facility: one space for each bedroom plus one space for each nonresident employee and one space for every 200 square feet of floor space for meetings and functions
  - [5] Restaurants, theaters, and other places of public assembly: one space for every three seats.
  - [6] Uses not listed above: as appropriate to the circumstances.
- (b) Criteria for applying provisional standards. In applying or modifying the provisional parking standards for any proposed use, the Planning Board shall consider:
  - [1] The maximum number of vehicles that would actually be parked at the use at times of peak usage. Parking spaces shall be sufficient to satisfy 85% of the anticipated peak demand. The likelihood of people walking, bicycling, or carpooling to the proposed use shall be taken into consideration.
  - [2] The size of the structure(s) and the site.
  - [3] The environmental, scenic, or historic sensitivity of the site (including applicable limitations on impermeable surfaces). In cases where sufficient area for parking cannot be created on the site without disturbance to these resource values, the Planning Board may require a reduction in the size of the structure so that the available parking will be sufficient.
  - [4] The availability of safely usable on-street parking.
  - [5] The availability of off-site off-street parking within 400 feet that is open to the public, owned or controlled by the applicant, or available on a shared-use basis, provided that the applicant dedicates such off-site land for public parking or demonstrates a legal right to shared use.
  - [6] The requirements for parking for the disabled as prescribed by the Americans with Disabilities Act.
- (c) Set-aside for future parking. The Planning Board may, as a condition of reducing the provisional parking standards, require an applicant to set aside additional land to meet potential future parking needs. Such land may remain in its natural state or be attractively landscaped but may not be used in a manner that would prevent it from being developed for parking in the future.
- (d) Parking lot as accessory use to residential dwelling. Parking spaces may be made available for nonresidential uses on residential lots in the HR District by special permit. Such spaces shall be screened from adjoining properties and roads and shall not exceed five spaces per lot.

- (e) Fee in lieu of parking space. Where the required spaces cannot be provided on site and are not currently available on the street and/or in municipal parking lots, the applicant shall pay a fee in lieu of one or more required spaces in an amount established by the Town Board sufficient to cover the estimated cost of providing additional public parking spaces. Such fee shall be kept in a dedicated fund for municipal parking purposes and shall be used for such purposes within three years or returned to the applicant (or the applicant's successor).
- (4) Design, layout and construction of parking areas.
- (a) Location and screening.
    - [1] All off-street parking shall be located behind or to the side of the principal building, except as provided in Subsection A(4)(a)[2] and [3] below. Parking spaces located in a side yard shall, if possible, be screened from public view. Adjoining parking areas shall be connected directly to one another or to a service road or alley wherever feasible to reduce turning movements onto roads.
    - [2] Within any district, parking may be located anywhere on the site if it is screened from public roads and adjoining properties.
    - [3] Within the HC District only, a maximum of one row of on-site parallel, perpendicular, or diagonal parking may be located in front of the principal building but not within the required front yard. If any parking spaces are located in front of the principal building, the minimum front yard setback shall be increased by 30 feet and shall be planted with alternating double rows of trees or, if wooded, left in its natural state.
    - [4] If a parking lot containing 10 or more spaces lies within or borders the RU District, a buffer zone at least 50 feet wide shall be planted with trees or dense vegetation to provide screening along all boundary lines, unless the adjoining properties are in the HC, CO, or I District or contain a nonresidential use.
    - [5] Parking layouts in the HR District shall follow the Hamlet Design Guidelines cited in § 97-5.
  - (b) Construction of parking areas. Parking areas shall be surfaced with a suitable durable surface appropriate for the use of the land, with adequate drainage. Surfacing, grading, and drainage shall facilitate groundwater recharge by minimizing impermeable pavement and runoff. Overflow or peak period parking surfaces shall be permeable. Oil traps may be required for larger paved parking lots. Parking areas shall comply with all applicable requirements of the Americans with Disabilities Act.
  - (c) Landscaping. Parking areas shall be designed and landscaped to avoid long, uninterrupted rows of vehicles by breaking them into separate parking lots divided by tree lines, alleys, pedestrian areas, or buildings. Parking lots containing more than 40 spaces shall be divided into smaller areas by landscaped islands at least 15 feet wide located no more than 120 feet apart. All islands shall be planted with three-inch-minimum-caliper shade trees at a density of at least one tree for every 20 linear feet of island. Parking lots containing fewer than 40 spaces shall provide at least one three-inch-minimum-caliper shade tree per eight spaces.
  - (d) Lighting. Lighting within parking lots shall be on low poles of 12 feet to 15 feet maximum height, with color-corrected lamps and cutoff luminaires designed to minimize glare and light pollution. Design of poles and luminaires shall be compatible with the style of the architecture and adjoining streetscape treatment. Sidewalks leading from parking lots shall be lit with bollard lighting and indirect illumination of buildings and vegetation.
  - (e) Nonconforming parking lots shall be brought into conformity with this Subsection A(4) to the extent practical whenever a site plan or special permit application is filed for an expansion or change of the use.

- B. Off-street loading. Loading docks and service access areas shall be located in a manner that minimizes visual intrusion on public spaces and ensures pedestrian and automobile safety by separating truck traffic and loading operations from pedestrian and automobile circulation. Where appropriate, loading docks shall be screened by walls extending from a building face or placed within arcades or other architectural features designed to blend them with the architecture of the building. Adjacent buildings shall be sited to allow shared access to loading docks through the use of common loading zones or service alleys.

#### **§ 97-49. Signs.**

- A. Purpose. The purpose of this section is to control the location, size, quantity, character, and lighting of signs in order to maintain the attractive appearance of the Town and avoid conditions of clutter and unsightliness. Through these regulations the Town seeks to:
- (1) Protect public health and safety by ensuring that signs do not create dangerous conditions, obstruct vision necessary for traffic safety, or confuse, distract, or mislead motorists, bicyclists, or pedestrians; and
  - (2) Promote the general welfare by creating a more attractive visual environment that preserves the Town's historic and rural character, protects property values, encourages economic growth, and minimizes negative impacts of signs on adjoining properties.
- B. Exempt signs. The following types of signs may be erected and maintained without zoning permits, board review, or fees, provided that these signs comply with the general regulations in § 97-49D and with all other requirements of this chapter. As used in this Subsection B, the term "residential uses" shall include mixed-use lots on which at least 50% of the floor space is residential.
- (1) Permanent signs.
    - (a) Signs not exceeding one square foot in area and bearing only property numbers, postal route box numbers, or names of occupants of premises.
    - (b) One sign, not exceeding 24 square feet in area, designating a farm.
    - (c) Flags and insignia of any government, except when displayed in connection with commercial promotion.
    - (d) Noncommercial information signs. Signs providing noncommercial information to the public, including community service information signs, public utility information signs, safety signs, danger signs, no trespassing signs, signs indicating scenic or historic points of interest, traffic control signs, directional parking signs, and all signs erected by a public officer in the performance of a public duty.
    - (e) One on-premises sign, either freestanding or attached, in connection with any residential building, for permitted home occupations, not exceeding three square feet and set back at least 10 feet from the traveled way or at the right-of-way, whichever is greater. Such signs shall state name and occupation only and shall not be illuminated.
  - (2) Temporary signs.
    - (a) Temporary nonilluminated "For Sale" or "For Rent" real estate signs and signs of similar nature, concerning the premises upon which the sign is located. For residential uses, one sign per lot, not exceeding six square feet per side. For nonresidential uses, one sign per lot, not exceeding 12 square feet, set back at least 15 feet from all property lines. All such signs shall be removed within three days after closing of the sale, lease, or rental of the premises.
    - (b) Temporary nonilluminated window signs and posters not exceeding 25% of each window surface. (Such signs are normally used to advertise specific products or sales and are removed or replaced on a regular basis.)

- (c) Two temporary signs for a roadside stand selling agricultural produce grown on the premises in season, provided that such signs do not exceed 32 square feet each, are set back at least five feet from the public right-of-way, and are removed at the end of the selling season.
- (d) On-premises signs for garage sales and auctions, not exceeding four square feet, for a period not exceeding seven days.
- (e) Posters, banners, and signs, not exceeding six square feet on residential uses or 16 square feet on nonresidential uses, for a period not exceeding 60 days.
- (f) One sign, not exceeding six square feet on residential uses or 16 square feet on nonresidential uses, listing the architect, engineer, contractor and/or owner, on premises where construction, renovation, or repair is in progress, limited to the duration of the construction period.
- (g) Signs, portable or otherwise, advertising special events for nonprofit organizations, such as firemen's field days, church bazaars, bake sales, etc. Such signs shall not exceed 24 square feet in area and shall not be displayed for more than 30 days.
- (h) Signs required to be posted in connection with hearings on development applications, as provided in § 97-72F(3).
- (i) Signs marking areas of highway or utility construction, repair, or maintenance.

C. Prohibited signs.

- (1) No off-premises commercial signs shall be allowed, except that signs not exceeding four square feet directing the public to specific establishments may be allowed with site plan approval by the Planning Board.
- (2) No exterior sign shall be illuminated internally, and no sign shall contain flashing, intermittent, rotating, or moving lights, except that one neon sign not exceeding three square feet may be allowed inside the window of a business establishment.
- (3) Portable signs that are mounted on wheels, including motor vehicles or trailers parked in one location for more than 30 days in any calendar year and functioning primarily as signs, shall be prohibited.
- (4) No permanent sign or any part thereof shall contain or consist of any moving, rotating, or revolving device.

D. General sign regulations. All signs that are not prohibited by Subsection C above are regulated by this section. Signs that are not exempt under Subsection B shall require building permits. However, if signs are proposed in connection with any special permit or site plan application, such signs shall be reviewed and approved under applicable criteria for the principal uses and shall not require a separate building permit if constructed pursuant to an approved plan.

- (1) Permit applications. Applications for new signs or proposed changes in existing signs shall include a scaled drawing showing the type of lettering, sign dimensions, colors, materials, and method of illumination, if any, and a plan showing the location of the sign on the building or property. A building permit shall be required for any change in the size, shape, lighting, materials, or location of an existing sign. No building permit shall be required if only the words or images on the sign are changed.
- (2) Location and maintenance.
  - (a) Signs shall be erected, constructed, and maintained in a manner that does not obstruct traffic movement or visibility or cause any hazard to public safety.
  - (b) No signs shall be placed, painted, or drawn on utility poles, bridges, culverts, or other road or utility structures or signposts, or on trees, rocks, or other natural features, except that

signs not exceeding one square foot posting property boundaries may be placed on trees. No signs shall be placed on municipally owned property without permission of the Town Board.

- (c) All signs shall be kept in good repair. Painted surfaces shall be kept neatly painted at all times.
- (3) Sign area and height.
- (a) Freestanding signs. Individual freestanding signs shall not exceed 16 square feet in area nor 10 feet in height. Freestanding signs that are grouped together on one sign structure shall not exceed a cumulative total of 50 square feet per structure, and the individual components of such groupings shall be large enough to be read safely by passing motorists traveling at the speed limit.
  - (b) Projecting signs. Projecting signs shall not exceed 12 square feet in area and shall not project more than four feet from the side of the building. The bottom of such signs shall be no lower than 10 feet and no higher than 15 feet above the finished grade.
  - (c) Wall-mounted signs. Wall-mounted signs shall not exceed 32 square feet, extend more than one foot from the surface of the wall, cover more than 10% of the front surface of a building, cover a window, obscure architectural detailing, interrupt a roofline, or be placed on the roof of a structure.
  - (d) Window signs. Signs placed in windows shall not cover more than 25% of the window area.
  - (e) Awning signs. The valance portion of an awning may be used as a sign, with a maximum of 12 square feet of sign area. The bottom of the awning shall be at least eight feet above the finished grade.
  - (f) Sign area bonuses. To encourage design excellence, the maximum sizes for individual signs specified above may be increased if the criteria below are satisfied. Sign bonuses shall not apply to exempt signs or to freestanding signs that exceed six feet in height. Although a separate increase is granted for compliance with each of the criteria and the total is cumulative, each percentage increase is based on the original sign size limitation. Maximum sign sizes shall be allowed to increase as follows:
    - [1] Fifteen percent when the sign is made of wood.
    - [2] Fifteen percent if the sign is designed to contain only the identification of the establishment without advertising any products sold on the premises.
    - [3] Twenty percent if the sign is the only sign identifying the establishment or its principal product.
    - [4] Twenty percent if the sign is not designed or used with illumination.
    - [5] Thirty percent if the Planning Board finds that the sign has special aesthetic merit or that additional size is necessary or appropriate due to such circumstances as the sign's distance from the road, the design speed of the road, or the size of the building on which the sign is placed. In order to take advantage of this Subsection D(3)(f)[5], an applicant not otherwise subject to site plan or special permit review may file a site plan application with the Planning Board. The content and review of such application shall be limited to consideration of signs.
  - (g) Maximum cumulative sign area per lot. The maximum amount of total sign area per lot shall be one square foot of total sign area for every two linear feet of lot frontage on a public street.
  - (h) Maximum area per sign. Notwithstanding any provision of this section to the contrary, no

sign or grouping of signs shall be greater than 100 square feet in size.

- (4) Illumination. No illuminated sign or lighting device shall be placed or directed so that its light is directed or beamed:
  - (a) Toward a residence;
  - (b) Upon a public street, highway, sidewalk, or adjacent premises in a manner that causes glare or reflection sufficient to constitute a nuisance or a traffic hazard; or
  - (c) Upward toward the sky.
- (5) Sign Design Manual. The Town Board may adopt a sign design manual developed specifically for the Town of Goshen or published for the general public or for another municipality. If such a sign design manual is adopted, it shall be incorporated by reference into this chapter.

E. Removal of signs.

- (1) Signs advertising an establishment or institution that has permanently closed shall be removed within one month of such closure.
- (2) The Building Inspector shall notify in writing the owner of any sign which no longer serves the purpose for which it was erected or which poses a safety hazard to the public or is otherwise in violation of this section. The Building Inspector shall order such owner to remove or correct the unsatisfactory condition of such sign within 20 days from the date of such notice.
- (3) Upon failure to comply with such notice within the prescribed time, the Building Inspector is hereby authorized to secure, repair, remove, or cause the removal of such sign. All costs of securing, repairing, or removing such sign, including related legal fees and expenses, shall be assessed against the land on which the sign is located and shall be levied and collected in the same manner as provided in the Town Law for the levy and collection of a special ad valorem levy.
- (4) Emergency provisions. Where it reasonably appears that there is imminent danger to life, safety, or health or imminent damage to property unless a sign is immediately repaired, secured, or demolished and removed, the Town Board may, by resolution, authorize the Building Inspector to immediately cause the repair, securing, or demolition of such unsafe sign. The expense of such remedial actions shall be a charge against the land on which the sign is located and shall be assessed, levied, and collected as provided in Subsection E(3) above.

**§ 97-84. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

**ACCESSORY APARTMENT** — A dwelling unit occupying a lesser of 1,000 square feet or 30% of the floor space of an owner-occupied structure containing a principal use that is single-family residential or nonresidential, or a dwelling unit no larger than 1,000 square feet located on the same lot as an owner-occupied single-family residential dwelling.

**ACCESSORY STRUCTURE** — A structure detached from and subordinate to a principal building on the same lot and used for purposes customarily incidental to those of the principal building or use, including accessory apartments. The physical connection of a principal structure to an accessory structure by means of a breezeway, walkway, stairway, or other form of unenclosed connection does not make the accessory structure into part of the principal structure.

**ACCESSORY USE** — A use customarily incidental and subordinate to the principal use or building.

**ACCESS STRIP** — A strip of land abutting a public or private road, providing access to a rear lot (see

§ 97-19F).

**ADULT ENTERTAINMENT BUSINESS** — A bookstore, video store, nightclub, movie theater, retail store, or other establishment which prominently features entertainment or materials with sexually explicit content. An establishment which sells such materials as an incidental part of its business or which presents such material or entertainment primarily as a form of legitimate artistic expression shall not be considered an adult entertainment business.

**AFFORDABLE HOUSING** — Housing (both ownership and rental) that is affordable to the people who live and work in the Town and Village of Goshen and cannot afford market-rate housing in the Town, as determined by the Affordable Housing Committee. See § 97-24B.

**AGRICULTURAL DATA STATEMENT** — An identification of farm operations within an agricultural district located within 500 feet of the boundary of property upon which a subdivision is proposed, as provided in § 305-a of the Agriculture and Markets Law. An agricultural data statement shall include the following information: the name and address of the applicant; a description of the proposed project and its location; the name and address of any owner of land within the agricultural district, which land contains farm operations and is located within 500 feet of the boundary of the property upon which the project is proposed; and a Tax Map or other map showing the site of the proposed project relative to the location of farm operations identified in the agricultural data statement.

**AGRICULTURE** — The commercial utilization of land, water, and structures for the raising, production, preservation, processing, storage, and sale of agricultural commodities such as crops, plants, flowers, vines, trees, sod, shrubs, livestock, poultry, fish, shellfish, honey, Christmas trees, or dairy products, including a boarding stable and riding academy, but not including light industry, or the use of land primarily for the disposal of offal or garbage. A produce sales facility operated in conjunction with a farm operation (as defined herein) shall be deemed to be an agricultural accessory use. Agricultural activities on residential parcel of seven acres or less shall be deemed to be a residential accessory use. All other agricultural uses shall be deemed to be commercial agriculture as defined herein.

**ALTERATION** — As applied to a structure, a change to or rearrangement of the structural parts or exterior appearance of such structure, or any expansion thereof, whether by extension of any side or by any increase in height, or the moving of such structure from one location to another.

**AMENITIES** — Features of a development that provide comfort and convenience to the residents of a development, such as picnic areas, community centers, lawn areas, walking paths and playgrounds.

**APPLICANT** — The owner of a property, including any person, corporation, or other entity authorized by the owner, who is applying for a building permit, zoning permit, certificate of occupancy, special permit, site plan or subdivision approval, variance, or zoning amendment.

**AUTOMOBILE SERVICE STATION** — Any area of land, including structures thereon, that is used or designed to be used for the supply of gasoline or oil or other fuel for the propulsion of motor vehicles, and which may include facilities used or designed to be used for polishing, greasing, washing, spraying, dry cleaning, or otherwise cleaning, servicing, or repairing such motor vehicles.

**BED-AND-BREAKFAST** — A dwelling in which overnight accommodations not exceeding eight bedrooms and breakfast are provided for transient guests for compensation. A bed-and-breakfast must be the primary residence of the owner/proprietor.

**BOARDING STABLE** — An establishment where horses are stabled for compensation, including establishments where riding lessons are given, provided that the establishment is not a "riding academy."

**BUILDING** — A structure having a roof supported by columns or walls for the shelter, support, or enclosure of persons, animals, or property.

**BUILDING HEIGHT** — The vertical distance measured from the average elevation of the proposed finished grade adjoining the building to the average height of the highest roof surface. All structures shall have a maximum building height of 35 feet unless otherwise provided in this chapter.

**BUILDING INSPECTOR** — The Town official charged with the administration and enforcement of this chapter and Chapter 49 of the Goshen Town Code.

**BUILDING, PRINCIPAL** — A building or structure in which is conducted the main or principal use of the lot on which it is located.

**BURIAL GROUND** — Any piece of land where a person is buried, notwithstanding that the site may not be recognized as a traditional cemetery.

**CEMETERY** — Land dedicated for use for the burial of deceased persons, including all public, private, religious, historic and/or family cemeteries, as well as columbariums, mausoleums, and mortuaries when operated as part of a cemetery and within its boundaries, but excluding crematoria.

**CHANGE OF USE** — The initiation of a use that is in a different use category, as listed on the Use Table, from the existing use of the site or structure. A change of ownership, tenancy, or occupancy, or a change from one use to another within the same category, shall not be considered a change of use. See § 97-10E.

**CHARITABLE ORGANIZATION** — A not-for-profit corporation or association organized for charitable purposes, including but not limited to education, social welfare, environmental conservation, scientific research, cultural enrichment, and the arts.

**CLEAR-CUTTING** — Any cutting of all or substantially all trees over six inches in diameter at breast height.

**CLUB, MEMBERSHIP** — Premises used by a not-for-profit organization catering exclusively to members and their guests for social, recreational, athletic, or similar purposes.

**COMMERCIAL HORSE BOARDING OPERATION** — An agricultural enterprise, consisting of at least seven acres and boarding at least 10 horses, regardless of ownership, that receives \$10,000 or more in gross receipts annually from fees generated either through the boarding of horses or through the production for sale of crops, livestock, and livestock products, or through both such boarding and such production, not including operations whose primary on-site function is horse racing.

**COMMERCIAL LOGGING** — The cutting and sale of 10 acres or more of standing timber.

**COMMON DRIVEWAY** — A driveway serving no more than four lots, owned in common or created by reciprocal easements.

**COMPLETE APPLICATION** — An application for a special permit, site plan or subdivision approval, zoning amendment, or variance found by the reviewing board to satisfy all information requirements of this chapter and of the New York State Environmental Quality Review Act ("SEQRA"), for which either a negative declaration has been issued or a Findings Statement has been accepted as satisfactory following a positive declaration, all pursuant to SEQRA regulations. .

**COMPOSTING FACILITY** — A facility which produces compost for sale from the organic material in leaves, agricultural wastes, woodchips, grass clippings, pine needles, plants, stumps, tree trunks, yard waste, branches, brush, food and manure. This definition specifically excludes inorganic material and animal products and by-products other than manure. Composting which occurs as a normal household practice or which is part of a farm operation, with no material brought in from off-site or sold to the public, shall not be considered a composting facility as defined herein, and shall be deemed a customary accessory use allowed by right. See § 97-58C.

**COMPREHENSIVE PLAN** — The Comprehensive Master Plan adopted by the Town Board for the future preservation and development of the Town of Goshen pursuant to § 272-a of the Town Law, including any part of such plan separately adopted and any amendment to such plan.

**CONFORMITY/CONFORMING** — Complying with the use, density, dimensional, and other standards of this chapter, or permitted to deviate therefrom by special permit, site plan approval, or variance.

**CONSERVATION EASEMENT** — A perpetual restriction on the use of land, created in accordance with the provisions of Article 49, Title 3, of the Environmental Conservation Law or § 247 of the General Municipal Law, for the purposes of conservation of open space, agricultural land, and natural, cultural,

historic, and scenic resources.

**CONSTRAINED LAND** — Lands consisting of wetlands, water bodies, watercourses, one-hundred year floodplains, cemeteries, easements and rights of way restricting land use or slopes over 25 percent which contain 2,000 square feet or more of at least ten foot wide contiguous sloped areas.

**CONSTRUCTION TRAILER** — A mobile home unit used for nonresidential purposes associated with on-site construction.

**CORNER LOT** — See "lot, corner."

**CRAFT WORKSHOP** — A place where artists, artisans, craftsmen, and other skilled tradespeople produce custom-made art or craft products, including but not limited to baskets, cabinets, ceramics, clothing, flower arrangements, jewelry, metalwork, musical instruments, paintings, pottery, sculpture, toys, and weaving.

**CREST** — The highest part of a hill, ridge or ridge-like formation.

**DEVELOPMENT** — Any man-made change to improved or unimproved real estate, including but not limited to construction or alteration of buildings or other structures, as well as mining, dredging, filling, paving, excavations, or drilling operations.

**DRIVEWAY** — A private way providing vehicular access from a public or private road to a residence or to a commercial or noncommercial establishment.

**DUMP** — A lot or land or part thereof used for the disposal by abandonment, dumping, burial, burning or any other means and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof or waste materials of any kind.

**DWELLING** — A building designed or used exclusively as living quarters for one or more families.

**DWELLING, MULTIFAMILY** — A dwelling or dwellings containing separate living units for three or more families on an individual lot.

**DWELLING, SINGLE-FAMILY** — A detached building designed for the use of one household, including one or more persons living as a family, and wherein not more than three boarders are sheltered and/or fed for compensation.

**DWELLING, TWO-FAMILY** — A detached building containing two dwelling units.

**DWELLING UNIT** — A building or portion thereof providing complete housekeeping facilities for one family.

**EROSION** — The detachment and movement of soil or rock fragments by water, wind, ice, or gravity.

**FAMILY** — One person, or a group of two or more persons living and cooking together in the same dwelling unit as a single housekeeping entity.

**FARM OPERATION** — Land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a "commercial horse boarding operation." Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

**FENCE** — A hedge, structure or partition erected for the purpose of enclosing a piece of land or to divide a piece of land into distinct portions or to separate two contiguous properties.

**FLOODPLAIN/ONE-HUNDRED-YEAR FLOODPLAIN** — Land subject to a one-percent or greater chance of flooding in any given year.

**FLOOR SPACE/FLOOR AREA** — The sum of the areas of habitable or commercially usable space on all floors of a structure, including the interior floor area of all rooms (including bathrooms and kitchens), closets, pantries, and hallways that are part of a dwelling unit or inside a commercial building, excluding cellars or unfinished basements.

**FOOTPRINT** — Area of the ground covered by a structure, including the foundation and all areas enclosed by exterior walls and footings and covered by roofing. In the case of party-wall buildings, each unit shall be considered a separate structure for purposes of measuring footprint area.

**FORESTRY** — Use or management, including commercial logging, of a forest, woodland, or tree plantation, and related research and educational activities, including the construction, alteration, or maintenance of roads, skidways, landings, fences, forest drainage systems, barns, sheds, garages, and research, educational, or administrative buildings or cabins directly and customarily associated with forestry use.

**FRONT** — The side of a building or structure parallel to and closest to a road or street. On a corner lot, both sides of a building facing the street shall be considered the front.

**GAZEBO** — An unenclosed structure not exceeding 12 feet in height without solid walls, screens, electricity, or plumbing.

**GLARE** — Spillover of artificial light beyond the area intended for illumination in a manner which either impairs vision or beams light onto adjoining properties or toward the sky.

**GRADE PLANE** — A reference plane representing the average of finished ground level adjoining the building at exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than six feet (1,829 mm) from the building, between the building and a point six feet (1,829 mm) from the building.

**GRADING** — Any excavation, alteration of land contours, grubbing, filling, or stockpiling of earth materials.

**HEALTH CARE FACILITY** — A hospital, nursing home, medical clinic, or office building for doctors and other medical personnel.

**HOME OCCUPATION** — An occupation, trade, profession, or other business activity resulting in a product or service for compensation, conducted wholly or partly in a dwelling unit or accessory structure.

**HOTEL** — See "lodging facility."

**IMPERVIOUS SURFACE** — Any structure, surface, or material that substantially reduces or prevents absorption of stormwater into the ground.

**IMPERVIOUS SURFACE COVERAGE** — The ratio between impervious surface and total land area of a lot (excluding wetlands, watercourses, and floodplains) expressed as the percentage of land covered by impervious surfaces.

**INTERIOR ROAD** — A road constructed off of an existing public street that provides access to the interior of a parcel.

**JUNKYARD** — A lot, land or buildings or part thereof used for or occupied by the deposit, collection or storage of used or discarded materials, including but not limited to wastepaper, rags or scrap material; used building materials, house furnishings, machinery or parts thereof; or used or discarded motor vehicles or parts thereof, with or without the dismantling, wrecking, processing, salvage, sale or other use or disposition of the same. The deposit or storage on a lot, vacant or improved, of more than one motor vehicle, unlicensed and no longer in condition for legal use on the public highway, for more than two weeks in any residential district, or more than two such motor vehicles for more than two weeks in any nonresidential district, shall be deemed to be a "junkyard."

**KENNEL** — Any establishment including cages, dog runs, and structures wherein more than six dogs which are over six months old are kept for sale, boarding, care, or breeding for which a fee is charged.

**LANDFILL** — A disposal facility as defined under Part 360, Solid Waste Management Facilities, Title 6 of the New York State Official Compilation of Codes, Rules and Regulations, latest revision, and associated definitions.

**LIGHT INDUSTRY** — Manufacture, assembly, treatment, processing, or packaging of products that does not emit objectionable levels of smoke, noise, dust, odor, glare, or vibration beyond the property boundaries.

**LODGING FACILITY** — Any hotel, motel, inn, or other establishment providing sleeping accommodations for transient guests, with or without a dining room or restaurant, excluding bed-and-breakfast establishments.

**LOT, CORNER** — A lot at the junction of and abutting on two or more intersecting roads.

**LOT LINES** — The property lines that bound a lot as defined herein.

**LOT OF RECORD** — Any lot which has been established as such by plat, survey record, or deed prior to the date of this chapter as shown on the records in the office of the County Clerk.

**LOT/PARCEL** — An area of land with definite boundaries, all parts of which are owned by the same person(s) or entities, the boundaries of which were established either by the filing of an approved subdivision plat or by the recording of a deed prior to the adoption of Subdivision Regulations of the Town of Goshen on June 17, 1968.

**LOT, REAR** — A lot on which the buildable area is located generally to the rear of other lots having frontage on the same road as such lot and having access to the road via a strip of land that does not have the minimum road frontage ordinarily required in the land use district.

**LOT, THROUGH** — A lot which faces on two streets at opposite ends of the lot and which is not a corner lot.

**MAJOR PROJECT** — A proposed use that requires a special permit or site plan approval and that exceeds any of the thresholds for a minor project.

**MEMBERSHIP CLUB** — See "club, membership."

**MINOR PROJECT** — A use or combination of uses on a lot or a series of adjoining lots that requires either site plan review or a special permit and that, over a three-year period, falls under the following thresholds:

- A. Construction of four multifamily dwelling units or a lodging facility with six bedrooms.
- B. Construction of facilities or structures for a nonresidential use covering 3,000 square feet of building footprint.
- C. Alteration of existing structures or expansion of such structures by 1,000 square feet.
- D. Conversion of existing structures totaling 5,000 square feet to another use.
- E. Alteration and active use of 10,000 square feet of land, with or without structures.
- F. Soil mining that does not require a Department of Environmental Conservation permit.

**OUTDOOR STORAGE AREA** — Land used for the keeping of goods, wares, equipment, or supplies outside of a structure.

**PETROLEUM** — Oil or petroleum of any kind and in any form, including but not limited to oil, petroleum, fuel oil, oil sludge, oil refuse, oil mixed with other wastes and crude oils, gasoline and kerosene.

**PLANNED ADULT COMMUNITY** — A development in which the residential occupants are restricted in age, as described in § 97-15(P).

**PLAT** — A map or plan submitted to the Planning Board as part of an application for subdivision approval.

**PLOT PLAN** — A map or plan showing the boundaries of a parcel and all structures and important physical features on it, drawn to scale with accurate dimensions, and submitted with an application for a minor project special permit or a variance.

PREMISES — A lot, together with all the structures and uses thereon.

PRINCIPAL BUILDING — See "building, principal."

PRIVATE ROAD — A privately owned road held in common ownership or easement by a homeowners' association.

PUBLIC SEWER AND PUBLIC WATER — Central or communal sewage collection and/or treatment and central or communal water supply systems approved by the Town Board for operation and maintenance, including systems involving common septic tanks or leach fields or other forms of decentralized sewage treatment managed by an improvement district or sewage disposal management district.

PUBLIC UTILITY FACILITY — An installation used by a public agency or franchised public utility to supply or transmit electric, gas, water, cable television, telephone, or other utility service, excluding electric power plants, windmills and gas wells. Included are such facilities as electric substations, high-voltage transmission lines, pump stations, water supply wells, water towers, communication towers, and telephone substations. Utility distribution facilities serving customers directly are considered customary accessory uses, not public utility facilities.

RADIATION — Ionizing radiation; that is, any alpha particle, beta particle, gamma ray, x-ray, neutron, high-speed proton, and any other atomic particle producing ionization, but shall not mean any sound or radio wave, or visible, infrared, or ultraviolet light.

RADIOACTIVE MATERIAL — Any material in any form that emits radiation spontaneously, excluding those radioactive materials or devices containing radioactive materials whose receipt, possession, use and transfer are exempt from licensing and regulatory control pursuant to regulations of the New York State Department of Labor or United States Nuclear Regulatory Commission.

REAR LOT — See "lot, rear."

RECREATION FACILITY — An area of land or water set aside, or reserved for use by residents of a development, designed and equipped for the conduct of sports and leisure-time activities, including areas for aerobic exercises, game courts, swimming, etc. The number and type of facilities should be chosen to anticipate a range of property owners.

RECREATIONAL BUSINESS — A business which, for compensation, offers recreational services, including but not limited to public stables, golf courses and driving ranges, miniature golf, movie theaters, and other places of public or private entertainment.

RELIGIOUS INSTITUTION — A church, synagogue, or other place of religious worship, as well as a monastery or other place of religious retreat.

RESIDENTIAL CARE FACILITY — Any building used as a group residence or extended care facility for the care of persons, where compensation and/or reimbursement of costs is paid to an operator, pursuant to state or federal standards, licensing requirements, or programs funding residential care services.

RESIDENTIAL UNIT — See "dwelling unit."

RESIDENTIAL USE — A use of land and structures in which people live and sleep overnight on a regular basis.

RETAIL BUSINESS — An establishment selling goods to the general public for personal and household consumption, including but not limited to an appliance store, bakery, delicatessen, drugstore, florist, grocer, hardware store, liquor store, newsstand, shoe store, stationery store, convenience store, and variety store.

REVIEWING BOARD OR OFFICIAL — The board that grants a special permit, site plan, variance, subdivision approval, or zoning amendment, or the Building Inspector reviewing a building permit or zoning permit application.

**ROAD FRONTAGE** — The distance along a street line measured at the front of a lot.

**ROADSIDE STAND** — A temporary structure, not for year-round use, either attached to the ground or movable, at which produce is offered for sale to the general public.

**ROAD/STREET** — A public or private way for pedestrian and vehicular traffic, including avenue, lane, highway, or other way, excluding a driveway or common driveway.

**SCREEN/SCREENING** — The location of structures in such a manner that they are not visible (as defined herein) from a public road or any other public place during the summer months and no more than partially visible in winter. Objects or structures may be screened by topography, vegetation, or other structures not required to be screened.

**SERVICE BUSINESS** — A business or nonprofit organization that provides services to the public, either on or off the premises, including but not limited to building, electrical, plumbing, and landscape contracting, arts instruction or studio, automobile service station, business and educational services, catering, health club, house cleaning services, locksmith, photocopying, repair and restoration services, tailoring, typing, and word processing. "Service business" does not include retail business, restaurants, warehouses, or other uses separately listed in the Use Table. A convenience store that sells gasoline and auto supplies but does not repair or service vehicles shall be considered a retail business.

**SERVICE ROAD** — A local road running generally parallel to a through road, providing vehicular access points for individual lots, constructed to reduce the number of access points on the through road.

**SETBACK** — The distance in feet between a structure and a property line or an identified natural feature such as a watercourse.

**SIGN** — Any billboard, signboard, inscription, pennant, or other material, structure, exterior painting, or device composed of lettered or pictorial material that is intended for outdoor viewing by the general public (including inside a window) and used as an advertisement, announcement, or direction.

**SIGN AREA** — The total area on each side of a sign within which all written and graphic material is contained.

**SIGN, COMMERCIAL** — A sign advertising a product, use, service, or activity sold or conducted for private financial gain.

**SIGN, FREESTANDING** — A sign and sign support structure not attached to or part of a building.

**SIGN, ILLUMINATED** — A sign lighted by electricity, gas, or other artificial light, including reflective or phosphorescent light, paint, or tape.

**SIGN, INTERIOR** — A sign located within the exterior walls of a building which is readily readable from outside the building through a window, door, or other opening.

**SIGN, INTERNALLY ILLUMINATED** — An illuminated sign that is made of translucent material with internal artificial lighting.

**SIGN, PROJECTING** — Any sign which extends from the exterior of any building more than nine inches.

**SINGLE-FAMILY DWELLING** — See "dwelling, single-family."

**SMALL-SCALE DEVELOPMENT** — Any development of land that results in the creation of no more than four new residential lots (excluding the parent parcel from which they are subdivided).

**SOIL MINING** — Use of land for the purpose of extracting and selling stone, sand, gravel, or other minerals, as defined in § 23-2705 of the Environmental Conservation Law, not including the process of preparing land for construction of a structure for which a zoning permit has been issued.

**SOLID WASTE** — All putrescent and nonputrescent materials or substances discarded or rejected as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection, including but not limited to garbage, refuse, industrial and commercial waste, sludge from air or water

control facilities, rubbish, ashes, contained gaseous material, incinerator residue, demolition and construction debris, discarded automobiles and offal but not including sewage and other highly diluted water-carried materials or substances and those in gaseous form, and being those wastes defined as solid waste in 6 NYCRR 360-1.2. Any solid waste which receives a beneficial use determination (BUD) from the New York State Department of Environmental Conservation is still considered a solid waste for the purposes of these regulations.

**SOLID WASTE MANAGEMENT FACILITY** — Any facility employed to manage solid waste beyond the initial waste collection process, including but not limited to transfer stations, bailing facilities, rail haul or barge haul facilities, processing systems, including resource recovery facilities or other facilities for reducing solid waste volume, sanitary landfills, facilities for the disposal of construction and demolition debris, plants and facilities for compacting, composting or pyrolysis of solid wastes, incinerators and other solid waste disposal, reduction or conversion facilities, as defined in 6 NYCRR 360-1.2.

**STRUCTURE** — A static construction of building materials affixed to the ground, such as a building, dam, display stand, gasoline pump, installed mobile home or trailer, reviewing stand, shed, sign, stadium, storage bin, or wall.

**THIS CHAPTER** — See "Zoning Law."

**TOWN LAW** — The Town Law of the State of New York, Chapter 62 of the Consolidated Laws.

**TOWNHOME/TOWNHOUSE** — A single-family dwelling unit constructed in a group of three or more attached units in which each unit extends from the foundation to the roof and with open space on at least two sides.

**TREETOPS** — The top or uppermost branches of a tree.

**TWO-FAMILY DWELLING** — See "dwelling, two-family."

**UNCONSTRAINED LAND** — Land that does not include or is not wetlands, water bodies, watercourses, one-hundred year floodplains, cemeteries, easements and rights of way restricting land use or slopes over 25 percent which contain 2,000 square feet or more of at least ten foot wide contiguous sloped areas.

**USE** — The purpose for which any premises may be arranged, designed, intended, maintained, or occupied, or any occupation, activity, or operation conducted or intended to be conducted on a premises.

**USE, ACCESSORY** — A use which is customarily incidental to and subordinate to the principal use of a lot or structure, located on the same lot as the principal use or structure.

**USE, CHANGE OF** — See "change of use."

**VARIANCE, AREA** — The authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations.

**VARIANCE, USE** — The authorization by the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations. An increase in density or intensity of use shall be deemed to require a use variance if such increase is not allowed by right or by special permit.

**VISIBLE/VISIBILITY** — Able to be seen by a person of average height and with normal vision on a clear day.

**WAREHOUSE** — A structure or structures in which materials, goods, or equipment is stored, including self-storage facilities.

**WATERCOURSE** — Any stream, pond, lake, reservoir, drainage channel, or other area of land that is normally or seasonally filled with water.

**WETLAND** — An area of land that is characterized by hydrophytic vegetation, saturated soils, or periodic inundation which is classified as a wetland by either the New York State Department of

Environmental Conservation or the United States Army Corps of Engineers. See § 97-45.

**WIND ENERGY CONVERSION SYSTEM** — A mechanized system which converts wind energy into electrical or mechanical power.

**YARD** — An open space on the same lot with a structure.

**YARD, FRONT** — An open space extending across the full width of the lot between the front of the principal building and the street line.

**YARD, REAR** — An open space extending across the full width of the lot between the rear lot line and the wall of the principal building nearest the rear lot line.

**YARD, REQUIRED/SETBACK AREA** — That portion of any yard required to satisfy minimum setbacks. No part of such yard can be included as part of a yard required for structures on another lot.

**YARD, SIDE** — An open space between a principal building and the side line of the lot and extending from the front yard to the rear yard.

**ZONING LAW/THIS CHAPTER** — The officially adopted Zoning Law of the Town of Goshen, together with any and all amendments thereto, in accordance with Article 16 of the Town Law and Articles 2 and 3 of the Municipal Home Rule Law.



**Town of Goshen**

**Appendix A: Sample Density Calculation for an Open Space Development**

Consider a hypothetical parcel of land with the following characteristics:

- Eighty-five acres.
- Thirteen acres of wetlands, including a stream running through one corner.
- In the RU District.
- In the AQ-6 Overlay District.

According to § 97-20(A), the following method would be used to determine allowable density.

**Alternative A. Density permitted by the AQ-6 Overlay using individual wells and septic systems (i.e., no public water or sewer systems).**

- Without doing any water testing or special design features to protect water, the density would be 85 divided by six equals 14.17 units, rounded down to 14 units.
- If the applicant performs water tests to determine site specific water supplies, recharge rates, and/or septic credits as permitted in § 97-27 B and D, then the maximum number of units, as determined by the Planning Board, might be increased. However, the total number of units cannot exceed the number that would be allowed by Alternative B below, and cannot exceed one unit per three acres.

**Alternative B. Density permitted if the applicant is able to gain access to public sewer and water or otherwise prove that the development will not adversely affect water quantity or quality.**

**Step 1. Determine unconstrained acreage.**

- Subtract 13 acres of wetlands and watercourses from the 85 total acres, resulting in 72 unconstrained acres.

**Step 2. Determine “base number” of allowable units.**

- Thirty-three percent of the 72 unconstrained acres equals 23.76 units (23.76 rounded down to 23).

These are just a few of the possibilities. Because the proposed zoning law offers many choices, it is possible to run this example in many different permutations and come up with different results.



## Introduction

The Town of Goshen undertook a Town-Wide Potable Water Planning Study which was completed in January of 2003. That study considered hydro-geologic conditions and limitations on development potential due to water supply and quality. The study concluded that the Town is dependent on bedrock aquifers due to constraints in the underlying aquifers. The Town then adopted revisions to the zoning to reflect appropriate limits on development which included minimum lot sizes to reflect the results of the study. Essentially the Town was divided into two aquifer overlay districts, the AQ3 at one dwelling unit for every three acres and the AQ6 zone at one unit per 6 acres. Although the study established a basis for establishing minimum lot area requirements, the Town's experience has been that water supply quantity and quality can vary within subdivisions even those with conforming lots. The Town desires to better assure each lot approved by the Planning Board will have the fundamental element of water supply and has concluded that on-site water-testing is needed for all subdivisions. Therefore all subdivisions involving three (3) or more lots, which include lots with on-site private water wells, must perform a hydrogeological study and associated testing to confirm the availability of reliable on-site water and minimal impact on adjacent parcels. The study must be performed by a hydrogeological consultant approved by the Town of Goshen. This document provides an outline of the requirements of the hydrogeological study.

Purpose -The purpose of this document is to provide guidance to landowners who are planning to install private wells in the Town of Goshen to serve new residential subdivisions. For central water supply wells and commercial developments see Water Protocols in Section B. below. These protocols are intended for use as prescribed in § 83-22.C(2) & 97-43.B By following these procedures, the Town and the owner can:

Ensure that the new well(s) can provide enough water for the proposed development.

Ensure that the new well(s) will not adversely affect existing wells in the vicinity of the proposed wells.

These guidelines are based upon established principles and practices of hydrogeology. A licensed Professional Engineer must certify the work performed is as required herein.

## Water Supply Capacity Determination - Procedures

The following items must be completed.

Determine Demand for Groundwater

Establish water demand using New York State Department of Environmental Conservation (NYSDEC), New York State Department of Health (NYSDOH) or Orange County Health Department requirements, whichever is more stringent.

Contact Town of Goshen

Notify the Town Building Inspector of intent to obtain the necessary approvals and/or to propose additional lots through this procedure. Complete a "Preliminary Application Form" as seen in Attachment 1.

#### Test and Observation Well Location and Design

The Aquifer Test shall be conducted using the number of appropriately sized wells as specified in the code. Essentially, this requires one (1) drilled well for the first three (3) lots and one (1) additional well for each additional three (3) lots or part thereof. As an example, two (2) wells would be required for a 4 to 6 lot subdivision and three (3) wells for a 7 to 9 lot subdivision and so on. If the landowner demonstrates to the planning board, upon the recommendation of the Town Engineer, that a lesser number of wells than that required herein are likely to provide sufficient quantity and quality data, then the a reduction in the number of required wells may be permitted but the flow rate for test pumping shall be increased to 250% of the maximum day demand. The test and observation wells shall be designed and located so as to provide sufficient data for the landowner to adequately assess the groundwater system capabilities, limitations and capacity.

Test wells shall be standard private well design in accordance with health department requirements for conversion to a permanent well if successfully developed; well points are not acceptable for test wells but may be used for monitoring wells if desired.

The location and construction of wells must meet all New York State Department of Health and Orange County set back and construction requirements.

The following information will assist in the well site location and design. A well location map shall be prepared identifying all of the well sites and observation well sites.

1. Identify Potential Well Site(s) based on distribution of wells in all geologic and divergent topographic formations on site to provide a broad representation of site variables to assess production capabilities and water quality.

Conduct an initial investigation to select a desirable site based on the following:

- Likelihood that groundwater contamination is low.
- Depletion of nearby streams and wetlands is unlikely.
- Interference with nearby wells is unlikely.

Use published geological maps to assist in choosing well location.

2. Observation wells.

Representative wells within 500 feet of the proposed subdivision shall be monitored. If existing wells cannot be monitored, observation wells must be installed at the property boundary to identify impacts. The number of monitoring wells will vary depending on the size and shape of the parcel for development and shall be submitted with the preliminary application form. . The impact of all existing wells located along key fracture trends between 500 and 2,500 feet from the test well shall also be determined. Observation wells shall be shown on the well location plan.

### Aquifer Test Plan Proposal

Prepare and submit an Aquifer Test Plan Proposal to the Town of Goshen. The aquifer test shall be conducted at a flow rate of at least 200% of the total maximum day demand of the subdivision. If the landowner demonstrates that a lesser number of wells than that required under the code are likely to provide sufficient quantity and quality data, then the % of maximum flow rate for test pumping shall be increased to 250% of the maximum day demand. An outline of the mandatory items for the Aquifer Test Plan proposal is included in Appendix 2.

The Town may approve, reject or request more information after receipt of Aquifer Test Plan.

### Obtain Permits

Prior to installing test wells and conducting any hydrogeologic tests any required applicable permits must be obtained

### Install Wells

Install appropriately sized test wells and observation wells as needed per the guidance above and the approved plan at the locations selected. Well(s) shall not be installed until the Town of Goshen has approved the aquifer test plan.

Review the geologic log and yield during drilling to determine if the well(s) will be suitable for further investigation. Record field data during drilling, particularly fissure location, to facilitate analyses. Complete and file a Well Completion Report.

### Conduct Hydrogeologic Tests

The following is required:

#### 1.0 Determine All External Influences and Methods for Observation

There are several external influences that must be monitored during background, testing and recovery. The following influences must be observed. A description of the method to monitor each of these influences is described below.

##### 1.1 Test Well(s) Pumping Rate

Each well shall be tested to confirm that there is a minimum yield of 5 gallons per minute (gpm) as required by 10NYCRR Part 74, Section 74.5(c). A test pump capable of providing a minimum of 5 gpm at the required head must be used to perform the test.

If a sustainable yield of 5 gpm at a stabilized drawdown is not possible, the yield test may be performed at a rate between 2 and 5 gpm, however, an overdrilled borehole or enclosed storage structure (tank) of at least 400 gallons may be required.

Measure the pumping rate via flow using an approved method as listed in the aquifer test plan (typically an automatic data recorder (ADR)). The discharge flow rate shall be monitored and recorded manually at least once every 10 minutes during the first hour of the test and every 60 minutes thereafter.

### 1.2 Test Well(s) Drawdown

Measure the test well drawdown using an approved method as listed in the aquifer test plan (typically an automatic data recorder (ADR)). Levels must be measured in decimal feet with an accuracy of 0.05 foot. Use the same reference point (relative to mean sea level) for each measurement.

Water level measurements during the hydrogeologic tests shall be taken as follows or as agreed in the aquifer test plan:

Time Since Pumping Began	Time Between Measurements:
0 - 2 minutes	30 seconds
2 - 5 minutes	30 seconds
5 - 15 minutes	1 minute
15 minutes - 1 hour	5 minutes
1 - 2 hours	10 minutes
2 - 8 hours	30 minutes
8 - 24 hours	1 hour
24 - 72 hours	2 hours

### 1.3 Observation Wells Drawdown

Measure the observation well drawdown using an approved device per the aquifer test plan (typically an automatic data recorder (ADR)). Levels must be measured in decimal feet with an accuracy of 0.05 foot. Use the same reference point (relative to mean sea level) for each measurement. Backup manually monitored data shall be collected as well.

Water level measurements shall be taken as follows or as agreed in the aquifer test plan:

Time Since Pumping Began	Time Between Measurements:
0 - 2 minutes	10 seconds
2 - 5 minutes	30 seconds
5 - 15 minutes	1 minute

15 minutes - 1 hour	5 minutes
1 - 2 hours	10 minutes
2 - 8 hours	30 minutes
8 - 24 hours	1 hour
24 - 72 hours	2 hours

#### 1.4 Barometric Pressure

Measuring air pressure and correcting water level data for observed changes will increase the accuracy of the water-level data. Measure barometric pressure hourly during the hydrogeologic test and at four-hour intervals during the background and recovery period.

#### 1.5 Precipitation

Manually record precipitation during the hydrogeologic test at one-hour intervals and provide local weather station precipitation data for the background, test and recovery periods.

#### 1.6 Surface Waters

Two monitoring procedures can be used for wetland and surface water measurements for water bodies and wetlands within 500 feet of the test well.

The first method involves installing two very shallow well points, with short (<one foot) screens centered approximately three and six feet into the saturated zones, in or next to the surface water body. These well points shall be measured hourly during the test and at six-hour intervals during background and recovery.

The second method for standing bodies of water involves placing a staff gauge or measuring stake into the water and measuring the water height hourly during the test and at 6-hour intervals during the background and recovery period.

#### 1.7 Streamflow

Streamflow measurements must be taken if the effect of the proposed diversion on nearby streamflow is of concern. Streams within 500 feet of the test well shall be evaluated.

The first method involves installing two very shallow well points, with short (<one foot) screens centered approximately three and six feet into the saturated zones, in or next to the streamflow. These well points shall be measured hourly during the test and at six-hour intervals during background and recovery.

The second method is performed by gauging streamflow. It is normally expected that the diversion's effect on streamflow will be such a small percentage of total streamflow that this method is likely inaccurate for measuring stream depletion.

#### 1.8 External Pumpages

External pumpages during background, testing and recovery shall be quantified.

## 2.0 Background Monitoring Period

All external influences shall be monitored at 6-hour intervals during a 48-hour background period just prior to the start of pumping.

## 3.0 Hydrogeologic Tests

Once the approval is obtained to proceed with testing of the proposed wells, the full-scale aquifer test of multiple-wells shall begin.

### 3.1 General Requirements for Hydrogeologic Test

The test wells shall be pumped at the required withdrawal rate of 200% of maximum day conditions of such flow rate as agreed in the aquifer test plan. The pumpage rate shall not be allowed to vary by more than 10% from the initial rate (unless otherwise specified below). If a pump is turned off during the test, it must be restarted within 10 minutes. No more than one ten-minute break shall be allowed for every six hours of pumping. Because of the extreme importance of the early-time data for the analysis, the pump is NOT allowed to stop during the first two hours of an acceptable test. If a pump is stopped during this time, the test must be restarted after allowing for water levels in the test and observation wells to return to within 95% of pretest levels.

Water pumped from wells during testing shall be discharged to points where it cannot infiltrate into the ground and flow back to any test or observation well during the test.

The pump test shall not be performed when the prior 30 days precipitation is greater than 3.7 inches. The precipitation shall be calculated based on the gauge at the Middletown, New York climate station.

The test shall be designed to identify any impact to neighboring wells. It is the responsibility of the applicant to substantiate capacity through sufficient field data and hydrogeologic analyses.

### 3.2 Multiple-well (aquifer-stress) Test

The purpose of a multiple-well test is to determine the effect of the proposed withdrawals when more than one well is being proposed for a site. The goal of the multiple-well test is to determine groundwater levels under multiple well pumping conditions and to examine its impact.

Background monitoring as described in Section 2 shall be conducted. After the background period, the proposed wells will be pumped at their maximum allowable pumpage rate for

72 hours for the 'stress' period. After the 'stress' period, the proposed well is shut off and allowed to recover. During this recovery, measurements are taken at all points every two hours.

- (a) A minimum of six hours of stabilized drawdown must be displayed at the end of the test. Stabilized drawdown is defined as a water level that has not fluctuated by more than plus or minus 0.5 foot for each 100 feet of water in the well (i.e., static water level to bottom of well) over at least a six hour period of constant pumping flow rate. The plotted measurements shall not show a trend of decreasing water level.
- (b) If stabilized drawdown is not achieved, the test period shall be extended to 96 hours or more at the discretion of the Town Engineer in consultation with the developer's representatives. If it appears stabilized drawdown is not achievable, a semi-log extrapolation of drawdown versus time (or other similar methods) may be employed to project the ability of the aquifer to supply a pumping rate equal to the desired yield (which must be equal to or less than the pump test yield) on a long term basis. Normally, an extrapolation of six months of pumping with no assumed recharge must be compared against the level of water remaining above the pump intake at the end of the period. The use of extrapolated data will be considered by the Town but will need to be weighed with other factors including the expected reliability of the projection and the option of lowered demand by reduced development density or other controls.

#### 4.0 Recovery Monitoring Period

Water level recovery in the pumping and observation wells must be measured. Unless otherwise specified, the recovery-monitoring period must last a minimum of eight hours or until water levels have recovered within 95% of drawdown. Recovery shall be monitored intensely immediately after the test well pump has been turned off. All observation points shall be observed at six hour intervals or shorter where appropriate. If recovery is less than 90% within 24 hours, safe yield must be scaled back or the test rerun at a reduced rate as required by the Town Engineer.

#### Water Quality Testing

A water quality sample shall be taken within the last two hours of the hydrogeologic testing for contaminants in the water. The contaminants to be tested shall be in compliance with Federal, State and Local requirements for potable water use. Consideration shall be given to incorporate additional contaminants in locations where a known contamination site exists proximate to the property boundaries. Testing shall include all parameters in the NYS DOH Individual Water Supply Wells-Fact Sheet #3 *Recommended Residential Water Quality Testing*. Additionally a representative number of wells shall be tested for Arsenic, barium, fluoride, methane, radium, radon, uranium, MTBE, Pesticides and POC's (EPA method 502.2) as agreed in the aquifer test plan based on the location of the subdivision in relation to known sources of pollution, farming operations and other factors.

#### Perform Hydrogeologic Analysis

After the hydrogeologic tests have been completed, the results must be analyzed. A description of information needed in the analysis is located below.

## 1. Multiple-well Test Analysis

A multiple-well test analysis is conducted by evaluating the total drawdown at the observation points to determine the drawdown attributable to the proposed pumpage from multiple withdrawal points. A radius of influence shall be calculated using the data collected from this test.

## Hydrogeologic Report

A hydrogeologic report prepared by a licensed Professional Engineer according to the outline in Attachment 3 shall be submitted to the Town. The hydrogeologic report shall be certified by the landowner to be a complete analysis and an accurate representation of the hydrogeologic condition. The report, data and certification shall be submitted to the Town of Goshen for review. The raw test data shall be submitted in Excel® or text format electronically on either a 3.5" diskette or CD ROM or other format as agreed in the aquifer test plan. The test or observation wells may be converted to production wells for the proposed development provided they were properly constructed and meet NYSDEC requirements. The well location plan shall be included.

## ATTACHMENT 1 - PRELIMINARY APPLICATION FORM

## ATTACHMENT 2 - AQUIFER TEST PLAN

### Aquifer Test Plan Proposal Outline

- 1.0 Site data
  - 1.1 Location of all wells (Proposed Well Location Plan)
  - 1.2 Location of pertinent features
  - 1.3 Maps at appropriate scales (USGS topographic map, detailed site map at 1:6,000 or larger)
- 2.0 Hydrogeologic data
  - 2.1 Estimates of transmissivity, storage, and other aquifer hydraulic characteristics from nearby wells or from published data
  - 2.2 Hydrogeologic setting of area
  - 2.3 Local recharge/discharge estimates
  - 2.4 Nearby wells and their pumpage within 2,500 feet of subdivision
- 3.0 Well data (pumping and observation wells)
  - 3.1 Construction details
  - 3.2 Screened intervals and formation(s) tapped
  - 3.3 Well logs
- 4.0 Test description
  - 4.1 Multiple-well

- 5.0 Identification of external influences
  - 5.1 Precipitation
  - 5.2 Barometric pressure
  - 5.3 Tidal influences
  - 5.4 External pumpages
  - 5.5 Surface waters
  
- 6.0 Monitoring schedule for pre-pumping (background) period
  - 6.1 Length of period
  - 6.2 Monitoring of relevant external influences
  - 6.3 Monitoring frequency
  
- 7.0 Monitoring schedule for observation wells
  - 7.1 Background, test and recovery-period monitoring schedules
  - 7.2 Monitoring techniques
  
- 8.0 Monitoring schedule for pumping well
  - 8.1 Monitoring schedule
  - 8.2 Techniques for measuring water levels
  - 8.3 Planned pumping rate
  - 8.4 Discharge-measuring method and frequency
  - 8.5 Discharge locations and description
  
- 9.0 Monitoring schedule for relevant external influences and concerns
  - 9.1 Precipitation
  - 9.2 Barometric pressure
  - 9.3 Tidal influences
  - 9.4 External pumpages
  - 9.5 Surface waters
  - 9.6 Monitoring techniques
  
- 10.0 Monitoring schedule for post-pumping (recovery period)
  - 10.1 Length of period
  - 10.2 Monitoring of relevant external influences
  - 10.3 Monitoring frequency
  
- 11.0 Applicable federal, state and local regulations and permits
  - 11.1 List of necessary permits
  - 11.2 Status of permit applications

## ATTACHMENT 3 - HYDROGEOLOGIC REPORT

### Hydrogeologic Report Outline

- 1.0 Executive Summary
  
- 2.0 Summary of Proposed Diversion

- 2.1 Total yearly pumpage
  - 2.2 Maximum monthly pumpage
  - 2.3 Proposed pumpage schedule
  - 2.4 Additional detail (add section if necessary)
- 3.0 Site Data
- 3.1 Well location(s) – Well Location Plan
  - 3.2 Roads, property lines, buildings
  - 3.3 Nearby environmentally sensitive areas
  - 3.4 Nearby surface-water bodies, streams, and wetlands
  - 3.5 Nearby pollution sites
  - 3.6 Additional detail (add section if necessary)
- 4.0 Hydrogeologic Data
- 4.1 Thickness, areal extent, and recharge areas of aquifer
  - 4.2 Thickness and areal extent of any confining units
  - 4.3 Thickness, areal extent and recharge area of any other aquifers at the site
  - 4.4 Hydrogeologic parameters of all aquifers pertaining to the diversion
  - 4.5 Hydrogeologic parameters of all confining units pertaining to the diversion
  - 4.6 Discussion of generalized flow path in aquifer
  - 4.7 Recharge/discharge estimates
  - 4.8 Pertinent water-quality data
  - 4.9 Additional detail (add section if necessary)
- 5.0 Nearby Pumpage
- 5.1 Domestic wells within one mile
  - 5.2 Water withdrawal permits within one mile
  - 5.3 Public-supply wells within five miles
  - 5.4 Additional detail (add section if necessary)
- 6.0 Pumping and Observation Well Information
- 6.1 Drilling method
  - 6.2 Casing details (diameter, type, and depth)
  - 6.5 Well development method
  - 6.6 Additional detail (add section if necessary)
- 7.0 Test Description
- 7.1 Type of test(s)
  - 7.2 Summary of field test procedures
  - 7.3 Additional detail (add section if necessary)
- 8.0 Test Data
- 8.1 Measurements during background period
  - 8.2 Measurements during test period
  - 8.3 Measurements during recovery period
  - 8.4 Additional detail (add section if necessary)

- 9.0 Test Analyses
  - 9.1 Calculated hydrogeologic values
  - 9.2 Discussion of data and anomalies
  - 9.3 Additional detail (add section if necessary)

- 10.0 Regional Effects
  - 10.1 Other ground and surface water users
  - 10.2 Environmentally sensitive areas
  - 10.3 Dependable yield of the aquifer
  - 10.4 Surface water, streams, wetlands
  - 10.5 Groundwater pollution sites
  - 10.6 Additional detail (add section if necessary)

Overall Analyses Test and Proposed Withdrawal

B. Protocols for Well Installation, Testing and Reporting  
[Repeat existing protocols for community water supplies]



ZONING

97 Attachment \_\_  
**Town of Goshen**  
**Use Table**

Use Category	Land Use Districts (see § 97-13 for AI District)					Section Reference
	RU	HR	HC	CO	I	
<b>RESIDENTIAL USES</b>						
Single-family dwelling	P	P	S	S	--	
Two-family dwelling	P	P	S	S	--	
Multifamily dwelling (conversion)	P*	P*	--	P*	--	§ 97-12(B)
Multifamily dwelling (new)	P*	P*	--	P*	--	§ 97-20(D)
Accessory apartment	P*	P*	P*	P*	--	§ 97-12(A)
Upper-floor apartments in mixed-use building	--	P*	P	P*	--	
Residential care facility	S	--	--	--	--	§ 97-60
Planned adult community	S	S	--	--	--	§ 97-15(P)
	<b>RU</b>	<b>HR</b>	<b>HC</b>	<b>CO</b>	<b>I</b>	
<b>BUSINESS USES**</b>						
Adult entertainment	--	--	--	--	S	§ 97-56
Agriculture	P	P	P	P	P	§ 97-47
Composting facility	S	--	--	--	S++	§ 97-58
Craft workshop	S	S++	S++	P*	P*	
Home occupation	P+	P+	P+	P+	--	§ 97-51
Bed-and-breakfast	S	P*	P*	S	--	
Junkyard	--	--	--	--	S++	§ 97-59
Kennel	S	--	S	S	S	§ 97-57
Light industry	--	S++	S	S	P*	§ 97-50, § 97-58, § 97-15(G)
Lodging facility	--	--	P*	S	--	
Office	SΔ	S++	P*	P*	P*	
Public utility facility ( <i>excluding wireless communication facilities</i> )	S++	S++	S++	S++	S++	§ 97-61
Recreational business	SΔ	S++	S	S	--	
Restaurant	SΔ	S++	P*	P*	--	
Retail business ( <i>not listed elsewhere</i> )	SΔ	S++	P*	P*	--	
Service business ( <i>not listed elsewhere</i> )	SΔ	S++	P*	P*	S	
Soil mining	S■++	--	--	S■++	S++	§ 97-28
Veterinary hospital	S	--	S	S	S	§ 97-57
Warehouse/self-storage	--	--	S	P*	S	
Wholesale business	--	--	S	P*	S	

Wireless communication facility	S	--	S	S	S	§ 97-89 et seq.
	<b>RU</b>	<b>HR</b>	<b>HC</b>	<b>CO</b>	<b>I</b>	
<b>COMMUNITY USES</b>						
Cemetery	S	S	--	--	--	
Educational/charitable/religious	S	S	S	S	--	
Health care facility	S	--	S	S	S	
Membership club	S	S	S	S	--	
Municipal	P	P	P	P	P	

**NOTES:**

- P Designates a use permitted by right. Usually requires a zoning permit or a building permit and a certificate of occupancy from the Code Enforcement Officer, but does not require review by any municipal board.
- P\* Designates a use permitted by right, subject to site plan review by the Planning Board (see § 97-75 et seq.).
- S Designates a use permitted by special permit issued by the Planning Board (see § 97-70 et seq.).
- Designates a prohibited use.
- ♠ Only permitted in an open space development (§ 97-20D) or on farms [§ 97-12B(3)].
- \*\* Subject to limitations on building footprint in the HC, CO, I and HR Districts (see §§ 97-14A and 97-15G).
- Δ Only in connection with agricultural use, or as provided in § 97-18C.
- + Requires a special permit if more than two nonresident employees or 30% of dwelling unit floor space.
- S++ Designates a use permitted by special permit issued by the Town Board.
- ◆ Retail use shall not exceed 20% of floor area and shall include only sale of items produced on the premises and customary accessory items.
- Only within the Soil Mining Overlay District.