

**ZONING LOCAL LAW  
OF THE TOWN OF GAINES**

**ORLEANS COUNTY  
NEW YORK**

**DECEMBER 2019**

# TOWN OF GAINES ZONING LOCAL LAW

# TOWN OF GAINES ZONING LOCAL LAW

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# TOWN OF GAINES ZONING LOCAL LAW

## ARTICLE I GENERAL PROVISIONS

### SECTION 101 TITLE

This Local Law is the "Zoning Local Law of the Town of Gaines, Orleans County, New York, 2019." All existing Zoning Ordinances and Local Laws are hereby repealed, effective as of the effective date of this Local Law.

### SECTION 102 PURPOSE

This Zoning Local Law is adopted pursuant to the provisions of New York State Town Law §265 and New York State Municipal Home Rule Law §10 in order to promote and protect the public health, safety and general welfare and to advance the following more specific objectives:

- A. To protect the open and natural character of the land;
- B. to guide and regulate the orderly growth, development and redevelopment of the Town of Gaines in accordance with a well-considered plan and with long-term objectives, principles and standards deemed beneficial to interest and welfare of the people;
- C. To protect the established character and the social and economic well-being of both private and public property;
- D. To encourage, in the public interest, the utilization of land for the purposes for which it is most appropriate and best suited.

### SECTION 103 CONFLICTS WITH OTHER LAWS

Whenever the requirements of this Local Law are at variance with the requirements of any other Town laws, rules, regulations, codes or ordinances, the most restrictive, or those imposing the higher standards, will govern.

### SECTION 104 VALIDITY AND SEVERABILITY

Should any section of or provisions of this Local Law be determined by a court of competent jurisdiction to be invalid, such determination will not affect the validity of the Local Law as a whole or any part other than the part determined to be invalid.

# TOWN OF GAINES ZONING LOCAL LAW

## SECTION 112

## AMENDMENTS TO ZONING

### A. Procedure

The Town Board may from time to time on its own motion, on petition or on recommendation of the Planning Board, and in accordance with the laws of the State of New York, amend, supplement or repeal the regulations, provisions or district boundaries of this Local Law, after public notice and hearing.

### B. Filing of Petition

1. A petition to amend, change or supplement the text of this Local Law or any zoning district as designated on the Zoning Map will be filed with the Town Clerk and accompanied by the appropriate fees. The Town Clerk will transmit the documentation to the Town Board.
2. A petition for a change to the Zoning Map must include a map which clearly describes the affected property and its boundaries and which indicates the existing zoning district and the requested zoning change.
3. A petition for a change to the Zoning Map must include an environmental assessment form completed and signed by the petitioner, or agent, in accordance with the procedures set forth in State Environmental Quality Review (SEQR) regulations.

### C. Referral to Planning Board

Every proposed zoning amendment or zoning map change, whether initiated by the Town Board or by petition, will be referred to the Planning Board for an advisory opinion. The Town Board will refer the amendment or zoning change to the Planning Board prior to the public hearing and will hold the public hearing within 45 days after the date of referral. If the Planning Board fails to provide an advisory opinion, the Town Board will presume that the Planning Board has no objection to the proposed amendment, supplement or change.

### D. Public Hearing; Notice; Referrals; Recording of Actions

The Town Board will set the time and place of a public hearing on the proposed amendments and publish a public notice as provided by Town Law or Municipal Home Rule Law.

Unless otherwise provided, the provisions of the Town Law of the State of New York pertaining to public hearings, official notices, referrals to the County Planning Board, and proper recording of zoning actions taken by the Town Board will apply to all amendments to this Local Law.

### E. Notification of Property Owners and Neighboring Municipalities.

1. For zoning map amendments initiated by petition, all property owners within a distance of 500 ft. of any proposed change or amendment will be notified by mail.



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2. The applicant will place one (1) sign on the property for which a rezoning is requested. The sign will be provided by the Code Enforcement Officer. The sign will specify the date, time and place of the public hearing and a telephone number to call for more specific information. The Code Enforcement Officer will place the sign in a location which is clearly visible from a public street. Such sign must be placed on the site not less than ten (10) days prior to the public hearing and remain on the site until the date of the public hearing.

### **F. Disposition Final; Rehearing on Petition**

The disposition of a petition for amendment to zoning by the Town Board will be final and disapproval or denial of the proposed amendment will void the petition. No new petition for an amendment which has been previously denied by the Town Board will be considered by it, except for a vote to table or to receive and file, and no public hearing will be held on such amendment within a period of one (1) year from the date of such previous denial unless the Planning Board submits a recommendation, with reasons stated therefore, certifying that there have been substantial changes in the situation which would merit a rehearing by the Town Board. Such rehearing may be granted only upon a favorable vote of a majority of the Town Board plus one (1).

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## ARTICLE II ZONING PERMITS AND PROCEDURES

### SECTION 201 ZONING PERMIT REQUIRED

Any use of land or the erection of a structure requires a Zoning Permit as specified in this Local Law, except for agricultural uses and structures that do not require a building permit in accordance with the NYS Uniform Code.

### SECTION 202 FEES

- A. The Town Board will establish a Fee Schedule which specifies the non-refundable fees required with applications for Zoning Permits and other approvals provided for in this Local Law.
- B. The Town Clerk will post and maintain a copy of the current fee schedule at the Town Clerk's Office.
- C. If the Town requires outside professional services to process or review an application, the cost of this review will be charged to the applicant.

### SECTION 203 TYPES OF ZONING PERMITS AND APPROVALS

- A. The Code Enforcement Officer is authorized to issue a Zoning Permit after all of the required procedures and criteria, as specified in this Local Law for each type of application or approval, are satisfied.

#### 1. Zoning Permit Only (No Site Plan required)

The Code Enforcement Officer is authorized to issue a Zoning Permit for a permitted use that does not require Site Plan Review, a Special Use Permit, Variance or other approval on his or her own authority.

#### 2. Site Plan Review

The Code Enforcement Officer will issue a Zoning Permit for a use that requires Site Plan Review upon approval of the Site Plan by the Planning Board.

#### 3. Special Use Permit

The Code Enforcement Officer will issue a Zoning Permit for a use that requires a Special Use Permit after both approval of the Special Use Permit and the Site Plan by the Planning Board.

#### 4. Zoning Permit after an Appeal for a Variance

The Code Enforcement Officer will issue a Zoning Permit for a use or structure that requires a Variance after the Zoning Board of Appeals approves the variance and after all other permit requirements are met.

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- B. The following table summarizes the type of permit required for various types of proposed uses and structures:

Proposed Use or Structure	Type of Permit
Permitted Accessory Structure (<4,000 sq. ft.) (i.e., sign, fence, swimming pool, deck, storage shed, but excluding towers), except for small structures that do not require a Building Permit in accordance with the NYS Uniform Code.	Zoning Permit (Sketch Plan)
Single or Two-Family Dwelling	Zoning Permit
Businesses (other than agriculture) and other non-residential uses, towers, multi-family dwellings Permitted Principal or Accessory Use with structure $\geq$ 4,000 sq. ft. in gross floor area	Site Plan Review
Use requiring a Special Use Permit	Special Use Permit Site Plan Review (See Note (1))
Development that does not meet one or more dimensional requirement	Area Variance
Use that is not specifically permitted in the zoning district	Use Variance

Note (1) The Planning Board may waive any of the requirements for Site Plan Review if it determines that the waiver will not adversely affect the health, safety and general welfare of the community or is inappropriate as applied to a particular site plan.

### SECTION 204 PRE-APPLICATION CONFERENCE

- A. Applicants are encouraged to meet with the Code Enforcement Officer to review at information is required for their zoning permit.
- B. If Site Plan Review or Special Use Permit is required, the applicant is encouraged to meet with the Board responsible for approval before submitting the application.

### SECTION 205 INFORMATION REQUIRED

- A. The following items must be included with all applications for Zoning Permits:
1. Application Form as prescribed by the Town
  2. Application fee in accordance with the Fee Schedule adopted by the Town Board.
  3. Sketch Plan or Site Plan, as determined by the Code Enforcement Officer
- B. The following additional documentation will be required as applicable to the proposed development or type of application.
1. Evidence of compliance with current New York State Building, Fire and Energy Codes.
  2. Evidence of approval of the water supply and the sewage disposal system plans by the Orleans County Health Department, or its agent.
  3. Copies of deeds, titles, purchase agreements, or other proof of ownership or intent to purchase

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4. Evidence of currently valid license or permit, if applicable.
- C. If the proposed use or structure requires Site Plan Review, the application must include a Site Plan and supporting documentation as specified in Article VII.

### SECTION 206 SKETCH PLAN REQUIREMENTS FOR ACCESSORY STRUCTURES AND ADDITIONS

- A. A Sketch Plan is required for Zoning Permit applications for fences, signs, house additions, porches, decks, barns, pole barns, storage sheds and garages, provided that the proposed structure will be smaller than 4,000 sq. ft. gross floor area.
- B. A Sketch Plan may be hand drawn and does not require signature by a design professional.

### SECTION 207 REQUIREMENTS FOR SINGLE- AND TWO-FAMILY DWELLINGS

- A. Three (3) copies of construction drawings prepared by a Professional Engineer. All drawings must be signed and stamped by the design professional preparing them.
- B. If the lot on which the dwelling will be located is smaller than one acre in size, three (3) copies of a survey map prepared by a licensed Professional Engineer or licensed Land Surveyor are required.
- C. Site Plan Review is required for any dwelling proposed to be located within the CH Commercial Historic zoning district.

### SECTION 208 ZONING PERMIT ISSUED

- A. When all requirements of this Local Law have been met, the Code Enforcement Officer will issue a Zoning Permit and return one approved copy of the sketch plan map and any other required drawings no later than fifteen (15) days after approval.
- B. The Code Enforcement Officer will file one copy of the approved permit in the Town Clerk's Office.

### SECTION 209 TERMINATION OF PERMIT

- A. Any Zoning Permit issued for construction that has not commenced within one (1) year will expire one year from the date of issuance, unless the Code Enforcement Officer issues an extension of the original Zoning Permit.
- B. A Zoning Permit may be extended for a period not exceed nine (9) months in duration upon a good faith showing that construction could not commence or be completed within the required one year from the date of issuance and after payment of any applicable renewal fee charged by the Town of Gaines.

### SECTION 210 INSPECTIONS

- A. The Code Enforcement Officer will make regular site visits during construction of all buildings, structures or other facilities to ensure compliance with the Town's Zoning Local Law and the specific conditions of the approved permit.
- B. The applicant will notify the Code Enforcement Officer when the structure is ready for final inspection. The Code Enforcement Officer will then make a final inspection.

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## SECTION 211 CERTIFICATE OF COMPLIANCE

When the project has been completed in accordance with the Zoning Permit, the Code Enforcement Officer will issue a Certificate of Compliance with the zoning regulations, granting final permission to occupy or use the structure or premises. The Certificate of Compliance may be incorporated into the Certificate of Occupancy issued pursuant to the Codes of New York.

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## ARTICLE III: ADMINISTRATION AND ENFORCEMENT

### SECTION 300 CODE ENFORCEMENT OFFICER

#### A. Appointment

The Code Enforcement Officer is responsible for administering and enforcing the provisions of the Zoning Local Law. The Code Enforcement Officer will be appointed by the Town Board and will receive such compensation as the Town Board will determine.

#### B. Duties And Procedures of the Code Enforcement Officer

1. **Administer the Zoning Law:** The Code Enforcement Officer will review all applications for zoning permits and, if the requirements of this Local Law are met, will issue a permit. If the applicant's plans do not meet the requirements of the Local Law, the Code Enforcement Officer must deny the permit.
2. **Referral to the Zoning Board of Appeals:** An applicant who has been denied a building permit may appeal the decision of the Zoning Board of Appeals for an interpretation or a variance. Should an appeal be requested, the Code Enforcement Officer will notify the Zoning Board of Appeals of the request and forward all necessary supporting information to the Zoning Board of Appeals.
3. **Referral of Special Use Permit applications to the Planning Board:** Any application for a special use permit will be forwarded by the Code Enforcement Officer to the Town Planning Board along with all supporting information.
4. **Referral of Applications to Town Planning Board:** Any application for a use that requires Site Plan Review will be forwarded by the Code Enforcement Officer to the Town Planning Board for Site Plan Review along with all supporting information.
5. **Cite Zoning Violations:** For any plans, constructions, building or use of premises found to be in violation of the provisions of this Local Law, the Code Enforcement Officer will order the responsible party, in writing, to remedy the situation. In the event that the violation persists, the Code Enforcement Officer will have the authority to resort to whatever legal action may be necessary to remedy the violation.
6. **Report to Town Board:** The Code Enforcement Officer will submit a monthly report to the Town Board.
7. **Public Record:** The Code Enforcement Officer will file all permit applications with Town Clerk.

### SECTION 310 PLANNING BOARD

**A. Establishment.** The Planning Board is established under the provisions of the Town Law of NYS, and by this Article.

#### B. Membership and Appropriations

1. The Planning Board will consist of five (5) residents appointed by the Town Board. The members of the Planning Board as now constituted will continue in office until the expiration of their present terms.

## TOWN OF GAINES ZONING LOCAL LAW

2. Removal of members and vacancies on the Town Board will be addressed as provided for in the NYS Town Law.
3. The Town Board may appoint alternate members as provided for by NYS Town Law.
4. No member of the Planning Board will be permitted serve simultaneously on the Zoning Board of Appeals.

**C. Vacancies.** A vacancy will occur on the Planning Board if one of the following occurs:

1. A Planning Board member's term expires and the Town Board fails to fill the vacancy thereby created, or
2. A Planning Board member is absent from more than four (4) scheduled meetings in one calendar year and has not submitted a request in advance to be excused, or
3. A Planning Board member has been removed for cause by the Town Board. Failure to complete the mandatory training requirements of the State of New York in accordance with the Town of Gaines training policy will be grounds for removal, or
4. Death or resignation of a Planning Board member; or
5. A Planning Board member is no longer a resident of the Town of Gaines.

**D. Board Member Training.** Members of the board will receive training each year to satisfy the requirements set forth in NYS Town Law.

**E. Meetings**

1. The Planning Board will adopt rules for the conduct of its business consistent with statute and this Chapter.
2. The Chair of the Planning Board, or in the Chair's absence the Acting Chair, may administer oaths and compel the attendance of witnesses in the manner and to the extent permitted by NYS Town Law and the Civil Practice Law and Rules.
3. The Planning Board may seek recommendations from other boards, commissions, or agencies as it deems appropriate.
4. Hearings will be public, and decisions will be voted upon at public sessions. The Planning Board may otherwise hold executive sessions in accordance with the NYS Open Meeting Law.

**F. Minutes.** The Planning Board will record minutes of all proceedings before the Planning Board. The Town Clerk will maintain copies of the meeting minutes in accordance with the Town's records management procedures.

**G. Power and Duties**

1. The Planning Board will have all the powers and duties prescribed by the Town Law of NYS, and by this Article.
2. Review Authority. The Planning Board will be responsible for reviewing and making recommendations regarding the following:
  - a) Amendments to the Zoning Map (rezoning);
  - b) Amendments to the text of this Chapter; and

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- c) Applications for the creation of a Planned Development (PD) District.
- H. **Final Authority.** The Planning Board will be responsible for final action regarding applications for the following:
  - 1. Site plan review
  - 2. Special Use Permits; and
  - 3. Subdivisions.
- I. **General Authority.** The Planning Board may exercise additional powers as directed by the Town Board and as may be described elsewhere in this Local Law and as permitted by NYS Town Law.

### SECTION 320 FUNCTIONS OF THE PLANNING BOARD

The Planning Board will have the following functions:

- A. Prepare and amend as necessary a comprehensive land development plan for the Town.
- B. Review and comment upon all proposed zoning amendments.
- C. Conduct Site Plan Review in appropriate cases, as authorized by Town Law Section 274-a and as prescribed in Article X of this Local Law.
- D. Review and act on applications for Special Use Permits
- E. Research and report any matter referred to it by the Town Board.
- F. Make such investigations, maps, reports, and recommendations in any matter related to planning and development as seems desirable, provided that the expenditures of the Board do not exceed appropriations.
- G. Review all applications for Subdivisions for compliance with the Town of Gaines Subdivision Regulations.

### SECTION 330 APPOINTMENT OF ZONING BOARD OF APPEALS

#### A. Appointment

Pursuant to Section 267 of the Town Law, there will be a Zoning Board of Appeals consisting of five members holding staggered five year terms. The members of the Zoning Board of Appeals will be appointed by the Town Board. The terms of all members of the Zoning Board of Appeals will be staggered, as the law requires, with one term expiring each year. Terms will be five (5) years for a five (5) member Zoning Board.

#### B. Officers, Rules And Expenses

- 1. The Zoning Board of Appeals will conduct an organizational meeting at the first meeting of the Zoning Board of Appeals in each calendar year. In the event the Town Board failed to appoint a Chairman and Vice Chairman of the Zoning Board of Appeals at its organizational meeting, the Zoning Board of Appeals may thereafter, elect a Chairman and Vice Chairman from its members for the ensuing year. The Zoning Board of Appeals



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will not have right to appoint its own Chairman or Vice Chairman if the Town Board has expressed its intent to make the appointment at a later date or to table the appointment. In such case, the Zoning Board of Appeals may appoint a temporary Chairman and Vice Chairman to serve until such time as the Town Board appoints the Chairman and Vice Chairman.

2. The Zoning Board of Appeals may adopt rules or bylaws for the regulation of its operations.
3. The Town Board will provide an appropriation to the Zoning Board of Appeals to cover necessary expenses including the means for the Zoning Board of Appeals to maintain a record of its meetings and public hearings.
4. All decisions of the Zoning Board of Appeals will be by majority vote of the membership thereof (three), except in those instances of a County Planning Board disapproval recommendation (see Section 340), in which case a majority plus one vote is required.

**C. Vacancies.** A vacancy will occur on the Zoning Board of Appeals if one of the following occurs:

6. A Zoning Board member's term expires and the Town Board fails to fill the vacancy thereby created, or
7. A Zoning Board member is absent from more than four (4) scheduled meetings in one calendar year and has not submitted a request in advance to be excused, or
8. A Zoning Board member has been removed for cause by the Town Board. Failure to complete the mandatory training requirements of the State of New York in accordance with the Town of Gaines training policy will be grounds for removal, or
9. Death or resignation of a Zoning Board member; or
10. A Zoning Board member is no longer a resident of the Town of Gaines.

**D. Functions**

1. Interpretation: Upon an appeal from a decision of the Code Enforcement Officer, the Zoning Board of appeals will decide any question involving the interpretation of any provision of this Local Law.
2. Appeals for Variances: Upon the denial of a building permit by the Code Enforcement Officer, the Zoning Board of Appeals will hear any application for a variance.

**E. Meetings**

1. The Zoning Board of Appeals will hold meetings at the call of the Chairman, or at the request of three or more members.
2. The presence of three members will constitute a quorum for the conduct of business before the Board.
3. The concurring vote of three of the members of the Board will be necessary to reverse any order, requirement, decision or determination of the Code Enforcement Officer or to decide in favor of the appellant any matter upon which it is required to pass under the terms of this Local Law or to effect any variation of this Local Law.
4. All votes of the Board will be taken by roll call.

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5. In accordance with Section 809 of the General Municipal Law, any member of the Board having a conflict of interest will abstain from any discussion or voting on that matter.
6. The Board may from time to time as deems necessary consult the Town Attorney for guidance or for an interpretation of the provisions of this Local Law or any other applicable law, rule or regulation. At the request of the Chairman of the Board, the Town Attorney will attend the meetings of the Board.
7. The Chairman may also require that the Code Enforcement Officer attend meetings of the Board to present relevant information pertaining to any matter before the Board.
8. The Board will keep minutes of all its meetings. The Chairman will designate one of the other members of the Board to act as secretary thereof for a one year term.
9. The Board will make a factual record of all stages of its proceedings, including the reading of the case, the public hearing, the deliberations of the Board, and the vote and decisions of the Board. Such factual record will be taken by either stenographic or recorded means. The record need not be a verbatim transcript of the proceedings but it must accurately reflect what transpired during the course of the proceedings and may be in narrative form.

### SECTION 340 REQUIRED REFERRALS TO THE COUNTY PLANNING BOARD

- A. Pursuant to NYS General Municipal Law §239-m and any intermunicipal agreements between the Town of Gaines and Orleans County, under certain circumstances a local zoning action must be referred to the County Planning Board prior to action by the local board. Unless exempted by intermunicipal agreement, any application for a special permit, variance, site plan review or change in the zoning map which affects real property lying within a distance of 500 feet from the boundary of:

- any county;
- any town;
- any village;
- any existing or proposed county or state park;
- any right-of-way of any county or state road or parkway;
- any stream or canal owned by the county;
- any existing or proposed county or state owned land on which a public building or institution is situated; or
- any farm operation within an agricultural district, as defined by article twenty-five-AA of the agriculture and markets law,

must first be referred to the County Planning Board which will then have 30 days from its receipt of the application to submit a written recommendation to the local board. By mutual agreement, this 30 day period may be extended. Upon failure of the County Board to submit its recommendation within the 30 day period, or such longer period as may have been agreed upon, it will be deemed to have approved the application for such special permit, variance, site plan approval or zoning change, and the local board may take final action without such recommendation.

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## B. Effect of County Planning Board Review

1. If the County Planning Board approves a referral, the local board may sustain the recommendation to the county board by a simple majority vote.
2. If the County Planning Board disapproves a referral or recommends modification thereof, the local board will not act contrary to such disapproval of recommendation except by a vote of a majority plus one of all members thereof and after the adoption of a resolution fully setting forth the reasons for such contrary action.

## C. Report on Final Local Action

Within seven days after final action by the local board, it will file a report of the final action it has taken with the County Planning Board.

## SECTION 350 SUBDIVISION REVIEW

Separate regulations have been adopted for minor and major Subdivisions, which require Site Plan approval. The Town of Gaines Planning Board will review all applications for subdivisions for compliance with the Town of Gaines Development Regulations (adopted February 12, 2002). A copy of the Town of Gaines Development Regulations is available, upon request, from the Town Clerk.

## SECTION 360 VIOLATIONS

- A. Whenever a violation of this law occurs, any person may initiate a complaint. All complaints must be in writing. The Code Enforcement Officer will accurately record the complaint, file it appropriately, and investigate it.
- B. If the complaint is found to be valid, the Code Enforcement Officer will inform the owner of the premises that there is a violation of the law. The owner will be notified by certified mail, or be personally served, as to the manner of the violation. The notice will specify a reasonable amount of time to correct the violation.
- C. Should the violation persist, an order to stop use/work may be issued by the Code Enforcement Officer to the owner in the same manner as a notice of violation. Such order will require that all use or construction stop immediately.
- D. If a violation persists, the Code Enforcement Officer may file an "information and complaint" with the town justice charging the owner with violating one or more sections of this law. The town justice may then issue a summons for the violator to appear in court.

## TOWN OF GAINES ZONING LOCAL LAW

- E. Pursuant to Criminal Procedure Law Section 150.20 (3), the Code Enforcement Officer is authorized to issue an appearance ticket to any person causing a violation of this law, and, if a violation persists, may cause such person to appear before the town justice.

### SECTION 370                      PENALTIES AND ACTIONS

- A. A violation of this law will be punishable by a fine not exceeding \$350, or imprisonment for a period not to exceed six 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 years, punishable by a fine not less than \$350, nor more than \$700, or imprisonment for a period not to exceed six months, or both; and, upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less \$700, nor more than \$1,000, or imprisonment for a period not to exceed six months, or both. Each week's continued violation will constitute a separate additional violation.
- B. The town board may maintain an action or proceeding in the name of the town in a court of competent jurisdiction to compel compliance with or restrain by injunction the violation of this law.
- C. The enforcement provisions and remedies provided for in NYS Town Law Section 268 will apply.

# TOWN OF GAINES ZONING LOCAL LAW

## ARTICLE IV: ESTABLISHMENT OF ZONING DISTRICTS

### SECTION 400 ZONING DISTRICTS

This Zoning Local Law establishes the following Zoning Districts:

RA	Residential/Agricultural
R-1	Residential
C	Commercial
CH	Commercial/Historical
I	Industrial

### SECTION 410 ZONING MAP

The location and boundaries of the RA Residential/ Agricultural, C Commercial and CH Commercial/ Historical zoning districts established by this Local Law are depicted on a Zoning Map maintained by the Town Clerk. The Town Clerk, with help from the Code Enforcement Officer, is responsible for keeping the zoning map up-to-date. The official Zoning Map— together with all notations, references, data and other information shown on the map— is adopted and incorporated into this zoning Local Law. The Town Board may amend the Zoning Map to rezone certain areas to R-1 Residential or I Industrial in accordance with procedures established in Section 112.

### SECTION 420 INTERPRETATION OF DISTRICT BOUNDARIES

- A. Unless otherwise indicated on the Zoning Map, the district boundary lines are intended generally to follow the center lines of streets, roads and thoroughfares, the center lines of railroad rights-of-way, existing lot lines, and the mean high water level at the shore or bank of streams and other waterways.
- B. In the event of uncertainty as to the exact location of a district boundary line in a particular instance, the Code Enforcement Officer will request an interpretation from the Zoning Board of Appeals.

### SECTION 430 MAINTENANCE AND UPDATES

- A. If the Town Board amends the Zoning Map by rezoning certain areas or revising zoning district boundaries, the Town Clerk will ensure that the official zoning map is updated to reflect its amendment as soon as possible after the effective date of zoning map amendments. No unauthorized person may alter or modify the official Zoning Map.
- B. The Town Clerk may authorize printed copies of the official zoning map to be produced, and must maintain digital or printed copies of superseded versions of the official Zoning Map for historical reference.

### SECTION 440 DISTRICT BOUNDARIES

The boundaries of the Zoning Districts are depicted in the official Zoning Map adopted by the Town Board as part of this Local Law

# TOWN OF GAINES ZONING LOCAL LAW

## ARTICLE V ZONING DISTRICT REGULATIONS

### SECTION 500 RA (RESIDENTIAL/AGRICULTURAL) DISTRICT

#### A. Purpose

The purpose of the Residential/Agricultural (RA) district is to provide a stable environment for residential development, free from incompatible uses, and to protect agricultural lands and support agricultural uses.

#### B. Permitted Uses

1. Agriculture
2. Family Day Care Home and/or Group Family Day Care (see Section 625 for requirements).
3. Farm Labor Housing in a NYS certified agricultural district (see Section 620 for additional requirements).
4. One and Two-Family Dwellings.
5. Small Wind Energy Conversion System for a farm operation located within a NYS certified agricultural district (see Section 1095.G.for additional requirements).
6. Roadside Stand
7. Public Park

Note: Site Plan review is required for all proposed buildings 4,000 square feet and larger.

#### C. Permitted Accessory Uses

Uses and structures customarily incidental to permitted uses and structures.

#### D. Uses Requiring a Special Use Permit

1. Airport
2. Campground
3. Community Recycling
4. Public Utilities
5. Excavation and Mining
6. Farm Labor Housing Located Outside a NYS Certified Agricultural District
7. Agricultural Support Business
8. Home Business
9. Kennel
10. Veterinary Clinic or Animal Hospital
11. Meteorological (MET) Towers

*December 2019*

## TOWN OF GAINES ZONING LOCAL LAW

12. Manufactured Home Park
13. Monument Shop
14. Multiple Family Dwelling
15. Professional Office
16. Medical or Dental Office
17. Places of worship, schools, cultural facilities, recreational facilities, day care centers, hospitals, nursing homes, public safety facilities, health care facilities and other Public/Semi-Public/Community Facilities not specifically listed
18. Farm Market
19. Farm Machinery Repair Shop
20. Small Wind Energy Conversion System for a non-agricultural use or a farm located outside a NYS certified agricultural district (see Section 1095.G.for additional requirements).
21. Telecommunication Facility
22. Resort/ Meeting/ Conference Center
23. Bed and Breakfast Inn
24. Outdoor Recreation

### E. Dimensional Requirements

	Building size <4,000 sq. ft.	Building size >= 4,000 sq. ft.
Minimum Front Setback (measured from the centerline of the road)	100 feet, except for Ridge Road, which is 120 feet	100 feet, except for Ridge Road, which is 120 feet
Minimum Side Setback	15 ft.	50 ft.
Minimum Rear Setback	15 ft.	50 ft.
Minimum Road Frontage	200 ft. (w/o public water) 150 ft. (with public water)	200 ft.
Maximum Height	35 ft.	35 ft.
Minimum Lot Size	40,000 sq. ft. (w/o public water) 30,000 sq. ft. (with public water)	40,000 sq. ft.
Maximum Lot Coverage	80%	80%

# TOWN OF GAINES ZONING LOCAL LAW

## SECTION 505

## R-1 RESIDENTIAL DISTRICT

The purpose of the R-1- Residential District is to provide a stable environment for rural residential development, free from incompatible uses.

### A. Permitted Uses

1. Agriculture
2. Family Day Care Home and/or Group Family Day Care (see section 660 for requirements).
3. One and Two-Family Dwellings.
4. Public Park

Note: Site Plan review is required for all proposed buildings 4,000 square feet and larger.

### B. Permitted Accessory Uses

Uses and structures customarily incidental to permitted uses and structures.

### C. Uses Requiring a Special Use Permit

1. Home Business
2. Bed and Breakfast Inn

### D. Dimensional Requirements

	Building size <4,000 sq. ft.	Building size >= 4,000 sq. ft.
Minimum Front Setback (measured from the centerline of the road)	100 feet, except for Ridge Road, which is 120 feet	100 feet, except for Ridge Road, which is 120 feet
Minimum Side Setback	15 ft.	50 ft.
Minimum Rear Setback	15 ft.	50 ft.
Minimum Road Frontage	200 ft. (w/o public water) 150 ft. (with public water)	200 ft.
Maximum Height	35 ft.	35 ft.
Minimum Lot Size	40,000 sq. ft. (w/o public water) 30,000 sq. ft. (with public water)	40,000 sq. ft.
Maximum Lot Coverage	80%	80%



# TOWN OF GAINES ZONING LOCAL LAW

## SECTION 510

## C (COMMERCIAL) DISTRICT

### A. Purpose

The purpose of this district is to provide for the establishment of commercial uses essential the development of a balanced economic base and to regulate commercial development so that it will not be detrimental or hazardous to the surrounding areas or detract from the character of existing residential, agricultural and historical areas.

### B. Permitted Uses

1. Agriculture
2. Family Day Care Home and/or Group Family Day Care (see section 625 for requirements).
3. Farm Labor Housing in a NYS certified agricultural district (see section 620 for additional requirements).
4. One and Two-Family Dwellings.
5. Small Wind Energy Conversion System in a NYS certified agricultural district (see section 1095.G .for additional requirements).
6. Roadside Stand
7. Retail or service business (excluding any use that requires a Special Use Permit), including but not limited to: Business Service, Personal Services, indoor recreation, Professional Office, Farm Market, Agricultural Support Business
8. Public Park
9. Bank or financial institution

Note: Site Plan Review is required for all proposed buildings 4,000 square feet and larger.

### C. Permitted Accessory Uses

Those uses and structures customarily incidental to permitted uses and structures.

### D. USES REQUIRING A SPECIAL USE PERMIT

1. Adult use and/or Business
2. Club
3. Commercial Day Care Center
4. Drive-through Business
5. Public utilities
6. Funeral home
7. Home Business
8. Lodging
9. Junk Yards
10. Kennels
11. Veterinary Clinic or Animal Hospital
12. Medical office
13. Motor Vehicle Repair Shop and/or Body Repair shop
14. Motor vehicle sales or rental
15. Multiple Family Dwelling

## TOWN OF GAINES ZONING LOCAL LAW

16. Religious institution, schools, cultural facilities, recreational facilities, hospitals, nursing homes, public safety facilities, health care facilities and other Public/ Semi-public/ Community Facilities not specifically listed
17. Gasoline Station
18. Shopping center
19. Small Wind Energy Conversion System
20. Telecommunication Facility
21. Wholesale business
22. Outdoor Recreation
23. Truck Terminal
24. Warehouse/ Distribution Center
25. Resort/ Retreat/ Conference Center

Any other retail or service use similar in nature and scale to those listed above.

### E. Dimensional Requirements

	Building size <4,000 sq. ft.	Building size $\geq$ 4,000 sq. ft.
Minimum Front Setback (measured from the centerline of the road)	100 feet, except for Ridge Road, which is 120 feet	100 feet, except for Ridge Road, which is 120 feet
Minimum Side Setback	15 ft.	50 ft.
Minimum Rear Setback	15 ft.	50 ft.
Minimum Road Frontage	200 ft. (w/o public water) 150 ft. (with public water)	200 ft.
Maximum Height	35 ft.	35 ft.
Minimum Lot Size	40,000 sq. ft. (w/o public water) 30,000 sq. ft. (with public water)	40,000 sq. ft.
Maximum Lot Coverage	80%	80%

- F, No commercial use or structure will be permitted within 50 feet of the nearest lot line of any residential parcel within a residential zoning district.

# TOWN OF GAINES ZONING LOCAL LAW

## SECTION 520 COMMERCIAL HISTORIC DISTRICT (CH)

### A. Purpose and Intent

The intent of the Commercial Historic (CH) District is to promote the historic character and scale of the Town's hamlet areas. These areas are typified by a traditional development pattern, including buildings of a modest size and scale, laid out with a defined pattern of streets, alleys, and driveways, while allowing a limited range of residential, commercial, and public uses. The Commercial Historic (CH) District permits small-scale mixed-use developments, interspersed with residential uses, in a traditional neighborhood form. Building massing is provided close to the road frontage, reflective of traditional village and hamlet settings. Pedestrian scale and access is encouraged. This District emphasizes the reuse and preservation of existing buildings, particularly historic structures, and limited infill development that complements and is compatible with adjacent land uses.

### B. Design Principles

The primary objective of the CH District is to promote traditional, hamlet-style design. New buildings should relate to the historical and architectural character of these areas as well as enhance the streetscape and unique aesthetic qualities that currently exist. Specifically, the design principles are to:

1. Provide a limited mix of housing and small business opportunities.
2. Encourage infill development and the reutilization of existing buildings, particularly those with historic or architectural significance.
3. Allow buildings by the sidewalk and street edge and maintain consistent building lines through placement of buildings within the "build-to" lines.
4. Promote pedestrian activity through a safe and walkable environment.
5. Create tree-lined streets that are aesthetically pleasing and comfortable for pedestrians.
6. Provide alleys, where needed, as a means for adequate access to parking areas at the rear or side of buildings.
7. Minimize the visual impact of the automobile by focusing site design on the central role of buildings, landscaping, open space, and other amenities.
8. Create an interconnected street system for pedestrian, bicycle, and motor vehicle traffic.
9. Encourage the development of shared parking between nearby uses.
10. Provide diverse housing options.
11. Protect important natural and historic features.

### C. Standards vs. Guidelines.

This code includes both standards that are required to be met as well as guidelines that are encouraged, but not required. As such, provisions designated as "must" or "will" are required, while provisions designated as "should" are encouraged.

# **TOWN OF GAINES ZONING LOCAL LAW**

## **D. Location of Districts**

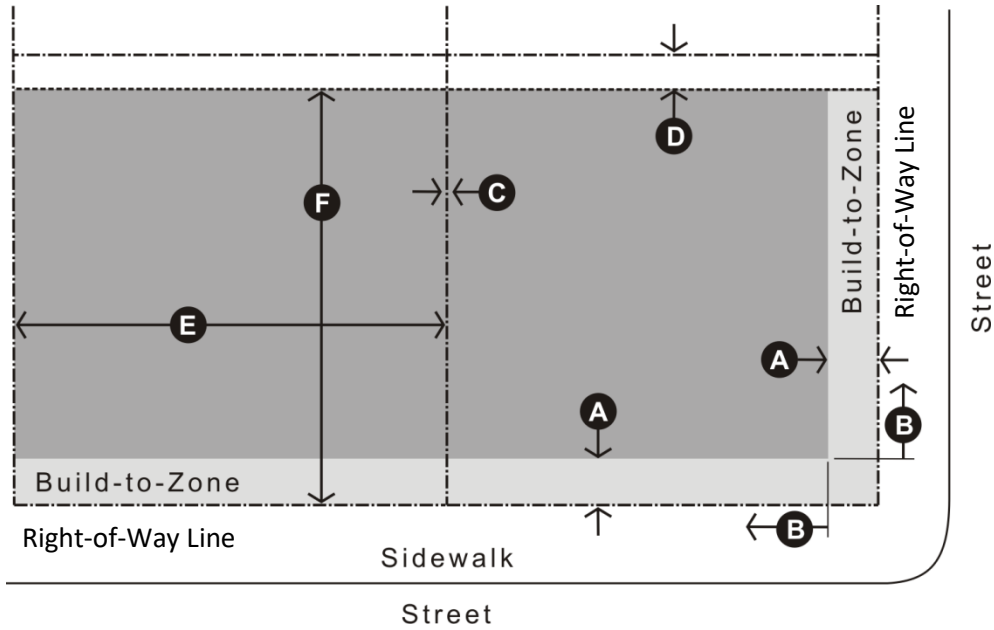
As per Section 410, the location of the CH Districts is shown on the map entitled "Zoning Map, Town of Gaines," adopted by the Town Board.

## **E. Review of Projects in the CH District**

1. Applications for development or redevelopment within this district require Site Plan Review as set forth below.
2. The Planning Board will coordinate Site Plan Review with any other code review requirements with emergency responders, highway or other agency officials as deemed necessary by the Code Enforcement Officer.
3. The Code Enforcement Officer will forward to the Planning Board all applications for development projects that require Site Plan Review.
4. Prior to submitting a formal application under this section, the applicant is strongly encouraged to request a pre-application meeting with the Code Enforcement Officer and/or the Planning Board, at which point there should be a discussion of the design principles of the District, the proposed architectural design and the engineering considerations of the site and the adjacent neighborhood.
5. No site preparation or construction is permitted until either or the Planning Board has approved the site plan (if required) and the Code Enforcement Officer has issued a zoning permit and until permits have been issued by all governmental agencies involved.
6. The purpose, principles and standards of this section are intended to guide the Planning Board in its review of projects within the CH District.
7. In reviewing any proposed modification of a guideline, the Planning Board will consider whether granting the modification will be consistent with the purpose of this section.
8. Applications for development within the CH District must include a master landscape plan for the site, identifying the quantity, location, size, and types of existing vegetation and identifying that which is to be retained, proposed plantings, details, and the planting methods.
9. No demolition or substantial exterior alteration resulting in a significant change in structure of building is allowed without Site Plan Approval.

# TOWN OF GAINES ZONING LOCAL LAW

## F. Building Placement & Form

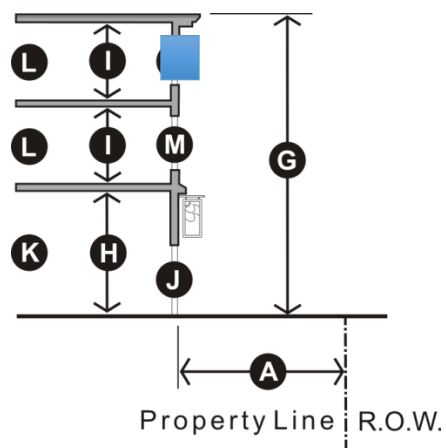


### Key

- Right-of-Way Line      .... Setback Line
- Build-to-Zone      ■ Building Area

Building Placement		
Build-to-Zone (Distance from Right-of-Way Line)		
Front	0' min., 25' max	<b>A</b>
On corner lots, both yards abutting streets will be considered front yards.		
Setback (Distance from Property Line)		
Side and Rear	15' min.	<b>D</b>
Lot Size & Coverage		
Width	200' max.	<b>E</b>
Depth	200' max.	<b>F</b>
Lot Coverage (all impervious surfaces)	80% max.	

## TOWN OF GAINES ZONING LOCAL LAW

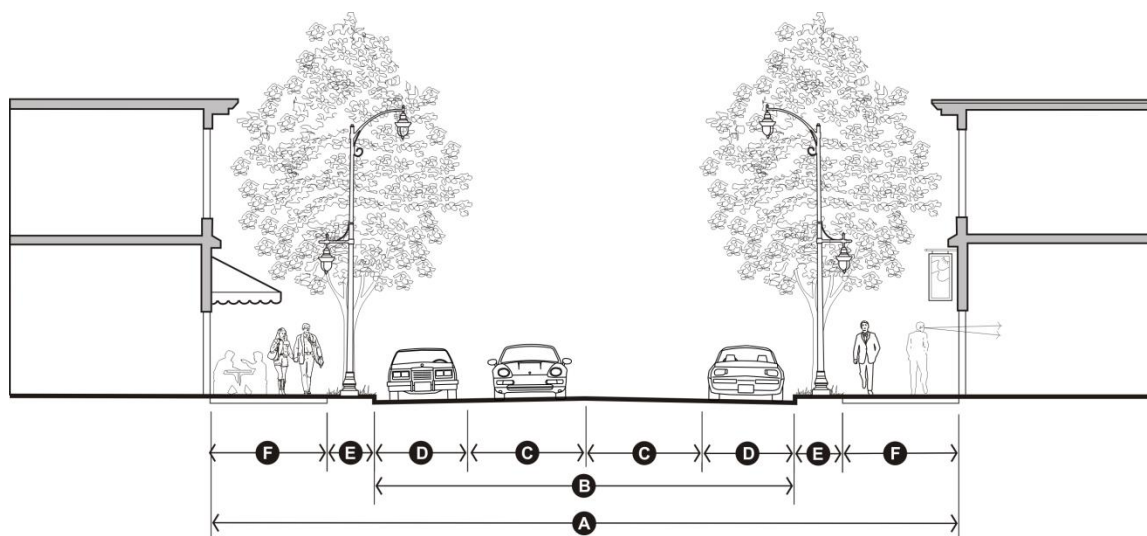


Building Form		
Height		
Main Building	22' min.	<b>G</b>
	3 Stories max.	
Ancillary Building	3 Stories max.	
Ground Floor Commercial Ceiling	10' min. clear	<b>H</b>
Upper Floor Ceiling	9' min. clear	<b>I</b>
Transparency (for Commercial structures only)		
First Floor <sup>1</sup> (Clear windows that allow views into the interior of the building)	60% minimum at front of building	<b>J</b>
Second Floor (Clear windows that allow views into the interior of the building)	20% minimum at front of building	<b>K</b>

<sup>1</sup> Ground floor transparency will be measured between 2 ft. and 10 ft. above the adjacent sidewalk.

# TOWN OF GAINES ZONING LOCAL LAW

## G. Street Standards (For any proposed new streets)



### District Street

#### Application

Movement Type

Slow

Target Design Speed

20-30 MPH

#### Overall Widths

Typical Right-of-way (ROW) Width

60'-70'

**A**

Curb Face to Curb Face Width

36'

**B**

#### Lanes

Travel Lane

10'-11'

**C**

Bicycle Lanes

Sharrows or other

Parking Lanes

8'

**D**

#### Edges

Curb Type

6" Raised

Tree Lawn

8'

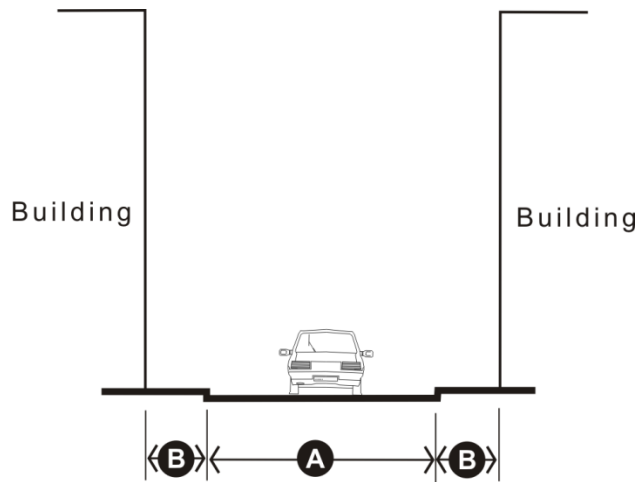
**E**

Tree Spacing

40' O.C.

## TOWN OF GAINES ZONING LOCAL LAW

Sidewalks	5' min.	<b>F</b>
Lighting	Pedestrian Scale 10'-15'	



Alley		
Application		
Movement Type	Very slow	
Target Design Speed	5-10 MPH	
Widths		
Typical Width	12'-20'	<b>A</b>
Offset from Alley to Buildings	6'	<b>B</b>

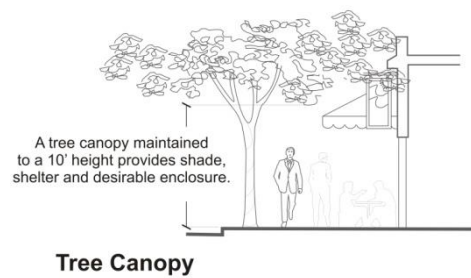
The following are the specific standards for the CH Districts:

1. The street network should follow a grid pattern. In addition, there should be consideration of the street layout as it connects to county and state roads in order to provide for access management.
2. Streets must be designed to:
  - a) Respect and follow existing terrain as much as possible, to minimize earth moving and disruption of the existing topography.
  - b) Be parallel to and preserve existing tree lines, hedgerows, stone walls, and watercourses, with an attempt to minimize disruption to these features.



## TOWN OF GAINES ZONING LOCAL LAW

- c) Minimize alteration of natural, cultural, or historic features.
  - d) Be aligned, where possible, so that the "terminal vista" is of civic buildings, public open space (greens, commons, squares, or parks), or natural vistas or other visual amenities.
  - e) Promote ready and safe pedestrian movement, including pedestrian through connections between streets using sidewalks and trails.
  - f) Calm traffic speeds, such as through the provision of complementary landscaping, including but not limited to street trees.
  - g) Intersect at right angles whenever possible, with preservation of adequate site lines (triangles) at the intersection.
4. Streets must have curb radii between 10' and 15' and include curb extensions (bump-outs) at intersections.
5. Utilities will be placed underground during new street construction or reconstruction projects.
6. Sidewalks
- a) Sidewalks will be constructed of paving brick, concrete, concrete pavers, or concrete with brick paver borders. Asphalt will not be used.
  - b) Sidewalks will create a linked network of walkways connecting different uses, such as businesses and residences, with parks or open space.
  - c) On low-traffic streets, sidewalks should be placed next to parallel parking areas.
7. Hamlet streetscape landscaping.
- a) Street tree landscaping must be provided along both sides of streets, unless there is an alley proposed that in the Planning Board's judgment should be provided with a lesser standard for street trees, including no street trees at all.
  - b) Street trees should be tolerant of salt and sand deposited with snow removal and drought tolerant, should cast moderate shade in summer, and should be of a type that branches at least eight feet above ground level and grows up to a minimum of 40' at maturity.
  - c) Property owners will have responsibility for maintaining trees along street frontage(s) within the right-of-way.
8. On-street parking.
- a) At the discretion of the Planning Board, on-street parking and parking proposed to be shared among multiple uses may count toward the minimum number of parking spaces required for the use on the lot.

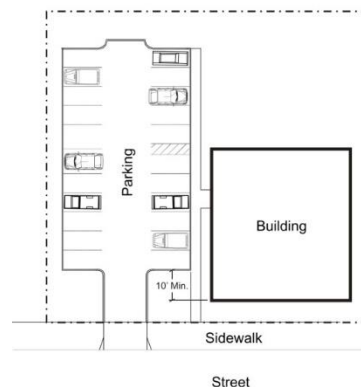
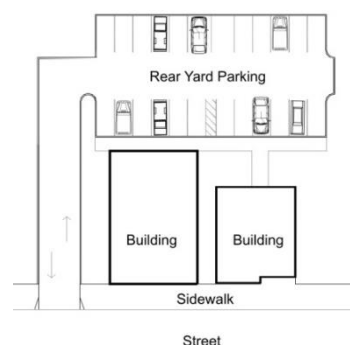


# TOWN OF GAINES ZONING LOCAL LAW

## H. Site Development Standards

1. Multiple buildings and uses are permitted on a lot in the CH District.
2. Connections between parking lots situated to the rear and the retail frontage are desirable. Wherever practical, sidewalks and/or walkways should be available to enable pedestrians to safely move from parking located in the rear of the building to the street front, and where applicable, through-store passages should also be provided.
3. The ground floor should reinforce continuity along street frontages. The frequency of entrances along streets is important in maintaining continuity and viability.
4. Balconies, bay windows and cornice features, and open porches are encouraged and may extend up to five feet into the front yard setback.
5. New developments are encouraged to make use of existing structures wherever possible.
6. Off-street Parking and Driveways.

- a) Parking in front of the principal building is discouraged.
- b) No drive lanes or aisles are permitted in the front yard between the building and the street.
- c) Off-street parking may be located in the rear yard or side yard. Side yard parking will be located a minimum of 10 feet behind the front facade.
- d) Parking, or access to parking, must not exceed more than 40 percent of lot frontage.
- e) Parking Space Size. Each standard parking space should be 9 ft. wide by 18 ft. deep.
- f) In order to facilitate fewer curb cuts, shared driveways are encouraged. Provisions satisfactory to the Planning Board will be made with respect to the ownership, use, operation, and maintenance of all common driveways. Such responsibilities will be documented in a legal instrument that assures the continued layout, maintenance, and upkeep of the common drive as intended by the owners and successors.



7. Site Landscaping
  - a) Building Setback Landscaping
    - i. Building setback areas along streets, access ways, or along private drives, will be landscaped with a minimum of one shade tree per 40 ft. of linear frontage.

## TOWN OF GAINES ZONING LOCAL LAW

- ii. Building setback areas must include compact massings of ornamental plant material, such as ornamental trees, flowering shrubs, perennials, and ground covers.
- iii. Plantings should decrease in size and increase in detail, color, and variety near entryways into developments.

### b) Interior Parking Lot Landscaping

- i. The interior of all uncovered parking blocks containing 10 or more spaces will be landscaped according to the provisions in this subsection.
- ii. The primary landscaping materials used in parking lots will be trees, which provide shade or are capable of providing shade at maturity. Shrubbery, hedges and other planting materials may be used to complement the tree landscaping, but will not be the sole means of landscaping. Effective use of earth berms and existing topography is also encouraged as a component of the landscaping plan.
- iii. One shade tree will be planted for every 5 parking spaces.
- iv. Landscaped berms will be at least 10 ft. wide, a maximum of 3 ft. high, and include a maximum slope of 3:1.

## 8. Lighting

- a) All exterior lights will be designed and located in such a manner as to prevent objectionable light and glare to spill across property lines.
- b) Exterior lighting should be architecturally compatible with the building style, material, and colors.
- c) Driveway parking lot lights and other lights will be 10 feet to 15 feet in height. Cutoff fixtures are preferred over cobra-type light fixtures and directional floodlights.
- d) Accent or decorative lighting for buildings, walkways, and landscaping is encouraged but must produce no more than 1500 lumens and must be focused directly on the intended object.
- e) Site lighting must be dark sky friendly.

## 9. Loading and delivery areas may be shared between nearby uses, and the requirements will be determined by the Planning Board on a case-by-case basis.

## 10. Mechanical equipment, garbage containers, and electrical transformers will be concealed from public view on all sides by architectural elements and/or landscaping satisfactory to the Planning Board's approval.

## 11. Fencing and walls.

- a) The design of fences and walls should be compatible with the architecture of the principal building(s) and should use similar materials.

## TOWN OF GAINES ZONING LOCAL LAW

- b) All fences or walls 50 feet in length or longer and four feet in height or taller should be designed to minimize visual monotony by changing the plane, height, material, texture, or significant landscape massing.
  - c) Chain link fencing is prohibited.
12. Utilities. All new utilities will be underground.
13. Open space. Where appropriate and practical, new development should create public open spaces and should maintain existing open space.

### I. Architectural Standards

- 1. Architectural design should be sensitive to the historical and/or architectural character of traditional hamlet and village building design.
- 2. Buildings will exhibit a clearly defined base, mid-section, and crown. This can be accomplished using a combination of architectural details, materials and colors.



#### Examples



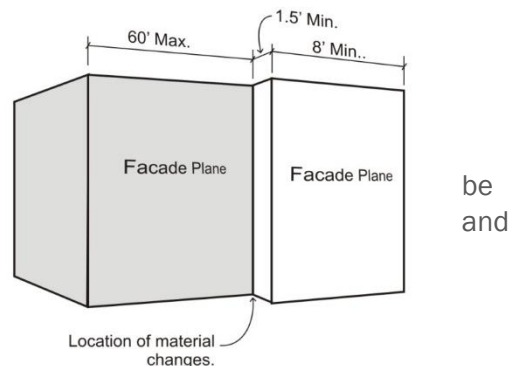
*A well articulated base, mid-section, and crown can be achieved in all building types and sizes including multi-story buildings, as depicted in the illustration to the right, as well as single-story buildings.*



- 3. Design compatibility includes complementary building style, form, size, color, materials, and detailing. In reviewing projects, the Planning Board will consider each of the following principal features contributing to the identity of buildings within the CH District:
  - a) Size: the relationship of the project to the site.
  - b) Scale: the relationship of the building to those around it.
  - c) Massing: the relationship of the building's various parts to each other.
  - d) Fenestration: the placement of windows and doors.
  - e) Rhythm: the relationship of fenestration, recesses, and projections.
  - f) Materials: the compatibility with other buildings in the CH District, particularly those with historical significance.
  - g) Context: the overall relationship of the project to its surroundings.

## TOWN OF GAINES ZONING LOCAL LAW

4. The following architectural design concepts are required and/or encouraged:
- a) Design with the pedestrian in mind. Create attractive and safe routes for people to walk and relax which link to other areas. Limit the visibility of parking areas.
  - b) Emphasize local identity. Architecture should be custom designed and reflect the village and hamlet vernacular of Orleans County. Avoid or minimize corporate chain architectural styles.
  - c) Street-level continuity of shopfronts with minimal spaces between buildings with a street-level expression line, visually tying together the retail base and separating the upper stories.
  - d) Porches fronting on streets are encouraged, especially on local roads.
  - e) Multiple buildings on the same lot should be designed to create a cohesive visual relationship between the buildings.
  - f) Blank wall areas and long, uninterrupted rooflines must be avoided and should exhibit more detail and elements appropriate for close-range pedestrian view.
  - g) Varied building designs that avoid long, flat facades are required.
    - i. The vertical plane of the building facade must be broken up with a high level of articulation (e.g., projecting entry or window features, recessed elements, transparent storefronts, identifiable retail spaces, and awning/entrance canopies) especially at ground level.
    - ii. No facade will exceed 60 feet in horizontal length without a change in facade plane. Changes in facade planes will no less than 1.5 feet in depth no less than 8 feet in length.
    - iii. Any changes in exterior building material will occur at interior corners.
  - h) All sides of a building may have an impact on its surroundings and should be considered for treatment with an architectural finish. Architectural features, materials, windows, and articulation of a facade of a building should be continued on all sides visible from a street or public parking areas.
  - i) Facade colors should be low-reflectance colors. High-intensity colors, metallic colors, black, or fluorescent colors should not be used. Building trim and accent areas may feature brighter colors.
  - j) The scale of a building should be compatible with the surrounding buildings.
  - k) Pitched roofs with gables/dormers or symmetrically shaped parapet roofs are encouraged.



## TOWN OF GAINES ZONING LOCAL LAW

- l) Considerations should be given to the height of cornice line or other expression lines.
  - i. Where awnings are proposed, the use of canvas-type awnings on buildings is recommended to provide protection from sun, wind, and rain and to improve the aesthetics of the building exterior. Awnings should be placed at a pedestrian scale, at a height of not more than 10 feet above ground level.
  - ii. Exterior finish materials should include:
    - a. Facades: brick, stone, stucco, wood, and wood shingles.
    - b. Roofs must be pitched. Roof materials of construction may include:
      - i. Shingles: wood, imitation wood asphalt; architectural-style asphalt shingles
      - ii. Slate or imitation slate;
      - iii. metal: aluminum (Kynar), copper, terne, zinc (standing seam or batten seam)
    - c. Exterior building materials on the primary structure should not include smooth-faced concrete block, tilt-up concrete panels, or prefabricated steel panels, highly reflective, shiny, or mirrorlike materials, mill-finish (noncolored) aluminum metal windows or door frames; exposed, unfinished foundation walls; exposed plywood or particle board; and unplastered, exposed concrete masonry blocks. Concrete block should be limited to only the rear wall of a building.
- m) Windows
  - 1. Windows should be greater in height than width or at least of equal proportion.
  - 2. Mirrored, reflective, or darkly tinted glass, all-glass walls, or exterior roll-down security gates will not be permitted.

## TOWN OF GAINES ZONING LOCAL LAW

### J. Uses and Restrictions

1. The maximum building footprint per structure is 5,000 square feet.
2. The schedule of permitted uses and specially permitted uses for the CH District is found in Table 1.
3. All principal and accessory uses will be conducted within completely enclosed structures, except for an outdoor eating area associated with a restaurant, provided that:
  - a) All structures and uses are contained within the setbacks.
  - b) Total number of outdoor seats are approved by the Planning Board.

# TOWN OF GAINES ZONING LOCAL LAW

Table 1

USE GROUP	CH District
Use Category	
P= permitted by-right, SP = special use permit required	
R E S I D E N T I A L	
Live/Work Space	P
Single or Two-Family Dwellings	P
Multi-unit (4 unit max) Residential	SP
P U B L I C   A N D   C I V I C	
Public buildings and grounds	SP
Commercial schools	P
C O M M E R C I A L / R E T A I L	
Grocery store; Drugstore	P
Apparel store	P
Professional offices	P
Fitness center	P
Brewery	P
Wine / liquor store	SP
Electronics/Computer Store	P
Hotel	P
Antique and/or consignment store	P
Bookstore	P
Laundromat	P
Beauty parlor, barbershop	P
Apparel repair and alteration	P
Bakery	P
Florist shop	P
Artist studio / gallery	P
Restaurants, coffee shops or other similar places principally serving food and drink for inside consumption	P
Bicycle sales and repair	P
Bank	SP
Theater	SP
Bed and Breakfast	SP
O T H E R	
Outdoor recreation / entertainment	SP
Drive-thru (located in side or rear yard only)	SP
Any combination of permitted residential or non-residential uses.	P
Permitted uses exceeding the thresholds established in Subsection B	SP



# TOWN OF GAINES ZONING LOCAL LAW

## SECTION 530

## I (INDUSTRIAL) DISTRICT

### A. Purpose

Although at the present time there are no areas in the Town of Gaines designated as Industrial Districts, it is recognized that the development of a balanced economic base in the Town may lead to the establishment of an industrial district at some time in the future. In order to ensure that any subsequent industrial development in the Town of Gaines is not detrimental or hazardous to the surrounding community, the following regulations apply to any industrial use hereafter undertaken in the Town of Gaines.

### B. Permitted Uses

1. Only uses of a light industrial or agri-industrial nature, involving the processing, assembly or packaging of previously prepared or refined materials, will be permitted.
2. A permitted use must not result in or cause:
  - a) Dust, smoke, smog, observable gas, fumes or odors, or other atmospheric pollution objectionable noise, glare or vibration discernible beyond the property lines of the industry.
  - b) Hazard of fire or explosion or other physical hazard to any adjacent building or to any plant growth on any -land adjacent to the site of the use. All uses in the I District require Site Plan Review in accordance with the provisions of Article VII of this Local Law.

### C. Permitted Accessory Uses

1. Signs advertising industrial activities on the premises. Signs must not exceed, in aggregate, fifteen (15) percent of the area of the front facade of the building. Such signs may be illuminated but not flashing.
2. Private garage and storage buildings, which are necessary to store any vehicle, equipment, or materials on the premises.
3. Off-street parking space subject to the provisions of Article VI of this Local Law.

### D. Other Provisions and Requirements

1. Residential uses are prohibited in this district.
2. All industrial processes must take place within the confines of an enclosed building.
3. Incidental storage out of doors may permitted provided that materials stored outdoors are screened from view form public streets, adjacent off-street parking areas and adjacent nonindustrial districts by fencing, landscaping, or other appropriate measures.
4. All uses permitted in this district must set aside not less than ten percent of the lot to be devoted to seeding, planting, retention of tree cover, or other landscaping. This area may not be used for any other purpose.
5. Each use in this district must provide truck loading and unloading areas sufficient to permit the transfer of goods and products in other than a public street; off street parking area or front yard.

## TOWN OF GAINES ZONING LOCAL LAW

6. Industrial structures must be located so as to be a minimum of one hundred (100) feet from any non-industrial district. This 100- foot buffer zone will be perpetually maintained so as to provide visual screening and separation between industrial and nonindustrial uses.
7. Parking areas may be located in any of the required yard areas provided that they are not less than fifty (50) feet from a right-of-way line or twenty (20) feet from a property line.
8. Site Plan Review is required on all proposed buildings 4,000 square feet and larger.

### E. Specifications

Minimum Front Setback (measured from the centerline of the road)	100 feet, except for Ridge Road, which is 120 feet
Minimum Side Setback	50 ft.
Minimum Rear Setback	50 ft.
Minimum Road Frontage	200 ft.
Maximum Height	35 ft.
Minimum Lot Size	One acre
Maximum Lot Coverage	80%

### SECTION 540 F (FLOOD HAZARD) DISTRICT

On May 20, 1976, the Town of Gaines was duly admitted into the Emergency Program phase of the National Flood Insurance Program (NFIP) on the condition that the Town would continue to carry out the objectives of the program and would at a future date adopt more stringent land management measures which would meet minimum Federal requirements and apply for admittance into the Regular Program phase of the NFIP. It is the intention of the Town of Gaines to hereafter adopt a local law, to be entitled "Town of Gaines Local Law NO.1 of 1983 ", to regulate development in the Flood Hazard District. Upon the adoption of said local law, which is incorporated by reference in this Local Law, the provisions of such local law will govern all subsequent development in the Flood Hazard District.

# TOWN OF GAINES ZONING LOCAL LAW

## SECTION 550. PLANNED DEVELOPMENT DISTRICT REGULATIONS.

- A. The purpose of this district is to provide a means of developing those land areas within the Town considered appropriate for new residential, recreational, commercial or industrial use or a satisfactory combination of these uses in an economic and compatible manner while encouraging the utilization of innovative planning and design concepts in the areas without departing from the spirit and intent of these zoning regulations.
- B. PD Districts are zoning districts created for a compatible mix of uses. The classification "planned development district" is intended to hold an area of land for future development in one or more of the following categories:
  - 1. Planned residential.
  - 2. Planned commercial.
  - 3. Planned light industrial.
  - 4. Planned recreational.
- C. General guidelines.
  - 1. Establishment of a Planned Development District project will require two steps: amendment of the Zoning District Map to establish a planned district; and approval of a project in a planned district.
  - 2. There is no minimum acreage requirement, provided that the overall intents and purposes of this section are complied with.
- D. Procedures are as follows:
  - 1. Amendment to Zoning Map for the Planned Development District (PD).
    - a) Application for amendment of the Zoning Map for a planned development district will be made to the Town Board, which will refer the application to the Planning Board.
    - b) The applicant must submit a preliminary development plan, at an appropriate scale, illustrating the type, uses and design of the proposed development, including any or all of the following as required by the Planning Board:
      - i. Boundaries of the proposed district.
      - ii. Topography, soil conditions and drainage.
      - iii. Land uses and building locations.
      - iv. Roads, parking and walks.
      - v. Open space areas.
      - vi. Landscaping and screening.

## TOWN OF GAINES ZONING LOCAL LAW

- c) The Planning Board will review such application and may require such changes in the preliminary plans as are necessary to meet the requirements of this section, to protect the established permitted uses in the vicinity and to promote the orderly growth and sound development of the community. In evaluating the proposal and in reaching its decision regarding the preliminary plans, the Planning Board will consider and make findings regarding the considerations set forth below:
- i. The need for the proposed development.
  - ii. In what respects the plan is or is not consistent with the stated purposes of the Planned Development District.
  - iii. The extent to which the plan departs from the zoning regulations formerly applicable to the property in question (including bulk, density and permitted uses).
  - iv. The existing character of the neighborhood and the relationship, beneficial or adverse, of the proposed development to this neighborhood.
  - v. The location of principal and accessory buildings on the site in relation to one another and to other structures and uses in the vicinity, including bulk and height.
  - vi. The provision for pedestrian circulation and open space in the planned development.
  - vii. The traffic circulation features within the site, including the amount of, location of and access to automobile parking and terminal loading areas.
  - viii. The amount of traffic generated at peak hours and the provisions for adequately handling such volumes, with particular reference to points of ingress and egress, potential hazards, such as inadequate sight distances and intersection design, and the nature and suitability of the connecting street or highway system to absorb the anticipated changes.
  - ix. The provision for storm, sanitary and solid waste disposal and other utilities on the property adjacent to the site as well as that site itself.
  - x. The proposed landscaping and signage.
  - xi. The manner in which the physical design makes adequate provision for service demands (water, sewer, fire, etc.), adequate traffic control and the amenities of light, air and visual enjoyment.
- d) All applications for creation of a planned district will be referred to the Orleans County Planning Board, which may review and comment on the referral within 30 days.

## TOWN OF GAINES ZONING LOCAL LAW

- e) The Planning Board will report its findings and render its recommendation on rezoning to the Town Board within 62 days of submission of a complete application. It may recommend approval, disapproval or conditional approval subject to modifications regarding the proposed development.
  - f) The Town Board will consider the report and recommendations of the Planning Board, address SEQR requirements and all other comments, reviews and statements pertaining thereto and will hold a public hearing after proper public notice as required for any amendment to these regulations. It may amend the Zoning Map to establish and define the type and boundaries of the Planned Development District and, in doing so, may state specific conditions in addition to those provided by the regulations.
2. Site plan approval in a Planned Development District.
- a) The applicant will submit to the Planning Board final development plans, specifications and necessary supporting documents as required to detail the approved preliminary development plan submitted for rezoning, including the data listed in Article VII and any or all of the following as required by the Planning Board:
    - i. A property survey showing existing contours, buildings, structures, trees, streets, easements and rights-of-way.
    - ii. Site plans with proposed building locations, streets, parking areas, grading, walks and landscaping.
    - iii. Final drawings.
    - iv. Final engineering plans, including street design, drainage systems, sanitary sewage, water mains and public utilities, including gas and electric.
    - v. Construction time schedule.
  - b) No site plan approval will be issued until the Planning Board has evaluated the project based on its consistency with the preliminary development plan, including the following considerations:
    - i. The existing character of the neighborhood and the relationship, beneficial or adverse, of the proposed development to this neighborhood.
    - ii. The location of principal and accessory buildings on the site in relation to one another and to other structures and uses in the vicinity, including bulk and height.
    - iii. The provision for pedestrian circulation and open space in the planned development.
    - iv. The traffic circulation features within the site, including the amount of, location of and access to automobile parking and terminal loading areas.

## TOWN OF GAINES ZONING LOCAL LAW

- v. The amount of traffic generated at peak hours and the provisions for adequately handling such volumes, with particular reference to points of ingress and egress, potential hazards, such as inadequate sight distances and intersection design, and the nature and suitability of the connecting street or highway system to absorb the anticipated changes.
  - vi. The provision for storm, sanitary and solid waste disposal and other utilities on the property adjacent to the site.
  - vii. The proposed landscaping and signage.
  - viii. The manner in which the physical design makes adequate provision for service demands (water, sewer, fire, etc.), adequate traffic control and the amenities of light, air and visual enjoyment.
- c) All conditions imposed by the Town Board in establishing the planned district and in the approval of plans and all subsequent conditions imposed by the Planning Board or Town Board in reviewing the final site plans will run with the land and will not lapse or be waived because of ownership or tenancy change in any or all of the designated district.
  - d) The Town Board has the authority to again amend the map to restore the district to its original zoning designation or any other designation if site plan approval is not granted within three years. The Town Board may extend the three-year period.
  - e) If a building permit application for the development in accordance with the approved site plans and specifications has not been filed within one year after the date of the resolution authorizing site plan approval, site plan approval will become null and void and the approval will be revoked and vacated.

### ARTICLE VI: REGULATIONS APPLICABLE TO ALL DISTRICTS

#### SECTION 600 SIGNS

## TOWN OF GAINES ZONING LOCAL LAW

- A. Statement of Purpose.** The purpose of this section is to promote the public health, safety and welfare of the community by regulating the placement and size of outdoor signs and advertising displays. It is intended to protect all property values by ensuring that individual signs do not detract from the overall appearance and safety of the community.

**B. Applicability.**

1. Permit required. It is unlawful for any person to erect, enlarge, relocate or change the copy of any sign other than those identified as exempt in this section, without first obtaining a sign permit and paying the fee therefor as provided in this section. Routine maintenance of existing signs, not involving erection, enlargement, relocation or change of copy, will not require a permit.
2. All signs must be located on the same lot as the permitted use and be clearly incidental, customary and commonly associated with the operation of the permitted use, unless an off-premises sign is permitted with a Special Use Permit.
3. Off-premises signs will meet the following criteria:
  - (a) Any sign located within a public right-of-way requires a permit from the State, County or municipality.
  - (b) Any sign located on private property requires permission of the landowner.
  - (c) Only one off-premises sign is permitted.



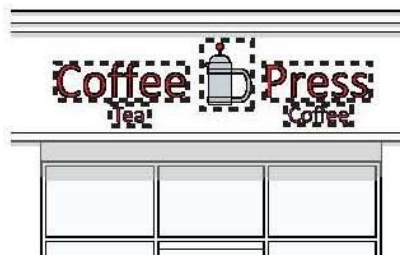
**C. Application for Permit.**

1. Application must be made in writing to the Code Enforcement Officer on forms prescribed and provided by the Town of Gaines and must contain the following information:

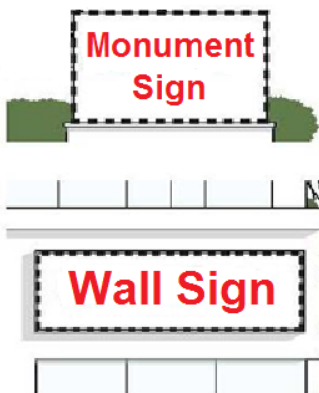
## TOWN OF GAINES ZONING LOCAL LAW

- (a) Name address and telephone number of applicant and property owner.
- (b) Location of building, structure or land upon which the sign now exists or is to be erected.
- 2. If a new sign is to be erected, elevation and plan drawings should be included. A clear description of the placement and appearance of the proposed sign should include the following:
  - (a) Location on the premises, specifically, its position in relation to adjacent buildings, structures and property lines.
  - (b) The method of illumination, and position of lighting.
  - (c) Graphic design, including symbols, letters, materials, and possible color combinations.
- 3. If the sign is in compliance, the Code Enforcement Officer will issue a permit for the proposed or existing sign. The Code Enforcement Officer must give written notice to the applicant if the sign application has been denied.
- D. Common Sign Plan.** A common sign plan must be filed with the Code Enforcement Officer for all sites occupied by more than one tenant. After the filing of a common sign plan, all tenant signs must meet the requirements of the common sign plan.
- E. Computation of Sign Type Area.** The area of a sign type is determined as follows:

- 1. For signs consisting of freestanding letters or logos, sign area is calculated as the total area of the rectangle, circle or square that fully encloses each word or logo.



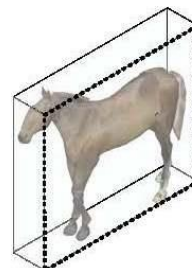
- 2. For wall signs and signs on a background, the entire area of the background is calculated as sign area, including any material or color forming the sign face and the background used to differentiate the sign from the structure against which it is mounted. Sign area does not include any supports or bracing.



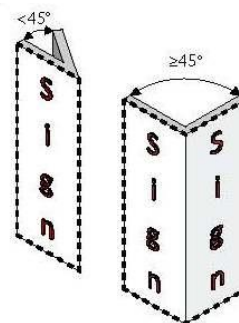


## TOWN OF GAINES ZONING LOCAL LAW

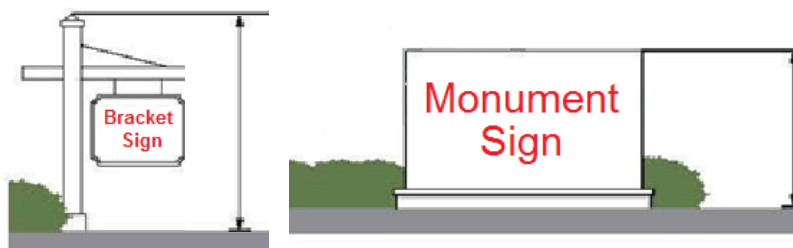
3. The sign area of a three-dimensional sign is calculated as total area of the smallest rectangle, circle or square that fully encloses the largest profile of the three-dimensional sign.



4. The area for a sign with more than one face is computed by adding together the area of all sign faces, except where the angle at which the two sign faces are placed does not exceed 45 degrees.



- F. **Measurement of Sign Height.** The total height of a freestanding sign is measured from the highest point of the sign or supporting structure to the adjacent grade.



- G. **Fees.** Fees for sign permits will be as set by resolution of the Town Board.
- H. **Permitted Signs.** All signs will be allowed that comply with the provisions and conditions set forth in this Section, and all signs not so compliant are specifically prohibited.
- I. **Exempt Signs.** The following signs are considered to be exempt from obtaining a permit, but not exempt from the provisions of this section. Exempt signs of a temporary nature must not be attached to fences, utility poles or the like and must not impair traffic visibility. Exempt signs, not in compliance with the provisions of Subsections (1) through (5) below may not continue after the effective date of any amendment of this section.
1. Historical markers, tablets and statues, memorial signs or plaques; when cut into masonry surface or when constructed of bronze, stainless steel or similar material and not exceeding six square feet.
  2. Flags
  3. Non-illuminated warning, private drive, posted or no trespassing signs, not exceeding two square feet per face.

## TOWN OF GAINES ZONING LOCAL LAW

- (a) "Warning," "private drive," "posted" or "no trespassing" signs must not be in excess of four feet in height and must not be in excess of two square foot per face. A maximum of one posted, "warning" or "no trespassing" sign will be permitted to be placed along the perimeter of property lines at intervals not less than 100 feet apart. This restriction will not apply to properties owned by public entities or utility companies.
- 4. Temporary signs (window, posters, lawn, and directional) not exceeding 60 days, and per the overall area allocation in Sec. M below.
- 5. Decorations, including lighting.

### **J. Prohibited Signs**

- 1. No off-premises signs will be allowed other than those allowed in accordance with an approved Special Use Permit.
- 2. No sign will be illuminated by or contain flashing, rotating, scrolling, strobing, or moving lights.
- 3. No sign will impair or cause confusion of vehicular or pedestrian traffic, in its design color or placement.
- 4. No sign will be placed upon the roof of any building.
- 5. No sign will consist of or simulate moving, revolving or fluttering devices such as ribbons and streamers.
- 6. No advertising message will be extended over more than one sign placed along a street or highway.
- 7. No signs will be attached to utility poles in all zones of the Town of Gaines. No permanent, temporary or exempt signs will be attached, placed, painted or drawn upon fences, trees or man-made or natural features, including permanent, temporary or exempt signs.
- 8. No signs will be placed anywhere within the Town or State rights-of-way without the permission of the Code Enforcement Officer, excepting awning signs, canopy signs, projecting signs, and shingle signs in commercial, industrial and planned development districts not exceeding six square feet and sidewalk signs not exceeding 20 square feet in commercial industrial and planned development districts. All signs must be a minimum of 18 inches inside the street line.

## TOWN OF GAINES ZONING LOCAL LAW

### K. Portable and Temporary Signs

1. Any portable or temporary signs powered by electricity must meet all the construction standards of the New York State Uniform Fire Prevention and Building Code.
2. A portable or temporary sign must not exceed 32 square feet in size. The bottom of the sign must be no higher than five feet above grade.
3. Except as provided in paragraph 4. below, portable and temporary signs must be removed after 60 days.
4. Political signs associated with a Town, County or Statewide election may not be erected earlier than 45 days prior to the date of the election and must be removed within 7 days following the election.

### L. Sign Types Allowed by District. Signs are allowed by district as set forth below. Specific requirements for each sign are shown on the following pages.

Sign Types	RA	R-1	C	CH	I
Wall Sign	●		●	●	●
Awning Sign			●	●	●
Canopy Sign			●	●	●
Projecting Sign	●		●	●	
Shingle Sign	●	●	●	●	
Window Sign			●	●	●
Pole Sign			●		
Monument Sign	●		●	●	●
Marquee Sign			□		
Iconic Sign			□	●	
Bracket Sign	●		●	●	●
Sidewalk Sign			●	●	

KEY: ● = Sign type allowed   □ = Sign type allowed on State highways   Blank Cell = Sign type not allowed

## TOWN OF GAINES ZONING LOCAL LAW

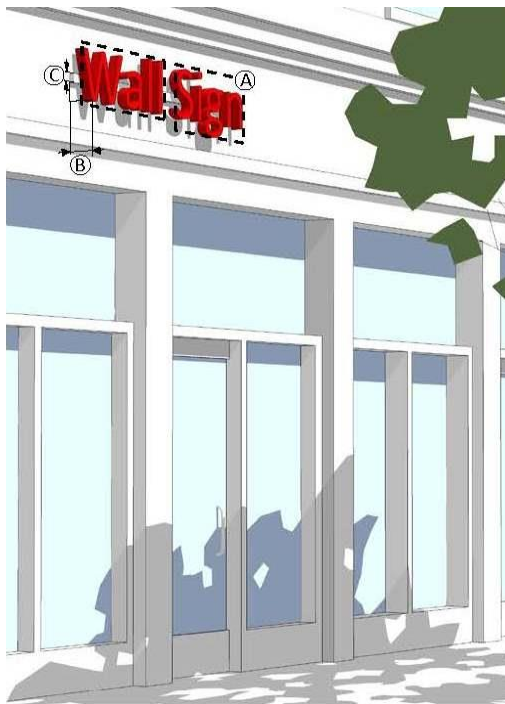
### M. Allocation of Overall Sign Area

The maximum sign area allocation for each sign type is determined by the district and is established below. For each cell, there is a maximum sign area allocation that may be utilized with any combination and any number of signs associated with that cell, except for only one free standing sign per 200 feet of street frontage and one building mounted sign per establishment per building wall visible from a public right-of-way is allowed (awning and window signs excluded). The total area of wall or canopy signs must not exceed what would be allowed on the largest wall visible from the public right-of-way. Sign area is measured in square feet or percentage of wall area and total window space for window signs.

Sign Types	RA	R-1	C	CH	I
Wall Sign	15%		15%	15%	15%
Awning Sign	25%		25%	20%	20%
Canopy Sign	25%		25%	20%	20%
Projecting Sign	10 sf		10 sf	10 sf	10 sf
Shingle Sign	10 sf	2 sf	10 sf	10 sf	10 sf
Window Sign	25%		25%	25%	25%
Pole Sign	36 sf		36 sf		
Monument Sign	36 sf		36 sf	15 sf	15 sf
Marquee Sign	100 sf		100 sf		
Iconic Sign	36 sf		36 sf	15 sf	
Bracket Sign	10 sf		10 sf	10 sf	10 sf
Sidewalk Sign	20 sf		20 sf	20 sf	
Temporary Sign	32 sf	9 sf	32 sf	32 sf	32 sf

## TOWN OF GAINES ZONING LOCAL LAW

### N. Wall Signs.



Description		
A sign placed or painted against a building and attached to the exterior front, rear or side so that the display surface is parallel to the plane of the wall.		
General Provisions		
<ol style="list-style-type: none"> <li>1. No portion of a wall sign may extend beyond the ends, above the roof line, above a parapet wall of a building with a flat roof, or above the second story in a building with more than two stories.</li> <li>2. No portion of a wall sign may extend above the lower eave line of a building with a pitched roof.</li> <li>3. A wall sign cannot cover windows or architectural details.</li> <li>4. A wall sign may be illuminated in accordance with <u>Sec. Z below</u>.</li> </ol>		
Standards		
A	Overall area allocation (max)	<u>Sec. M above</u>
B	Projection - measured from building facade (max)	15 in.
C	Electrical raceway (max % of letter height)	50%

## TOWN OF GAINES ZONING LOCAL LAW

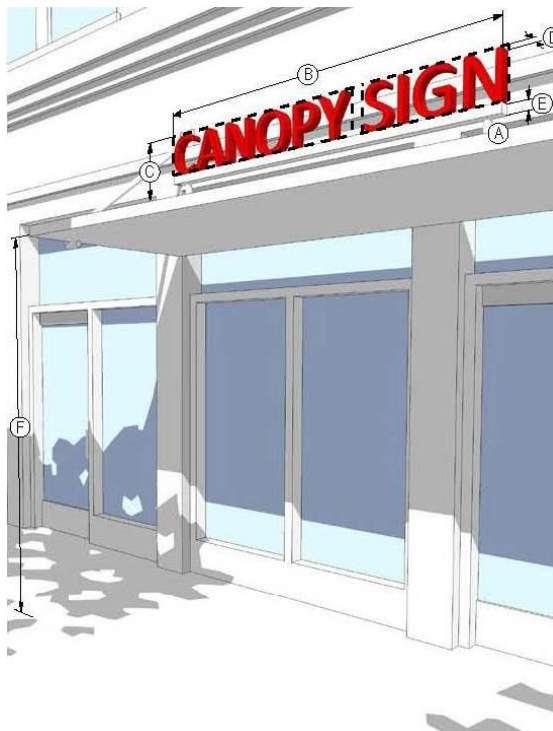
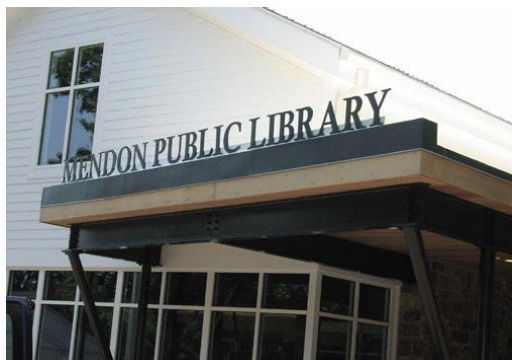
### O. Awning Signs.



Description		
A sign where graphics or symbols are painted, sewn, or otherwise adhered to the awning material as an integrated part of the awning itself.		
General Provisions		
<ol style="list-style-type: none"> <li>1. An awning sign cannot extend outside the awning.</li> <li>2. Only awnings over ground story doors or windows may contain signs.</li> <li>3. A maximum of one sign is allowed per awning face per establishment.</li> <li>4. Signs are only allowed in the vertical areas of the awning.</li> <li>5. An awning sign may only be externally illuminated in accordance with <u>Sec. Z</u> below.</li> </ol>		
Standards		
A	Overall area allocation (max)	<u>Sec. M above</u>
B	Width (max % of awning width/depth)	75%
C	Height of text and graphics on valance (max)	2 ft.

## TOWN OF GAINES ZONING LOCAL LAW

### P. Canopy Signs.

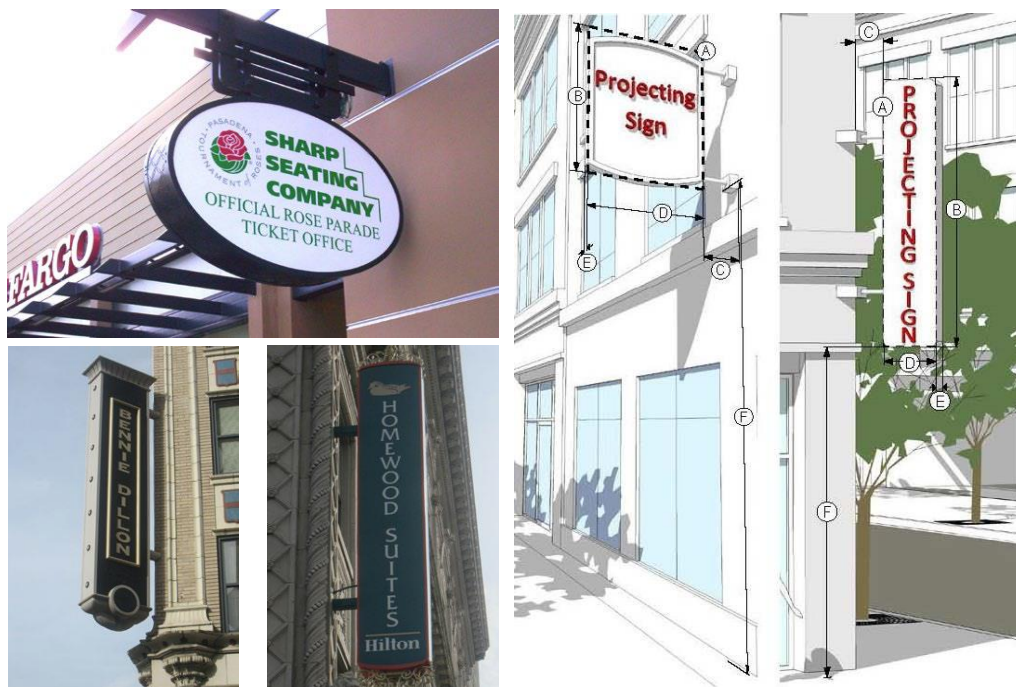


Description		
A sign placed on a canopy so that the display surface is parallel to the plane of the wall.		
General Provisions		
<ol style="list-style-type: none"> <li>1. A canopy sign cannot extend outside the overall length or width of the canopy. However, a canopy sign may extend above or below the canopy.</li> <li>2. A maximum of one sign is allowed per canopy per establishment.</li> <li>3. A canopy sign must be located over an accessible building entrance.</li> <li>4. Electrical raceways are permitted for signs extending below or above the canopy. Otherwise, electrical raceways are not permitted and the sign must be flush with the canopy face.</li> <li>5. A canopy sign may be illuminated in accordance with <u>Sec. Z</u> below.</li> </ol>		
Standards		
A	Overall area allocation (max)	<u>Sec. M above</u>
B	Width (max % of canopy width)	75%
C	Height of text and graphics (max)	2 ft.
D	Depth (max)	1 ft.
E	Electrical Raceway (max % of letter height)	50%
F	Clear height above sidewalk (min)	10 ft.



## TOWN OF GAINES ZONING LOCAL LAW

### Q. Projecting Signs.



#### Description

A sign attached to the building facade at a 90-degree angle, extending more than 15 inches. A projecting sign may be two or three-dimensional.

#### General Provisions

1. A projecting sign must be located at least 25 feet from any other projecting sign.
2. A projecting sign may be erected on a building corner when the building corner adjoins the intersection of two streets. Allocation of sign area from both streets may be used; however, in no case can the sign exceed the maximum height and width standards.
3. The top of a projecting sign can be no higher than the top of the building. However, on one story buildings, the top of a projecting sign may have a maximum of 20% of the sign height above the top of the building.
4. Buildings four stories and higher, a projecting sign must be located below the window sills of the 4th story.
6. A projecting sign may be illuminated in accordance with Sec. Z below.

#### Standards

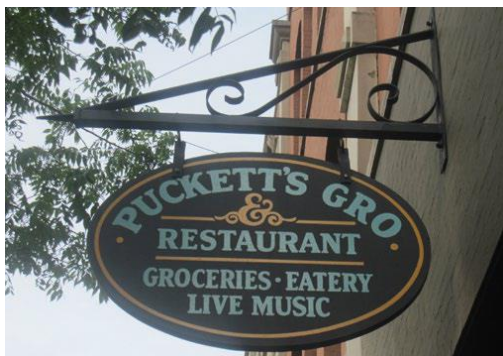
A	Overall area allocation (max)	<u>Sec. M above</u>
B	Height <sup>(1)</sup> (max)	
	Mounted below 2nd floor	4 ft.
	Mounted on 2nd or 3rd floor	8 ft.
C	Spacing from building facade (min/max)	1 ft./2 ft.
D	Projection width (max)	6 ft.
E	Depth (max)	1 ft.
F	Clear height above sidewalk (min)	10 ft.

(1) If a sign is mounted across two floors then the maximum height is the average of the maximum heights for each respective floor.



## TOWN OF GAINES ZONING LOCAL LAW

### R. Shingle Signs.



Description		
A small projecting sign that hangs from a bracket or support.		
General Provisions		
<ol style="list-style-type: none"> <li>1. A shingle sign must be located within 5 feet of an accessible building entrance.</li> <li>2. The hanging bracket must be an integral part of the sign design.</li> <li>3. A shingle sign must be located below the window sills of the second story on a multi-story building or below the roof line on a single-story building.</li> <li>4. A shingle sign cannot be illuminated.</li> </ol>		
Standards		
A	Overall area allocation (max)	<u>Sec. M above</u>
B	Height (max)	3 ft.
C	Spacing from building facade (min/max)	6 in./12 in.
D	Projection width (max)	3.5 ft.
E	Depth (max)	6 in.
F	Clear height above sidewalk (min)	10 ft.

## TOWN OF GAINES ZONING LOCAL LAW

### S. Window Signs.



Description		
A sign visible from a sidewalk, street or other public place, painted or affixed on glass or other window material, or located inside within four feet of the window, but not including graphics in connection with customary window display of products.		
General Provisions		
<ol style="list-style-type: none"><li>1. Windows signs are only allowed on ground and second story windows and doors, except that second story windows signs are only allowed if for a different establishment than that of the ground story and if no other sign is attached to the building for that establishment.</li><li>2. A window sign can only be internally illuminated in accordance with <u>Sec. Z</u> below.</li><li>3. Overall area allocation will be calculated for all windows per floor, per establishment, per side of the building.</li></ol>		
Standards		
A	Overall area allocation (max)	<u>Sec. M above</u>

## TOWN OF GAINES ZONING LOCAL LAW

### T. Pole Signs.



Description		
A freestanding sign constructed on a structure of one or more poles.		
General Provisions		
<ol style="list-style-type: none"> <li>1. One pole sign is allowed per street frontage, except that one additional monument sign is allowed for properties with 200 feet or more of street frontage. Where more than one monument sign is permitted, signs along the same street frontage must be spaced a minimum of 150 feet apart.</li> <li>2. A pole sign must be set back at least 5 feet from any property line.</li> <li>3. A pole sign may be illuminated in accordance with <u>Sec. Z</u> below.</li> </ol>		
Standards		
A	Overall area allocation (max)	<u>Sec. M above</u>
B	Height (max)	25 ft. (C-2), 18 ft. (I-2)
C	Vertical clearance (min/max)	10 ft./15 ft.

## TOWN OF GAINES ZONING LOCAL LAW

### U. Monument Signs



Description		
A freestanding sign attached to the ground along its entire length to a continuous pedestal. A monument sign is horizontally oriented or is square.		
General Provisions		
<ol style="list-style-type: none"> <li>1. One monument sign is allowed per street frontage, except that one additional monument sign is allowed for properties with 200 feet or more of street frontage. Where more than one monument sign is permitted, signs along the same street frontage must be spaced a minimum of 150 feet apart.</li> <li>2. A monument sign must be set back at least 5 feet from any property line, except for signs in the Land Conservation (L) District where the sign has to be 10 feet from any property line.</li> <li>3. A sign erected on a retaining wall is required to meet the standards for a monument sign. The height of the wall is included in the overall height calculation.</li> <li>4. A monument sign may be illuminated in accordance with <u>Sec. Z</u> below.</li> </ol>		
Standards		
A	Overall area allocation (max)	<u>Sec. M above</u>
B	Height (max)	6 ft.
C	Depth (max)	18 in.



# TOWN OF GAINES ZONING LOCAL LAW

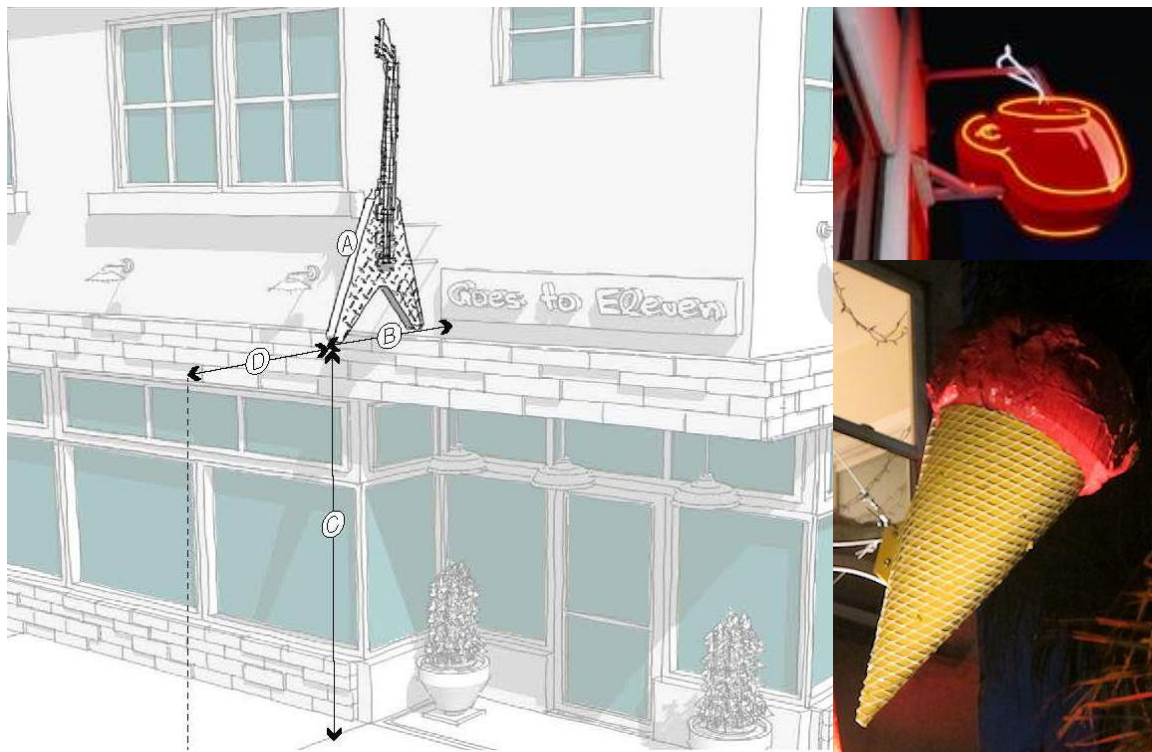
## V. Marquee Signs



Description		
A sign attached to the top or the face of a permanent roof-like structure.		
General Provisions		
<ol style="list-style-type: none"> <li>1. A maximum of one marquee sign is permitted per building. Only the following types of establishments may erect a marquee sign: assembly, large or small; cultural facility; school, college/university; hotel/ hostel; amusement facility, indoor or outdoor; or live entertainment.</li> <li>2. A marquee may be erected over a main entrance only, and may be no wider than the entrance over which it is erected, plus five feet on each side.</li> <li>3. A marquee sign must be supported solely by the building to which it is attached. No exterior columns or posts are permitted as supports.</li> <li>4. All marquees, including anchors, bolts, supporting rods and braces, must be constructed of non-combustible material and must be designed by a licensed design professional.</li> <li>5. Water from the marquee roof must not drain, drip, or flow onto the surface of a public right-of-way. Sufficient gutters, downspouts, and drains must be installed as part of each marquee to prevent water from flowing onto the surface of a public right-of-way.</li> <li>6. A marquee sign may be illuminated in accordance with <u>Sec. Z</u> below.</li> </ol>		
Standards		
A	Overall area allocation (max)	<u>Sec. M above</u>
B	Vertical clearance from sidewalk level (min/max)	10 ft.
C	Setback from curb line (min)	18 in.

# TOWN OF GAINES ZONING LOCAL LAW

## W. Iconic Signs



### Description

A sculptural, typically three-dimensional sign whose form suggests its meaning, and which can either be building-mounted or freestanding.

### General Provisions

1. A maximum of one iconic sign is permitted per establishment.
2. An iconic sign may contain only iconographical elements representing a product or service offered on site, and may not contain any other items of information.
3. The top of an iconic sign can be no higher than the top of the building. However, on one story buildings, the top of an iconic sign may have a maximum of 20% of the sign height above the top of the building.
4. Buildings four stories and higher, an iconic sign must be located below the window sills of the 4th story.
5. An iconic sign may be illuminated in accordance with Sec. Z below.

### Standards

A	Overall area allocation (max)	<u>Sec. M above</u>
B	Projection from wall (max, including supports)	5 ft.
C	Vertical clearance from sidewalk level (min)	10 ft.
D	Setback from curb line (min)	18 in.

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## X. Bracket Signs.



Description		
A freestanding sign attached to the ground by one or more support structures that is not higher than 5 feet and hangs from a bracket or support.		
General Provisions		
<ol style="list-style-type: none"> <li>1. Only one bracket sign is allowed per building.</li> <li>2. A bracket sign must be located at least 25 feet from any other bracket sign.</li> <li>3. The hanging bracket must be an integral part of the sign design.</li> <li>4. A bracket sign can only be externally illuminated in accordance with <u>Sec. Z</u> below.</li> </ol>		
Standards		
A	Overall area allocation (max)	<u>Sec. M above</u>
B	Sign structure height (max)	5 ft.
C	Sign area height (max)	3 ft.
D	Sign area width (max)	3 ft.
E	Sign structure/area depth (max)	6 in.

# TOWN OF GAINES ZONING LOCAL LAW

## Y. Sidewalk Signs.



Description		
A moveable sign not secured or attached to the ground or surface upon which it is located.		
General Provisions		
<ol style="list-style-type: none"> <li>1. Sidewalk signs do not require a permit but must be taken inside the place of business at the close of business.</li> <li>2. A sidewalk sign must be located at least 25 feet from any other sidewalk sign.</li> <li>3. Sidewalk signs cannot obstruct vehicular, bicycle or pedestrian traffic and must comply with ADA clearance and accessibility.</li> <li>4. A sidewalk sign cannot be illuminated.</li> </ol>		
Standards		
A	Overall area allocation (max)	<u>Sec. M above</u>
B	Height (max)	5 ft.
C	Width (max)	4 ft.



# TOWN OF GAINES ZONING LOCAL LAW

## Z. Sign illumination.

Illumination of signs must be in accordance with the following requirements.

### 1. External Illumination

- (a) Lighting directed toward a sign must be shielded so that it illuminates only the face of the sign and does not shine directly onto public right-of-way or adjacent properties.
- (b) Projecting light fixtures used for externally illuminated signs must be simple and unobtrusive in appearance, and not obscure the sign.

### 2. Internal Illumination

- (a) The background must be opaque or a darker color than the message of the sign.

### 3. Exposed Neon

- (a) Exposed neon may be used for lettering or as an accent, except in the CH District

### 4. Backlit Illumination

- (a) Light can be white or a color
- (b) Background surface that the light shines onto will not be reflective

### 5. Prohibited Light Sources.

The following light sources are not allowed:

- (a) Blinking, flashing and chasing.
- (b) Bare bulb illumination except for Marquee Signs.

### 6. Electrical Raceways and Transformers

- (a) If a raceway is necessary, it cannot extend in width or height beyond the area of the sign.
- (b) A raceway must be finished to match the background wall or canopy, or integrated into the overall design of the sign.
- (c) Visible transformers are not allowed.



External light sources



Internally lit channel letters



Back lit channel letters



# TOWN OF GAINES ZONING LOCAL LAW

## 7. Electronic Message Boards

- (a) Electronic message boards are allowed as part of a permanent freestanding sign and can only comprise as much as 30% of the total square footage permitted in Sec. M above.
- (b) One electronic message board is allowed per street frontage and will also be considered a pole or monument sign per the density/spacing provision in those sections above.
- (c) An electronic message board may not change or move more often than once every hour.
- (d) The images and messages displayed must be static and must not produce the illusion of scrolling, moving objects, expanding or contracting shapes, rotation or any similar effect of animation.
- (e) The transition from one static display to another must be instantaneous without any special effects.
- (f) The images and messages displayed must be complete in themselves, without continuation in content to the next image or message or to any other sign.
- (g) An electronic message board must be designed and equipped to freeze the device in one position if a malfunction occurs. The displays must also be equipped with a means to immediately discontinue the display if it malfunctions, and the sign owner must immediately stop the dynamic display when notified by the Town that it is not complying with the standards of this law.
- (h) An electronic message board must not be brighter than is necessary for clear and adequate visibility.
- (i) An electronic message board must not be of such intensity or brilliance as to impair the vision of a motor vehicle driver or to otherwise interfere with the driver's operation of a motor vehicle.
- (j) An electronic message board must not be of such intensity or brilliance that it interferes with the effectiveness of an official traffic-control sign, device or signal.
- (k) An electronic message board must be equipped with a mechanism that automatically adjusts the brightness in response to ambient conditions.
- (l) An electronic message board must not be equipped with audio speakers, excluding two-way communication devices.
- (m) Electronic message boards (except static numeric signs) require an annual permit to defray the Town's cost to monitor and regulate their operational mode in accordance with the provisions of this chapter. Failure to obtain and maintain such annual permit



## TOWN OF GAINES ZONING LOCAL LAW

will constitute a violation and the operation of the sign must be terminated. The cost of this permit will be established as deemed appropriate through approval of Town Board resolutions.

- (n) If any electronic message board under annual permit is found to be in violation of the operational restrictions/regulations as stipulated in this section, the person affected by the notice of violation or order issued in connection with the enforcement of any provision of this section, may request and will be granted a hearing before the Town Planning and Development Committee, provided that such person will file in the Code Enforcement Officer a written request for such hearing, setting forth a brief statement of the grounds therefor, designating the person and his or her address upon whom orders may be served, and setting forth the reasons why such notice of violation or order should be modified or withdrawn.

### 8. Illumination Types Allowed by District.

Illumination Types						
	AR	R-1	C-1	C	CH	I
External Illumination	●	●	●	●	●	●
Internal Illumination			●	●		●
Backlit Illumination			●	●		●
Exposed Neon				●		
Electronic Message Board				□		□

KEY: ● = Allowed Blank Cell = Not allowed

□ = Allowed on State highways except where parcel is adjacent to the CH District

#### AA. Nonconforming Signs.

1. Any sign or other advertising structure lawfully in existence on the date this amendment to this section is enacted or the effective date of any amendment to this section may continue and must be maintained.
2. An existing sign may change the face or panel of the sign that does not meet the area or height standards of this law. However, in no instance can there be an increase in the degree of nonconformity. All new panels must conform to all illumination standards of Sec. Z above.
3. A sign must be brought into compliance with this law if at any time the sign is altered, repaired, restored or rebuilt to the extent that the cost exceeds 50% of the estimated replacement cost of the sign (in current dollar value). All sign permits within any 6 consecutive calendar months will be aggregated for purposes of measuring the 50% standard.
4. If the repair is caused by involuntary damage or casualty and not deferred maintenance, the sign may be repaired to any extent.

**BB. Removal of Signs.** Any sign, existing on or after the effective date of this amendment to this section, which is no longer associated with the establishment upon which such a sign is located,

## TOWN OF GAINES ZONING LOCAL LAW

or is unsafe must be removed within 30 days upon written notice from the Code Enforcement Officer.

**CC. Maintenance.** All signs must be maintained in such a condition so as to not constitute a danger to the public health, safety or welfare. The Code Enforcement Officer will inspect and have the authority to order the painting, repair and alteration or removal of signs which become dilapidated or are abandoned, or which constitute physical hazard to the public safety.

**DD. Construction Standards.** All signs must be constructed and installed in conformance with the New York State Uniform Fire Prevention and Building Code. Separate certification may be required for illuminated signs indicating compliance with the National Electrical Code (NFPA 70). The Code Enforcement Officer will have the option to require a review by the Town Engineer. If the Town Engineer finds the mounting technique questionable, a professional review by a New York State registered engineer would be required.

**EE. Appeal procedures.** Any person aggrieved by a decision of the Code Enforcement Officer relative to dimensional provisions of this section may appeal such decision by applying for an area variance. The Code Enforcement Officer will refer the application to the Zoning Board of Appeals for approval or denial. In granting a variance, the Zoning Board of Appeals must determine that the sign is in harmony with the general purposes of this section, does not harm the neighborhood character, and is not detrimental to public health, safety or welfare. The Zoning Board of Appeals should also consider the benefit to the applicant versus the detriment to the community in the granting of any variance.

**FF. Substitution Clause.** The owner of any sign which is otherwise allowed by this law may substitute noncommercial copy in lieu of any other commercial or non-commercial copy. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over non-commercial speech, or favoring of any particular non-commercial message over any other non-commercial message. This provision prevails over any more specific provision to the contrary.

### SECTION 605 OFF-STREET PARKING AND LOADING REGULATIONS

#### A. Parking

This section is designed to alleviate problems occasioned by inadequate or poorly designed parking facilities.

1. All uses must provide adequate off-street parking for all vehicles parked during typical peak use periods. Parking areas must be designed and maintained to minimize the need to back out onto public roads and to minimize parking along the shoulders of public roads.
2. No parking space will be less than 9'x18', exclusive of access ways and driveways.
3. Off-street parking areas for non-residential uses must provide clearly delineated access drives and aisles. Parking areas with parking spaces for fifty (50) or more vehicles must delineate fire lanes and must not include any parking meters.

#### B. Minimum Parking Standards



## TOWN OF GAINES ZONING LOCAL LAW

The minimum number of parking spaces specified below are intended as guides. The number of spaces will be determined by the Planning Board during Site Plan Review.

1. One parking space for every three seats in a public meeting place.
2. One parking space for each employee at places of employment and one parking space per two hundred and fifty (250) square feet of gross floor area in a commercial establishment unless otherwise specified in the approved Site Plan.
3. One parking space for every two hundred (200) square feet of gross floor area in business and professional offices.
4. One parking space for every one (100) square feet of gross floor area in supermarkets and self-service food stores.
5. All business (to include Permitted Uses, Special Use and Use Variance Permit) must provide space for "turnaround" capabilities to prevent backing out onto a public road.

### SECTION 610 FENCES

Fences erected in the Town of Gaines must conform to the following standards unless otherwise specified in this Local Law:

- A. Fences may be erected, altered or reconstructed to a height not exceeding six (6) feet for residential uses and to a height not exceeding eight (8) feet for non-residential uses.
- B. No fence will obstruct vision at any road, street or thoroughfare intersection.
- C. Fences constructed in Residential/Agricultural (RA) District must be made of wood, vinyl and/or metal and must either be pressure treated, painted or stained to prevent rust, rot or deterioration from the weather. Any fence which is painted must be painted either white, brown, redwood or neutral color.
- D. No fence will be constructed without a building permit issued by the Code Enforcement Officer, except that a Zoning Permit is not required for the construction of a fence for agricultural purposes.
- E. For fences erected along or within six feet of a property line, the finished side of the fence must face the neighboring property.

### SECTION 615 NON-CONFORMING USES, LOTS, AND STRUCTURES

Lots, structures, uses of land and characteristics of use which lawfully existed at the time of the enactment of these regulations and which would be prohibited or restricted by this Local Law may be continued subject to the following provisions:

- A. **Enlargement:** No non-conforming use will be enlarged or increased, nor extended to occupy a greater area of land than was occupied at the effective date of the adoption of these regulations.
- B. **Unsafe Structures:** Any structure or portion thereof declared unsafe by a proper authority may be restored to a safe condition.

## TOWN OF GAINES ZONING LOCAL LAW

- C. **Alterations:** A non-conforming structure may not be reconstructed or structurally altered to an extent exceeding in aggregate cost fifty (50) percent of the full value of said structure, unless the structure is changed to a conforming use.
- D. **Structures under construction:** Structures now under construction for a designated non-conforming use may be completed in accordance with the approved Zoning Permit within one (1) year after this Local Law takes effect.
- E. **Reconstruction:** Any structure containing a non-conforming use which has been wholly or partially destroyed by means other than intent or design may be reconstructed or repaired within one (1) year and used for the non-conforming use existing prior to the destruction.
- F. **Discontinuance:** Whenever a non-conforming use has been discontinued or abandoned for one (1) year or more, the use is not permitted to be re-established. Any future use must conform to these regulations.
- G. **Changes:** Once a non-conforming use is changed to a conforming use, it will not be permitted to revert to a non-conforming use.
- H. **Displacement:** A non-conforming use must not be extended to displace a conforming use.
- I. **Moving:** If any structure is moved for any reason for any distance, it must conform to the requirements for the district in which it is located after it is moved.

### SECTION 620

### FARM LABOR HOUSING WITHIN AGRICULTURAL DISTRICTS

- A. Farm Labor Housing located within an Orleans County adopted, New York State certified Agricultural District requires Site Plan Review and approval pursuant to Article VII of this Local Law.
- B. All farm labor housing must continually comply with all applicable local, state and federal building codes, rules and regulations, including Health Department, Agriculture and Markets, H2A requirements, property maintenance codes and standards. All mobile homes used for farm labor housing must be in compliance with applicable HUD construction and safety standards in effect at the time of manufacture or must be inspected and approved by the Code Enforcement Officer to ensure that the premises are structurally sound and free of heating and electrical system defects. All farm labor housing must be connected to (a) either public water supply 6" system or private well water system inspected and approved by the Orleans County Health Department, and (b) either public sanitary sewage disposal system or private septic system inspected and approved by the Orleans County Health Department.
- C. The minimum front setback from any public street is one hundred (100) feet, except for Ridge Road, where the minimum front setback is one hundred and twenty-five (125) feet. Minimum side and rear setbacks are twenty-five (25) feet.
- D. Farm Labor Housing will be used only during the growing and harvesting season (May through November), except when the housing is needed for labor during other times of the year.
- E. At least fifty-one percent (51%) of the persons residing in the farm labor housing, as determined during an entire growing season, must be employed in connection with the owner's personal farming operations and not the farming operations of others.

## TOWN OF GAINES ZONING LOCAL LAW

- F. If manufactured or mobile homes used as farm labor housing remain unused or unoccupied for at least three (3) consecutive years, they will be deemed abandoned and must be removed from the premises at the owner's and/or applicant's expense.
- G. The requirements for Site Plan Review for farm labor housing is needed and intended to protect the general health, safety and welfare of the citizens of the Town of Gaines and not to unreasonably restrict farm structures or farming practices in contravention of the applicable provisions of the Agriculture and Markets Law of the State of New York.
- H. Farm Labor Housing is permitted only within the limits of an Orleans County adopted New York State certified Agricultural District and not on any other parcel of land within the Town of Gaines.

### SECTION 638 HOME OCCUPATIONS

Home Occupations are permitted in any legally permitted residence provided the following standards are maintained. Any occupation or business conducted out of a residence that exceeds the thresholds established in this Section require a special permit for a Home Business (See Special Permit Criteria in Section 1040)

- A. No person other than members of the immediate family or residents occupying such dwelling will be employed in connection with the home occupation.
- B. A home occupation must be conducted within a dwelling which is the bona fide residence of the principal practitioner or in any accessory building thereto.
- C. In no way will the appearance of the structure be altered or the occupation within the residence be conducted in a manner which would cause the premises to differ from its residential character either by the use of colors, materials, construction, lighting, signs, or the emission of sounds, noises, or vibrations.
- D. Outdoor display of goods or outside storage of equipment or materials used in the home occupation must be screened from view from neighboring properties and public rights-of-way.
- E. One sign will be permitted not to exceed 9 square feet and Section 600 sign regulations will apply.
- F. No more than 30 percent of the gross floor area of such residence will be used for conduct of a home occupation.
- G. Only one commercial type vehicle used in connection with the home occupation may be parked upon the premises.
- H. No use will create noise, dust, vibration, smell, smoke, glare, electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than that usually experienced in an average residential occupancy under normal circumstances wherein no home occupation exists.
- I. A home occupation will not be interpreted to include the following: commercial stables and kennels, mortuary establishments, garages or shops for the repair of motor vehicles and trades and businesses of a similar nature.

### SECTION 625 RESIDENTIAL DAY CARE

*December 2019*

## TOWN OF GAINES ZONING LOCAL LAW

The following regulations apply to "Family Day Care Home" and "Group Family Day Care " providers located in the Town of Gaines as defined under the heading Residential Day Care in Section 625 of this Local Law:

- A. Must be Licensed and Registered by the by the "Orleans County Department of Social Services".
- B. The operator of a "Family Day Care Home" or "Group Family Day Care" provider must register with Town of Gaines by providing a copy of the license and/or registration issued by the Orleans County Department of Social Services and a copy of the liability insurance certificate that covers the either the "Family Day Care Home" or " Group Family Day Care" provider to the Town Clerk. The home care provider must update the Town of Gaines of any changes to their license or registration.
- C. A "Family Day Care Home" and/or "Group Family Day Care" provider must meet all applicable provisions of the New York State Uniform Code, New York State Health Department Codes, and other New York State requirements for a Family Day Care Home or Group Family Day Care.

### SECTION 630 MOTOR VEHICLE STORAGE AND PRIVATE SALES

- A. Only one (1) unlicensed vehicle or one (1) vehicle that will not pass state inspection is allowed to be stored on any property in the Town of Gaines unless otherwise permitted with a Special Use Permit.
- B. Only one (1) motor vehicle for sale will be allowed to be displayed for sale for up to 60 days on any property in the Town of Gaines with no more than four (2) private sales occurring in any one calendar year.
- C. Motor vehicles may not be stored or displayed for sale on any premises that does not contain either a residential dwelling or other structure.
- D. This section does not apply to the storage or sale of agricultural or farm related vehicles on premises located in either in the RA district or within the boundaries of a NYS certified agricultural district.

### SECTION 635 YARD, PORCH AND GARAGE SALES

- A. No more than twelve (12) yard, porch or garage sales per household are permitted during a single calendar year.
- B. A yard, porch or garage sale may last up two weeks, including spanning two weekends. If the yard, porch or garage sale are only being held on the weekends, the merchandise should be stored or covered during the week and should not be visible to the public.
- C. Any yard, porch or garage sale lasting longer than two (2) weeks is considered a "Home Business" and requires a Special Use Permit in accordance with Section 1040.



## TOWN OF GAINES ZONING LOCAL LAW

### SECTION 640 TRAVEL TRAILERS/CAMPERS

- A. Occupancy of travel trailers and campers on an overnight basis is not permitted, except at an approved camping ground, or, with the consent of the owner, for a period not exceed ten (10) days on private land, provided all applicable health standards are met.
- B. Occupancy for periods longer than (10) days is permitted only upon receipt of a permit issued by the Code Enforcement Officer.

### SECTION 645 ARTIFICIALLY CONSTRUCTED PONDS

All ponds artificially constructed on property located in the Town of Gaines require Site Plan Review and are subject to the following regulations:

- A. Compliance with all DEC regulations.
- B. Compliance with Section 706 of Town of Gaines Zoning Local Law (Excavation and Mining).
- C. The minimum front setback from road is 150 feet
- D. The minimum side and rear setbacks from property lines is 25 feet.
- E. The following types of artificially constructed ponds are permitted:
  - 1. Recreational Ponds (artificially constructed ponds not used in an agriculture related business).
  - 2. Farm Ponds (artificially constructed ponds used in an agriculture related business)
  - 3. Ponds designed and maintained for stormwater management

### SECTION 650 TEMPORARY SPECIAL EVENTS

- A. Special Events, including, but not limited to, parades, concerts, and carnivals, require a permit issued by the Code Enforcement Officer.
- B. **The permit application for a special event must include** the following information:
  - 1. Type of special event
  - 2. Location of special event
  - 3. Dates and duration of the special Event (minimum of one day and maximum of 10 days)
  - 4. Name, Address and telephone number of the person requesting the Special Event permit.
  - 5. Drawings and other information as required to indicate the following:
    - a) Location and dimensions of off-street parking and turn-around
    - b) Location of sanitary facilities
    - c) A sketch plan showing the location of the proposed activities, structures and signs in relation to existing buildings, parking areas, streets and property lines.
    - d) A letter from the property owner or manager, if different from the applicant, agreeing to the special event.

## TOWN OF GAINES ZONING LOCAL LAW

6. Description of the proposed security for the event, emergency response plans, and other information that may be required by the Code Enforcement Officer to fully describe the proposed special event.
  7. Copy of Liability Insurance Certificate to cover Special Event
  8. Payment of the "Special Event Permit" fee (see Town of Gaines Fee Schedule).
  9. The Special Event Permit must be posted on the site for the duration of the event.
- C. Special Event Defined: The term "special event" means a temporary, short-term use of land or structures, not otherwise included as a permitted or accessory use by these Regulations, for one or more of the following types of activities:
- Type 1. Fund-raising or non-commercial events for nonprofit religious, educational, or community service organizations; including any on-site signs and structures in conjunction with the event.
  - Type 2. Temporary banners attached to the wall of a building or placed across street rights-of-way.
  - Type 3. Promotional activities or devices intended to attract attention to a specific place, business, organization, event or district, such as signs, searchlights or balloons.
  - Type 4. Commercial activities intended to sell, lease, rent or promote specific merchandise, services or product lines, such as a tent sale, trade show, farmers market, Christmas tree sales, or product demonstration.
  - Type 5. Public events intended primarily for entertainment or amusement, such as concerts, festivals, carnivals, circuses or parades; or large private events such as film production.
- The term "special event" does not include garage sales at an individual residence, transient merchants, or off-site promotional signs.
- A. Special Events Not Requiring a Permit: Type 1 Special events are allowed without a Special Event Permit, provided all of the following standards are met:
1. The special event is conducted entirely on private property owned or leased by the sponsoring organization as a permanent facility.
  2. Any structure use in conjunction with the special event will meet all applicable yard setbacks, have a valid Zoning Permit, and will be promptly removed upon cessation of the event.
  3. The hours of operation are limited to between 6:00 a.m. and 10:00 p.m. for a maximum duration of four (4) days, and to a maximum frequency for similar events of twelve (12) times per calendar year.
- D. Type 2 Special Events are permitted with an Administrative Special Event Permit issued by the Code Enforcement Officer, subject to the following standards.
1. No more than one banner will be displayed when attached to the wall of a building.
  2. The size and design of the banners will be appropriate given the size of the building to which they are attached and the character of the surrounding neighborhood.
  3. The banner will be displayed for a maximum duration of fifteen (15) days per permit.

## TOWN OF GAINES ZONING LOCAL LAW

- E. Type 3 or Type 4 Special Events meeting the definition, and Type 1 events that do not meet the standards of Paragraph C above, are permitted with an Administrative Special Event Permit issued by the Code Enforcement Officer, subject to the following standards. The Code Enforcement Office may consult with the Fire Chief, Sheriff, Town Highway Superintendent or other appropriate officials to determine whether the standards will be met.
  - 1. The special event will not cause undue traffic congestion or accident potential given anticipated attendance and the design of adjacent streets, intersections and traffic controls.
  - 2. The activity will not cause the overcrowding of parking facilities given anticipated attendance and the possible reduction in the number of available spaces caused by the event itself.
  - 3. The special event will not endanger the public health, safety, or welfare given the nature of the activity, its location on the site, and its relationship to parking and access points.
  - 4. The special event will not impair the usefulness, enjoyment or value of adjacent property due to the generation of excessive noise, smoke, odor, glare, litter or visual pollution.
  - 5. Any structure used in conjunction with the special event must meet all sight distance requirements, have a valid building permit, and must be removed within one week following the cessation of the event.
  - 6. The special event must be conducted on private property where the property owner has granted the appropriate permission.
  - 7. The duration and hours of operation of the special event must be consistent with the intent of the event and the surrounding land uses, but in no case will the duration exceed ten (10) days.
- F. Special Events Subject to Town Board Approval: The Town Board may grant a Special Event Permit for any special event that does not meet the criteria of Paragraphs C. or D. or E. Such permit may be subject to such conditions and safe guards as the Town Board may deem necessary to protect the public health, safety and welfare. These conditions may include, but are not limited to:
  - 1. Restrictions on the hours of operation, duration of the event, size of the activity, or other operational characteristic.
  - 2. The posting of a performance bond to help ensure that the operation of the event and the subsequent restoration of the site are conducted according to Town Board expectations.
  - 3. The provision of traffic control or security personnel to increase the public safety and convenience.
  - 4. Obtaining liability and personal injury insurance in such form and amount as the Town Board may find necessary to protect the safety and general welfare of the community.

### SECTION 655

### REQUIREMENTS FOR DWELLINGS

## TOWN OF GAINES ZONING LOCAL LAW

- A. All single family dwellings will have a gross habitable floor area of not less than 900 square feet. Manufactured homes in approved manufactured home parks are exempt from this requirement.
- B. All dwellings must have a concrete or masonry foundation that extends at least 42" inches below ground level.
- C. Any dwelling that does not have an attic or basement for storage must have a storage shed or garage on the lot. Such storage shed will provide necessary storage space to compensate for lack of attic and basement, and will have a minimum of 120 square feet and be anchored to a cement foundation.
- D. The minimum width of a dwelling, at its narrowest dimension, not including porches, patios or breezeways, will be twenty (20) feet, except that manufactured homes in approved manufactured home parks will have a minimum width of 14 feet. The width requirement will not be met by joining together, in any fashion, two or more manufactured homes.
- E. The exterior siding must consist of vinyl or aluminum lap siding, wood, masonite, or other materials similar to the exterior siding commonly used in standard residential construction.
- F. The construction and installation of all structures, including seasonal dwellings, manufactured homes and appurtenant utilities must conform to provisions of the Codes of New York State and all other applicable standards.

### SECTION 660 PROHIBITED USES

In order to protect the public health and safety of residents, to protect community character and to effectuate land use and planning objectives, the following operations, uses and activities are prohibited in the Town of Gaines:

- A. Hazardous waste treatment, storage or disposal facility
- B. Solid (including liquid) waste management facility (landfill, ash fill, solid waste incinerator, etc.)
- C. Excavation and mining are prohibited except in conformance with a Special Use Permit.
- D. Manufactured or mobile homes, travel trailers or travel campers used as a storage building and/or storage shed.

### SECTION 665 SEWAGE DISPOSAL

The improper disposal of sewage, including the discharge of sewage into a ditch, roadway, stream or lake or onto adjacent property, is prohibited.

### SECTION 670 ADDITIONAL REQUIREMENTS FOR COMMERCIAL USES

No commercial use or structure is permitted within fifty (50) feet of the nearest lot line of any residential district.

### SECTION 680 SATELLITE ANTENNA

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## TOWN OF GAINES ZONING LOCAL LAW

The following standards apply to the installation of a ground-mounted satellite antenna:

- A. The satellite antenna must be located within the proper setbacks of said property.
- B. The satellite antenna must be located on the side or in the rear of the primary residence.
- C. The satellite antenna must be effectively screened with shrubs and/or other natural vegetation.

### SECTION 691 SWIMMING POOLS

- A. Swimming pools may be installed only as accessory structures to a dwelling for the private use of the owners or occupants of such dwelling and their families and guests.
- B. No swimming pool will be installed or maintained unless:
  - 1. The pool is installed in the rear or side yard of the premises.
  - 2. The pool area must not occupy more than fifty (50) percent of the open area of the rear yard after compliance with all set-back restrictions.
  - 3. The pool complies with all applicable requirements of the NYS Uniform Code.

# TOWN OF GAINES ZONING LOCAL LAW

## SECTION 692

## UNSAFE BUILDINGS AND COLLAPSED STRUCTURES

### A. Purpose

It is recognized that buildings made unsafe as consequence of damage by the elements, fire, age or general deterioration and structures that have collapsed as a consequence of neglect, deterioration or damage pose a serious threat to life and property in the Town of Gaines. It is the purpose of this section to promote the health, safety and general welfare of persons and property in the Town of Gaines by requiring that any such unsafe building or collapsed structure be repaired or demolished and removed, in accordance with the provisions of this Section and those of the Codes of New York.

### B. PROCEDURE

1. **Investigation and Report:** When in his own opinion or upon receipt of information that a building (1) is or may become dangerous or unsafe to the general public (2) is open at the doorways and windows making it accessible to and an object of attraction to minors under eighteen years of age, as well as to vagrants and other trespassers, (3) is or may become a place of rodent infestation, (4) presents any other danger to the health, safety, morals and general welfare of the public or (5) is unfit for purposes for which it may be lawfully used the Code Enforcement Officer will cause or make an inspection thereof and report in writing to the Town Board his findings and recommendations in regard to its repair or demolition and removal.
2. **Town Board Order:** The Town Board will thereafter consider such report and by resolution determine, if in its opinion the report so warrants, that such building is unsafe and dangerous and order its repair if the same can be safely repaired or its demolition and removal, and further order that a notice be served upon the persons in the manner provided herein.
3. **Notice; Contents:** The notice will contain the following: (1) a description of the premises, (2) a statement of the particulars in which the building is unsafe or dangerous, (3) an order outlining the manner in which the building is to be made safe and secure, or demolished and removed, (4) a statement that a hearing will be held before the Town Board at a specified time and place and upon a minimum of fifteen (15) days notice, for the purpose of affording the owner or such other person who is entitled to notice pursuant to the provisions of subparagraph (d) hereof, the opportunity to be heard in opposition to the order, (5) a statement that the securing or removal of such building will commence within thirty (30) days after such hearing, or within thirty (30) days after notice of default has been served if the owner or such other person who is served with notice does not appear at the hearing, and will be completed within sixty (60) days after such hearing or within sixty (60) days after notice of default has been served, unless for good cause shown such time will be extended, (6) a statement that in the event of neglect or refusal of the person so served with the notice to comply with the same within the time periods specified in such notice, the Town of Gaines will repair and secure, or demolish and remove, the offending building and all charges incurred by the Town in connection with the same will be assessed in accordance with the provisions of subparagraph (f) hereof.
4. **Service of Notice:** The said notice will be served (a) by personal service of a copy thereof upon the owner, executor, administrator, agent, lessee, or any person having a vested or contingent interest in such unsafe building as shown by the records of the receiver of taxes or of the County Clerk; or if no such person can be reasonably found by mailing to

## TOWN OF GAINES ZONING LOCAL LAW

such owner or other person by registered mail a copy of such notice directed to this last known address as shown by the above records and (2) by personal service of a copy of such notice upon any adult person residing in or occupying said premises if such person can be reasonably found and (3) by securely affixing a copy of such notice upon the unsafe building.

5. **Filing of Notice:** A copy of such notice will be filed in the office of the County Clerk of the County in such building or structure is located, which notice will be filed by such Clerk in the same manner as a notice of pendency pursuant to Article Sixty-five of the Civil Practice Laws and Rules, and will have the same effect as notice of pendency as therein provided, except as otherwise herein after provided in this subparagraph. A notice so filed will be effective for a period of one year from date of filing, provided, however, that it may vacated upon the order of a Judge or Justice of a Court of record or upon the consent of the town attorney. The Clerk of the County where such notice is filed will mark such notice and any record or docket thereof as canceled of record upon the presentation and filing of such consent of a certified copy of such order.
6. **Assessment of Expenses:** All expenses incurred by the Town in connection with the proceedings to repair and secure or demolish and remove the unsafe building, including the cost of actually removing such building, will be assessed against the land on which such building is located, will be levied and collected in the same manner as provided in Article 15 of the Town Law for the levy and collection of a special ad valorem levy.
7. **Emergency Cases:** Where it appears that there is present a clear and imminent danger to the life, safety or health of any person or property, unless an unsafe building is immediately repaired and secured or demolished, the notice required by subparagraph (c) hereof will, in lieu of the requirements of subparagraphs (d) and (e) hereof, direct the owner of such other person as may be entitled to notice thereof to immediately repair and secure or demolish such unsafe building. Upon the failure or refusal of such owner or other person to repair or demolish such building within seventy-two (72) hours after service of such notice, the Town Board may by resolution authorize the Code Enforcement Officer to immediately cause such unsafe building to be repaired or demolished. The expense of such repair or demolition will be a charge against the land on which it is located and will be assessed, levied and collected as provided in subparagraph (f) hereof.

### SECTION 695

### FARM ANIMALS ON RESIDENTIAL LOTS

- A. The keeping, breeding, and raising of farm animals in association with a residential use, is permitted subject to the following restrictions:
  1. No stable, similar animal housing or confining areas is allowed on lots of less than five (5) acres.
  2. No structure housing such animals will be located closer than fifty (50) feet to any street or property line.
- B. These restrictions do not apply to farm operations located within certified Agricultural Districts excluding farm operations within certified Agricultural Districts

## TOWN OF GAINES ZONING LOCAL LAW

### SECTION 696

### AGRICULTURAL PACKING, PROCESSING AND DISTRIBUTION FACILITIES

- A. All facilities for receiving, processing and/or packaging agricultural products must be located at least 1000 feet from any residential lot line.
- B. All wastes and remnants must be disposed of in an environmentally safe manner that does not pollute the land, air or water, in accordance with the regulations of the New York State Departments of Health and Environmental Conservation.
- C. No noise, noxious odor, dust or unsightly appearance will be permitted to affect any nearby or adjacent property.



# TOWN OF GAINES ZONING LOCAL LAW

## ARTICLE VII: SITE PLAN REVIEW

### SECTION 700: SITE PLAN REVIEW REQUIRED

- A. Site Plan Review is required for all applications for:
  - 1. Structures with 4,000 sq. ft. gross floor area or larger
  - 2. Towers
  - 3. Non-residential uses (except for agriculture)
  - 4. Multi-family dwellings
  - 5. Special Use Permits
  - 6. Use Variances

### SECTION 710 APPLICATION FOR SITE PLAN APPROVAL

- A. Applications for site plan approval must be made in writing to the Code Enforcement Officer.
- B. The Code Enforcement Officer will transmit the application to the Planning Board.
- C. The Planning Board will determine whether the application is a “Minor” or “Major” site plan.

### SECTION 720 PRE APPLICATION CONFERENCE

- A. A Pre-application conference with the Town Code Enforcement Officer and the Planning Board is strongly recommended for all applicants seeking permits for nonresidential uses.
- B. Not every item listed under "Minor and Major" Site Plan may be needed on the Applicant's site plan. At the pre-application conference, the Board responsible will identify those items needed based on the scope, size and intensity of the project.

### SECTION 730 APPLICATION REQUIREMENTS

- A. Requirements for All Site Plans
  - 1. Title block showing the drawing title, date, name and address of applicant and person responsible for preparation of such drawing;
  - 2. North arrow, bar scale (a scale of not less than 1" = 100' will be used) and date;
  - 3. Boundaries of the property plotted to scale, including any proposed access ways and easements;
  - 4. Existing watercourses and bodies of water, including state and federal-jurisdictional wetlands;
  - 5. Existing and proposed contour lines (in one foot intervals) for the entire site;
  - 6. Existing and proposed grading and drainage, including any soil erosion and sediment control measures that will be used during construction;
  - 7. Existing and proposed location, use and height of all buildings and site improvements including culverts, drains, retaining walls and fences.

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8. Existing and proposed driveways, parking areas (including parking accessible to persons with disabilities, if required), gates and bollards at points of entry and exit;
9. Location, design and construction materials of all parking and truck loading areas showing points of entry and exit from the site;
10. Existing or proposed outdoor storage, if any;
11. Existing or proposed method of sewage disposal and location of the facilities on site plan;
12. Existing and proposed electrical utilities (above ground and underground) located on site plan.
13. Existing residential and non-residential structures located off-site and within 500 feet of the site boundaries;
14. Identification and location of water source, existing or proposed; If well, show location;
15. Location, size and design and construction materials of all existing or proposed signs;
16. Location and proposed development of all buffer areas, including existing and proposed vegetative cover;
17. Location and design of outdoor lighting facilities, both existing and proposed;
18. General landscaping plan.
19. Environmental Assessment Form as required by the State Environmental Quality Review
20. Provision for pedestrian access, if necessary;
21. Location of fire lanes and hydrants, if required;
22. Designation of the amount of building area proposed for retail sales or similar commercial activity;
23. Other elements integral to proposed development considered necessary by the Planning Board or the Town's Engineer may be required on the site plan.

### B. Additional Requirements for Large Projects (Major Site Plan)

In addition to the above requirements for all site plans, applications for Major Site Plan must include the following:

1. Five (5) copies of survey map prepared by a licensed Professional Engineer or licensed Land Surveyor and five (5) copies of construction drawings prepared by a Professional Engineer. All drawings must be signed and stamped by the Professional preparing them.
2. The Planning Board may require additional environmental review pursuant to SEQR to address potential impacts on the following: visual resources; historic resources; endangered species; bats, migratory birds or other wildlife; wetlands; streams, agricultural lands and/or farms; sound level and other pertinent subjects.
3. Applications for erection of Towers and/or Wind Turbines must delineate the fall zone perimeter depicted as a circle drawn around each tower. The Planning Board may

## TOWN OF GAINES ZONING LOCAL LAW

also require analysis on "Shadow Flicker", "Sound Pressure" and "Electromagnetic Interference".

### C. Documentation Required With All Site Plans

1. Manufacturer Product Information for equipment being installed.
2. Detailed project description, which should include days and hours of operation.
3. Construction schedule
4. Evidence of Property Ownership or Intent to Purchase or Lease.
5. List of Adjacent Property Owners, which should include names, addresses, mailing addresses and tax map numbers within 500 feet of Applicant's boundary lines.
6. Tax Map, showing location of Applicant's parcel and surrounding parcels, public and private roads within 500 feet of Applicant's parcel.

### D. Engineering Review Costs Borne by Applicant

1. The Town may authorize the Town Engineer to review the Applicant's engineer drawings and survey maps and the Town Engineer may require the applicant's drawings and/surveys to be updated. The cost of this review by the Town Engineer and any updating of engineer and/or survey drawings will be at the applicant's expense.
2. Pre-construction, construction and completion of the project may require on-site review and approval by the Town Engineer. The cost of these reviews will be borne by the Applicant.

## SECTION 740 SITE PLAN REVIEW PROCEDURES

- A. The Planning Board will review the application for Site Plan Review within 62 days of receiving the application.
- B. If satisfied that the site plan contains the required information and complies with all other applicable provisions of this Local Law, the Planning Board will either approve the site plan, or approve it subject to specified modifications. If the site plan does not contain the information required by Section 740 hereof or otherwise fails to comply with the requirements of this Local Law, the Planning Board will disapprove the site plan. Within ten days after rendering its decision, the Planning Board will mail a copy of the decision to the applicant.
- C. The Planning Board may require a public hearing in order to obtain public input on a proposed site plan.

## SECTION 750 CRITERIA FOR SITE PLAN APPROVAL

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## TOWN OF GAINES ZONING LOCAL LAW

- A. In reviewing the application for site plan approval, the Planning Board will consider the following:
1. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers and traffic controls.
  2. Adequacy and arrangement of pedestrian traffic access and circulation, walkways structures, control of intersections with vehicular traffic and overall pedestrian convenience.
  3. Location, arrangement, appearance and sufficiency of off- street parking and loading.
  4. Location, arrangement, size and design and general site compatibility of buildings, lighting and signs.
  5. Adequacy of storm water and drainage facilities.
  6. Adequacy of water supply and sewage disposal facilities.
  7. Adequacy, type and arrangement of trees, shrubs, and ' other landscaping constituting a visual and/or noise buffer between the applicant's and adjoining lands, including the maximum feasible retention of existing vegetation.
  8. In the case of an apartment complex or other multiple dwelling, the adequacy of usable open space for play areas and informal recreation.
  9. Protection of adjacent or neighboring properties against noise, glare, unsightliness or nuisances.
  10. Protection of solar access on adjacent or neighboring properties.
  11. Adequacy of fire lanes and other emergency zones and the provision of fire hydrants.
  12. Special attention to the adequacy of structures, roadways and landscaping in areas with susceptibility to ponding, flooding and/or erosion.
- B. In determining whether or not to grant site plan approval, the Planning Board may consult with the Code Enforcement Officer, fire commissioners, highway department, County Sheriff, county planning department and other local county officials, in addition to representatives of federal and state agencies including, but not limited to, the Soil & Water Conservation District, the State Department of Transportation and the State Department of Environmental Conservation.

# TOWN OF GAINES ZONING LOCAL LAW

## ARTICLE VIII APPEALS FOR VARIANCES

All appeals for variances will be made to the Zoning Board of Appeals after denial of a Zoning Permit by the Code Enforcement Officer.

### SECTION 800 POLICY

As a general rule, a variance will only be granted to those applicants seeking an area or dimensional variance. Use variances, as they would allow activities otherwise prohibited in the particular zoning district, will be carefully reviewed, and will be granted only in exceptional circumstances.

### SECTION 810 AREA OR DIMENSIONAL VARIANCES

- A. Area variances may be granted where setback, frontage, lot size, density or yard requirements of this Local Law cannot reasonably be met. The Zoning Board of Appeals, before it grants an area variance, must determine that strict application of the zoning Local Law would result in "practical difficulty" to the applicant. In determining whether "practical difficulty" exists, the Zoning Board of Appeals will consider each of the following questions, fully setting forth in its findings its conclusion with respect to each question:
  - 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 grant of the variance.
  - 2. Whether the benefit sought by the applicant can be achieved by some feasible method other than a variance.
  - 3. Whether the requested variance is substantial.
  - 4. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
  - 5. Whether the alleged difficulty was self-created (that it was will not necessarily preclude the granting of the area variance).
- B. The following factors will not be considered by the Zoning Board of Appeals determining whether "practical difficulty" exists:
  - 1. The mere inconvenience of the applicant;
  - 2. The fact that denying the application for the variance would preclude the applicant from erecting a second or subsequent structure;
  - 3. The fact that denying the application for the variance would preclude the applicant from erecting a structure as large as he would like;
  - 4. The fact that the proposed improvement would merely improve the efficiency of an existing business or yield a greater profit.

## TOWN OF GAINES ZONING LOCAL LAW

### SECTION 820 USE VARIANCES

- A. The Zoning Board of Appeals may grant a use variance only if it is conclusively determined that an unnecessary hardship exists.
- B. "Unnecessary Hardship" will not be found to exist unless each of the following is established:
  - 1. That the applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence; and
  - 2. That the hardship is unique, and does not apply to a substantial portion of the district or neighborhood; and
  - 3. That the variance will not alter the essential character of the neighborhood; and
  - 4. That the hardship is not self-created.

### SECTION 840 PROCEDURES FOR GRANTING A VARIANCE

- A. All applications for variances will be in writing on forms prescribed by the Zoning Board of Appeals. Application forms are available in the Town Clerk's office.
- B. Every application must refer to the specific provisions of the Local Law and must establish the reason(s) why the variance should be granted.
- C. Upon receipt of the completed application, the Code Enforcement Officer will:
  - 1. Refer the application to the County Planning Board, pursuant to Section 239-m of the General Municipal Law, if required;
  - 2. Schedule a public hearing;
  - 3. Publish notice of the public hearing and mail the applicant a copy of the notice, as more fully set forth in Section 850 hereof; and
  - 4. Determine whether an Environmental Impact Statement should be required.
- A. Within 30 days after the public hearing, the Zoning Board of Appeals will render a decision and apprise the applicant of the same. If the matter was initially referred to the County Planning Board, a copy of the decision must also be sent to the County Planning Board in accordance with Section 340 hereof.

### SECTION 850 PROCEDURE FOR APPEALS

- A. The Zoning Board of Appeals will hear and decide appeals from and review any requirement, order, decision or determination made by the Code Enforcement Officer. The appeal will be made to the Zoning Board of Appeals, and will refer to the specific provision of the Local Law involved and the interpretation that is claimed.
- B. Within 62 days of its receipt of an appeal, the Zoning Board of Appeals will hold a public hearing on the appeal.

## TOWN OF GAINES ZONING LOCAL LAW

- C. At least 10 days in advance of the date established for the public hearing, the Zoning Board of Appeals will appraise the appellant of the time and date of the hearing by mailing written notice thereof to the appellant at the address stated in the application for appeal. In addition, at least 10 days prior to the scheduled hearing date; the Zoning Board of appeals will cause notice of the public hearing to be published in the official newspaper of the Town.
- D. The applicant will place one (1) sign on the property for which a variance is requested. The sign will be provided by the Code Enforcement Officer. The sign will specify the date, time and place of the public hearing and a telephone number to call for more specific information. The applicant must place the sign in a location which is easily read from a public street. Such sign must be placed on the site not less than ten (10) days prior to the public hearing and remain on the site until the date of the public hearing. The applicant or his or her representative must bring the sign to the public hearing.

### SECTION 860            TERMINATION OF VARIANCES

- A. A use variance may be terminated if an applicant fails to comply with conditions under which the variance was issued.
- B. An area variance will be null and void if said structure is destroyed and a new structure can be erected to comply with Zoning Local Law current regulations. The Code Enforcement Officer will determine whether an area variance will continue on the new structure or whether the new structure must be built to comply with the Zoning Local Law. The Code Enforcement Officer will file a report of this determination with the Zoning Board of Appeals and the Town Clerk.

# TOWN OF GAINES ZONING LOCAL LAW

## ARTICLE IX SPECIAL USE PERMIT PROCEDURES AND GENERAL CRITERIA

### SECTION 900 PURPOSE AND APPLICABILITY

It is the intent of this Local Law to use Special Use Permits to manage the impact of certain uses upon areas where they would be incompatible unless conditioned in a manner suitable to a particular location. Uses permitted by special use permit are permitted uses in their respective districts, subject to the satisfaction of the requirements and standards set forth in this Article in addition to all other requirements of this Local Law. Special Permit uses may possess such unique and special characteristics that each specific use must be considered as an individual case. Special permits bring needed flexibility and individuality to the otherwise rigid controls of zoning regulations.

### SECTION 910 AUTHORITY FOR REVIEW

- A. Pursuant to Section 274-a of the Town Law, the Planning Board is authorized and empowered to review and approve, approve with conditions, or deny applications for Special Use Permits.
- B. The Planning Board will grant a special permit for special permit uses listed in the Zoning District Regulations in Article V, provided that all requirements and conditions set forth in those Articles are complied with.

### SECTION 920 APPLICATION PROCEDURES AND REQUIREMENTS

- A. Application for a Special Use Permit pursuant must be submitted in writing to the Code Enforcement Officer on forms provided by the CEO or Town Clerk. The application must include all forms and supporting materials required for the State Environmental Quality Review Act (SEQRA.)
- B. Each application for a special use permit must be accompanied by a sketch map or site plan, as required by the Planning Board, showing the following information:
  - a north arrow;
  - the dimensions and location of the lot;
  - size and location of all existing and proposed buildings on the lot;
  - proposed location of water and sewage disposal systems;
  - parking areas and driveway location;
  - natural water courses, ponds, surface drainage patterns;
  - location of existing or proposed easements
  - Information that demonstrates how the provisions of this Local Law that apply to the proposed use will be met.
- C. Within 10 days of receipt of the completed application and the accompanying approved site plan, the Code Enforcement Officer will forward it to the Planning Board.



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## SECTION 930 PUBLIC HEARING AND FINAL REPORT

- A. The Planning Board will hold a public hearing on the requested special use permit within 62 days after receipt of the complete application.
- B. The Town Clerk will publish a notice of the public hearing in accordance with Section 274-b of the Town Law of the State of New York. The notice will specify the time and place of the hearing, the name of the applicant, the location of the property and a description of proposed uses. The Town Clerk will send a copy of the public hearing notice to the applicant by regular mail at the address specified on the application at least 10 days prior to the date set for public hearing.
- C. The Code Enforcement Officer will place one (1) sign on the property for which a special use permit is requested. The sign will specify the date, time and place of the public hearing and a telephone number to call for more specific information. The applicant must place the sign in a location which is easily visible from a public street. Such sign must be placed on the site not less than ten (10) days prior to the public hearing and remain on the site until the conclusion of the public hearing.
- D. Within 62 days after the close of the public hearing, the Planning Board will approve with or without modifications or deny the special use permit, unless such 62 day period has been extended by the mutual consent of the applicant and the Planning Board. This time may be extended upon mutual consent of the Planning Board and the applicant.
- E. At the hearing, any resident of the Town desiring to be heard will be afforded an opportunity to be heard. The Town Planning Board will make a factual record of the public hearing and of all other proceedings in connection with the application for the special permit.
- F. The Planning Board will by resolution and in writing state any changes or modifications in the submitted plans necessary for approval of a special use permit.
- G. The decision will be in writing and will contain the reasons for the decision. The decision will thereafter be immediately filed in the office of the Town Clerk and a copy thereof mailed to the applicant at the address stated in the application.
- H. Any person aggrieved by the decision of the Planning Board may apply to the New York Supreme Court for review, in accordance with the provisions of Section 267-c of the Town Law.

## SECTION 940 ADDITIONAL REQUIREMENTS

- A. Site plan review is required for all uses that require a Special Use Permit. The applicant may choose to submit materials required for a site plan review either with the application for a special use permit or after the Planning Board has approved the special permit, with or without modifications.

## TOWN OF GAINES ZONING LOCAL LAW

- B. The Special Use Permit will be subject to inspection every two (2) years to determine whether all conditions of the Special Use Permit are in compliance and no modifications to the equipment or property have been made that violate the conditions of the Special Use Permit.
- C. The Code Enforcement Officer will not issue any permits concerning the property being the subject of the Special Use Permit Application until final action on the Special Use Permit has been taken by the Planning Board..
- D. Existing Violations. No person will be issued a special use permit for a property upon which there is an existing violation of this or any other Local Law.
- E. Expiration. A special use permit will expire if the special use ceases for more than one (1) year for any reason.
- F. If the Code Enforcement Officer determines that an area variance is required, he or she will transmit a copy of the complete application and supporting documents to the Planning Board..
- G. Change of ownership. A Special Use Permit will continue to be valid upon change in ownership of the property, unless the Planning Board specifies a different term in its approval of the special use permit.

### SECTION 950                      TERMINATION OF SPECIAL USE PERMITS

If the applicant fails to comply with the conditions under which the permit was issued, the Special Use Permit will be terminated.

### SECTION 960                      GENERAL CONDITIONS AND STANDARDS FOR ALL SPECIAL USES

- A. The use will not be detrimental in any way to the health, safety, and welfare of the residents of the Town.
- B. The use will be in harmony with the surrounding neighborhood.
- C. The use will not be detrimental to residents of the surrounding neighborhood or cause a substantial decrease in the value of surrounding properties.
- D. The use will not cause an undue increase in the town population or result in an undue concentration of residents in any one area.
- E. The use will not create any substantial increase in traffic volume and must be located on or have direct access to, public highways of sufficient size, volume and construction to accommodate safely and adequately without congestion, any projected traffic the use may generate, along with the actual and projected traffic for the area.
- F. The orderly development of the Town will be ensured and any proposed use will not cause an increase in town residents or an influx of persons beyond that which can be adequately accommodated by schools, highways and other governmental facilities and services, giving due consideration to the general projected increase of town residents.
- G. The use and its buildings and site improvements will in no way, directly or indirectly, materially alter the ecology or contribute to the degrading and deterioration of the quality of streams.

## TOWN OF GAINES ZONING LOCAL LAW

### SECTION 970            SPECIFIC CONDITIONS FOR CERTAIN SPECIAL USES

1. For any industrial, commercial, or recreational use which may generate substantial noise, whether by mechanical or musical devices or by public participation or any other cause, the Board may require additional setbacks from property lines, buffers and other arrangements to ensure that noise associated with the use will not be detrimental or annoying to neighboring properties.
2. If business or industrial development is proposed within 100 feet of a residence, fences, walls, or year-round screen planting to shield adjacent residential properties must be provided.

### SECTION 980            WAIVER OF SPECIAL USE PERMIT CRITERIA

The Planning Board may waive any of the general or specific requirements specified in this Article, upon finding that such requirements are not essential to the public health, safety or general welfare or are inappropriate to a particular special use permit.

# TOWN OF GAINES ZONING LOCAL LAW

## ARTICLE X SPECIAL PERMIT CRITERIA FOR SPECIFIED USES

### SECTION 1001 AIRPORTS

- A. An application for the establishment, construction, enlargement or alteration of an airport must include, in addition to requirements for special use permits outlined in Article VII, the following statements and information:
1. Name and address of the proponent.
  2. Classification of the proposed airport (commercial, non-commercial, or restricted).
  3. Type of aviation activities proposed (aircraft sales and service, flight instruction, crop dusting, air taxi, etc.)
  4. Number of aircraft expected to be based at the airport initially and with five (5) years.
  5. Type of aircraft expected to be based at the airport (single-engine, multi-engine, turboprop, jet, etc.)
  6. Whether an instrument approach procedure will be offered.
  7. Statement as to the anticipated number of daily operations.
  8. Copy of the airspace clearance granted by the Federal Aviation Administration for this airport, including USGS topographic map.
  9. A copy of New York State Commissioner of Transportation's determination concerning this airport in accordance with the provisions of Section 249 of the New York State General Business Law.
  10. A site development plan of the airport which includes the following:
    - a) Scale no smaller than one inch equals one hundred feet (1"= 100')
    - b) Location of existing and proposed structures.
    - c) Alignment of existing and/or proposed runways must be shown in exact location and magnetic bearing to nearest 30 minutes.
    - d) Existing and proposed contours at two (2) foot intervals.
    - e) Location of aircraft parking and tie-down areas.
    - f) Provision for access and off street parking.
    - g) Provision for sanitary waste disposal and water supply.
    - h) Location and method of fuel storage.
  11. An area map at a scale of no less than 1"=500' showing:
    4. a) Distances, power lines, or other possible obstructions within 2,000 feet of the ends of runways must be accurately plotted.
    5. b) Properties within 500 feet must be plotted and owners identified.
- B. The Planning Board may in its discretion except from the requirements of paragraph (a) above any airport established, constructed or maintained by an individual on his own

## TOWN OF GAINES ZONING LOCAL LAW

property for his personal or hobby used, provided, however, that each of the following conditions are met:

1. The average number of hours that the airport is in use each week does not exceed 12;
2. The airport is used only by the owner or by members of the owner's immediate family;
3. The individual owns no more than two planes, neither of which is designed to accommodate more than six persons, including the pilot; and
4. The airport is not utilized for any industrial or commercial purpose.
5. The requirements of Section 249 of the General Business Law are otherwise complied with.

### SECTION 1002 BED AND BREAKFAST INN

In order to protect the residential character of the district in which it is located, a Bed and Breakfast facility will be limited by the following criteria:

- A. Parking must not be located in the front yard. The dwelling must be owner-occupied or adjacent to owner's primary residence.
- B. The structure must not be altered in a manner which would cause premises to differ from its residential character.
- C. The use of out buildings detached from the principal dwelling may be used for the purpose of a bed and breakfast inn.
- D. The number of guests at any one time may be limited based on the capacity of the property's wastewater disposal system.
- E. The facility must comply with all fire safety, occupancy and other requirements of the Codes of New York.
- F. No more than two non-residents of the premises will be engaged as employees of the operation.

### SECTION 1003 CAMPING GROUNDS

- A. Camping grounds must be occupied only by travel trailers, pick-up coaches, motor homes, camping trailers, recreational vehicles, and tents, vacation, and placement of a unit on a foundation in a camping ground is prohibited.
- B. Minimum site area: 15 acres.
- C. Not more than ten (10) travel trailers, campers, tents recreational vehicles or motor homes will be permitted per acre of gross site area.
- D. A camping ground must be located so that no entrance or exit from a site will discharge traffic into any residential area nor require movement of traffic from the camping ground through a residential area. A camping ground must have a minimum of 200 feet of frontage on a public street.

## TOWN OF GAINES ZONING LOCAL LAW

- E. Conditions of soil, ground water level, drainage and topography will not create hazards to the property or the health or safety of the occupants. The site must not be exposed to objectionable smoke, noise, odors, or other adverse influences, and no portion of the camping grounds subject to flooding, subsidence or erosion will be used for any purpose which would expose persons or property to hazards.
- F. Management headquarters, recreational facilities, toilets, dumping stations, showers, coin-operated laundries, and other uses and structures customarily incidental to the operation of camping grounds are permitted as accessory uses to the camping grounds. In addition, retail stores and other convenience establishments will be permitted as accessory uses in camping grounds in such districts where such districts where such uses are not allowed as principal uses, subject to the following restrictions:
  - 1. Such establishments and the parking areas primarily related to their operations must not occupy more than five (5) percent of the gross area of the camping ground. Such establishments will be restricted in their use to occupants of the camping ground.
  - 2. Such establishments will present no visible evidence from any street outside the camping ground of their commercial character which would attract customers other than occupants of the camping ground.
  - 3. The structures housing such facilities must not be located closer than 100 feet (except for Ridge Road, which is 120 feet) to any public street and must not be directly accessible from any public street/road, but will be accessible only from a street within the camping grounds.
- G. Plans for sewage disposal and water supply must be designed in accordance with standards promulgated by the New York State Department of Health and/or Environmental Conservation; and must receive approval from said agencies.
- H. Streets in camping grounds may be private, but must be constructed with a stabilized travel-way and must meet the following minimum stabilized travel-way width requirements:
  - 1. One way, no parking: 12 feet
  - 2. One way with parking on one side, or two way with no parking: 18 feet
  - 3. Two way with parking on one side: 27 feet
  - 4. Two way with parking on both sides: 34 feet
- I. Each travel trailer site must be at least 2,500 square feet in area and have a minimum width of 40 feet.
- J. A minimum of eight (8) percent of the gross area for the camping ground will be set aside and developed as common use areas for open or enclosed recreation facilities. No travel trailer site, required buffer strip, street right-of-way, storage area, or utility site will be counted as meeting recreational purposes.
- K. Entrances and exits to camping grounds must be designed for safe and convenient movement of traffic into and out of the camping ground and to minimize friction with movement of traffic on adjacent streets. All traffic into or out of the camping ground must be through such entrances and exit. An adequate lighting system must be provided for the camping ground.
- L. All utilities must be underground.

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- M. No less than one (1) covered 20 gallon garbage receptacle must be provided for each camp site. Garbage and rubbish must be collected and disposed of as often as may be necessary to insure sanitary conditions.
- N. All applicable sanitation standards promulgated by the State of New of York must be met.
- O. Setbacks: Each building or structure within a camping ground must comply with the setback regulations applicable to the zoning district in which such camping ground is located, except that travel trailers, campers, tents, motor homes' and the motor vehicles propelling or carrying the same way may be located not closer than 15 feet to any side or rear lot line nor closer than 60 feet to any front lot line.

### SECTION 1005 CLUBS (LODGES, FRATERNAL ORGANIZATIONS, ETC.)

- A. Minimum lot size: 40,000 square feet; minimum lot frontage: 200 feet
- B. Landscaping areas or screening adequate to protect adjacent properties and land uses must be provided on all side and rear lot lines.
- C. Entrance and exit points must be from major or secondary roads
- D. Where a club plans to serve food and/or alcoholic beverages, the club may not do so until:
  - 1. A Certificate of Occupancy has been issued for the structure where the food and beverages are to be served and;
  - 2. If the club is part of a larger complex (such as a golf course, athletic field, or flying club), a major part of the complex has been completed.

### SECTION 1010 COMMERCIAL DAY CARE CENTERS

- A. All commercial day care centers must comply with all applicable Federal, State or Local rules, regulations and licensing requirements.

### SECTION 1013 DRIVE-THROUGH FACILITIES

- A. Drive-through facilities may be allowed as stand-alone facilities or as an accessory use to restaurants, pharmacies, banks, and other permitted or specially permitted uses.
- B. The following regulations apply to all drive-through facilities:
  - 1. No stand-alone drive-through facility will be permitted in the Commercial District. A drive-through facility may be permitted in the rear of a building as an accessory use with issuance of a special permit.
  - 2. Each drive-through facility and its associated use must provide ingress and egress so as to minimize traffic congestion.
  - 3. Drive-through facilities, including any protective canopies, signage, drive-through travel lanes, or other associated elements, must meet the setback requirements for the property.

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4. Drive-through facilities with an amplified audio/visual system must be setback a minimum of 30 feet from the property line.
5. Stacking space for these facilities must not impede on- or off-site traffic movements. The stacking space must be delineated from other internal areas through the use of pavement markings that are identifiable during all seasons. The minimum numbers of stacking or queuing spaces required by drive-through activity type are provided below.

Activity Type	Minimum Spaces	Measured From
Automated Teller Machine	2 spaces	Teller or Window
Bank Teller Lane	4 spaces	Teller or Window
Car Wash Stall	3 spaces	Entrance
Fuel Pump Island	2 spaces	Pump Island
Pharmacy	4 spaces	Order Box
Restaurant, Drive-Through Lane	6 spaces	Order Box
Vehicular Service Bay	3 spaces	Per Bay
Other	Determined as part of Site Plan Review	

### C. Additional requirements for drive-in restaurants

1. All drive-in restaurants must be a minimum of 200 feet from other such business, which distances will be computed as follows:
  - a) For such businesses on the same side of the street, 200 feet between the two closest property lines.
  - b) For such businesses on opposite sides of the street, 200 feet measured diagonally between the two closest property corners.
  - c) For four-corner intersections, one such business may be located on diagonally opposite corners notwithstanding the 200 feet distance requirement.
2. All drive-in restaurants must provide for the storage of trash on the premises in areas designed and constructed to:
  - a) Allow no view of the trash storage area from the street.
  - b) Prevent waste paper from blowing around the premises or onto adjacent properties or public right-of-way.
  - c) Permit safe, easy removal of trash by truck or hand.
3. Exterior lighting proposed for the site will be planned, erected and maintained so it will not cast direct light or glare upon adjacent properties or public right-of-way. The light source must not be higher than 20 feet.
4. Landscaping and fencing must be provided to minimize visual unattractiveness and minimize conflicts with adjacent land uses.
5. Water supply and sewage disposal systems must be reviewed by the Orleans County Health Department.



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## SECTION 1015 EXCAVATION AND MINING

- A. Minimum lot area: Ten (10) acres.
- B. All buildings and excavation operations must be located and occur not less than 100 feet (except for Ridge Road, which is 120 feet) from any street or property line.
- C. The owner or operator of any existing excavation and mining operation must maintain evidence of a valid permit from the New York State Department of Environmental Conservation pursuant to Title 27, Article 23 of the Environmental Conservation Law and must furnish such permit when applicable.
- D. No person or entity will be permitted to transfer its rights or expand operations of any excavation or mining operation within the Town of Gaines henceforth from the effective date of this Local Law. Any hazardous conditions created as a result of the excavation and mining' operation must be barricaded or fenced to provide safety.
- E. No new excavation or mining operation will be permitted to commence operation within the Town of Gaines henceforth from the effective date of this Local Law.
- F. Any permitted excavation and mining operation existing prior to the effective date of this Local Law will be considered a non-conforming use. If such operation has not been actively excavated or mined within the 12 months immediately preceding the effective date of this Local Law, then such rights to excavate and mine in the Town of Gaines will extinguish.
- B. Any excavation and mining operation that has been active within the 12 months immediately preceding the effective date of the Local Law will be allowed to continue as permitted by the State of New York, but in no case will such operations continue beyond seven years from the effective date of this Local Law. A special use permit will be required upon the renewal of the permit from the State of New York.
- C. All equipment used for existing excavations and processing must be constructed, maintained, and operated in such a manner as to eliminate, as far as is practical, noises and vibrations and dust conditions which are injurious or a nuisance to persons living in the vicinity.
- D. All existing operations must be conducted between the hours of seven o'clock in the morning (7:00 A.M.) and six o'clock in the evening (6:00 P.M.) with no Sunday or holiday operations. This must minimize community impacts.
- E. All land which has been excavated must be rehabilitated in accordance with reclamation plans approved by the Planning Board as part of the initial site plan review within one (1) year after the termination of operations. Said rehabilitation will be at the expense of the operator.
- F. A performance bond or some other financial guarantee will be required to assure that the conditions stipulated in the approval of the special use permit are carried out.
- G. The Planning Board will consider the following criteria in their review of the special use permit request:
  - 1. The current use of the property to be excavated as well as the proposed use of the area subsequent to completion of the excavation and restoration thereof.

## TOWN OF GAINES ZONING LOCAL LAW

2. The potential short-term and long-term effects on the aesthetics and environment of the immediate and surrounding areas.
  3. The effect on the productivity and suitability of the land for agricultural purposes and/or future development purposes.
  4. The amount of time, as estimated by the applicant, that will be required for the completion of the proposed excavation and the restoration of the property.
  5. Noise and/or vibrations that may be created.
  6. Any additional traffic that may be created by the proposed operation and the adverse effects the traffic may create in the general area of the proposed operation.
- H. Special Permits for excavation operations are of a two (2) year duration, unless the time remaining pursuant to paragraph (O) herein is less, in which case the duration will be no longer the remaining time. Upon re-application, the Code Enforcement Officer may grant a permit renewal if all conditions of the original permit are complied with.
- I. Special use permits pursuant to this section will be granted and/or renewed at the full discretion of the Town Planning Board..
- J. No person, firm or corporation will strip, excavate or otherwise remove top soil, subsurface soil, clay, sand, stone, gravel, minerals or any other substances from the ground for sale or any other use other than for use on the premises from which it was taken, except in connection with the construction or alteration of a building on such premises and excavation or grading incidental thereto. Any area of land consisting of more than one (1) acre from which top soil has been removed or covered over by fill will be seeded to provide an effective cover crop within the first growing season following the start of said operation. Any such removal for use on the premises from which taken will require a special use permit.
- K. **EXEMPTION**
- The aforementioned restrictions do not apply to the following:
1. Town related activities in which the Town removes limited amounts of excavated material created in the course of routine maintenance of the properties over which it has authority. Such material must not be used for commercial purposes.
  2. Farmers or any other person, who digs, excavates or otherwise removes soil on such farm or property for the purpose of producing a pond on the same premises from which the soil was taken. Any soil removed for such purposes must remain on the same property, unless such material is beneficially used by the Town for non-commercial purposes.

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### SECTION 1020 FARM MACHINERY REPAIR SHOP

- A. Minimum lot size: 160,000. Side and Rear setbacks: 50 feet. Minimum road frontage: 400 feet.
- B. No more than (3) farm vehicles and/or related agriculture equipment being service or repaired are permitted to be stored or parked outdoors for more than 48 hours. These areas must be effectively screened from all property lines.
- C. All oils, transmission fluids, brake fluids, etc., must be disposed of according to all applicable State and Federal standards and procedures.
- D. Hours of operation must be between the hours of 6:00 AM and 8:00 PM Monday through Saturday.
- E. Farm vehicles include tractors and related agriculture equipment, but do not include pick-up trucks, cars or other licensed road vehicles.

### SECTION 1025 FARM MARKET

- A. The following information must be submitted as part of the application for site plan approval and special use permit:
  - 1. The location and dimensions of all structures, including screened trash areas, fencing and lighting (show direction and level of illumination).
  - 2. The location and dimensions of all off street parking and ingress, egress locations.
  - 3. Proposed landscaping site.
- B. Setbacks: minimum front setback of 100 feet (except for Ridge Road, which is 120 feet); side setback of 15 feet and a rear setback of 15. The minimum lot size is 40,000 square feet.
- C. The Farm Market must provide suitable storage of trash in areas which are so designated and constructed as to allow no view of trash storage from the street to prevent waste paper from blowing around the site or on to adjacent properties of public right-of-way, and permit safe, easy removal of trash by truck or hand.
- D. Exterior lighting proposed on the proposed site, must be planned, directed and maintained so that it will not cast direct light or glare upon adjacent properties or public right-of-way. The light source must not be higher than 20 feet.
- E. Landscaping and fencing must be provided to minimize visual unattractiveness and minimize conflicts with adjacent land uses.
- F. Water supply and sewage disposal systems will be reviewed and approved by Orleans County Health Department.
- G. The following signage are permitted:

## TOWN OF GAINES ZONING LOCAL LAW

1. C, CH districts: 96 square feet of total signage, with no one sign exceeding 36 square feet.
2. RA districts: 96 square feet of signage, with no one sign exceeding 20 square feet.
3. Section 601 sign regulations apply.

### SECTION 1030      GASOLINE / FUEL STATIONS

Gasoline or other fuel stations must comply with the following regulations:

- A. Minimum lot size: 40,000 square feet.
- B. Gasoline pump islands must be located not less than 75 feet from the street line and not less than 30 feet from all other property lines.
- C. No Zoning Permit for any such establishment will be issued within a distance of 200 feet of a school, church, hospital, nursing home, senior citizen housing or other place of public assembly designed for occupancy by more than 50 persons, or within 500 feet of another gasoline station or repair garage on the same side of a street; the said distance to be measured in a straight line between the nearest points of each of the lots or premises, regardless of the distance where either premises is located.
- D. The entire area of the site traveled by motor vehicle must be hard surfaced.
- E. Any repair of motor vehicles must be performed in a fully enclosed building. A maximum of two motor vehicles will be offered for sale on the site at any one time. No motor vehicle parts, or partially dismantled motor vehicles will be stored in an enclosed building.
- F. In addition to the information required for site plan review, the plan must also indicate the location, number, capacity, and type of fuel storage tanks, the number of pumps to be installed, and the depth to the tanks.
- G. No fuel station will be located on the same side of the street within 500 feet of another fuel station.
- H. No fuel service station or automobile repair shop will have an entrance or exit for vehicles within 200 feet, as measured along the public street, in which there exists a school, public playground, church, chapel, convent, hospital or public library, and such access will be not closer to any intersection than 125 feet.
- I. Fuel stations may include retail sales of food, convenience items, and minor automotive supplies or liquids provided that the sales of such items are within an enclosed structure and are an accessory use. Sales areas outside of the primary structure may be displayed on the pump islands or the building island only.
- J. Fuel stations will be under the control of an attendant at all times during the hours of operation.
- K. All oil drainage pits and hydraulic lifts must be located within an enclosed structure and must be located no closer than fifty (50) feet to any property line.
- L. The facility must obtain and comply with all required State and Federal permits and licenses.

# TOWN OF GAINES ZONING LOCAL LAW

## SECTION 1040 HOME-BASED BUSINESS

Any occupation or business conducted out of a residence that exceeds the thresholds established in this Section will require a special permit for a Home Business subject to the following criteria.

### A. Intent

The purpose of this section is to provide opportunities for the economic advancement among residents of the Town and to protect the character of residential and agricultural areas of the Town. All business established pursuant to this section are expected to blend in with the existing character of the area in which it is located.

### B. Type of Business

A variety of commercial and manufacturing uses may be permitted, provided that the requirements of this section are met.

### C. Neighborhood Character

1. The appearance of the structure will not be altered, and the business will not be conducted in a manner that would cause the premises to differ from its existing residential/agricultural character, either by colors, material, construction, lighting, signs, or emissions of sounds, noises or vibrations.
2. The use must not generate noise, dust, vibration, smell, smoke, glare, odors, smoke or electrical interference, fire hazard, or any other hazard or nuisance to any greater or more frequent extent than that usually experienced in an average residential occupancy in the applicable zoning district.

### D. Operation and Employees

1. The operator of the Home Business must reside in the single family dwelling located on the same lot as the Home Business.
2. No more than two (2) persons, other than members of the immediate family occupying such dwelling will be employed in such home business at any time. All family members employed in the family business must be residents of the dwelling.

### E. Floor Space

1. No more than 40% of the gross floor area of a dwelling will be used for the conduct of a home business up to a maximum of 1,000 square feet, provided that the portion of the dwelling used for residential purposes will comply with all applicable laws and codes.
2. No more than 1,000 square feet of gross floor area of no more than one (1) detached accessory structure may also be permitted for use of a home business in addition to space within the dwelling.

### F. Outdoor Storage

1. Outside storage of material used in the Home Business must be adequately screened from view from public streets and neighboring property. Such screening may consist of vegetation, fencing or a combination.

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2. A maximum of two (2) pieces of equipment, other than commercial vehicles, may be parked outdoors on the lot. Such equipment must be operable and necessary for the conduct of the Home Business.
3. Outdoor storage of equipment used for home business will only be permitted in the rear yard. Such equipment must be completely screened from view of neighboring properties and public roads.

### **G. Outdoor Display of Goods**

No outdoor display of goods for sale will be permitted, except in the C district subject to Site Plan Review.

### **H. Signage**

1. One sign is permitted to identify a Home Based Business. No sign will have more than two (2) printed sides.
2. In the R-1 Residential District, no sign will exceed two (2) square feet.
3. In the AR or C District such sign will not exceed **20** square feet in area per side.
6. All signs require Site Plan approval.

### **I. Commercial Vehicles**

In the R-1 District, no more than **one (1)** licensed Commercial Vehicle may be used in connection with a Home Business. Such vehicles may be parked outside but at the rear of the structure.

### **J. Number of Clients**

With the exception of Family Day Care, the home business will be conducted in such a manner that at one time, the maximum number of vehicles of clients, customers, and others (except for Employees) at the site of the Home Business is not greater than off road parking spaces provided for under Section 605 of this Local Law.

### **K. Hours of Operation**

The Home Business will be conducted in such a manner that all Clients, customers and others coming to do business will arrive and depart between the hours of 7:00 A.M. and 9:00 P.M.

### **L. Number of Home Based Business Permitted**

More than one (1) home based business may be permitted for each residential property, provided that the combined impact of such home Business does not exceed any of the thresholds established by this section.

### **M. Parking and Access**

1. Off -Street parking is permitted provided that as long as adequate space is provided with a turn-around area so that the vehicles do not have to back out into a public roadway. The off-street parking for the Home Business will be in addition to the parking required for the employees and residents. Off-street parking must be provided in accordance with Section 605.
2. No home business will be permitted where access is provided only by a shared private road.

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### N. Setbacks

Any accessory building used in connection with the Home Business, must be setback in compliance with the existing regulations of the Zoning Districts it is located in. This also applies to off-street parking, loading areas, and outdoor storage areas.

### O. Deliveries

No Business will be permitted that requires tractor-trailer deliveries on a regular basis (i.e. more than once a week) unless the Planning Board determines that the site can provide an adequate access and turning around space.

P. Motor vehicle repair shops are not permitted as home businesses.

## SECTION 1045 JUNKYARDS

In addition to providing regulations for initial establishment and operation of junkyards, the provisions of this section will also apply to the expansion and/or alteration of junkyards heretofore in existence in the Town of Gaines:

- A. Minimum lot size: five acres; minimum lot width: 300 feet minimum front, side and rear setbacks: 100 feet (except for Ridge Road, which is 120 feet).
- B. A junkyard must be completely surrounded by an opaque fence at least eight feet in height which substantially screens the junkyard from the public view. The only means of access to the enclosed area will be through a suitable opaque fence, which must remain closed and locked at all times except during normal working hours of such junkyard.
- C. All junk stored or deposited on the premises must be kept within the confines of the fenced-in-area, except as is necessary to transport the same to and from the premises in the ordinary course of business.
- D. Special permits for junkyards are for duration of two years. Upon reapplication, the Planning Board will reissue a renewal permit if all conditions of the original permit have been complied with.
- E. The provisions of the New York State Junk Yard Law (General Municipal Law, Section 136) are hereby incorporated by reference; provided, however, that the term 'Junkyard' as the same is defined in Paragraph two (2) of such section will not be construed to include three or fewer items of farm machinery/equipment, no longer intended or in condition for use on the farm, situated on the farmer's premises and used by the farmer for parts and/or repairs.

## SECTION 1050 KENNELS, VETERINARY CLINICS AND ANIMAL HOSPITALS

- A. Minimum lot size: 40,000 square feet; minimum lot frontage 200 feet.
- B. Adjacent properties must be adequately protected from noise, odors, and unsightly appearance.
- C. All buildings, structures or other accessory uses must be at least 75 feet from any property line.

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- D. All animals must be kept within a totally enclosed building between 8:00 p.m. and 6:00 a.m.

### SECTION 1055 LODGING

- E. Minimum lot size: two (2) acres; minimum lot width: 200 feet; minimum front setback: 100 feet (except for Ridge Road, which is 120 feet); minimum side and rear setbacks: 40 feet.
- F. Restaurants, cafeterias, swimming pools, newsstands, pharmacies, barbershops, hairdressers, gift shops and other personal service shops for the convenience of guests may be permitted as accessory uses.
- G. The licensing, registration and other requirements of Article 12 of the General Business Law and the requirements of any other applicable state and federal codes, rules and regulations must be complied with.

### SECTION 1060 MANUFACTURED HOME PARKS

- A. Special permits for the establishments and operation of mobile home parks are of a two year duration. Upon reapplication, the Planning Board will grant a permit renewal if all conditions of the original permit have been complied with.
- B. The minimum site area of proposed mobile home parks must not be less than 20 acres.
- C. Mobile home lots must have an area of not less than 7,200 square feet. Each mobile homes lot must front on an interior park roadway and have a minimum width of 50 feet.
- D. Minimum front setback for mobile homes within the park: 20 feet from an interior park roadway; minimum side setback: five feet on one side with a total of 20 feet on both sides; minimum rear set back: ten feet.
- E. The minimum setbacks of every mobile home, building or other structure in a mobile home park from the nearest public street, road, or highway line is one hundred (100) feet ((except for Ridge Road, which is 120 feet), and from every other lot line of the mobile home park is 40 feet.
- F. Not more than one (1) mobile home will be located on anyone (1) mobile home lot. Every mobile home within a mobile home park must be located on a mobile home lot or in a designated storage area shown on the approved site plan for said park.
- G. At least one (1) service building must be constructed in each mobile home park which is adequate to provide for storage of all equipment, tools, and materials necessary for the maintenance of the park, and all such equipment, tools, and materials must be stored within said building when they are not in use.
- H. Each mobile home lot must have not less than two off-street parking spaces. Such parking spaces must be connected to the entrance of the mobile home by a permanent sidewalk having a minimum width of 24 inches.
- I. No boats, campers, travel trailers, recreational vehicles, or unregistered and unlicensed motor vehicles will be parked or stored at any place within a mobile home park except in



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areas designated and approved for such storage as part of the site development plan approval.

- J. Every roadway within a mobile home park must have a minimum pavement width of 22 feet and a minimum right-of-way width of 50 feet. If cul-de-sacs exist, they must have a minimum diameter of 70 feet.
- K. A complete water distribution system approved by the Health Department, including a water service pipe for each mobile home lot or other appropriate water sources approved by the Health Department and evaluated during site plan approval.
- L. Appropriately spaced fire hydrants or access to water sufficient for firefighting as determined during the site plan approval.
- M. A sanitary sewage disposal system approved by the Health Department and other appropriate agencies must be installed, including a sewer connection for each mobile home lot or other adequate sewage disposal system approved by the Health Department and determined during site plan approval.
- N. All public utility, electric, gas, cable television and telephone lines must be installed underground.
- O. Appropriate street lighting must be installed on interior roadways with the minimum number of lights being one at each intersection or interior roadways with each other, or with abutting public roads, and at least every 200 feet where such intersections are more than 200 feet apart.
- P. A landscape plan must be prepared and carried out which will assure the Planning Board that an appropriate planting of trees and shrubs will be included in the park design, including screening where necessary.
- Q. No mobile home will be located on a mobile home lot until the roadways; sanitary sewage disposal system, water supply system and storm drainage system serving said mobile home lot have been installed in accordance with approved site development plan for the mobile home park.
- R. Each roadway must be named and noted upon signs at each roadway intersection. Each mobile home lot must be assigned a permanent number which will be noted on the mobile home lot in a location clearly visible from the roadway.
- S. All fuel tanks used for heating within a mobile home park, including all fuel tanks used for heating within mobile homes, must be installed underground in accordance with NFP A standards.
- T. Every mobile home park must have a recreational area or open space area for use by the occupants of the mobile home park. Such areas must be as centrally located as the topography and design of the park permit. Such areas must be not less than 10,000 square feet or 1,000 square feet per mobile home lot in the park, whichever is greater.
- U. The park owner must provide for the regular collection and disposal of garbage, trash, and rubbish. Not more than one accessory building will be permitted on any mobile home lot.
- V. Each mobile home must be enclosed at the bottom with either a metal, wood, or vinyl skirt or enclosure within 30 days after placement of the mobile home on the lot.

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- W. No enclosure or addition, with the exception of patios, door porches not to exceed eight (8) feet in width, carports, will be constructed on or added or attached to the exterior of any mobile home.
- X. Every roadway within a mobile home park must be maintained in good repair and must be open at all times reasonably possible for travel by occupants or the park and necessary fire, police, ambulance, public utility maintenance and all necessary snow removal. The provisions of this subsection apply to mobile home parks hereafter established within the Town of Gaines.
- Y. Register of Occupants. The owner of every mobile home park must keep a record of the occupants and the mobile homes located within the park. A copy of such register must be made available to the Zoning Officer upon his demand. Such register must contain the following:
  - 1. The name and last address of each occupant.
  - 2. The make, model, year and serial number of each mobile home, and the mobile home space within the park on which the same is located
  - 3. The dates of arrival and departure of each mobile home.
- Z. Sale of lots: Any sale of a mobile home space or spaces or portion of a mobile home park, other than the entire mobile home park, as shown on the plan of such park approved by the Town, will immediately invalidate the permit for such park approved by the Planning Board. Any use of any of the premises within the mobile home park other than as mobile home park will immediately invalidate the permit of such park approved by the Town Planning Board.
- AA. Home Occupations: Home occupations are not permitted in mobile homes located within a mobile home park.

### SECTION 1065 MONUMENT SHOP

- A. Minimum lot size: 40,000 square feet; minimum lot width: 200 feet.
- B. No parking will be permitted within 10 feet of any lot line or building.
- C. Landscaping and fencing where appropriate must be provided to minimize visual unattractiveness, and any signs erected on the premises must comply with the provisions of Section 600 of this Local Law.
- D. All loading and unloading of trucks and other vehicles on the premises must take place entirely within the confines of an enclosed building so as not to be visible from public highways and residential structures in the area.
- E. No more than 100 monuments, grave markers or tombstones will be stored or displayed on the premises outside the confines of an enclosed building, and any monuments, grave markers or tombstones stored or displayed on the premises outside an enclosed building must be arranged in neat and orderly fashion.
- F. The monument shop must be operated in such a manner as not to create dust, noise, vibration, smell or any other hazard or nuisance to any greater or more frequent extent than is customarily experienced in the district.

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### SECTION 1070 MULTIPLE FAMILY DWELLINGS

- A. The maximum gross density must not exceed eight (8) units per acre.
- B. Minimum habitable floor area requirements:
  - 1. Townhouse unit, two bedrooms or less: 900 square feet.
  - 2. Town/house unit, three (3) bedrooms or more: 1,050 square feet.
  - 3. Apartment unit, efficient: 600 square feet.
  - 4. Apartment unit, one bedroom: 750 square feet.
  - 5. Apartment unit, two bedrooms: 900 square feet.
  - 6. Apartment unit, three bedrooms: 1,050 square feet.
- C. Setback requirements:
  - 1. The minimum front setback from any public street will be 100 feet (except for Ridge Road, which is 120 feet).
  - 2. The minimum side and rear setbacks are 50 feet from all other lot lines.
- D. All stairways to the second floor or higher must be located inside the building.
- E. Access to public road:
  - 1. All multiple family dwelling developments must have direct access to a public road.
  - 2. If there are more than 12 dwelling units in a multiple family dwelling development, direct access must be provided to a public road by a private driveway or a road dedicated to the Town by the developer.
  - 3. If there are more than 50 dwelling units in a multiple family development, or if in the opinion of the ZBA the location or topography of the site indicates the need for additional access, the ZBA may require such additional access as a condition of site plan approval.
- F. Requirements for off-street parking will be two spaces for each unit.
- G. The aggregate lot coverage of multiple family dwelling developments must not exceed 30 percent of the total lot area.
- H. Plans submitted for site development approval must include: sewage disposal, water supply, storm drainage, landscaping and lighting.

### SECTION 1075 MOTOR VEHICLE REPAIR SHOP; SERVICE STATIONS; BODY AND/OR REPAIR SHOP; MOTOR VEHICLE SALES OR RENTAL

- A. Motor vehicle service stations, motor vehicle repair shops, and service stations must comply with the following:
  - 1. Minimum lot size: 40,000 square feet.
  - 2. Maximum lot size: Two (2) acres

## TOWN OF GAINES ZONING LOCAL LAW

3. No more than five (5) licensed motor vehicles being serviced or repaired will be stored or parked outdoors for more than 48 hours, and these will be in areas effectively screened from all property lines.
  4. No motor vehicle sales or storage will be allowed, unless a separate special use permit application for such use is approved.
  5. Any such use must be buffered from adjacent uses by no less than ten (10) feet. The buffer area must be in conformance with Article IX in order to prevent the unwanted transmission of headlight glare across the property line.
  6. The entire site area that is traveled by motor vehicles must be hard surfaced (i.e. asphalt, concrete, or any other surface that does not release dust or debris).
  7. Perimeter landscaping along the street frontage(s) will not be less than ten (10) feet in width.
  8. Sufficient screening must be provided along all lot lines abutting or adjacent to residentially zoned or developed property to block any view of operations from all points on such residential property when viewed from ground level.
  9. No outdoor storage of materials, merchandise and equipment will be permitted during nonbusiness hours.
  10. Vehicle repair garages must not be used for the storage, sale, rental or display of automobiles, trucks, trailers, mobile homes, boats, snowmobiles or other vehicles.
- B. Vehicular sales uses must comply with the following:
1. The sales area must be paved, suitably graded and drained, and maintained in a neat and orderly manner.
  2. Exterior illumination must be provided that meets the minimum determined by the Planning Commission as necessary to provide adequate security of the premises.
  3. Sufficient screening must be provided along all lot lines abutting or adjacent to residentially zoned or developed property to block any view of operations from all points on such residential property when viewed from ground level.
  4. No repairs, other than minor repairs will be performed on the premises. All maintenance, service, and repairs of motor vehicles must be performed within an enclosed structure. No motor vehicle parts or partially dismantled motor vehicles will be stored outside of an enclosed structure or screened area. If desired, a vehicular service special use permit must be obtained separately.
  5. No vehicles will be displayed for sale within ten (10) feet of any property line that abuts a nonresidential district. No vehicles will be displayed for sale within thirty (30) feet of any property line that abuts a residential district.
  6. Perimeter landscaping must be a minimum of ten (10) feet in width along the street frontage(s).
  7. The retail sales of fuel requires a separate special use permit.
  8. The facility must obtain and comply with all required Federal and State permits and licenses.

# TOWN OF GAINES ZONING LOCAL LAW

## SECTION 1080 PROFESSIONAL OFFICES

- A. Minimum lot size: 40,000 square feet; minimum lot frontage: 200 feet.
- B. Landscaped areas at least seven (7) feet in width or other suitable screening opaque in character must be provided for perimeters of all areas used for off-street parking.
- C. No parking will be provided within ten (10) feet of any lot line or building.
- D. Sufficient off-street parking must be provided.

## SECTION 1081 PUBLIC UTILITIES (EXCEPT FOR TELECOMMUNICATIONS FACILITIES)

Public utilities and other essential services, except for telecommunications facilities, must comply with the following requirements:

- A. The proposed installation in a specific location is necessary and convenient for efficiency of the essential service or the satisfactory and convenient provision of service to the area in which the particular use is located.
- B. The design of any building in connection with such facility must conform to the general character of the area and will not adversely affect the safe and comfortable enjoyment of property rights in the district in which it is to be located.
- C. The Planning Board will consider the proposed use of the structure, its anticipated hours of operation, the effect of the structure's location on traffic flow, and the adequacy of parking, landscaping, exterior lighting and noise control.
- D. All other applicable requirements of this code must be met.
- E. Adequate landscaping will be provided to create a visual and sound buffer between such facilities and adjacent property.
- F. All new and replacement electric distribution, telephone, cable TV and other lines must be placed underground, if practical, as determined during Site Plan Review.
- G. All service connections from distribution lines to consumers must be placed underground.
- H. All major electrical transformer facilities or substations, if above ground, must be secured by an outer and inner fence, each ten feet from each other at any point; also no transformer or associated switches will be closer than 100 feet from any lot line.

## SECTION 717 PUBLIC/SEMI-PUBLIC/COMMUNITY FACILITIES

Requirements for all public/ semi-public/ community facilities.

- A. Minimum lot size: 40,000 square feet; minimum lot frontage: 200 feet or greater, subject to site plan approval.
- B. Landscaped areas at least ten (10) feet in width or other suitable screening, opaque in character, must be provided for the entire length of any lot line adjacent to any residence or adjacent street.

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- C. No structure or use will be located within fifteen (15) feet of any adjacent property line.
- D. Entrance and exit points will be from major or secondary roads.
- E. For those Special Permit uses subject to specific criteria in this Article, the specific criteria will apply instead of the criteria in this Section.

### SECTION 1082 TELECOMMUNICATION FACILITY

- A. **Purpose:** The purpose of the regulations in this Section is to promote health, safety and the general welfare of the residents of the Town of Gaines; to provide standards for the safe provision of telecommunications consistent with applicable federal and state regulations, to minimize the total number of telecommunications towers in the community by encouraging shared use of existing and future towers, and the use of existing tall buildings and other high structures; and to minimize adverse visual effects from telecommunications towers by requiring careful siting, visual impact assessment, and appropriate landscaping.
- B. **General Criteria:** No Special Use Permit or renewal thereof or modification of a current Special Use Permit relating to a Telecommunications Facility will be authorized by the Planning Board unless it finds that such Telecommunications Facility:
  - 1. Is necessary to meet current or expected demands for service.
  - 2. Conforms with all applicable regulations promulgated by the Federal Communications Commission, Federal Aviation Administration, and other federal agencies;
  - 3. Is considered a public utility in the State of New York;
  - 4. Is designed and constructed in a manner which minimizes visual impact to the extent practical;
  - 5. Complies with all other requirements of this Local Law, unless expressly superseded herein;
  - 6. Is the most appropriate site among those available within the technically feasible area for the location of a Telecommunications Facility. The applicant must provide a minimum of 3 alternate sites for location of a Telecommunication Facility with in their proposed search area.
  - 7. When including the construction of a tower, such tower is designed to accommodate future shared use by at least one (1) other telecommunication service provider. Any subsequent location of telecommunication equipment by other service providers on existing towers specifically designed for shared use will not require a new or modified Special Use Permit if there would be no increase in the height of the tower. However, the additional equipment will require site plan approval by Town of Gaines Planning Board.
- C. **Co-Location:** The shared use of existing Telecommunications Facilities or other structures will be preferred to the construction of new Facilities. Any Special Use Permit application, renewal or modification thereof must include proof that reasonable efforts have been made to co-locate within (share) an existing Telecommunication Facility or upon an existing structure. The application must include an adequate inventory report specifying existing Telecommunication Facility sites and structures exceeding seventy-five cent (75%) of the height of the proposed tower within the search range of the cell grid. The inventory report must contain an evaluation of opportunities for shared use as an alternative to the proposed location. The applicant must demonstrate that the proposed Telecommunication Facility

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cannot be accommodated on existing Telecommunications Facility sites in the inventory due to one (1) of the following reasons:

1. The planned equipment would exceed the structural capacity of existing and approved Telecommunication Facilities or other structures, considering existing and planned use for those facilities;
2. The planned equipment would cause radio frequency interference with other existing or planned equipment, which cannot be reasonably prevented.
3. Existing or approved Telecommunication Facilities or other structures do not have space on which proposed equipment can be placed so it can function effectively and reasonably;
4. Other technical reasons make it impracticable to place the equipment proposed by the applicant on existing facilities or structures;
5. The property owner or owner of the existing Telecommunication Facility or other structure refuses to allow such co-location.

### **D. Dimensional Standards**

1. A fall zone around any tower constructed, as part of a Telecommunications Facility must have a radius at least equal to the height of the tower and any antennae(s) attached upon it zenith. The entire fall zone may not include public roads and must be located on property either owned or leased by the applicant or for which the applicant has obtained an easement, and may not contain any structure other than those associated with the Telecommunications Facility. If the Facility is attached to an existing structure, relief may be granted by specific permission of the Town of Gaines Planning Board on a case-by-case basis.
2. All Telecommunications Facilities must be located on a single parcel.
3. All Telecommunications Facilities must comply with setback standards of the underlying zoning district. The size of the leased or owned lot must be, at a minimum, sufficiently large to include the entire fall zone. A lot leased or owned for the purpose of construction of a tower as part of Telecommunications Facility must not result in the creation of non-conforming lot. The frontage requirement of the underlying zoning district will not apply, provided the Telecommunications Facility is not proposed on a parcel to partition specifically for the Facility and/or is designed for occupancy by staff. In the absence of required frontage, an access way for service vehicles, either through easement, lease or ownership, must be in accord with paragraph "G" herein.
4. Essential services such as "water, electric, gas, sewer, etc." must be placed under ground to the proposed site.
5. The height of a Transmission Tower (199 feet or less) will be exempt from requiring an "Area Variance". Any Transmission Tower over 200 feet would still require an "Area Variance".

### **E. Lighting and Marking**

1. Towers must not be artificially lighted and marked beyond requirements of the Federal Aviation Administration (FAA).
2. Notwithstanding the preceding paragraph I, an applicant may be compelled to add FAA-style lighting and marking, if in the judgement of the Town of Gaines Planning Board, such a requirement would be of direct benefit to public safety.

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### **F. Appearance and Buffering**

1. The use of any portion of a Telecommunications Facility for signs, promotional or advertising purposed, including but not limited to company name, phone numbers, banners, steamers, and balloons is prohibited.
2. The facility must have the least practical visual effect on the environment, as determined by the Town of Gaines Planning Board herein, must otherwise:
  - a) Have a galvanized finish, or will be painted gray above the surrounding tree line and gray or green below the tree line, as deemed appropriate by the Town of Gaines Planning Board.
  - b) Be disguised or camouflaged to blend in with the surroundings, to the extent that such alteration does not impair the ability of the Facility to perform its designed function.
3. Accessory structures must maximize the use of building materials, colors, and textures designed to blend in with the natural surroundings.
7. The Town of Gaines Planning Board may require a State Environmental Quality Review (SEQR) Full EAF (Environmental Assessment Form) for proposed Facilities at key viewpoints in the community. A Visual Environmental Assessment Form (Visual EAF) may be required as an addendum to either the Full or Short EAF. The Planning Board may require submittal of a more detailed visual analysis based on the results of the Visual EAF.
8. The Town of Gaines Planning Board will require that the Facility have appropriate buffering around the fences of the tower base area, accessory structures and of guyed towers to buffer their view from neighboring residences, recreation areas, or public roads. Such screening must include the maximum feasible retention of existing vegetation. The Planning Board may similarly require screening adjacent to waterways, landmarks, refuges, community facilities, or conservation or historic areas within common view of the public.
9. Equipment or vehicles not used in direct support, renovations, additions or repair of any Telecommunications Facility must not be stored or parked on the Facility site.

### **G. Access and Parking:**

1. Access ways must make maximum use of existing public or private roads to the extent practicable. New access ways constructed solely for ' the Telecommunications Facilities must be at least twenty (20), but no more than thirty (30) ft. wide and closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.
10. The road surface (driveways) must be centered within access ways and must not comprise more than 60% of the width of the access way.
11. Parking areas must be sufficient to accommodate the greatest number of service vehicles expected on the premises at any one time.
12. Driveways or parking areas must provide adequate interior turn-around, such that service vehicles will not have to back out onto a public thoroughfare.

### **H. Security:**

1. Towers, anchor points of guyed towers, and accessory structures must each be surrounded by fencing at least eight (8) ft. in height, the top foot of which may, at the



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discretion of the Town Gaines Planning Board in deference to the character of the neighborhood, be comprised of three-strands of barbed wire to discourage unauthorized access to the site.

13. Motion-activated or staff-activated security lighting around the base of a tower or accessory structure entrance may be provided if such lighting does not project off the site. Such lighting should only occur when the area within the fenced perimeters has been entered.
14. There will be no permanent climbing pegs within fifteen (15) feet of the ground of any tower.
15. A locked gate at the junction of the access way and a public thoroughfare may be required to obstruct entry by unauthorized vehicles. Such gate must not protrude into the public right-of-way.

### **I. Engineering and Maintenance:**

1. Site plans for all Telecommunications Facilities must bear the seal of a professional engineer licensed to practice in the State of New York. Every facility will be built, operated and maintained to acceptable industry standards, including but not limited to the most recent applicable standards of the Institute of Electric and Electronic Engineers (IEEE) and American National Standards Institute (ANSI).
16. Every Facility must be inspected at least every second year for structural integrity by a New York State licensed engineer. A copy of the inspection report must be submitted to the Code Enforcement Officer.
17. A safety analysis by a qualified professional must accompany any special permit or site plan application, renewal thereof or modification for the purpose of certifying that general public electromagnetic radiation exposure does not exceed standards set by Federal Regulations.
18. The municipality, at the expense of the applicant, may employ its own consulting assistance for site plan review to review the findings and conclusions of safety analysis, visual analysis, or structural inspection, provided by the applicant.

### **J. Removal:**

1. At the time of submittal of the application of a Special Use permit for a Telecommunications Facility, the applicant must submit an agreement to remove all antennas, driveways, structures, buildings, equipment sheds, lighting, utilities, fencing, gates, accessory equipment or structures as well as any towers(s) dedicated solely for use within a Telecommunications Facility if such Facility becomes technologically obsolete or ceases to perform its originally intended function for more than twelve (12) consecutive months. Upon removal of said Facility, the land must be restored to its previous condition, including but not limited to the seeding of exposed soils.
19. At the time of obtaining a building permit, the applicant must provide a financial security bond for removal of the Telecommunications Facility and property restoration, with the municipality as the assignee, in an amount approved by the Town of Gaines Planning Board, but not less than fifty thousand (\$50,000) dollars.
20. At times of renewal or modification of the Special Use Permit, the Town of Gaines Planning Board may adjust the required amount of the financial security bond to adequately cover increases in the cost of removal of the Telecommunications Facility and property restoration.

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### SECTION 1090 ADULT USES AND/OR BUSINESS

- A. Adult uses, due to their nature, have serious objectionable characteristics that can have a significant impact of the neighborhood and community in which they are located, particularly when located in close proximity to residential, recreational and agriculture areas. The objectionable characteristics of these uses are further heightened by their concentration in anyone area thereby having deleterious effects on adjacent areas. The uncontrolled proliferation of such uses would be inconsistent with town as a primarily residential and family oriented community as well as a primary agriculture area. Such uses can contribute to the blighting or downgrading of areas in which they are located as a result of their related potential for an increase in crime and undermining of the economic, moral and social welfare of the community. The special use regulations deemed necessary to control the undesirable secondary effects arising from adult uses are set forth below in section "B". The primary purpose of these controls and regulations is to preserve the integrity and character of the residential/agriculture community. The provisions of this section have neither the purpose nor the effect of imposing a limitation or restriction on the contact of any communicative materials, or to deny access by adults to adult uses and/or business.
- B. No adult use will be established except upon the receipt of a Special Use and Site Plan approval from the Town of Gaines Planning Board in accordance with the provisions herein. Adult uses are only allowed only in the "C" district and an Adult use and/or business must conform to the following requirements:
1. An adult use and/or business will not be located within a five hundred (500) foot radius of any property currently in residential use.
  2. No adult use and/or business will be located within a seven hundred and fifty (750) foot radius of another adult use and or/business.
  3. No adult use will be located within a thousand (1,000) foot radius of any house of worship, school, day care center, park or playground, civic facility, or historic resource.
  4. No more than one adult use and/or business will be located on any lot.
  5. No adult use and/or business will be located in any business that is used in whole or part for residential uses.
  6. All building openings, including doors and windows must be located, covered or screened in such a manner as to prevent a view into the establishment from any public street, residence, sidewalk and/or parking area.
  7. As a condition of approval of any adult use and/or business, there will be a restriction that there will be no outdoor, sign, display or advertising of any kind other than one identification sign limited to only the name of the establishment. Such signage and/or outdoor display will be subject to site plan review by the Town of Gaines Planning Board and a Special Use Permit from the Planning Board and must conform to all signage requirements of Town of Gaines Zoning Local Law.
  8. No loudspeakers or sound equipment will be used by adult uses and/or business that can be heard by the public from outside the establishment.
  9. Adult uses and/or business featuring live entertainment will prohibit the patron from touching the performer in any way, while performing and/or in any state of nudity.

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10. Adult use and/or business must comply with all New York State Health codes and Building Codes.
11. Any violations of the Town of Gaines Adult Use and/or Business Zoning Local Law will cause the Special Use Permit to be immediately revoked and said owner of the adult use and/or business would be prohibited from reapplying for a new permit in the Town of Gaines.

### SECTION 1095 WIND ENERGY FACILITIES

#### A. Purpose

The purpose of this Section is to promote the effective and efficient use of the Town's wind energy resource through wind energy conversion systems (WECS), without harming public health and safety and to avoid jeopardizing the welfare of the residents.

#### B. Authority

The Town Board enacts the provisions of this Section under the authority granted by

1. Article IX of the New York State Constitution, §2(c)(6) and (10).
2. New York Statute of Local Governments, § 10 (1), (6), and (7).
3. New York Municipal Home Rule Law, § 10 (1)(i) and (ii) and §10 (1)(a)(6), (11), (12), and (14).
4. The supersession authority of New York Municipal Home Rule Law, § 10 (2)(d)(3), specifically as it relates to determining which body will have power to grant variances under this Local Law, to the extent such grant of power is different than under Town Law §267.
5. New York Town Law, Article 16 (Zoning).
6. New York Town Law §130(1)(Building Code), (3)(Electrical Code), (5)(Fire Prevention), (7)(Use of streets and highways), (7 -a)(Location of Driveways), (11)(Peace, good order and safety), (15)(Promotion of public welfare), (15-a)(Excavated Lands), (16)(Unsafe buildings), (19)(Trespass), and (25)(Building lines).
7. New York Town Law §64(l'7 -a) (protection of aesthetic interests), (23)(General powers).

#### C. Findings

The Town Board of the Town of Gaines finds and declares that:

1. While wind energy is a potential abundant, renewable and nonpolluting energy resource, and its conversion to electricity may reduce dependence on nonrenewable energy sources and decrease the air and water pollution that results from the use of conventional energy sources, but the potential benefits must be balanced against potential impacts.
2. The generation of electricity from properly sited small wind turbines can be a cost effective mechanism for reducing on-site electric costs, with a minimum of environmental impacts.

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3. Regulation of the siting and installation of wind turbines is necessary for protecting the health, safety, and welfare of neighboring property owners and the general public.
4. Large-scale multiple-tower Wind Energy Facilities represent significant potential aesthetic impacts because of their large size, noise, lighting, and shadow flicker effects.
5. There are numerous sites in the Town of Gaines which would be significantly impaired if the viewshed included utility-scale wind turbines. This is particularly true in Gaines compared to other communities because the flat nature of the landscape significantly increases the viewshed in which a large structure will be seen
6. The Erie Canal runs through the Town and just below its southern border. The Canal is an important historic, cultural, and economic asset. The Canal is a National Heritage Corridor. Clear viewsheds are essential to full enjoyment of the Canal by its users. Allowing utility scale wind turbines in the Town would harm the Canal, reduce its use, and therefore harm the community.
7. The internationally known Cobblestone Historical District is located in Gaines. This District is a National Historic Landmark designated by the U.S. Department of the Interior in 1993. It is the only NHL listing in Orleans County. Full appreciation of this resource requires that the setting remain the rural landscape in which the cobblestone houses and buildings were built. Construction of utility-scale wind turbines in the Town is inconsistent with preserving the District.
8. There are multiple historic and active cemeteries in the Town. These resources would be negatively impacted by the noise, shadow flicker, and visual imposition of utility-scale wind turbines in the Town.
9. Installation of large-scale multiple-tower Wind Energy Facilities can create drainage problems through erosion and lack of sediment control for facility and access road Sites, and harm farmlands through improper construction methods.
10. The Town of Gaines does not have the low density of residences typically found in wind farm host communities. Residential density is spread out evenly along Route 104 from east to west, and all Route 98 from north to south.
11. The pattern of residentially zoned land is a checkerboard-type pattern with residential properties intermingled with agricultural properties.
12. The location of residences and land designated for residential development throughout the community is inconsistent with the development of utility-scale wind turbines in the Town.
13. There are significant resources in adjoining towns that would be harmed by the construction of utility-scale wind turbines in the Town. South of the Town the Mount Albion Cemetery, which is on the National Register, has a memorial with a view shed across all of Gaines. The enjoyment of the view from the tower would be severely harmed by the inclusion of a large, industrial-scale wind generating facility across the landscape of the Town.
14. North of the Town are areas of significant recreational activity that would be impaired by the noise and visual impact - including shadow flicker - of utility-scale wind turbines.
15. Large-scale multiple-tower Wind Energy Facilities may present risks to the property values of adjoining property owners.

## TOWN OF GAINES ZONING LOCAL LAW

16. Large-scale Wind Energy Facilities may be significant sources of noise, which, if unregulated, can negatively impact adjoining properties, particularly in areas of low ambient noise levels.
17. Construction of large-scale multiple-tower Wind Energy Facilities can create traffic problems and damage local roads.
18. If improperly sited, large-scale multiple-tower Wind Energy Facilities can interfere with various types of communications.
19. Sufficient areas exist in the County and region for the placement of any needed utility-scale wind turbines. The Towns of Ridgeway, Shelby and Murray all have laws allowing large wind farms. Numerous areas throughout the region have better access to the electric grid and stronger wind resources than Gaines. Hundreds of megawatts of wind energy generating facilities are being constructed throughout the region in areas where the facilities do not present the same intrusion on the landscape, and therefore have fewer impacts.
20. There is an airport in Gaines which would be negatively impacted by the placement of multiple tall turbines in the area.

### D. Permits Required

1. No Wind Energy Facility will be constructed, reconstructed, modified, or operated in the Town of Gaines except in compliance with this Local Law and the provisions of this Section.
2. No WECS other than a Small WECS will be constructed, reconstructed, modified, or operated in the Town of Gaines. No Wind Measurement Tower will be constructed, reconstructed, modified, or operated in the Town of Gaines, except in conjunction with and as part of an application for a Small WECS.
3. No Small WECS will be constructed, reconstructed, modified, or operated in the Town of Gaines except pursuant to a Special Use Permit issued pursuant to this Chapter.
4. This Local Law will apply to all areas of the Town of Gaines except within the Village of Albion.
5. Exemptions. No permit or other approval will be required under this Chapter for WECS utilized solely for agricultural operations in a state or county agricultural district, as long as the facility is set back at least one and a half times its Total Height from a property line, and does not exceed 120 feet in height. Towers over 120 feet in Total Height utilized solely for agricultural operations in a state or county agricultural district will apply for a site plan in accordance with this Local Law, but will not require a height variance. Prior to the construction of a WECS under this exemption, the property owner or a designated agent will submit a sketch plan or building permit application to the Town to demonstrate compliance with the setback requirements.
6. Transfer. No transfer of any Wind Energy Facility or Special Use Permit, nor sale of the entity owning such facility including the sale of more than 30% of the stock of such entity (not counting sales of shares on a public exchange), will occur without prior approval of the Town, which approval will be granted upon (1) receipt of proof of the ability of the successor to meet all requirements of this Local Law and (2) written acceptance of the transferee of the obligations of the transferor under this Local Law.

## **TOWN OF GAINES ZONING LOCAL LAW**

No transfer will eliminate the liability of an applicant nor of any other party under this Local Law.

7. Notwithstanding the requirements of this Section, replacement in kind or modification of a Small WECS may occur without Town Board approval when (1) there will no increase in Total Height; (2) no change in the location of the Small WECS; (3) no additional lighting or change in facility color; and (4) no increase in noise produced by the Small WECS.

### **E. Definitions**

See section 1090 of this Local Law for definitions that pertain to "Wind Energy Facilities.

### **F. Applicability**

1. The requirements of this Local Law will apply to all Wind Energy Facilities proposed, operated, modified, or constructed after the effective date of this Local Law.
2. Wind Energy Facilities for which a required permit has been properly issued and upon which construction has commenced prior to the effective date of this Local Law, will not be required to meet the requirements of this Local Law; provided, however, that:
  - a) Any such preexisting Wind Energy Facility which does not provide energy for a continuous period of twelve (12) months will meet the requirements of this Local Law prior to recommencing production of energy.
  - b) No modification or alteration to an existing Wind Energy Facility will be allowed without full compliance with this Local Law.
  - c) Any Wind Measurement Tower existing on the effective date of this Local Law will be removed no later than twenty-four (24) months after said effective date, unless a Special Use Permit for said Wind Energy Facility is obtained.
3. Wind Energy Facilities are allowed as accessory uses. Wind Energy Facilities constructed and installed in accordance with this Local Law will not be deemed expansions of a nonconforming use or structure.

### **G. SMALL WIND ENERGY CONVERSION SYSTEMS**

#### **1. Purpose and Intent.**

The purpose of this Article is to provide standards for small wind energy conversion systems designed for on-site home, farm, and small commercial use, and that are primarily used to reduce on-site consumption of utility power. The intent of this Article is to encourage the development of small wind energy systems and to protect the public health, safety, and community welfare.

#### **2. Permitted Areas.**

Small WECS may be permitted upon issuance of a Special Use Permit (1) on any parcel meeting the standards of this Chapter in the Countryside and Open Space Zones, or (2) in any zoning district on a Site of at least 5 acres.

#### **3. Applications.**

Applications for Small WECS special use permits will include:

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- a) Name, address, telephone number of the applicant. If the applicant will be represented by an agent, the name, address and telephone number of the agent, as well as an original signature of the applicant authorizing the agent to represent the applicant, is required.
- b) Name, address, telephone number of the property owner. If the property owner is not the applicant, the application must include a letter or other written permission signed by the property owner confirming that the property owner is familiar with the proposed applications and authorizing the submission of the application.
- c) Address of each proposed tower Site, including Tax Map section, block and lot number.
- d) Evidence that the proposed tower height does not exceed the height recommended by the manufacture or distributor of the system.
- e) A line drawing of the electrical components of the system in sufficient detail to allow for a determination that the manner of installation conforms to the Electric Code.
- f) Sufficient information demonstrating that the system will be used primarily to reduce on-site consumption of electricity.
- g) Written evidence that the electric utility service provider that serves the proposed Site has been informed of the applicant's intent to install an interconnected customer-owned electricity generator, unless the applicant does not plan, and so states so in the application, to connect the system to the electricity grid.
- h) A visual analysis of the Small WECS as installed, which may include a computerized photographic simulation, demonstrating the visual impacts from nearby strategic vantage points. The visual analysis must also indicate the color treatment of the system's components and any visual screening incorporated into the project that is intended to lessen the system's visual prominence.

### 4. Development Standards

All small wind energy systems must comply with the following standards. Additionally such systems must also comply with all the requirements established by other sections of this Article that are not in conflict with the requirements contained in this section.

- a) A system must be located on a lot a minimum of one acre in size, however, this requirement can be met by multiple owners submitting a joint application, where the aggregate size of their lots is at least one acre.
- b) Only one Small WECS (plus, where authorized, a temporary wind measurement tower) per legal lot will be allowed. Where there are multiple applicants, their joint lots will be treated as one lot for purposes of this limitation.
- c) Small WECS must be used primarily to reduce the on-site consumption of utility-provided electricity.
- d) Tower heights will be limited as follows:
  - i. 65 feet or less on parcels between one and five acres.
  - ii. 80 feet or less on parcels of five or more acres.
  - iii. The allowed height will be reduced if necessary to comply with all applicable Federal Aviation Requirements, including Subpart B (commencing with Section

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77.11) of Part 77 of Title 14 of the Code of Federal Regulations regarding installations close to airports.

- e) The maximum turbine power output is limited to 10 KW.
- f) The system's tower and blades must be painted a non-reflective, unobtrusive color that blends the system and its components into the surrounding landscape to the greatest extent possible and incorporate non-reflective surfaces to minimize any visual disruption.
- g) The system will be designed and located in such a manner to minimize adverse visual impacts from public viewing areas (e.g., public parks, roads, trails). Facilities must not exceed the ridge line level, where the ridge line is defined as the average height of the summer-time vegetation on the parcel.
- h) Exterior lighting on any structure associated with the system will not be allowed except that which is specifically required by the Federal Aviation Administration.
- i) All on-site electrical wires associated with the system must be installed underground except for "tie- ins" to a public utility company and public utility company transmission poles, towers and lines. This standard may be modified by the Town Board if the project terrain is determined to be unsuitable due to reasons of excessive grading, biological impacts, or similar factors.
- j) The system will be operated such that no disruptive electromagnetic interference is caused. If it has been demonstrated that a system is causing harmful interference, the system operator must promptly mitigate the harmful interference or cease operation of the system.
- k) At least one sign must be posted on the tower at a height of five feet warning of electrical shock or high voltage and harm from revolving machinery. No brand names, logo or advertising will be placed or painted on the tower, rotor, generator or tail vane where it would be visible from the ground, except that a system or tower's manufacturer's logo may be displayed on a system generator housing in an unobtrusive manner
- l) Towers will be constructed to provide one of the following means of access control, or other appropriate method of access:
  - i. Tower-climbing apparatus located no closer than 12 feet from the ground.
  - ii. A locked anti-climb device installed on the tower.
  - iii. A locked, protective fence at least six feet in height that encloses the tower.
- m) Anchor points for any guy wires for a system tower must be located within the property that the system is located on and not on or across any aboveground electric transmission or distribution lines. The point of attachment for the guy wires must be enclosed by a fence six feet high or sheathed in bright orange or yellow covering from three to eight feet above the ground.
- n) Construction of on-site access roadways will be minimized. Temporary access roads utilized for initial installation must be re-graded and revegetated to the pre-existing natural condition after completion of installation.
- o) To prevent harmful wind turbulence from existing structures, the minimum height of the lowest part of any horizontal axis wind turbine blade will be at least 30 feet above the highest structure or tree within a 250 foot radius. Modification of this standard



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may be made when the applicant demonstrates that a lower height will not jeopardize the safety of the wind turbine structure.

- p) All small wind energy system tower structures will be designed and constructed to be in compliance with pertinent provisions of the Uniform Building Code and National Electric Code.
- q) All small wind energy systems must be equipped with manual and automatic over-speed controls. The conformance of rotor and over-speed control design and fabrication with good engineering practices must be certified by the manufacture.

### 5. Additional Standards

Small Wind Energy System will comply with the following standards:

- a) Setback requirements. A Small WECS must not be located closer to a property line than one and a half times the Total Height of the facility.
- b) Noise. Except during short-term events including utility outages and severe wind storms, a Small WECS must be designed, installed, and operated so that the statistical sound pressure level generated by a Small WECS will not exceed L<sub>J0</sub> - 45 DBA measured at the nearest off-Site dwelling existing at the time of approval (including structure under construction at said time), nor more than 6 DBA greater than either the nighttime or daytime pre-application background ambient noise level measured in leaf-off conditions for a period of no less than 24 hours.

### 6. Abandonment of Use

- a) Small WECS which is not used for twelve (12) successive months will be deemed abandoned and must be dismantled and removed from the property within 24 additional months at the expense of the property owner. Failure to abide by and faithfully comply with this section or with any and all conditions that may be attached to the granting of any building permit will constitute grounds for the revocation of the permit by the Town of Gaines.
- b) All Small WECS must be maintained in good condition and in accordance with all requirements of this section.

## H. MISCELLANEOUS

### 1. Variances.

- a) The Zoning Board of Appeals in accordance with its normal procedures may grant variances for Small WECS, but in no event will the Zoning Board of Appeals grant a variance allowing a larger WECS than permitted by this Chapter, or a WECS primarily designed to generate electricity for off-site use, or any largescale multiple-tower wind facilities.
- b) If a court of competent jurisdiction (1) orders the Zoning Board of Appeals to consider a use variance for any Wind Energy Facility other than a Small WECS, and such use variance is granted, or (2) the prohibition on any Wind Energy Facility other than a Small WECS is invalidated, no Wind Energy Facility will be allowed except upon issuance of a Special Use Permit issued by the Town Board after a public hearing, which Permit will require a Decommissioning Plan and removal bond, site plan

## **TOWN OF GAINES ZONING LOCAL LAW**

approval by the Planning Board pursuant to Article X of the Zoning Local Law, a Public Improvement Bond to protect public roads, and will comply with the following minimum setbacks:

- i. The statistical sound pressure level generated by a WECS will not exceed L10 - 45 DBA measured at the nearest off-Site dwelling existing at the time of approval (including structure under construction at said time), nor more than 6 DBA greater than either the nighttime or daytime pre-application background ambient noise level measured in leaf-off conditions for a period of no less than 24 hours. If the ambient sound pressure level exceeds 45 DBA, the standard will be ambient DBA plus 5 DBA. Independent certification must be provided before and after construction demonstrating compliance with this requirement.
- ii. 1,500 feet from the nearest Site boundary property line.
- iii. 1,500 feet from the nearest public road.
- iv. 2,500 feet from the nearest off-Site residence existing at the time of approval, measured from the exterior of such residence.
- v. One and a half times the Total Height of the WECS from any non-WECS structure or any above-ground utilities.
- vi. 250 feet from federal or state-identified wetlands, to protect bird and bat populations. This distance may be adjusted to be greater or lesser at the discretion of the reviewing body, based on topography, land cover, land uses and other factors that influence the flight patterns of resident birds.

### **2. FEES**

- a) Non-refundable Application Fees will be as follows:
  - i. WECS Special Use Permit: \$150.
- b) The fees established by this section may be changed by Town Board resolution, adopted after a duly-noticed public hearing.

### **3. TAX EXEMPTIONS**

The Town hereby exercises its right to opt out of the Tax Exemption provisions of Real Property Tax Law §487, pursuant to the authority granted by paragraph 8 of that law.

### **4. ENFORCEMENT: PENALTIES AND REMEDIES FOR VIOLATIONS**

- a) The Town Board will appoint such Town staff or outside consultants as it sees fit to enforce this Section.
- b) Any person owning, controlling or managing any building, structure or land who will undertake a wind energy facility in violation of this Section or in noncompliance with the terms and conditions of any permit issued pursuant to this Section, or any order of the enforcement officer, and any person who will assist in so doing, will be guilty of an offense and subject to a fine of not more than \$350 or to imprisonment for a period of not more than six months, or subject to both such fine and imprisonment. Every such person will be deemed guilty of a separate offense for each week such violation continues. The Town may institute a civil proceeding to collect civil penalties in the amount of \$350 for each violation and each week said violation continues will be deemed a separate violation.

## TOWN OF GAINES ZONING LOCAL LAW

- c) In case of any violation or threatened violation of any of the provisions of this local law, including the terms and conditions imposed by any permit issued pursuant to this local law, in addition to other remedies and penalties herein provided, the Town may institute any appropriate action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, moving and/or use, and to restrain, correct or abate such violation, to prevent the illegal act.
- d) The penalties established by this section may be changed by Town Board resolution, adopted after a duly-noticed public hearing.

### 5. SEVERABILITY

Should any provision of this Local Law be declared by the courts to be unconstitutional or invalid, such decision will not affect the validity of this Local Law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

## SECTION 1096 METEOROLOGICAL (MET) TOWERS

- A. Purpose: The purpose of these supplemental regulations is to promote health, safety and the general welfare of the residents of the Town of Gaines; to provide standards for the safe provision of Meteorological (MET) Towers consistent with applicable federal and state regulations, to minimize the total number of Meteorological (MET) Towers located in the Town of Gaines to a maximum of four (4) at any one time; and to minimize adverse visual effects from Meteorological (MET) Towers by requiring careful siting, visual impact assessment, and appropriate landscaping. The Special Use Permit for the Meteorological (MET) Tower will be for two (2) years and may be renewed for one (1) year, if the applicant can demonstrate the need for extra time to collect the wind energy data. Special Use Permits for Meteorological (MET) Tower(s) are non-transferable. Meteorological (MET) Tower must be removed by the applicant at the end of two (2) years or at the end of the extension time granted by the Town of Gaines. See the current "Town of Gaines" fee schedule for appropriate fees.
- B. General Criteria: No Special Use Permit or renewal thereof or modification of a current Special Use Permit relating to Meteorological (MET) Towers will be authorized by the Planning Board unless it finds that such Meteorological (MET) Tower:
  - 1. Is necessary for the temporary collection of Wind Energy data;
  - 2. Conforms with all applicable Town of Gaines, New York State and Federal Regulations;
  - 3. Is designed and constructed in a manner which minimizes visual impact to the extent practical;
  - 4. Complies with all other requirements of this Local Law, unless expressly superseded herein;
  - 5. Are permitted only in the RA district and not permitted in the C or CH district.
  - 6. The applicant must provide alternate sites for location of a Meteorological (MET) Tower within their proposed test area and that the location is the most appropriate site among those available within the test area for the placement of a Meteorological (MET) Tower.

## TOWN OF GAINES ZONING LOCAL LAW

7. All necessary fees (Special Use Permit fees, Town of Gaines Engineer fees, Administrative fees and Performance Bond) have been paid to the Town of Gaines by the applicant prior to the issuance of Special Use Permit.
8. The applicant agrees to share the results of the "Wind Energy" collection data with the Town of Gaines.
9. The issuance of a "Special Use Permit" to an applicant for a Meteorological (MET) Tower will count as part of the 4 allowed Meteorological (MET) Towers to be located in the Town of Gaines. Once the "Special Use Permit" has been granted to an applicant for construction of a Meteorological (MET) Tower(s), the applicant has twelve months to construct and erect the Meteorological (MET) Tower(s). If the Meteorological (MET) Tower(s) are not constructed within twelve (12) months, the "Special Use Permit" issued by the Town of Gaines will become null and void and the applicant would have to reapply for a new permit.

### C. Dimensional Standards

1. A fall zone around any tower constructed, as part of a Meteorological (MET) Tower must have a radius at least equal to the height of the tower and any antennae(s) attached upon it zenith. The entire fall zone may not include public roads and must be located on property either owned or leased by the applicant or for which the applicant has obtained an easement, and may not contain any structure other than those associated with the Meteorological (MET) Tower. If the Meteorological (MET) Tower is attached to an existing structure, relief may be granted by specific permission of the Town of Gaines Planning Board on a case-by-case basis.
2. All Meteorological (MET) Towers will be located on a single parcel.
3. All Meteorological (MET) Towers must comply with setback standards of the underlying zoning district. The size of the leased or owned lot will be, at a minimum, sufficiently large to include the entire fall zone. A lot leased or owned for the purpose of construction of a tower as part of Meteorological (MET) Tower must not result in the creation of non-conforming lot that would continue beyond the time needed for the Meteorological (MET) Tower. In the absence of required frontage, an access way for service vehicles, either through easement, lease or ownership, must be in accord with paragraph "G" herein.
4. Essential services such as "water, electric, gas, sewer, etc." must be placed under ground to the proposed site.
5. The height of a Meteorological (MET) Tower (199 feet or less) will be exempt from requiring an "Area Variance". Any Meteorological (MET) Tower 200 feet or higher, will require an "Area Variance".

### D. Lighting and Marking

1. Meteorological (MET) Towers will not be artificially lighted and marked beyond requirements of the Federal Aviation Administration (FAA).
2. Notwithstanding the preceding paragraph 1, an applicant may be compelled to add FAA-style lighting and marking, if in the judgment of the Town of Gaines Planning Board, such a requirement would be of direct benefit to public safety.
3. Meteorological (MET) Towers must comply with all FAA regulations as it applies to airports regarding distance/location from airport, lighting and height.

### E. Appearance and Buffering

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1. The use of any portion of a Meteorological (MET) Tower for signs, promotional or advertising purposed, including but not limited to company name, phone numbers, banners, steamers, and balloons is prohibited. Tower space may not be leased out to any other vendors.
2. The facility must have the least practical visual effect on the environment, as determined by the Town of Gaines Planning Board. Any tower that is not subjected to FAA marking, pursuant to paragraphs D.1. and D.2. herein, will otherwise:
  - i. Have a galvanized finish, or must be painted gray above the surrounding tree line and gray or green below the tree line, as deemed appropriate by the Town of Gaines Planning Board, or;
  - ii. Be disguised or camouflaged to blend in with the surroundings, to the extent that such alteration does not impair the ability of the Meteorological (MET) Tower to perform its designed function.
3. Accessory structures, if needed, must maximize the use of building materials, colors, and textures designed to blend in with the natural surroundings.
4. The Town of Gaines Planning Board will require a State Environmental Quality Review (SEQR) Full (Type 1 Action) EAF (Environmental Assessment Form) for proposed Meteorological (MET) Towers. A Visual Environmental Assessment Form (Visual EAF) will be required as an addendum to the Full EAF. The Planning Board may require submittal of a more detailed visual analysis based on the results of the Visual EAF. Historic buildings and/or districts will be part of the SEQR and both the applicant and the Town of Gaines Planning Board will address any Visual and Historic impacts.
5. The Town of Gaines Planning Board will require, where needed, that the Meteorological (MET) Towers have appropriate buffering around the fences of the tower base area, accessory structures and the anchor points of guyed towers to buffer their view from neighboring residences, recreation areas, or public roads. Such screening must include the maximum feasible retention of existing vegetation. The Planning Board may similarly require screening adjacent to waterways, landmarks, refuges, community facilities, or conservation or historic areas within common view of the public.
6. Equipment or vehicles not used in direct support, renovations, additions or repair of any Meteorological (MET) Towers will not be stored or parked on the Facility site.

### F. Access and Parking

1. Access ways must make maximum use of existing public or private roads to the extent practicable. New access ways constructed solely for the Meteorological (MET) Tower must be at least twenty (20), but no more than thirty (30) ft. wide and closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.
2. The road surface (driveways) must be centered within access ways and must not comprise more than 60% of the width of the access way.
3. Parking areas will be sufficient to accommodate the greatest number of service vehicles expected on the premises at any one time.
4. Driveways or parking areas will provide adequate interior turn-around, such that service vehicles will not have to back out onto a public thoroughfare.

### G. Security

1. Towers, anchor points of guyed towers, and accessory structures will each be surrounded by chain-link fencing at least six (6) ft. in height, the top foot of which may, at the discretion of the Town Gaines Planning Board in deference to the character of the

## TOWN OF GAINES ZONING LOCAL LAW

neighborhood, be comprised of three-strands of barbed wire to discourage unauthorized access to the site. Flags and/or colored tape will be placed at all four corners of fencing.

2. Motion-activated or staff-activated security lighting around the base of a tower or accessory structure entrance may be provided if such lighting does not project off the site. Such lighting should only occur when the area within the fenced perimeters has been entered.
3. There will be no permanent climbing pegs within fifteen (15) feet of the ground of any tower.
4. A locked gate at the junction of the access way and a public thoroughfare may be required to obstruct entry by unauthorized vehicles. Such gate must not protrude into the public right-of-way.

### H. Engineering and Maintenance

1. Site plans for all Meteorological (MET) Towers must bear the seal of a professional engineer licensed to practice in the State of New York. Every facility must be built, operated and maintained to acceptable industry standards, including but not limited to the most recent applicable standards of the Institute of Electric and Electronic Engineers (IEEE) and American National Standards Institute (ANSI).
2. Every Meteorological (MET) Tower must be inspected at least every second year for structural integrity by a New York State licensed engineer, if the Special Use permit is to be extended beyond two years. A copy of the inspection report must be submitted to the Town of Gaines Code Enforcement Officer.
3. The municipality, at the expense of the applicant, may employ its own consulting assistance for site plan review to review the findings and conclusions of safety analysis, visual analysis, or structural inspection, provided by the applicant.

### I. Removal

1. At the time of submittal of the application of a Special Use permit for a Meteorological (MET) Tower, the applicant must submit an agreement to remove the tower and all equipment on the tower, driveways, structures, buildings, equipment sheds, lighting, utilities, fencing, gates, accessory equipment or structures after two years or the end of any extension granted by the Town of Gaines. The applicant also agrees to remove any towers(s) dedicated solely for use as a Meteorological (MET) Tower, if such Meteorological (MET) Tower becomes technologically obsolete or ceases to perform its originally intended function for more than twelve (12) consecutive months. Upon removal of said Facility, the land must be restored to its previous condition, including but not limited to the seeding of expose soils.
2. At the time of obtaining a building permit, the applicant must provide a financial security bond for removal of the Meteorological (MET) Tower and property restoration, with the municipality as the assignee, in an amount approved by the Town of Gaines Planning Board, but not less than fifty thousand (\$50,000) dollars.
3. At times of renewal or modification of the Special Use Permit, the Town of Gaines Planning Board may adjust the required amount of the financial security bond to adequately cover increases in the cost of removal of the Meteorological (MET) Tower and property restoration.

# TOWN OF GAINES ZONING LOCAL LAW

## ARTICLE XI: DEFINITIONS

### SECTION 1100 WORD TERMS AND DEFINITIONS

For purposes of this Local Law, certain terms or words used herein will be interpreted or defined as follows:

- A. The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.
- B. Words used in the present tense include the future tense.
- C. The singular includes the plural.
- D. The words "will," "shall" and "must" are mandatory, not discretionary.
- E. The words "used" or "occupied" as applied to land and/or buildings will be construed to include the words "intended, designed or arranged to be used or occupied."
- F. The word "lot" includes the words "plot" or "parcel."

### SECTION 1110 DEFINITIONS

**ACCESSORY USE OR STRUCTURE:** A use or structure that is incidental and subordinate to the principal use in extent, area, and purpose and located on the same lot with the principal use.

**ADULT USES AND/OR BUSINESS:** Any activity or business which provides entertainment services or materials to customers with an emphasis on matter depicting or relating to sexual activities or specific anatomical areas or which customarily excludes minors by reason of age. Adult uses include: X-rated video stores and bookstores, live or video "peep" shows, topless or fully nude dancing establishments, combination X-rated video/book stores, hourly motels, swingers clubs, X-rated movie theaters, escort service clubs, or any combination or variation thereof.

**AGRICULTURE:** The use of land for agricultural purposes including tilling of the soil, dairying, pasture, apiculture, arboriculture, horticulture, floriculture, viticulture, forestry, animal and poultry husbandry and the necessary uses for packing or storing or products provided that the operation of any such accessory uses is secondary to that of normal agricultural activities.

**AGRICULTURAL SUPPORT BUSINESS (AGRI-BUSINESS):** An enterprise whose primary function is to provide goods and services, which directly support agricultural use. These enterprises include but are not limited to: feed store, farm implement sales, storage, fertilizer distribution, greenhouse, and the packing, processing and distribution of agricultural products,

**AGRICULTURAL OR FARM OPERATIONS:** Means the land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production. preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a commercial horse boarding operation" as defined in subdivision thirteen of this section and "timber processing" as defined in subdivision fourteen of this section. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

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**AIRPORT:** Any area of land designed and set aside for the landing and taking off of aircraft.

**ALTERATIONS:** As applied to a building or structure, a change or rearrangement in the structural parts, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location to another.

**ANIMAL HOSPITAL:** A business that treats sick and disabled animals and houses them on the premises over night or for extended periods for treatment.

**ARTIFICIALLY CONSTRUCTED PONDS:** A pond constructed through excavation by machinery and not created naturally. The definition includes Recreational Ponds (those ponds created artificially and not used in an Agriculture related business) and Farm Ponds (those ponds created artificially and used in an Agriculture related business).

**BED AND BREAKFAST INN:** A home occupation in an owner-occupied residence wherein lodging and breakfast are provided to transient guests for compensation; such provision is subordinate to the principal residential use of the structure..

**BUILDING:** Any structure which is permanently affixed to the land, has one or more floors and a roof, and is intended for the shelter, housing or enclosure of persons, animals or personal property.

**BUILDING HEIGHT:** The vertical distance measured from the mean level of the ground surrounding the building to a point midway between the highest and lowest point of the roof, but not including chimneys, spires, mechanical penthouses, towers, tanks and similar projections.

**BUSINESS, CONVENIENCE:** Small commercial establishments of 5,000 or less square feet in floor area catering primarily to nearby residential areas and providing convenience goods and services.

**BUSINESS SERVICES:** An establishment primarily engaged in providing services to businesses on a fee or contract basis, such as: printing and mailing; building maintenance, employment services; management and consulting services; protective services; equipment rental and leasing; commercial research, development and testing.

**CAMPING TRAILER:** Any vehicle used or intended for temporary living or sleeping purposes, mounted on wheels and drawn by a power-driven vehicle, or any such type vehicle having its wheels removed.

**CAMPGROUND:** A parcel of land used or intended to be used, let or rented for occupancy by campers or for occupancy by or of trailers, tents or movable or temporary dwellings, rooms or sleeping quarters of any kind.

**CARPORT:** A roofed structure, with or without enclosing walls, used for the storage of one or more motor vehicles.

**CHURCH:** Any structure used for worship or religious instruction, including social and administrative room's accessory thereto.

**CLUB:** Any organization catering to members and/or their guests, on premises and buildings for recreational or athletic purposes and not open to the general public, which is not conducted primarily for gain, providing there is not conducted any vending stand, merchandising or commercial activity except as required for membership and purposes of such club. For the purpose of this Local Law

*December 2019*



## TOWN OF GAINES ZONING LOCAL LAW

"club" will include lodges, fraternal organizations, mutual benefit societies, and other similar organizations.

**CODE ENFORCEMENT OFFICER:** The administrative officer charged with the administering and enforcement of this Local Law.

**COMMERCIAL VENDOR CARTS:** A Commercial Vendor Cart will be defined as a cart that sells food and/or other merchandise, which can be moved from location to location, either under its own power or with the assistance of a vehicle and/or trailer. The following will not be considered as Commercial Vendor Carts: home "Lemonade" type stands, carts used with church events or carts used in connection with an established commercial business.

**DAY CARE, ADULT:** The provision of care to individuals over the age of 18 for periods less than twenty-four (24) consecutive hours, but not including schools, and subject to applicable licensing and/or registration requirements of New York State.

**DAY CARE, CHILD:** Any program or facility caring for children for more than three hours per day per child in which child day care is provided by a licensed child day care provider except those programs operating as a group family day care home, a family day care home, and a school-age child care program as defined by the Social Services Law of the State of New York.

**DAY CARE CENTER, COMMERCIAL:** A place other than an occupied residence providing or designed to provide day care, or an occupied residence providing or designed to provide day care for seven (7) or more persons.

**DAY CARE, HOME OR FAMILY:** An occupied residence providing or designed to provide child day care for not more than six (6) persons and operating as a group family day care home, a family day care home, and a school-age child care program as defined by §390.1 of the Social Services Law of the State of New York.

**DEVELOPMENT:** Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining dredging, filling, grading, paving, excavation or drilling operations, excluding normal maintenance to farm roads.

**DISTRIBUTION CENTER:** A truck terminal facility at which any storage of goods or chattels is minor, transitory and merely incidental to the purpose of facilitating the transportation of goods or chattels..

**DRIVE—THROUGH FACILITIES:** A building or use, which by design of physical facilities a product is sold to, or a service performed for, customers while they are in or near their motor vehicles, including but not limited to fast-food restaurants, drive-up bank tellers, and pharmacies.

**DWELLING:** Any building, structure or portion thereof, including a mobile home, designed, used or intended to be used exclusively as a residence or sleeping place for one (1) or more persons.

**SINGLE-FAMILY:** DWELLING, SINGLE-FAMILY - A building designed or used as living quarters by one family.

DWELLING, SINGLE-FAMILY ATTACHED (COMMONLY CALLED "TOWNHOUSE" OR "ROW HOUSE") — A row of two or more adjoining dwelling units each on their own lot and separated from each other by one or more party walls.

DWELLING, SINGLE-FAMILY DETACHED (COMMONLY CALLED "SINGLE-FAMILY HOUSE") — A building separated from lot lines and other buildings by open space on all sides.

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**TWO-FAMILY:** A building designed and used exclusively for occupancy for two families living independently of each other and which is separated from lot lines or other buildings by open space on all sides.

**MULTIPLE FAMILY:** A building designed or used as living quarters by three or more families living independently of each other. May include apartment buildings, townhouses, or row houses.

**SEASONAL:** A dwelling unit intended for occupancy only during certain times of the year, principally for recreational use by the owner, including beach cottages, hunting cabins, vacation cottages, summer cottages, vacation lodges, and similar seasonal dwellings.

**DWELLING UNIT:** One room, or a group of rooms joined to each other and not regularly locked in the interior, located in a dwelling, designed and maintained as a unified living quarter, occupied by an individual or a family, containing integrated facilities used for living, sleeping, cooking, eating and sanitation.

**EAF:** Environmental Assessment Form used in the implementation of the SEQRA as that term is defined in Part 617 of Title 6 of the New York Codes, Rules and Regulations.

**ESSENTIAL SERVICES:** Erection, construction, alteration, operation or maintenance by municipal agencies or public utilities of telephone equipment enters, electrical or gas substations, water treatment or storage facilities, pumping stations and similar facilities.

**EXCAVATION (QUARRY, SANDPIT, GRAVEL PIT, SOIL REMOVAL):** A lot or land or part thereof used for the extracting top soil, subsurface, clay, sand, stone, gravel or other substances for sale, as an industrial or commercial operation, but does not include the process of grading a lot preparatory to the construction of a building which has an approved zoning permit.

**FAMILY:** One or more persons living together as single housekeeping unit.

**FARM EQUIPMENT AND SUPPLIES SALES:** Establishments selling or renting agricultural machinery, equipment, and supplies for the use in soil preparation and maintenance, the planting and harvesting of crops, and other operations and processes pertaining to farming.

**FARM LABOR HOUSING:** Any structure or combination of structures, building or buildings in which people are housed on a farmer's own land who are employed in the individual farmer's personal farm operation, on that farmer's land or land under the farmer's control by a valid and existing lease.

**FARM MACHINERY REPAIR SHOP:** A building or portion of a building, arranged, intended or designed to be used in connection with repairing and maintaining farm related equipment, excluding pickup trucks, cars, and other licensed road vehicles.

**FARM MARKET:** A structure with more than 120 square feet of gross floor area intended for the sale of farm produce and other agricultural products or crafts. (See also ROADSIDE STAND.)

**FLOOR AREA, GROSS:** The total floor area to be used or intended to be used by building occupants or for service to the public as customers, patrons, clients or patients, including areas occupied by fixtures and equipment used for display or sales or merchandise. It does not include areas used principally for non-public purposes such as storage, incidental repair, restrooms, fitting or alteration rooms or general maintenance or enclosed pedestrian malls or corridors.

**FLOOR AREA, HABITABLE:** The sum of the gross horizontal areas of the floor or floors of a building which are enclosed and usable for human occupancy or the conduct of business.

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**FOOD PROCESSING, BAKING AND PACKING PLANTS:** Facilities which transform and process livestock and agricultural products into products for eventual consumption and package the processed goods for distribution to wholesalers or retailers.

**FUNERAL HOME:** A building used for the preparation of the deceased for cremation or burial and the display of the deceased and ceremonies connected therewith before burial or cremation.

**GARAGES, PRIVATE:** An accessory building used in conjunction with a principal building, which provides space for the storage of motor vehicles and/or other household items.

**GARAGES, PUBLIC:** Any garage other than a private garage, operated for gain, available on a rental basis for the storage of motor vehicles, recreational vehicles, boats and other personal property.

**GASOLINE/ FUELING STATION:** Any building or land or any part thereof used for sale of motor fuel, oil and motor vehicle accessories and which may include facilities for fueling, charging, lubricating, washing or servicing vehicles, but not including painting or body repairs.

**HOME BUSINESS:** A commercial or industrial use, other than a home occupation, conducted within or on the same lot as an occupied single family dwelling by the inhabitants thereof. The term “home business” includes a commercial or industrial use conducted in conjunction with a farm use. The type of business permitted include, but is limited to, those involving the manufacture, provision, or sale of goods and/or services on the premises.

**HOME OCCUPATION:** A use accessory to a dwelling which:

- 1) Is clearly incidental and an accessory use to the dwelling unit used for residential purposes.
- 2) Can be conducted without substantial change in the appearance, character, or traffic generation of the residence and in no event will such use be apparent from any public street or right of way.
- 3) Is carried on by a member of the household residing in the dwelling unit.
- 4) Does not include motor vehicle repairs on the premises.

**JUNK YARD:** As defined in NYS General Municipal Law § 136: The outdoor storage or deposit of two (2) or more junk vehicles or the outdoor storage of junk appliances, including but not limited to: washers, dryers, dishwashers, stoves, refrigerators, freezers and televisions.

**KENNEL:** Any commercial building or lot on which four or more domesticated animals more than four months of age are housed, groomed, bred, boarded, trained or sold. This definition will include temporary housing of such animals for periods over four hours but will not include private residences where the occupant owns the animals.

**LODGING:** A single building or group of buildings containing guest rooms or apartments, with parking space or such rooms or apartments, which is primarily designed for the accommodation of transient travelers and does not contain individual cooking facilities. Lodging facilities may also provide additional services to guests, such as food and beverages, limited recreational facilities, conference rooms, and laundry. Hotels and motels are considered lodging.

**LOT:**

1. Lot: A parcel of land occupied, or designed to be occupied by one building and the accessory building or uses customarily incident to it, including such open spaces as are arranged and designed to be used in connection with such buildings.

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2. Corner Lot: A lot at the junction of and fronting on two or more intersecting streets, roads or thoroughfares.
3. Through Lot: An interior lot having frontage on two parallel or approximately parallel streets, roads or thoroughfares.
4. Depth of Lot: The mean distance from the center of the road to its opposite rear line measured in the general direction of the side lines of the lot.
5. Lot Width: The width of the lot between side lot lines at the front building line.
6. Lot Frontage: That portion of a lot abutting on one side of a road, street or thoroughfare, measured along the line of said road street or thoroughfare.
7. Lot Line: Any boundary line of a lot.

**MANUFACTURED HOME:** A dwelling unit or units manufactured off premises in whole or in a small number of large, pre-assembled sections and constructed in compliance with either the requirements of the U.S. Department of Housing and Urban Development in effect at the time of its manufacture and bearing a seal evidencing this fact, or the New York State Uniform Fire Prevention and Building Code. Such dwelling units are commonly referred to as mobile or modular homes.

**MANUFACTURED HOME PARK:** Any site, lot, field plot, parcel of tract of land upon which two (2) or more manufactured homes are parked or located and for which use said premises and/or the mobile homes thereon are offered to the public or to any person for a fee.

**MINING:** The use of an area of land to remove minerals, metals or other items of value from the ground for profit, including gas and oil wells.

**MIXED USE:** A development or redevelopment that allows for a mixture of uses in a single building or on a single lot including, but not limited to, two or more of the following: residential, commercial and industrial.

**MOTOR VEHICLE REPAIR:** Any building, structure or land used for the repair and/or maintenance of passenger vehicles, motorcycles, trucks, trailers, or similar vehicles used for non-commercial purposes.

**MOTOR VEHICLE SALES:** The sales or leasing of new or used automobiles, motorcycles, trucks, and recreational vehicles, which includes storage and any incidental maintenance.

**MOTOR VEHICLE STORAGE:** The storage of an automobile, truck, sport utility vehicle, van or motor home. This definition does not include storage of boats, personal watercraft, on and off road motorcycles, all-terrain vehicles (3 or 4 wheels), motor scooters, recreational vehicle (without engine), campers and trailers, snowmobiles, or farm or farm related vehicles.

**NEW YORK STATE UNIFORM CODE:** The New York State Uniform Fire Prevention and Building Code.

**NON-CONFORMING LOT, BUILDING OR STRUCTURE:** A lot, building or structure existing at the time of enactment of this Local Law or any amendment thereto, which does not conform to the area regulations of the district or zone in which it is situated.

## TOWN OF GAINES ZONING LOCAL LAW

**NON-CONFORMING USE:** A use of land existing at the time of enactment of this Local Law which does not conform to the regulations of the district or zone in which it is situated.

**PARKING SPACE:** Space available for the parking of one motor vehicle, exclusive of passageways and driveways.

**PERMITTED USE (OR USE OF RIGHT):** A land use allowed authorized and permitted if in accordance with the regulations of this Local Law.

**PROFESSIONAL OFFICE:** The place of business where professional services not involving the sale of goods or the keeping of stock in trade are offered to the public.

**PROHIBITED USE:** Any operation, use or activity which the Town, in order to protect the public health and welfare of its citizens, to protect the character of the community, and/or to be consistent with its land use and planning objectives, determines should not be conducted within the Town limits.

**PUBLIC/SEMI-PUBLIC/COMMUNITY FACILITIES:** The words "public/semi-public community facilities", as used in this Local Law are intended to designate anyone (1) or more of the following uses, including grounds and accessory buildings necessary for their use:

- A. Churches, places of worship, parish houses and convents.
- B. Public parks, playgrounds and recreational areas authorized or operated by a governmental authority.
- C. Nursery schools, elementary schools, high schools, colleges and universities.
- D. Golf courses and country clubs, however, not including clubs whose activities include the maintenance storage or takeoffs or landings of aircraft.
- E. Public libraries and museums.
- F. Not-for-profit fire, ambulance and public safety buildings.
- G. Proprietary or not-for-profit hospitals for the care of human beings, nursing homes, convalescent homes, homes for adults, homes for the aged or residences for adults.
- H. Facilities of not-for-profit membership corporations established for cultural, social, or recreational purposes.
- I. Recreational facilities, whether for profit or not-for-profit, such as swimming, tennis, platform tennis, bowling, hockey, ice skating or other indoor or outdoor sports.
- J. Day-care centers.

**PUBLIC UTILITY:** A building or lot used for or in connection with the transmission, distribution or regulation of water, sewage, gas, electricity, telephone, cable television, telecommunications or other public utility service by a municipal corporation or by a corporation subject to regulation by a state and/or federal regulatory agency. It does not include the administrative offices of the utility.

**RECREATION, OUTDOOR:** Includes: a privately or publicly owned marina; golf course and clubhouse; trap, skeet and archery ranges; swimming pool; skating rink; park; beach; tennis court; racquetball court; camping area; picnic area; dude ranch; museum; riding stable; and similar places of outdoor recreation, as well as accessory uses, including user supplies, food service and sales, service and storage of recreation equipment and accessories. This definition excludes facilities accessory to a residence.

**RECREATIONAL VEHICLE:** A trailer or self-propelled motor vehicle structure without permanent foundation, which can be towed, hauled or driven, and is primarily designed as temporary living accommodation for recreation, camping and travel use and including, but not limited to, travel trailers, truck campers, camping trailers and self-propelled motor homes.

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**RESIDENCE:** Any dwelling for habitation, either seasonally or permanently by one or more persons. A residence may be part of a multi-dwelling or multipurpose building, and will include buildings such as hotels, hospitals, motels, dormitories, sanitariums, nursing homes, schools or other buildings used for educational purposes, or correctional institutions.

**RESTAURANT:** Any establishment at which food is sold for consumption to patrons seated within an enclosed building or elsewhere on the premises.

**RIGHT-OF-WAY:** Land set aside for use as a street, alley, road or thoroughfare or as a means of access to adjoining premises.

**ROADSIDE STAND:** A temporary structure, no larger than 120 square feet in gross floor area, designed, arranged or used primarily for the display and/or sale of agricultural products.

**SATELLITE ANTENNA:** A free standing structure used for the reception of satellite transmissions of television and/or radio signals.

**SELF-STORAGE FACILITY:** A building or group of buildings containing separate, individual and private storage spaces available for lease or rent.

**SETBACK-FRONT:** The required open unoccupied space between the center line of the road and front of the main structure excluding porches, entrance steps and other similar structure on the front of the main structure.

**SETBACK-BACK:** The required open unoccupied space measured from the rear lot line to the nearest part of the main or accessory structure.

**SETBACK-SIDE:** The required open unoccupied space measured from the rear lot line to the nearest part of the main or accessory structure.

**SHOPPING CENTER:** A group of three or more stores, shops or similar businesses offering a variety of goods and services, occupying adjoining structures, whether attached or detached, having a common interrelated parking, loading and site circulation system with consolidated access to public roads. Also known as “malls,” “retail centers,” and “plazas.”

**SIGN:** Any device, structure, or object for visual communication that is used for the purpose of bringing the subject thereof to attention of others.

**SIGN AREA:** The area within the confines of all edges of a sign. Where there is no geometric frame or edge of the sign, the area will be defined by a projected, enclosed, four-sided (straight sides) geometric shape which most closely resembles the said sign.

**SITE PLAN:** A plot of a lot or subdivision on which is shown topography, location of all buildings, structures, roads, rights-of-way, boundaries, all essential dimensions and bearings and any other information deemed necessary by the Planning Board.

**SITE PLAN REVIEW:** A review and approval process, conducted by the Planning Board, whereby Site Plans are reviewed utilizing the criteria enumerated in this Local Law.

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**SOLID WASTE:** all putrescible and non-putrescible materials or substances that are discarded or rejected as being spent, worthless, or in excess to the owners at the time of such discard or rejection, including but not limited to garbage, rubbish, refuse, and demolition debris generated by and defined herein as industrial, commercial and household waste. In addition:

1. A material is "discarded" if it is abandoned by being:
  - a. disposed of;
  - b. burned or incinerated, including being burned as a fuel for the purpose of recovering usable energy; or
  - c. accumulated, stored, or physically, chemically, or biologically treated (other than burned or incinerated) instead of or before being disposed of.
2. A material is "disposed of" if it is discharged, deposited, injected, dumped, spilled, leaked, land filled, or placed into or on any land or water.

**SOLID WASTE MANAGEMENT FACILITY:** Any facility employed beyond the initial solid waste collection process and managing solid waste including, but not limited to: storage areas or facilities, transfer stations; rail: haul or barge-haul facilities; processing facilities; landfills; ash fills; disposal facilities; solid waste incinerators; recycling facilities; and commercial composting facilities.

**SOUND PRESSURE LEVEL:** Means the level which is equaled or exceeded a stated percentage of time. An L10 - 50 dBA indicates that in any hour of the day 50 dBA can be equaled or exceeded only 10% of the time, or for 6 minutes. The measurement of the sound pressure level can be done according to the International Standard for Acoustic Noise Measurement Techniques for Wind Generators (IEC 61400-11), or other accepted procedures.

**SPECIAL EVENTS:** A Special Event is defined as a parade, concert, carnival and/or other such related event that lasts for at least one (1) day, up to a maximum often (10) days. The following will not be considered "Special Events": birthday parties, graduation parties, family reunions, church events and other similar events.

**SPECIAL PERMIT USES:** Those particular uses which are specifically permitted in a given district only when conditioning criteria enumerated in this Local Law are met.

**STRUCTURE:** Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground.

**SWIMMING POOL:** Any body of water, or receptacle for water, having a capability of a depth of eighteen (18) inches or more at any point, used or intended to be used for swimming, bathing or wading and permanently installed or constructed either above or below the surface of the ground.

**TELECOMMUNICATION FACILITY:** Any commercial equipment used in connection with the provision of wireless communication services, including cellular telephone services, personal communications services, radio and television broadcast communications and private radio communication services, and is regulated by the Federal Communications Commission both in accordance with the Telecommunications Act of 1996 and other federal laws. A Telecommunication Facility will include monopole guyed, or lattice tower(s), as well as antenna(s), switching stations, principal and accessory telecommunication equipment and supporting masts, wires, structures, and buildings.

**TEMPORARY USE:** An activity conducted for a specified limited period of time.

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**TRANSLOADING OR TRUCKING TERMINAL:** A facility that is used for the transfer of goods or materials from one form of transportation to another (e.g. from a tractor-trailer to a home delivery truck).

**TRAVEL TRAILER:** Any portable vehicle designed to be transported on its own wheels and intended to be used for temporary living quarters for travel, recreation or vacation purposes.

**USE:** The specific purpose for which land or a building is designed, arranged, intended, or for which it is or may be occupied or maintained.

**VARIANCE:** A variance is a departure from this Local Law granted by the Zoning Board of Appeals as it applies to a particular piece of property. Variances run with the land and to the benefit of subsequent owner of the property.

**WAREHOUSE:** A building, typically enclosed, designed or used for the storage of commodities, and that occupies a total area greater than 1000 square feet. Includes warehouse, wholesale establishment, discount house, bulk storage and bulk sales outlet. Includes mini-storage businesses and may include terminal facilities for handling freight. [See also Trucking Terminal/ Transloading].

**WIND ENERGY CONVERSION SYSTEM ("WECS"):** A machine that converts the kinetic energy in the wind into a usable form (commonly known as a "wind turbine" or "windmill").

**WIND ENERGY CONVERSION SYSTEM, SMALL (' Small WECS'):** A wind energy conversion system consisting of a wind turbine, a tower, and associated control or conversion electronics, which has a rated capacity of not more than 10 kW and which is intended to primarily reduce on-site consumption of utility power.

**WECS SITE:** The parcel of land where the WECS is to be placed. The Site could be publicly or privately owned by an individual or a group of individuals controlling single or adjacent properties. Where multiple lots are in joint ownership, the combined lots will be considered as one for purposes of applying setback requirements.

**WECS TOTAL HEIGHT:** The height of the tower and the furthest vertical extension of the WECS.

**WIND ENERGY FACILITY:** Any Wind Energy Conversion System, Small Wind Energy Conversion System, or Wind Measurement Tower, including all related infrastructure, electrical lines and substations, access roads and accessory structures.

**WIND ENERGY METEOROLOGICAL (MET) TOWERS:** Any commercial equipment used in connection with the temporary collecting of data on the feasibility of installing "Wind Energy" producing towers in the Town of Gaines. Meteorological (MET) towers are to be used for the purpose of collecting data and will not be used to produce "Wind Energy". Meteorological (MET) Towers must include monopole guyed or latticework tower(s), as well as antenna(s), supporting masts, wires, structures and buildings. Meteorological (MET) towers will have a maximum height of 199 feet. Any tower over 199 feet in height will require an 'Area Variance'.

**WIND MEASUREMENT TOWER:** A tower used for the measurement of meteorological data such as temperature, wind speed and wind direction. Temporary (no more than 2 years) towers may be allowed as part of a Small WECS application, where the requested tower meets all height, setback and other requirements of section 1090.



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**YARD:** An open space on the same lot with a building unoccupied and unobstructed from the ground upward except as otherwise provide herein.

**YARD, FRONT:** The space within and extending the full width of the lot from the front lost line to the part of the principal building which is nearest to such front line.

**YARD, REAR:** An open space extending across the entire width of the lot between the rear wall of the principal building and the rear line of the lot, and unoccupied except for accessory buildings and open porches,

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

**ZONING CERTIFICATE OF COMPLIANCE:** A certificate issued by the Zoning Officer stating that a structure or the use thereof is in compliance with the provisions of this Local Law.

**ZONING PERMIT:** A document issued by the Zoning Officer authorizing the use of lots, structures, uses of land and structures, and the characteristics of the uses in conformity with this Local Law.