

ZONING LAW
OF
THE TOWN OF GALLATIN
COLUMBIA COUNTY, NY

Adopted by the Town Board on December 27, 2011

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ARTICLE I. TITLE, SCOPE AND PURPOSES

1.1 TITLE

This Local Law shall be known and may be cited as “The Zoning Law of the Town of Gallatin, Columbia County, New York” also referred to herein as the “Town of Gallatin Zoning Law” or the “Zoning Law”.

1.2 SCOPE

This Zoning Law establishes comprehensive controls regulating the location, construction, alteration and use of buildings and structures and the development and use of land within the Town of Gallatin, and for said purposes divides the Town into zoning districts.

1.3 ENACTING LEGISLATION

This Zoning Law is adopted pursuant to Articles 2 and 3 of the Municipal Home Rule Law of the State of New York.

1.4 GENERAL PURPOSES

The regulations and districts set forth herein and as shown upon the Zoning District Map made a part of this Zoning Law are made in accordance with a comprehensive plan for the purpose of promoting the public health, safety, convenience, order, prosperity and general welfare of the community. They have been made with reasonable consideration, among other things, as to the character of each district and its suitability for particular uses, and with a view toward conserving property values and encouraging the most appropriate use of land throughout the Town of Gallatin.

1.5 OBJECTIVES

This Zoning Law is hereby adopted to effectuate the purposes set forth in Section 263 of the New York State Town Law, and to accomplish the goals set forth in the Town of Gallatin Comprehensive Plan duly adopted by the Gallatin Town Board on August 9, 2007, as may be amended from time to time. These purposes and goals are set forth below, which include but shall not be limited to:

- A. To provide adequate light, air and privacy, to secure safety from fire, floods, and other dangers and to prevent overcrowding of the land and undue congestion of population.
- B. To prevent the pollution of streams, ponds, and all other water resources, and to encourage the wise use and sound management of natural resources throughout the Town in order to preserve the integrity, stability, and beauty of the community, the integrity of the natural environment, and the value of the land.
- C. To ensure that proposed uses are designed with water supply, sewage disposal, school, park, and/or other facilities and services that are adequate and necessary to meet the residents’ basic needs and improve opportunities for community activities.

- D. To provide a safe and efficient transportation system, while preserving the Town's scenic and historic roadside character and features.
- E. To preserve the rural character and small town atmosphere of the Town.
- F. To allow economic opportunities that are consistent with the primarily rural, residential character of the Town.
- G. To enhance the appearance of the Town as a whole, by ensuring that all development shall be orderly and beneficial to the Town and by permitting appropriate uses and review of site plans.
- H. To maintain the single and two family dwelling as the predominant housing type, while providing a broad range of housing sizes and types, including but not limited to mobile homes, accessory dwelling units, ECHO housing units, alternate care housing, and multifamily dwellings in appropriate locations for all Gallatin's residents, that are affordable to young people, the elderly, and households who earn less than median income.
- I. To preserve the Town's historic elements and character by protecting existing historic buildings.
- J. To protect and promote the continuation of agriculture as an economic activity, a land use, and a method of maintaining open space.
- K. To promote a pattern of development that reinforces the community's hamlets, discourages strip commercial development, and preserves the Town's rural character.

ARTICLE II. ESTABLISHMENT OF DISTRICTS

2.1 ZONING DISTRICTS

For the purposes of this Zoning Law, the Town of Gallatin is hereby divided into the following nine (9) districts:

HAMLET	H
RESIDENTIAL AGRICULTURAL - Two acres	RA-2
RESIDENTIAL AGRICULTURAL - Three acres	RA-3
LOW DENSITY RESIDENTIAL/AGRICULTURAL - Three acres	LDR-3
FLOATING COMMERCIAL/INDUSTRIAL DISTRICT	FCID
CONSERVATION OVERLAY DISTRICT	COD
WATER COURSE PROTECTION OVERLAY DISTRICT	WCPOD
RIDGELINE PROTECTION OVERLAY DISTRICT	RPO
LAKE TAGHANIC STATE PARK	LTSPRK

2.2 ZONING DISTRICT MAP

The location and boundaries of said districts are shown on the “ZONING DISTRICT MAP, TOWN OF GALLATIN,” which is hereby adopted and is declared to be a part of this Zoning Law. The Zoning District Map shall be kept up-to-date and shall be located in the Town Clerk’s Office for public use. Said map is also referred to herein as the “Zoning District Map”.

2.3 INTERPRETATION OF ZONING DISTRICT BOUNDARIES

- A. Where district boundaries are indicated as approximately following streets, highways, public utility easements, rights-of-way, or watercourses, the center lines thereof shall be construed to be such boundaries.
- B. Where district boundaries are indicated as approximately following the town boundary line, property lines or projections thereof, said boundaries shall be construed to be coincident with such lines of projections thereof.
- C. Where district boundaries are so indicated that they are approximately parallel to the town boundary line, streets, highways, public utility easements, rights-of-way, property lines, lot lines, watercourses or projections thereto, said boundaries shall be construed as being parallel thereto and at such distances therefrom as indicated on the Zoning District Map.
- D. Where a district boundary line divides a lot in single or joint ownership of record at the time such line is established, the regulations for the less restricted portion of such lot (with exception of lots within the Conservation Overlay and Watercourse Protection Overlay districts) may extend not more than thirty five (35) feet into the more restricted portion, provided the lot has street or highway frontage in the less restrictive district.
- E. If the district classification of any land is in question, it shall be deemed to be in the most restrictive adjoining district except as provided in paragraph “D” above.
- F. In all other cases, where dimensions are not shown on the Zoning District Map, the

location of the boundaries on said map shall be determined by use of the scale of the map.

2.4 DESCRIPTION AND PURPOSE OF EACH DISTRICT

- A. HAMLET (H): This district is designed to provide areas in or adjacent to the existing hamlets with a density of living that is normally found in small villages. The hamlet district is intended primarily for single, two, and multi-family dwellings with no more than four (4) units, with small scale commercial uses compatible with these residential uses. This district is limited to two (2) areas within the town: the area including and surrounding the hamlet of Gallatinville, and an area in the southwest corner of town adjacent to Elizaville. Through the creation of minimum one (1) acre lots, development in these two areas will be encouraged without dramatically affecting the population density in these hamlets.
- B. RESIDENTIAL AGRICULTURAL - TWO ACRES (RA-2): This district includes areas of the Town which are considered suitable for agriculture and residential development. A minimum lot size of two (2) acres has been established to allow for adequate on-site sewer and water facilities. By reducing the density in these areas, the Town can allow controlled commercial and residential development to occur while preserving the essentially rural character of the community. A major portion of the Town is included in this land use designation. This includes most of the land in the eastern half of the Town, including Silvernails and Spaulding Furnace. It also includes lands on the northern and western portions of Town, including Pond Lily and Snyderville.
- C. RESIDENTIAL AGRICULTURAL - THREE ACRES (RA-3): This district includes areas of the Town which are sparsely developed with homes and which contain agricultural operations and large undeveloped tracts of woodlands. Due to topographical constraints, the lack of a major roadway network and the undeveloped nature of this area, the minimum lot size has been set at three (3) acres or more.
- D. LOW DENSITY RESIDENTIAL/AGRICULTURAL - THREE ACRES (LDR-3): Like the RA-2 district, this district includes lands that are suitable for low density residential and controlled commercial development. However, because of soil and topographic limitations, the minimum lot size is set at three (3) acres to allow for adequate on-site sewer and water facilities and to encourage preservation of the rural and agricultural character of the area.
- E. FLOATING COMMERCIAL/INDUSTRIAL DISTRICT (FCID): The Town of Gallatin, at present, contains no commercial or industrial districts. There are no areas which have been identified as suitable for a development concentration of more intensive commercial or industrial uses. However, it is recognized that it may be desirable to allow certain commercial and light industrial uses that would be more intensive than those presently allowed in Gallatin. The FCID is a floating district intended to permit the establishment of certain more intensive commercial and light industrial uses, or the establishment of a concentration of these uses, in selected areas of the Town provided that such uses will be compatible with, and will not adversely affect, abutting properties and the surrounding community. The District regulations list certain uses which may occur within a FCID, but the FCID must be approved and created in any

zoning district through the legislative act of re-zoning by the Town Board in accordance with the procedures set forth in Section 3.2 of this Zoning Law.

- F. CONSERVATION OVERLAY DISTRICT (COD): This overlay district describes areas within the Town that contain, or are within, 100 feet of the boundary of New York State Department of Environmental Conservation (DEC) regulated wetlands. The overlay district encompasses, among other areas, Sal's Bog, which is considered a significant plant habitat. These wetlands and the land immediately surrounding them require more careful evaluation of the potential impacts of a proposed development project. The COD is designed to be "superimposed" on the other zoning districts. If a proposed use falls within the COD boundaries, the additional procedures and criteria contained in Section 3.3 of this Law shall apply.
- G. WATER COURSE PROTECTION OVERLAY DISTRICT (WCPOD): This overlay district includes land within the Town adjoining a river, stream, watercourse or lake that is subject to periodic flooding. The boundaries of the WCPOD have been established by the most current edition of the appropriate "Federal Insurance Administration Flood Hazard Boundary Map" as issued for the Town of Gallatin by the Federal Emergency Management Agency. Any revisions, amendments or successor thereto are hereby adopted and made part of this Zoning Law. The latest edition of the map shall be kept on file in the offices of the Town Clerk and the Town Zoning Enforcement Officer for public use. The purposes of the WCPOD are:
- (1) Protection of the natural environment, including water quality, soil conservation, aquatic ecology (fisheries), and terrestrial ecology (wildlife);
 - (2) Protection of health and safety from flooding, storm damage and surface and groundwater pollution; and
 - (3) Improved cultural and economic environment through the protection of aesthetic conditions along major streams.

The WCPOD is designed to be superimposed on the other Zoning Districts. If a proposed use falls within the WCPOD boundaries, the additional procedures and criteria contained in Section 3.3 of this Law shall apply.

- H. RIDGELINE PROTECTION OVERLAY DISTRICT (RPOD): The Town has determined that an integral contributing element to the Town's visual and scenic landscape is its prominent ridgelines. The purpose of this overlay district is to minimize the visual and environmental impacts of development located on or within 200 feet of a ridgeline by regulating the placement of buildings and structures and limiting the overall disturbance that occurs within any ridgeline regulated area.
- I. LAKE TAGHANIC STATE PARK (LTSPK): This zoning district encompasses state-owned lands and coincides with the boundaries of the Lake Taghanic State Park. The Town acknowledges that the state park is used for a variety of recreational and open space purposes not subject to the land use controls set forth in this Zoning Law.

ARTICLE III. USE REGULATIONS

3.1 DISTRICT SCHEDULE OF USE REGULATIONS.

The general use regulations in each zoning district are set forth in the attached “DISTRICT SCHEDULE OF USE REGULATIONS” also referred to herein as the “Use Schedule”. This schedule is complemented, as appropriate, by other provisions of this Zoning Law, including, but not limited to, the Supplementary Regulations set forth in Article V, the Special Permit Use standards set forth in Section 6.8, and the Site Plan Review and Approval Requirements set forth in Section 6.7. All special uses, FCID uses, and expansion of nonconforming buildings require site plan approval in accordance with regulations set forth in Section 6.7.

Any use not listed specifically as a Permitted, Special Permit, or Accessory Use in any District within the attached Use Schedule shall be considered a prohibited use in all Districts under this Zoning Law. However, any use marked with the symbol “x” may be permitted in the FCID pursuant to the rezoning procedures set forth in Section 3.2 of this Law.

Symbols used on the attached Schedule shall be interpreted as follows:

- P** Permitted use in specified district.
- SP** Special Use Permit and site plan approval required for use in specified district
- X** Prohibited use in specified district except pursuant to FCID approval and site plan approval.
- TP** Temporary permit required.
- NP** Not Permitted.
- ESP** Expedited site plan review and approval for permitted principal use or permitted accessory use.

* A use which may be sited only on a lot having lot frontage on a State or County Highway.

TOWN OF GALLATIN ZONING LAW
DISTRICT SCHEDULE OF USE REGULATIONS

STRUCTURE/LAND USE (PRINCIPAL USES)	SUPPLEMENTARY REGULATIONS	H	RA2	RA3	LDR3
ALTERNATE CARE HOUSING FACILITY	5.4	SP	SP	SP	SP
ANIMAL HUSBANDRY	4.12	NP	P	P	P
AIRFIELD, PRIVATE*		X	X	X	X
AMUSEMENT*		X	X	X	X
ANIMAL HOSPITAL*	5.32	NP	SP	SP	SP
ANTIQUE STORE*		SP	SP	SP	SP
APPAREL & ACCESSORY*		SP	SP	SP	SP
ART STUDIO		SP	SP	SP	SP
BAKERY, RETAIL *		SP	SP	SP	SP
BAKERY, WHOLESALE*		NP	X	X	X
BANK*		SP	SP	SP	SP
BUILDING MATERIAL & SUPPLY*		NP	X	X	X
BULK FUEL STORAGE & DISTRIBUTION FOR RESALE*		NP	X	X	X
BUSINESS SERVICE USES*		SP	SP	SP	SP
CAMP (CHILDREN'S, ADULT OR DAY)	5.8	NP	SP	SP	SP
CAMPGROUND (including camping trailer Camp ground)*		NP	X	X	X
CAR WASH*		NP	X	X	X
CEMETERY		X	X	X	X
CHILD CARE FACILITY (School age)	5.13	SP	SP	SP	SP

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SP Special Use Permit and site plan approval required for use in specified district.

X Prohibited use in specified district except pursuant to FCID approval and site plan approval.

TP Temporary permit required.

NP Not permitted.

ESP Expedited site plan review and approval for permitted principal use or permitted accessory use.

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TOWN OF GALLATIN ZONING LAW
DISTRICT SCHEDULE OF USE REGULATIONS

STRUCTURE/LAND USE (PRINCIPAL USES)	SUPPLEMENTARY REGULATIONS	H	RA2	RA3	LDR3
CHURCH OR PLACE OF WORSHIP (May include meeting hall, parish house, and similar facilities)	5.9	SP	SP	SP	SP
CLEANERS*		X	X	X	X
CLUBHOUSE	5.10	X	SP	SP	SP
COMMERCIAL EQUINE OPERATION	5.15, 5.26	ESP	ESP	ESP	ESP
COMMERCIAL HORSE BOARDING OPERATION	5.15, 5.26	ESP	ESP	ESP	ESP
COMMERCIAL OR TECHNICAL SCHOOL*		X	X	X	X
COMMUNICATIONS FACILITIES & EQUIPMENT		X	SP	SP	SP
COMMUNICATIONS EQUIPMENT SHELTER CELL & EQUIPMENT SHELTER	5.12	X	SP	SP	SP
COMMUNITY RESIDENCE	5.4	SP	SP	SP	SP
CONFERENCE CENTER*		X	X	X	X
CONSTRUCTION AND HEAVY EQUIPMENT RENTAL & SALES*		X	X	X	X
CONVENIENCE STORE (with or without gas pumps)*		X	X	X	X
DAY CARE CENTER	5.13	SP	SP	SP	SP
DAY CARE HOME (Family and Group Family)	5.13	P	P	P	P
DELICATESSEN*		X	X	X	X
DRIVE-IN BUSINESS*		X	X	X	X
DUDE RANCH		X	X	SP	X
DWELLING, Multi-Family (up to 4 dwelling units)	5.20	SP	SP	SP	SP
DWELLING, Multi-Family (over 4 dwelling units)*	5.21	X	X	X	X

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TOWN OF GALLATIN ZONING LAW
DISTRICT SCHEDULE OF USE REGULATIONS

STRUCTURE/LAND USE (PRINCIPAL USES)	SUPPLEMENTARY REGULATIONS	H	RA2	RA3	LDR3
DWELLING, Single-Family		P	P	P	P
DWELLING, Two-Family	4.5	P	P	P	P
EDUCATIONAL INSTITUTION INCLUDING PRIVATE, PAROCHIAL & PUBLIC SCHOOLS*		X	X	X	X
FAIR, CARNIVAL, CIRCUS, EXHIBITION, FESTIVAL*	5.31	TP	TP	TP	TP
FAIR, CARNIVAL, CIRCUS, EXHIBITION, FESTIVAL THAT DOES NOT MEET THRESHOLDS OF SECTION 5.31*		NP	X	X	X
FARM	5.15	P	P	P	P
FARM MACHINERY SALES*		X	X	X	X
FARMERS' MARKET*		X	X	X	X
FERTILIZER SALES (BULK) OR BLEND PLANTS (Commercial composting)		X	X	X	X
FIRE STATION		SP	SP	SP	SP
FLORIST		SP	SP	SP	SP
FUNERAL HOME*		X	X	X	X
GAME OR WILDLIFE PRESERVE		X	X	X	X
GOLF COURSE		X	X	X	X
GOLF DRIVING RANGE		X	X	X	X
GOVERNMENT BUILDINGS AND USES INCLUDING MEETING HALLS, OFFICES, COURTS AND POST OFFICES*		SP	SP	SP	SP
HARDWARE STORE*		SP	SP	SP	SP

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DISTRICT SCHEDULE OF USE REGULATIONS

STRUCTURE/LAND USE (PRINCIPAL USES)	SUPPLEMENTARY REGULATIONS	H	RA2	RA3	LDR3
HEALTH CLINIC*		X	X	X	X
HOME FURNISHINGS & APPLIANCE SALES*		SP	SP	SP	SP
HOSPITAL*		X	X	X	X
HOTEL OR MOTEL*		X	X	X	X
INN	5.18	SP	SP	SP	SP
JUNKYARD*		X	X	X	X
KENNEL, BOARDING OR BREEDING	5.19	NP	X	X	X
LABORATORY		X	X	X	X
LAUNDROMAT*		NP	X	X	X
LIBRARY		SP	SP	SP	SP
LIGHT INDUSTRY PROCESSING OR MANUFACTURING		X	X	X	X
LUMBERMILL		X	X	X	X
MACHINE SHOP		X	X	X	X
MEDICAL, OR DENTAL OFFICE*		SP	SP	SP	SP
METAL FABRICATION		X	X	X	X
MOBILE HOME ON INDIVIDUAL LOT	5.22	P	P	P	P
MOBILE HOME PARK		NP	X	X	X
MOBILE HOME SALES AND SERVICE*		NP	X	X	X
MOTOR VEHICLE ACCESSORY SALES*		NP	X	X	X
MOTOR VEHICLE REPAIR*		NP	X	X	X
MOTOR VEHICLE SALES OR RENTAL*		NP	X	X	X

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TOWN OF GALLATIN ZONING LAW
DISTRICT SCHEDULE OF USE REGULATIONS

STRUCTURE/LAND USE (PRINCIPAL USES)	SUPPLEMENTARY REGULATIONS	H	RA2	RA3	LDR3
MOTOR VEHICLE SERVICE STATION*		NP	X	X	X
MUSEUM		NP	SP	SP	SP
NURSERY	5.15	ESP	ESP	ESP	ESP
NURSERY, RETAIL*		X	X	X	X
NURSING HOME*		X	X	X	X
NURSERY SCHOOL	5.13	SP	SP	SP	SP
OFFICE, RETAIL AND NON RETAIL		NP	SP	SP	SP
PARK		SP	SP	SP	SP
PERSONAL SERVICE BUSINESS		NP	SP	SP	SP
PRINTING, RETAIL		NP	SP	SP	SP
PRINTING, WHOLESALE*		NP	X	X	X
PUBLIC STABLE, RIDING ACADEMY	5.15, 5.26	ESP	ESP	ESP	ESP
PUBLIC UTILITY FACILITY*		NP	X	X	X
QUARRYING AND SOIL MINING* (With or without processing)	5.27	NP	X	X	X
RACEWAY*		NP	NP	NP	NP
RECREATION CLUB OR AREA, OUTDOOR (Non-Profit)		NP	SP	SP	SP
RECREATION CLUB OR AREA, OUTDOOR* (For Profit)		NP	X	X	X
RESIDENTIAL HEALTH CARE FACILITY *		NP	X	X	X
RESTAURANT		SP	SP	SP	SP

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TOWN OF GALLATIN ZONING LAW
DISTRICT SCHEDULE OF USE REGULATIONS

STRUCTURE/LAND USE (PRINCIPAL USES)	SUPPLEMENTARY REGULATIONS	H	RA2	RA3	LDR3
RESTAURANT, DRIVE-IN or FAST FOOD*		X	X	X	X
RETAIL or SERVICE ESTABLISHMENT (Not otherwise specified)		NP	X	X	X
ROD AND GUN CLUB	5.28	NP	X	X	X
SELF STORAGE UNITS *		NP	X	X	X
SENIOR CITIZEN OR ELDERLY HOUSING (up to 14 residents)*		NP	SP	SP	SP
SENIOR CITIZEN OR ELDERLY HOUSING (over 14 residents)		NP	SP	SP	SP
SHOP OF A CRAFTSMAN OR ARTISAN		SP	SP	SP	SP
SHOOTING PRESERVE		NP	X	X	X
SLAUGHTERHOUSE*		X	X	X	X
SUPERMARKET*		NP	X	X	X
SWIMMING POOL, PUBLIC*	5.30	SP	SP	SP	SP
TAVERN without entertainment*		SP	SP	SP	SP
THEATER*		X	X	X	X
TRANSFER STATION/RECYCLING FACILITY*	5.20	X	X	X	X
TRANSMISSION TOWER, PRIVATE		X	SP	SP	SP
VETERINARIAN'S OFFICE CLINIC	5.32	SP	SP	SP	SP
WHOLESALE BUSINESS, WAREHOUSE OR DISTRIBUTION FACILITY - NOT OTHERWISE SPECIFIED*		NP	X	X	X
WINDMILL & WIND GENERATOR (up to 2)*	5.33	SP	SP	SP	SP
WINDMILL & WIND GENERATOR (More than 2)*		X	X	X	X

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DISTRICT SCHEDULE OF USE REGULATIONS

STRUCTURE/LAND USE	SUPPLEMENTARY REGULATIONS	H	RA2	RA3	LDR3
<u>ACCESSORY USES</u>					
ACCESSORY USES NOT OTHERWISE SPECIFIED BELOW		X	X	X	X
ACCESSORY DWELLING UNIT	5.2	NP	SP	SP	SP
ACCESSORY STRUCTURE		P	P	P	P
BED AND BREAKFAST ESTABLISHMENT	5.5	SP	SP	SP	SP
BOARDING OR ROOMING HOUSE	5.6	SP	SP	SP	SP
BUS PASSENGER SHELTER	5.7	P	P	P	P
CUSTOMARY FARM ACTIVITIES AND PRACTICES		P	P	P	P
ECHO HOUSING	5.14	SP	SP	SP	SP
FARM MARKET	5.15, 5.16	ESP	ESP	ESP	ESP
GARAGE, PRIVATE LESS THAN 1150 SQUARE FT.		P	P	P	P
GARAGE PRIVATE MORE THAN 1150 SQ. FT.		SP	SP	SP	SP
HOME OCCUPATION, EXEMPT	5.17	P	P	P	P
HOME OCCUPATION, MINOR	5.17	P	P	P	P
HOME OCCUPATION, MAJOR	5.17	SP	SP	SP	SP
HOUSING FOR FARM EMPLOYEES, INCLUDING MOBILE HOMES	5.2, 5.15	ESP	ESP	ESP	ESP
OFF-STREET PARKING	5.24	P	P	P	P
RECREATIONAL VEHICLE, BOAT, OR SNOWMOBILE STORAGE (outdoor storage by owner)	5.25	P	P	P	P
ROADSIDE FARM STAND	5.31(D)	TP	TP	TP	TP

P Permitted use in specified district.

SP Special Use Permit and site plan approval required for use in specified district.

X Prohibited use in specified district except pursuant to FCID approval and site plan approval.

TP Temporary permit required.

NP Not permitted.

ESP Expedited site plan review and approval for permitted principal use or permitted accessory use.

* A use which may be sited only on a lot having lot frontage on a State or County Highway.

TOWN OF GALLATIN ZONING LAW
DISTRICT SCHEDULE OF USE REGULATIONS

STRUCTURE/LAND USE (PRINCIPAL USES)	SUPPLEMENTARY REGULATIONS	H	RA2	RA3	LDR3
SIGN	5.29	P	P	P	P
SOLAR ENERGY DEVICE attached to or installed TO BUILDING		P	P	P	P
SOLAR ENERGY DEVICE, FREE STANDING		SP	SP	SP	SP
SWIMMING POOL, Private	5.30	P	P	P	P
TEMPORARY BUILDINGS		TP	TP	TP	TP
TENNIS COURT, Private		P	P	P	P
TIMBER HARVESTING/FOREST MANAGEMENT (i.e. commercial logging)	5.31(E)	TP	TP	TP	TP

P Permitted use in specified district.

SP Special Use Permit and site plan approval required for use in specified district.

X Prohibited use in specified district except pursuant to FCID approval and site plan approval.

TP Temporary permit required.

NP Not permitted.

ESP Expedited site plan review and approval for permitted principal use or permitted accessory use.

* A use which may be sited only on a lot having lot frontage on a State or County Highway.

3.2 FLOATING COMMERCIAL/INDUSTRY DISTRICT (FCID)

A. Purpose

There are no areas within the Town of Gallatin which have been identified explicitly in the Comprehensive Plan as suitable for concentrated development and/or more intensive commercial or industrial uses. As a result, this Zoning Law does not provide for any commercial or industrial districts. The Zoning Law does provide for the establishment, by special use permit, of certain non-intensive commercial uses in the Town's residential districts. It is recognized that it may be desirable to allow, within the Town, the establishment of certain more intensive commercial and/or light industrial uses where appropriate. The FCID is intended to permit the establishment of certain more intensive commercial and light industrial uses in selected areas of the Town provided that such uses will be compatible with, and will not adversely impact, abutting properties and the surrounding community. Such uses may occur within a FCID, but the FCID must be approved and created in any zoning district through the legislative act of re-zoning by the Town Board in accordance with the procedures set forth in this Section. Listing of a use in the District Regulations is not intended to create a presumption that such a use is appropriate in any district within the Town. The Town Board retains absolute discretion to approve a FCID. The Town Board may refuse to entertain an application for a FCID, after review by the Planning Board, and if such an application is accepted, it may refuse to approve creation of the FCID.

B. FCID application procedure

1. The FCID is a floating zone and does not exist without the explicit authorization of the Town Board. To commence the rezoning process, an Applicant shall submit to the Town Board a zone petition and FCID application signed by the Applicant and the property owner(s) of the property for which the FCID is being sought. The application shall state the specific intended use for the property, and shall include a sketch site plan depicting the approximate size, height, and location of the proposed structures, parking areas, roads, open space, and other facilities. An application for a FCID shall also be accompanied by Part 1 of the full Environmental Assessment Form as required by SEQRA.
2. Once the Town Board determines that it is in receipt of a complete application for a FCID, it shall meet with the applicant and discuss the proposal and determine whether additional information is needed. The Town Board, in its discretion, may require such additional information and documentation concerning the project including, but not necessarily limited to, those categories of information and documentation set forth in Section 6.7(C) of this Zoning Law. At its discretion, the Town Board may decline to consider or terminate consideration of a FCID application at any time during the review process. The Town Board, in considering a FCID application, shall forward the application to the Planning Board for its input. If the Town Board entertains the zone petition, it shall hold one or more public meetings to obtain public input on the proposal. Notification of property owners within a ½ mile radius of the property boundaries of the property that is the subject of the zone petition shall be mailed at least 14 calendar days prior to the scheduled Public

Hearing. This shall be accomplished by a First Class Mailing. The following information is required to be in the public hearing notification: Date, Time and location of said meeting and a brief description of project. Notification mailings shall be completed and turned over to Town Clerk. The Town Clerk shall record addresses and deposit at the Post Office. See Section 6.12 regarding notification fees.

3. If the Town Board determines that it will entertain the FCID application, it shall refer a copy of the complete application, together with any additional documentation and information, to the Planning Board for review and for a report and recommendation. The Planning Board shall respond in writing to the Town Board's referral within sixty (60) days of receipt of all of the documentation submitted, unless the Planning Board requests an extension, not to exceed thirty (30) days for good cause shown, and such extension is granted by the Town Board. The report and recommendation of the Planning Board shall include, but shall not necessarily be limited to, a recommendation for approval or disapproval of the FCID, and a recommendation for conditions, regulations and performance standards to be established by the Town Board in conjunction with its creation of the FCID. The Planning Board, in its recommendations, shall consider the application's consistency with standards set forth in Article V., Supplementary Regulations, of this Zoning Law. In addition, the Planning Board shall make inquiry and provide recommendation concerning the matters specifically set forth in Section 6.10(B) of this Zoning Law. Should the Planning Board fail to submit its report and recommendation to the Town Board within the sixty (60) day time period, or such other time period as may be extended by the Town Board up to thirty (30) days for good cause shown, its right to make a recommendation shall be deemed to be waived.
4. If after receipt of the Planning Board report and recommendation, or upon waiver by the Planning Board of its right to make a recommendation, the Town Board decides to consider the application for the FCID, the Town Board shall follow the procedures set forth in Section 6.10(C) in acting upon the proposed FCID. In considering the application for the FCID, the Town Board shall be guided by the following criteria:
 - a. Whether such use is consistent with the intent of this Zoning Law as applied to the particular zoning district and area of the Town concerned.
 - b. Whether existing development in the Town will be directly affected by the establishment of such use, and, if so, in what way it will be affected.
 - c. Whether adequate public services and other support facilities exist or can be created to serve the needs of the use and any additional development that may occur as a result of such use.
 - d. What other regulations may be affected, and to what extent, as a result of such use. Whether such proposed use is consistent with the objectives of the Town's Comprehensive Plan and this Zoning Law.
 - f. Whether there is a need for such use in the area of the Town so proposed.

- g. All of those standards and objectives set forth in Section 6.8(B) of this Zoning Law.
- 5. If the Town Board decides to create the FCID, it shall prescribe specific lot area, yards, coverage, height and bulk requirements for the FCID and, in addition, prescribe such performance standards in the FCID as it deems appropriate. The Town Board may also prescribe conditions on the conduct of the use which it deems appropriate to safeguard the health, safety and general welfare of the immediate neighborhood and Town. The Zoning Law shall be amended to reflect changes to the text of the district regulations bulk regulations and performance standards, appropriately labeled, and the FCID shall be shown on the Zoning District Map.
- 6. The Town Board shall be permitted to utilize the services of consulting engineers attorneys, environmental specialists and other experts in considering and acting upon the application for the FCID, and in prescribing the appropriate bulk regulations, district regulations, performance standards and conditions for the FCID. These consulting costs shall be reimbursed to the Town by the applicant for the FCID, and the Town may establish an escrow fund at the time of the acceptance of the application for consideration for deposit by the applicant of fees for reimbursement to the Town for these expenses as set forth in Section 6.13 of this Zoning Law.
- 7. Within six (6) months after the Town Board has adopted a zoning amendment creating a FCID, the applicant shall apply to the Planning Board for site plan approval pursuant to Section 6.7 of this Zoning Law. The Planning Board shall approve the site plan if it finds that the site plan is the same as the schematic plan approved by the Town Board except as may have been revised to comply with any conditions or modifications of the adopted zoning amendment, and if it complies with all regulations, standards, and conditions established by the Town Board in creating the FCID, and further satisfies the standards and criteria set forth in Section 6.7 of the Zoning Law. If more than three (3) months lapses between Town Board approval and submission of a site plan application, the FCID designation shall expire and the property shall revert to its original zoning classification unless an extension is granted to the Applicant by the Town Board for good cause shown and for a period of time not to exceed an additional three (3) months. The Applicant shall obtain a certificate of occupancy within 18 months of site plan approval unless an extension is granted to the Applicant for good cause shown.
- 8. The granting of permission for establishment of a FCID shall be limited to the specific use granted final approval by the Town Board and site plan approval by the Planning Board. If construction is not commenced within one (1) year after the date on which the site plan is approved, the property shall automatically revert to its original zoning classification.

3.3 CONSERVATION OVERLAY DISTRICT (COD) AND WATERCOURSE PROTECTION OVERLAY DISTRICT (WCPD)

A. Purpose

The intent of this regulation is to minimize any negative impact caused by

development in or near wetlands, watercourses, lakes, ponds, and floodplains. This Section is intended to protect water supplies, aquifers, storm water management capacity, chemical and pollutant filtration ability, habitats and breeding environments and recreation opportunities provided by the Town's water resources.

B. Approval Standards

No building permit or certificate of occupancy shall be issued by the CEO for any use and associated activity which takes place within, or partially within, a WCPOD or COD unless the use has received a special use permit and site plan review in accordance with Sections 6.8 and 6.7 of this law. In approving or denying any application for a subdivision, site plan, special use permit and/or variance for any use occurring within, or partially within, a WCPOD or COD, the appropriate Board shall consider the effect of the proposed activity on the ecology of the wetlands, watercourse, lake, pond or floodplain, on the public health and welfare, on flood hazards, water supply and on the maintenance of other benefits provided by such resources. The Board shall insure that:

1. The potential negative impacts of the proposed activity, and existing and reasonably anticipated similar activities, upon wetlands, watercourses, lakes, ponds, and floodplains are eliminated or minimized. These activities include:
 - a. Infilling or other modification of natural topographic contours;
 - b. Disturbance or destruction of natural flora and fauna;
 - c. Influx of sediments or other materials causing increased water turbidity or substrate aggradations;
 - d. Removal or disturbance of wetland soils;
 - e. Reductions in water supply;
 - f. Interference with water circulation;
 - g. Reduction or increases in nutrients;
 - h. Influx of toxic chemicals or heavy metals;
 - i. Thermal changes in the water supply;
 - j. Changes affecting natural aesthetic values.
2. The impact of the proposed activity and reasonably anticipated similar activities upon flood flows, flood storage, and water quality are eliminated or minimized;
3. The potential for damage from flooding, erosion, winds, soil limitations and other hazards due to the activity is eliminated or minimized;
4. Water supply and waste disposal facilities, on- and off-site, and in areas where

future development can be reasonably expected, will be adequate after the completion of the proposed activity;

5. The activity is consistent with federal, state, county and local comprehensive land use plans and regulations including New York State Environmental Conservation Law, Article 24;
6. All reasonable alternatives on other sites or on the subject parcel have been thoroughly explored and no other alternative is available on a site which does not disturb a wetland, watercourse, lake, pond, or floodplain.

C. Flood Damage Prevention Local Law

Nothing in this section is intended to supersede, modify or otherwise affect the provisions of the Town of Gallatin, Local Law No. 2 of 1984, entitled "Flood Damage Prevention Local Law" as may be amended from time to time.

3.4 RIDGELINE PROTECTION OVERLAY DISTRICT (RPOD)

- A. Purpose. Consistent with the Town of Gallatin Comprehensive Plan, the Town of Gallatin seeks to protect its environment, rural character and scenic beauty. The Town has determined that an integral contributing element to the Town's landscape is its prominent ridgelines. The purpose of this section is to minimize the visual and environmental impacts of development located on or within 200 feet of a ridgeline by regulating the placement of buildings and structures and limiting the overall disturbance that occurs within any ridgeline regulated area specifically shown on the RPOD zoning map. It is not the intent of this section to regulate or limit development on small hills or rises on parcels within the Town that are not prominent in the visual landscape and are not identified on the RPOD zoning map.
- B. Regulated Activities. No approval shall be granted, and no building permit shall be issued for any activity regulated herein without Planning Board review and approval as per the requirements of this Section 3.4. The following activities situated within the ridgeline regulated area are subject to review and approval by the Planning Board:
1. Any activity requiring site plan approval from the Planning Board.
 2. Any activity requiring special use permit approval from the Planning Board.
 3. The construction of any single-family, two-family dwelling, mobile home, or expansion of same.
 4. Any construction or use requiring the issuance of a building permit, and where the proposed construction would disturb over 1,000 square feet of land area or would exceed twenty (20) feet in height as measured from existing ground level.
- C. Exempt Activities. Bona fide animal husbandry, farms, and customary farm activities and practices shall be exempt from these regulations. A farm residence shall not be exempt from these regulations.

D. Procedure.

1. ZEO review. The ZEO shall be responsible for determining which applications require referral to the Planning Board in accordance with this section. Any application for an activity regulated as per Section 3.4.B herein shall be forwarded to the Planning Board for review and approval.
2. Waiver. The ZEO, upon initial review of the application, may render an opinion that the proposed activity is unlikely to be visible from a public observation point. If the Planning Board concurs with the ZEO upon its receipt and review of the application, it shall pass a resolution declaring the activity exempt from review under this Section 3.4. If a waiver is not granted, then the application will be reviewed by the Planning Board. Nothing herein shall limit the Planning Board from issuing a waiver based upon its own determinations and absent a recommendation from the ZEO.
3. Design review. The Planning Board shall review the application to determine if it complies with the design standards set forth in Section 3.4.F.
4. Decisionmaking. The Planning Board may approve, approve with modifications, or disapprove the proposed activity.
5. SEQRA. The Planning Board, in its decisionmaking, shall comply with the regulations implementing SEQRA.
6. Timeframe for decisionmaking. Where the Planning Board is reviewing a site plan or special use permit application, the timeframe within which to make a decision on an application proposed within a ridgeline regulated area shall be concurrently reviewed and decided upon with the site plan and special use permit. For any action that does not otherwise require a site plan or special use permit, the Planning Board shall render a decision within 62 days of receiving a complete application. The Planning Board, in its discretion, may hold a public hearing on the application.

E. Submission requirements. The Planning Board shall, in its discretion, determine the level and detail of information that shall accompany the site plan, special use or building permit application(s). The information to be submitted shall depend on the nature of the proposed activity, e.g., its scale, height and mass, and the potential for same to be visible from public observation points. Data to be submitted include:

1. Any material submitted to the ZEO in conjunction with a building permit, site plan or special use permit application.
2. Swatches, paint chips, and other samples indicating the materials and colors proposed in the construction of the activity. The applicant shall specify the methods and mechanisms of minimizing visual impacts of existing and proposed structures, roads, driveways and other man-made features.
3. A plan showing the location of existing and proposed roads, structures,

driveways, or other man-made feature within the regulated area. The plan shall indicate the maximum first-floor topographic elevation and the maximum elevation to the highest point of each building and structure. The limits of disturbance shall be shown.

4. Visual Assessment Form, indicating the public observation points from which the proposed activity may be visible.
5. The Planning Board, in its discretion, may also require submission of the following information:
 - a. In consultation with the Planning Board, the applicant shall provide a list of observation points from which the structure may be visible. The applicant shall provide photographs taken from the observation point of the development site with aerials markers (e.g., balloons) if required by the Planning Board.
 - b. In consultation with the Planning Board, the applicant shall provide photosimulations of the proposed action.
 - c. Landscaping plan where the Planning Board determines that same is required to mitigate the visibility of the proposed activity.
6. Any additional information as may be requested by the Planning Board.

F. Design Standards.

1. Location outside the ridgeline regulated area. Wherever possible, activities and structures shall be located on those portions of a lot outside the ridgeline regulated area.
2. Location below the ridgeline. All structures shall be sited so that the roof or the top of the structure is located below the ridgeline unless the structure may be fully screened by existing vegetation and appropriate restrictions are placed on the lot to ensure that said vegetation is not removed. The Planning Board may impose conditions or otherwise limit the maximum height of any structure to achieve the objectives of this section.
3. Native vegetation to be preserved. Removal of native vegetation including shrubs and trees shall be minimized to the maximum extent practicable. The Planning Board may impose conditions or otherwise limit the amount of disturbance permitted. The Planning Board may also require supplemental landscaping to offset potential visual or environmental impacts associated with the proposed disturbance.
4. Clearcutting prohibited. Notching out trees and clear cutting on the ridgeline shall be prohibited. The continuity of the treeline when viewed from a public observation point shall not be disturbed.
5. Lighting shall be minimized. The Planning Board may require the use of dark

sky compliant fixtures or otherwise limit the amount of lighting associated with a proposed activity to the minimum necessary to protect the health, safety and welfare of occupants.

6. Colors. The Planning Board may require that a structure be limited to specified earthtone colors to limit visibility of the structure.
- G. Waivers from design standards. The Planning Board, in its discretion, may waive the requirement of the design standards set forth herein where it determines that the objective of preserving the visual and rural landscape is best achieved by granting the waiver.

ARTICLE IV. AREA AND BULK REGULATIONS

4.1 DISTRICT SCHEDULE OF AREA AND BULK REGULATIONS

The general area and bulk regulations in each zoning district are set forth in “DISTRICT SCHEDULE OF AREA AND BULK REGULATIONS” set forth in Section 4.3 of this Article. This Schedule is supplemented, as appropriate, by other provisions of this Law, including the Supplementary Regulations stated in Article V.

- A. No structure shall be erected, moved, altered, enlarged or rebuilt nor shall any open space surrounding any building be encroached upon or reduced in any manner, unless it is in conformity with the District Schedule of Area and Bulk Regulations, except as hereinafter provided.
- B. No yard or lot existing at the time of the passage of this Zoning Law shall be reduced in size or area below the minimum requirements set forth herein. Yard and lots created after the effective date of this law shall meet the minimum requirements established by this Law, with such lots established in accordance with the requirements of the Town of Gallatin’s Subdivision Regulations.

4.2 GENERAL REGULATIONS

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

A. Lot for Every Principal Building

Every building hereafter erected shall be located on a lot as herein defined, and there shall be not more than one principal building on one lot, except for farm operations, multi-family developments, community facilities and except as specifically permitted elsewhere in this Zoning Law. Where more than one principal building may be permitted on a lot, no detached principal building shall be located closer to any other principal building on the same lot than the height of the taller of said buildings.

B. Two Single-Family Dwellings on One Lot

No more than two single-family dwellings may be located on one lot provided that the lot size is at least twice the minimum area required for a single-family dwelling in the zoning district in which it is located, and the siting of each building fully complies with the bulk regulations for the applicable zoning district. The siting of each building must be in such a manner as to conform to the Town’s subdivision regulations for creation of two lots, but subdivision approval shall not be required.

C. Subdivision of a Lot

Where a lot is hereafter formed from the part of a lot already occupied by a building, such separation shall be effected in such a manner that each lot thus created conforms to all of the requirements of this Zoning Law and the Town’s Subdivision Regulations.

D. Irregularly Shaped Lots

The ZEO shall make determinations related to the proper application of any bulk requirement to irregularly shaped lots. Said determination may be appealed to the Zoning Board of Appeals.

4.3 DISTRICT SCHEDULE OF AREA AND BULK REGULATIONS

(Measurements are in feet unless otherwise noted)

- A. The District Schedule of Area and Bulk Regulations, also referred to herein as the “Bulk Schedule”, is set forth below:

Zoning District	Min Lot Area per DU or Establishment	Minimum Required Setback for Yards			Max. Bldg. Height	Max. Lot Coverage	Min. Lot Width	Min. Lot Frontage	Min. Driveway Setback
		Front	Side	Rear					
H	1 acre	50	25	50	35	15%	100	250	10
RA-2	2 acre	75	50	100	35	10%	200	250	15
LDR-3	3 acre	75	50	100	35	7%	250	250	15
RA-3	3 acre	75	50	100	35	7%	250	250	15

Notes:

DU = Dwelling unit.

Min. – Minimum. Max. – Maximum.

B. ADDITIONAL PROVISIONS:

1. In cases of through lots, front yard requirements shall be observed on both streets.
2. Except as otherwise provided in this Law, only one permitted principal use is allowed on each lot.
3. The allowable uses and area and bulk regulations in the Floating Commercial/Industrial District (FCID), a floating zone, shall be established by the Gallatin Town Board in accordance with the standards and procedures set forth in Section 3.2 of this Law.

4.4 EXISTING LOTS OF RECORD

Nothing contained herein shall allow the use of, or construction on, an existing “lot of record”, as defined in Article VII of this Zoning Law, where said lot does not meet the minimum lot area, lot width or lot frontage for the district in which it is located, unless:

- A. Such lot is used only for not more than one (1) single family dwelling unit and its associated accessory structures.
- B. Such use shall satisfy all applicable requirements of the Town of Gallatin and the Columbia County Health Department for potable water supply and sewage disposal facilities.
- C. All other bulk requirements for the applicable district are met.
- D. If created after May 30, 1982, the lot is part of subdivision plat approved by the Town of Gallatin Planning Board in accordance with the Town’s Subdivision Regulations and

filed in the office of the Columbia County Clerk in a timely manner pursuant to Town Law.

The proposed use of, or any construction on, an existing lot of record that does not meet the requirements set forth above shall require an area variance from the Zoning Board of Appeals.

4.5 MINIMUM LOT AREA PER DWELLING UNIT OR ESTABLISHMENT

A. Calculation of minimum lot area.

1. Purpose. The purpose of this section is to protect areas with sensitive environmental features by limiting the density and intensity of uses and buildings that may be constructed on any lot in the Town of Gallatin. When determining the minimum lot area for any use within any zoning district, areas exhibiting these environmental features shall be deducted.
2. Applicability. These provisions shall apply to all properties in the Town of Gallatin. Nothing herein shall prohibit the use of an existing lot of record if said lot conforms to the requirements set forth in Section 4.4 above. Nothing herein shall prohibit an applicant from seeking a variance from the Zoning Board of Appeals where it is determined that a property does not meet the regulations set forth in this Section 4.5.A.
3. Wherever the phrase lot area, minimum lot area, or minimum lot size or similar term appears in this Zoning Law, such phrase shall be deemed to be based upon net acreage or net square footage after exclusion of lands containing the following environmentally sensitive features:
 - a. The 100-year flood plain as defined by the Federal Emergency Management Agency (FEMA) Flood Hazard Boundary maps as those maps now exist or as they may be amended from time to time;
 - b. Wetlands, including New York State designated wetlands but excluding the 100-foot buffer, and wetlands regulated by the U.S. Army Corps of Engineers or any successor agency, all as those wetlands now exist or as may be found to exist;
 - c. Lands covered by open waters, natural or constructed water bodies and perennial streams.
 - d. Land areas with slopes of 25 percent or greater.
4. During site plan, subdivision, special use permit application review, the Planning Board shall require that development areas be located so as to avoid these sensitive environmental features from disturbance. In addition, disturbances to areas with slopes greater than 20 percent shall be avoided to the maximum extent practicable. The Planning Board has the discretion to establish building envelopes within which all uses, structures and disturbances are located so as to avoid these features. The Planning Board, as a condition

of approval, may require the imposition of map notes to ensure that these requirements and any conditions limiting development are met.

5. Data to be used in calculating minimum lot area. The Zoning Enforcement Officer or the Planning Board may rely on existing mapping, soils data, geological maps showing topographic contours, and other secondary sources of information to establish the boundaries of sensitive environmental areas. Nothing herein shall limit the Zoning Enforcement Officer or the Planning Board from requiring additional detailed data obtained from field or other surveys where it is determined that the secondary resource data do not reasonably illustrate the boundaries of the sensitive environmental features.
 6. Conservation subdivisions. These provisions shall not apply to the determination of minimum lot size for lots created in a conservation subdivision.
- B. In all districts where residences are permitted, a lot may only be improved for residential use in accordance with the minimum lot area and related bulk regulations for the district as set forth in the Bulk Schedule, except as provided in Section 4.4 above regarding existing lots of record, or as provided in section 5.11 of this law regarding residential cluster development, in accordance with the Town of Gallatin Subdivision Regulations and §278 of the NYS Town Law, or except as provided by the Town Board in creation of a FCID pursuant to Section 3.2 of this Law.
- C. If two (2) or more principal residential structures are located or proposed to be located on the same lot, except for an accessory dwelling unit authorized under this law by special permit, the minimum lot area per dwelling unit requirement must be complied with, and all other requirements of the law and other applicable laws, rules and regulations must be strictly met.

4.6 HEIGHT EXCEPTIONS

- A. The height limitations set forth in the Bulk Schedule shall apply to all buildings and structures but shall not be applicable to the following:
1. Agricultural barns and silos.
 2. Horizontal Axis Wind Turbines (i.e., windmills and wind generators) incidental and accessory to a principal use; which shall be restricted to a maximum height of seventy-five (75) feet above average finished grade at its base to the top of the rotor blades. Said structures also require a special use permit as per Section 5.33 and are regulated by 4.8.C. below regarding uses and structures accessory to a farm operation.
 3. Private transmission tower; not to exceed sixty (60) feet in height. Dimension of base shall not exceed one hundred and forty-four (144) square feet.
 4. Chimneys and solar collectors which in their aggregate coverage occupy no more than ten percent (10%) of the roof area of the building of which they are an integral architectural or mechanical element, such features shall be erected only to such height as is minimally necessary to accomplish the purpose for which

they are intended and shall not extend more than ten (10) feet above the roof.

5. Public utility or cellular telephone communications antenna or towers shall not exceed one hundred and ninety-nine feet (199) in height.

- B. For each foot a building or structure exceeds the maximum height specified in Section 4.3, it shall be offset from the property lines two (2) feet in addition to the applicable minimum yard requirements.

4.7 CORNER LOTS

- A. On a corner lot, each street frontage shall be deemed to be a front street line, and the required yard along each such lot line shall be a required front yard. However, no lot shall be interpreted to have more than two (2) front yards regardless of how such lot is located or configured. The rear yard shall be deemed to be the yard opposite the street used for the "911" address system.

4.8 ACCESSORY STRUCTURES

- A. Accessory structures, as defined in Article VII of this Zoning Law, may not be located in any yard of a residential lot except as permitted in Section 4.9D and are subject to the following limitations:
 1. No such structure shall exceed thirty-five feet in height, except agricultural buildings, and those as allowed in Section 4.6.
 2. All structures in total shall not exceed the maximum lot coverage as set forth in the Bulk Schedule except for agricultural buildings in an agricultural district created pursuant to Article 25-AA of the New York State Agriculture and Markets Law.
 3. If any accessory structure is attached to a principal building or semi-attached therefrom, including but not limited to attachment by means of a breezeway or a roofed passageway, it shall comply in all respects to the area and bulk requirements of this law applicable to the principal building. No such accessory structure shall be constructed nearer to the front lot line than is permitted for the principal building, nor nearer to any side or rear lot line than the distance required in the Bulk Schedule except as specifically provided elsewhere in this Zoning Law.
- B. One (1) accessory structure with a maximum floor area of one hundred forty four (144) square feet may be installed or constructed and utilized without the issuance of a building permit or certificate of occupancy, provided that each of the following conditions are met:
 1. The structure does not have a permanent foundation.
 2. The structure is not served by any utility such as electricity, gas or plumbing.
 3. The structure does not exceed ten (10) feet in height.

4. The structure is not used for human habitation.
 5. All other requirements of this law related to accessory structures are fully met.
 6. A zoning permit is obtained from Zoning Enforcement Officer.
- C. Structures accessory to a farm. A structure or structures accessory to a farm are permitted a maximum height of 75 feet and shall be setback a minimum distance equivalent to the height of the structure. Consistent with Section 101.2.2 of the New York State Uniform Building Code, agricultural buildings, including barns, sheds, poultry houses and other buildings and equipment on the premises used directly and solely for agricultural purposes are exempted from regulation under said Code and do not require a building permit. For purposes of this subsection, and as set forth in the New York State Building Code, an agricultural building shall mean “a structure designed and constructed to house farm implements, hay, grain, poultry, livestock or other horticultural products, excluding any structure designed, constructed or used, in whole or in part, for human habitation, as a place of employment where agricultural products are processed, treated or packaged, or as a place used by the public.” Any other structure that is proposed accessory to a farm, which does not meet the definition of agricultural building as set forth in this subsection, shall require a building permit and certificate of occupancy from the Code Enforcement Officer, and any other approvals as may be required by this Zoning Law and the New York State Building Code.

4.9 MEASUREMENTS AND USE OF YARDS

- A. The front yard setback is measured from the nearest point on the center line of the road or private right-of-way.
- B. No part of a yard or other open space required in connection with any building or use shall be included as part of a yard or other open space similarly required for another building.
- C. Required setback areas shall not be used for the storage of merchandise, equipment, building materials, junk, vehicles, vehicle parts or any other material or for signs, except as otherwise specifically permitted herein.
- D. Required setback areas may not be encroached upon for construction, except:
1. Ordinary building projections, up to three (3) feet into the required setback area;
 2. Exterior stairs, up to eight (8) feet into the required setback area, but not closer than five (5) feet to any lot line;
 3. Awning or movable canopy, up to six (6) feet into the required setback area, but not closer than five (5) feet to any lot line.
 4. Retaining walls, fences, masonry walls, open arbors, or trellises;

- 5.. Bus passenger shelter, playhouse, tool house, garden house, or similar non-permanent structures, not to exceed fifty (50) square feet, and located not closer than ten (10) feet to any lot line or street right-of-way line.

4.10 FRESHWATER WETLANDS REGULATED BY FEDERAL AND STATE AGENCIES

Applications for building permits that would affect freshwater wetlands regulated by the U.S. Army Corps of Engineers ("ACOE") or the New York State Department of Environmental Conservation ("DEC") shall comply with the Article 24 and Title 23 of article 71 of the NYS Environmental Conservation Law and/or the Section 404 of the federal Clean Water Act as may be amended from time to time. It is the obligation of any Applicant to review applicable maps and data, including but not limited to the US Fish and Wildlife Service National Wetland Inventory Maps, hydric soil data available from the United States Department of Agriculture, and Freshwater Wetland Maps published by the DEC, to determine whether a property may contain freshwater wetlands. The Planning Board may require that the wetland boundary and the DEC-regulated 100-foot adjacent area be indicated on any site plan or subdivision for properties with such wetlands. The plan shall bear the signature of the DEC officer responsible for the field flagging or review of same. There shall be no construction or disturbance within a federally regulated or DEC regulated wetland or buffer without an ACOE or DEC permit. Furthermore, the Zoning Enforcement Officer may require that freshwater wetland boundaries be flagged and verified by the DEC and/or the ACOE as part of a building permit application where it is determined that said wetland delineation is necessary to ensure that proposed construction proceeds in accordance with all applicable federal and state wetland regulations and permits.

4.11 CONSERVATION DENSITY SUBDIVISION

In order to enable the permanent preservation of significant open space resources achieved and protected through establishment of conservation easements, the Town Board authorizes the Planning Board to approve conservation density subdivisions as defined in the Town of Gallatin subdivision regulations and as regulated in Article IX therein.

4.12 ANIMAL HUSBANDRY

These provisions shall not apply to the keeping of animals conducted accessory to a farm operation. The keeping of animals on non-farm parcels of at least two (2) acres in area shall be permitted in accordance with the following regulations:

- A. The keeping of not more than one (1) adult or fully-grown horse, cow, hog, beef cattle, sheep, goat or other four-legged domestic type farm animal or combination thereof per (1) acre of land for the first animal and one-half (1/2) acre for each additional animal shall be permitted.
- B. In addition, the keeping of not more than a total of any combination of eight (8) adult or fully grown chickens, ducks, geese or other fowl or birds of any type per two (2) acres of land shall be permitted.

ARTICLE V. SUPPLEMENTARY REGULATIONS

5.1 APPLICATION OF REGULATIONS

In addition to the provisions set forth in the Use Schedule, the conditions set forth in the following Supplemental Regulations shall apply to specific uses. Restrictions imposed by the definition of any item, as contained in Article VII herein, shall also be construed as supplementary regulations to this Zoning Law.

- A. If a special permit is required, the Planning Board shall consider those conditions specified in Section 6.7, Site Plans, and Section 6.8, Special Permits.
- B. Unless otherwise specified, all bulk regulations shall be met.

5.2 ACCESSORY DWELLING UNIT

A. Intent

Accessory dwelling units are allowed in the Town of Gallatin in order to provide broader housing alternatives and in a manner which does not infringe upon the character of existing neighborhoods.

B. General Provisions

An accessory dwelling unit ("accessory unit"), within the principal structure or as a detached structure, shall meet the following requirements:

1. Only one accessory dwelling unit is allowed per lot, and it shall be clearly subordinate to the principal use on the lot.
2. The lot may not be an existing nonconforming lot of less than the prescribed lot area or lot width required in the district.
3. No accessory unit shall be created on a lot where two or more dwellings exist in violation of the permitted density, or as a nonconforming use, in the district in which the lot is located. No accessory dwelling unit shall be created on a lot where a two-family or multi-family dwelling exists.
4. The owner of the single-family dwelling unit shall occupy at least one (1) of the dwelling units.
5. The number of bedrooms in the accessory unit shall not be more than two (2).
6. The floor space of the accessory unit shall be a minimum of four hundred (400) square feet and a maximum of nine hundred (900) square feet.

If the accessory unit is larger than this size limitation and is within the principal structure, the building shall be considered a two-family dwelling unit, and must conform to the acreage requirement and minimum lot area per dwelling unit prescribed in Section 4.5.

If the accessory unit is larger than this size limitation and is in a detached structure, the new dwelling unit shall be considered a separate single-family dwelling unit, and subdivision must take place in accordance with the provisions of this law and the town Subdivision Regulations, unless the two dwelling units comply with the requirements of 4.2(B) of this Law.

7. The unit shall be self-contained, with separate cooking, sleeping, and sanitary facilities for use by the occupant(s).
8. The unit must have safe and proper means of entrance. Any additional exterior entrances which may be created shall be located at the side or rear of the structure.
9. No special permit for an accessory unit shall be granted unless the applicant can demonstrate that the water supply and sewage disposal systems serving the building or buildings in question meet current County Health Department requirements and shall continue to meet such requirements. The Planning Board may require that the applicant have sufficient lot area to allow for future replacement of the septic system.
10. Stairways leading to any floor or story above the first floor shall be located within the walls of the building wherever practical. Stairways and fire escapes shall be located on the rear wall in preference to either side wall. No exterior stairway or fire escape shall be located on any wall fronting the street.

C. Accessory Dwelling Unit in Existing Gatehouse, Garage, Barn, or Similar Detached Structure

In addition to the requirements of subsections A and B above and subject to the requirements below, an accessory dwelling unit is allowed under this subsection in a gatehouse, garage, barn, or similar detached structure which legally exists at the time the accessory dwelling unit is proposed.

For the purpose of this section, any structure which does not have at least one (1) wall in common with the principal structure is a detached structure. An accessory dwelling that is attached to a principal dwelling by a common roof, patio, porch or breezeway shall not be construed as causing such accessory dwelling to be within the principal building. The bulk regulations set forth in Section 4.8.A.3 shall apply.

In addition to the provisions in subsection B above, an accessory dwelling unit in a detached structure shall meet the following requirements:

1. The accessory structure must meet the minimum setback requirements established for the construction of a principal structure in the zoning district as prescribed in the Bulk Schedule.
2. Construction associated with adaptation of buildings should be performed in a way that retains the character of the structure. The design and construction of the adaptation of the building shall be compatible with the principal structure

and with the character of the neighborhood.

3. Should subdivision of the parcel later be proposed, not less than the minimum specified acreages must be provided for the principal dwelling and its accessory unit if their certificates of occupancy are to be maintained.

D. Housing for Farm Employees. Housing for farm employees is allowed as an accessory use to a farm operation only. Said housing shall be occupied only by farm employees employed on the farm on which said housing is situated. Said housing shall require site plan approval from the Planning Board. Subsections B and C of this Section 5.2 do not apply to housing for farm employees.

1. More than one accessory dwelling for farm employees is allowed in conjunction with a farm operation. However, the maximum residential density allowed on the lot shall not exceed 15,000 square feet of lot area exclusive of areas reserved for the farming operation, e.g. pasture, cropland, barns, etc. Accessory dwelling units shall be located no closer than twenty-five (25) feet to another accessory dwelling.
2. The floor space of the accessory housing unit shall be a minimum of four hundred (400) square feet.
3. Each unit shall be self-contained, with separate cooking, sleeping, and sanitary facilities for use by the occupant(s).
4. The unit must have safe and proper means of egress.
5. No building permit for an accessory unit shall be granted unless the applicant can demonstrate that the water supply and sewage disposal systems serving the building or buildings in question meet current County Health Department requirements and shall continue to meet such requirements.
6. The accessory housing must meet the minimum setback requirements established for the construction of a principal structure in the applicable zoning district as prescribed in the Bulk Schedule.
7. Where the farm operator proposes the installation of one or more mobile homes, the mobile home shall comply with the design requirements set forth in Section 5.22.C of this Zoning Law.
8. Housing for farm employees shall be removed if the farm ceases operation for a period of three years or more or the housing has not been occupied for a period of three years or more.

5.3 ACCESSORY USES

The Planning Board shall consider the impact of proposed accessory uses as part of site plan or special permit application review. The Planning Board shall require conditions for an accessory use as would be required under this law for the same use as a principal use.

5.4 ALTERNATE CARE HOUSING FACILITY AND RESIDENTIAL HEALTH CARE FACILITIES

A. Purpose

It is the intent of the Town of Gallatin to permit alternate care housing, as defined in Article VII, in order to provide housing opportunities for those members of the community who are unable to live independently. It is the further purpose of this section to:

1. Achieve the integration of alternate care housing residents into the community.
2. Achieve a well-balanced population through the provision of many kinds of housing options.
3. Promote a development pattern in harmony with the objectives of the Town Comprehensive Plan.
4. Control design in such a way as to preserve neighborhood character, promote comprehensive land use planning and protect property values.

B. Standards

Alternate care housing facilities (ACH) shall conform to all requirements for a single family dwelling in the Zoning District in which the ACH is located and shall require special use permit and site plan approval as set forth in the Use Schedule. All ACH facilities shall comply with the requirements of the New York State Mental Health Law, Mental Hygiene Law and New York State Public Health Law and all other applicable local, state or federal laws, rules and regulations. These provisions shall not apply to any "community residential facility for the disabled" as that term is defined and regulated by Section 41.34 of the New York State Mental Hygiene Law. In addition, an alternate care housing facility shall comply with the following standards:

1. An alternate care housing facility, when complete and occupied, shall not result in the substantial alteration of the nature and character of the neighborhood in which the facility is to be located;
2. All alternate care housing facilities shall be similar in appearance to a single family residence permitted on the site. Alternate care housing facilities shall comply with all lighting and signage requirements as apply to single family dwellings;
3. All alternate care housing facilities, and any dwelling units contained therein, shall comply in all ways with the New York State Uniform Building and Fire Code, and shall obtain approval of the Columbia County Health Department, where required;
4. An area of sufficient size on the lot on which the alternate care housing facility is located should be reserved to accommodate additional off-street parking where it is determined that such off-street parking is required; and

5. Alternate care housing facilities intending to house more than fourteen (14) residents, exclusive of staff members, are prohibited.
6. Any ACH that will house more than eight (8) clients shall require a site not less than five (5) acres, and the total population thereon, including residence and staff employees, shall not exceed ten persons per acre.
7. Provision for recreation for the ACH clients shall be provided with at least ten percent (10%) of the total land area developed for both active and passive outdoor recreation uses.
8. Any new and/or existing structure shall be constructed, altered, renovated and maintained in full accordance with all codes, rules and regulations that may be imposed by any regulatory or permitting agency.
9. All other applicable standards and provisions of the local law and other applicable local, county, state and land use and development regulations and requirements shall strictly apply to all ACH uses.
10. Any Special Permit approved or granted under this section is additionally subject to the license procedures and approvals for all appropriate state, county and regional agencies. Final approval for the ACH shall not be granted by the Planning Board and no Certificate of Occupancy shall be issued by the Zoning Enforcement Officer until copies of all such approvals are presented to and reviewed by the Planning Board.
11. Any variation in the type of program, including treatment, any increase in the residential population; any change in the ages or disabilities of the residential population and/or expansion or other modification of the facility shall require application to the Planning Board for consideration of a new or modified Special Use Permit and shall, in accordance with this local law, require re-examination of the Special Use Permit and Site Plan by the Planning Board.

C. Procedures

1. All applications for ACH, in addition to the standard application form and requirements for Special Use Permits and Site Plan Approval, shall be accompanied by a Project Narrative providing the following information for consideration by the Planning Board in its review of the application:
 - a. Specific classification or type of facility.
 - b. Names of the regulatory agencies from which permits, licenses or approvals are required and designation of a contact person at each such agency.
 - c. General description of client disability.
 - d. Documentation of the need for the proposed program and/or facility.

- e. Identification of the person or entity who is responsible for the financial support of the clients.
- f. Copies of all pertinent correspondence and/or approvals between the applicant and the regulatory agencies.
- g. Identification of where the clients formerly resided, including county and/or institution of origin.
- h. General statement regarding whether the clients are to become residents of Columbia County and, if so, what financial assistance they will require.
- i. Number of clients, both current and projected.
- j. Type of employment, if any, clients will seek within the community.
- k. Identification of which community facilities and services clients will utilize within the community.
- l. Description of the plan to integrate the clients into the community socially, educationally and economically.
- m. Number of staff employees residing in the premises, including projection of the number of school-age children who may be residing on the premises as part of staff members' families.
- n. Number of non-resident staff employees.
- o. Identification of services the facility will require, i.e., police and fire protection, ambulance services, schooling, sewage, water, utilities, refuge collection, postal service, etc . Explanation shall also be provided as to how these facilities will be provided.
- p. Transportation plan demonstrating how transportation will be provided for the residence.
- q. Identification as to whether public recreation facilities will be utilized by the residents.
- r. Identification of all proposed recreation facilities on site and a description of planned active and passive activities providing occupation, amusement, recreation or diversion for the clients.
- s. Identification of how health related needs will be provided for the clients.
- t. Will any clients become the educational responsibilities of the appropriate central school district for that area?
- u. Identify what real property taxes the facility will be paying.

- v. Vicinity Map - Provide a map indicating by location and maximum residence/chart population all other health related and alternate care facilities within a radius of two miles of the proposed facility.
- w. Describe the facility's five year operating plan as it pertains to the previously mentioned items. Include discussions of how compliance with all special permits standards stated within this local law shall be maintained.

5.5 BED AND BREAKFAST ESTABLISHMENT

- A. Such an establishment shall be allowed only as an accessory use of a single-family dwelling, and shall be owner-occupied.
- B. Such establishments shall not exceed four (4) guest bedrooms for transient occupancy.
- C. The proprietor may serve breakfast meals to guests. A public dining room, restaurant, bar or any other eating arrangement open to the general public is prohibited.
- D. The bed and breakfast establishment shall be limited to the principal dwelling unit.
- E. A free standing or wall mounted sign, visible from the adjacent road, but no larger than four (4) square feet in area, may be used to identify the bed and breakfast operation.
- F. No parking lot may be located closer to any property line than allowed by Bulk Schedule. One off-street parking space must be provided per guest bedroom in addition to the spaces required for the single-family dwelling.
- G. This establishment shall comply with all applicable bulk regulations and other provisions of this Law, and may not be located on an existing non-conforming lot.

5.6 BOARDING OR ROOMING HOUSE

- A. A boarding or rooming house, as defined in Article VII, may have no more than four (4) rooms for rent and a total of no more than six (6) residents in all rooms.
- B. One (1) off-street parking space must be provided per bedroom intended for residents' use. The portion of a driveway behind the building line may be used in meeting this requirement. No parking lot shall be close to any property line than allowed by the Bulk Schedule.
- C. Cooking of any kind is prohibited in all rented rooms.
- D. Such an establishment shall be permitted only as an accessory use of the principal single-family dwelling, and shall be owner-occupied.
- E. The establishment shall comply with all applicable bulk regulations and other provisions of this Law, and may not be located on an existing non-conforming lot.

5.7 BUS PASSENGER SHELTER

- A. Bus passenger shelters shall not exceed fifty (50) square feet.
- B. No shelter shall be located closer than ten (10) feet to any property line or road surface. This shall supersede the minimum yard requirements listed in Article IV.
- C. No bus shelter shall have electrical power.

5.8 CAMP CHILDREN'S, ADULT, OR DAY

- A. The minimum lot size shall be ten (10) acres.
- B. No camp shall be operated during the months of November through March.
- C. No structure intended for dwelling purposes, including tents, shall be closer than two hundred (200) feet to any property line or lake. All structures shall be screened from view from adjoining properties or public highways by fences, walls, trees, shrubs or a combination thereof deemed acceptable by the Planning Board.
- D. Each camp shall obtain all necessary approvals from the Columbia County Health Department and meet other applicable regulations of this Zoning Law.
- E. No amplifiers or loudspeakers of any type shall be installed outside of any building.
- F. No activity area or recreational facility shall be closer than two hundred and fifty (250) feet to any property line.
- G. No camping trailer or recreational vehicle of any size is allowed in a camp. Such vehicles are allowed only in a camping trailer campground, subject to all local laws of the Town of Gallatin, except as otherwise permitted by this Zoning Law.

5.9 CHURCH OR PLACE OF WORSHIP

Churches and other places of worship, as defined in Article VII, shall be subject to a special permit and site plan approval. The Planning Board shall consider the following conditions in addition to those specified in Section 6.7, Site Plans, and Section 6.8, Special Permits.

- A. A church or other place of worship shall be designed to be compatible with the existing neighborhood character.
- B. The Planning Board shall have the authority to waive the height regulations of the applicable zoning district and Section 4.6, Height Exceptions, if it finds that a taller structure would be in keeping with the character of the neighborhood and a benefit to the community.
- C. Traditional accessory uses such as a parish house, meeting rooms, kitchen facilities, and classrooms shall be allowed and shall be considered as part of the overall site plan. Any parsonage, manse or other dwelling shall be a separate single-family dwelling unit and meet all zoning requirements in the district in which it is located.

5.10 CLUBHOUSE

- A. A hedge, fence, or wall adequate for year round screening of the clubhouse may be required by the Planning Board.
- B. Any exterior lighting shall be designed to avoid nuisance to adjacent residential districts.
- C. Specific plans for outdoor recreational facilities shall be submitted to and approved by the Planning Board, including, lighting, landscaping, and the specific hours of operation for such facilities.
- D. No amplifiers or loudspeakers of any type shall be installed outside of any building.
- E. No clubhouse shall exceed a square footage in excess of 2,000 square feet.

5.11 CLUSTER DEVELOPMENT, RESIDENTIAL

A. Authority

The Town Board of the Town of Gallatin hereby adopts the provisions of Section 278 of the Town Law and grants to the Planning Board the full authority set forth in that section to approve a cluster development simultaneously with the approval of a subdivision plat or plats, including the authority to require an applicant to submit an application for cluster development.

B. Procedure

- 1. Any Residential Cluster Development shall be subject to Section 6.7, Site Plans, and Town Subdivision Regulations. It is in the best interest of the applicant and the Planning Board to determine the applicable development pattern at the earliest possible time. If a conceptual plan application meets any of the cluster preference criteria listed in subsection 2 below, the Planning Board may use its authority to permit or require a residential cluster development alternative. The Planning Board may require that the applicant submit land inventory information at the conceptual plan stage to assist it in making such a judgment. The Planning Board may refer the conceptual plan application to the Conservation Advisory Committee. The proposed cluster development shall be subject to review at a public hearing or hearings held pursuant to the subdivision regulations.
- 2. An applicant for any subdivision shall provide a conceptual plan for a cluster subdivision on parcels thirty (30) acres or larger in the RA-2, RA-3, and LDR-3 districts, or ten (10) acres or larger in the H district, or when some of the following objectives, in the judgment of the Planning Board, are better accomplished by a cluster subdivision as compared to a conventional subdivision with residential lots occupying most of the tract:
 - a. Preservation of contiguous prime or statewide important agricultural soils;

- b. Maintenance of active agricultural land;
 - c. Protection of the ground or surface water, wetlands, steep slopes, floodplains or unique areas of natural, scenic or historical significance;
 - d. Mitigation of significant environmental impacts identified through application of the State Environmental Quality Review Act (SEQRA) requirements;
 - e. Preservation of open space and/or scenic views identified as important to the Town;
 - f. Reduction in the amount of new roads or driveways obtaining access from existing roads;
 - g. Reduction in the amount of new road that may be required to be dedicated to the Town;
 - h. Protection of Critical Environmental Areas;
 - i. Accomplishment of specific goals set forth in the Town Comprehensive Plan.
3. An application for cluster development shall include all plans and materials required for a conventional subdivision. The maximum number of dwelling units that may be permitted and approved within a cluster development shall not exceed the number which could be permitted, in the Planning Board's judgment, if the land were subdivided into lots conforming to the minimum lot size and density requirements of this Zoning Law applicable to the district or districts in which such land is situated and conforming to all other applicable requirements. However, where the plat falls within two or more contiguous districts, the Planning Board may approve a cluster development representing the cumulative density as derived from summing of all units allowed in all such districts, and may authorize actual construction to take place in all or any portion of one or more of said districts.
4. Platting shall be restricted to those portions of the site which are considered by the Planning Board to be suitable for residential building development based on an analysis of the site's topographic, geologic and hydrological characteristics. Any regulations contained in this Zoning Law which restrict the number of single-family dwelling units permitted shall also restrict the number of dwelling units permitted in a cluster subdivision or other requirements including Section 4.5, Minimum Lot Area per Dwelling Unit or Establishment. Lots shown on the conventional conceptual plat shall be fully consistent with both the lot area and bulk requirements of the zoning district in which the cluster development is proposed and the requirements of the Town's Subdivision Regulations for the provision of streets and other required facilities and improvements.

C. Standards

1. Where the cluster development results in the creation of individual lots for the development of single-family detached dwellings, the minimum lot area per dwelling unit that may be created within a cluster development shall be one-half (1/2) acre.
2. Wherever common property is approved as part of the cluster proposal, a Homeowners' Association will be established under New York State Law for ownership and maintenance of the common property.
3. Attached, detached, semi-detached or multi-story dwelling units are permissible within a cluster development in the discretion of the Planning Board.
4. No individual structure shall contain more than four (4) attached dwelling units in the RA-2, RA-3, and LDR-3 districts, or more than six (6) attached dwelling units in the H district.
5. Common driveway access may be provided to the extent considered practicable by the Planning Board. A pedestrian circulation and/or trail system shall be designed and installed sufficient for the needs of residents.
6. Maximum structure height within a cluster development shall be restricted to thirty-five (35) feet.
7. Minimum separation distance between individual residential structures within a cluster development shall be fifty (50) feet in the RA-2, RA-3, and LDR-3 districts, and twenty-five (25) feet in the H district.
8. The minimum front yard setback from the center line of a public roadway shall be no less than the normally applicable setback requirement in the district in which the property is located. Any other area and bulk regulations shall be determined by the Planning Board in the site or subdivision plan review process.
9. Water supply and sewage disposal facilities shall be designed by a licensed engineer for any such residential cluster development in accordance with the requirements of the Town of Gallatin and the Columbia County Health Department. Underground facilities may be located in areas to be set aside as permanent open space.
10. Common open space totaling not less than sixty percent (60%) of the total cluster development site in the RA-3 district, or forty percent (40%) of the total cluster development site in the RA-2, LDR-3, and H districts, shall be provided in perpetuity as part of the cluster development. A plan for maintenance or landscaping of the common open space area shall be reviewed and approved by the Planning Board. No portion of this minimum required open space shall be utilized for roads, driveways, above-ground utility structures, or similar features.

11. Open space land may be owned in common by a Homeowners' Association, held in private ownership subject to a permanent conservation easement or dedicated to the Town if such dedication is approved by the Town Board. If owned by a Homeowners' Association, the common open space land shall be protected by conservation easement from future subdivision and development. The Planning Board shall require that proper provision has been made for ownership and maintenance of open space land, roadways and other improvements.
12. The Planning Board shall require that a perpetual conservation easement leaving the open space land forever wild, or limiting use of such land to agricultural, managed forest land, passive recreational or open space use, or to the residential use specified as part of the plan, and prohibiting institutional, industrial or commercial use of such open space land, pursuant to Section 247 of the General Municipal Law and/or Sections 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.
13. The open space land shall be shown on the plat map and shall be labeled in a manner to indicate that such land is not to be further subdivided for building lots and is permanently reserved for open space purposes.

D. Partial Subdivisions

This subsection allows for the partial subdivision of a parcel that would otherwise meet the purposes and requirements of a cluster development to accommodate landowners who may not wish to subdivide the entire property at the time of application.

1. If the Planning Board determines that a residential cluster development is to be considered or shall be required for a given parcel, based on the purposes and objectives of this section, any partial subdivision which does not develop the maximum allowable number of lots on this parcel shall only be approved in accordance with an overall cluster plan for the entire parcel that meets all the requirements of this section.
2. Before any such partial subdivision is approved, the applicant shall demonstrate to the satisfaction of the Planning Board that the overall cluster plan is physically possible, the best layout for achieving the purposes of this section, and will be followed in any subsequent development phase or by any subsequent owner.
3. In order to guarantee the fulfillment of the overall cluster plan for the entire property, the applicant shall accomplish either a or b, or both.
 - a. Indicate all future property lines, roads, and other major improvements for the cluster plan on the map to be filed for the partial subdivision.
 - b. Permanently protect through conservation easement the designated open space for the entire property.

E. Siting Guidelines

In the clustered development, the lots shall be laid out so that dwelling units will be located in a manner consistent with the purposes of this section. The following guidelines are to be applied, when applicable, on a case-by-case basis by the Planning Board with lots to be laid out:

1. On the least fertile soils for agricultural uses, and in a manner which maximizes the usable area remaining for such agricultural uses;
2. Within any woodland contained in the parcel, or along the far edges of the open fields (to reduce impact upon agriculture, to provide summer shade and shelter from winter wind, and to enable new construction to be visually absorbed by natural landscape features);
3. To provide permanent protection for significant natural or cultural features identified on the site;
4. So as to minimize the number of driveways with access to existing roads;
5. In such a manner that the common boundary between the new house lots and any active farmland is minimized in length (to reduce potential conflict situations);
6. In locations least likely to block or interrupt scenic vistas, as seen from the public roadway(s) or other public vantage points;
7. In locations where the greatest number of units could be designed to take maximum advantage of solar heating opportunities; and
8. In cluster developments exceeding twenty (20) dwelling units, the Planning Board shall consider the layout of smaller groupings, each having some open space immediately surrounding it, so that large concentrations of units with little or no differentiation can be avoided, and so that cluster development will be more compatible with the neighborhood in which it is located.

5.12 COMMUNICATIONS FACILITIES AND/OR PERSONAL WIRELESS SERVICE FACILITIES AND/OR TOWERS ("PWSF")

A. Compliance Required

1. No communications facility or personal wireless service facility or tower shall be erected, constructed, placed or installed without first obtaining a special permit and site plan approval from the Planning Board.
2. No existing communications or personal wireless facility shall be modified, moved, reconstructed, expanded, changed or structurally altered (hereinafter collectively referred to as "modification or change") except in accordance with the following procedures and requirements:

- a. Initial application for any facility modification or change shall be made to the Zoning Enforcement Officer and shall be accompanied by a proposed revised site plan showing the plans, elevations and details of such change and Emissions Certification (see, Section 7.2).
- b. If the proposed modification or change involves the upgrade or replacement of existing antenna with an antenna in kind, no further review shall be required and the ZEO shall issue a certificate of occupancy for the proposed modification or change.
- c. All other proposed modifications or changes to existing facilities shall be immediately forwarded by the ZEO to the Planning Board for amended site plan review and approval in accordance with the provisions of Section 6.7 of this Law. The Planning Board shall have the power to waive any of the submission requirements of Section 6.7 not reasonably necessary for adequate review of the application. After the amended site plan is approved, the application shall be immediately referred back to the ZEO for the issuance of a building permit.
- d. In the event of an emergency which results in a disruption of service, a facility may be replaced in kind without prior issuance of a Building Permit provided that application be made as soon as practicable to the ZEO for a Building Permit.

B. Special Permit Application Requirements.

In addition to all documentation and submissions normally required in a special permit application, the application shall include the following:

- 1. The legal name, address, principal place of business and telephone number of the applicant.
- 2. If the applicant is not the owner of the property on which the proposed facility or tower is to be located:
 - a. The name, address and telephone number of the property owner;
 - b. A copy of the applicant's lease or other agreement with the owner of the property for the applicant's use of the same.
 - c. Written consent of the property owner to the application for the special permit and to the imposition of reasonable conditions by the Planning Board on any approval regarding use of the property, such as co-location and removal of the facility or tower when no longer in use.
- 3. Copies of all submittals relating to the proposed facility and/or tower pertaining to: FCC licensing; Environmental Impact Statements; Environmental Assessments and Findings, if any, prepared pursuant to the National Environmental Policy Act of 1969; FCC Form 854; FAA Form 7460-1 (Notice of

Proposed Construction or Alteration); Aeronautical Studies; and, all data, assumptions and calculations relating to service coverage and power levels regardless of whether categorical exemption from Routine Environmental Evaluation under the FCC rules is claimed.

4. If applicable, copies of existing FCC licenses for the proposed uses.
5. Site plans and engineering plans, prepared, stamped and signed by a professional engineer licensed to practice in New York specializing in electrical engineering with expertise in radio communication facilities, and, if a tower is proposed, also specializing in structural engineering, containing the following information:
 - a. For applications involving new tower construction or major modification of an existing tower:
 - (1) A written, irrevocable commitment valid for the duration of the existence of the tower shall be provided. The property owner is required to notify the Building Inspector of any and all changes in ownership.
 - (2) If applicable, a copy of applicant's existing lease or contract with the personal wireless service provider(s).
 - (3) The following plans and maps:
 - (i) Location Map: Copy of the portion of the most recent U.S.G.S. Quadrangle Map, 7.5 Minute Series, at a scale of 1:24,000 or 1:25,000, and showing the area within at least two (2) miles from the proposed tower site indicating the tower location and the exact latitude and longitude (degrees, minutes and seconds).
 - (ii) Vicinity Map at a scale of 1" = 200' with contour intervals no greater than 10 feet showing the entire vicinity within a 1,000' radius of the property lines within which the tower facility is to be located.
 - (iii) Existing conditions plan showing existing utilities, property lines, existing buildings or structures, stonewalls or fence lines, and wooded areas within a 200-foot radius from the base of the proposed tower, and showing the boundaries of any wetlands, floodplains, or watercourses within 200 feet of the tower or any related facilities or access ways or appurtenances.
 - (iv) Proposed tower location and any appurtenances, including supports and guy wires, if any, and any accessory building. Indicate facility site boundaries and setback distances to the base(s) of the tower and to the nearest corners of each of the appurtenant structures.
 - (v) Proposed spot elevations at the base of the proposed tower and at the base of any guy wires, and the corners of all appurtenant structures.

- (vi) Proposed utilities, including distance from source of power, sizes of service available and required, locations of any proposed utility or communication lines, and whether underground or above ground.
 - (vii) Limits of areas where vegetation is to be cleared or altered.
 - (viii) Any direct or indirect wetlands alteration proposed.
 - (ix) Plans for drainage of surface and/or subsurface water, plans to control erosion and sedimentation both during construction and as a permanent measure.
 - (x) Plans indicating locations and specifics of proposed screening, landscaping, ground cover, fencing, any exterior lighting or signs.
 - (xi) Preliminary plans of proposed access driveway or roadway and parking area at the tower site, including proposed grading and traveled width and depth of gravel paving or surface materials.
- (4) Details of the proposed tower and appurtenances including:
- (i) Plans, elevations, sections and details at appropriate scales but no smaller than 1"= 10'.
 - (ii) Two cross sections through proposed tower drawn at right angles to each other, and showing the ground profile to at least 100 feet beyond the limit of clearing, and showing any guy wires or supports. Dimension the proposed height of tower above average grade at tower base. All proposed antennas, including their location on the tower, must be shown.
 - (iii) Preliminary plans for proposed tower foundation and ground attachments such as wire anchors.
 - (iv) Details of proposed exterior finish of the tower.
 - (v) Indicate relative height of the tower to the tops of surrounding trees as they presently exist, and the height to which they are expected to grow in ten years.
 - (vi) Illustration of the modular structure of the proposed tower indicating the heights of sections which could be removed or added in the future to adapt to changing communications conditions or demands or to accommodate co-location.
 - (vii) A structural professional engineer's written description of the proposed tower structure and its capacity to support additional antennas or other communications facilities at different heights, and the ability of the tower to be shortened if future communications

facilities no longer require the original height, and that the tower is designed to withstand winds in accordance with the ANSI/E1A/T1A 222 standards (latest revision).

(viii) A description of available space on the tower, providing illustrations and examples of the type and number of personal wireless service and other communications facilities which could be mounted on the structure.

(ix) The make and model of tower proposed to be erected and manufacturer's specifications, installation instructions, and manuals.

(5) Details and elevations of proposed communications equipment shelter and other accessory structures.

(6) Sight Lines:

(i) View lines requested by the Planning Board in a zero (0) to two (2) mile radius from the site, shown beginning at true north and continuing clockwise at forty-five (45) degree intervals.

(ii) A plan map of a circle of two (2) mile radius of the facility site on which visibility of the proposed (tower) from public ways specified by the Planning Board shall be indicated.

(7) A plan showing the exact location of each antenna or other broadcast or receiving facility on the existing tower.

(8) If required by the Planning Board, the applicant shall arrange to fly or raise upon a temporary mast a 3-foot diameter brightly colored balloon at the maximum height of the proposed tower during daylight hours at times and durations determined by the Planning Board. Advance notice of the test shall be advertised by the applicant in the Town's official newspaper with due regard to the fact that weather conditions may dictate the actual date of the conduct of the test.

b. For applications involving a new personal wireless service facility, or modification of an existing facility the submission must also include the following:

(1) The applicant must submit:

(i) Documentation from a professional engineer, licensed in the State of New York, with an expertise in telecommunications and radio frequency engineering showing that the tower and/or facility is needed to provide adequate coverage to an area within the applicant's licensed service area that currently has inadequate coverage, including a scaled graphical depiction of the inadequate coverage area.

(ii) An RF Emissions Certification.

- (2) A location map at a scale of 1" = 1000' showing the entire property on which the facility will be located and -all easements and streets and existing structures within two hundred (200) feet of the facility site. The location shall include the names of owners of record for all parcels within two hundred (200) feet of the property on which the facility is located.
- (3) Proposed Facility Plan: A recent survey of the facility site at a scale of 1" = 50' showing:
 - (i) Horizontal and radial distances of antenna(s) to nearest point on facility site:
 - (ii) Horizontal and radial distances of antenna(s) to nearest inhabited or occupied buildings or structures.
 - (iii) Proposed utilities, including distance from source of power, sizes of service available and required, locations of any proposed utility or communication lines, and whether underground or above ground.
 - (iv) Changes to be made to the existing facility's landscaping, screening, fencing, lighting, drainage, wetlands, grading, driveways or roadways, parking, or other infrastructure as a result of proposed modification to an existing facility.
- (4) Details and elevations of proposed communications equipment shelter and other accessory structures.
- (5) Proposed equipment plan:
 - (i) Plans, elevations, sections and details at appropriate scales but no smaller than 1" = 10'.
 - (ii) Number of antennas and repeaters, (if any) and exact location of this equipment located on a map.
 - (iii) Mounting locations on tower or structure, including height above ground.
- c. For applications involving tower construction or modification to accommodate a personal wireless service facility:
 - (1) The applicant shall provide a listing of all existing and planned (if known) personal wireless service facilities and all existing antenna sites within the Town of Gallatin within a seven (7) mile radius of the proposed tower site. The list shall include site elevation, tower height, type of service and antenna type(s), orientation, center of radiation and ERP for each site, if such information is known or reasonably available.
 - (2) The applicant shall provide written documentation of any facility sites in Gallatin, and within a seven (7) mile radius of the proposed site, in which it

has a legal or equitable interest, whether by ownership, leasehold, or otherwise. For each such facility site, it shall demonstrate with written documentation that the facility site is not already providing, or does not have the potential by adjusting the site, to provide adequate coverage and/or adequate capacity to the applicant's licensed service area.

- (3) The applicant shall demonstrate with written documentation that it has examined all facility sites towers or structures located in Gallatin and within a seven (7) mile radius of the proposed site in which applicant has no legal or equitable interest to determine whether those existing facility sites can be used to provide adequate coverage and/or adequate capacity to the applicant's licensed service area.
 - (4) Applicant shall demonstrate with written documentation that it has analyzed the feasibility of repeaters or non-tower mounted PWSF in conjunction with all sites listed in compliance with (c)(1), (c)(2) and (c)(3) to provide adequate coverage and/or adequate capacity to its licensed area. Radial plots indicating such consideration shall be provided as part of the application.
 - (5) The applicant shall describe in detail all other personal wireless service facilities and/or towers which it anticipates it will require in the future within the Town of Gallatin to provide adequate coverage to this area.
- d. Completed Part I of the SEQRA Long Form EAF and completed Visual EAF addendum.
 - e. The Planning Board shall have the power to modify, or waive any of these application requirements, or general requirements, where the application is for installation of a repeater only, or if it determines that the requirement is not applicable to, or necessary for, the complete review and evaluation of the particular project, and the waiver of such requirement(s) will not pose a risk to the public health or safety. The Planning Board may also require such additional documentation or information as it determines may be reasonably necessary for complete review and evaluation of the application.

C. General Requirements.

- 1. Communications and personal wireless facilities and towers may only be located on lots having a minimum of five (5) acres. This limitation shall not apply to repeaters and non-tower mounted PWSF. However, the Planning Board shall have the power to waive the five acre requirement if the applicant demonstrates that the proposal meets all setback and other requirements of the Zoning Law and will not adversely affect the health, safety and welfare of the neighboring community.
- 2. No more than one communications or personal wireless tower shall be located on a single lot.
- 3. New towers shall be set back at least two (2) times the height of the tower from

all boundaries of the lot on which the tower is located.

4. If the facility or tower site is in a wooded area, a vegetated buffer strip of undisturbed trees shall be retained for at least 50 feet in width around the entire perimeter of the facility site except where the access drive is located.
5. Fencing and Signs: The area around the tower and communication equipment shelter(s) and other accessory structures shall be completely fenced for security to a height of six feet and gated. A sign of no greater than two (2) square feet indicating the name of the facility owner(s) and a 24 hour emergency telephone number shall be posted adjacent to the entry gate. In addition, "No Trespassing" or other warning signs may be posted on the fence.
6. Communication equipment shelters and accessory buildings shall be designed to be architecturally similar and compatible with each other, and shall be a single story.
7. New towers including masts, antenna and other accessory facilities, shall not exceed the minimum height necessary to provide adequate coverage for any personal wireless service facilities proposed for use on the tower, but in no event shall they be constructed to a height greater than 199 feet above the ground on which the tower is to be located.
8. Tower finish: New tower(s) shall have a galvanized finish unless otherwise required. The Planning Board may require the tower to be painted or otherwise camouflaged to minimize the adverse visual impact.
9. Monopole, guyed and other less obtrusive tower designs shall be encouraged. However, where practicable, towers should be designed and constructed in a manner which will accommodate future sharing. The Planning Board, at its discretion, may require that the facility or tower be camouflaged through use of "stealth" technology and/or design to minimize the tower's visibility.
10. The use of repeaters and/or non-tower mounted PWSFs to assure adequate coverage for personal wireless service, or to fill holes within areas of otherwise adequate coverage, while minimizing the number of required towers, is permitted and encouraged. An applicant who has received a special permit for a personal wireless facility, with at least 30 days written notice to the Building Inspector and Planning Board, may install one or more additional repeaters on an existing structure subject to site plan review and approval by the Planning Board.
11. Commercial advertising shall not be allowed on any antenna, tower, communication equipment shelter or accessory structure.
12. Unless required by the Federal Aviation Administration, no night lighting of towers, or the personal wireless service, or communication, facility, is permitted, except for manually operated emergency lights for use only when operating personnel are on site.

13. No tower shall be located:

- a. Closer than 750 feet, on a horizontal plane, to any structure existing at the time of application which is, or is able to be, occupied or habitable on the property of any school (both public and private).
- b. Closer than 750 feet, on a horizontal plane, to an existing dwelling unit, or daycare center, hospital, nursing home, church, synagogue or other place of worship.
- c. Closer than 300 feet, on a horizontal plane to the nearest property line or 500 feet to the nearest habitable structure.
- d. Closer than twice its height, on a horizontal plane, to a power line.
- e. Within any of the following prohibited areas:
 - (i) DEC or federally regulated wetland;
 - (ii) The habitat of any state-listed rare or endangered wildlife or rare plant species;
 - (iii) Within 100 feet horizontally from the boundary of any New York or DEC regulated wetland;
 - (iv) Within 100 feet horizontally from the edge of any watercourse and/or waterbody;
 - (v) Within 500 feet horizontally from any historic district or property listed on the State or Federal register of historic places;
 - (vi) Within 500 feet horizontally from any known archaeological site.

D. Standards for Siting.

- 1. Towers shall, when possible, be sited off ridge lines, and where their visual impact is least detrimental to significant scenic areas.
- 2. The use of sites distant from residential properties, and where visual impact can be minimized, shall be encouraged.
- 3. Shared use of communications and personal wireless service facilities shall be strongly encouraged.
- 4. Communications and personal wireless service towers and facilities shall be located so as to provide adequate coverage and adequate capacity with the least number of towers and antennas which is technically and economically feasible.

E. Approval Criteria

In addition to meeting all approval criteria for special permits, no special permit for a communication or personal wireless service tower or facility shall be granted unless it has been demonstrated:

1. That applicant is not already providing adequate coverage and/or adequate capacity within its FCC licensed coverage area;
2. That applicant is not able to use existing communications facility or PWSF sites, either with or without the use of repeaters, to provide adequate coverage and/or adequate capacity with its FCC licensed service area due to:
 - a. The absence of existing towers or facilities in the area requiring service;
 - b. An inability to use existing sites in a technologically feasible manner consistent with the Personal Wireless Service provider's system requirements;
 - c. structural or other engineering limitations, such as frequency incompatibilities; or
 - d. an inability to secure permission of the owner(s) of the existing site(s) and/or antenna(s) facility at fair market cost to allow co-location.
3. That the proposed facility is the minimum height and aesthetic intrusion necessary to provide adequate coverage to its FCC licensed service area;
4. That the applicant has agreed, in writing, to rent or lease available space on the tower, under the terms of a fair-market lease, without discrimination to other personal wireless service providers;
5. That proposed personal wireless service facility or tower will not have an undue adverse impact on historic resources, scenic views, residential property values and/or natural or man-made resources;
6. That the applicant has agreed to implement all reasonable measures to mitigate the potential adverse impacts of the tower and/or facility; and
7. That the facility shall strictly comply with FCC regulations regarding emissions of electromagnetic radiation.

F. Consultant Fees

The Planning Board may, in its discretion, retain the services of independent consultants of its own choosing to assist it in the review and determination of the application. All costs to the Town for these consultants shall be reimbursed to the Town by the applicant in accordance with Section 6.13 of this Zoning Law.

G. Decision

Any decision of the Planning Board to grant or deny an application shall be in writing and supported by substantial evidence on the record.

H. Inspection of Facilities

1. Structural Inspection: Tower owner(s) shall conduct inspections of the Tower's structural integrity and safety by an independent licensed professional structural engineer. Guyed towers shall be inspected every three years. Monopoles and non-guyed lattice towers shall be inspected every five years. A report of the inspection results shall be certified and submitted to the Town Board and the Zoning Enforcement Officer. Any major modification of existing facility which includes changes to tower dimensions or antenna numbers or type shall require a new structural inspection.
2. Unsafe structure: Should the inspection of any tower reveal any structural defect(s) which, in the opinion of the inspecting engineer, render(s) that tower unsafe, the following actions must be taken. Within 10 business days of notification of unsafe structure: the owners(s) of the tower shall submit a plan to remediate the structural defect(s). This plan shall be initiated within 10 business days of the submission of the remediation plan, and completed within 10 business days after commencement. Failure to accomplish this remediation of structural defect(s) within 10 business days shall be a violation of the special use permit and shall be grounds for revocation of the special permit by the Planning Board, after Public Hearing, and subject the facility owner and/or operator to other enforcement and penalty provisions provided in the Town Law.

I. Removal Requirements

Any personal wireless service facility which ceases to operate for a period of one (1) year shall be removed. "Cease to operate" is defined as not performing the normal functions associated with the personal wireless service facility and its equipment on a continuous and ongoing basis. The facility site shall be remediated by removal of all personal wireless service facility improvements which have ceased to operate. If the full height of the tower is not required for the operation of the remaining 1 service(s), and if technically feasible, depending on the construction of the tower, the tower shall be reduced in height accordingly. If all facilities on a tower have ceased to operate, the tower and all appurtenant structures shall also be removed, and the site shall be revegetated. Existing trees shall only be removed if necessary to complete the required removal. The applicant, upon obtaining approval, shall provide financial surety in an amount set by the Town Board, and in a form approved by the Town Attorney, to cover the cost of removal of the personal wireless service facility and the remediation of the landscape, should the facility cease to operate.

J. Insurance

Towers and personal wireless service facilities shall be insured by the owner(s) of

towers and/or personal wireless service facilities against damage to persons or property.

5.13 DAY CARE OR NURSERY SCHOOL FACILITY

A. Purpose

It is the intent of the Town of Gallatin, consistent with New York State Social Services Law, Article 390, to provide for the child care needs of the residents and those employed in the Town in a way that promotes the public interest while maintaining the essential character of the Town's residential areas. This section is developed in recognition of the critical need for affordable child care for the Town's working parents. The Town recognizes that the lack of child care alternatives may prevent parents from obtaining gainful employment which fully meets their needs.

B. Family and Group Family Day Care Homes

Family and group family day care homes, as defined under Day Care Facilities in Article VII, shall be permitted in all residential districts subject to the following:

1. State licensing and/or registration requirements are met, including those pertaining to building, fire safety, and health codes and that such state license copy shall be on file with the Code Enforcement Officer;
2. Applicable zoning and subdivision standards for residential uses are adhered to in full;
3. All area and bulk regulations prescribed in Section 4.1 are complied with;
4. Signs, if any, conform to the requirements in Section 5.29;
5. An off-street drop-off/pick-up area and adequate parking shall be provided. A driveway in conformance with Town permit standards shall be sufficient for such purpose; and
6. No structural or decorative alteration that will alter the single-family character of an existing residential residence is permitted. Outdoor play equipment is permitted in rear or side yards, but should be contained by fencing from adjacent properties.

C. Day Care Centers, School Age Child Care Facilities and Nursery Schools

A special permit is required for any Day Care Center, School Age Child Care Facility or Nursery School, as defined in Article VII. Day Care Centers, School Age Child Care Facilities and Nursery Schools, and shall comply with the following:

1. The center, facility, or nursery school complies with all general standards of Section 6.8, Special Permits. In addition, the licensed day care provider shall submit a copy of said license and other pertinent documents from New York State Department of Social Services and, if applicable, the New York State

Department of Education.

2. A site plan is submitted to the Planning Board for its approval, following the procedures in Section 6.7 of this Law. For site plan approval, day care centers, school age child care facilities or nursery schools shall:
 - a. Comply with subsection B (1 through 6) of this section;
 - b. Provides an outdoor play space as specified by New York State Social Services Law 390, Part 418.8 or superseding laws and regulations. Such area shall be at least one-quarter (1/4) the square footage of the structure in which the facility is housed, screened from the road from which the center takes access either by the center itself or appropriate landscaping or other methods, and contained, by fence or other means, to prevent conflicts between adjacent properties and the facility's activities;
 - c. Provide adequate parking facilities for the day care center or nursery school as required in Section 5.24 of the Zoning Law. Adequate off-street pick-up and drop-off area either on the driveway or an approved parking area shall be provided;
 - d. Conform to other requirements, as specified by the Planning Board, to ensure that the center maintains the residential or hamlet character of the neighborhood.
3. Day care centers, school age child care facilities and nursery schools serving more than twelve (12) children shall have a minimum lot size of five (5) acres.

5.14 ECHO HOUSING

A. Purpose

It is the purpose and intent of this Local Law to allow by Special Permit the installation of small, removable homes known as Elder Cottage Housing Opportunity (ECHO) units, on the same lots with single-family and two-family dwellings, in all residential zoning districts that allow single-family and two-family dwellings as a permitted principal use. Specifically, this Section is intended to:

1. Foster and support extended families;
2. Permit adult children to provide small, temporary homes for their aging parents who are in need of support, while maintaining as much of the independence of the two generations as possible;
3. Reduce the degree to which elderly homeowners have to choose between increasing isolation in their homes and institutionalization in nursing homes;
4. Encourage the continued development and use of small homes specifically designed and built for elderly people, which include such features as easy adaptation to handicapped accessibility, safe exit features, and fire resistant

construction;

5. Permit ECHO housing in a manner that protects the property values and character of neighborhoods by ensuring that the units are compatible with the neighborhood and are easily removable; and
6. Enable the elderly living in homes too large for their needs to move to more appropriate housing and thereby make larger homes available to house larger families.

B. Districts

ECHO units, as defined in Article VII, are permitted by Special Permit as set forth in the Use Schedule and in conformance with this section and all other applicable sections of this Zoning Law.

C. Construction

The ECHO unit shall be constructed in accordance with all applicable laws, regulations, codes and ordinances, including the New York State Uniform Fire Prevention and Building Code.

D. Size of Unit

The minimum floor area of an ECHO unit shall be three hundred (300) square feet, the maximum floor area nine hundred (900) square feet, and the maximum height sixteen (16) feet or one story.

E. Placement of ECHO Unit

The ECHO unit shall comply with all front yard setback requirements for a principal dwelling. With respect to side and rear yard setbacks, the ECHO unit shall be placed no closer to a lot line than one half (1/2) the distance required for the district. In addition, no ECHO unit shall be placed closer to the front lot line than the principal dwelling. There shall be no required setback between the principal dwelling and the ECHO unit, however, pedestrian access must be provided to the ECHO unit without going through the principal dwelling.

F. Lot Size and Coverage

The minimum lot size for a principal dwelling with an ECHO unit shall conform to the requirements for a single-family or two-family dwelling in the district in which the ECHO unit will be located. The lot may not be an existing nonconforming lot of less than the prescribed lot area or lot width. Coverage of the entire lot by the ECHO unit and principal dwelling shall not exceed lot coverage as described in 4.3.

G. Access

Where appropriate, the Planning Board may require that all walkways from parking areas and from the principal dwelling to the ECHO unit will be suitable for wheelchair

and stretcher access.

H. Parking

In addition to the parking required for the principal dwelling, one (1) parking space for the ECHO unit shall be required, except that the Planning Board may increase the required number of parking spaces to two (2), if circumstances so warrant.

I. Occupancy

1. At the time the Special Permit is issued, at least one (1) intended occupant of the ECHO unit must be at least sixty-two (62) years of age. Subsequently, if the occupant who is sixty-two (62) no longer occupies the ECHO unit, and all other conditions continue to apply, the permit may be renewed for the other occupant who had been residing with the original occupant, provided that person is elderly, even if that person is less than sixty-two (62) years of age.
2. The owner of the principal residence may live in an ECHO unit provided:
 - a. They are at least sixty-two (62) years of age;
 - b. All other requirements of this section are met; and
 - c. Ownership of the principal residence is maintained. Should ownership of the principal residence lapse, the Special Use Permit for the ECHO unit shall be null and void.
3. In no case shall there be more than two occupants of an ECHO unit.
4. The Special Permit shall be issued to the owner of the principal dwelling and lot.

J. Waiver of Requirements

The Planning Board may waive the requirements of this Section of the Zoning Law if so warranted by the specific characteristics of the particular structures and/or lot and circumstances of the case, upon showing that the waiver will not negatively affect public health, safety or welfare and that the waiver will be in harmony with and promote the general purpose of this Local law. However, the Planning Board shall not waive any of the occupancy and removability standards specified in this Zoning Law.

K. Number of Dwelling Units Per Lot

Only one ECHO unit per lot shall be permitted. No Special Permit for an ECHO unit shall be issued for a lot where the principal dwelling is other than a one-family or permitted two- family dwelling, or where a permit for an accessory apartment or other Special Use Permit for housing is in force.

L. Enclosure of Under portion of the Unit

Within thirty (30) days of installation, the entire under portion of the unit shall be enclosed so as to completely screen, ventilate and insulate that area of the unit. Wood, masonry or other durable material shall be used; however, such material shall be installed to facilitate removal upon termination of occupancy.

M. Removability

1. The unit shall be constructed so as to be easily removed.
2. The unit's foundation should be of easily removable materials, such as timber pilings or cement block piers, so that the lot may be restored to its original use and appearance after removal with as little expense as possible.
3. No permanent fencing, walls, or other structures shall be installed that will hinder removal of the ECHO unit from the lot.

N. Adequacy of Infrastructure

The applicant or his/her agent shall certify that the water supply is potable and of adequate flow, and that the sewage disposal system is adequate for the two units. Failure to promptly correct any water quality or sewage system problem shall result in revocation of the Special Permit. No special permit shall be granted in any case where the Columbia County Health Department has determined that the water or sewage system serving the principal dwelling is for any reason not capable of handling the additional demand that the ECHO unit would impose on it.

O. Application Process

Application for a Special Permit for an ECHO unit shall be made to the Planning Board in accordance with the standards and procedures set forth in Article 6.8 of the Zoning Law, and subject to the following additional provisions:

1. Materials to assist the Planning Board in reviewing an application for a Special Permit, as described in Section 6.8, shall include:
 - a. The names of all owners of record of the principal dwelling, lot, and ECHO unit;
 - b. The names and ages with satisfactory proof of age of the proposed occupants of the ECHO unit in order to verify that the occupants are satisfying the standards and intent of the ECHO regulations;
 - c. The relationship between the occupants of the principal dwelling and the occupants of the ECHO unit;
 - d. The lease or other agreement with the owner of the ECHO unit. If the ECHO unit is rented, leased or otherwise not owned outright by the applicant, the agreement between intended occupants, and the owner(s) of the principal dwelling unit;

- e. A floor plan of the ECHO unit, including the square footage (may be the manufacturer's or builder's brochure);
 - f. A survey or other appropriate drawing or document showing the location and size of the septic system and well, and the structures on the lot, both with and without the ECHO unit; and
 - g. The applicant's plan for removal of the ECHO unit at the time the Special Use Permit terminates.
2. In determining whether to grant the application, the Planning Board shall consider the following factors, in addition to those described in Section 6.8, Special Permits:
- a. Whether the use will be in harmony with and promote the general purpose and intent of this Local Law;
 - b. Whether the use will conserve property values and encourage the most appropriate uses of land;
 - c. Whether granting the application will cause an undue concentration of ECHO units in a specific area of the Town; and
 - d. Whether the lot area is sufficient, appropriate, and adequate for the use, particularly with regard to septic system and water requirements.
3. A Special Permit may be granted for an initial period of up to one year, expiring on December 31st. Thereafter, upon application to the Zoning Enforcement Officer showing that there have been no changes in circumstances which would result in the ECHO unit being in violation of these provisions or this Zoning Law, the Special Permit may be renewed yearly, for a period running from January 1 to December 31. Upon development of appropriate procedures by the Planning Board, such renewal shall be granted administratively by the Zoning Enforcement Officer.
4. At the time of application for the ECHO Special Permit, the applicant must verify that he or she:
- a. Understands that the permit is issued solely for the use of the named occupant;
 - b. Has made plans for the removal of the unit; and
 - c. Recognizes the possible sanctions for failure to promptly remove the ECHO unit upon termination or revocation of the Special Permit. These sanctions include all those specified in Section 6.11; injunctive relief; criminal penalty; removal and salvage by the Town to defray any enforcement costs incurred; the placement of a lien against the applicant's property to defray any enforcement costs incurred; and any other remedies available to the Town.

P. Renewal of Special Permit

At the time of application for renewal of the Special Permit, the applicant or his or her agent shall verify:

1. That the conditions upon which the Special Permit was granted continues to apply;
2. That he or she has made plans for removal of the ECHO unit upon termination of the Special Permit; and
3. That he or she understands the possible sanctions for failure to promptly remove the ECHO unit upon termination of the Special Permit.

Q. Termination of Special Permit

The Special Permit shall terminate ninety (90) days after:

1. The death or permanent change of residence of the original occupant or occupants of the ECHO unit. A change of residence shall be considered permanent after six (6) months; or
2. Any of the occupancy requirements set forth in Section C are no longer met.

During this ninety (90) day grace period, the ECHO unit shall be removed and the site restored so that no visible evidence of the ECHO unit and its accessory elements remains. If the ECHO unit has not been removed by the end of this grace period, in addition to the existing sanctions in the Zoning Law, actions to ensure removal may be taken, including removal and salvage by the Town with a lien imposed to defray any costs incurred. The Zoning Enforcement Officer upon a showing of extraordinary circumstances making removal of the ECHO unit impossible during the ninety (90) day grace period may grant one (1) extension of up to ninety (90) days for removal of the ECHO unit.

R. Revocation of Special Permit

A Special Permit for an ECHO unit shall be revoked by the Planning Board after notice and a hearing, if:

1. It shall reasonably appear to the Planning Board /Zoning Enforcement Officer that the ECHO unit is not in compliance with applicable laws, rules, regulations, codes or ordinances, or that the conditions of the Special Permit are not satisfied; or
2. Any lawful inspection of the ECHO unit by the Building Inspector or Zoning Enforcement Officer is refused or prevented by the owner or occupant.

5.15 FARM AND FARM-RELATED ACTIVITIES

A. Intent

The Town Comprehensive Plan states that farming remains an integral part of Gallatin where farms are protected and agriculture is promoted. Farming, as defined herein, reinforces the special quality of life enjoyed by citizens, provides the visual benefit of open space, and generates economic benefits and social well-being within the community. Therefore, the town emphasizes to newcomers that this town encourages its agriculture and requests newcomers to be understanding of the necessary day to day operations.

It is the general purpose and intent of this Section 5.15 to maintain and preserve the rural tradition and character of Gallatin, to permit the continuation of agricultural practices, to protect the existence and operation of farms, and to encourage the initiation and expansion of farms and agricultural businesses.

B. The Right to Undertake Agricultural Practices

Farmers, as well as those employed, retained, or otherwise authorized to act on behalf of farmers, may lawfully engage in farming practices within the Town of Gallatin at any and all times and all such locations as are reasonably necessary to conduct the business of farming. For any activity or operation, in determining the reasonableness of the time, place, and methodology of such operation, due weight and consideration shall be given to both traditional customs and procedures in the farming industry as well as to advances resulting from increased knowledge and improved technologies.

C. Notice to Prospective Neighbors

The following notice shall be included in building permits, site plans, and on plats of subdivisions submitted for approval pursuant to Town Law Section 276: "This property may border a farm, as defined by the Zoning Law of the Town of Gallatin. Residents should be aware that farmers have the right to undertake farm practices which may generate dust, odor, smoke, noise and vibration."

D. Expedited Site Plan Review and Approval

For any application for a building or structure on a farm operation which requires site plan review pursuant to this Zoning Law, the Planning Board shall conduct expedited site plan review and approval as provided herein. The applicant for site plan review and approval shall submit the following:

1. Sketch plan. The sketch plan shall show the following, unless waived by the Planning Board. The applicant may submit secondary resource data to illustrate certain features, e.g., FEMA flood plain maps, aerial photograph, or National Wetland Inventory Maps, and the Planning Board shall determine whether said secondary resources reasonably illustrate on-site features.

- a. Sketch of the parcel on a location map (e.g., tax map) showing boundaries and dimensions of the parcel of land involved and identifying contiguous properties and any known easements or rights-of-way or roadways.
 - b. Existing features of the site, including land and water areas, water or sewer systems and the approximate location of all existing structure on or immediately adjacent to the site.
 - c. Proposed location and arrangement of buildings and uses on the site, including means of ingress and egress, parking and circulation of traffic.
 - d. Proposed location and arrangement of specific land uses, such as pasture, crop fields, woodland, livestock containment areas, or manure storage/manure composting sites.
 - e. Sketch of any proposed building, structure or sign, including exterior dimensions and elevations of front, side and rear views. Include copies of any available blueprints, plans or drawings.
 - f. Provide a description of the farm operation (existing and/or proposed) and a narrative of the intended use and/or location of proposed buildings, structures or signs, including any anticipated changes in the existing topography and natural features of the parcel to accommodate the changes. Include the name and address of the owner and applicant. Provide owner consent affidavit, if the owner is not the applicant.
 - g. If any new structures are going to be located adjacent to a stream or wetland provide a copy of the flood plain map and wetland map that corresponds with the boundary of the property.
 - h. Any other information that the Planning Board determines is necessary to protect the health, safety and welfare of the neighborhood or community.
2. Application. The applicant shall submit an application form and fee in accordance with the Town of Gallatin Fee Schedule.
 3. Public hearing. A public hearing is not required for site plan applications. However, if the Planning Board determines that a hearing is necessary due to the size and nature of the use, buildings or structures or the environmental setting of the proposed action, it may require a public hearing to protect the health, safety, and welfare of the neighborhood or community and shall hold such public hearing without unduly burdening the applicant.
 4. Timeframe for decisionmaking. Where a public hearing is not required, the Planning Board shall render a decision within forty-five (45) days of a complete application. Where a public hearing is required, the Planning Board shall render a decision within fifteen (15) days after the close of the public hearing.
 5. Uses allowed by special permit or site plan approval. Certain principal and accessory uses regulated by Section 3.1 of the Zoning Law, e.g., windmill or

solar energy devices, are subject to special use permit and site plan approval. When said uses are being conducted in conjunction with the operation of a farm operation as determined by the Code Enforcement Officer, said use shall be deemed to be a permitted principal or permitted accessory use and subject to expedited site plan review and approval only as regulated in this Section 5.15.D. The use shall still be subject to the requirements established for special uses, except that the Planning Board may waive any of said special use requirements where the Planning Board determines that the waiver will promote farming in the Town of Gallatin and will not adversely impact the health, safety and welfare of the neighborhood or community.

5.16 FARM MARKET

A farm market shall be allowed by site plan approval in all districts as an accessory use related to an agricultural activity occurring on a farm, subject to the following regulations:

- A. Such farm market is an accessory use to the principal use of a farm and shall only be for the use of the farmer, farmer's applicant (referred to collectively herein as farmer-applicant) and his/her immediate family. In the event that such market is used by any other person, company, corporation or business or commercial entity, whether it is rented, leased, or the right of use transferred in any way from the farmer-applicant to any other person, corporation or business entity, such a use shall not be deemed an accessory use to the farm and shall be deemed a violation of this Zoning Law.
- B. The farm market structure shall not exceed 2,000 square feet of gross floor area and shall consist of a single-story. Nothing herein shall preclude the use of a legally existing agricultural accessory building on a farm for this use, provided that no more than 2,000 square feet of floor area is utilized as a farm market.
- C. The farm market shall be located on a parcel of land of at least seven (7) acres in size and shall comply with all Zoning District regulations and supplementary regulations relating to parking and signs. The farmer-applicant may grow products on any number of other parcels and sell the products from same, provided that all the parcels are part of a single agricultural operation under the control of the farmer/applicant.
- D. At least two-thirds of the amount of the annual retail sale of agricultural, horticultural, floricultural, vegetable and fruit products, soil, livestock and meats, poultry, eggs, dairy products, nuts, honey, wool and hides, and other agricultural or farm products shall be grown, raised or produced on the farm at which the market is located. Notwithstanding the aforementioned restrictions, the farmer-applicant may sell supporting farm products and farm products not grown by the farmer-applicant, provided that said products do not exceed one-third of the total annual retail sales at the farm market. Supporting farm products include, but shall not necessarily be limited to: baked goods, eggs, dairy products, preserves, syrups, herbal vinegars and salad dressings. Supporting farm products shall not include prepackaged grocery items or tropical fruits.
- E. The farm market may also contain a bakeshop for the production and sale of goods baked on premises and may sell food prepared on premises for off-site consumption utilizing agricultural and farm products sold at the farm market.

- F. The owner of the farm market may also sponsor and conduct farm and harvest festivals on site provided that the festivals are designed to provide agricultural marketing and promotional opportunities for the farm and/or the region's agricultural producers and further providing that each such festival receives a temporary permit pursuant to Section 5.31(C) of this Zoning Law.
- G. A farm market may be operated on a year-round basis and may contain bathrooms and/or a kitchen occupying no more than twenty (20%) percent of the gross floor area.

5.17 HOME OCCUPATIONS

Home occupations, as defined in Article VII of this Local Law, shall conform to the following standards:

- A. Criteria and Standards. A home occupation may be conducted only within a dwelling which is a bona fide residence of the principal practitioner of the occupation, or in an accessory building thereto which is normally associated with the residential use (see Definition section of this zoning law). A home occupation shall fall within one of the following three categories:
 - 1. Exempt home occupation. A home occupation in compliance with the criteria and standards for "Exempt Home Occupations" in the table below and the general standards set forth in this Section 5.17 shall be permitted as an accessory use and shall not require registration or special use permit approval.
 - 2. Minor home occupation. A home occupation in compliance with the criteria and standards set forth for "Minor Home Occupation" in the table below and the general standards set forth in this Section 5.17 shall be permitted as an accessory use upon registration with the ZEO and shall not require special use permit approval.
 - 3. Major home occupation. A home occupation in compliance with the criteria and standards set forth for "Major Home Occupation" in the table below and the general standards set forth in this Section 5.17 shall be allowed only upon receiving special use permit approval from the Planning Board. The Planning Board is permitted to waive the requirements for site plan submission where same is determined not to be requisite in the Planning Board's determination. The Planning Board may impose conditions necessary to protect the health, safety and welfare of adjoining properties and the Town.
- B. Table of Operational and Site Criteria Defining Home Occupation Types:

	Exempt Home Occupation	Minor Home Occupation	Major Home Occupation
Where Permitted	Permitted in an existing single-family detached dwelling or building accessory thereto.	Permitted in an existing single-family detached dwelling or building accessory thereto.	Permitted in an existing single-family detached dwelling or building accessory thereto, or within a proposed dwelling or accessory building expansion.
Maximum Size	Total gross floor area devoted to the home occupation shall not exceed 500 square feet.	Total gross floor area devoted to the home occupation shall not exceed 1,000 square feet.	Total gross floor area devoted to the home occupation exceeds 1,000 square feet.
Maximum Number of Employees	No on-site nonresident employees are permitted.	Maximum of one (1) on-site nonresident employee is permitted.	Maximum of two (2) on-site nonresident employees is permitted.
Maximum Number of Visitors/Customers	The total number of visitors/customers shall not exceed four (4) person per day.	The total number of visitors/customers shall not exceed eight (8) persons per day.	The total number of visitors/customers exceeds eight (8) persons per day. The Planning Board may limit visitors/customers as a condition of approval.
Maximum Number of Deliveries	See 5.17.C.7	See 5.17C.7	The Planning Board may establish conditions on the maximum number of deliveries or pick-ups to and from the dwelling based on a consideration on the potential effect on adjoining properties.
Required Off-Street Parking	No additional parking required.	A maximum of four (4) off-street parking spaces for nonresident employees and visitors/customers shall be provided.	A home occupation requiring five or more parking spaces for nonresident employees and visitors/customers. Total minimum number of parking spaces to serve the home occupation shall be determined by the Planning Board.
Maximum Number of Commercial Vehicles	As regulated in Section 5.25 of this Zoning Law.	As regulated in Section 5.25 of this Zoning Law.	As regulated in Section 5.25 of this Zoning Law.
Permitted Signs.	As regulated in Section 5.29 of this Zoning Law.	As regulated in Section 5.29 of this Zoning Law.	As regulated in Section 5.29 of this Zoning Law.
Conditions of Approval	None	Registration with the ZEO.	The Planning Board may impose conditions on the operation of the home occupation, including but not limited to: maximum number of employees, maximum size of home occupation, maximum number of commercial vehicles,

	Exempt Home Occupation	Minor Home Occupation	Major Home Occupation
			hours of operation including for visitations and deliveries, screening, lighting, and other requirements necessary to protect the health, safety and welfare of the occupants or the residential neighborhood in which said home occupation shall be located.

C. General Standards applicable to all home occupations. The following criteria and standards apply to exempt, minor and major home occupations.

1. Exterior Appearance of Principal Dwelling. In no manner shall the appearance of the principal dwelling be altered, nor shall the occupation within the dwelling be conducted in a manner that would cause the premises to lose its residential character, either by the use of colors, materials, construction or lighting.
2. Performance Standards. No home occupation shall create noise, dust, vibration, odor, smoke, electrical interference, fire hazard or any other nuisance that is perceptible beyond the lot lines. No toxic, explosive, flammable, combustible, corrosive, disease carrying, radioactive, or other restricted materials shall be used in the operation of a home occupation.
3. Prohibited Uses. In addition to uses that are prohibited by regulations elsewhere in this Zoning Law, nothing herein shall be constructed to allow the following uses as home occupations: adult entertainment or sexually-oriented businesses, animal hospitals, the commercial boarding of animals, clinics or hospitals, dancing schools, mortuaries, nursery schools, any automotive-related repair or retail sales, restaurants, taxi operators or dispatchers, tow-truck services, tattoo parlors, therapists not licensed by the State of New York, bed and breakfasts, rooming houses or boardinghouses and uses similar to those listed above.
4. Except for articles produced on the premises, and other articles customarily associated with the product made or the service provided on the premises, no stock-in-trade shall be displayed or sold on the premises, as would be the case of a retail store or a specialty shop, nor shall any item be available for rental. No display of products shall be visible from any public street.
5. Storage. There shall be no exterior storage of materials, equipment, or vehicles or other supplies used in conjunction with the home occupation except as may be allowed elsewhere in this Zoning Law or by approval of the Planning Board as a condition of a major home occupation.
6. A home occupation shall meet the requirements set forth in the New York State Uniform Fire Prevention and Building Code.

7. Deliveries. For purposes of this section, deliveries shall not include the regular delivery of U.S. Mail, or by package carrier (e.g., United Parcel Service or FedEx).
8. There shall be no sharing, letting or subletting of space for use by others in the conduct of their profession, trade, or business.
9. Parking shall be located on the property as required by the Zoning Law. The parking requirements shall not be met by use of off-premise parking. Parking for the home occupation shall be in addition to the minimum number of parking spaces otherwise required for the single-family detached dwelling. For major home occupations, the Planning Board may impose restrictions on the location of parking required in conjunction with the use.
10. In no case shall a home occupation be open to the public earlier than 9:00 a.m. or later than 8:00 p.m. unless modified by the Planning Board.
11. The special permit or registration shall expire upon sale, transfer, or lease of the property. In no event shall a special permit be issued for a time period greater than five (5) years without review and reapproval by the Planning Board.
12. For purposes of this section, the term employee shall mean any person performing services in connection with the home occupation business and on the premises where the home occupation is being operated whether considered as an employee or an independent contractor.

5.18 INN

- A. An inn shall be located within a single structure and shall be limited to ten (10) guest rooms.
- B. All parking, signage, landscaping and other applicable requirements as required by this Zoning Law shall be met.
- C. The inn may include an accessory restaurant and other facilities for the use of guests, but these accessory uses shall not exceed twenty-five (25%) of the total gross floor area of the inn.
- D. No commercial uses except those that are clearly appurtenant to the inn for use exclusively by the guests shall be allowed.
- E. If provision is to be made for music or entertainment in connection with the use, the proposed use of music or entertainment shall be specified at the time of the application for the special permit and site plan review, or any amendments thereto. There shall be no electronic sound speakers located outdoors.

5.19 KENNEL

- A. The minimum lot size shall be ten (10) acres.
- B. No building or other quarters shall be permitted within five hundred (500) feet of any property line.
- C. All areas used by animals shall be located indoors within a structure designed to mitigate any noise.
- D. Such kennel shall be operated in such a manner as to produce no objectionable noise, odors, or other nuisances beyond the boundaries of the site on which it is located.
- E. All such quarters shall at all times be maintained in a sanitary condition.
- F. A maximum of twelve (12) dogs over six (6) months of age may be housed.
- G. Any other conditions that may be imposed by the Town Board as part of a FCID approval.

5.20 LANDFILL, DUMP OR TRANSFER STATION

Any landfill or transfer station shall be owned or operated by the Town of Gallatin or County of Columbia. No privately owned or operated landfills, dumps, or transfer stations are permitted in any district.

5.21 MULTI-FAMILY DWELLINGS, INCLUDING TOWNHOUSES

- A. Multi-family dwellings containing up to four (4) dwelling units shall be permitted in all districts subject to issuance of a special permit and site plan approval from the Planning Board, and in accordance with the additional requirements of this section. Multi-family dwellings containing more than four (4) units shall be permitted only in a FCID pursuant to the provisions of Section 3.2 of this Zoning Law.
- B. All area and bulk requirements shall conform to Section 4.3, Schedule of Area and Bulk Regulations. The number of dwelling units per acre shall not exceed the minimum lot area per dwelling unit or establishment required in the applicable district.
- C. The minimum floor area of each dwelling unit shall be as follows: 400 square feet for a studio dwelling; 550 square feet for a one-bedroom dwelling; 800 square feet for a two-bedroom dwelling; and 1,000 square feet for a three-bedroom dwelling.
- D. No building shall exceed one hundred fifty (150) feet in length or be located closer than fifty (50) feet to any other principal building.
- E. All buildings shall be arranged so as to avoid undue concentration of buildings or parking facilities and shall be oriented so as to preserve visual and auditory privacy.

- F. Architectural design shall be in harmony with the prevailing character and scale of buildings in the neighborhood and the Town through the use of appropriate building materials, screening, breaks in roof and wall lines and other architectural techniques. Variation in detail, form and siting shall be used to provide visual interest and avoid monotony. Proposed buildings shall relate harmoniously to each other with adequate light, air, circulation, and separation between buildings.
- G. When necessary to ensure compatibility with the surroundings, buffer strips shall be provided. They shall consist of trees, hedges, dense plantings, earth berms, and/or changes in grade designed to the satisfaction of the Planning Board. These buffers shall be used, in particular, to separate the more dense character of multi-family housing from less intensely developed land uses and to maintain a natural transition between multi-family buildings.
- H. All parking shall be provided in paved off-street areas. No parking lot shall be closer than twenty-five (25) feet to the front of any building or ten (10) feet to the side or rear of any building.
- I. All applicable requirements of the multiple residence section of the New York State Uniform Fire Prevention and Building Code shall be strictly met.
- J. Adequate water supply and sewage disposal facilities shall be provided in full accordance with the requirements of the Town of Gallatin and the Columbia County Department of Health. For conversions of existing buildings, sufficient engineering documentation shall be provided to allow the Town and the Health Department to assess the adequacy of any existing facilities which are proposed for continued and expanded use.

5.22 MOBILE HOME ON INDIVIDUAL LOT

- A. It is the intent of these regulations to encourage the provision of affordable housing in a residential environment by permitting the use of mobile homes, as defined in this Zoning Law. Mobile homes shall be subject to the requirements of this section to ensure acceptable similarity in exterior appearance between mobile homes and other dwellings permitted on adjacent lots in the same zoning district.
- B. Mobile homes are permitted on individual lots as set forth in the Use Schedule. Mobile homes shall comply with all requirements with respect to the area and bulk regulations of the underlying zoning district and the additional requirements of this Section.
- C. The following appearance standards shall be used in determinations of acceptable similarity in appearance between mobile homes and site-built residences. In addition to meeting the following specific standards, no mobile home shall have openings or other features that would be incompatible in a residential neighborhood in which most residences are site built:
 - 1. Minimum width - The minimum width of the main body of the mobile home as assembled on the site shall not be less than fourteen (14) feet, as measured across the narrowest portion.

2. Minimum length - The minimum length of the main body of the mobile home as assembled on the site shall not be less than sixty (60) feet as measured along the shortest portion.
3. Roof pitch - The pitch of the main roof shall not be less than one (1) foot of rise for each four (4) feet of horizontal run.
4. Roofing material - Any roofing material may be used that is generally acceptable for site built housing if such material is applied in such a manner as to be similar in appearance.
5. Exterior finish - Any materials that are generally acceptable for site-built housing may be used for exterior finish if applied in such a manner as to be similar in appearance with site built housing.
6. Orientation on the site - (Refer to subsections regarding "Lot Dimensions" in Article III, District Regulations for the applicable zoning district). Additions to the main body of the mobile home such as living rooms, recreation rooms or utility rooms, but excluding carports or garages, shall be included for the purpose of determining lot dimension.
7. Minimum floor area - The minimum floor area of the mobile home shall be seven hundred twenty (720) square feet at the time the mobile home is initially installed. Such measurement shall not include any additions of any kind.
8. Skirting or visible foundation - All mobile homes shall be skirted and placed on a masonry foundation.

D. Application requirements.

1. Applications for approval of mobile homes on individual lots shall be submitted to the Zoning Enforcement Officer along with the appropriate permit fee as specified by the Town Board. In addition to such information as is generally required for permits, mobile home applications shall include all information necessary to make determinations as to the home's conformance with Subsection C, including elevations or photographs of all sides of the mobile home, exterior dimensions, roof slopes, and exterior finish. Where skirting or visible foundation treatments to be used appear on the Zoning Enforcement Officer's list of acceptable treatments, detailed specifications or descriptions of such treatments shall not be required. Where other visible skirting or visible foundations are proposed, specifications or descriptions in sufficient detail for determination shall be submitted to the Zoning Enforcement Officer.
2. Within fifteen (15) days of receipt of a complete application and all required supporting materials, the Zoning Enforcement Officer shall make the determination as to conformity with this section and all other applicable regulations, and shall notify the applicant of approval, conditional approval, or denial of the application. Conditional approval shall be granted only where the conditions and reasons are stated in writing and agreed to by the applicant. Any such conditions shall be binding on the applicant. In cases of denial, the

reasons shall be stated in writing by the Zoning Enforcement Officer and submitted to the applicant.

- E. A mobile home not meeting the standards of this Section or certified as meeting the Manufactured Home and Construction Standards of the Department of Housing and Urban Development (24 CFR Ch. 3280) shall not be installed, built or moved onto a lot in the Town of Gallatin after the effective date of this Zoning Law. Any such mobile home existing prior to the effective date of this Law may remain. However, in the event that the mobile home is destroyed, damaged or moved off-site, it may not be replaced with any mobile home that does not conform to this and other applicable regulations.

5.23 NONCONFORMING USES AND STRUCTURES

A. General Provisions

1. The lawful use of any land, buildings or structures, or a part thereof existing at the time that this Zoning Law or any subsequent amendment becomes effective, may be continued although such use does not conform to the provisions of this law, except as provided herein.
2. The intent of this law is to limit, by not increasing, nonconforming uses and to eliminate such uses as speedily as possible, but at the same time to alleviate economic hardship to an existing nonconforming use by allowing it to continue at its existing level of intensity, in accordance with all other provisions of applicable laws and regulations.

B. Nonconforming Uses

Any lawful nonconforming use of buildings or land in existence on the effective date of this law, except as disallowed by Section 5.23(A) (1), may be continued indefinitely if maintained in accordance with all other applicable codes, laws, regulations, and other requirements, but:

1. Shall not be enlarged or extended, or placed on a different portion of the lot or parcel of land occupied by such use on the effective date of this law, except as provided in this article.

For the purpose of this section:

- a. Any additional nonconforming commercial accessory uses shall constitute an extension of the original nonconforming use and are prohibited.
 - b. Where no building is involved, the nonconforming use of the land may not be extended to occupy a greater area of land, or to include more intensive use of the same area of land, than occupied on the effective date of this law.
2. Shall not be moved to another location where such use would be nonconforming.

3. Shall not be changed to other than a conforming use in the district in which it is situated.
4. Shall not be re-established if such use has been discontinued for any reason, whether through vacancy or cessation of use, for a period of one (1) year or longer, or has been changed to, or replaced by, a conforming use for any period of time. The intent to resume a nonconforming use standing alone does not confer the right to do so.

C. Nonconforming Lots

Nothing herein shall prevent the use of a nonconforming lot, as defined in Article VII, except as specifically limited by this Zoning Law, provided it meets all applicable building codes, health department regulations, and other requirements of this law.

D. Nonconforming Buildings, Structures, or Signs

1. All alterations or extensions to a nonconforming building or structure shall comply with provisions of this law with respect to Article IV, Area and Bulk Regulations.
2. Nothing contained herein shall prohibit the extension of a permitted use to any portion of a nonconforming building or structure which existed prior to the effective date of this Zoning Law.
3. Nothing herein shall prohibit normal repair and maintenance or structural alteration of a nonconforming building, provided such action does not increase or create any new nonconformity. Further, any nonconforming building or structure declared unsafe by the Building Inspector or other proper authority may be restored to a proper condition within the time period provided by such authority.
4. For nonconforming signs, see Section 5.29, Signs.

E. Alterations Permitted to Nonconforming Buildings

1. A building which is nonconforming under the previous zoning ordinance and nonconforming under this law shall be permitted to expand to an amount not exceeding 50% of the aggregate building area as it existed on the effective date of the 1982 Zoning Ordinance, established as May 30, 1982, except that no nonconforming building shall be permitted to violate any other provisions of this law relative to the district in which it is located.
2. A building which became a nonconforming building as a result of this law shall be permitted to expand to an amount not exceeding 50% of the aggregate building area as it existed on the effective date of this law, except that no nonconforming building shall be permitted to violate any other provisions of this law relative to the district in which it is located.

F. Restoration After Damage

1. Nothing contained in this Section 5.23 shall be deemed to prevent the restoration of a lawful nonconforming use after damage by any cause, provided that the bulk, height, and area shall not be in excess of that which existed prior to the damage, that all applicable New York State Uniform Fire Prevention and Building Code provisions are fully complied with, and that the restoration is commenced within one (1) year of the damage and is fully completed within eighteen (18) months of such damage.
2. Nothing herein shall prohibit the restoration of a dwelling unit which is nonconforming only with respect to bulk and area regulations for the district in which it is located, except no dwelling unit shall be altered, added to, or reconstructed to extend further into a yard or to reduce lot area where same are already nonconforming.

G. Completion of Nonconforming Building Construction

Any building, the construction of which has been started pursuant to a validly issued building permit before the effective date of this law or any amendment thereto, may be completed in accordance with approved plans on file with the Zoning Enforcement Officer, provided that all other required permits and approvals have been issued prior to the effective date and such construction is diligently pursued and the building is completed within two (2) years of the effective date of this law or subsequent amendment.

H. Site Plan Approval

Site plan approval by the Planning Board shall be required for any expansion of non-conforming buildings.

5.24 OFF-STREET PARKING AND LOADING

A. General Provisions

1. All structures and land uses hereafter erected, enlarged, moved, created, changed in intensity or substantially altered shall be provided with off-street parking and loading areas as required by the terms of this Zoning Law to meet the needs of persons using or occupying such structures or land.
2. The plans for any new building or any expansion of an existing building, when submitted for site plan approval, shall show specifically the location, size and type of improvements of the off-street parking and loading spaces required to comply with this law and the means of access to such spaces from the public streets or highways. Off-street parking and loading requirements of this section 5.24 do not apply to single-family dwellings or other uses not requiring site plan approval.
3. No Certificate of Occupancy shall be issued for any building or land use until the required off-street parking space has been provided.

4. Required off-street parking facilities which, after development, are later dedicated to and accepted by the Town shall be deemed to continue to serve the uses or structures for which they were originally provided.
5. No off-street parking or loading space required for one building or use shall be included as meeting, in whole or in part, the off-street parking or loading space required or another building or use except as otherwise provided by this Zoning Law.
6. No off-street parking or loading space shall be so reduced in area that it does not meet the minimum requirement of this Zoning Law.

B. Existing Structures and Uses

1. Lawful structures and land uses at the time of the effective date of this law shall not be subject to the parking or loading space requirements of this law, provided that any parking and loading facilities then existing to serve such structures or uses shall not be reduced except where they exceed these requirements, in which case they shall not be reduced below such requirements.
2. Required parking and loading areas as herein stated shall, however, be provided as a condition of the issuance of any building permit for any enlargement or change in use of such structures or uses in the future.

C. Location

1. No off-street parking or loading area shall be used or shall be designed, arranged, or constructed to be used in a manner that will obstruct or interfere with the free use of any other parking space or any street, alley or adjoining property.
2. Off-street parking or loading areas required for a permitted use shall be located at least ten (10) feet from any property line, except where other provisions in this law require greater setbacks.
3. Required parking and loading areas shall be provided upon the same lot as the use or structure to which they are accessory, except that off-street parking spaces required for structures or land uses on two (2) or more adjacent lots may be provided in a single common facility on one (1) or more of said lots. Required setbacks may be waived for this purpose. A legal instrument, satisfactory to the Planning Board, shall assure the continued existence of the parking facility to serve said structures or land uses as long as they exist. Such agreements shall also guarantee that, upon the termination of such joint use, each subsequent use of the premises will provide off-street parking facilities for its own use in accordance with all requirements of this Zoning Law.

4. If the off-street parking space required by this law cannot be reasonably provided on the same lot on which the principal use is conducted, the Planning Board may permit such space to be provided in a private lot within four hundred (400) feet of the main entrance to such principal use. Such parking space shall be deemed to be required open space associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner. The applicant must own or otherwise provide this space.

D. Size of Parking Spaces

1. Each parking space shall be at least nine (9) feet wide and twenty (20) feet long if unenclosed and at least ten (10) feet wide and twenty (20) feet long if bordered by walls or columns on two (2) or more sides.
2. Each space shall have direct and usable driveway access to a street and adequate maneuvering area between spaces in accordance with proper site engineering standards.
3. The front or rear vehicle overhang shall not encroach upon any sidewalk or landscaped area.
4. The Planning Board, in its discretion and upon the request of the applicant, may reduce the total number of required parking spaces by no more than fifteen percent (15%).

E. Grades, Drainage, Paving and Marking

1. All required parking facilities shall be graded, surfaced, drained and maintained throughout the duration of their use to the extent necessary to avoid nuisances of dust, erosion or excessive water flow across public ways or adjacent lands. Thermal pollution of any adjacent watercourse from runoff of parking areas shall be minimized. The maximum slope within a parking area shall be five percent (5%).
2. In multi-family residential developments and in nonresidential developments, the Planning Board shall require the provision of maneuvering areas, entrances and exits.

F. Traffic Circulation

1. In order to encourage safe and convenient traffic circulation, the Planning Board may require the inter-connection of parking areas via access drives within and between adjacent lots. The board shall require written assurance and/or deed restrictions, satisfactory to the Town's attorney, binding the owner and his heirs and assignees to permit and maintain such internal access and circulation and inter-use of parking facilities.
2. Unobstructed access to and from a street, so designed as to not require the backing of any vehicle across a sidewalk or a traffic lane, shall be provided for all parking and loading spaces.

3. Adequate access to buildings by use of fire lanes shall be provided and maintained in all off-street parking and loading areas.

G. Waiver of Improvement

1. Where the Planning Board determines that less than the required number of finished parking spaces will satisfy the intent of this law, said Board may waive the requirement for completion in part, but not in excess of fifty percent (50%) of the number of required parking spaces according to this section.
2. In such cases, it shall be expressly demonstrated on the site plan that sufficient space remains for the provision of the total amount of off-street parking required, and the site plan shall bear such designation.

H. Operation and Maintenance

Required off-street parking facilities shall be maintained as long as the use of the structure exists which the facilities are designed to serve. Required parking areas developed for specific structures and uses shall be reserved at all times for those persons who are employed at or make use of such structure and land uses.

I. Off-street Parking Requirements

Off-street parking facilities shall be provided as follows, except as may be modified by other provisions of this section or where additional parking requirements may be made as a condition of the issuance of a special permit:

1. Where two (2) or more different uses are permitted on a single lot, the total amount of parking facilities to be provided shall be the sum of the requirements for each individual use on the lot. However, the Planning Board may approve the joint use of a parking facility by two (2) or more establishments on the same or on contiguous lots, the total capacity which is less than the sum of the spaces required for each, provided that said Board finds that the capacity to be provided will substantially meet the intent of the requirements by reason of variation in the probable time of maximum use by patrons or employees among such establishments. Approval of such joint use shall be automatically terminated upon the termination of the operation of any of such establishments.
2. Handicapped Access

All parking spaces shall comply with New York State and local regulations concerning handicapped access as defined by the New York State Vehicle and Traffic Law, Article 32, Section 1203-C or any successor statute.
3. Schedule of Parking Requirements:

Minimum Required Off-Street Parking Spaces	
Use	Parking Spaces
Accessory dwelling	2 per dwelling unit
Alternate care facility	1 per 3 resident beds, plus 1 per employee
Bed and breakfast and other overnight accommodations	1 per guest sleeping room or bedroom, plus 1 for every 2 employees
Church or other place of worship	1 for every 3 seats
Clubhouse	1 per 50 square feet of gross floor area in auditorium, assembly hall and dining room of such building, plus 1 for every 2 persons regularly employed on the premises
Day care and nursery school facilities	At least 1 for every non-resident employee plus 1 for every 10 children
ECHO	1 in addition to the parking required for the principal dwelling unit
Funeral home	1 per employee, plus 1 per 25 square feet of gross floor area in assembly rooms
Kennel	1 per employee, but in no case less than 1 per 400 square feet of gross floor area
Medical clinic and related	4 per doctor or equivalent professional health service professional, plus 1 per employee office
Mobile home	2 per mobile home
Office	1 per employee but not less than 1 per 350 square feet of gross floor area
Residence, multi-family	2 per dwelling unit
Residence, single- or two-family	2 per dwelling unit
Restaurant and other eating establishments	1 for every 3 seats but not less than 1 per 100 square feet of gross floor area
Retail or service business	1 for every 180 square feet of gross floor area
Other uses not listed	Reasonable and appropriate off-street parking requirements for structures and land uses which do not fall within the categories listed above shall be determined in each case by the Planning Board, which shall consider all factors entering into the parking needs of each use as part of its site plan review process.

J. Off-Street Loading and Unloading Facilities

1. For every building or structure or part thereof hereafter erected and occupied for non-residential purposes, there shall be provided and maintained adequate space on the same premises for the parking of commercial vehicles while loading and unloading of the street or public alley. Such space shall have access to a public alley, or if there is no alley, to a street. Off-street loading and unloading space shall be in addition to and not considered as meeting a part of the requirements for off-street parking space.
2. Off-street loading space shall not bar access to any off-street parking area or any parking space.
3. Each off-street loading space shall be at least fifteen (15) feet in width, forty (40) feet in length and fourteen (14) feet in height, exclusive of access and turning areas, except that adjacent loading spaces may each be twelve (12) feet in width. Where delivery service will be by tractor trailer, the minimum length shall be sixty (60) feet, and the minimum width shall be fourteen (14) feet.
4. The required number of off-street loading spaces shall be as follows:
 - a. For office establishments, a minimum of one (1) space for the first ten thousand (10,000) square feet of gross floor area or portion thereof, plus one (1) space for each additional fifteen thousand (15,000) square feet of gross floor area or portion thereof, except that no spaces are required for buildings of less than five thousand (5,000) square feet of gross floor area.
 - b. For retail, wholesale, warehouse and service business establishments, and for restaurants, a minimum of one (1) space for the first four thousand (4,000) square feet of gross floor area or portion thereof, plus one (1) space for each additional ten thousand (10,000) square feet of gross floor area or portion thereof, except that no spaces are required for buildings of less than two thousand (2,000) square feet of gross floor area.
 - c. In the site plan approval process, upon consideration of all factors entering into the loading and unloading needs of each use, the Planning Board may make appropriate reductions in the loading requirements of the above structures and uses and may determine reasonable and appropriate loading requirements for structures and uses which do not fall within the categories listed above.
 - d. The Planning Board, in approving a special permit application, may require additional reasonable and appropriate off-street loading spaces where it determines that they are necessary for the loading and unloading of such use.

5.25 OUTDOOR STORAGE OR PARKING OF RECREATIONAL OR COMMERCIAL VEHICLES

- A. Outdoor storage or parking of not more than one of each of the following shall be permitted only as an accessory use to an occupied principal dwelling unit: boat over fifteen (15) feet, boat trailer, cargo trailer, camping vehicle, any of which shall be owned for personal use by a resident on the premises. Four (4) boats less than fifteen (15) feet shall be permitted as an accessory use.
- B. Outdoor storage of a recreational or commercial vehicle or bus, for a period longer than seventy-two (72) hours, is permitted only when owned by a resident of a principal or accessory dwelling unit, and shall not be within the minimum yards of a lot in a residential district.
- C. Any such recreational or commercial vehicle or bus shall be parked or stored only in the side or rear yard of a dwelling unit, and if stored, shall be reasonably screened from roads and neighboring properties.
- D. No vehicles shall be used for living or sleeping purposes, except as permitted in subsection G below.
- E. Not more than two (2) commercial vehicles or one (1) bus per dwelling unit shall be parked or stored outdoors on a residential lot. Such limitation shall not limit indoor parking or storage.
- F. A maximum of two (2) unregistered non-commercial automobiles, vans or trucks shall be allowed. This subsection shall exclude vehicles in operating condition used for agricultural operations.
- G. No property shall have placed on it an occupied camping trailer or motor home for more than thirty days in any calendar year.
- H. Parking or storage of commercial vehicles in approved off-street parking spaces is a permitted accessory use of a commercial establishment.

5.26 PUBLIC STABLE, RIDING ACADEMY, COMMERCIAL EQUINE OPERATION or COMMERCIAL HORSE BOARDING OPERATION

- A. The minimum lot size shall be seven (7) acres.
- B. The Planning Board shall consider guidelines published by the New York State Department of Agricultural and Markets when establishing the number of horses to be boarded and pastured on the premises.
- C. Buildings that house animals shall be setback a distance equal to the minimum required yard applicable to the district in which the use is located.
- D. Manure storage shall be covered or contained in a structure to prevent leaching when within two hundred (200) feet of any public water supply, state-regulated wetland, or

neighbor's residence.

- E. Any event offered to the general public shall first obtain a temporary permit for a "farm festival."
- F. Where fencing is necessary or required, fencing height shall be established during site plan review and approval and shall not be subject to height limitation set forth elsewhere in this Zoning law.

5.27 QUARRYING AND SOIL MINING

A. Applicability

Activities covered by these supplementary regulations include:

1. Quarrying and mining activities requiring New York State Department of Environmental Conservation ("DEC") permits, but only to the extent allowed by Article 23, Title 27 of the Environmental Conservation Law; and
2. Quarrying and mining, as defined by this Law, not requiring a DEC permit, where more than one-hundred (100) cubic yards of material for any purpose, other than for reuse on the same site, is extracted in a successive twelve (12) month period.

B. Exempt Activities

Activities exempt from these regulations include:

1. Accepted agricultural practices not otherwise in conflict with this Law, where soil or other material is to be used for grading, improving or draining and where the soil or other material is to be replaced on the same site.
2. Excavation for the sole purpose of building a pond or lake in which the material is retained on the same site.
3. Activities performed for, or by, the Town of Gallatin.
4. Excavation for bona fide building construction, sewage disposal systems or underground fuel storage tanks, or other similar activities of limited duration.
5. Excavation for the purpose of installing public utilities and building or maintaining roads.
6. Dredging operations under the jurisdiction of the United States Army Corps of Engineers and other governmental entities subject to any permits applicable to the activity.

C. Criteria and procedures for DEC Permit for Quarrying and Mining

The following criteria shall apply to quarrying and mining activities requiring DEC permits:

1. Mining and quarrying activities requiring DEC permits shall obtain FCID approval from the Town Board and site plan approval from the Planning Board. It is recognized that the operation of a mine or quarry in a residential neighborhood could have an adverse impact on the surrounding neighborhood. Accordingly, the Planning Board shall retain full discretion to deny a permit application for a mine or quarry that does not comply with all of the general standards for FCID uses set forth in Section 6.7 of this Law or which will result in a significant adverse impact on the surrounding neighborhood in terms of increased noise, dust, traffic; decreased public safety; or diminution in property values, which cannot be adequately mitigated by the imposition of special permit conditions.
2. The activities shall comply with all of the requirements and conditions specified in the DEC permit concerning such matters as setbacks from property boundaries and public rights of way, natural or other barriers to restrict access, dust control and hours of operation.
3. All activities shall comply with the area and bulk regulations set forth in Article IV and with all other the requirements of this Law.
4. The reclamation requirements contained in the DEC permit shall be fully met.

D. Criteria and Procedures for Quarrying and Mining not requiring a DEC Permit

The following criteria and procedures shall apply to quarrying or mining activities not requiring DEC permits:

1. The quarrying and mining activities shall obtain FCID approval from the Town Board and site plan approval from the Planning Board.
2. The Planning Board shall approve the FCID and site plan applications only if the following conditions are met:
 - a. An applicant for a FCID or special permit renewal shall obtain the current Mined Land Reclamation Program Applicant's Guide from DEC and submit all of the same required application information and documentation to the Town of Gallatin Town Board. The Town Board, in its discretion, may waive any application requirements if it finds the requirements are not necessary for adequate review of the application and such waiver will not endanger the health, safety and welfare of the community.
 - b. The Planning Board, in considering site plan approval, shall apply the same standards as those applied by DEC and may place such conditions on approval as it may deem appropriate to the application, including minimum

required setbacks from property boundaries and public rights of way, natural or other barriers to restrict access, dust control requirements, limits on hours of operation and reclamation requirements.

- c. FCID for excavation and mining and quarrying shall be issued for a one-year period and may be renewed for additional one-year periods.
- E. A performance bond or other form of surety approved by the Town Board, sufficient to ensure compliance with the reclamation conditions herein, and to repair damage resulting from the operation to Town roads shall be required as part of special permit approval or renewal. The Planning Board shall give FCID approval only after approval of the performance bond by the Town Board. The said bond shall not be released until the operator has complied with all standards and conditions of this Law and the FCID, and a written release, has been issued by the Town Board.

5.28 ROD AND GUN CLUB

- A. While the Town Board has complete discretion to allow a rod and gun club by FCID, the following standards are presented for purposes of Town Board and Planning Board review of a FCID application. No FCID shall be granted for a Rod and Gun Club unless such club is located on a lot having an area of not less than fifty (50) contiguous acres. For purposes of this section, portions of a lot divided by a State, County or Town highway shall not be deemed to be contiguous.
- B. The FCID shall restrict activities involving the discharge of firearms, and no such discharge shall be conducted nearer than five hundred (500) feet to a property line or public road.
- C. The club activities shall be conducted exclusively for club members and their guests and shall not be available to the public on a daily fee or charge basis.
- D. The Club may have a clubhouse (a building permit is required) and one or more accessory buildings for the storage of equipment. The clubhouse may be used only for club meetings, club functions, and membership activities. The clubhouse may contain a kitchen and dining room for use by club members, but no food service shall be made available to transients or the general public.
- E. Club activities involving the discharge of firearms shall not be conducted prior to 7 a.m. or after 7 p.m. on weekdays or Saturday, or prior to noon or after 7 p.m. on Sundays and state and federal holidays. No club activities involving discharge of firearms shall occur before sunrise or after sundown.
- F. Hunting may be conducted on club property only in season in accordance with the provisions of Article 11, Sections 11-0903, 11-0905, and 11-0907 of the Environmental Conservation Law and the rules and regulations adopted thereto.
- G. It is recognized that the operation of a Rod and Gun Club in a residential neighborhood could have an adverse impact on the surrounding neighborhood. The extent of this impact will necessarily depend on such factors as: the size of the property on which the club will be sited; the topography of the club property; the

natural vegetation, screening and buffering existing on site; the size of the club; the type and number of on-site activities involving the discharge of firearms; the location, layout and orientation of the various on-site club activities involving the discharge of firearms; the proposed hours of operation of the club; and the proximity of the club to existing residences. Notwithstanding the fact that a Rod and Gun Club is a use subject to FCID approval, the Planning Board shall retain full discretion to deny a permit application for a Rod and Gun club if the Board determines that the use does not comply with the standards set forth in this section or those established as part of the FCID; does not comply with the general standards governing special permit uses contained in this law; or will result in a significant adverse impact on the surrounding neighborhood in terms of increased noise, decreased public safety, or diminution in property values which cannot be adequately mitigated.

5. 29 SIGNS

A. Purposes.

1. To promote and protect the public health, welfare and safety by regulating existing and proposed signs. Signs shall be a subordinate part of the visual landscape.
2. To protect property values, create a more attractive economic and business climate, enhance and protect the physical appearance of developed areas of the community, and preserve the scenic and natural beauty of less developed areas.
3. To reduce the sign or advertising distractions and obstructions that may contribute to traffic accidents and reduce hazards that may be caused by signs overhanging or projecting over public rights-of-way.
4. To encourage the installation of appropriate signs that harmonize with buildings, the neighborhood and other signs in the area and to eliminate unsightly competition for visual attention created by excessive sign display.

B. Permit required. No sign permitted herein shall be erected without sign approval from the Planning Board. Upon approval of a sign application, the Zoning Enforcement Officer shall issue a sign permit. An applicant may seek sign approval in conjunction with any application for a special use permit, site plan or subdivision plan, and no separate sign application shall be required provided the information set forth below is submitted in conjunction with said applications. Information to be submitted to the Planning Board shall include:

1. A scale drawing of the sign illustrating the type of sign, including:
 - a. sign dimensions, symbols, text, size of lettering and content, materials used, and color of lettering or symbols and background;
 - b. method of structural support and description of construction details;
 - c. the position and type of lighting or other extraneous devices.

2. Location of the sign on the land or building to show its relationship to the principal use(s) or building(s), roads, drives and sidewalks;
 3. A description, including size, of all existing signs located on the property;
 4. The name, address, and telephone number of the applicant and sign owner and the name of the person responsible for maintenance of the sign. If the applicant is not the owner of the land or building on which the sign will be located, a consent affidavit from the owner shall be submitted;
 5. The Planning Board may, at their discretion, accept a hand-drawn illustration of the sign to convey the above information;
 6. A fee in accordance with the Fee Schedule of the Town of Gallatin;
 7. Any other information that the Planning Board deems necessary to reach a decision regarding the sign.
- C. Sign requirements. These requirements shall apply to signs in all zoning districts in the Town of Gallatin.
1. Exempt signs. The following signs are exempt from the requirements of this section:
 - a. Memorial or historical signs, names of buildings, and dates of installation when cut or cast into any masonry, bronze, stainless steel or similar permanent material, not to exceed six (6) square feet in area.
 - b. Traffic control signs required for traffic control purposes shown on an approved site plan or posted pursuant to the order of traffic control agencies and conforming to the Manual of Uniform Traffic Control Devices ("MUTCD") of the New York State Department of Transportation.
 - c. Signs required by duly constituted governmental bodies and their agencies or public utilities, where such signs are established in the interest of the safety, convenience or welfare of the general public. The number and location of such signs shall be as directed by the governmental agency having jurisdiction. Signs required to be maintained or posted by law or governmental order, rule or regulation, unless specifically prohibited, limited or restricted.
 - d. One (1) sign per lot not exceeding eight (8) square feet in sign area, identifying a permitted farming operation or roadside farm stand (see Section 5.31, Temporary Permits).
 - e. Temporary non-illuminated signs on the premises for the following purposes:

- (1) One real estate "For Sale" or "For Rent" signs not exceeding six (6) square feet of sign area and located on the front wall of the building.
 - (2) Signs which announce anticipated occupancy of a site or building or identify the contractors, architects, engineers, etc., on a building or site under construction not exceeding twenty (20) square feet in sign area. Such sign shall be no nearer than ten (10) feet from a roadway edge on the subject property and shall be posted for no longer than one (1) year..
- f. Temporary, non-illuminated off-premise directional signs with valid permits obtained from Columbia County or New York State transportation agencies for the convenience of the general public.
 - g. Temporary signs no larger than two (2) feet by two (2) feet pertaining to and displayed during campaigns, drives, or events of civic, philanthropic, educational or religious institutions, provided such signs are installed not more than thirty (30) days prior to the event and are removed not later than one (1) week after the event.
 - h. Temporary signs for tag or garage sales not exceeding four (4) square feet in sign area, provided such signs contain the name of the seller and date of the sale, are displayed only seven (7) days prior to the sale, and are removed no later than one (1) day after the sale.
 - i. "No trespassing" signs or signs otherwise posting property, not to exceed one (1) square foot per sign.
 - j. Flags of the national, state, county or town government and banners and emblems or name.
 - k. One (1) sign per lot, not exceeding one (1) square foot in sign area, identifying the residential occupant of the premises.
 - l. One (1) sign per lot, not exceeding three (3) square feet in sign area, identifying a permitted home occupation.
 - m. Security system identification signs not to exceed one (1) square foot in sign area.
 - n. One non-illuminated sign not exceeding eighteen (18) square feet for a place of worship or other non-commercial institutional, philanthropic, civic, educational or religious organization or institution, provided it is not displayed in connection with commercial or sales promotion. No more than fifty percent (50%) of the sign may be a changeable letter sign.
2. Prohibited signs. Signs that do not conform to the description and standards set forth for exempt signs or permitted signs are deemed prohibited. The following signs are also prohibited:

- a. Signs including or consisting of pennants, ribbons, streamers, spinners or other moving, fluttering or revolving devices.
 - b. Signs containing flashing, intermittent, rotating, or moving lights or strings of lights.
 - c. Signs which emit noise, sounds, or smoke, including audio signs.
 - d. Signs of a prurient or sexual nature or advertising businesses, commodities or services of a prurient nature, which are offensive to the community.
 - e. Signs made of cardboard, paper or similar impermanent material, except temporary signs displayed within a window area of a commercial or business use which shall not cover more than twenty-five percent (25%) of total window area.
 - f. Revolving, moving or animated signs.
 - g. Permanent signs erected or directly affixed to utility poles or trees.
 - h. Advertising signs or billboards.
 - i. Vending machines placed on sidewalks, parking areas, or other locations visible from a public street.
 - j. Signs with neon, mercury vapor, low or high pressure sodium and metal halide lighting, or plastic panel rear lighted signs, or indirectly illuminated signs.
 - k. Signs constructed of sequins or painted with fluorescent colors.
 - l. Signs that advertise or identify a use that is not or will not be conducted on the property on which the sign is located.
 - m. Any sign with a rooftop support.
 - n. Any portable, sandwich or A-frame type signs unless said sign is an exempt sign as per Subsection 5.29.C.1 of these regulations.
 - o. Signs that appear to regulate, warn, or direct highway traffic or to imitate or resemble official traffic signs, signals or devices.
3. Permitted signs.
- a. General standards. The Planning Board may impose limits on the size of a sign, type and characteristics of illumination, number and location, and may impose other reasonable conditions, taking into consideration the uses on the property and the reasonable requirement for communicating information to vehicular or pedestrian traffic. The Planning Board shall consider the following general standards in its decision making:

- (1) Accessory structure. A sign must be clearly accessory to the use or uses on the lot on which it is located, and such sign and lighting must be shown to be essential to the principal use upon the lot.
- (2) Minimal information conveyed. A sign shall be of such design and construction so as to convey information with clarity and without negative impact to the visual character of the community. The size and content of a sign shall be the minimum essential for legibility and for the provision of information to patrons or invitees seeking the particular use being identified.
- (3) Subordinate element. Signs shall be architecturally compatible with the style, composition, colors, materials, and details of the building and should reflect the visual character of its surrounds.
- (4) Avoid multiplicity of signs. When deemed appropriate by the Planning Board, multiple signs shall be combined into one to avoid clutter.
- (5) Avoid creation of hazards. No sign shall be located so as to project into the public right-of-way, block or impede vehicular or pedestrian sight distance or generally be a hazard to traffic or pedestrians.
- (6) Illumination. Illumination of a sign is allowed at the discretion of the Planning Board. Where the Planning Board permits lighting, any illuminated sign shall employ lights of minimum intensity only. No lights shall be directed or placed so as to permit unobstructed view of the light source or to allow illumination to be directed or beamed onto any street, highway, sidewalk, or adjacent premises so as to cause glare or reflection that may constitute a nuisance or hazard. The Planning Board may, as a condition of approval, limit lighting levels or establish limits on the hours that lights may be illuminated. Lighting shall be extinguished during times when the business is not in operation. Lights may be required to be placed on timers to ensure this requirement is met.
- (7) Materials. Signs shall be constructed of wood, metal, stone, brick, or other durable material approved by the Planning Board. Plastic signs are not permitted except if the sign is an exempt sign as set forth in these regulations.
- (8) Maximum size. Except as may be allowed elsewhere herein:
 - (a) No sign shall exceed twenty (20) square feet in sign area.
 - (b) No freestanding sign shall exceed eight (8) feet in height and no sign shall extend above the façade of the building to which it is attached.

b. Permitted signs – residential uses.

- (1) Freestanding or monument signs identifying apartment or subdivision

developments, not to exceed one (1) sign per entrance or two (2) signs per each development, whichever is lesser, where each sign shall not exceed twelve (12) square feet in sign area, and identifying only the name of the development where such sign is located.

c. Permitted signs – all other uses.

- (1) Permitted signs include freestanding, facade, and window signs. No use shall be permitted more than two (2) signs, however, for any lot with a multi-tenant building or multiple principal uses, one (1) freestanding sign is permitted for the building, and two signs (other than a freestanding sign) shall be permitted for each tenant or use; or
- (2) Businesses with service entrances may identify such entrances with one sign that does not exceed four (4) square feet in sign area in addition to the number allowed in “(1)” above.
- (3) Freestanding signs. Freestanding signs shall comply with the following dimensional standards:
 - (a) A freestanding sign shall be permitted in a required yard provided the sign is set back no less than fifteen (15) feet from the street edge of pavement. The Planning Board may require that this distance be increased to ensure the sign is located outside any street right-of-way or to ensure that sight distances are not blocked.
 - (b) The Planning Board may require that any freestanding sign be placed within a landscaped base.
 - (c) Freestanding sign - monument type. Said signs shall be constructed of wood, masonry, concrete block, brick or other durable material approved by the Planning Board. No monument sign shall be larger than twenty (20) square feet in sign area. No open space is required between the ground and bottom of the sign. Said monument sign shall be setback no less than fifteen (15) feet from the street edge of pavement. The Planning Board may require that this distance be increased to ensure the sign is located outside any street right-of-way or to ensure that sight distances are not blocked. The height of the sign shall not exceed five (5) feet.
 - (d) Changeable letter signs. The Planning Board, at its discretion, may allow up to fifty percent (50%) of the sign area of a freestanding sign to consist of a changeable letter sign. The changeable letter sign shall be an integral part of the freestanding sign (i.e., not a separate stand-alone sign).
- (4) Facade signs. Facade signs shall comply with the following dimensional standards:
 - (a) The maximum sign area of a façade sign shall be equal to the length

of the building front façade which the use occupies, measured in feet, multiplied by one (1) foot, but in no case shall the sign area exceed ten percent (10%) of the building face area or twenty (20) square feet, whichever is smaller. The façade sign may be a wall, iconic or projecting sign.

(b) Iconic signs, such as barber poles, eye glasses, etc., which are traditional in appearance and size should not extend more than four (4) feet from a building wall nor occupy a space of more than fifteen (15) square feet when viewed from any angle.

(c) Signs shall not be mounted on roofs or extend above the roof line unless they are mounted on the face parapet wall which extends above the roof line, in which case it cannot extend above the top of the parapet.

(d) One sign not exceeding four (4) square feet in sign area may be hung under a roof overhang perpendicular to each storefront in a multi-tenant building. The lowest point of any hanging sign in a pedestrian circulation area shall be at least seven and one-half (7½) feet above the ground.

(5) Window signs. All signs within a window – permanent and temporary - shall not exceed forty percent (40%) of the total area of the window in which the signs are located.

4. Sign bonus. At the discretion of the Planning Board, a bonus may be granted to encourage better sign design provided the sign meets the design standards described herein. The size of a permitted sign may be increased by the following percentages, not to exceed 20% of the permitted sign area:

a. 15% for any sign where only one (1) sign shall identify the business use.

b. 15% for a monument-type freestanding sign.

D. Waiver of sign regulations. The Planning Board may grant a waiver of these sign regulations where it finds that the literal application of these regulations would substantially impair the visibility of a sign due to the unique characteristics of the property on which it will be located, e.g., exceptional topographic conditions, that are not self-created, or where the Planning Board determines that the waiver would have a beneficial effect on the architectural or historic character of a property. Any waiver shall not be detrimental to property owners in the vicinity, shall not result in undue concentration of signs, shall not be detrimental to public health and safety, and shall not have the effect of nullifying the intent and purpose of these sign regulations. In allowing any modification, the Planning Board shall attach such conditions as are, in its judgment, necessary to secure the objectives of the standards or requirements so modified. The Planning Board is not authorized to waive the requirements establishing prohibited signs set forth in Subsection 5.29.C.2 of these sign regulations.

E. Decisionmaking.

1. Planning Board decision. The Planning Board shall render a decision within forty-five (45) days of its receipt of a complete application. The Planning Board shall approve, conditionally approve, or deny the sign application.
2. Issuance of sign permit. If approved, the Zoning Enforcement Officer shall issue a permit for the installation of the approved sign within fifteen (15) days of the date of the Planning Board's decision. In the event the sign is denied, the Zoning Enforcement Officer shall notify the applicant, in writing, of the reason for the denial.
3. Timeframe for installation. If the approved sign is not installed within six (6) months of the date on which the sign permit is issued, the sign permit shall be deemed null and void and a new application shall be made to the Planning Board.

F. Nonconforming sign. Any sign made nonconforming by these regulations may be permitted to continue. However, any change of use shall require the removal of the nonconforming sign and installation of a sign that conforms to these regulations.

G. Enforcement.

1. Violations. No sign shall hereafter be approved or sign permit issued except pursuant to the requirements of the Zoning Law. The installation of a sign not conforming to an approved plan shall be deemed a violation of this Zoning Law. No sign permit shall be issued for any sign which does not conform to an approved sign plan, subdivision plan or site plan.
 - a. The Zoning Enforcement Officer shall notify a property owner by written notice of a sign which has been installed in contravention of sign approval and any conditions which have been attached thereto. Said notice shall be sent by certified mail to the owner of the sign.
 - b. The sign owner shall remove the sign or obtain sign approval immediately in accordance with the procedures contained in these regulations. If the owner of the nonconforming sign has not met the requirements of the notice, the Zoning Enforcement Officer shall be authorized to issue a violation against said owner.

2. Sign removal. Any sign not in use shall be removed within six (6) months after cessation of the use. Any sign, including structural supports or frame, now or hereafter existing, which no longer identifies a use on the subject premises, or which is not being maintained, shall be taken down and removed by the owner, agent or person having the beneficial use of the building or structure upon which such sign is found within ten (10) days after written notification from the Zoning Enforcement Officer. Upon failure to comply with such notice within the time specified in such order, the Zoning Enforcement Officer shall issue a violation to said owner.
3. Maintenance required. All signs must be kept clean, neatly painted, and free from all hazards, such as, but not limited to, faulty wiring or loose fastenings, and must be maintained at all times in such safe condition so as not to be detrimental to the public health or safety. In the event of violation of any of the foregoing provisions, the Zoning Enforcement Officer shall give written or personal notice, specifying the violation to the owner of the sign and the owner of the land upon which the sign is erected, sent to the addresses as stated in the application for the sign permit, to conform or remove such sign. The sign shall thereupon be conformed by the owner of the sign and the owner of the land within thirty (30) days from the date of said notice. In the event such sign shall not be so conformed within thirty (30) days, the Zoning Enforcement Officer shall thereupon revoke the permit, and such sign shall be removed by the owner of the sign and/or the owner of the land.
4. Noncompliance. If such order is not complied with, the Zoning Enforcement Officer is hereby authorized to cause removal of the unsafe sign, and any expense incident thereto shall be paid by the owner of the building, structure or premise on which such sign is located. When any sign is in such dangerous condition as to be immediately dangerous to the safety of the public, the Zoning Enforcement Officer is hereby authorized to take such action as in his opinion shall be necessary to protect the public or property. The cost of the removal shall be borne by the owner of the property on which such sign was erected and shall become a lien upon such property until paid.

5.30 SWIMMING POOL

- A. Any outdoor swimming pool as defined within Article VII of this Law shall be subject to the following, and any other, safety measures, but only to the extent required by the New York State Uniform Fire Prevention and Building code or other state or federal regulations.
- B. A private swimming pool shall not be located in any required yard setback or in any portion of the front yard of a permitted principal use. However, such requirement shall not apply to pools and related structures lawfully in existence on the effective date of this Zoning Law.
- C. For a public swimming pool:
 1. The minimum lot size shall be three (3) acres.

2. The pool and any associated buildings shall be located not less than two hundred (200) feet from any existing residential structure nor within one hundred (100) feet of any lot line.
3. The pool shall be screened by vegetation type plantings as required by the Planning Board.

5.31 TEMPORARY PERMITS

The intent of this section is to establish necessary regulation of temporary uses in order to protect rights of property owners and public safety. Temporary permits shall be issued by the ZEO for the following uses, consistent with this Zoning Law and any other local laws. Permit fees shall be in accordance with the Town's fee schedule established by the Town Board. Town functions, including Community Day, shall be exempt from such permit requirement.

A. Carnivals, Fairs, Circuses, Exhibitions, Festivals.

A church, school, civic association or other non-profit organization may hold a fair, carnival, circus, horse show or similar event upon its premises, the proceeds of which are for the sole benefit of said applicant, provided the following conditions are met:.

1. A permit for such event may be issued for a period not to exceed three (3) days in any one (1) calendar year which time period shall include set-up and breakdown of the event.
2. The applicant is responsible for cleaning the site and removing all refuse within forty-eight (48) hours after the event.
3. The applicant shall furnish evidence of sufficient temporary parking, waste disposal and responsibility for traffic control.
4. There shall be no consumption of alcoholic beverages.
5. Temporary structures for on- or off-site overnight accommodations in association with the event shall not be permitted.

B. Temporary Building

Temporary buildings, including mobile homes and storage structures, are permitted only in conjunction with construction projects. The following specific regulations apply:

1. A permit for a temporary building shall be issued by the ZEO for a period not to exceed one (1) year. Such permit may be renewed a maximum of two (2) times.
2. All temporary buildings must conform to the area and bulk regulations of the district as they apply to accessory structures or uses.

3. Any temporary building must be removed within thirty (30) days of the completion of the construction project or expiration or revocation of any building permits issued thereto.
4. Any temporary building used or intended to be used as a storage facility for a period exceeding seven (7) successive days requires a permit.
5. Such permit requirement shall not apply to accessory structures allowed in Section 4.8 herein.

C. Farm Festival

A lawful farm can conduct farm harvest festivals on site pursuant to a temporary permit and subject to the following specific regulations:

1. The farm complies with the guidelines of the New York State Department of Agricultural and Markets, specifically, in cases where a farm is charging admission, facility rental and/or vendor fees for such activities or for the use of its facilities, the annual sales of the farm's crops, livestock and livestock products as a result of such activities must exceed the admission, facility rental and/or vendor fees charged, less the farm's actual cost to offer the activity/hold the event, so that the primary purpose of the activities is to sell the farm's agricultural commodities and not to gain admission fees or rental income.
2. The festivals are designed to provide agricultural marketing and promotional opportunities for the farm and/or the region's agricultural producers.
3. The applicant shall furnish evidence of sufficient temporary parking, waste disposal and responsibility for traffic control.
4. Each permit shall be issued for a period not to exceed three (3) days.

D. Roadside Farm Stand

A roadside farm stand shall be permitted in all districts as an accessory use related to an agricultural activity occurring on a farm, pursuant to a temporary permit issued by the ZEO, subject to the following regulations:

1. Such road side farm stand shall not exceed 200 square feet in total gross floor area.
2. Such roadside stand shall be located a minimum of 45 feet from the center line of street.
3. Such roadside stand shall be solely for the seasonal display and sale of agricultural products grown on the premises.
4. Signage shall be limited to one farm product sign in any direction of approach to a stand selling farm products and one at the stand. Each sign shall not exceed twenty (20) square feet.

5. A vehicle not exceeding 6,000 pounds net weight may be considered a permitted roadside farm stand. However, a vehicle, or any part thereof, customarily known as an “over-the-road” tractor-trailer, or any containerized storage unit shall not be permitted.

E. Timber Harvesting/Forest Management (i.e. commercial logging)

1. The temporary permit application shall be applied for jointly by the property owner and the logger, if a separate party. Where an applicant has obtained a tax exemption in accordance with 480-a of the New York State Real Property Law (also known as the “Forest Tax Law”), the applicant shall submit the approved management plan which the ZEO, in his determination, may accept wholly or partly in lieu of a forestry management plan as described herein. A forestry management plan shall be submitted, providing the following information:
 - a. A written description of the proposed commercial logging (tree harvesting) activity, including a description of the type of harvesting, i.e., clear cutting, diameter limit cutting, in which case the minimum stump diameter shall be designated, thinning, or selective cutting, and certification by a forester who is a member of the New York State Department of Environmental Conservation’s “Cooperating Forester Program” or is a professional forester with demonstrated professional and educational experience in timber management. Said professional forester shall certify that the proposed activity is in accordance with normal and accepted forest management practices.
 - b. A schedule establishing both the dates between which such harvesting activity will occur and the days and hours of operation, which shall exclude the period from 7:00 p.m. to 7:00 a.m.
 - c. A topographic map (United States Geological Survey or greater scale) showing the specific areas to be harvested and the location of proposed forest haul roads, landings and stream crossings, if any.
 - d. Sufficient additional data to show that the proposed harvesting activity will comply with generally accepted forest management practices and the specific standards for harvesting set forth below. Generally accepted forest management practices shall be deemed to include the Timber Harvesting Guidelines promulgated by the DEC.
 - e. Evidence that the property has legal and actual access to a public road.
 - f. Fee (See, Fee Schedule established by the Town Board).
 - g. The names and addresses of all the owners of all adjacent properties.
 - h. The ZEO and the applicant(s) shall send notice by certified mail of the application to all adjacent property owner(s).

2. All commercial logging, shall comply with the following standards:
 - a. For crossing of all New York State protected streams, a DEC Stream Crossing Permit shall be obtained and complied with by the applicant(s).
 - b. There shall be no skidding up or down a stream or drainage channel, and all logging slash or debris shall be promptly removed from such areas.
 - c. Upon completion of the harvesting activity, reclamation of the site shall be performed by the applicant(s). Haul roads shall have water bars placed at suitable intervals to prevent erosion, and landings shall be smoothed, sloped, ditched and seeded to perennial grasses, as needed. All temporary stream crossings shall be removed and all stream banks restabilized and protected from erosion.
 - d. Upon completion of the harvesting activity, the applicant shall also clean up any deposits of any kind made along public thoroughfares and shall repair or pay for the cost of repair of damage to roadways, drainage facilities, utility lines or other property resulting from the logging operation.
3. Commercial logging shall comply with the following standards:
 - a. No forest haul road or skid trail shall be constructed to exceed a slope of twenty-five percent (25%) for a distance of more than two hundred (200) feet.
 - b. Except for forest improvement purposes, land clearing, skid roads, log landings, and as necessary for harvesting of larger trees, there shall be no harvesting of trees 12 inches in diameter or less, and no landings within fifty (50) feet of any boundary of adjacent owner or stream bank or within one hundred (100) feet of any public road.
 - c. Not more than two (2) access points onto public roadways shall be permitted. Adequate sight distances and protection of drainage systems shall be provided.
 - d. As a condition of the issuance of a temporary use permit for commercial logging, the applicant shall provide a performance guarantee, (i.e., performance bond or escrow deposit), to insure compliance with the standards noted above. Such performance guarantee shall be posted with the Town Clerk, in an amount set by the Town Board in consultation with the Town Attorney, ZEO, Town Engineer, and the Planning Board. Upon completion of commercial logging activities, and compliance with all temporary permit standards and conditions, as certified by a written statement from the ZEO, such performance guarantee shall be returned by the Town. In the case of non-compliance, the Town Board shall utilize such performance guarantees or such portion thereof as may be necessary to remedy such non-compliance.

5.32 VETERINARIAN'S OFFICE AND ANIMAL HOSPITAL

- A. Any building housing animals shall be located at least two hundred (200) feet from any property line.
- B. All outdoor areas used by animals shall be enclosed by fencing of a type of construction and height sufficient to contain any animal on the premises. Such areas shall be located to the side or rear of the principal building but not within any required yard setback.
- C. The office or hospital shall be operated in such a manner as to produce no objectionable noise, odors, or other nuisances to the extent practicable beyond the boundaries, of the site on which it is located.
- D. If boarding is to occur on-site, same shall comply with the supplementary regulations applicable to a kennel - see Section 5.19 of this Zoning Law.

5.33 WINDMILL, WIND GENERATOR

- A. The installation of a windmill or wind generator on any property shall require special use permit and site plan approval from the Planning Board. Each application shall be accompanied by a complete plan, drawn to scale, showing the location of the structure on site: the location of all structures, power lines or other utility lines within a radius equal to the proposed tower height; dimensions and sizes of the various structural components of the structures' construction; design data which shall indicate the basis of design; and certification by a registered professional engineer or manufacturer's certification that the windmill/wind generator was designed to withstand wind load requirements for structures as set forth in the New York State Building Code.
- B. A windmill or wind generator shall be located a minimum distance from a property line equal to the minimum yard setback requirement for the applicable zoning district or equivalent to its height which shall include any blade extended to its maximum height, whichever requirement is greater. If the manufacturer specifications indicate with respect to the fall down capabilities that greater setbacks or location different is required, then such greater setbacks as indicated in the manufacturer specifications shall be required.
- C. No windmill or wind generator shall be located within any front yard unless said requirement is waived by the Planning Board.
- D. No wind generator, windmill or portion thereof shall be illuminated. No windmill or wind generator shall cause any strobe effects.
- E. Windmills/wind generators shall not produce a maximum level of noise (L_{max}) at any lot line greater than a 45 dBA during the nighttime (10 PM to 6 AM) hours. Noise reduction technology shall be installed as a condition of approval if it is determined by the Planning Board that the ambient nighttime noise levels are exceeded after installation occurs. The Planning Board may also require a greater setback or may require other measures to ensure this provision is met.

- F. The Planning Board, in its discretion, may consult with the DEC or any other agency to ensure that said windmill or wind generator will not have a detrimental impact on bird species, their habitat or migratory patterns. The Planning Board may prohibit guy wires, require a smooth monopole design, or other design features to limit bird roosting or bird kill.
- G. The Planning Board may impose other measures to ensure protection of the health, safety and welfare of adjoining property owners and the neighborhood in which the windmill/wind generator may be located.
- H. A windmill(s) or wind generator(s) shall be permitted accessory to a farm operation and shall require expedited site plan approval only, provided that the number of windmills and wind generators shall be limited to a maximum number that supply the farm's electrical needs, not exceeding 110% of the farm's anticipated demand. See also Section 5.15.D. regarding expedited site plan review and approval.

5.34 Reserved.

ARTICLE VI. ADMINISTRATION AND ENFORCEMENT

6.1 GENERAL

- A. This Zoning Law shall be administered and enforced by the Zoning Enforcement Officer (“ZEO”) and/or the Code Enforcement Officer in the manner prescribed below for the application and issuance of permits, submission of plans, conduct of hearings, and handling of violations.
- B. No site plan, sign permit, temporary permit, special use permit or other permit shall be approved, and no subdivision or variance or other approval granted under this Zoning Law for any premises upon which there is an existing violation of this Zoning Law unless said permit, approval, or variance is necessary to allow for the removal of the violation.
- C. No building permit or certificate of occupancy required by this Zoning Law shall be issued that pertains to any premises on which there exists a violation of this Zoning Law or any related Town regulation which governs either building construction or the use of land and structures within the Town of Gallatin.
- D. Local Law 1 of 2006 provides for the administration and enforcement of the New York State Uniform Building Code, the New York State Fire Code and the State Energy Conservation Code, which may be amended from time to time. Where an inconsistency exists between the provisions in this Article VI and Local Law 1 of 2006, the provisions of Local Law 1 of 2006 shall supersede.

6.2 ZONING ENFORCEMENT OFFICER, POWER AND DUTIES

- A. Enforcement. In addition to all other authority conferred by law, and except as otherwise provided, it shall be the duty of the ZEO to enforce the provisions of this law and of all rules, conditions, and requirements specified by the Zoning Board of Appeals and the Planning Board.
- B. Administration. The ZEO shall receive all applications for special permits, sign permits, temporary permits, variances, site plans, change of use and such other applications as may be specified in other local laws by the Town Board, or as otherwise herein provided. Applications will be forwarded by the ZEO to the appropriate board(s) or officials for review, if applicable.
- C. Compliance Review. The ZEO shall review and approve all applications, in writing, prior to the issuance by the Building Inspector of a building permit or certificate of occupancy. Before granting such approval, the ZEO shall be satisfied that:
 - 1. The proposal set forth in the application conforms to the use, area and bulk regulations of this Zoning Law.
 - 2. There are no existing zoning violations with regard to the property on which application is made.
 - 3. All required reviews and actions have been complied with.

- D. Inspection. The ZEO is authorized, upon notice to the property owner, to enter upon, examine, and inspect any building, structure, or property at any reasonable time in the Town of Gallatin, for the purpose of carrying out the duties of the position and to determine compliance with the provisions of this law and other local laws and ordinances. If access is denied, the ZEO is authorized to obtain a warrant to allow such entry and inspection. A written report of each such inspection shall be prepared on an appropriate form and kept on file by the ZEO.
- E. Issuance of Order to Remedy. Whenever in the opinion of the ZEO, after investigation and/or inspection, there exists a violation of any provision of this law, or of any regulation adopted pursuant thereto; the ZEO shall serve a written notice upon the appropriate person or persons responsible for such alleged violation. Such notice shall inform the recipient of such alleged violation, and the date of compliance by which the alleged violation must be remedied or removed, which date shall not be more than thirty (30) calendar days from the date of the notice, except as specifically herein provided.
- F. Issuance of Stop Orders. Whenever the ZEO has reasonable grounds to believe that work on any building or structure or any use of land is occurring in violation of the provisions of this law; not in conformity with any application made, permit granted or other approval issued; or in an unsafe or dangerous manner, the ZEO shall promptly notify the appropriate person or persons responsible to suspend work on any such building or structure or the use of any such land. Such persons shall immediately suspend such activity until such time that the stop order has been rescinded by the ZEO. Such order and notice shall be in writing and shall state the conditions under which the work or use may be resumed.
- G. Service of Orders. A stop work order or order to remedy shall be served by delivering it personally, or by posting the same upon a conspicuous location on the building under construction or on the premises in use. In addition, a copy of same shall be sent by certified mail to the person or persons responsible for such violation at their last known address and to the property owner at the address listed on the latest tax roll.
- H. Issuance of Appearance Tickets. Whenever, in the opinion of the ZEO, the person(s) responsible for an alleged violation has failed to remedy the condition, or has failed to stop work as ordered, the ZEO may issue and serve an Appearance Ticket with respect to a violation of this law. Such Appearance Ticket shall be served by the ZEO and conform to the provisions of the Criminal Procedure Law.
- I. Complaints. All complaints of alleged violations shall be made to the ZEO in writing. The ZEO shall respond to the complaint in writing within thirty (30) days, acknowledging the complaint, and stating the disposition or pending action on the complaint.
- J. Records. The ZEO shall keep a permanent record of all violations, whether reported by private citizens or by any board, agency, officer or employee of the Town, and such record shall show the disposition of all such violations. These records shall be public records. The ZEO shall file the disposition of each violation or written complaint in the Office of the Town Clerk within ten (10) days of a decision or action.

- K. Reports. The ZEO shall make a report to the Town Board, in writing, at least once every month, listing all reported or continuing violations of this law and the disposition or pending action of such violation.
- L. Appeal. An appeal may be made to the Zoning Board of Appeals from any decision, notice or order of the ZEO by any party aggrieved by such decision. Such an appeal shall be made within thirty (30) days of the service of such notice or order, or filing of such decision in the office of the Town Clerk.

6.3 CODE ENFORCEMENT OFFICER POWERS AND DUTIES

- A. The Code Enforcement Officer shall administer and enforce all the provisions of the New York State Uniform Building and Fire Code and the New York State Energy Code. The Code Enforcement Officer shall have the following powers and duties:
 - 1. To receive, review, and approve or disapprove applications for Building Permits, Certificates of Occupancy, Temporary Certificates and the plans, specifications and construction documents submitted with such applications.
 - 2. Upon approval of such applications to issue Building Permits, Certificates of Occupancy, Temporary Certificates and to include in Building Permits, Certificates of Occupancy, Temporary Certificates such terms and conditions as the Code Enforcement Officer may determine to be appropriate.
 - 3. To conduct construction inspections, inspections to be made prior to the issuance of Certificates of Occupancy, Temporary Certificates, fire safety and property maintenance inspections, inspections incidental to the investigation of complaints, and all other inspections required or permitted under this Zoning Law or any applicable local law.
 - 4. To issue Stop Work Orders.
 - 5. To review and investigate complaints.
 - 6. To maintain records.
 - 7. To collect fees as set by the Town Board of this Town.
 - 8. To pursue administrative enforcement actions and proceedings.
 - 9. In consultation with the Town's attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code and this local law, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code or this local law and
- B. The Code Enforcement Officer shall be appointed by the Town Board. The Code Enforcement Officer shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as

the State of New York shall require for code enforcement personnel, and the Code Enforcement Officer shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.

- C. The Code Enforcement Officer shall make a report to the Town Board, in writing, once each month, listing each building permit and certificate of occupancy issued during the period since the last report, and summarizing the number and type of building permits and certificates of occupancy issued
- D. In the event that the Code Enforcement Officer is unable to serve as such for any reason, an individual shall be appointed by the Town Board to serve as Acting Code Enforcement Officer. The Acting Code Enforcement Officer shall, during the term of his or her appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this Zoning Law.
- E. One or more Inspectors may be appointed by the Town Board to act under the supervision and direction of the Code Enforcement Officer and to assist the Code Enforcement Officer in the exercise of the powers and fulfillment of the duties conferred upon the Code Enforcement Officer by this local law. Each Inspector shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and each Inspector shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated hereunder.
- F. The compensation for the Code Enforcement Officer and Inspectors shall be fixed from time to time by the Town Board.
- G. An appeal may be made to the regional Board of Review for the New York State Uniform Fire Prevention and Building Code for variances from same.

6.4 BUILDING PERMITS

- A. Except as otherwise provided in subdivision B of this section, a Building Permit shall be required for any work which must conform to the Uniform Code and/or the Energy Code, including, but not limited to, the construction, enlargement, alteration, improvement, removal, relocation or demolition of any building or structure or any portion thereof; and the installation of a solid fuel burning heating appliance, chimney or flue in any dwelling unit. No Person shall commence any work for which a Building Permit is required without first having obtained a Building Permit from the Code Enforcement Officer.
- B. Exemptions. No Building Permit shall be required for work in any of the following categories:
 - 1. Construction or installation of one story detached structures associated with single- or two-family dwellings or multiple single-family dwellings (townhouses) which are used for tool and storage sheds, playhouses or similar uses, provided the gross floor area does not exceed 144 square feet.

2. Installation of swings and other playground equipment associated with a single- or two-family dwelling or multiple single-family dwellings (townhouses).
 3. Installation of swimming pools associated with a one or two-family dwelling or multiple single-family dwellings (townhouses) where such pools are designed for a water depth of less than 24 inches and are installed entirely above ground.
 4. Installation of fences which are six feet or less in height and are not part of an enclosure surrounding a swimming pool.
 5. Construction of retaining walls unless such walls support a surcharge or impound Class 1, H or h A liquids.
 6. Construction of temporary motion picture, television and theater stage sets and scenery.
 7. Installation of window awnings supported by an exterior wall of a single- or two-family dwelling or multiple single-family dwellings (townhouses).
 8. Installation of partitions or movable cases less than 5'-9" in height.
 9. Painting, wallpapering, tiling, carpeting, or other similar finish work.
 10. Installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances.
 11. Replacement of any equipment provided the replacement does not alter the equipment's listing or renders it inconsistent with the equipment's original specifications.
 12. Repairs, provided that such repairs do not involve:
 - a. The removal or cutting away of a load bearing wall, partition, or portion thereof, or of any structural beam or load bearing component;
 - b. The removal or change of any required means of egress, or the rearrangement of parts of a structure in a manner which affects egress;
 - c. The enlargement, alteration, replacement or relocation of any building system;
 - d. The removal from service of all or part of a fire protection system for any period of time.
- C. Exemption not deemed authorization to perform non-compliant work. The exemption from the requirement to obtain a building permit for work in any category set forth in subdivision B of this section shall not be deemed an authorization for work to be performed in violation of the Uniform Code or the Energy Code.

- D. No Building Permit shall be issued for a building to be used for any use allowed by Special Permit until such Special Permit has been approved by the Planning Board.
- E. No Building Permit shall be issued for any building where the Site Plan of such building is subject to approval by the Planning Board except in conformity with the plans approved by said Board.
- F. No Building Permit shall be issued without a compliance review and approval of the application by the ZEO, in accordance with Section 6.2.
- G. Any amendments of the application, or to the plans and specifications accompanying the same, must be filed at a time prior to the commencement of the work on said proposed changes and subject to the approval of the Code Enforcement Officer and the ZEO. If the change involves a change in the Special Permit or Site Plan, the applicant shall gain approval from the Planning Board.
- H. Applications for Building Permits. Applications for a Building Permit shall be made in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. The application shall, be signed by the owner of the property where the work is to be performed or an authorized agent of the owner. The application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that the intended work complies with all applicable requirements of the Uniform Code and the Energy Code. The application shall include or be accompanied by the following information and documentation:
 - 1. A description of the proposed work.
 - 2. The tax map number and the street address of the premises where the work is to be performed.
 - 3. The full name and address of the owner, the applicant, and/or the responsible Officers of any corporation.
 - 4. A brief description the occupancy classification of any affected building or structure.
 - 5. The valuation of the proposed work.
 - 6. Evidence of County Health Department Approval, if necessary.
 - 7. Evidence of a driveway permit from the appropriate authority (NYS Department of Transportation, Columbia County Department of Public Works, Town Highway Department).
 - 8. An approved site plan, if necessary.
 - 9. At least 2 sets of construction documents (drawings and/or specifications) which;
 - a. Define the scope of the proposed work.

- b. Are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law.
 - c. Indicate with sufficient clarity and detail the nature and extent of the work proposed.
 - d. Substantiate that the proposed work will comply with the Uniform Code and the Energy Code.
 - e. Where applicable, include a site plan that shows any existing and proposed buildings and structures on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the buildings and structures and the lot lines.
- I. Construction documents which are accepted as part of the application for a Building Permit shall be marked as accepted by the Code Enforcement Officer in writing or by stamp. One set of the accepted construction documents shall be retained by the Code Enforcement Officer, and one set of the accepted construction documents shall be returned to the applicant to be kept at the work site so as to be available for use by the Code Enforcement personnel. However, the return of a set of accepted construction documents to the applicant shall not be construed as authorization to commence work, nor as an indication that a Building Permit will be issued. Work shall not be commenced until and unless a Building Permit is issued.
- J. Issuance of Building Permits. An application for a Building Permit shall be examined to ascertain whether the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code. The Code Enforcement Officer shall issue a Building Permit if the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code.
- K. Building Permits to be displayed. Building permits shall be visibly displayed at the work site and shall remain visible until the authorized work has been completed.
- L. Work to be in accordance with construction documents. All work shall be performed in accordance with the construction documents which were submitted with and accepted as part of the application for the Building Permit. The Building Permit shall contain such a directive. The Permit Holder shall immediately notify the Code Enforcement Officer of any change occurring during the course of the work. The Building Permit shall contain such a directive. If the Code Enforcement Officer determines that such change warrants a new or amended Building Permit, such change shall not be made until and unless a new or amended Building Permit reflecting such change is issued.
- M. Time limits. Building Permits shall become invalid unless the authorized work is commenced within six (6) months following the date of issuance. Building Permits shall expire eighteen (18) months after the date of issuance. A Building Permit which has become invalid or which has expired pursuant to this subdivision may be renewed upon application by the Permit Holder, payment of the applicable fee, and approval of the application by the Code Enforcement Officer.

- N. Revocation or suspension of Building Permits. If the Code Enforcement Officer determines that a Building Permit was issued in error because of incorrect, inaccurate or incomplete information or that the work for which a Building Permit was issued violates the Uniform Code or the Energy Code, the Code Enforcement Officer shall revoke the Building Permit or suspend the Building Permit until such time as the Permit Holder demonstrates that:
1. All work then completed is in compliance with all applicable provisions of the Uniform Code and the Energy Code.
 2. All work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code and the Energy Code.
- O. Fee. The fee specified in or determined in accordance with the provisions set forth in section 6.12 (Fees) of this Zoning Law must be paid at the time of submission of an application for a Building Permit, for an amended Building Permit, or for renewal of a Building Permit.

6.5 CERTIFICATES OF OCCUPANCY

- A. A Certificate of Occupancy shall be required for any work which is the subject of a Building Permit and for all structures, buildings, or portions thereof, which are converted from one use or occupancy classification or sub classification to another. Permission to use or occupy a building or structure, or portion thereof for which a Building Permit was previously issued shall be granted only by issuance of a Certificate of Occupancy.
- B. Issuance of Certificates of Occupancy. The Code Enforcement Officer shall issue a Certificate of Occupancy if the work which was the subject of the Building Permit was completed in accordance with all applicable provisions of the Uniform Code and Energy Code and, if applicable, that the structure, building or portion thereof that was converted from one use or occupancy classification or sub classification to another complies with all applicable provisions of the Uniform Code and Energy Code. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the building, structure or work prior to the issuance of a Certificate of Occupancy. In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant for the Certificate of Occupancy, shall be provided to the Code Enforcement Officer prior to the issuance of the Certificate of Occupancy:
1. A written statement of structural observations and/or a final report of special inspections.
 2. Flood hazard certifications.
- C. Content of Certificates of Occupancy. A Certificate of Occupancy shall contain the following information:
1. The Building Permit number.

2. The date of issuance of the Building Permit.
3. The name, address and tax map number of the property.
4. If the Certificate of Occupancy is not applicable to an entire structure, a description of that portion of the structure for which the Certificate of Occupancy is issued.
5. The use and occupancy classification of the structure.
6. The type of construction of the structure.
7. The assembly occupant load of the structure, if any.
8. If an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required.
9. Any special conditions imposed in connection with the issuance of the Permit.
10. The signature of the Code Enforcement Officer issuing the Certificate of Occupancy and the date of issuance.

D. Temporary Certificate. The Code Enforcement Officer shall be permitted to issue a Temporary Certificate allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a Building Permit. However, in no event shall the Code Enforcement Officer issue a Temporary Certificate unless the Code Enforcement Officer determines:

1. That the building or structure, or the portion thereof covered by the Temporary Certificate, may be occupied safely.
2. That any fire- and smoke-detecting or fire protection equipment which has been installed is operational.
3. That all required means of egress from the building or structure have been provided.

The Code Enforcement Officer may include in a Temporary Certificate such terms and conditions as he or she deems necessary or appropriate to ensure safety or to further the purposes and intent of the Uniform Code. A Temporary Certificate shall be effective for a period of time, not to exceed six (6) months, which shall be determined by the Code Enforcement Officer and specified in the Temporary Certificate. During the specified period of effectiveness of the Temporary Certificate, the Permit Holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code.

E. Revocation or suspension of certificates. If the Code Enforcement Officer determines that a Certificate of Occupancy or a Temporary Certificate was issued in error because of incorrect, inaccurate or incomplete information, and if the relevant

deficiencies are not corrected to the satisfaction of the Code Enforcement Officer within such period of time as shall be specified by the Code Enforcement Officer, the Code Enforcement Officer shall revoke or suspend such certificate

6.6 PLANNING BOARD, POWERS AND DUTIES

A. Creation, Composition and Appointment

1. Creation. A Planning Board shall be maintained in accordance with Section 271 of Town Law.
2. Composition. The Planning Board consists of five (5) members, unless changed in accordance with Section 271 of Town Law.
3. Appointment. The Town Board shall appoint the members of the Planning Board and shall designate its chairperson. No person may serve on the Planning Board who is a member of the Town Board or the Zoning Board of Appeals. The terms of each of the Planning Board positions shall be five (5) years, and as otherwise provided by their creation in accordance with Section 271 of Town Law. Vacancies shall be filled by the Town Board. If a vacancy occurs other than by expiration of term, it shall be filled by appointment for the unexpired term.
4. Planning Board members shall not miss more than four (4) regular meetings, or more than three (3) consecutive regular meetings, within a calendar year.
5. Removal. The Town Board shall have the power to remove any member of the Planning Board for cause after a public hearing.
6. Compensation. The Town Board may provide for compensation to be paid to Planning Board members, experts, clerks, a secretary and for other such expenses as may be necessary and proper.

B. General Procedures.

1. Meetings. All meetings of the Planning Board shall be held at the call of the chairperson and at such other times as such board may determine. All meetings of such board shall be open to the public.
2. Minutes. The Planning Board shall keep minutes of its proceedings, showing the vote of each member upon every question; or if absent or failing to vote, indicating such fact, and shall also keep records of its examination and other official actions. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Board shall be made by resolution and filed in the Office of the Town Clerk within five (5) business days and shall be a public record.
3. Procedure. The Planning Board shall proceed in accordance with Article 16 of Town Law, and as further provided in this law and the Town of Gallatin Subdivision Regulations.

4. All determinations and procedures of the Planning Board shall be made in accordance with the requirements of the State Environmental Quality Review Act (SEQRA).
5. Fees. The Planning Board shall require an applicant to pay fees in accordance with a schedule adopted by the Town Board, which schedule shall contain a reasonable limitation on the total amount of fees which may be charged to the applicant. Such fees shall include, but not be limited to, basic application fee, costs of advertising and mailing of notices, and the reasonable and necessary costs for the Planning Board to retain, or utilize, its own surveyor, professional planner, engineer, and/or attorney or similar expert. The fee schedule established by the Town Board shall also include the requirement that an escrow account be established upon acceptance of a complete application to cover the anticipated costs of such consultant review and expert.

C. Subdivisions

The Planning Board shall have full power and authority to approve subdivision plats, as provided by Article 16 of Town Law, this Zoning Law and the Town of Gallatin Subdivision Regulations.

D. Site Plans

The Planning Board shall review all site plans in accordance with Section 6.7 of this Zoning Law and Section 274-A of the Town Law.

E. Special Permits

The Planning Board shall have the power to grant Special Permits in accordance with Section 6.8 of this Law and section 274-b of the Town Law.

6.7 SITE PLANS

A. Scope

1. The Planning Board is authorized, pursuant to Section 274-a of the Town Law, to review and approve, approve with modifications, or disapprove new developments, alterations, or changes in use which affect site requirements such as parking, access, sewage disposal, water supply, runoff, landscaping, buffers, architectural features, location of structures, impact on adjacent land uses, elements relating to health, safety, and general welfare of the community, etc., and to ensure that plans are prepared to the specifications set forth in the applicable zoning districts, the pertinent supplementary regulations, and the general criteria and standards set forth below.
2. Site plan approval by the Planning Board is required for all special permit uses, FCID uses, and expansions of nonconforming buildings.
3. The site plan shall illustrate the intended design, arrangement, and uses of the land to be improved.

B. Procedure for Site Plan Approval

1. Referral by the Zoning Enforcement Officer

Prior to the approval of a Building Permit or Certificate of Occupancy in any district, the ZEO shall require site plan approval for uses specified in 6.7(A) (2).

The ZEO shall refer the application to the Planning Board for its review of the proposed site plan in accordance with the standards and procedures set forth in this section.

2. Sketch Plan Conference

A sketch plan conference between the Planning Board and applicant shall be held to initially review the basic site design concept and generally determine the extent of site plan review necessary for the intended project and the information to be required on the site plan and in accompanying reports. At the sketch plan conference, the applicant should provide a written statement and rough sketch describing what is proposed, including indication of all existing structures and uses, if any, on the site. The Planning Board shall then take one or more of the following three (3) actions:

- a. **Require Full Review.** Advise the applicant of site plan application requirements in accordance with subsection C and a related administrative checklist which may be employed.
- b. **Require Additional Information.** Require additional sketch plan information needed to complete a satisfactory review. Requirements in subsection C may be waived or combined as appropriate to the proposed project.
- c. **Waive one or more site plan application requirements.** The Planning Board may specify the information needed to complete a satisfactory review. Requirements in subsection C may be waived or combined as appropriate to the proposed project.

3. Formal Application to the Planning Board

- a. **Meeting with Applicant.** Upon receipt of the application, the Planning Board shall notify the applicant, in writing, of the place, date, and time of the meeting of the Planning Board at which the application is to be considered and request the applicant's presence to discuss the application.
- b. **Referral to Columbia County Department of Planning.** The Planning Board shall comply with the provisions of Section 239-m of the General Municipal Law, as amended, and refer to the Columbia County Department of Planning such site plan applications as are within its jurisdiction. The referral shall indicate the date when a response is due.
- c. **Site Inspection.** Inspections may be made by the ZEO in accordance with

this law and by Planning Board members and by the Town Engineer as part of the application review. No approval shall be granted if such reasonable inspections are not permitted by the applicant.

- d. **Public Hearing Notice.** Within sixty-two (62) days of the receipt of a complete application, the Planning Board shall conduct a public hearing. Public notice shall be given by publication in the official town newspaper at least five (5) days prior to the public hearing and notice shall be mailed to the applicant at least ten (10) days prior to the hearing. The response, if any, from the Columbia County Department of Planning shall be read into the record at the hearing.
- e. **Conditions.** In acting to approve, with or without modifications, a site plan application, the Planning Board shall have authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed site plan.
- f. **Necessary Permits.** A record of application for an approval status of all necessary permits from federal, state, county, and town agencies shall be required before final site plan approval is granted.
- g. **Decision.** Within sixty-two (62) days of the close of the public hearing the Planning Board shall approve the site plan, or approve it with modifications and/or conditions, or disapprove it. The time within which the Planning Board must render a decision may be extended by mutual consent of the applicant and the Planning Board. The decision of the Planning Board shall be expressed in a resolution which shall be forwarded to the ZEO in five (5) business days. A copy of said decision shall be mailed by certified mail to the applicant at the address indicated on the application. The resolution of the Planning Board shall be filed in the office of the Town Clerk within five (5) business days of its preparation. If applicable, a report on the action taken shall also be filed within seven (7) business days thereof with the Columbia County Department of Planning.
- h. **Satisfaction of modifications and/or conditions.** In the event that modifications and/or conditions are required as part of the approval of the site plan then within sixty-two (62) days of the date on which the resolution containing such requirement of modifications and/or conditions is dated the applicant shall present to the Planning Board a corrected final site plan in reproducible form, which shall include any modifications required by the Planning Board, along with a letter accepting the conditions of approval, as a condition of such approval. Upon verification by the Planning Board that the site plan, and letter accepting all conditions, conform to and comply with the requirements of the Board, the Plan shall be endorsed by the Planning Board and properly filed with the ZEO, the Town Clerk, and if required the Columbia County Department of Planning. No building permit shall be issued until compliance with this section of the Zoning Law is complete.

- i. Any approval shall be deemed revoked if construction is not completed within eighteen (18) months of approval, unless the approval is reviewed and extended for good cause shown by the Planning Board.
 - j. Any person aggrieved by the site plan decision of the Planning Board may apply to the Supreme Court for review in accordance with the provisions of Section 274-a(11) of the Town Law.
4. The Planning Board may, in its discretion, and with the approval of the applicant, process applications for a Special Permit and Site Plan approval of a project simultaneously.

C. Application Requirements

At the discretion of the Planning Board, any of the application requirements listed in this section may be waived in the event any such requirements are found not to be requisite in the interest of the public health, safety or general welfare or not relevant to a particular site plan.

The application for site plan approval shall be submitted in four (4) copies, and shall include the following requirements:

1. State Environmental Quality Review Act (SEQRA) Environmental Assessment Form. No application shall be deemed complete without compliance with SEQRA, including, where necessary, a lead agency determination, a negative or positive declaration, and the submission of an acceptable Draft Environmental Impact Statement (DEIS), if required.
2. A vicinity map drawn at the scale of 2,000 feet to the inch or larger showing the relationship of the proposal to existing community facilities that may affect or serve it such as roads, shopping areas, schools, etc. It shall also show all properties, subdivisions, streets and easements within 500 feet of the property on which the use of which application is made is proposed to be situated. Such a sketch may be superimposed on a USGS map of the area.
3. A site plan or set of plans showing the intended use of the property shall be prepared by a licensed design professional, such as an architect, engineer, or surveyor at a scale of not less than one (1) inch equals fifty (50) feet and shall include the following information:
 - a. Accurate boundaries of the property and existing lot lines including reference to specific data source.
 - b. The names of all owners of record adjacent to the applicant's property.
 - c. The location of structures and uses on adjacent properties within one hundred (100) feet of the subject lot lines.
 - d. Existing public streets, easements, or other reservations of land within five hundred (500) feet of the applicant's property.

- e. Existing zoning and special district boundaries within five hundred (500) feet of the property.
- f. The location and boundaries of pertinent natural features that may influence the design of the proposed use such as watercourses, wetlands, one hundred (100) year floodplains, soil types, rock outcrops, existing vegetative cover, and single trees (which are not part of a wooded area) eight (8) or more inches in diameter.
- g. Existing topography and proposed grading, at contour intervals of not more than two (2) feet, referenced to the nearest U.S. Government or local approved benchmark, and extending fifty (50) feet beyond the subject property. Slope ranges between 20 to less than 25 percent, and 25 percent and greater, shall be shown.
- h. The extent and amount of cut and fill for all disturbed areas.
- i. A soil erosion and sediment control plan, if applicable.
- j. The location, dimensions, proposed use, and design of all existing and proposed buildings and structures.
- k. The location, size, design, materials, and associated lighting of all existing and proposed signs.
- l. The location, description and design of all existing and proposed site improvements, including pavement, walks, buffers, curbing, fences, walls, screening and recreational facilities.
- m. The location and design of existing and proposed streets, roads, highways, alleys, cul-de-sacs, parking areas, and truck/commercial vehicles loading and unloading areas.
- n. Landscaping plan, showing the natural vegetation to be preserved, the number, size, types, and locations of all trees and shrubs to be planted, and proposed grass and ground cover areas, and a landscape maintenance plan.
- o. The location and description of existing or proposed sewage disposal system and water supply system, including wells, water lines, valves, hydrants, and storage tanks.
- p. Proposed storm water drainage system, including existing and proposed drains and culverts.
- q. The location and design of existing and proposed lighting, power, and communications facilities, including any towers and satellite dish antennas.
- r. The location, type, and design of all solid waste handling facilities.

- s. The location of outdoor storage, if any.
 - t. Lot area in acres or square feet, and measurements of lot boundaries with bearings.
 - u. Ground area of buildings and total area by floor.
 - v. Measurement of setbacks of buildings.
 - w. Number of parking spaces required and to be provided.
 - x. The amount of building area proposed for retail sale uses, if any.
 - y. Any proposed division of buildings into units of separate occupancy.
 - z. A signature block for Planning Board endorsement of approval, the applicant's name and address, north arrow, scale, and date.
 - aa. The location and design of monuments.
 - bb. The location and width of all driveways, exits, and entrances.
 - cc. The pedestrian safety plan and control elements.
 - dd. Where required by the Planning Board, submission of floor plans, building elevations and/or architectural renderings.
 - ee. Specifications for materials of the proposed site improvements.
 - ff. A description of the fiscal impacts to the Town of the proposed project.
 - gg. The location and description of all hazardous materials to be used and/or stored on the site.
4. Elevations and sections shall be required at a scale sufficient to delineate clearly the bulk and height of all buildings and other structures included in the proposal.
 5. Estimated project construction schedule.
 6. For projects involving more than one phase, a site plan indicating ultimate development of the entire property.
 7. A copy of any easements, covenants or deed restrictions for any part of the property.
 8. Identification of all necessary permits from federal, state, and county agencies and proof of special permit approval if applicable.

9. Other information as required by the Planning Board to assist in the review of the site plan.
10. Fees (as required by Fee Schedule established by Town Board).
11. All revisions to site plans must be numbered and dated.

D. General Criteria and Standards for Site Plan Approval

The following criteria and standards shall be used by the Planning Board for applications for site plan approval. They are intended to provide a framework within which the designer of the development is free to exercise creativity, invention and innovation while recognizing the historic, scenic and rural qualities inherent in the community. The Planning Board has the authority to require submission of alternative design and layout proposals based on guidelines in this section. Site plans are further subject to all other applicable provisions of this law, including the supplementary regulations pertaining to the zoning district, the proposed use, and the site treatment.

1. Relationship of proposal to the Town Comprehensive Plan
 - a. Due attention by the applicant should be given to the goals, objectives and the stated general land use policies for the Town and the specific area in which the development is proposed.
 - b. In the site plan and design, recognition should be given, where possible, to the traditional building forms and layouts which are evidence of the distinctive historical development of the area, and any specially designated or recognized scenic and historic districts within the vicinity of the proposed development.
2. Relationship of Buildings to Site
 - a. The site shall be planned to create a desirable relationship to the streetscape and to provide for adequate planting, safe pedestrian movement, and adequate parking areas.
 - b. Site plans in which setbacks and yards are in excess of zoning restrictions are encouraged to provide a variation in relationship between buildings.
 - c. Parking shall, wherever possible, be located to the rear or sides of buildings.
 - d. The height and bulk of each building shall be compatible with its site and existing or anticipated adjoining buildings.
 - e. New structures will be sited and located to take advantage of solar access insofar as practical, including the orientation of proposed buildings with respect to sun angles, the shading and windscreen potential of existing and proposed vegetation both on and off the site, and the impact on solar access to adjacent uses and properties.

- f. Newly installed utility services and serve revisions necessitated by exterior alterations shall be underground, where practical.
- 3. Relationship of Buildings and Site to Adjoining Area
 - a. Site plans proposed adjacent to a residential district shall be reviewed with regard to the impact of the development on that district.
 - b. The Planning Board shall encourage the use of a combination of landscaping, buffers, screens, visual interruptions, and common building materials to create attractive transitions between buildings or different architectural styles.
- 4. Landscaping
 - a. Adequacy, type and arrangement of existing or proposed trees, shrubs and other landscaping constituting a visual screen or noise buffer.
 - b. Landscape plantings of shrubs, ground cover, and shade trees, as well as perennials and annuals and other materials, such as rocks, water, sculpture, art, walls, fences, paving materials and street furniture, shall be encouraged to create pedestrian scale spaces and to maintain landscape continuity. All landscaping within the site shall be designed to facilitate conservation of the environment and preservation of community aesthetic character through the use of native plant material and the retention of existing natural vegetation.
 - c. The preservation of mature plant species, hedgerows, wetlands, wildlife corridors, and woodlots shall be encouraged and included as a design element.
 - d. Landscaping shall be used to create boundaries and transitions between areas of differing development intensities as well as to separate areas of incompatible land use.
- 5. Lighting
 - a. Exterior lighting shall enhance the building design and the adjoining landscape. Lighting standards and building fixtures shall be of a design and size compatible with the building and adjacent areas.
 - b. The number of light standards and the intensity of lighting shall be appropriate to illuminate the location for safety, without glare to adjoining properties and streets. The Planning Board may require that a site plan integrate Dark Sky-compliant lighting fixtures.
 - c. Lighting standards shall be appropriate to the design of the structures and shall not exceed fifteen (15) feet in height.

6. Building Design

- a. Appropriate recognition should be made in the building design of compatible building forms indigenous to the community.
- b. Materials shall have good architectural character and shall be selected for harmony with traditional building materials. Where practical, natural materials should be used.
- c. Building components such as windows, roof lines, doors, eaves, entrance porches, and decorative elements shall have well designed proportions and relationships to one another.
- d. Mechanical equipment such as air conditioners, satellite dishes, and other utility hardware on roof, ground, or buildings shall be screened from public view with materials harmonious with the building, or they shall be located so as not to be visible from any public ways.
- e. Exterior lighting shall be part of the architectural concept. Fixtures, standards and all exposed accessories shall be harmonious with building design.

7. Signs (See section 5.29, Signs)

8. Ecological Considerations

- a. The proposal shall take into account environmental concern and result in minimal degradation of unique or irreplaceable land types and in minimal adverse impact upon areas of environmental concern.
- b. The proposal shall conform with existing geological and topographic features, to the end that the most appropriate use of land is encouraged.

9. Drainage

The proposed project shall be so designed as to provide for proper surface water management through a system of controlled drainage that preserves existing drainage patterns and protects other properties. Drainage plans shall be reviewed by the Town's Consulting Engineer prior to approval. Wherever possible, drainage systems should be designed to avoid an increase in storm-water volume and velocity.

10. Solid Waste

Facilities to handle solid waste shall be easily accessible and properly screened.

11. Vehicular Traffic

- a. All entrance and exit driveways shall be located with due consideration for

traffic flow, so as to afford maximum safety to traffic on public streets and shall be reviewed by the appropriate state, county or local authority.

- b. On-site circulation shall be designed for ease of use, the safety and convenience of pedestrians, and safe connections with adjoining properties where appropriate.

12. Pedestrian Circulation

- a. Pedestrian circulation shall be separated from motor vehicle circulation. Appropriate walkways shall be provided on the site and its' approaches if deemed necessary.
- b. Disabled persons. The plan, for any use to which the public is expected to visit, shall make proper provision for buildings and site developments that are accessible to and functional for physically disabled persons, such as by provision of walks and ramps of suitable width and grade, curb cuts, identified wide parking spaces and ground level building entrances, as required in the Uniform Code and all of the applicable state and federal laws and regulations.

E. Reservation of Park Space

The Planning Board may require any site plan containing residential units to show a park or parks suitably located for residential purposes in accordance with Section 274-a(6) of the Town Law.

F. Performance Bonds

As an alternative to the installation of required infrastructure and improvements, prior to approval by the Planning board, a performance bond or other security sufficient to cover the full cost of the same, as estimated by the Planning Board with the assistance of the Town Engineer, shall be furnished, to the Town by the owner. Such security shall be provided to the Town pursuant to the provisions of Section 277-A of the Town Law.

6.8 SPECIAL PERMITS

A. Procedures

1. All uses listed in Section 3.1, Schedule of Use Regulations, as Special Uses are declared to possess characteristics of such unique and distinct form that each specific use shall be subject to the requirements of this section to assure that the proposed use is in harmony with this Law and will not adversely affect the neighborhood in which the use is to be located. All Special Uses are subject to the requirements of Section 6.7, Site Plans. Any conditions placed on the special use permit (also referred to as "special permit") shall be deemed conditions of site plan approval.
2. Prior to the issuance of a Building Permit or Certificate of Occupancy in any

district, the Building Inspector shall require an approval for a Special Permit for uses so specified in Section 3.1.

Application for a special permit shall be made to the Zoning Enforcement Officer who shall then forward the application to the Planning Board. The application shall include, but not be limited to:

- a. Completed application form and fees.
 - b. Environmental Assessment Form as required by SEQRA.
 - c. Written statement describing the proposed use.
 - d. A preliminary plan which demonstrates the overall site layout and building location, parking areas, access and egress locations, setbacks-and buffer areas, lighting, landscaping, signage, and the location and extent of existing development on adjacent properties.
 - e. Preliminary buildings plans and elevations illustrating proposed building construction and alteration.
 - f. Other information deemed necessary by the Planning Board to explain the proposed use and consistency with the standards of this law.
 - g. List of names and addresses of adjoining property owners as shown on latest tax rolls.
3. Review of Application and SEQRA Process. The Planning Board shall review the application with the applicant and determine its completeness, the need for further information or materials, and the process for compliance with the State Environmental Quality Review Act. An application shall not be deemed complete until a negative declaration has been adopted by the lead agency or a draft environmental impact statement has accepted by the lead agency as complete for purposes of commencing public review.
4. Referral to Columbia County Department of Planning, if necessary. The Planning Board shall comply with the provisions of Section 239-m of the General Municipal Law and send the required notice to the Columbia County Department of Planning at least ten (10) days prior to the public hearing.
5. Need for Area Variance. Where a proposed Special Use contains one or more features which do not comply with this Law, application may be made to the Zoning Board of Appeals for an Area Variance without the necessity for a prior determination of the ZEO. In that event, the special permit application shall be stayed until the Zoning Board has rendered a decision on the variance application.
6. Public Notice and Hearing. The Planning Board shall, within sixty-two (62) calendar days of the receipt of the complete application, conduct a public hearing on the special permit application. The Planning Board shall provide a

copy of the notice of said hearing to the applicant. The applicant shall appear at said hearing in person or by agent. The Board shall additionally provide notice as follows:

- a. By publishing at least five (5) calendar days prior to the date thereof a legal notice in the official newspaper of the town.
 - b. By requiring notice of the public hearing and date regarding the substance of the application to the owners of all property within 200 feet of the property held by the applicant. Notice shall be given by certified mail at least ten (10) calendar days prior to the hearing.
 - (1) The names and addresses of owners notified shall be taken as such appear on the last completed tax roll of the Town.
 - (2) Provided that there has been substantial compliance with these provisions, the failure to give notice in exact conformance herewith shall not be deemed to invalidate an action taken by the Planning Board with granting or denying a special permit application.
 - (3) Applicant shall provide proof of certified notification to the Planning Board before the Hearing will commence.
 - c. If the land involved in the application lies within five hundred (500) feet of the boundary of any other municipality, the Planning Board shall also mail at least ten (10) calendar days prior to the public hearing to the municipal clerk of such other municipality or municipalities a copy of the official notice of such public hearing.
7. Decision. Within sixty-two (62) calendar days of the close of the public hearing, the Planning Board shall render a decision on the special permit. This time limit may be extended by mutual consent of the applicant and the Planning Board.
 8. Conditions. The Planning Board shall have the authority to impose reasonable conditions and restrictions as are directly related to, and incidental to, the proposed Special Permit.
 9. Filing of Decision. The resolution (including any conditions) of the Planning Board, setting forth the reasons for approval or denial shall be filed by the Planning Board in the Office of the Town Clerk, and a copy shall be sent by the Planning Board by certified mail to the applicant within five (5) business days of the decision. If applicable, a copy of the resolution on the action taken shall be also filed within seven (7) days thereof with the Columbia County Department of Planning.
 10. Expiration of Special Permits. A special permit shall be deemed to authorize only the particular use or uses specified in the permit, and shall expire if said use or uses shall cease for any twelve (12) month period after the date of special permit approval or if the use is not commenced within twelve (12) months of approval.

11. Revocation of Special Permit. Special permits may be revoked by the Planning Board, after hearing, in the event of change of use, expansion of a use beyond the conditions approved, or violation of the conditions of the special permit.
12. Existing Violations. No special permit shall be issued for a property, upon which there is an existing zoning violation of record.
13. Building Permit Approval. Upon issuance of the special permit; the applicant shall apply to the Building Inspector for a building permit, if applicable, and a certificate of occupancy.
14. The Planning Board may, in its discretion, and with the approval of the applicant, process the Special Permit application and Site Plan review of a project simultaneously.
15. Fees. The Planning Board shall require an applicant to pay fees in accordance with a schedule adopted by the Town Board, which schedule shall contain a reasonable limitation on the total amount of fees which may be charged to the applicant. Such fees shall include, but not be limited to, basic application fee, costs of advertising and mailing of notices, and the reasonable and necessary costs for the Planning Board to retain, or utilize, its own surveyor, professional planner, engineer, and/or attorney or similar expert. The fee schedule established by the Town Board shall also include the requirement that an escrow account be established upon acceptance of a complete application to cover the anticipated costs of such consultant review and expert.

B. General standards. In authorizing any Special Permit, the Planning Board shall take into consideration the public health, safety, and general welfare, the comfort and convenience of the public in general, and that of the immediate neighborhood in particular. The Planning Board shall also take into strict account the specific conditions and applicable Supplementary Regulations stated in Article V of this Law and the following general objectives:

1. The location and size of the use, the nature and the intensity of the operations involved, the size of the site in relation to the use, and the location of the site with respect to existing and future streets and roads providing access, shall be consistent with the orderly development of the district.
2. The location, nature, and height of the buildings, retaining walls and fences, and the nature and intensity of intended operations, will not discourage the appropriate development and use or impair the value of adjacent land and buildings.
3. All proposed traffic access ways shall be submitted to the appropriate Highway Department for review.
4. Adequate provision for safe and accessible off-street parking and loading spaces shall be provided to prevent parking in public streets of vehicles of persons connected with or visiting the use.

5. All parking and service areas shall be screened at all seasons of the year from the view of adjacent residential lots and streets or roadways, and the general landscaping of the site shall be in character with that generally prevailing in the neighborhood. Such landscaping shall include the preservation of existing trees to the extent practicable.
6. All proposed buildings, structures, equipment and/or material shall be readily accessible for fire and police protection.
7. Noise, fumes, vibration, flashing lights, or hours of operation shall not adversely affect the general welfare of the inhabitants of the Town or immediate neighborhood.
8. The use shall meet the prescribed area and bulk requirements for the district in which located or as further specified in the supplementary regulations, including such matters as minimum setback, maximum height, required off-street parking and sign regulations.
9. The level of services required to support the proposed activity or use is, or will be, available to meet the needs of the proposed activity or use.
10. The sewage disposal system will be adequate to accommodate the proposed use, in accordance with health regulations.
11. The Planning Board may require additional conditions and safeguards to the special permit as may be necessary to assure continual conformance with all applicable standards and requirements, including periodic special permit renewal if specified in the approval.

C. Waiver of Requirements

The Planning Board may, when reasonable, waive any requirements for the approval, approval with modifications, or disapproval of Special Use Permits in the event any such requirements are found not to be requisite in the interest of the Public health, safety, or general welfare or inappropriate to the particular use.

6.9 ZONING BOARD OF APPEALS, POWERS AND DUTIES

A. Creation, Composition and Appointment

1. Creation. A Zoning Board of Appeals ("ZBA") shall be maintained in accordance with Section 267 of Town Law.
2. Composition. The Zoning Board of Appeals consists of five (5) members, unless changed in accordance with Section 267 of Town Law.
3. Appointment. The Town Board shall appoint the members of the Zoning Board of Appeals and shall designate its chairperson. No person shall serve on the Zoning Board of Appeals who is a member of the Town Board or the Planning

Board. The terms of each of the Zoning Board of Appeals positions shall be five (5) years, as provided by their creation in accordance with Section 267 of Town Law. Vacancies shall be filled by the Town Board. If a vacancy occurs other than by expiration of term, it shall be filled by appointment for the unexpired term.

4. Zoning Board members missing more than four (4) regular meetings, or more than three (3) consecutive regular meetings within a calendar year, may be removed by the Town Board's discretion, after discussion with the Chairman.
5. Removal. The Town Board shall have the power to remove any member of the Zoning Board of Appeals for cause after public hearing.
6. Compensation. The Town Board may provide for compensation to be paid to the Zoning Board of Appeals members, experts, clerks, a secretary and for other such expenses as may be necessary and proper.

B. Procedures

The Zoning Board of Appeals shall act in strict accordance with the procedures specified by Section 267 of Town Law and this Zoning Law.

1. Meetings. All meetings of the Zoning Board of Appeals shall be held at the call of the chairperson and at such other times as such board may determine. On the five (5) member board, a quorum shall consist of three (3) members. In order to reverse a decision of the ZEO or to authorize a variance, or to decide contrary to the recommendation of the Planning Board, an affirmative vote of at least three (3) members shall be required. A favorable vote of a majority plus one, i.e., of at least four (4) members, shall be required if the action taken by the Zoning Board of Appeals is contrary to an advisory recommendation received from Columbia County Department of Planning under the provisions of Sections 239-1 and -m of the General Municipal Law. All meetings of such board shall be open to the public to the extent provided by Article 7 of the Public Officers Law.
2. All minutes. The Zoning Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon every question, or, if absent or failing to vote, indicating such of act, and shall also keep records of its examination and other official actions shall be filed in the office of the Town Clerk within five (5) business days and shall be a public record. Such minutes shall contain any resolutions of such meeting.
3. Application. All appeals and applications to the Zoning Board of Appeals shall be made in writing, on forms prescribed by the Board, and shall be filed with the Zoning Board of Appeals within sixty (60) days of the action appealed from, and shall be accompanied by the applicable fee in accordance with the fee schedule established by the Town Board. Appeals for review of ZEO and Planning Board shall also be filed with the Zoning Board of Appeals and with such administrative official. Every appeal or application shall refer to the specific provision of this law that is involved and shall precisely set forth either

the interpretation that is sought or the details of the variance that is applied for, or the grounds on which it is claimed that such variance should be granted and the relief sought. The administrative official from whom the appeal is taken shall forthwith transmit the complete record of the action appealed from. Each application shall also be accompanied by short or full Environmental Assessment Form, if required by SEORA.

4. Public Notice and Hearing. The Zoning Board of Appeals shall fix a reasonable time for the hearing of any appeal, application or other matter referred to it and give public notice by the publication in the official paper of a notice of such hearing, at least ten (10) days prior to the date thereof, and shall, at least ten (10) days before such hearing, mail notices by certified mail to the applicant, to adjacent property owners within two hundred (200) feet of the property boundary, and to the regional state park commission having jurisdiction over any state park or parkway within five hundred (500) feet of the property boundary affected by such appeal or application. Upon the hearing, any party may appear in person or by agent or by attorney. All notices to adjacent property owners should be responsibility of Applicant and proof of mailing given to the ZBA.

The names and addresses of owners notified shall be taken as such appear on the latest completed tax roll of the Town.

If the land involved in the appeal or application lies within five hundred (500) feet of the boundary of any other municipality, the Zoning Board of Appeals shall also send, at least five (5) days prior to the public hearing, to the municipal clerk of such municipality a copy of the official notice of such public hearing provided that there has been substantial compliance with the provisions on public notice herein, the failure to give notice in exact conformance herewith shall not be deemed to invalidate an action taken by the Zoning Board of Appeals in granting or denying an appeal or an application for a variance from a specific provision of this law.

5. Required Referrals. A full statement of any appeal or application that meets the specific referral requirements of Sections 239-1 and -m of the General Municipal Law shall also be referred at least ten (10) days prior to the public hearing to the Columbia County Department of Planning for its review. No action shall be taken by the Zoning Board of Appeals on such appeal or application until an advisory recommendation has been received from said county Planning Department or thirty (30) days have elapsed since the Planning Department received such full statement.

The Zoning Board of Appeals shall refer to and receive recommendations from the Planning Board on all applications for variances, and may refer to the Planning Board any other pertinent matters for review and recommendations. The Zoning Board of Appeals shall defer any decision on the application for a period of thirty (30) days from the date of the referral, or until a report thereon is issued by the Planning Board, whichever occurs first. If no report is received from the Planning Board within thirty (30) days after such referral, the Planning Board shall be deemed to have waived any right to make such

recommendation.

6. Decisions. Every decision of the Zoning Board of Appeals on an appeal or application shall be made within sixty-two (62) days of the close of the hearing by the Board and shall set forth the findings on which the decision is based. The time for decision may be extended by mutual consent of the applicant and the Zoning Board. Every decision shall be by resolution of the Board, with such decision being filed in the office of the Town Clerk within five (5) business days thereof with a copy mailed to the applicant and to the ZEO. If applicable, a report on the action taken shall also be filed within seven (7) business days thereof with the Columbia County Department of Planning.
7. Rehearing. The Board may, upon request of the applicant in writing, and upon motion made by any member of the Board, hold a rehearing to review any order, decision, or determination of the Board. A unanimous vote of all members of the Board present shall be required for a rehearing. Upon such rehearing, the Board may reverse, modify, or annul its original order, decision or determination upon unanimous vote of all members present, provided that the Board finds that the rights vested in persons acting in good faith in reliance upon the original order, decision, or determination will not be prejudiced thereby.
8. Imposition of Conditions. In all cases where the Zoning Board of Appeals grants either a use or area variance, the Zoning Board of Appeals shall have authority to attach such reasonable conditions and restrictions as are directly related to, and incidental to, the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this Law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.
9. Fees. The Zoning Board of Appeals shall require an applicant to pay fees in accordance with a schedule adopted by the Town Board, which schedule shall contain a reasonable limitation on the total amount of fees which may be charged to the applicant. Such fees shall include, but not be limited to, basic application fee, costs of advertising and mailing of notices, and the reasonable and necessary costs for the Zoning Board of Appeals to retain, or utilize, its own surveyor, professional planner, engineer, and/or attorney or similar expert. The fee schedule established by the Town Board shall also include the requirement that an escrow account be established upon acceptance of a complete application to cover the anticipated costs of such consultant review and expert.

C. Powers and Duties

The Zoning Board of Appeals shall have all the powers and duties prescribed by law and by this section which are more particularly specified as follows:

1. Appeal from ZEO and CEO.

The Zoning Board of Appeals may reverse or affirm, wholly or partially, or may

modify the order, requirement, decision, interpretation or decision appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made by the administrative official, (i.e., the ZEO), charged with the administration and enforcement of this chapter and to that end shall have all the power of the administrative official from whose order, requirement or decision the appeal is taken.

2. Use variances.

- a. The Zoning Board of Appeals, upon appeal from the decision or determination of the ZEO, shall have the power to grant use variances, authorizing a use of land which otherwise would not be allowed or would be prohibited by the terms of this Zoning Law.
- b. No such use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that the applicable regulations and restrictions imposed by this Law have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Board of Appeals that for each permitted use under this Law for the district in which the property is located:
 - (1) The applicant cannot realize a reasonable return and that the lack of return is substantial as demonstrated by competent financial evidence;
 - (2) That the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood;
 - (3) That the requested use variance, if granted, will not alter the essential character of the district or neighborhood; and
 - (4) That the alleged hardship has not been self-created.
- c. The ZBA, in the granting of a use variance, shall grant the minimum variance that is deemed necessary and adequate to address the hardship proven by the applicant and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

3. Area variances.

- a. The Zoning Board of Appeals, upon appeal from the decision or determination of the ZEO, or upon referral from the Planning Board pursuant to Section 6.8(A)(5) of this Law, shall have the power to grant area variances from the area or dimensional requirements of this Zoning Law.
- b. In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the area variance is granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community by such grant. In making such determination,

the Zoning Board of Appeals shall also consider each of the following factors:

- (1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
 - (2) Whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue, other than an area variance.
 - (3) Whether the requested area variance is substantial;
 - (4) Whether granting of the proposed area variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district;
 - (5) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals but shall not necessarily preclude the granting of the area variance.
- c. The Zoning Board of Appeals, in the granting of an area variance, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

D. Effect of Appeal

Filing a notice of appeal stays all proceedings in furtherance of the action appealed there from. Under certain circumstances, however, the filing of the notice of appeal does not operate as a stay. Where the administrative official from whom the appeal is taken certifies to the ZBA that a stay would cause imminent peril to life or property, the stay is ineffective. Notwithstanding this limited exception, a party aggrieved by the termination of the stay may apply for a restraining order to reinstate the stay. This application is made to the ZBA or "a court of record," on notice to the administrative official from whom the appeal is taken, and may be granted "on due cause shown." Through this process, the ZBA or a court may effectively override the administrative official's nullification of the stay.

E. Relief from Decisions

Any person or persons jointly or severally aggrieved by any decision of the Zoning Board of Appeals may apply to the Supreme Court of the State of New York for relief in accordance with the provisions of Section 267-c of the Town Law within thirty (30) days after the filing of the Zoning Board of Appeals' decision in the office of the Town Clerk. Notice of such decision shall be provided to the appellant upon such filing by certified mail with return receipt requested.

6.10 AMENDMENTS

This law, or any part, including the Zoning District Map indicating the various district boundaries, may from time to time be amended, supplemented, changed, modified or repealed by the Town Board in the manner prescribed by Municipal Home Rule Law.

A. Initiation. Consideration of an amendment to this law may be initiated in one of three ways:

1. By the Town Board upon its own volition.
2. By resolution of the Planning Board sent to the Town Board and filed with the Town Clerk, where certain changes or repeal of certain provisions are recommended. Where practical, the Town Board shall initiate consideration of such proposed amendment within ninety (90) days of the time the resolution is filed by the Planning Board in the office of the Town Clerk.
3. By petition duly signed and acknowledged from the owners of fifty percent (50%) or more of the public road frontage in any zoning district requesting an amendment, supplement or change in the regulations prescribed for such zoning district or part thereof. Where practical, the Town Board shall initiate consideration of such petition for amendment within ninety (90) days of the time the petition is filed by the petitioners in the office of the Town Clerk. Said petition shall be accompanied by the applicable fee, if any, in accordance with the fee schedule established and annually reviewed by the Town Board.
4. In accordance with an application for a creation of a FCID as provided in Section 3.2 of this Law.

B. Report of the Planning Board

Proposed amendments shall be referred to the Planning Board for a report and recommendation. In undertaking such review, the Planning Board shall make inquiry and provide recommendation concerning the matters specified below:

1. Whether such change is consistent with the intent and objectives of this Zoning Law as applied to the particular zoning districts concerned.
2. Which areas and establishments in the Town will be directly affected by such change and in what way they will be affected.
3. Whether adequate public service and other support facilities exist or can be created to serve the needs of any additional development that may occur as a result of such change.
4. What other regulations may be affected, and to what extent, as a result of such change.
5. Whether such proposed change is consistent with the underlying objectives of the Town Comprehensive Plan.

The Planning Board shall submit its report to the Town Board, within sixty (60) days of

receipt of the referral. Failure of the Planning Board to report within the required time period shall be deemed to be a recommendation of approval of the proposed amendment.

C. Town Board Procedure

1. Public Notice and Hearing. The Town Board shall fix the time and place of the public hearing on the proposed amendment and cause notice thereof to be given pursuant to Municipal Home Rule Law.
2. Required Referral. The Town Board shall transmit a full statement of any proposed amendment, whether a map amendment or a text amendment, that meets the referral requirements of Sections 239-l or -m of the General Municipal Law, to the Columbia County Department of Planning for its review and recommendation. No action shall be taken by the Town Board on such proposed amendment until a recommendation has been received from the County Department of Planning or thirty (30) days have elapsed since said department received such full statement.
3. Compliance with SEQRA. Proposed amendments are actions subject to the provisions of the NYS Environmental Quality Review Act.
4. Town Board Action. The Town Board may approve any such proposed amendment by a majority vote of the Board, except that a favorable vote of at least four (4) members of the Town Board, i.e., a majority plus one, shall be required if action being taken is contrary to the advisory recommendation received from the Columbia County Department of Planning under the provisions of Section 239-1 and -m of the General Municipal Law. If the action taken is contrary to the advisory recommendation of the County Department of Planning, a report on the action shall be filed within seven (7) days thereof with said department.

6.11 VIOLATIONS

- A. In case any building or structure is erected, constructed, reconstructed, altered, converted, or any building, structure or land is used, or any land is divided into lots, blocks, or sites in violation of this Zoning Law or of any ordinance or other regulation made under authority conferred thereby, the proper local authorities of the Town, in addition to other remedies, may institute any appropriate legal action or proceedings in a court of competent jurisdiction to prevent such unlawful erection, construction, reconstruction, alteration, conversion, use or division of land, to restrain, correct or abate such violation, to prevent the occupancy of said building, structure, or land or to prevent any illegal act, conduct, business or use in or about such premises.
- B. A violation of this law is hereby declared to be an offense, punishable by a fine not exceeding three hundred fifty dollars (\$350.) or imprisonment for a period not to exceed six (6) months, or both for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five (5) years, punishable by a fine not less than three hundred fifty dollars (\$350.) nor more than seven hundred dollars (\$700.) or imprisonment for a period not to exceed six (6)

months, or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of five (5) years, punishable by a fine not less than seven hundred dollars (\$700.) nor more than one thousand dollars (\$1,000) or imprisonment for a period not to exceed six (6) months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this law shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

- C. Any person who fails to abate any violation of this law after written notice has been served either personally or upon the property owner at the address set forth in the last assessment roll of the Town within ten (10) days after mailing of said written notice has been sent to said person by certified mail shall be subject to a civil penalty of one hundred dollars (\$100.) for each and every day that said violation of the zoning law continues beyond said period, the same penalties recoverable in a civil action brought by the Town in a court of competent jurisdictions and any civil penalties recovered by the Town shall be retained by it.
- D. If there is any damage to property or land due to a violation of this law, the person, firm, partnership, corporation or other party responsible shall be notified and shall cause such damage to be corrected within thirty-six (36) hours of notice. If it is not so corrected, the town may cause such correction to be undertaken, and the cost shall be paid to the Town by the party who failed to correct the damage. Such cost shall be a debt owed to the Town, which if unpaid for more than thirty (30) days after demand for payment, shall be a lien on the real property upon which the damage occurred. Such lien shall be collected by a levy added to the next real property tax levy otherwise payable to the Town.
- E. The remedies provided herein shall be cumulative and shall be in addition to other remedies provided by law.

6.12 APPLICATION AND NOTICE FEES

Application fees shall be paid on the filing of any application, in accordance with the fee schedule established by resolution by the Town Board. The applicant shall be responsible for all publications and notices to adjoining property owners and all other notice fees in conjunction with said applications.

6.13 ESCROW FEES

- A. Purpose. The Town Board desires to provide a mechanism for the reimbursement of fees and expenses which would otherwise be paid by the assessment of the taxpayers of the Town of Gallatin to defray the cost to the Town for the retention of competent engineering, planning, legal and other consultants to review projects before the Town of Gallatin Planning Board, Zoning Board of Appeals, and/or Town Board for which Special Permit, Variance, Site plan review and approval, and Subdivision review and approval and/or approval of an FCID is sought by an applicant. The Town Board finds that it is essential for the Town to be able to retain the services of competent engineers, planner, lawyers and other professional consultants to assist the boards in the review of such applications. The Town also finds that it is necessary

and proper to establish a procedure to be followed requiring the deposit of those funds in a separate account and requiring that payments from that account be made only upon receipt and approval by the Town Board of itemized vouchers from its consultants, and that such fees of the consultants be reasonable and necessary.

B. Professional Fees.

1. The Gallatin Planning Board and ZBA, and the Town Board, in the review of any applications pending before said Boards, may retain such engineering, planning, legal, technical or environmental consultant, or professional(s) ("consultant services") as such Boards shall deem reasonably necessary to assist the Board in its review of such application.
2. The applicant shall reimburse the Town of Gallatin for the cost of such consultant services.
3. The Town Board shall review and audit all vouchers submitted by such consultants and shall approve payment only if such consulting fees and disbursements as are reasonable in amount and necessarily incurred by the Town in connection with the review, consideration and approval of the proposed project. For purposes of the foregoing, a fee, or part thereof, shall be deemed to be a reasonable amount if it bears a reasonable relationship to the average charge by consultants to the Town for services performed in connection with the review of similar projects in the Town, and if there are no similar projects in the Town, then for similar projects located in Columbia and Dutchess counties and the surrounding area, to the extent that such similar projects may exist. The Town Board may take into consideration the size, type and nature of the project, together with such special features including, but not limited to, topography, soil conditions, water, drainage conditions and any special conditions or considerations as the Town Board may consider relevant.
4. A fee or expense, or part thereof, is necessarily incurred if it was charged by the engineer, attorney, planner or other professional consultant for a service which was rendered in order to assist in the protection or promotion of the health, safety or welfare of the Town or its residents; to assist in the protection of public or private property or the environment from potential damage which otherwise may be caused by the proposed land use or development; to insure or assist in compliance with laws, regulations, standards or codes which govern land use and development; to insure or assist in the orderly development and sound planning of a land use or development; to insure the proper and timely construction of public improvements, parks and other facilities which affect the public welfare; to protect the legal interests of the Town; to avoid claims against, and liability of, the Town; or to promote such other interest that the Town Board may specify as relevant.
5. At such time as the application is approved or denied by the Board, the Town Clerk shall refund to the applicant, the deposit required pursuant to Section C less any sums expended by the Town to engage services of attorneys, engineers, planners and other qualified professional consultants to provide assistance to said Board relating to said project. A copy of the computation of

said sums so expended shall be provided to the applicant at the time that the Town Clerk shall calculate the refund, if any, due the applicant.

C. Escrow Accounts.

1. At the time of submission of any application, or thereafter, an escrow account shall be established, from which withdrawals shall be made to reimburse the Town for the costs of consultant services. The applicant shall then provide funds to the Town for deposit into such account in an amount to be determined by the Board with the advice and recommendation of the Town's Engineer, Attorney and/or Planner based on their evaluation of the nature and complexity of the application, using the following scheduled as a general guideline, with the decision of the reviewing board to be final and conclusive on the applicant:
 - a. For residential projects, the total project value shall be calculated based on the actual purchase price of the land or the fair market value of the land, whichever is higher, plus the cost of all required site improvements. In the case of such projects, the escrow deposit shall be no more than two percent of the total project value.
 - b. For commercial and industrial projects, the total project cost shall be calculated based on the actual purchase price of the land or the fair market value of the land, whichever is higher, plus the cost of all required site improvements. In the case of such projects, the escrow deposit shall be no more than two percent of the total project value.
 - c. For projects involving the extraction of minerals, the total project value shall be calculated on the cost of site preparation for mining. Site preparation cost means the cost of clearing and grubbing and removal of over-burden for the entire area to be mined plus the cost of utility services and construction of access roads. Such costs are determined with reference to a current cost data publication in common use. The escrow deposit shall be two percent of the total project value. For those costs to be incurred for phases occurring three or more years after issuance of a permit, the project value shall be determined using a present value calculation.
2. The applicant shall be provided with copies of vouchers submitted for payment by the consultants for such services as they are submitted to the Town.
3. All sums paid by the applicant shall be deposited in a separate account by the Town from which withdrawals as provided in this local law shall be made.
4. When the balance in such escrow account is reduced to one-third (1/3) of its initial amount, the Town Clerk shall advise the applicant and the applicant shall deposit additional funds into such account to bring its balance up to the amount of the initial deposit. If such account is not replenished within ten (10) business days after the applicant is notified, in writing, of the requirement for such additional deposit, the reviewing Board may suspend its review of the

application. An application shall be deemed incomplete if any amount shall be outstanding.

5. A building permit or other permit being sought shall not be issued unless all professional review fees charged in connection with the applicant's project have been reimbursed to the Town by the applicant. Final approvals for Site Plan, Special Permit, or FCID Use shall not be granted until such time as professional review fees have been paid in full, to date, by the applicant.
 6. All fees required pursuant to this section shall be collected by the Town Clerk.
 7. This section shall be applicable to applications pending at the time the Zoning Law becomes effective unless a prior agreement concerning such fees between the applicant and the Town has been executed.
- D. Alternate Escrow Arrangement. In lieu of the procedures set forth in §6.13(C)(1), the Town Board and the Applicant can enter into an escrow agreement specifying the funding of the escrow account.
- E. SEQRA Review. In the event that a Positive Declaration is made in accordance with the New York State Environmental Quality Review Act (SEQRA), all subsequent consultant review fees that are necessary for the preparation or review of an EIS shall be reimbursed to the Town in accordance with the procedures established under SEQRA. The applicant shall maintain the basic escrow account for the continued review of the application that is not directly related to the preparation or review of an EIS. The Town may require the applicant to establish a separate account for the consultant services costs necessary for the preparation or review of an EIS. All deposits, reimbursements, and refunds shall be made in accordance with the provisions of this Local Law.

ARTICLE VII. DEFINITIONS.

7.1 INTERPRETATIONS.

- A. For the purpose of this chapter, certain terms and words are defined in 7.2 and shall have the meanings thereby assigned to them. Words not defined in said section shall have the meanings given in Webster's Unabridged Dictionary.
- B. Words used in the present tense include the future; the singular number includes the plural, and the plural the singular; the word "building" includes the word "structure"; the word "used" includes the words "arranged, designed or intended to be used".

7.2 DEFINITIONS.

Words and terms used in this law are defined for the purposes thereof, as follows:

Accessory Structure - A structure, the use of which is customarily incidental and subordinate to that of the principal building, or is located on the same lot or premises as the principal structure. Accessory structures shall include but are not limited to, garden or tool sheds, barns, greenhouses, detached garages, and children playhouses. See Section 4.8. If attached to the principal structure in a substantial manner, it shall be considered a part of the principal structure.

Accessory Use - A use which is customarily incidental to and subordinate to the principal use of the premises, building or structure and located on the same premises as such principal use.

Adjacent Property - Any property adjoining, directly opposite or within two hundred (200) feet of the boundary of any portion of the subject parcel. This definition shall include all property separated by a street or within two hundred (200) feet of the street frontage of the subject parcel.

Agriculture - Any activity connected with the raising of crops, livestock or production of livestock products, including but not limited to field crops, fruits, vegetables, horticultural specialties, livestock and livestock products, furs, maple sap, Christmas trees, aquaculture products, apiary, and woody bio-mass. This shall encompass any activity or use now permitted by law, conducted in connection with farming, including but not limited to: housing for farm employees; storage, transportation and use of equipment and materials for farming; farm product processing; construction and maintenance of fences and other enclosures; and the use and/or maintenance of related pastures, idle or fallow land, woodland, wetland, farm ponds, farm roads and certain farm buildings and other structures related to the agriculture practices. Agriculture shall also include the processing and wholesale and retail marketing, including U-pick sales, of the agricultural output of the farm and related products that contribute to farm income, including the sale at the owner's farm stand of agricultural products so long as a substantial portion of the annual gross sales of the farm stand have been grown on said farm. See definition of "Farm" below.

Airfield, Private - A facility for the storage, maintenance, take off, and landing of private, and not commercial, aircraft.

Alteration - Any change, rearrangement, addition, or enlargement to a building or structure, other than repairs; the moving of a building or structure from one location to another; or the demolition of a building or structure.

Alternate Care Housing Facility (ACHF) - A facility designed for housing those persons ("ACH clients") who are unable to live and work independently at a particular time and for the providing for their specific needs, except that a community residential facility for the disabled, as defined in this Zoning Local Law and as regulated by 43.14 of the New York State Mental Hygiene Law, are excluded from this definition and are not subject to the Zoning Local Law. For purposes of this Zoning Law, "alternative care facility" includes the following types of supervised facilities:

1. Community Residences - A dwelling providing room and board, recreation for the mentally and/or physically disabled under responsible supervision.
2. Halfway House - A community residence providing room and board, recreation and rehabilitative services for the mentally and/or physically disabled under responsible supervision.
3. Supervised Living Facility – A community residence or group home providing 24 hour on-site responsible supervision for long term residence.
4. Supportive Living Facility - A community residence providing responsible supervision for residents.
5. Family Care Housing - A dwelling providing room, board and supervision for patients who are maintained on an in-patient status by a state operated psychiatric facility.
6. Housing for the Disabled - Housing for those persons who are unable to function in society without assistance and/or supervision because of their physical, mental or emotional deficiencies.
7. Rehabilitation Services Facility - A professionally planned and operated treatment facility designed to improve the functioning of physically, mentally or emotionally disabled persons in- their skills of daily living.

Animal Hospital - An establishment for temporary occupation by sick or injured animals, for the purpose of diagnosis and treatment.

Animal Husbandry – A noncommercial activity involving the keeping, grazing, feeding, and care of animals for one's own use or consumption other than household pets.

Antique Store – Any building or part thereof used for the sale of any old and authentic objects of personal property which were made, fabricated or manufactured 50 or more years earlier and which have a unique appeal and enhanced value because of age, artistry, beauty, or period of origin.

Apparel and Accessory Store – Any building used for the sale of apparel including shirts, pants, dresses, shoes, hats, outer garments and other types of clothing.

Antenna - A device which is attached to a tower or other structure for transmitting or receiving radio or electromagnetic waves.

Aquifer - An underground geologic formation that contains and transmits significant quantities of groundwater.

Area and Bulk Regulations - The combination of controls which establish the minimum size of a lot and the maximum size of a building and its location on such lot. See Article IV.

Area, Building - The total of areas taken on a horizontal plane at the main grade level of the principal building and all accessory buildings exclusive of uncovered porches, terraces and steps. All dimensions shall be measured between exterior faces of walls.

Area, Floor (of a structure) - The sum of the horizontal area of the floor or floors of a structure, including habitable basement space, and including the area of roofed porches and roofed terraces. All dimensions shall be measured between exterior faces of walls.

Area, Land - The total area contained within the property lines of an individual parcel of land.

Art Studio - A facility where paintings, sculpture, glassware, pottery, jewelry or other works of art or crafts are produced for sale (wholesale or retail), but shall not include a studio operated as an accessory use to, or a home occupation in, a residence where products are not sold to the public on-site.

Attached - A term which, when used with reference to a building, shall mean connected to another building by means of at least one (1) common wall. For the purposes of this law, the terms "attached" and "semi-detached" may be interchanged in any context. See also definitions for "detached" and "semi-detached".

Bakery, Retail - An establishment which sells primarily baked goods directly to the public on the premises.

Bakery, Wholesale - An establishment which produces and sells baked goods primarily to other establishments, or produces primarily for sale off the premises, and only incidentally directly to the public on the premises.

Basement – That space of a building which is partly below grade and has more than ½ of its average height, measured from floor to ceiling, above the finished grade of the ground adjoining the building.

Bed and Breakfast Establishment - An owner-occupied dwelling in which no more than four (4) rooms are rented for temporary overnight occupancy and limited food service may be provided for such occupants. A public restaurant or public bar shall not be included. See, Section 5.5.

Beginning of Construction - The incorporation of both labor and materials on a building site, other than materials delivery, or the use of excavation equipment or labor to excavate for the building of foundation or footings, but not including wood cutting unrelated to building, subsequent to the issuance of a valid building permit pursuant to this law.

Boarding and/or Rooming House - A private owner-occupied dwelling in which at least two (2) and not more than four (4) rooms are offered for rent, which may or may not provide meals to lodgers, in which no transient guests are accommodated and no public restaurant is maintained. See, Section 5.6.

Boarding Stable – A building designed for the feeding, housing and exercising of horses that are not owned by the owner of the premises or a residential tenant thereof, and /or are maintained for remuneration, hire or sale.

Buffer - Land area used to visually separate one use from another or to shield or block lights, noise or other nuisances, which is suitably developed with fencing, berms and natural vegetation.

Building - A structure wholly or partially enclosed within exterior walls, or within exterior and party walls, and a roof, affording shelter to persons, animals, property or business activity, See “Structure”.

Building Height - The vertical distance from the finished grade line at the foundation to the highest point of the roof.

Building Inspector – The “Code Enforcement Officer” of the Town of Gallatin.

Building Line, Front - A line generally parallel to the street or road beyond which the front of a building may not project into the required front yard as specified for the district in which the lot is located, also called “minimum front setback line”. In the case of a corner lot any building line nearest to the street line shall be considered a front building line.

Building Permit - Official authorization issued by the Building Inspector to begin construction in accordance with approved plans and in strict compliance with all applicable requirements of this law, other local laws, the New York State Uniform Fire Prevention and Building Code, and related laws, rules, and regulations.

Building, Principal - A building including covered porches, in which is conducted the principal use of the lot on which such building is located. In any residential district the principal dwelling shall be deemed the principal building on the lot on which it is situated.

Bulk Schedule - District Schedule of Area and Bulk Regulations set forth in Article IV of this Law.

Business, Retail - See “Retail Business or Service”.

Business, Service - A commercial operation or establishment primarily engaged in performing work on a fee or contract basis, such as advertising and mailing; building maintenance, employment service, office equipment rental and leasing, commercial research, development and testing, photo finishing and personal supply services.

Business, Wholesale - See “Wholesale Business”.

Bus Passenger Shelter, Private - A privately owned structure whose primary purpose is to provide shelter for persons waiting for buses.

Camp, Children's or Day - Any area of land, including any buildings, tents, shelters, or - other structures and accommodations offering day or sleep-away care, supervision, recreation, instruction, or education for children or adults on a seasonal basis. See, Section 5.8.

Campground – A camp primarily equipped with utility connections for two or more camping trailers or recreational vehicles.

Carnival - An amusement show, usually traveling from place to place and including side shows, Ferris wheels, merry-go-rounds, games, and/or similar attractions.

Cellular Telephone Facility - All facilities, equipment, apparatus, and devices used for cellular telephone communications.

Cemetery - Land used or intended to be used for the burial of a deceased person or persons and dedicated for cemetery purposes, including columbarium, mausoleums and mortuaries when operated with and within the boundaries of such cemetery.

Center Line of Street or Road - A line midway between and parallel to two street or road property lines.

Certificate of Occupancy - Official authorization issued by the Building Inspector that a premise conforms to the applicable provisions of this law, the NYS Uniform Fire Prevention and Building Code, and other applicable regulations, and may be legally used or occupied. See, Section 6.5.

Cessation or Termination of Use - As used herein, a use shall be determined by the Zoning Enforcement Officer to have ceased or terminated when it has been discontinued either temporarily (for 12 months) or permanently, whether with intent to abandon such use or not.

Child Care Facility – see Day Care Facility.

Church or Other Place of Worship - A building in which is used exclusively for public religious worship is conducted which may include meeting halls, parish houses and similar facilities.

Circus - An exhibition of wild and trained animals, aerobatic feats, together with side shows and vending concessions.

Cleaners – A retail service business dedicated to cleaning fabrics such as clothing.

Clinic, Medical, Dental or Health - A building designed or used for the diagnosis and treatment of human patients, which does not include overnight care facilities.

Club - An association of people organized for a common purpose, to pursue common goals, interests, or activities, and usually characterized by certain membership qualifications and meetings.

Clubhouse - A building to house a club or social organization not conducted for profit and which is not adjunct to, or operated by, or in connection with, a public tavern, bar, cafe, or other public place. See, Section 5.10.

Cluster Development, Residential - A subdivision plat or plats, and/or site plan, approved by the Planning Board pursuant to the Town of Gallatin Subdivision Regulations, Section 5.11 of this Law and Section 278 of the Town Law, in which the Zoning Law is modified to an alternative permitted method for the layout, configuration and design of lots, buildings and structures, roads, utility lines and other infrastructure, parks and landscaping in order to preserve the natural and scenic qualities of open lands. See, Section 5.11.

Commercial Equine Operation – An agricultural enterprise, consisting of at least seven (7) acres and stabling of at least ten (10) horses, regardless of ownership, that receives \$10,000 or more in gross receipts annually from fees generated through the provision of commercial equine activities including, but not limited to riding lessons, trail riding activities or training of horses or through the production for sale of crops, livestock and livestock products, or through both the provision of such commercial equine activities and such production. Under no circumstances shall this definition be construed to include operations whose primary on site function is horse racing.

Commercial Horse Boarding Operation – An agricultural enterprise, consisting of at least seven (7) acres and boarding at least ten (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 of the sale of crops, livestock, and livestock products, or through both such boarding and such production. Under no circumstances shall this definition be construed to include operations whose primary on site function is horse racing. Notwithstanding any other provision of this definition, a commercial horse boarding operation that is proposed or in its first or second year of operation may qualify as a farm operation if it is an agricultural enterprise, consisting of at least seven (7) acres, and boarding at least ten (10) horses, regardless of ownership, by the end of the first year of operation.

Commercial or Technical School – A school dedicated to the teaching of crafts and trades.

Commercial Use - An occupation, employment, or enterprise that is operated for profit by its owner, lessee, or licensee, not otherwise specified in the use regulations.

Commercial Vehicle - See “Vehicle, Commercial”.

Communication Antenna or Tower - A structure or device mounted on the structure used or intended to be used for transmission or receiving of electromagnetic waves with or without connecting wires. See, Section 5.12.

Communication Equipment Shelter - A structure, located at a base station, designed principally - to enclose equipment used in connection with personal wireless service or other communications systems. See, Section 5.12.

Communications Facility - A tower, antenna and any accessory structures or equipment designed, used, or intended to be used, for transmission or receiving of electromagnetic or radio communications signals as part of a commercial activity. See, Section 5.12.

Community Facility - Any building, structure, park, or recreation area or other area for the general use of the residents of the town or the public.

Community Residence – See “Alternate Care Housing Facility”.

Community residential facility for the disabled - A supportive living facility with four (4) to fourteen (14) residents or a supervised living facility subject to licensure by the New York State Office of Mental Health or the Office of Mental Retardation and Developmental Disabilities which provides a residence for up to fourteen (14) mentally disabled persons, including residential treatment facilities for children and youth.

Compatible - Not disruptive or inconsistent with the existing neighborhood and the intended goals and objectives of the community, as stated in both this law and the Town’s Comprehensive Plan.

Comprehensive Plan – A long-range plan officially recognized as a guide for the physical growth and development of a community. See Section 272-A of the Town Law.

Conceptual Plan - The initial stage of subdivision or site plan review by the Planning Board, also called “sketch plan”. For site plan requirements, see Section 6.7, Site Plans. For subdivision requirements, see “Subdivisions Regulations - Town of Gallatin”.

Conference Center - An establishment used for business or professional conferences and seminars, often with rooms for lodging, eating, and recreational activities. Also, an establishment which -attracts clients principally for recreational or health activities and contains rooms for lodging and eating for its clients.

Convenience Store - A one-story retail store containing less than two—thousand (2,000) square feet of gross floor area, primarily used to sell food, beverages, and/or household supplies.

Conversion, Residential - A change in use or occupancy of a building, generally by alteration or by other reorganization to increase the number of families or dwelling units within a structure.

Cul-de-Sac - A local street, one end of which is closed and consists of a circular turn around.

Day Care Facility - Any facility which is licensed to operate pursuant to New York State Social Services Law Article 390 and provides care for a child on a regular basis away from the child’s residence for less than twenty-four (24) hours per day by someone other than the parent, step-parent, guardian or relative within the third degree of consanguinity of the parents or step-parents of such child. For the purposes of this law, day care facilities are defined as follows:

1. **Family Day Care Home** - Any program that provides care to children for more than three (3) hours per day per child in which child day care is provided in a family home, i.e., dwelling unit, under this law, for three (3) to six (6) children. A family day care home may, however, care for seven (7) or eight (8) children at any one time if no more than six (6) of the children are less than school age and the school-aged children receive care primarily before or after the period such children are ordinarily in school,

during school lunch periods, on school holidays, or during those periods of the year in which school is not in session in accordance with the regulations of the New York State Office of Children and Family Services.

2. **Group Family Day Care Home** - Any program that provides care to children for more than three (3) hours per day per child in which child day care is provided in a family home for seven (7) to twelve (12) children of all ages, except for those programs operating as a family day care home as defined in this Article, which care for seven (7) or eight (8) children. A group family day care home may provide child day care services to four (4) additional children if such additional children are of school age and such children receive services only before or after the period such children are ordinarily in school or during school lunch periods, or school holidays, or during those periods of the year which school is not in session in accordance with the regulations of the New York State Office of Children and Family Services.
3. **Day Care Center** - Any program provided for more than three (3) but less than twenty-four (24) hours a day away from the child's home by an individual association, corporation, institution or agency for seven (7) or more children except those programs operating as "group family day care" as defined in this Law and by ff75 Social Services Law Section 390. -
4. **School Age Child Care** - A program caring for more than six (6) school-aged children who are under thirteen (13) years of age or who are incapable of caring for themselves as defined in New York State Social Services Law Section 390.
5. **Nursery School** - Any program, whether licensed with the New York State Department of Education or not, provided in one or two sessions, each of less than three (3) hours a day, away from a child's home, except a family day care home, group family day care home or day care center.

DBM - Unit of measure of the power level of an electromagnetic signal expressed in decibels referenced to 1 milliwatt.

Detached - A term which, when used with reference to a building, shall mean either (a) not connected to another building by any physical construction, or (b) connected to another building by some physical construction, but without at least one common wall. See also definitions for "attached" and "semi-detached".

Development - Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures; mining, dredging; filling; clearing; grading; paving; excavation; or drilling operations, but excluding normal agricultural, conservation, or forest management activities.

Disturbance - Used in reference to land, this term shall mean any human alteration, including but not limited to grading, filling, excavating, or stripping.

Drive-in Business - An establishment in which patrons are not required to enter the building in order to be served, sold a product, or entertained, including but not limited to: drive-in outdoor theaters, refreshment stands, and fast-food restaurants which have drive-in windows.

Driveway - Land situated on a lot used or intended to be used to provide access to and across a lot by vehicular traffic.

Driveway Setback – The minimum distance that a driveway shall be set back from a lot line, except that lot line from which the driveway obtains access to a road or street.

Dude Ranch - An establishment that may include facilities for lodging, dining, picnic grounds, boating, camping, swimming, golf, tennis, and various other sports, other services and facilities for the accommodation of the patrons, together with facilities for the stabling of horses, corrals and barns, and quarters for employees.

Dump - Land used for the disposal by abandonment, dumping, burning, or any other means, and for whatever purpose of garbage, sewage, sludge, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind. A “dump” shall not be construed to include compost materials, leaves, or brush.

Dwelling - A house or other building designed or used primarily for human habitation. The word “dwelling” shall not include tourist homes, mobile homes, camping vehicles, motels, hotels or other structures designed for transient or temporary residence.

Dwelling, Single-Family or One-Family - A free standing building designed for the use of a single household, including one or more persons living as a family.

Dwelling, Two-Family - A free standing building containing two (2) dwelling units only.

Dwelling, Multi-Family - A free standing, semi-detached or attached building or group of buildings or portions thereof, on one lot, containing three (3) or more dwelling units.

Dwelling, Row/Townhouse - A two-family or multi-family dwelling with common walls separating adjacent dwelling units, with each dwelling unit having separate entrances from the outside.

Dwelling Unit - A building or entirely self-contained portion thereof containing complete housekeeping facilities, including kitchen facilities and bath for only one (1) family, and having no common space, other than vestibules, entrances or other hallways or porches, or cooking or sanitary facilities in common with any other “dwelling unit”.

Dwelling Unit, Accessory - A dwelling unit having its own exterior or interior entrance which is subordinate to, and located on the same lot as the principal residence. An “accessory dwelling unit” may or may not be located within the principal residence. See Section 5.2.

ECHO Unit - Small removable homes located on the same lots with one-family and two-family dwellings. See, Section 5.14.

Educational Institution - Any public or private school or other organization conducting a regularly scheduled comprehensive curriculum of academic instruction similar to that furnished by kindergartens, primary or secondary schools or institutions of higher learning operated under the Education Law of New York State. Alternate care facilities, correctional institutions, day care centers or nursery schools are not construed to be “educational

institutions”.

Establishment - A building or related group of buildings, or an area of a lot, for purpose of the conducting one (1) principal commercial use and its permitted accessory uses, located on a single lot. A non-residential building in which two (2) tenants lease space shall be construed as housing two (2) establishments.

Excavation or Mining - Any activity which removes and/or processes material such as soil, topsoil, rock, gravel, sand, earth, turf, or other mineral or similar substances from their natural location in or on the ground, including digging, cutting, crushing, screening, washing, or other processing.

Exhibition - A large-scale public showing, as of art objects, agricultural products or other products set-up for display and viewing.

Facade - The face or front of a building.

Facility - Any establishment, business, building, structure or operation, used or intended for use.

Factory - A building or group of buildings, usually with machinery or equipment, where goods are manufactured.

Factory Manufactured Home - Any structure or component thereof designed primarily for residential occupancy which is wholly or in substantial part constructed in off-site production facilities intended or designed for the permanent installation, and/or assembly, on an approved building site. To qualify under this definition, the structure must be built to the National Manufactured Housing construction and Safety Standards Act of 1974 and/or current national standards.

Fair - An occasional or periodic exhibition of farm products and/or livestock, usually accompanied by amusement features and for which an admission fee may be charged.

Family - A “family” consists of (a) one person, or two or more person related by blood, marriage or adoption; or (b) not more than five persons not necessarily related by blood, marriage or adoption, who live together in a single dwelling unit and maintain a common household.

Family, Immediate - Persons related by blood or adoption as parents, grandparents, sons, daughters, grandchildren, brothers, sisters; or by marriage as spouses, parents or grandparents of spouses, sons-in—law, daughters-in-law, brothers-in-law, sisters-in-law; not including cousins and other relatives or non-relatives except as listed in this definition.

Farm – One or more parcels of owned or leased land, which parcels may be contiguous or non-contiguous to one another, used for commercial agricultural activities or enterprises, including but not limited to the production of crops, livestock or livestock products, dairy products, eggs, poultry, aquaculture, fruit, nuts, honey, vegetable and field crop farms, plantations, orchards, nurseries, greenhouses, or other similar operations, and commercial horse boarding and commercial equine operations. The term “farm” includes necessary farm structures within the prescribed limits of the farm parcel and the storage of equipment as part

of the farm operation. The term “farm” excludes dude ranches and dog kennels. See related definitions and regulations for “animal husbandry”, “kennels”, and “veterinarian’s office”. A garden accessory to a residential use shall not be deemed a “farm” or “farm use.” See, Section 5.15.

Farm Activity, Customary - A customary farm activity shall be the conducting of usual farm activities and practices and shall include the processing and retail sale of the products, only on the farm on which such processing is conducted.

Farm House - The principal building used as a dwelling on a farm, defined herein.

Farm Market – An accessory retail facility, larger than a roadside farm stand, owned and operated by the owner or operator of the farm on which it is located and intended for the sale of local farm produce, farm products, and related farm items on either a seasonal or year-round basis.

Farmers Market - Any building, structure, or place owned by a municipal corporation or under lease to, or in possession of, a public or private agency, used, or intended to be used, by two or more producers for the direct sale of farm and food products and as further defined and described in Article 22 of the Agricultural and Markets Law of the State of New York.

FCC - Federal Communications Commission. The Government Agency responsible for regulating telecommunications in the United States. FCC OET Bulletin 65 - FCC OET BULLETIN 65, Edition 97-01, August 1997, entitled “Evaluating Compliance with FCC Guidelines for Human Exposure to Radiofrequency Electromagnetic Fields” (as the same maybe amended or superseded).

FCC RF EXPOSURE GUIDELINES - The policies, guidelines, requirements, and limits with regard to human exposure to radio frequency (RF) fields adopted by the FCC on August 1, 1996, which amended Part I of Title 47 of the Code of Federal Regulations and which were further amended by action of the FCC on August 25, 1997 (47 CFR, Sections 1.1307(b), 1.1310, 2.1091 and 2.1093, as amended), as the same may be amended or superseded.

Fence - An unroofed enclosing structure, which is erected for the purpose of preventing passage and/or view.

Festival - A celebration, entertainment, or series of performances, often held periodically, e.g., annually.

Fill - Sand, gravel, earth, or other materials of any composition whatsoever placed or deposited by humans to change the ground elevation.

Flood Hazard Boundary Map (FHBM) - The official map of the Town of Gallatin, on file with the town Clerk, on which the Federal Emergency Management Agency has delineated the boundaries of the special flood hazard area. The FHBM is replaced by the Flood Insurance Rate Map (FIRM) when the latter becomes effective.

Floodplain - A land area adjoining a river, stream, watercourse, or lake which is susceptible to being inundated by water from any source. The term “100 year floodplain” shall mean the highest elevation of water from flooding that, on the average, is likely to occur once every

100 years (i.e. that has a one (1%) percent chance of occurring each year.

Floor Area, Gross - The sum of the gross horizontal area of the floor or floors of a building as measured from the exterior faces of 1 exterior walls or from the center line of walls separating two buildings, but not to include attached, semi-detached, or built-in garages, porches or terraces, basements or unfinished floor area, including attics, having clear head room of less than seven (7) feet.

Floor Area Ratio (FAR) - The sum of the gross floor area of all structures on a lot divided by the lot area as defined herein.

Footprint - When used in reference to a structure, the term “footprint” shall mean the area covered, or which would be covered, by the structure at the intersection of the exterior walls of the structure with the ground.

Freestanding - When referring to a sign, the term “freestanding” shall mean “unattached to another structure” or “supported by its own structure”.

Funeral Home - A building or part thereof used for human funeral services. Such a building may contain space and facilities for: a) embalming and the performance of other services used for the preparation of deceased persons for burial; b) the performance of autopsies and other surgical procedures; c) the storage of caskets, funeral urns, and other related funeral supplies; and d) the storage of funeral vehicles, but shall not include facilities for cremation.

Game or Wildlife Preserve - A wholly enclosed parcel of land maintained for the possession, propagation, protection, safeguarding and/or preservation of game or wildlife. A game or wildlife preserve shall not include the operation of a shooting preserve.

Garage, Private - An enclosed space, whether an accessory building or part of a principal building, for the storage of one or more vehicles, provided that no business, occupation or service, other than a home occupation authorized herein, is conducted for profit therein nor contains space for more than one car owned by or leased to a non-resident of the premises. Unless otherwise specified, the -term “garage” shall mean “private garage”.

Garage, Public - An enclosed or semi-enclosed structure for parking vehicles, operated for a fee.

General Municipal Law - The General Municipal Law of the State of New York, Chapter 24 of the Consolidated Laws.

Golf Course - Premises having not fewer than nine holes improved with tees, greens, fairways, and hazards for playing the game of golf, including driving ranges but excluding miniature golf. Accessory structures and buildings may include but are not limited to a clubhouse, locker room, food stand, restaurant, banquet or conference rooms, except that overnight accommodations are not permitted. A single dwelling for a groundskeeper is also permitted subject to the regulations set forth in this Zoning Law. Golf courses, whether private or public, shall be regulated as set forth herein.

Grade, Established - The elevation of the center line of the street as established by the town, county, or state highway authorities.

Grade, Finished - The elevation at which the finished surface of the lot surrounding a structure, either naturally occurring or upon completion of any change in contour, intersects the walls and supports of the structure.

Grading - Any operation, other than in connection with foundations or for a structure or highway construction, involving a change in ground elevation exceeding ten (10) feet from the previously existing grade.

Habitat - The region or environment where a plant or animal grows or lives.

Hazardous Material - Any material which constitutes a danger to the environment or public health, safety, and general welfare.

Home Occupation - Any limited personal service, professional service or business use customarily conducted within a dwelling or accessory building and carried on by the residents thereof, which is clearly incidental and secondary to the use of the premises for residential purposes, and does not alter the residential character thereof. See Section 5.17.

Homeowners' Association - A legally established membership organization, created and regulated under the authority of the Attorney General of New York State, for the purpose of holding title to and/or maintaining common property, open space, or facilities in a subdivision or development.

Hospital - An institution providing health care services for human patients, primarily for in-patients and medical or surgical care of the sick or injured, including as an integral part of the institution, such related facilities as laboratories, out-patient department, training facilities, central service facilities and staff offices.

Hotel – A type of multiple dwelling under the New York State Uniform Fire Prevention and Building Code, or any part thereof, which contains living and sleeping accommodations for transient occupancy, has a common exterior entrance or entrances, and which may contain one or more dining rooms.

Housing for Farm Employees – Seasonal or year round housing that is accessory to a bona fide farm operation and provided by the farm's operator. The primary residence of the owner or operator of the farm operation is excluded from this definition.

Industry/Industrial - The term "industry" or "industrial" includes the entire range of economic activity and as applied to specifics, i.e., manufacturing, wholesale, retail, services, etc., shall have the meaning set forth in the Standard Industrial Classification Manual, published by the Executive Office of the President, U.S. Office of Management and Budget, as currently updated.

Industry/Light - A use engaged in the manufacture, predominantly from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales, and distribution of such products, but exclusive of basic industrial processing and storage by flammable or toxic materials. Light industry is also exclusive of uses that require heavy, noisy or otherwise objectionable disturbances such as material vibration, dust, and odors.

Inn - A single multiple dwelling structure with no more than ten (10) guest rooms affording overnight accommodation, food, and entertainment in accordance with this local law.

Junkyard - A lot, land, or structure, or part thereof, used for or occupied by the collection, storage and/or sale of waste materials; or for the collection, dismantling, storage and salvage of machinery or vehicles not in operating condition and/or for the sale of their parts. Two (2) or more motor vehicles or machines not in operating condition shall be deemed to constitute a junkyard. A vehicle shall be deemed not to be in "operating condition" if it is no longer in condition for legal use on the public highways, i.e., currently registered and inspected.

Kennel - Any place at which there are kept any number of dogs over six months of age for the primary purpose of sale or for the boarding, care or breeding for which a fee is charged or paid. See, Section 5.19.

Laboratory - A use of a building or part thereof, and/or land where scientific research, development and/or experiments are conducted and which meets all applicable Federal, State, County, and Town requirements for emissions and pollutants.

Lake - An inland body of water that, for the purposes of this law, has a surface water area at the mean high watermark of one acre or larger.

Land and Wildlife Conservation - Vegetation and terrain left undeveloped and essentially unaltered in its natural state in order to allow vegetation and wild animals to be untouched by human actions.

Landfill - A lot or land area used for the disposal or abandonment, burial, burning, or other disposition and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind, including construction and/or demolition debris. A private compost pile shall not be construed as a "landfill".

Laundromat - A business establishment equipped with individual clothes washing and drying and/or cleaning machines for the principal use of retail customers.

Light Processing or Light Manufacturing - A use involving the manufacture of a product, but not requiring heavy, noisy or otherwise objectionable machinery or transporting equipment.

Lot - A parcel of land whose boundaries are established by legal instrument, such as recorded deed or map, and which is recognized as a separate, legal entity for the purposes of transfer of title.

Lot Area - The total area contained within the property lines of a lot excluding any area within a private or paper street.

Lot Area, Minimum - Minimum lot area shall be calculated in accordance with Section 4.5 of this Zoning Law. Minimum lot area shall include areas covered by utility easements and conservation easements except where said easements are also constrained by any of the environmentally sensitive features set forth in Section 4.5, in which case the portion so constrained shall be excluded from minimum lot area. Any area of a lot located within the

right-of-way of a public road shall also be excluded from the calculation of the minimum lot area.

Lot, Corner - A lot abutting upon two (2) or more streets at their intersection or upon two parts of the same street. The point of intersection of the street right-of-way is the "corner".

Lot Coverage - The percentage of the area of a lot covered by buildings, structures, parking areas, or other impervious surfaces on the lot.

Lot Depth - The horizontal distance from the street line of the lot to its opposite rear line measured along the median between the two side lot lines.

Lot Frontage - That portion of the lot which abuts the street.

Lot, Interior - A lot other than a corner lot.

Lot, Lines - The lines that bound a lot as defined herein.

Lot of Record - A legally existing lot at the time of adoption of -this Local Law duly filed and recorded in the Columbia County Clerk's Office as either an individual parcel of land or part of an approved subdivision, in accordance with the Town's land subdivision regulations and applicable provisions of this law.

Lot. Substandard - Any lot which is of less than the prescribed lot area, lot width, or lot frontage for the district in which it is located.

Lot, Through - An interior lot having frontage on two (2) parallel or approximately parallel streets.

Lot Width - The horizontal distance between the two (2) side lot lines measured at a right angle to the lot depth.

Lumber Mill (also Saw Mill) - A commercial facility where the principal use is to mill wood, through mechanical processes such as cutting, sawing, or shredding operations, into lumber or other wood products. Such definition shall not be construed to limit, strictly as an accessory use, the operation of portable sawing machinery for which no structures are erected or which are otherwise operated accessory to a farm.

Machine Shop or Motor Vehicle Repair - An establishment which uses -industrial equipment such as metal lathes, grinders, polishers, welding equipment, drill presses, computer-driven machinery, electronic test equipment or similar tools to do repair or manufacture of any item, product, machinery, engine, vehicle or any parts thereof, including automobile or truck body repair or painting.

Mobile Home (Manufactured Home) - A movable or portable unit designed and constructed to be towed on its own chassis, comprised of frame and wheels, whether or not connected to utilities, and designed and constructed with or without a permanent foundation for year-round living. A unit may contain parts that may be folded, collapsed or telescoped when being towed and expanded later to provide additional cubic capacity as well as two or more separately towable components designed to be joined into one integral unit capable of again

being separated into the components for repeated towing. "Mobile Home" shall include units designed to be used for residential, commercial, educational or industrial purposes, excluding camping trailers. A factory manufactured home as defined herein shall not be construed as a mobile home. See, Section 5.22.

Mobile Home Park - Any lot on which two (2) or more mobile homes are located regardless of whether or not a charge is made for such accommodation.

Modification of Existing Facility - Any upgrade or replacement of existing antenna or the addition of any new antenna and any change, addition or modification to the facility which deviates from the approved site plan for the facility. See, Section 5.12.

Modification of Existing Tower - Any increase, or proposed increase, in dimensions, or change to marking or lighting, of an existing tower designed to support personal wireless services, or other communications transmission, receiving and/or relaying antennas and/or equipment. See, Section 5.12.

Monopole - A single, self-supporting vertical pole with no guy wires, usually consisting of a galvanized or painted metal, or a wooden pole. See, Section 5.12.

Motel - A building or group of buildings containing individual rental living and sleeping units, each of which is provided with a separate exterior entrance and a parking space and is offered for rental use principally by motor vehicle travelers. The term "motel" includes, but is not limited to, similar establishments known as an auto court, motor hotel, motor court, motor inn, motor lodge, or tourist court. The term "motel" shall not be construed to include a truck terminal. A restaurant shall not be construed to be an accessory use of a "motel".

Motor Home - A self-propelled vehicle designed or equipped for temporary living quarters.

Motor Vehicle Repair - Any area of land, including structures thereon, that is used for the repair of motor vehicles and which does not include the sale of gasoline. Such establishment shall be registered under the laws of the State of New York.

Motor Vehicle Sales or Rental - A lot on which is located a building and/or open area other than the street used for the display, sale or rental of new or used automobiles, vans, trucks, cargo trailers, motorcycles, motor homes, or other vehicles requiring registration for road use.

Motor Vehicle Service Station - Any area of land, including structures thereon, that is used for the sale of gasoline or any motor vehicle fuel and oil and other lubricating substances, including any sale of motor vehicle accessories and repair of motor vehicles.

Nonconforming Building or Structure - A lawful existing building or structure which contains a use permitted in the zoning district in which it is located, but which does not conform to the applicable district regulations for lot area, size, coverage or yards, or maximum height after the effective date of this law. A fence shall not, however, be construed to be a nonconforming structure. An unlawful building or structure is not a nonconforming building or structure. See, Section 5.23.

Nonconforming Lot - A lot of record that does not comply with the area, shape, frontage, or location provisions of this chapter for the district in which it is located, but which was conforming at the time it was created. See, Section 4.4.

Nonconforming Use - Any use lawfully existing prior to the effective date of this law, which use is not permitted by or does not conform with the permitted use provisions of this law for the district in which it is located. An unlawful use prior to the effective date of this law is not a non-conforming use. See, Section 5.23.

Nonconforming Sign - Any sign lawfully existing prior to the effective date of this law which does not conform to the provisions of this law for the district in which it is located.

Nursery - An agricultural enterprise consisting of gardens, greenhouses, and/or land under cultivation, and may include buildings and structures associated with these activities, which grows trees, plants, flowers, shrubs, or vegetables for sale. Such establishment is permitted to sell products primarily produced or grown on the same property.

Nursery, Retail – A retail use which sells trees, plants, flowers, shrubs, or vegetables and similar products which are not primarily produced or grown on the same property.

Nursery School or Day-Care Facility - See “Day Care Facility”.

Nursing Home – A state-licensed facility, other than a hospital, providing therein nursing care to sick, invalid, infirm, disabled or convalescent persons in addition to lodging and board or health-related service, or any combination of the foregoing, and in addition thereto, providing nursing care and health-related service, or either of them, to persons who are not occupants of the facility.

Occupancy - The use of a building, structure, or land.

Office, Non-retail - A building or portion thereof wherein professional, administrative, or clerical services are performed, which are sold primarily to other businesses and generally not to the public. Two (2) tenants, each conducting its own business, shall be construed to be two (2) establishments.

Office Retail - A building or portion thereof wherein professional, administrative, or clerical services are performed, which are sold or offered for sale to the public. Two (2) tenants, each conducting its own business, shall be construed to be two (2) establishments.

Official Map - A map, adopted by the Town Board, showing streets, highways and parks heretofore laid out, adopted and established in accordance with Section 270 of the Town Law, or which may have been revised according to the provisions of Section 273 of the Town Law.

Open Space - Land and/or water in its natural state and containing no buildings or structures or land set aside or dedicated to remain unimproved except or improvements in support of agriculture.

Owner - Owner of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, or executor trustee of a building, structure

or premises. The term “owner” shall not include another member of the owner’s family, unless that member is jointly an owner, or power-of-attorney is demonstrated to have been executed thereto.

Overlay District - A district described in this Zoning Law within which, due to special circumstances and the imposition of a special overlay designation, additional regulations and requirements apply to complement those of the underlying zoning district to which such designation is added.

Park - Any land and/or associated structures created and maintained by a municipality or organization for the express use and enjoyment by the general public for recreational purposes.

Parking Lot - A lot on which patrons are allowed to park or store -vehicles which may include a structure for collecting money or handling tickets. A “parking lot” includes a “public garage”.

Parking Space - The area required for parking one (1) vehicle. See Section 5.24, Off-Street Parking and Loading.

Performance Standards - Regulations in this law for the control of particular activities.

Permitted Use - A specific use noted in the District Schedule of Use Regulations, and for which land, lots, buildings, or structures may be used, occupied or maintained under this law as a matter of right.

Person - Any individual, firm, corporation, partnership, association, trustee or legal government entity.

Personal Service Business - A business primarily engaged in providing services involving the care of a person, including but not limited to, barber and beauty shops.

Personal Wireless Services - Commercial mobile services, unlicensed I wireless services, and common carrier wireless exchange access services. These services include: cellular services, personal communications services (PCS), specialized mobile radio services, and paging services. See, Section 5.12.

Personal Wireless Service Facility (PWSF) - All equipment (including any repeaters) with which a personal wireless service provider broadcasts and receives the radio-frequency waves which carry their services and all locations of said equipment or any part thereof. A PWSF may be sited on a tower or structure owned and permitted by another owner or entity. See, Section 5.12.

Personal Wireless Service Provider - An entity licensed by the FCC to provide personal wireless services. See, Section 5.12.

Principal Use - The main use permitted under the zoning classification in accordance with the zoning district regulations.

Printing Retail - An establishment that provides duplicating services using photocopy, blueprint, or offset printing equipment, or collating of booklets and reports, for sale to the public, and having total personnel, including owner(s), of no more than five (5) people.

Printing, Wholesale - An establishment that provides duplicating services using photocopy, blueprint, or offset printing equipment, or collating of booklets and reports, or large-scale book publishing or other printing, primarily for sale to other businesses, and only incidentally to the public, and any printing establishment having total personnel, including owner(s) of more than five (5) people.

Prohibited Use - Any use which is not listed in the “District Schedule of Use Regulations”, as a permitted use, special permit use, or permitted accessory use, or use permitted pursuant to the creation of a FCID, in a specific zoning district shall be considered a prohibited use in that zoning district, as herein defined.

Public Observation Point – A public road, historic site, park, or other vantage point from which the general public may be able to view structures or activities within a ridgeline regulated area.

Public Stable or Riding Academy – An establishment where horse training and instruction is given, and/or where horses are kept for riding or boarding for compensation. See also “commercial horse boarding operation” and “commercial equine operation.”

Public Utility - Persons, firms or corporations supplying gas, electricity, water, power, transportation or telephone service (excluding cellular telephone service) to the general public.

Public Utility Facility - The machinery and equipment including pipes, lines, wires, and/or other conductors and conduits, materials, apparatus, tools, vehicles, supplies and storage facilities used by “Public Utilities.”

Quarry and Soil Mining - A lot or land or part thereof used for the purpose of extracting stone, sand, gravel or top soil for sale, as a commercial or industrial operation. See, Section 5.27.

Raceway – Any land area utilized for the outdoor recreation involving the use of off road vehicles such as all terrain vehicles, dirt bikes, motorcycles or snowmobiles where four (4) or more vehicles of the type referred to are being utilized on the premises. An area of private property shall not be deemed a raceway where four or fewer vehicles of the type referred to are utilized on such property and are operated purely for recreation at least five hundred feet (500') from any boundary of any adjoining property and are otherwise operated in full accordance with the Laws of the State of New York between the hours commencing at 10 AM and ending at 5 PM.

Recreation Area (Non-Commercial) - Public or private land developed with facilities for passive recreation, e.g. trails, picnic areas, and/or with facilities for active outdoor individual or organized recreation, such as ball fields, tennis courts, swimming, or ice-skating.

Recreation (Commercial) - A commercial use designed and equipped principally for the conduct of sports and leisure time activities, whether or not membership to said activity is required. Video parlors, computer gaming facilities, movie theaters, and bars, as principal uses, are not commercial recreation uses. Commercial recreation is further defined as follows:

1. Indoor – Recreational activities conducted entirely within a building, including team or individual sports and related health and exercise facilities operated on a commercial or fee basis. An indoor recreation use may include the following accessory uses, such as food service facilities, meeting rooms, serving of alcoholic beverages, video or computer game facilities, video theater facilities, sales or sport or exercise-related equipment or clothing and other accessory uses clearly incidental to the recreation activity. An indoor recreational business includes a spa. Indoor recreation includes, but is not limited to: a gymnasium, fitness center, bowling alley, skating rink; tennis and other racquet courts, field house, indoor track, indoor basketball, indoor pool house.
2. Outdoor – Recreational activities including but not limited to ball fields, tennis and racquet courts, swimming, bike trails, hiking and similar outdoor activities conducted on a commercial or fee basis. An outdoor recreational use may also include accessory uses and buildings, such as a clubhouse, food stand, offices, and other uses accessory and incidental to the outdoor commercial use. Outdoor recreation includes playing fields, batting cages, driving ranges. Golf courses are regulated as a separate use.

Recycling Facility - A lot or land area for the collection of waste materials which are to be re-used, or “recycled”, and which are subsequently transported to the re-use location or another collection point. See also “Transfer Station”.

Repeater - A small receiver/relay transmitter of not more than 20 watts output designed to extend service to areas which are not able to receive adequate coverage directly from a base station, using the same channels as the base station.

Residential Cluster Development - A development pattern in which dwellings are concentrated in specific areas of the site to allow the remaining land to be used for recreation, common open space, and preservation of environmentally sensitive areas.

Restaurant - An establishment for the preparation, serving and consuming food and beverages. Drive-in windows shall not be construed to be an accessory or principal use for a “restaurant”. A take-out counter within a “restaurant” building shall be construed to be an accessory use. A drive-in or fast-food restaurant shall not be deemed to be a restaurant under this definition. See, also “Drive-In Business.”

Retail Business or Service - Any retail business or service other than those elsewhere described herein.

RF - Radiofrequency.

RF Emissions Certification - Written certification by a professional engineer licensed to practice in New York specializing in electrical engineering with an expertise in radio communications transmitters and facilities, that:

- (1) The proposed facility operation or device will not exceed the FCC RF Exposure Guidelines;
- (2) That the proposed facility, operation or device is categorically excluded from routine evaluation for RE exposure by FCC rules, guidelines and procedures and by the procedures set forth in FCC OET Bulletin 65;
- (3) If the proposed facility is not categorically excluded from evaluation for RE exposure, that the environmental evaluations have been performed as may be required by the FCC rules, guidelines and procedures and by FCC OET Bulletin 65, and that compliance with FCC RE Exposure Guidelines has been demonstrated to the FCC;
- (4) If the proposed facility is to be located at a site where there are existing or multiple RF emitters (whether due to co-location on a single tower or structure or due to the existence of additional towers on the site at which the facility -is to be located) that the procedures for evaluating the RF environment of the site and for insuring compliance with FCC RF Exposure Guidelines, as set forth in FCC Rules, Regulations and procedures and FCC OET Bulletin 65, have been followed and compliance has been demonstrated to the FCC. See, Section 5.12.

Ridgeline – The elongated crest or series of crests at the apex or the uppermost point of intersection between two opposite slopes or sides of a mountain or hill.

Ridgeline Regulated Area – The ridgeline and that area located within 200 feet of a ridgeline as illustrated on the adopted Town of Gallatin zoning map which may be amended from time to time.

Right-of-Way - A legal right of use and passage over, under or through another person's property, including an easement.

Road, Roadway, Street, Highway - A public way primarily used, or intended to be used, for passage or travel by motor vehicles. Unless otherwise specified, measurement shall be to the center line of the street. The "edge" of such public way shall mean the shoulder or ditch.

Roadside Farm Stand - A structure or vehicle whose principal use is the seasonal display and sale of agricultural products primarily grown on the farm to which it is accessory, and which uses its proximity to a roadway to attract potential customers. See, Section 5.31, Temporary Permits.

Rod and Gun Club - A group or association of people organized for the purpose of engaging in recreational activities such as hunting, fishing, and target shooting, on a wholly enclosed parcel of land, conducted exclusively by, and for, club members and their guests, characterized by membership qualifications, payment of fees or dues and a constitution and by-laws. A Rod and Gun Club shall not include the operation of a shooting preserve.

Satellite Dish Antenna - Any parabolic dish, antenna, or other device or equipment of whatever nature or kind, more than two feet in diameter, the primary purpose of which is to receive television, radio, microwave or other electronic signals from space satellites.

School, Vocational - Any school having scheduled sessions with employed instructors who, as a principal activity, provide training in a trade or vocation, under the supervision of the State of New York or a lawfully constituted ecclesiastical governing body, or a corporation meeting the requirements of the state.

Senior Citizen or Elderly Housing (under 14 residents and over 14) A residential development owned by a public agency or private non-profit sponsor in which rental dwelling units are exclusively provided for elderly persons, aged 62 or older, and other members of the households which they head, in accordance with the eligibility requirements stated in Section 202 of the Housing and Community Development Act of 1974, as amended.

Septic System or Sewage Treatment System - All exterior pipes, fittings, tanks, pits, and similar apparatus for the collection, processing, and dispersal of sewage. All required location for septic systems or parts thereof shall conform to the requirements of the Columbia County Health Department.

SEQRA - State Environmental Quality Review Act, as set forth in the Environmental Conservation Law ("ECL") Section 8 - 0101 et seq., with implementing regulations set forth in 6 N.Y.C.R.R. Section 617.

Setback - The minimum horizontal distance from the property line to any structure, roadway, parking area, accessory building or other such improvement on the lot. See related terms "Yards", and "Yards, Minimum".

Setback, Front - The setback, as herein defined, measured to the center line of the roadway or street.

Shooting Preserve – A wholly enclosed parcel of land on which domestic game birds, legally possessed or acquired, are released and taken by shooting pursuant to a license issued to the owner or lessee of said parcel by the New York State Department of Environmental Conservation pursuant to Article 11 of the Environmental Conservation Law and/or on which sporting clay activities are conducted. A "shooting preserve" shall not include the operation of a rod and gun club or a game or wildlife preserve unless separate special use permits are issued for those uses. For purposes of this section, the term 'wholly enclosed parcel of land' shall mean lands, the boundaries of which are indicated by wire, ditch, hedge, fence, road, highway or water or in any visible or distinctive manner including written posting which indicates a separation from the surrounding contiguous territory.

Shop of Craftsman or Artisan - An establishment for the individual creation, fabrication, storing, and retail sale of articles of an artistic nature, such as paintings, pottery, sculpture, ornamental iron and woodworks.

Sign - A name, identification, description, display, or illustration, or any other visual display which is affixed to or painted or represented directly or indirectly upon a building, structure, or piece of land which directs attention to an object, product, place, activity, person, institution, organization or business. However, a sign shall not include any display of official court or

public office notices nor any official traffic control devices nor shall it include the flag emblem or insignia of a nation, state, municipality, school, or religious group.

Sign Area —The entire area within a single continuous perimeter enclosing the extreme limits of writing, representation, emblem or any figure, together with any frame or other material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed. Where a sign has back to back faces, only one face shall be used in determining the sign area and shall count as one (1) sign only. No more than two (2) sign faces are permitted.

Sign, Advertising - A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than upon the premises where the sign is located. Advertising signs are also referred to a “billboards”.

Sign, Changeable Letter – A permanent sign, or portion thereof, used to display temporary schedules, activities, messages, or advertise sale information. The sign consists of a letter board with changeable sign letters, made for outdoor use. Letter height for an outdoor display with changeable characters shall not exceed six (6) inches.

Sign, Directly Illuminated - Any sign designed to give forth any artificial light directly (or through any transparent or translucent material) from a source of light connected with such sign.

Sign, Facade – Any sign attached to a wall of a building. A façade sign may be a wall sign, iconic sign or projecting sign as follows:

Wall Sign – A façade sign attached parallel to a wall and not projecting more than 6 inches from same, painted on the wall surface of, or erected and confined within the limits of an outside wall of any building or structure, which is supported by such wall and building, and which displays only one sign face.

Projecting Sign – A façade sign mounted perpendicular to the surface of the wall which may consist of two back-to-back sign faces.

Iconic Sign – A façade sign projecting perpendicular from the wall of a building that is a pictorial symbol conveying the nature of a business, e.g., a barber pole, eyeglasses, boots, mortar and pestle. They are normally constructed in heavy relief or are three dimensional.

Sign, Freestanding– A sign supported by structures or supports that are placed on, or anchored in, the ground independent of any building and which may display up to two back to back sign faces. A freestanding sign may be installed on one or two posts on either side of the sign, or may be installed directly on the ground, i.e., a monument sign, and may consist of up to two back-to-back sign faces.

Sign, Freestanding Directory – A type of freestanding sign that includes panels listing tenants in a multi-tenant building which may consist of up to two back-to-back sign faces. Freestanding signs are not permitted.

Sign, Height of - The distance from the ground level, measured from the mid-point of the base of the sign, to the top of the sign.

Sign, Indirectly Illuminated - A sign illuminated with a light so shielded that no direct rays therefrom are visible elsewhere than on a plot where such illumination occurs. If such illumination is thus visible, such sign shall be deemed to be a directly illuminated sign.

Sign, Monument – A type of freestanding sign which is supported by and integrated with a solid base, as opposed to poles, posts, or other such supports. The entire bottom of the sign is affixed to the ground or ground level foundation, not to a building. A monument sign has a lower permitted maximum height than a freestanding sign.

Sign, Portable - Any device on wheels or stand that is designed to be easily moved, the purpose of which is to display a sign.

Sign, Sandwich - A temporary self-standing sign or advertising display made of plywood or other solid material and designed or intended to be displayed only for the period of time the business is open or event taking place.

Sign, Temporary – A sign that advertises or gives direction to a business or activity and restricted in the number of days it may be displayed in accordance with this Zoning Law.

Sign, Window - A sign visible from a sidewalk, street or other public place, painted or affixed on glass or other window material, but not including graphics in connection with customary window display of products.

Site Plan - A specific plan for a lot and its use or proposed use, including descriptive material, drawings, and other information required. for uses requiring site plan approval, see Section 3.1, Schedule of Use Regulations, and for detailed “site plan” scope and requirements, see Section 6.7, Site Plans.

Sketch Plan - The initial stage of subdivision or site plan review by the Planning Board, also called “sketch plan”. For site plan requirements, see Section 6.7, Site Plans. For subdivision requirements, see “Subdivisions Regulations - Town of Gallatin”.

Special Use Permit (also “Special Permit”) - An authorization of a particular land use which is permitted in this Zoning Law, subject to requirements set forth herein, to assure that the proposed use is in harmony with the Zoning Law and will not adversely affect the neighborhood if such requirements are met. For uses requiring special permits, see District Schedule of Use Regulations; for general standards for special permits, see Section 6.8; and for conditions for special permit approval of specific uses, see Article V, Supplementary Regulations.

Stable, Private - An accessory building in which horses are kept for private use and not for hire, compensation or sale.

Storage - The keeping of goods, vehicles, wares, or supplies for any length of time. “Storage” includes “Parking”. This definition, however, shall not be construed as including the activities of a “Junkyard” or “Landfill” as defined herein.

Storage, Outdoor - Storage on land outside any building or structure.

Story - That part of a building between any floor, other than the cellar floor, and the floor or

roof next above.

Street - See “Road”.

Street Line - The boundary between a lot and the right-of-way line of a street, as indicated by dedication or deed of record.

Structure - A static construction, or assembly, or materials, the use or occupancy of which requires a fixed location on the ground or attachment to an object having such a fixed location. “Structures” shall include, but are not limited to, buildings, stalls, booths, sheds, storage bins, swimming pools, tennis courts, gasoline pumps, billboards, and mobile dwellings. “Structures” shall not include common utility poles and related items thereon, nor walls, fences, or signs. See also “Accessory Structure”.

Structural Alteration – See NYS Uniform Fire Prevention and Building Code.

Subdivision - The division of a lot, tract or parcel of land into two (2) or more lots, tracts, parcels or other divisions of land.

Subdivision Regulations - The current standards and requirements known as “Subdivision Regulations” for the Town of Gallatin. Wherever any requirement of this law is determined by the Planning Board to be inconsistent with the “Subdivision Regulations”, the more restrictive requirement shall apply.

Supplementary Regulations - Additional standards for general and specific uses, found in Article V herein.

Swimming Pool - Any body of water or receptacle for water having a depth at any point greater than two feet, used or intended to -be used for swimming or bathing, and constructed, installed or maintained on any building or on a lot. Such definition shall exclude natural bodies of water fed by rivers, streams, brooks or -springs.

Tavern or Bar - An establishment licensed under the laws of New York State for, and having as its primary purpose, the sale of alcoholic -beverages and their consumption on the premises, and may provide live entertainment.

Temporary - For the purposes of this law, “temporary” shall be defined as a period of not more than thirty (30) calendar days. See related terms “Occupancy”, “Seasonal”, and “Transient”.

Theatre, Indoor - A building or part thereof used principally for presenting entertainment on a paid admission basis.

Theatre, Drive-In Outdoor - Open land with appurtenant Facilities used principally for the showing of motion pictures to patrons seated in automobiles.

Timber Harvesting/Forest Management (i.e. Commercial Logging) - The harvesting, trimming, cutting and/or clear cutting of trees for resale or profit on an area encompassing five (5) acres or more. The term shall not be deemed to include the harvesting or cutting of trees for personal use by the property owner.

Tower - A lattice structure or framework, or Monopole, that is designed to support personal wireless service or other communications transmission, receiving and/or relaying antennas and/or equipment.

Town Law - The Town Law of the State of New York, Chapter 62 of the Consolidated Laws.

Trailer, Boat - A vehicle designed exclusively for the transportation of a boat or boats.

Trailer, Cargo - A vehicle used for the hauling of cargo.

Transfer Station - A lot or land area, including structures, used for the collection of garbage, waste, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind, and/or recyclable materials, for subsequent transportation to a disposal facility. A "transfer station" may include a "recycling center".

Transient - Used herein to mean any occupancy of duration less than or equal to fourteen (14) days in a calendar year.

Transmissions Tower (Private) - A wireless communication tower or antenna used privately, and not commercially, by an occupant of a residence for communications purposes which tower shall not exceed sixty (60) feet in height.

Uniform Code - The New York State Uniform Fire Prevention and Building Code, a copy of which may be seen at the office of the Building Inspector.

Use - The specific purpose for which land or a building is designed, arranged, or intended, or for which it is or may be occupied or maintained. The term "permitted use" shall not be deemed to include any non-conforming use.

Use Regulations - The controls that enumerate the permitted, principal, permitted accessory and special permit uses within each of the zoning districts established by this law.

Utility, Public - A corporation licensed and regulated under the laws of New York State as "Public Utility". A "utility station or structure" is any structure and/or related equipment constructed or erected or intended to be constructed or erected, by a "Public Utility".

Vehicle, Commercial - Any vehicle, registered for use on public highways, including but not limited to pickup trucks, trucks, vans, buses, trailers, which (a) contains an exterior commercial identification, other than agriculture; or (b) is used principally for business, other than agricultural operations. Standard unmarked automobiles designed only for passenger use shall not be construed to be "commercial vehicles."

Veterinarian's Office - See, "Animal Hospital".

Warehousing and Storage Facilities - A building or portion thereof -used for the storage of goods or materials. This definition shall not be deemed to include storage as an accessory use in connection with a permitted principal use on the same property.

Watercourse - A stream, creek, brook, or other path through which surface water travels on a regular or seasonal basis. Drainage areas which contain water only during and immediately after a rainstorm shall not be considered a watercourse.

Wetland – An area of land characterized by hydrophytic vegetation, saturated soils or periodic inundation, which area is classified as a wetland by either the New York State Department of Environmental Conservation or the U.S. Army Corps of Engineers.

Wholesale Business - An establishment primarily engaged in selling merchandise to retailers, to other wholesalers, or to industrial, commercial institutional or professional business users, or primarily acting as agents or brokers and buying merchandise for or selling merchandise to such individuals or companies, and only incidentally to the public.

Yard - The open area which lies between a lot line and the nearest wall of a building or group of buildings and shall be unoccupied, except as herein permitted. All measurements shall be taken at right angles from the line of the building to the nearest lot line.

Yard, Front - An open area extending across the entire width of the lot between the front main wall of a building and the center line of the street.

Yard, Minimum Required- The open, unoccupied area created by the required shortest distance from a property line that a building, can be constructed or erected, in accordance with the “Area and Bulk Regulations” prescribed herein.

Yard, Rear - An open space extending across the entire width of the lot between the rear main wall of a building and the rear lot line.

Yard, Side - An open space extending along the side of a lot between a side wall of a building and a side line of the lot and extending through from the front yard to the rear yard.

Zoning District Map - The map delineating the boundaries of the various districts established under this law which, along with the text, comprises this law.

Zoning Enforcement Officer (ZEO) - The person designated by the Town Board to administer the duties of this position as defined herein.

ARTICLE VIII. MISCELLANEOUS.

8.1 INTERPRETATION, CONFLICT WITH OTHER LAWS.

In their interpretation and application, the provisions of this law shall be deemed minimum requirements, adopted for the promotion of the public health, safety, or the general welfare. Whenever the requirements of this law are inconsistent with the requirements of any other lawfully adopted rules, regulations, ordinances, or local laws, the more restrictive provisions, or those imposing the higher standards, shall govern, unless explicitly stated otherwise.

8.2 EFFECT OF EXISTING VIOLATIONS.

- A. No application for a subdivision, site plan, special use permit, or variance pursuant to this Zoning Law will be deemed complete for purposes of commencing review of the same by the applicable Board for any premises or property upon which there is an existing violation of this Zoning Law or of any town, county or state law or regulation governing the building construction, development or use of land, buildings and structures of the Town of Gallatin.
- B. No building permit or certificate of occupancy shall be issued by the Code Enforcement Officer for any premises or property on which there is an existing violation of this Zoning Law or any town, county or state law or regulation governing the building construction, development or the use of land, buildings and structures within the Town of Gallatin.
- C. For purposes of this section, a premises or property shall be deemed to be in violation of this Zoning Law where a Stop Work Order, Notice of Violation, Order to Remedy Violation or similar notice or order has been issued by the Town's Code Enforcement Officer and/or Zoning Enforcement Officer in accordance with the provisions of the Town of Gallatin Code or where the Zoning Enforcement Officer, Code Enforcement Officer or the Town of Gallatin has filed a criminal, or civil, action in a court of competent jurisdiction and the violation which is the subject of the order, notice or legal action has not been remedied by the property owner. In the event the automatic stay provision in Section 267-a(6) of the New York State Town Law is invoked by timely appeal of any such order or notice to the Zoning Board of Appeals, the applicable Board can deem the application complete for purposes of commencing review but no final approval shall be granted by the Board until such time as the Zoning Board of Appeals has reversed the determination of the officer or the violation has been remedied. In the event the application is for a building permit and the automatic stay provisions, as described herein, are in effect the officer may issue the building permit, but no certificate of occupancy shall be issued until such time as the determination of the officer is reversed by the Zoning Board of Appeals or the violation is remedied. For purposes of this provision, remedy of violation shall be deemed to have occurred when the officer who issued the order or notice has inspected the property and has notified the property owner in writing that the violation has been satisfactorily remedied.

8.3 SEVERABILITY.

If any section, subsection, sentence, clause, phrase or other part of this Zoning Law is, for any reason, held by any court of jurisdiction to be invalid, such decision shall not affect the validity of the remaining portion of this law. The Town Board hereby declares that it would have passed this law and each section, subsection, sentence, clause, phrase and other parts thereof irrespective of the fact that any one (1) or more sections, subsections, sentences, clauses, phrases or other parts be declared invalid

8.4 REPEALER.

The regulations set forth herein are hereby repealed.

- A. This Zoning Law shall supersede Local Law No. 2 of the year 1999 regulating zoning.
- B. This Zoning Law shall supersede Local Law No 1 of the year 2004 regulating reimbursement for the cost of professional consultant services.
- C. This Zoning Law shall supersede the provisions of Local Law No. 1 of the year 1999 regulating wireless telecommunication facilities.
- D. This Zoning Law shall supersede the provisions of Local Law No. 4 of the year 2007 regulating alternate care housing facilities.
- E. This Zoning Law shall supersede the provisions of Local Law No. 1 of 1983 regulating commercial forestry.

8.5 SUPERSESSSION.

Except as otherwise specifically provided herein, the Town Board hereby declares its legislative intent to supersede any provision of any local law, rule, or regulation or provision of the Town Law inconsistent with this Zoning Law. The Town Law provisions intended to be superseded include all of Article 16 of Town Law, §261 to 285 inclusive and any other provision of law that the Town may supersede pursuant to Municipal Home Rule Law and the Constitution of the State of New York. The courts are directed to take notice of this legislative intent and apply it in the event the Town has failed to specify any provision of law that may require supersession. The Town Board hereby declares that it would have enacted this Zoning Law and superseded such inconsistent provision had it been apparent.

8.6 EFFECTIVE DATE OF THIS LAW.

This law shall become effective immediately upon its filing in the Office of the Secretary of State of the State of New York.