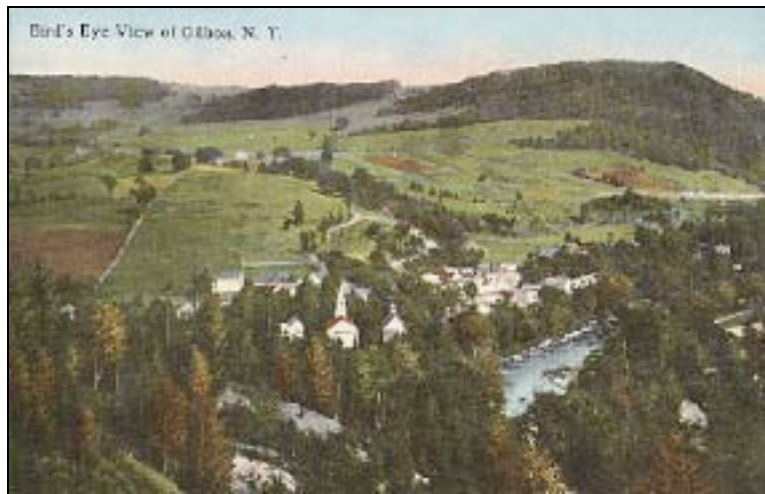


Town of Gilboa Schoharie County, NY

COMPREHENSIVE PLAN



March 2004

Prepared by:

**Town of Gilboa Planning Board
Town of Gilboa Town Board**

With assistance from:

**Schoharie County Planning & Development Department
and Shepstone Management Company**

Town of Gilboa, Schoharie County, New York Comprehensive Plan - 2004

Foreword

This Plan was prepared by the Town of Gilboa Planning Board with the support of the Town of Gilboa Town Board and the Schoharie County Planning and Development Agency. We also received tremendous help from the 460 individuals who took the time to return our planning survey.

Funding for this project was made available through the New York State Department of State Master Planning and Zoning Incentive Award Program.

This Comprehensive Plan looks forward 5-10 years, offering a policy framework for Town government. The Town is small, with a population of a little over 1,200 persons. It has been growing slowly, but a pace well below the State and nation. Nevertheless, there has been a large increase in the number of second homes.

Conversions of these second homes to permanent homes can be expected to produce much of the Town's future population growth. Taking a long range view of this activity as it affects Gilboa is a major purpose of this Plan. Other challenges it addresses include developing tourism and other economic opportunities.

**Town of Gilboa Planning Board
Town of Gilboa Town Board**

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1.0 Introduction

This Comprehensive Plan sets forth a combination of strategies to deal with the growth and future needs of the Town of Gilboa. Needs are largely based upon a "Town of Gilboa Planning Survey" conducted in 2003. The survey was distributed to approximately 1,750 Gilboa taxpayers and some 460 persons (26% responded - an excellent return. The detailed results are attached as Appendix A.

The survey results indicate that 77% of respondents chose Gilboa for its rural atmosphere and farmland character and 58% chose the Town for its low taxes. Amazingly, 39% of respondents stated that they had come to Gilboa from New York City, Rockland or Westchester Counties or Long Island.

Some 75% of those participating in the survey stated that the Town had either improved for the better or not changed in its desirability as a place to live. Their dislikes were largely limited to the impact of the New York City watershed regulations (34%), transportation difficulties (23%) and the lack of cultural and recreation options (21%).

Those completing the survey strongly supported certain basic land use regulations. Some 73% indicated that reviewing scenic impacts with respect to new development was important and 71% felt the same way about reviewing the density of development.

Survey participants included many retirees. Indeed, there was an equal proportions of principal householders who were employed full-time by others and who were retired (38% each). Interestingly, the bulk of respondents (70%) found employment outside of Schoharie County. This reflects the relationship the Town has to the metropolitan area despite its distance from New York City.

Many respondents who did work locally, some 15%, indicated they had home occupations. More importantly, 29% stated that they would

like to have a home occupation. This mirrors changes in the national economy. Much employment is shifting from payroll jobs to entrepreneurship (which tends to obscure much of the real job growth).

Respondents gave high marks to nearly all public and semi-public services excepting for overall code enforcement (about which they have mixed feelings). Highway maintenance was rated "Good Quality" or "High Quality" by 71% of those filling out surveys, with Town roads getting better reviews than County highways. Other services that scored well included utilities (68%), fire protection (64%), police protection (58%) and ambulance services (56%). Only code enforcement and health care failed to gain at least 50% combined "Good Quality" or "High Quality" ratings.

Gilboa taxpayers who answered the survey endorsed using their tax money to add or increase financial support for taking care of the roads (57%), special property cleanup days (56%), ambulance service (54%) and fire protection (53%). They also indicated modest support for developing certain recreational facilities on Town property along Old Stryker Road, including trail systems (42% favoring increases), a senior activities center (37%) and a historical museum (34%).

Respondents supported local laws protecting the right to farm (92%) and right to timber using sound management practices (89%). They also supported regulation of junkyards (90%), mobile home parks (88%), cellular tower construction (70%) and wind power generation facilities (64%). They are, however, quite cynical about the ability to free up the area for economic development through phosphorous reduction efforts, only 62% supporting this concept.

When residents were asked to describe how they wanted to see in Gilboa in the next 10-20 years, "a clean and green environment," ranked highest with 75% saying this was important. "Profitable farms and farmland preservation" was cited as an important goal by 74% and "preservation of historical heritage" was similarly ranked by 53%.

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Other important goals included "more local shopping opportunities"(46%), "higher quality development" (43%) and "more small scale industrial jobs" (39%).

Achieving these goals will involve several considerations. These include the following:

- The Town must balance development and preservation. Both can be accommodated with careful planning and enforcement of land use regulations. Maintaining balance among agricultural, commercial, industrial, residential and open space uses is important, also, to maintaining a working landscape, assuring economic opportunity and growing the tax base relative to service demands.
- The Town now includes a combination of residents who have lived in Gilboa their entire lives and a large block of others from the metropolitan area. The former are often seeking greater economic opportunity. The latter, however, have often already achieved economic success and have sought out the Town for non-economic reasons. This has the potential to produce conflicts regarding development policy, as Town officials have already witnessed with recent projects.

Nevertheless, such conflicts are unnecessary. Good design and planning can provide for both jobs and environmental protection where residents work together to find the correct solutions. This can be encouraged by ensuring that both groups are involved on boards and committees responsible for the Town's future. Inviting the County, the State and other groups to Gilboa to do regular planning educational sessions within the Town is another useful technique for helping to meld goals and objectives. It is also one of the purposes of this Comprehensive Plan.

- Survey results indicate residents want practical and responsible land use regulation along the lines of the Town's present Homesite Ordinance and Subdivision

Regulations with some consideration given to specific issues such as cellular towers and junkyards.

- While planning and land use regulation are occasionally perceived as negatives in rural communities because they involve some limits on private enterprise, proper planning supports private enterprise by creating a level playing field that accounts for the externalities associated with land development.

Like anything else, regulation can be overdone and often is, but a responsible Town government that uses its land use planning laws to ensure that all players operate by the same rules and limits those regulations to the minimums required for those purposes, enhances rather than detracts from liberty. The Town of Gilboa is evolving. Its needs may change over time but the level of regulation that now exists is generally appropriate. Notwithstanding this, some updates of local laws, ordinances and regulation are necessary to comply with State law and ensure proper enforcement.

- Change is inevitable but is often resisted. The Town can influence change positively if it stays actively involved in issues. Benign neglect, by contrast, will only lead to some other entity controlling the Town's destiny. Successful towns have embraced change and molded it to fit their own particular objectives. That should be an overriding goal of Town government.

This Comprehensive Plan is intended to work off these principles and set out a practical framework for Gilboa to develop. Its success will be measured in intangible qualities of life, growth in economic opportunity for residents and the fairness and efficacy of the Town's regulations. Success will also be represented in the planning ahead and capital budgeting for needed community facilities and services. Finally, success will be reflected in keeping the costs of government and taxes low, that being one of the best ways to achieve all of the above.

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2.0 Background Studies

2.1 Regional Location and History

2.1.1 Regional Setting

The Town of Gilboa is located at a latitude of 42.3973 degrees North and a longitude of 74.4462 degrees West (coordinates for the hamlet of Gilboa Center) in the south central portion of Schoharie County, north of Grand Gorge, east of Stamford and south of Middleburgh, New York. Adjoining municipalities include the Towns of Roxbury and Stamford in Delaware County, Prattsville in Greene County and Jefferson, Blenheim, Fulton, Broome and Conesville in Schoharie County.

NYS Route 30 and the Schoharie Creek bisect the Town. Other prominent features include the Schoharie Reservoir (part of the New York City Water Supply System) and the New York State Power Authority's Blenheim-Gilboa Pumped Storage Project, which includes lower and upper reservoirs. The Town consists of approximately 37,600 acres or 59 square miles of land. The *DOT Planimetric Map* following provides details.

2.1.2 History

The Town of Gilboa was a part of the Blenheim Patent and included "State Lands" confiscated from Tories. It was first settled in 1764, by Matthew and Jacob Dise, two settlers who joined the British and fled to Canada during the Revolution. Other settlers after the war included Richard Stanley, Joseph Desilva, Benoni Frazer, Cornelius Lane, John Breaster, Isaac Van Fort, Daniel Conover and Jacob Homer. The first inn was established in 1785 by Ruloff Voorhees. Jonah Soper built the first tannery, in 1800.

The Town of Gilboa was officially created on March 16, 1848 from portions of the Towns of Blenheim and Broome. According the *Historical and Statistical Gazetteer of New York State, 1860* the hamlet of Gilboa then included 2 churches, a private seminary, cotton factory, gristmill, tannery, and 566 inhabitants. South Gilboa

contained a church and 20 dwellings. Broome Center had a church and 15 dwellings.

The Town further developed over the years and the hamlet of Gilboa was a lively community in the 1920's when New York City constructed a reservoir on the Schoharie Creek, displacing 350 residents as part of the planned development of the Catskill region as an additional water source. This began with construction of the Ashokan Reservoir and Catskill Aqueduct, which were completed in 1915. The Schoharie Reservoir and Shandaken Tunnel were completed in 1928.

The taking of the land and removal of the hamlet for the Schoharie Reservoir caused long-lasting resentment that was aggravated in later years by the imposition of watershed protection regulations further extending City control over the area. The City has, however, supported local government from a fiscal standpoint, and contributed directly to sewer system upgrades, agricultural projects, economic development and other watershed protection measures. The Town is also a member of the Catskill Watershed Corporation, which has served to help bridge the differences between the City and local government through cooperative projects.

Another more recent major project of historical significance on the Schoharie Creek is the Power Authority's Blenheim-Gilboa Pumped Storage Power Project. Completed in 1973, it generates more than one million kilowatts of electricity in peak demand periods by drawing water from the Creek and recycling it between two reservoirs, one at the top of Brown Mountain, the other at the bottom. The water is pumped to the upper reservoir during non-peak periods and discharged back to the lower reservoir during those peak periods when additional electricity is needed. The project is the largest employer in the area with about 200 jobs involved.

The Town has a remarkably interesting history that already serves as an economic asset in generating tourism. The Gilboa Historical Society was formed in 1997 to promote that history and operates a small museum in the Old Town Hall.

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2.2 Natural Features

2.2.1 Geology

The rolling hills of southern Schoharie County represent the northern terminus of the foothills of the Catskill Mountains. The higher elevations of the County constitute the edges of the Allegheny Plateau. The plateau was formed from ancient deposits of the primordial Iapetus Ocean and the rivers that drained into the ocean some half-billion years ago. The predominance of sedimentary rock formed beneath the ocean and lakes accounts for the conspicuously layered look of the exposed bedrock and the regular discovery of fossils discussed below.

Glacial events combined with subsequent weathering and erosion formed the landscape seen today. The Schoharie Creek and its tributaries are the remnants of glacial Lake Schoharie, which exposed rich bottom land soils when receding ice shields released its waters some 12,000 years ago.

The Gilboa Forest, which is located within the Town of Gilboa, is the oldest known fossil forest in the world and it is submerged beneath the Schoharie Reservoir. The forest was discovered during the excavation of the reservoir. It dates back nearly 385 million years to the Devonian period.

The Devonian period is the geologic period that extends 410 to 360 million years ago, when forests and amphibians first appeared and fish became abundant. This was approximately 100 million years before the Mesozoic Era. The Gilboa Forest is one of the first forests to rise up from the water lines of Earth's ancient oceans. Discoveries from the ancient forest include tree stumps preserved in their original soils and some of the world's oldest insects and spiders.

2.2.2 Water Resources

Water resources of the Town of Gilboa are depicted on the *Topography, Wetlands, Water Courses and Watersheds Map* that follows. Most of the Town of Gilboa drains into the Schoharie

Creek, which flows north into the Mohawk River. The southernmost portion of Gilboa lies within the Catskill/Delaware Watershed, which is part of the New York City Water Supply System.

The Schoharie Creek has been dammed to create the Schoharie Reservoir. Water from the Reservoir is removed from the area via the 18 mile long Shandaken Tunnel, which transports it to the Esopus Creek and Ashokan Reservoir and then eventually to the City through the Catskill Aqueduct. This system of reservoirs and tunnels is one of the largest in the world. It has a combined storage capacity of 550 billion gallons and supplies 2.34 billion gallons of water per day to some 9 million urban residents. It does so using a 6,000 mile grid of water mains, including the massive underground aqueducts and tunnels.

Water quality within the Catskill/Delaware watershed, including those portions of the Town of Gilboa, is high. This is why New York City has been able to avoid the filtering of its water supply. However, relatively little of the Town actually drains into the Reservoir. The bulk of it empties into the Schoharie Creek below the dam.

The Town of Gilboa does not have a public water supply or public sewers. Residents use on-site septic systems for the removal of wastes; and, they rely on private wells for their water supply.

Floodplains are depicted on the *DOT Planimetric Map with Floodplain* that follows. The one major area of floodplain lies along the Schoharie Creek between the two reservoirs. This area has flooded in recent years. This led to award of government grants to relocate several of the houses along Stryker Road, the road itself and a church out of the floodplain. These relocations have left some usable recreation land for potential Town use along Old Stryker Road.

Wetland areas are relatively limited within the Town of Gilboa. The *Topography, Wetlands, Water Courses and Watersheds Map* indicates their locations. Generally, the Department of Environmental Conservation mapped Wetlands are scattered about the South Gilboa Station area and the east-central portion of the Town.

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2.2.3 Topography and Soils

The topography of Gilboa is one of its most striking features. Steep slopes and sheer grades as severe as 70% to 90% (100% being vertical) arise from rolling hillsides. As shown on the corresponding *Slope Map*, the most severely sloped area is primarily located along Gilboa's western boundary with the Town of Blenheim. This steep area runs throughout the center of Gilboa along the Schoharie Creek and around the reservoir.

Other steep areas are located along County Road 13 in the westerly area of the Town, and in northern and eastern areas extending into the Town of Broome. That being said, nearly 23% of the Town is characterized as moderately sloped hillsides (11% to 20%) and slightly more than 70% of the Town is comprised of having flat to easy grades (0% - 10%).

Settlement has historically occurred in nearly level lowlands, adjacent to agricultural fields and the easiest routes of commerce and transport. In more recent history; however, road building and residential development has begun to reach into more challenging terrain. Many of Gilboa's hillsides have slopes that are categorically "steep" or greater than 10% grade. Below are conventional standards for land use according to the grade of slope:

Standards for Grading

1%	Minimum for drainage on paved/planted areas
2%	Minimum at building perimeter
2%	Minimum for drainage swales and ditches
10%	Maximum for drainage swales and ditches
25%	Maximum for mown grass areas
60%	Maximum grade for unmowed planted banks

When excavating or building on lots with significant slope, consideration must be given not only to possibilities of runoff and erosion; but, also to accessibility of those areas for public safety and utility company vehicles. Further, the dramatic vistas associated with the local

landscape add to the appeal of the area as a tourist attraction. Major changes in hillside areas could have negative impacts upon scenic amenities that are valued by these visitors and the community itself.

The *Schoharie County Soils Map* that follows, indicates the Town of Gilboa includes three of the County's 10 major soil associations. These soil associations constitute descriptions of the landscape based on the distinctive proportional patterns of soil types. Each contains a matrix of minor soil types.

Soils data allows for an understanding of how individual land areas will perform under differing uses. The primary considerations for agricultural use are drainage, contour and fertility. Drainage and contour are also issues for developed uses. Additional concerns include percolation, proximity to flood plains and support of wildlife habitats. The presence of wetlands may also be inferred from soil types. The following are descriptions of the three soil associations found in the Town of Gilboa:

Oquaga-Culvers-Morris Association

Reddish, moderately deep and deep, nearly level to steep, well-drained to somewhat poorly drained, strongly acid soils of the uplands.

This association consists of well-drained to somewhat poorly drained, nearly level to steep soils in two fairly large areas in the northern portions of Gilboa. A typical landscape consists of steep hillsides and a series of flat-topped ridges and benches more than 2,000 feet above sea level. The hillsides and benches are cut by steep valleys. The soils in this association are deep and moderately deep but have a dense hard layer, called a fragipan, at varying depths of 12 to 24 inches, that impedes drainage.

The Oquaga soils which comprise 45 percent of this association are moderately deep, well drained

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medium textures, and stony. They are found on ridge-tops and steep hillsides. The Culvers soils comprise 25 percent of this association and they are deep, well drained, medium textures, and stony. They are found on hillsides and glacial till. The Morris soils comprise about 25 percent and are somewhat poorly drained, medium textured, and stony. They are found on the lower portion of hillsides and glacial till. Minor soils comprise the remaining 5 percent of this association.

Most steep areas of this association have never been cleared for cultivation. Some areas of the deeper, better soils are used for dairy farming. Other areas are used for summer homes, recreation or other non-farm purposes. The growing season at this elevation is fairly short. For good growth of crops, large additions of lime and fertilizer are needed. Because of these limitations, these soils are less desirable for most farm enterprises than soils in lower position.

Lordstown-Mardin Association

Yellowish-brown, moderately deep to deep, nearly level to steep, well drained to moderately well drained, strongly acidic soils of the uplands.

The Lordstown-Mardin Association is located in the southern portions of the Town of Gilboa. The landscape of these soils is characterized by a series of flat-topped ridges cut by shallow drainage ways and a network of small, steep-sided streams. The "stairstep" shape of the exposed bedrock is a common characteristic. The soils in this association are mostly moderately deep, sometimes with a fragipan.

The Lordstown soil component, which makes up about 50% of the association, is moderately deep, well drained, and medium-textured; commonly, it is the stony mix on steep hillsides. The Mardin soil component, about 30%, is deep, moderately or well-drained, and medium textured; they are in rolling, sometimes very stony

landforms with long, smooth, gentle to steep slopes. These soils have a very dense fragipan at a depth of about 2-feet that slows permeability. The remaining soil components are medium textured or stony and moderately drained

Much of the Lordstown-Mardin Association is too stony and flaggy for cultivation and may be shallow to bedrock with a poor water regime. Because of this, agriculture on these soils has been largely limited to dairy grazing. In recent times, this use has diminished and the lands are frequently left idle, reforested or subdivided for residential development.

Schoharie Association

Deep, nearly level to steep, mainly moderately well-drained soils of ancient lake beds.

This association surrounds the Schoharie Creek and Schoharie Reservoir. These soils were formed from the sediments of glacial Lake Schoharie. They are characteristically reddish calcareous clay and silt. The Schoharie soils, which are about 60% of this association, are deep, moderately well-drained and moderately fine-textured with a clay-like subsoil.

The other minor components of the Schoharie association are formed of generally the same materials but are not as well-drained. They include gravelly till and outwash of fans, deltas, and small islands in creeks and streams. While not well suited for crop cultivation they have been used for producing hay and forage and as pasture to support livestock on the bottom land farms.

These soils are among those in the Town of Gilboa that are most prone to erosion. They are generally too wet to work in the early spring, and too dry and hard later in the season. For nonagricultural use, low permeability, erosion, and proximity to flood areas are the primary concerns.

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2.2.4 Vegetation and Wildlife

The Town is for the most part heavily wooded, as it was when the region was first settled. The wide variety of deciduous hardwood trees is both an economical and recreational asset. It is part of what makes the area especially attractive, particularly during the fall season. Hunting and fishing are very popular due to the abundance of fish, game and the wooded environment. These characteristics have also attracted a large number of second homes.

Timbering is a traditional economic activity that needs to be promoted and protected, provided best management practices are applied. The Town is home to a number of firewood producers, portable sawmills and similar enterprises. Some 76% of respondents to the community survey during preparation of this Plan stated that a thriving timber industry was either "somewhat important" or "important," an indication of its role in the local economy.

There is a strong need to create economic incentives for land to remain under sustained forestry management programs. The New York State § 480-a program offers landowners forestry tax benefits. Unfortunately, because the remaining taxpayers have to pick up the costs of any tax benefits given to woodlot owners, the burden of this program has been squarely upon municipalities, and this has not allowed many communities to promote the program. Amendments to this legislation are needed to spread the burden Statewide in the manner of the Farmer's School Tax Refund so that all taxpayers who benefit from the open space preserved can help to pay the costs.

2.3 Existing Land Use

An *Existing Land Use Map* of the Town of Gilboa follows. It is assembled from assessment information gathered by the Office of Real Property Services for Schoharie County. It is important to note that the data gives only a general description of the land use in the Town of Gilboa. A single family home on 100 acres, not being used for any other particular purpose,

results in the entire tract being classified as residential.

The *Existing Land Use Map* illustrates the uses comprising the Town of Gilboa. For the purpose of this discussion, uses have been grouped into the following categories, each of which are discussed in detail below; Residential, Vacant, Agriculture and Forestry, Public, Recreational, Industrial, Commercial and Miscellaneous.

**Table 2-1
Existing Land Use, 2003**

Land Use	Acres	%
Residential, Single-Family	9,103	24.2%
Residential, Mobile	2,192	5.8%
Residential, Seasonal	1,933	5.1%
Residential, Other	722	1.9%
Residential Sub-total	13,949	37.1%
Vacant	10,619	28.2%
Agriculture and Forestry	9,773	26.0%
Public	1,115	3.0%
Recreational	550	1.5%
Industrial	68	0.2%
Commercial	29	0.1%
Miscellaneous	1,520	4.0%
TOTAL	37,622	100.0%

RESIDENTIAL: Residential property accounts for the largest land use category in Gilboa with 13,949 acres or 37% of total land area. Residential uses include single-family homes, duplexes, multi-family homes, multiple residences, mobile homes, mobile home parks, and seasonal dwelling units.

Single-family homes represent approximately 65% of the acreage for this use, while duplexes and multi-family homes are responsible for less than 1% of the residential acreage in the Town. Mobile homes and mobile home parks are the second largest residential land use at 16%.

VACANT: Vacant lands in Gilboa total approximately 10,619 acres or 28% of the Town's total area. Vacant land is the second largest land use category depicted on the *Existing Land Use Map*. Comparing this map with the

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USGS Topographic Map following reveals that, although the steeper areas of the Town are undeveloped, the majority of vacant land is located in areas with gentle slopes and rolling hillsides and suitable for development.

AGRICULTURE AND FORESTRY: Agricultural and forestry land use represents the third largest land use in Gilboa, at 9,773 acres or 26% of the total. For the purposes of this study, the category is comprised of field crops, livestock products, forest lands and vacant agricultural lands. Field crops represent 39% of the agricultural acreage and livestock products comprise 36% of the total.

PUBLIC: The public land category is comprised of the public, educational and governmental land uses depicted on the *Existing Land Use Map*. This land use comprises about 1,115 acres or 3% of the Town of Gilboa's total land area.

RECREATIONAL: Recreational land includes 550 acres or 1.5% of Gilboa's total land area. Included are camp resort and camping properties along with similar uses.

INDUSTRIAL: Industrial land uses comprise only 68 acres or 0.2% of the Town's total land area. The lack of industry represents an imbalance in the Town's tax base and a potential need for additional economic opportunities.

COMMERCIAL: Commercial uses are an even smaller portion of the Town at only 29 acres or 0.1% of the total. The lack of local commercial services forces residents to drive elsewhere for them.

Although Grand Gorge is relatively convenient, those businesses do nothing for the Town's tax base. The amount of commercial land may shrink further if, as possible, the City acquires the Ron-de-voe Restaurant

MISCELLANEOUS: The miscellaneous land use category is comprised of land owned by the New York State Power Authority, cemeteries and religious use properties. It represents 4% of the Town's total area or approximately 1,520 acres.

2.4 Population and Economic Base

2.4.1 Population Trends

The following table illustrates the growth of Gilboa compared to Schoharie County and the State:

Table 2-2 Population Changes, 1990 - 2000			
Year	New York State	Schoharie County	Town of Gilboa
1990	17,990,778	31,840	1,207
2000	18,976,457	31,582	1,215
Change	985,679	(258)	8
% Change	5.5%	-0.8%	0.7%
Persons Per Square Mile	402	51	21

Based on the Census Bureau data for 2000, the Town of Gilboa grew by a modest 0.7% between 1990 and 2000. New York State as a whole grew by 5.5% during this same period with much of that growth occurring in the Metropolitan New York City area. Schoharie County experienced a decrease in population of -0.8% between 1990 and 2000, so the Town's increase is a positive sign in comparison.

The causes of growth within the Town of Gilboa are related to a number of factors. One of those is the steady growth in the number of second homes. The increase in second home ownership throughout the 1990's (see Section 2.6.1), has led to large numbers of second home conversions to permanent residences, the number of owner-occupied housing units having risen by 37 or 9.5% despite the low level of population increase.

The increases in second home ownership over the past two decades will likely lead to steady, though modest, growth in the Town's population over the next decade. This will occur as second homeowners choose to make the Town of Gilboa their permanent residence for retirement or other purposes.

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2.4.2 Age of Household Members

The Town of Gilboa's population by age group differs slightly from that of Schoharie County. Those persons 19 years or younger comprised 25% of the Town of Gilboa compared to 28.9% for Schoharie County in the 2000 Census. For those persons 65 years of age or older, 16.5% live in the Town compared to 14.9% in the County.

**Table 2-3
Population by Age, 2000**

Year	Gilboa	%	County	%
Under 5 years	71	5.8%	1,757	5.6%
5 to 9 years	55	4.5%	2,075	6.6%
10 to 14 years	91	7.5%	2,262	7.2%
15 to 19 years	88	7.2%	3,014	9.5%
20 to 24 years	45	3.7%	1,794	5.7%
25 to 34 years	113	9.3%	3,480	11.0%
35 to 44 years	188	15.5%	4,800	15.2%
45 to 54 years	219	18.0%	4,608	14.6%
55 to 59 years	76	6.3%	1,724	5.5%
60 to 64 years	68	5.6%	1,371	4.3%
65 to 74 years	125	10.3%	2,485	7.9%
75 to 84 years	55	4.5%	1,625	5.1%
85 years+	21	1.7%	587	1.9%
TOTAL	1,215	100%	31,582	100%

The largest age cohort, those persons 45-54 years of age, accounted for 18% of Gilboa's residents, but only 14.6% of the County's. The 65-74 age cohort, accounted for 10.3% of Town residents, compared to only 7.9% for the County, indicating a somewhat more dependent population in regard to care of the elderly within the Town versus the County.

2.4.3 Population by Sex

The female gender is a slight majority of the population in the Town of Gilboa with 51.4% (624 persons) as compared to 48.6% (591 persons) for males in 2000. Overall, the Town's proportion of female versus male residents is very similar to that for New York State (51.8% female and 48.2% male).

Generally speaking, the life expectancy of females is greater than that of males.

Nonetheless, of the 201 Gilboa residents over the age of 65 in 2000, some 51.7% were male.

2.4.4 Years of Education

The 2000 Census indicated that 703 persons or 78.5% of the population age 25 years or more had a high school diploma. In 1990, only 68.4% of Town residents had a high school diploma, so there have been major gains during the 1990's. In New York State, by comparison, 79.1% of the population age 25 years or more had a high school diploma in 2000.

Some 20.8% of Town residents possessed a college degree (Associate or higher), compared to 27.8% for the County and 34.6% for the State. These numbers may be influenced by SUNY-Cobleskill employees and students in County data. Only 18.7% of Town residents 25 or more years old possessed a college degree in 1990.

**Table 2-4
Education Levels, 2000**

Education Level	Town of Gilboa	Town %	County %
< 12 Yrs Education	192	21.5%	18.4%
12+ Years	517	57.8%	53.8%
2+ Years College	62	6.9%	10.5%
4+ Years College	124	13.9%	17.3%
TOTAL	895	100%	100%

Source: U.S. Census - 2000, Persons 25+ Years Old

Overall, trends in educational attainment in the Town are positive and more in keeping with the County average than they were in 1990. This trend will likely continue during the next decade.

2.4.5 Incomes

Data gathered during the 2000 Census indicates per capita income for the Town of Gilboa was, at \$18,561, significantly higher than that of the County as a whole (\$17,778). Per capita income Statewide, nevertheless, was \$23,389, indicating the great need for economic development within the Town, County and Catskill region.

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**Table 2-5
Incomes, 1990 - 2000**

Incomes	Gilboa 1990*	Gilboa 2000	County	NY State
Per Capita	\$17,214	\$18,561	\$17,778	\$23,389
Gain 90-00	-	\$1,347	\$2,600	\$1,289
% Gain	-	7.8%	17.1%	5.8%
Median Household	\$34,231	\$35,156	\$36,585	\$43,393
Gain 90-00	-	\$925	\$1,660	-\$757
% Gain	-	2.7%	4.8%	-1.7%
Median Family	\$34,989	\$38,214	\$43,118	\$51,691
Gain 90-00	-	\$3,225	\$2,651	-\$1,534
% Gain	-	9.2%	6.6%	-2.9%

* Adjusted for inflation to 2000 dollars.

It is interesting, also, that median family income in the Town was, at \$38,214, much lower than the County figure of \$43,118. Additionally, the Town median household income was, at \$35,156, also somewhat lower than the County median of \$36,585. One explanation for the discrepancy is the higher percentage of households in the Town with Social Security income, some 42.4% versus 32.6% for the County.

The single most important fact with respect to incomes is that both the Town and County are economically gaining on the State as a whole in every category. There are still gaps that need to be addressed but they are closing relatively fast. This would be very positive news except that the State is falling behind more than the Town and County are gaining. This is especially true in the median family income category, where New York actually lost 2.9% while the nation was gaining 6.1%. Both Gilboa and Schoharie were able to beat the national average.

2.4.6 Employment Status

The Town of Gilboa had a workforce of 481 employed persons over 16 years of age in 2000, of which 227 or 47.1% were female. This proportion was comparable to New York State and Schoharie County averages. The total number of employed persons in Gilboa in 2000 was, however, lower than in 1990, when 507 persons composed the Town's labor force.

The Town also experienced a slight shift in private industry versus government employment between 1990 and 2000. The percentage of government workers increased from 21.9% in 1990 to 26.2% in 2000. This compares to a Statewide average of only 17% of employees.

**Table 2-6
Workers by Job Class, 2000**

Class	1990	%	2000	%
Private wage/salary	325	64.1%	302	62.8%
Self-employed	71	14.0%	46	9.6%
Unpaid family	-	0.0%	7	1.5%
Total Private	396	78.1%	355	73.8%
Government	111	21.9%	126	26.2%
TOTAL	507	100%	481	100%

Over time, such a continued shift in employment from private industry to government will place a major burden on the local tax base to support municipal and State government. There is a major need for more private industry jobs in both the Town and region.

2.4.7 Employment by Industry

Table 2-7 provides a breakdown of the employed Town population aged 16 years or more in 2000 by industry. The largest single industry in which Town residents are employed is educational, health and social services, comprising 22.9% or nearly a quarter of the employment base in the Town. Many of these are the government employees discussed above.

Those persons involved in transportation, warehousing or utilities made up another 12.1% of the local labor force. Retail trade at 10.8%, construction at 10.2% and manufacturing at 8.3% rounded out the 2000 employment base of the Town of Gilboa. Together, the top five industries comprised 41.4% of jobs held by Town residents.

Other industries employing residents included: finance, insurance and real estate (7.9%); public administration services (5.6%); and professional, management and administrative (5.2%).

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The agricultural sector employed only 4.6% of the Town labor force. This was a decrease from 1990 when that industry employed 8.3% of employed persons. Those employed in the arts increased from 2.3% in 1990 to 4.2% in 2000, reflecting the migration of metropolitan area employees to the Town as permanent residents.

The data indicates that 162 or 34% of Town residents were employed in management, professional or related occupations. An additional 90 persons, or 19%, were employed in sales and office occupations, confirming the importance of service industry jobs.

**Table 2-7
Employment by Industry, 2000**

Industry	16+ Years Employed	%
Educational, health, social services	110	22.9%
Transport, warehousing, utilities	58	12.1%
Retail trade	52	10.8%
Construction	49	10.2%
Manufacturing	40	8.3%
Finance, insurance, real estate	38	7.9%
Public administration	27	5.6%
Professional, management, admin.	25	5.2%
Ag, forestry, fish/hunting, mining	22	4.6%
Recreation, lodging, food service	20	4.2%
Wholesale Trade	17	3.5%
Other services	16	3.3%
Information	7	1.5%
TOTAL	481	100%

Source: U.S. Census, 2000

2.4.8 Travel to Work

Some 18 persons, or 3.8% of workers 16 years and over, within the Town of Gilboa, worked from home in 2000. This was somewhat less than the County, which has a rate more typical of rural areas. Commute time was slightly higher, reflecting the relative isolation of the Town.

**Table 2-9
Travel to Work, 2000**

Geography	Mean Travel Time to Work	% Worked at Home	% Public Transit
Town of Gilboa	32.5 Minutes	3.8%	3.6%
Schoharie County	28.5 Minutes	4.3%	1.2%
New York State	31.7 Minutes	3.0%	24.4%
United States	25.5 Minutes	3.3%	4.7%

Source: U.S. Census, 2000

Data on employment by occupation from the 2000 Census is summarized in Table 2-8.

**Table 2-8
Employment by Occupation, 2000**

Occupation	16+ Years Employed	%
Management, professional	162	33.7%
Sales, office	90	18.7%
Service	80	16.6%
Construction, mining, maintenance	77	16.0%
Production, transportation	63	13.1%
Farming, forestry	9	1.9%
TOTAL	481	100%

Source: U.S. Census, 2000

Interestingly, Town of Gilboa residents used public transportation at a much higher rate than County residents as a whole in 2000, with 3.6% having used that mode in the Town, compared to 1.2% Countywide. This is probably due to the rural public transportation system that the County operates along Route 30.

2.5 Housing

2.5.1 Housing Stock

The 2000 U.S. Census indicated that the Town of Gilboa had 992 housing units, of which 478 were occupied. Some 425 of these units were owner occupied and 53 were renter occupied. There was a total increase of 138 housing units between 1990 and 2000. This 16.1% gain, while the population grew by less than 1% illustrates

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the growing importance of second homes in the Town. There were 514 vacant housing units in the Town in 2000, of which 471 or 91.6% were second homes. This compared to 404 vacant housing units in 1990, of which 341 or 84.4% were second homes. Not only did second homes grow in number between 1990 and 2000, but they now make up a greater percentage of housing units in the Town, almost equaling the number of primary residences. As these second homes convert to primary residences, the Town's population base will grow.

the housing stock in Gilboa, up from 39.9% in 1990. Short-term, this is a positive trend since there are a greater number of tax payers who do not place as much demand on services, particularly in regards to public schools. Over time, however, as these homes become primary residences, there is the potential for major impacts on local services, as second home owners, who once paid taxes without demanding much in services, become part of the services consuming local population. These impacts are likely to be gradual but the cumulative impact with respect to schools could be quite large.

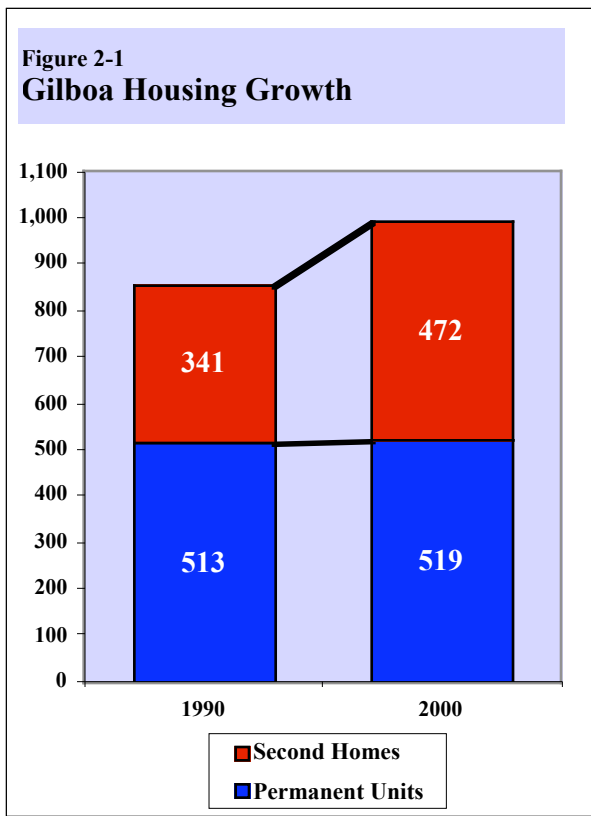


Figure 2-1 above provides a breakdown of housing growth in the Town of Gilboa from 1990 to 2000. While the number of permanent units (including vacant homes for sale or rent) has increased slightly, there has been a major increase in the number of second homes. Vacant units, other than second homes, decreased from 63 to 43 in number.

Given the prospect that many of these second homes will be converted to future primary residences, it is imperative that such homes be constructed in a manner that ensure they are properly equipped for later conversion to primary residences. Proper heating, insulation and provision of adequate water & sewer/septic to accommodate year-round living could be required of all second homes.

It is equally important that the Town anticipate the future conversions to first homes in its budgeting and planning. Keeping the costs of government low now while second home revenue is coming in will help tremendously in preserving the tax capacity required in the future to support needed services.

2.5.2 Number of Persons per Household

The number of people living in each household was 2.54 persons in 2000. This was slightly higher than the County average of 2.49 persons but less than the New York average of 2.61 persons per household. These numbers are all low and probably close to bottoming out.

As of 2000, second homes comprised 47.5% of

When this happens, the impact on population growth can be large. Growth in households is then no longer absorbed by declines in household sizes. If the household size had stayed at the 2.68 persons it was in 1990, the 28 new occupied units gained would added 75 persons to Gilboa's population. As it was, only 8 individuals were added, but the impact on schools and services can be great if household sizes stop declining.

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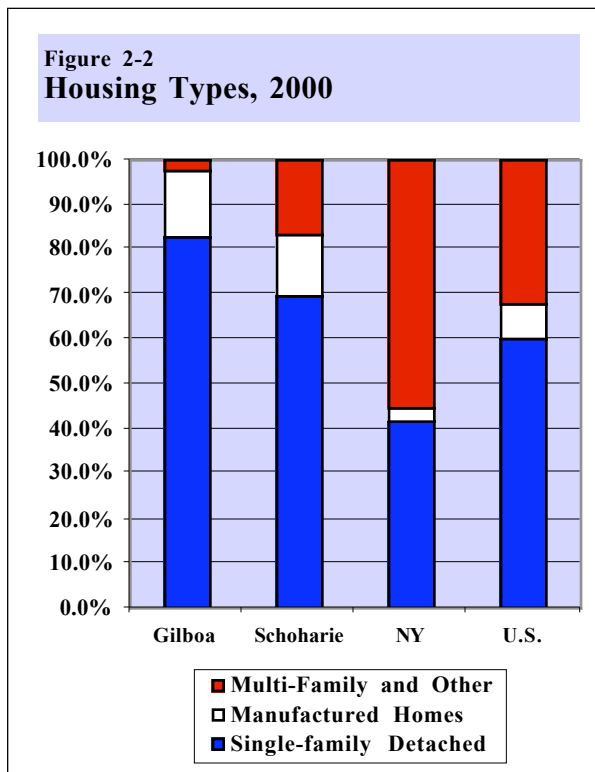
2.5.3 Housing Values

The 2000 Census revealed a median housing value of \$85,600 for the Town of Gilboa, which was higher than the County average of \$82,500. Growth in the second home market, coupled with new housing construction appears to be increasing values as a whole in the Town. Nonetheless, these numbers are very low compared to the Statewide median of \$148,700. Nationally, the figure was \$119,600.

These low values also reflect the discounted cost of Upstate New York's relatively high taxes. However, within New York State, the area represents a good housing value, a fact that is likely to encourage more in-migration of New York metropolitan area residents seeking such value.

2.5.4 Housing Type

Single-family homes accounted for 822 units or 82.5% of the Town of Gilboa's housing stock in 2000, according to the U.S. Census.



Manufactured homes accounted for 149 units or 15.0% of the housing units in the Town, fairly close to the County figure of 14.3%. Both have much higher proportions of manufactured homes than the State or U.S. because the latter include large urban areas where such housing is not typical. Multi-family housing, by contrast, is much more typical in those areas, and even in Schoharie County where it accounts for 16.5% of the housing stock, but represents 2.5% of Gilboa's units. Multi-family housing is a majority of the stock Statewide and is about a third of the national stock.

2.5.5 Contract Rents

Town of Gilboa rents were relatively low in 2000, the median being only \$525. The median rent Countywide was slightly lower at \$506.

2.5.6 Owner vs. Renter Occupancy

Between 1990 and 2000, the percentage of owner occupied units in the Town increased slightly from 87.3% of all occupied units to 88.9% in 2000. Countywide, only 75.3% of the housing units were owner occupied. These numbers are still significantly higher than the State average where only 53% of all occupied housing units were owner occupied.

2.5.7 Housing Needs

The Town needs to ensure its land use regulations do not unnecessarily raise the cost of moderate income housing by requiring excessive lot sizes or adding too many regulatory costs.

There is also a need to upgrade the quality of specified existing housing. Some 22.5% of 2000 Census surveyed owner-occupied housing stock was valued at less than \$50,000. Overcrowded units (more than 1 person per room) accounted for 2.3% of the total housing stock, while units without complete plumbing facilities represented 1.2% of all units. Also, 43.5% of surveyed renters and 19.9% of homeowners paid out more than 30% of their income as gross rent or monthly owner housing costs, suggested much of the stock is not truly affordable to residents.

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3.0 Goals and Objectives

The following are the goals and objectives on which this Plan is based:

Goal 3.1

Use positive incentive-based programs to guide land use development.

3.1.1 Preserve and respect the rights to use of private property by limiting land use regulations to those essential to the health, safety and welfare of the community.

3.1.2 Update and employ the Town's Homesite Ordinance as a form of Site Plan Review, as well as its Subdivision Regulations, in ways that allow the Town to develop in a traditional mixed-use fashion, with regulations directed more toward the quality of development than the location.

3.1.3 Incorporate as much flexibility as possible into land use standards to fit individual development circumstances and offer bonuses for developers who provide additional open spaces, protect important environmental features or otherwise contribute to quality forms of development.

3.1.4 Encourage home occupations and limit oversight to those features having a direct bearing upon adjacent land uses (e.g. noise, lighting, outdoor storage).

Goal 3.2

Provide for the orderly future growth and development of the Town of Gilboa.

3.2.1 Update the Town of Gilboa Subdivision Regulations to encourage the use of subdivision and land development techniques that preserve the valuable open space and working landscapes of the Town.

3.2.2 Establish performance standards for steep slopes and other areas of the Town with natural resource limitations.

3.2.3 Address the need for affordable housing by maintaining reasonable minimum lot sizes in Town land development regulations.

3.2.4 Ensure a high quality housing stock at various price ranges by allowing for Manufactured Homes, but regulating their placement under the Town of Gilboa Homesite Ordinance.

Goal 3.3

Secure safety from fire, flood and other danger.

3.3.1 Maintain firefighting equipment needed to ensure the proper capacities of the local fire companies to address emergencies and institute volunteer recruitment incentives.

3.3.2 Use the Town's Floodplain Damage Prevention Law as a tool to steer development away from dangerous flood locations.

Goal 3.4

Preserve the character of existing rural highways and promote safe, efficient and uncongested circulation of traffic.

3.4.1 Require, wherever possible, the use of joint highway accesses on Town, County and State roads to minimize the number of potential traffic conflicts.

3.4.2 Reduce speeds on designated roads possessing specific hazards (e.g. South Gilboa Road, Wykoff Road).

3.4.3 When reviewing site plans, require new roads to be designed to preserve natural topography and tree cover, minimize cuts and

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fills and preserve important views.

3.4.4 Require developers to provide for walking as well as vehicular connections to adjacent land uses and open spaces.

3.4.5 Where practical, scale street widths and alignments to neighborhood size (typically 18 feet width) while meeting minimum standards for safety and maintenance.

3.4.6 Require land developers to mitigate existing traffic safety issues, wherever possible, with offsite improvements.

3.4.7 Incorporate Town highway specifications into a Town Road Law establishing legal requirements for highway dedications.

Goal 3.5

Protect the quality of surface and groundwater supplies, maintain high quality physical environments and preserve wildlife habitats.

3.5.1 Incorporate stormwater management and erosion control planning requirements in both site plan and subdivision reviews so as to reduce phosphorous loads to streams.

3.5.2 Encourage conservation subdivision designs where lots are clustered to provide open space buffers that can trap stormwater run-off.

3.5.3 Incorporate the highly ranked objectives from the community opinion survey completed as part of this planning project (see Section 1.0 and Appendix A) into the Town of Gilboa's Homesite Ordinance as performance criteria for site plan review. These pertain to; a) protection of air quality, b) drinking water quality, c) wildlife habitat, d) scenic vistas, e) stream water quality, f) mature forests, g) farmland and h) stream corridors.

3.5.4 Update and aggressively enforce the Town's junkyard and dumping regulations.

Goal 3.6

Promote the economic development of the Town of Gilboa to improve incomes, create new business and employment opportunities and raise the standard of living within the community.

3.6.1 Develop scenic biking, driving and hiking tours through the Town along with accompanying brochures and other promotional devices (e.g., an internet website) to take advantage of Gilboa's agricultural, architectural, natural and historic assets.

3.6.2 Seek out State and local Historical Society and other assistance in identifying buildings of historical significance in throughout the Town for purposes of recognition in promotional materials, inclusion in scenic drives or walking tours, signage (where appropriate) and securing of funding assistance and tax credits for restoration on a strictly voluntary basis where such designations will not adversely impact economic development opportunities.

3.6.3 Encourage, through the use of Catskill Watershed Corporation (CWC) and other incentive programs, the development of natural resource based industries such as small secondary wood processing operations that can utilize the Town's extensive forest resources.

3.6.4 Allow for the continued growth of the community in support of the Town of Gilboa's construction industry, which is a large employer and major occupation.

3.6.5 Encourage the development of convenience shopping opportunities and niche service businesses in the Town by allowing for such uses under the Town's land subdivision and site plan review regulations.

3.6.6 Erect community welcoming signs at major entrances into the Town of Gilboa with links to individual Town businesses.

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Goal 3.7

Encourage the retention and further development of the Town of Gilboa's agriculture and forestry sector to improve farm incomes and maintain the working landscapes that define the Town's character.

3.7.1 Encourage the use of the New York State Agricultural District program within the Town as a means of offering farmers additional protection of their rights to farm, complementing local legislation.

3.7.2 Arrange for training of Town officials on agricultural planning issues through Cornell Cooperative Extension of Schoharie County and the Schoharie County Planning and Development Department.

3.7.3 Work with landowners, the Schoharie County Agricultural and Farmland Protection Board, the Watershed Agricultural Council, the Schoharie Land Trust, the New York State Department of Agriculture and Markets and others to promote agricultural conservation easements as a public/private tool to preserve valuable farmland. Some of this has been done.

3.7.4 Expand farm-based tourism by soliciting and encouraging farm stands and associated promotions (e.g., corn mazes, animal petting and feeding) that can be cross-promoted with scenic driving tours.

3.7.5 Actively promote the Town of Gilboa as a location for new farm and agri-business enterprises by working with the Chamber of Commerce and others.

3.7.6 Promote the horse industry as a vehicle for keeping farmland in productive use, increasing agricultural tourism and maintaining a core of agricultural support industries such as feed mills. (The Town's proximity to Albany and New York City makes it ideal for this purpose

and there are already local "drives" and other events that could be easily steered toward Gilboa with some incentives. The Catskill Rail Trail may offer similar opportunities.)

Goal 3.8

Provide for the recreation needs of a population expected to grow in future years with second home conversions to permanent residences.

3.8.1 Work with the Catskill Revitalization organization to grade the Catskill Scenic Trail facilities in the Town of Gilboa by adding parking and signage at the South Gilboa Station or other appropriate locations (e.g. Forks in the Road Schoolhouse site).



3.8.2 Develop a long range park and recreation plan for the Town of Gilboa property on Old Stryker Road, or other suitable location, giving attention to the need for passive recreation facilities such as a community pavilion.

3.8.3 Create trail links to the historic Long Path, which begins at the George Washington Bridge and runs through the Town of Gilboa.

3.8.4 Work with the New York City Department of Environmental Protection to open up local recreational use of the Schoharie Reservoir and associated City properties.

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4.0 Plans

4.1 Land Use

4.1.1 Existing Land Use Regulations

There are both Land Subdivision Regulations and a Homesite Ordinance now in effect in the Town of Gilboa that serve to guide development. There are also New York City Water Supply Watershed Regulations in effect. The details of these regulations as they impact upon future land use are as follows:

SUBDIVISION REGULATIONS

The Town Board authorized its Planning Board to regulate land subdivisions by resolution of September 6, 1988. The Planning Board subsequently prepared Subdivision Regulations, pursuant to Article 16 of the Town Law, that were approved by the Town Board on May 1, 1989. The regulations include very few design standards but do require a minimum of 200 feet frontage and a lot depth of no more than four times lot width for all lots.

The following are several other observations regarding the Town of Gilboa Subdivision Regulations:

- The regulations no longer comply with the provisions of New York State Town Law pertaining to land subdivision procedures and State Environmental Quality Review Act (SEQRA) coordination. Processing schedules do not match.
- A "lot improvement" exemption for lot combinations, boundary line adjustments and natural subdivisions already divided by roads, would be useful in streamlining the regulations. Similar techniques are used by many other towns to reduce the compliance burden and resulting costs of housing in such innocuous situations.
- A more detailed table of contents would be useful in navigating the regulations.

- Design standards are generally inadequate. Stormwater management needs more attention, for instance. There could be a general requirement that post-development run-off not exceed predevelopment conditions.
- Stream buffers and provisions to encourage conservation subdivisions (where lots are clustered to preserve open space buffers) could also be considered.
- There are no standards for soils testing for subsurface sewage treatment capacity. There are no cross-references, also, to State Department of Health or New York City Watershed regulations.
- Standards are missing for common open space and recreational facilities in larger subdivisions. There are also no requirements regarding management of common facilities or the operation of homeowner associations. This is becoming a much more important issue as the Town is beginning to get more attention from larger land developers.
- The street design standards and general approach to regulating street construction need to be reevaluated. Currently, the Subdivision Regulations state that "access to private streets shall be deemed acceptable only if such streets are designed and improved in accordance with these regulations." Another provision, however, states that "all streets must meet the present specifications of the Town of Gilboa highway regulations."

Those specifications regulate dedications of streets to the Town. Therefore, all subdividers are effectively required to put their streets into dedication ready condition before approval, giving the subdivider every incentive to dedicate sooner rather than later. This is a not a good policy unless the Town wants the roads. Standards for private streets are needed, along with a separate local law establishing higher standards for road takeovers by the Town.

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design in connection with new homes, consequently, remains vitally important.

4.2.5 Water Supplies

There are no public water supply systems serving the Town of Gilboa, except for systems serving large uses such as the Nickerson Park and Country Roads Campgrounds. All homes and businesses are supplied by individual wells. The groundwater supply is both high-quality and plentiful. Given the relatively low density nature of development taking place in the Town, water supply should not become a major issue.

4.2.6 Stormwater Management

There are no stormwater collection systems in the Town other than those connected with individual new construction projects. New York City DEP watershed regulations have required stormwater planning for some time. More importantly, however, new NPDES permitting requirements extending regulation to projects disturbing as little as one acre in size are now in effect. These Federal standards (being implemented through the State) effectively mandate stormwater management Townwide.

The Town, therefore, needs to integrate stormwater management into the provisions of its Homesite Law and Subdivision Regulations to ensure this issue is not neglected as the Planning Board processes development proposals. If it does not address stormwater management and related requirements under the State Environmental Quality Review Act, it runs a high risk of development approvals being successfully challenged by opponents, adding costs and discouraging other new development projects of economic benefit.

4.3 Transportation

Highways support economic development by allowing the efficient movement of people and goods and, thereby, influence the overall direction of Town growth as well as the location of specific commercial, industrial and residential activities. This plan addresses the needs of this

highway system, as well as other modes of transportation to the extent they exist.

4.3.1 Functional Road Classifications

Every road plays a particular role in moving people and goods within and through the Town. The following table identifies roads by those functions based on future traffic expectations.

Town of Gilboa Highway Functional System	
ARTERIAL ROADS	
FUNCTION: Carries medium-to-heavy volumes of traffic at moderately high speeds and provides access to major traffic generators.	
ROADS:	
<ul style="list-style-type: none"> • Route 23 • Route 30 	
COLLECTOR ROADS	
FUNCTION: Provides connections between Arterials and Local Roads at comparatively slower speeds and carries moderate traffic volumes.	
ROADS:	
<ul style="list-style-type: none"> • County Road 13 • County Road 14 • County Road 17 • County Road 53 • Route 990V 	
LOCAL ROADS	
FUNCTION: Provides direct access to abutting properties and channels Local Road traffic to Collector Roads.	
ROADS:	
<ul style="list-style-type: none"> • All other roads 	

Many of these highways are already functioning adequately in the above capacities. Nonetheless, increased subdivision activity and economic development needs both suggest some improvements are warranted to bring about a more functional system. These include the following:

A. County Road 14

The upgrading of County Road No. 14 from Route 23 to Route 30 is essential to its service in a collector capacity. The sections between Route 23 and Deignam Road and between Parliman Road and Route 30 are in particularly poor condition. There is a large

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Weaknesses

- *The watershed protection regulations are a perceived detriment to doing business in the region.*
- *There is insufficient infrastructure to accommodate much any larger scale commercial or industrial development in the Town of Gilboa.*
- *There are no Town centers offering support services for other businesses.*
- *The area is somewhat isolated, being approximately 25 miles from any major highway.*
- *Soils and topography are distinct obstacles to some types of development.*

Opportunities

- *The Town's working landscapes, hunting, fishing, history, reservoirs and trail systems can easily be packaged and sold to tourists.*
- *There are additional opportunities to sell agricultural specialty products with the Catskill Family Farms label to New York City restaurants and other markets. Additionally, there are opportunities in agricultural tourism and equine activities.*
- *There are additional possibilities for secondary processing of hardwood products. The Catskill Watershed Corporation has helped to fund such enterprises and is a source of financing.*
- *Gilboa can market itself as a northern gateway to the Catskills and a southern gateway to the Schoharie Valley.*

Threats

- *Water pollution controls, both within and outside the New York City watershed, could reach the point that virtually all development is strangled unless systems are developed where tradeoffs for lowering nutrient levels can be made to accommodate new development. There is intense skepticism among residents as to whether fair tradeoffs are possible, although there is no real alternative.*
- *Growth tends to foster "no growth" attitudes. This can become a source of conflict and raise obstacles to further economic development, even when such development is fully environmentally compatible.*
- *Acquisition of conservation easements, if overdone, can render otherwise valuable land unsalable and create a real estate market that is purely second-home residential in nature. This would detract from establishing a balanced economy and tax base.*
- *Upstate New York suffers from high taxes compared to other rural regions of the U.S., a negative that is difficult to overcome in marketing the area.*

These development factors do not necessarily limit the Town's potential. The actions of individual entrepreneurs and the marketplace will do far more to determine Gilboa's future than any government action. Nevertheless, the factors do suggest the likely future direction of Gilboa's economy. They also indicate how the Town might assist in realizing the maximum benefits from economic development through specific actions. There are, additionally, some actions the Town could take that would unnecessarily interfere with the marketplace and, therefore, should be avoided in the interest of allowing economic development to take place.

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5.0 Appendices

- A - Community Survey Results
- B - Draft Revised Homesite Law
- C - Model Subdivision Regulations
- D - Sample Junkyard Law
- E - Sample Cell Tower Law
- F - Sample Right to Practice Forestry Law
- G - Sample Road Law

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APPENDIX A - Community Survey Results

Please help us plan for the Town of Gilboa's future by checking the appropriate box or by writing in the answer. Some questions will ask for only one response while others will ask for multiple answers. Also, if more than one person in your household would like to respond to the opinion questions, please feel free to pick up an additional survey form at the Town Hall.

1) How many years in total have you lived in the Town of Gilboa?

52	Less than 5 years	11%
57	5 to 9 years	12%
43	10 to 14 years	9%
32	15 to 19 years	7%
26	20 to 24 years	6%
133	More than 25 years	29%
117	None, I am a second-home owner	25%
460	Totals	100%

2) How many years have you lived in Schoharie County?

46	Less than 5 years	10%
50	5 to 9 years	11%
40	10 to 14 years	9%
36	15 to 19 years	8%
25	20 to 24 years	5%
146	More than 25 years	32%
117	None, I am a second-home owner	25%
460	Totals	100%

3) What most influenced your ORIGINAL decision to live here? (Please check no more than 5)

331	Rural atmosphere/farmland	28%
250	Low taxes	21%
138	Affordable housing costs	12%
109	Close to friends/relatives	9%
104	Low crime rate	9%
103	Born or raised here	9%
54	Close to work	5%
48	Quality of Town services	4%
45	Quality of schools	4%
1182	Totals	100%

4) Why do you continue to live in the Town of Gilboa? (Please check no more than 5)

352	Rural atmosphere/farmland	28%
266	Low taxes	21%
139	Close to friends/relatives	11%
121	Affordable housing costs	10%
121	Low crime rate	10%
79	Born or raised here	6%
65	Close to work	5%
62	Quality of Town services	5%
46	Quality of schools	4%
1251	Totals	100%

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5) Which BEST describes how Gilboa has changed since you moved here? (Please check ONE.)

233	The Town of Gilboa has not changed noticeably in its desirability as a place to live.	54%
94	The Town of Gilboa has become a more desirable place to live.	22%
58	I have not lived here long enough to form an opinion.	13%
50	The Town of Gilboa has become a less desirable place to live.	11%
435	Totals	100%

6) What do you like LEAST about The Town of Gilboa?

152	Impact of New York City reg.'s	34%
105	Transportation difficulties	23%
93	Lack of cultural/recreation options	21%
46	Cost of services/taxes	10%
46	Quality of services	10%
6	Housing costs	1%
448	Totals	100%

7) Please indicate the importance of each of the following aspects of the Town's environment:

	Important		Somewhat Important		Not That Important	
Air quality	402	90%	35	8%	10	2%
Drinking water quality	393	88%	34	8%	22	5%
Wildlife habitat	350	80%	80	18%	8	2%
Scenic views	328	75%	92	21%	19	4%
Streamwater quality	327	75%	101	23%	9	2%
Mature forests	324	74%	99	23%	14	3%
Farmland	310	71%	110	25%	17	4%
Stream corridors	251	60%	135	32%	31	7%
Historic buildings	214	50%	149	34%	69	16%
River access	214	50%	130	31%	82	19%
Wetlands	207	48%	159	37%	68	16%

8) How important is it for the Town to review each of the following aspects of developments?

	Important		Somewhat Important		Not That Important	
Protection of farmland	336	76%	83	19%	24	5%
Scenic impact	318	73%	102	23%	18	4%
Density of development	315	71%	100	23%	27	6%
Impact on streams	301	76%	78	20%	17	4%
Proximity of commercial development to homes	296	67%	108	24%	37	8%
Preserving large trees at new commercial sites	280	64%	116	26%	43	10%
Hillside development	251	58%	144	33%	35	8%
Historic character	240	54%	159	36%	44	10%
Site design and layout	223	51%	167	38%	45	10%
Landscaping	203	47%	178	41%	53	12%
Business signs	165	38%	161	37%	106	25%

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9) Modern technology and ease of travel has made it possible to conduct more businesses from home.

Do you have an existing home occupation?	68	Yes	15%
	381	No	85%
	449	Totals	100%

Would you like to have a home occupation?	117	Yes	29%
	280	No	71%
	397	Totals	100%

10) To what extent would you generally favor spending your tax money ADDING, EXPANDING or IMPROVING each of the following public services and facilities?

	Add or Increase Support		Continue As Is		Decrease Support	
Town roads	255	57%	188	42%	7	2%
Special property cleanup days (e.g. tire day)	244	56%	177	40%	18	4%
Ambulance services	241	54%	201	45%	3	1%
Fire protection	235	53%	206	46%	5	1%

11) The Town has land for a park along Old Stryker Road and also now has a museum (old Town Hall). Is there a need for the Town to provide MORE recreation, NEW facilities or ADDITIONAL support for recreation programs? Consider "increase support" as your wish to have the Town spend more of your tax money on these facilities or programs.

	Add or Increase Support		Continue As Is		Decrease Support	
Trail systems	176	42%	206	49%	40	9%
Senior activities center	155	37%	238	56%	31	7%
Historical society/museum	143	34%	234	56%	43	10%
Other youth-based recreation	123	30%	247	60%	43	10%
Picnic facilities	116	28%	257	62%	44	11%
More playground facilities	101	25%	252	62%	56	14%
Baseball/softball fields	72	17%	274	66%	69	17%
Basketball courts	62	15%	267	65%	83	20%

12) Where is the last place you lived prior to moving to your current address?

168	New York City/Westchester/Rockland/Long Island	39%
86	Elsewhere in Upstate NY	20%
48	Pennsylvania/New Jersey/Connecticut	11%
47	Always lived where I do now	11%
34	Elsewhere in Schoharie County	8%
26	Elsewhere in Gilboa	6%
25	Elsewhere in U.S. or outside U.S.	6%
434	Totals	100%

13) Are there any children under age 18 years living at home with you?

106	Yes	25%
325	No	75%
431	Totals	100%

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14) Which of the following best describes your current employment status?

Principal Householder:		
161	Employed by others full-time	38%
159	Retired	38%
63	Self-employed full-time	15%
22	Employed by others part-time	5%
13	Self-employed part-time	3%
4	Unable to work	1%
1	Unemployed, seeking work	0%
1	Student	0%
424	Totals	100%

Second Householder:		
115	Employed by others full-time	36%
110	Retired	34%
30	Employed by others part-time	9%
25	Self-employed full-time	8%
17	Unable to work	5%
15	Self-employed part-time	5%
4	Student	1%
4	Unemployed, seeking work	1%
320	Totals	100%

15) Please indicate where you work.

Principal Householder:		
91	Elsewhere in NY	33%
46	Delaware County	17%
45	Town of Gilboa	16%
38	Elsewhere in Schoharie	14%
24	Another state	9%
11	Albany County	4%
9	Otsego County	3%
8	Greene County	3%
4	Schenectady Cty.	1%
0	Montgomery Cty.	0%
0	Ulster County	0%
276	Totals	100%

Second Householder:		
76	Elsewhere in NY	34%
37	Town of Gilboa	17%
27	Elsewhere in Schoharie	13%
15	Another state	9%
9	Greene County	3%
6	Otsego County	2%
5	Delaware County	17%
3	Albany County	4%
2	Ulster County	0%
1	Schenectady Cty.	2%
0	Montgomery Cty.	0%
253	Totals	100%

16) Please indicate your age bracket (principal householder only).

0	<25 years	0%
5	25-29 years	1%
13	30-34 years	3%
30	35-39 years	7%
38	40-44 years	9%
51	45-49 years	12%
53	50-54 years	12%
70	55-59 years	16%
52	60-64 years	12%
38	65-69 years	9%
40	70-74 years	9%
24	75-79 years	6%
9	80-85 years	2%
4	> 85 years	1%
427	Totals	100%

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17) How would you describe your present occupation?

Principal Householder:		
167	Retired	39%
85	Professional occupation	20%
57	Executive/administrative/managerial	13%
24	Service occupation	6%
19	Technician or support occupation	4%
16	Precision production, craft or repair	4%
15	Farming, forestry or mining	4%
11	Sales occupation	3%
9	Handler, cleaner, helper or laborer	2%
9	Transportation or material moving	2%
6	Machine operator/assembler/inspector	1%
3	Private household occupation	1%
2	Administration support occupation	0%
1	Homemaker	0%
424	Totals	100%

Second Householder:		
106	Retired	33%
63	Professional occupation	20%
38	Homemaker	12%
27	Executive/administrative/managerial	9%
24	Service occupation	8%
14	Administration support occupation	4%
10	Farming, forestry or mining	3%
10	Sales occupation	3%
10	Technician or support occupation	3%
7	Handler, cleaner, helper or laborer	2%
4	Machine operator/assembler/inspector	1%
2	Precision production, craft or repair	1%
2	Private household occupation	1%
0	Transportation or material moving	0%
317	Totals	100%

18) How would you rate the quality of the following public and semi-public services?

	High Quality		Good Quality		Neutral/ Undecided		Fair Quality		Poor Quality	
Highway maintenance	80	24%	157	47%	29	9%	52	15%	19	6%
Town roads	115	27%	185	43%	28	6%	74	17%	31	7%
County roads	88	20%	166	38%	26	6%	81	19%	74	17%
Utilities (e.g. electric)	78	18%	213	50%	54	13%	58	14%	19	5%
Fire protection	54	13%	219	51%	86	20%	55	13%	13	3%
State/Cty Police protection	53	13%	189	45%	103	25%	61	15%	14	3%
Ambulance services	43	10%	194	46%	105	25%	63	15%	15	4%
Town code enforcement	39	10%	137	36%	115	31%	50	13%	36	10%
Health care services	20	5%	133	33%	133	33%	69	17%	48	12%

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19) Restrictions on phosphorus discharges limit the ability of the Town to accommodate new economic development unless existing phosphorus loadings are first reduced to make room for new projects. Phosphorous may be coming from stormwater, farming, on-site sewer systems, forestry or existing sewage treatment systems. Reducing it could require new treatment systems, monitoring of phosphorus levels, more enforcement of sewage disposal and stormwater standards and other more government oversight of land use but allow for new economic development. Should the Town engage in such an effort or accept the existing limitations and resign itself to limited growth?

145	The Town (and County) should try to reduce phosphorus to allow for new economic development	38%
235	The cost of phosphorus reduction is too high. We should accept that our growth has been limited	62%
380	Totals	100%

20) Should the Town establish or improve local controls with respect to the following:

Protecting the right to farm?	398	Yes	92%
	36	No	8%
	434	Totals	100%

Regulating junk vehicle storage?	391	Yes	90%
	45	No	10%
	436	Totals	100%

Protecting the right to timber using sound management practices?	373	Yes	89%
	48	No	11%
	421	Totals	100%

Regulating mobile home parks?	374	Yes	88%
	52	No	12%
	426	Totals	100%

Regulating the construction of cellular communications towers?	294	Yes	70%
	127	No	30%
	421	Totals	100%

Regulating wind power generation facilities?	261	Yes	64%
	150	No	36%
	411	Totals	100%

21) Where would you like to see the Town of Gilboa in the next 10-20 years - what is most important? (please circle one for each possible future characteristic)

	Important		Somewhat Important		Not Important	
Profitable farms and farmland preservation	324	74%	98	22%	15	3%
A "clean and green" environment	319	75%	93	22%	15	4%
Preservation of historical heritage	228	53%	173	40%	28	7%
More local shopping opportunities	197	46%	140	32%	94	22%
Higher quality development	173	43%	155	39%	73	18%
More small-scale industrial jobs	164	39%	162	39%	90	22%
Improved recreational facilities for residents	144	34%	204	48%	75	18%
Development of the tourism industry	124	29%	170	40%	128	30%
A thriving timber industry	110	26%	215	51%	95	23%
More second-home development	71	17%	177	42%	171	41%

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22) Is there anything else you would like to tell us for use in our Comprehensive Plan or any question where you wished you could offer an answer we didn't offer as a choice? If so, please provide your thoughts below or as a separate attachment.

13	Junkyards, regulate and clean-up	1	Agricultural Learning Center, develop
9	Roads, need improving	1	Ambulance, Cooperstown too expensive
9	Taxes, keep low	1	Animal shelter, support
8	Gilboa, keep the way it is now	1	Bridge, highway access bad
8	Parks and recreation, needed	1	Bus service, improve
7	Dumping, regulate/prohibit	1	Commercial and residential, separate uses
6	Rural atmosphere, maintain	1	Commercial/industrial uses, needed - Routes 30 & 990V
5	Development, regulate	1	Dogs and cats, regulate
5	High-speed Internet, needed	1	Dwelling sizes, need 1,000 square feet
5	Housing, upgrade with grants	1	Fishing, deepen creek bed to encourage
5	Medical care, need closer	1	Future, look to it
5	Mobile homes, regulate	1	Golf courses, needed nearby
5	Reservoir use, allow greater	1	Horse farms, encourage breeding
5	Roads, improve County roads	1	Hunting, encourage
5	Survey, faulty	1	Industry, encourage clean
4	Density, control with minimum lot size	1	Restaurant, good one needed
4	Grocery store, needed	1	Setbacks, need minimum 50' from property lines
4	Shopping, more needed	1	Sewers, need new/rebuilt paid by DEP!
4	Taxes, school unfair to HH's without children	1	Ski slopes, needed
3	Code enforcement, improve	1	Tax breaks, needed to draw businesses here
3	Farmland, retain as much as possible.	1	Transportation, needed to get off hill
3	Growth, plan and control	1	Zoning, needed
3	Transfer station, needed		
2	Businesses, encourage small friendly		
2	DEP/NYC, Gilboa perfect without it		
2	Environment, protect		
2	Forests, save		
2	Gilboa, needs more activity		
2	Historical tourism, replica of 1880's, etc.		
2	Malls, discourage		
2	Roads, Improve Becker Road		
2	Tourism, discourage		
2	Tourism, expand		
2	Trash, pick-up needed		
2	Windpower, encourage as use of vacant land		

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APPENDIX B - Draft Revised Homesite Law

BE IT ENACTED by the Town Board of the Town of Gilboa, Schoharie County, New York, as follows:

§ 10-1. Title.

This Local Law shall be known and may be cited as the Homesite Law of the Town of Gilboa. It supersedes and replaces the Trailer Ordinance of the Town of Gilboa enacted in 1968, the Town of Gilboa Homesite Ordinance adopted February 1, 1982 and any other laws of the Town with which it may be inconsistent.

§ 10-2. Purposes and Authority.

- A. The purpose of this ordinance is to promote the health, safety, and general welfare of the community, including the protection and preservation of the property of the Town of Gilboa and of its inhabitants by establishing specific requirements and regulations governing the construction, occupancy and maintenance of homes, mobile homes, mobile home parks, travel trailers and trailer camps.
- B. This Law is enacted by the authority granted the Town of Gilboa by the New York State Town Law, Section 130.2 pertaining to sewer and water supply, Section 130.7a pertaining to driveways, Section 130.21 pertaining to manufactured home and campground regulations and Section 130.25 pertaining to building setbacks. It is enacted also under the authority granted by the provisions of Town Law, Sections 274 and 274-a, and pursuant to the procedures and purposes set forth in Town Law Sections 261, 264, 266, 267, 268, 280 and 280-a and § 10 of the Municipal Home Rule Law.

§ 10-3 Definitions.

- A. HOME SITES - The term HOME SITES as used in this ordinance shall be defined as any lot, piece or parcel of ground whereon a residence, used as living or sleeping quarters is located or intended to be located.
- B. MANUFACTURED HOME - A MANUFACTURED HOME (formerly known as a "Mobile Home") is any portable vehicle which is designed to be transported on its own wheels or those of another vehicle; which is used, designed to be used and capable of being used as a detached single family residence; and which is intended to be occupied as permanent living quarters ordinarily containing sleeping accommodations, a flush toilet, a tub or shower, kitchen facilities and plumbing and electrical connections for attachment to outside systems.
- C. CAMP SITE - The term CAMP SITE as used in this ordinance shall be defined as any lot, piece or parcel of ground on which camp trailers or tents are parked or located, which sites are designated for temporary use for camping, hunting, fishing, or other recreational use and not intended for use as a permanent mobile home park.
- D. RECREATIONAL VEHICLE - A RECREATIONAL VEHICLE is any vehicle which is designed and intended to be used for temporary living quarters for travel, recreational or vacation purposes; and which may or may not include one or all of the accommodations and facilities included in a mobile home.
- E. MANUFACTURED HOME LOT - A MANUFACTURED HOME LOT is a designated site of specific total land area which is located within a mobile home park for the accommodations of one mobile home and its occupants.
- F. MANUFACTURED HOME PARK - A MANUFACTURED HOME PARK is any parcel of land which is planned and improved for the placement of two (2) or more mobile homes.
- G. MANUFACTURED HOME STAND - A MANUFACTURED HOME STAND is a durable surface located on a mobile home lot which is to be used for the placement of and capable of supporting a mobile home.
- H. CAMPGROUND - A CAMPGROUND is any parcel of land which is planned and improved for the placement of two (2) or more recreational vehicles or tents which are used as temporary living quarters and for occupancy of not more than ninety (90) consecutive days.

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- I. IMPROVED ROAD AND STREET - An IMPROVED ROAD OR STREET is one that meets the street improvement standards found in the Town of Gilboa Subdivision Regulations.

§ 10-4. Permit Requirements.

Any person, partnership, association or corporation, being the owner or occupant of any land within the Town of Gilboa, shall not use or allow the use of such land for a home site, mobile home park, or camp ground, unless a proper permit has been obtained as herein provided. This permit shall not be transferable or assignable.

A. Home Site Building Permits.

The Town Clerk of the Town of Gilboa shall issue a permit to be effective from the day of issuance. This permit will not be issued, until the Town Clerk has received:

- (1) A written application from the applicant.
- (2) The required fee as provided in the application.
- (3) Approval of the application by the Schoharie County Department of Health (or the New York State Department of Health District) where applicable.
- (4) Approval by the Town Building Inspector.
- (5) If the application is disapproved by the Town Building Inspector, the Town Clerk shall notify the applicant in writing. The applicant shall have the right to appeal within 30 days to the Town Planning Board. The Planning Board shall have 60 days to respond to the appeal.
- (6) If disapproved by the Town Planning Board, the applicant may appeal to the Town Board within 30 days. The Town Board shall have 60 days to respond to the appeal.

B. Manufactured Home Park and Campground Permits.

- (1) Application procedures shall follow Subsection A above regarding issuance of home site building permits.
- (2) This permit will be valid for one (1) year from the date of issuance.

C. Renewal of Manufactured Home Park and Campground.

- (1) An application for the renewal of any permit which was issued in accordance with this ordinance must be filed with the Town Clerk at least ninety (90) days prior to the expiration of the permit.
- (2) Upon the approval of the Building Inspector and by resolution of the Town Planning Board, the Town Clerk shall issue a renewal permit, to be effective upon the expiration of the previous permit and to continue in force for a period of one (1) year.
- (3) At the time the renewal permit issued, the applicant shall pay the required fee.
- (4) Renewal permits shall not be transferable or assignable.

D. Permit Fees.

The applicant shall pay the Town Clerk an annual fee as required by the application.

§ 10-5. Requirements for Home Sites.

A. Setbacks.

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No new building, structure or addition of any kind shall be located closer to any public highway or road than seventy-five (75) feet from the center line of said street or road, nor closer to any property or boundary line than twenty-five (25) feet. Set back dimensions shall not apply to reconstruction of existing structures.

B. Driveways.

Home sites abutting a public road shall have a driveway culvert as designated by the governmental body having jurisdiction over the highway or road. All driveways shall have a minimum unobstructed sight distance of two hundred forty (240) feet in either direction and be well drained.

C. Sewage Systems.

Each home site shall have a sewage system that will comply with the standards as set forth in the document "WASTE TREATMENT HANDBOOK, INDIVIDUAL HOUSEHOLD SYSTEMS" by the New York State Department of Health, Division of Sanitary Engineering. The requirement for sewage disposal systems will also apply to any replacement in whole or part of existing systems after the effective date of this ordinance. Recreational vehicles, if not attached to a permanent septic system as described above, shall have an appropriate holding tank for septic waste to be emptied by a professional septic cleaner.

D. Water.

Each home site shall have an adequate supply of pure water for drinking and domestic purposes.

E. Supplementary Regulations for Manufactured Homes.

- (1) A manufactured home shall be adequately supported on a concrete slab six (6) inches or more thick or on bedrock and anchored with steel cables 1/4" in diameter or larger, attached from the mobile home to anchor bolts spaced at a maximum of every 10' in the concrete slab or bedrock. The concrete slab must have a minimum width and length no less than the mobile home it supports.
- (2) No mobile home shall be parked or allowed to remain upon any street, highway or other public place. Emergency stopping or parking, when caused by mechanical failure, will be permitted upon the shoulder of any street or highway for a period of not more than seventy-two (72) hours, subject to any prohibition or limitation imposed by other regulations or law.
- (3) A special permit may be issued by the Town Clerk, upon the recommendation of the Town Planning Board, to the owner of any land within the Town of Gilboa to place or park two or more mobile homes on such land for his own occupancy or his employees' occupancy provided the mobile home is located on a lot of at least 100 feet by 150 feet and no closer than 40 feet to any house, or other mobile home or other buildings and provided that the site meets all requirements of this Law. The owner of the land shall file an application for a permit with the Town Clerk.

§ 10-6. Manufactured Home Parks.

A. License Required.

No person, partnership, association or corporation, being the owner or occupant of any land within the Town of Gilboa, shall use or allow the use of such land for a manufactured home park unless a license has been obtained as herein provided.

B. Issuance of license.

- (1) The Town Clerk of the Town of Gilboa shall issue a license after review and approval of the site plan by the Town Planning Board. Said license shall be effective from the date of issuance until surrendered by the licensee or revoked by the Clerk and shall be renewed annually based on an inspection by the Clerk as to continued compliance with the standards of this Law.

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- (2) No license shall be issued until the Clerk has received;
 - (a) A written application from the applicant on the form provided by the Town Clerk.
 - (b) The required fee as herein provided. Such fees shall be set by resolution of the Town Board.
 - (c) Evidence there is a or will be a New York State Approved sewage disposal system designed by a Licensed Professional Engineer.
 - (3) The license shall be transferred to a new owner of a manufactured home park provided all of the requirements of this Law are met and provided the Town is so notified.
- C. Supplemental license.
- (1) Any person holding a license for a manufactured home park who desires to add additional lots to such park shall file an application for a supplemental license.
 - (2) The application for such supplemental license must be accompanied by four sets of plans and specifications and shall be filed and processed as provided herein for new manufactured home parks.
 - (3) When approved, the Town Clerk shall issue a supplemental license which will be effective from the date of issuance and continue until surrender by the licensee or revocation by the Clerk.
- D. The applicant shall pay the Town such a fee(s) as are established by resolution of the Town Board. Fees may be assessed for both the initial license and to cover subsequent inspections on a periodic basis.
- E. Each application for a manufactured home park license shall be in writing and signed by the applicant. Four (4) copies of the application and plans and related information shall be filed with the Clerk on a form supplied by the Clerk. No application shall be deemed filed until all required information shall have been filed with the Town of Gilboa Planning Board. The Planning Board shall advise the applicant of any such deficiencies within thirty (30) days of its receipt thereof. The Clerk promptly shall transmit copies of the application and plans to the Town Planning Board. The Clerk, within ten (10) days of the filing of the Planning Board decision shall issue the license provided approval has been granted and all other requirements of this Law are met.
- F. Any disapprovals shall be in writing and include the reasons therefore. The Clerk shall not issue a license, in any instance, where the Planning Board has not approved the Site Plan. If the application is disapproved, the applicant shall have the right to appeal pursuant to Article 78 of the Civil Practice Law and Rules.
- G. Each application shall be accompanied by four (4) complete sets of plans which have been prepared by a licensed land surveyor or engineer.
- H. Each application shall contain the following information:
- (1) The name and address of the applicant; or the name and address of each partner if the applicant is a partnership; or the name and address of each officer and director if the applicant is an association or corporation including principal shareholders (more than 5% ownership).
 - (2) The description of the land that is proposed to be used as a manufactured home park, together with a map showing its location in the Town.
 - (3) The number of lots to be provided in such manufactured home park.
 - (4) The names and addresses of the owners of the property on which the manufactured home park is to

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be located and a written statement signed by the owners consenting that the premises be used for a manufactured home park.

- I. Four (4) copies of a location map shall be presented with the application which shows all land within 300 feet of the park, the location of all streets and roads adjacent to and within the park and the location of all water and sewer lines and utilities adjacent to and within the park.
- J. Proposed development. The application shall be accompanied by four copies of a development plan showing the following:
- (1) The location and widths of all entrances, exits and streets.
 - (2) The location, size and arrangement of each lot within the park.
 - (3) The method and plan for electric lighting.
 - (4) The location and plan of all proposed structures and improvements.
 - (5) Plans for landscaping.
 - (6) Storm water drainage.
 - (7) Utilities.
 - (8) Off-street parking facilities.
 - (9) Fencing and screening.
 - (10) Signs and other structures.
 - (11) Names of owners of adjoining properties.
 - (12) Recreational facilities.
 - (13) Location and type of trash receptacles.
 - (14) All other applicable information required by the Town Site Plan Review Law.
- K. Site.
- (1) The park shall be located on a well-drained site which is properly graded to ensure rapid drainage and free at all times from stagnant pools of water.
 - (2) The park shall be at least ten (10) acres in size and have at least three-hundred (300) feet frontage on a public road. Additional park land must be contiguous to the existing park and shall not be bisected by a public road except to the extent a new such road may be approved as part of the plan.
- L. Manufactured Home Lots
- (1) Each manufactured home park shall be marked off into manufactured home lots.
 - (2) Reserved.
 - (3) Each manufactured home lot shall have a total area of not less than 8,000 square feet.
 - (4) No more than (1) manufactured home shall be placed on any manufactured home lot.

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- (5) The lot numbers shall be legibly noted for each lot on the plans submitted
- M. Manufactured Home Placement
- (1) All manufactured homes shall be parked or otherwise be located:
- (a) At least fifty (50) feet from an adjacent manufactured home.
 - (b) At least seventy-five (75) feet from an adjacent property line.
 - (c) At least seventy-five (75) feet from right of way line of public street or highway.
 - (d) At least twenty-five (25) feet from the nearest edge of any roadway located within the park.
- N. Manufactured Home Stand. Each manufactured home lot shall have a manufactured home stand which will provide for the practical placement on a permanent foundation or the lot of both the manufactured home and its appurtenant structures and provide for the retention of the home on the lot in a stable condition.
- O. Accessibility and Lighting
- (1) Each manufactured home park shall be accessible from an existing public highway or street.
- (2) Where a manufactured home park has more than sixteen (16) manufactured homes, two (2) points of entry and exit shall be provided.
- (a) Such entrances and exits shall be designed and strategically located for the safe and convenient movement into and out of the park and to minimize friction with the free movement of traffic on a public highway or street.
 - (b) No individual manufactured home shall have direct access to a State, County or Town road without first entering a street or driveway in the manufactured home park leading to an exit. This requirement may be waived by the Planning Board for good cause in the case of individual park lots.
 - (c) All entrances and exits shall be free of any material which would impede the visibility of the driver on a public highway or street.
 - (d) All entrances and exits shall be of sufficient width to facilitate the turning movements of vehicles with manufactured homes attached and shall be at least fifty (50) feet in width.
- (3) Each manufactured home park shall have roads to provide for the convenient access to all manufactured home lots and other facilities within the park.
- (a) The road system shall be so designed to permit the safe and convenient vehicular circulation within the park. All streets shall be provided with safe, dustless all-weather surfaces.
 - (b) All roads shall have the following minimum pavement widths:
 - [1] One way traffic movement - 12 feet
 - [2] Two way traffic movement - 20 feet
 - (c) The roads shall be constructed in accord with the requirements set forth in the Town Subdivision Law and Town highway specifications.
 - (d) Except in cases of emergency, no parking shall be allowed on such street unless such street is at least 28 feet wide, in which case parallel parking shall be allowed on one side

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of the street only.

- (4) All means of egress, drives and public places shall be adequately lighted.
- (5) One non-flashing, illuminated sign shall be permitted on the park. Such sign shall not be greater than thirty-two (32) square feet in area and shall not extend more than eight (8) feet above ground level. Such sign shall be located at least 20 feet from any property line or street right-of-way line.

P. Parking

- (1) Two (2) off-street parking spaces shall be provided on each manufactured home lot. Each space shall have a minimum width of nine (9) feet and a minimum length of twenty (20) feet
- (2) One off-street parking space or common area, readily accessible to the occupants of the manufactured homes it is intended to serve, shall be provided for each five (5) manufactured home sites to accommodate guests and delivery and service vehicles.

Q. Utilities and Service Facilities

The following utilities and services shall be provided in each manufactured home park in accordance with the regulations and requirements of the New York State Department of Health:

- (1) An adequate supply of pure water meeting New York State Department of Health standards for drinking and domestic purposes shall be supplied by pipes to manufactured home lots and buildings within the park. Documentation of compliance with the Department of Health's requirements in Part 17 of the Sanitary Code shall be provided.
- (2) Each manufactured home lot shall be provided with a sewer, which shall be connected to the manufactured home situated on the lot, to receive the waste from the shower, tub, flush toilet lavatory and kitchen sink in such home. The sewer shall be connected to a public or private offsite sewer system meeting New York State Department of Health standards so as not to present a health hazard. Sewer connections in unoccupied lots shall be so sealed to prevent the emission of any odors and the creation of breeding places for insects.
- (3) Garbage containers with tight fitting covers shall be provided in quantities adequate to permit the disposal of all garbage and rubbish. The containers shall be kept in sanitary condition at all times. The containers shall be located no farther than two-hundred-fifty (250) feet from any manufactured home lot, shall be stored in covered collecting enclosures and garbage shall be removed and disposed of as frequently as may be necessary to ensure that such containers shall not overflow. The operator of the manufactured home park shall provide for all trash removal services.
- (4) Manufactured homes which do not contain toilets, lavatory and tubs or showers shall not be permitted in any manufactured home park. Service buildings shall be provided as deemed necessary for the normal operation of the park. Such buildings shall be maintained by the owner or manager of the park in a clean, sightly and sanitary condition.
- (5) Each manufactured home lot shall be provided with weatherproof electric service connections and outlets which are a type approved by the New York State Board of Fire Underwriters.

R. Recreation and Open Space

- (1) Each manufactured home park shall provide common open space for the use of the occupants of the park.
- (2) Such open space shall be conveniently located in the park. Such space shall have a total area equal to at least fifty (50) percent of the gross land area of the park such that the net overall density of the park shall not exceed one (1) dwelling unit or manufactured home per 16,000 square feet of park land area.

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- (3) Any manufactured home park or more than ten (10) manufactured home sites shall provide, as part of its open space, areas for active recreational use. These recreation areas shall not include any wetlands, steep slopes or other land areas unusable for development and shall consist of contiguous land areas which can be used for active recreational activities such as ballfields. No less than 20% of the open space provided shall be dedicated to such recreational areas and no individual area so designated shall be less than two (2) acres in size. Each manufactured home park affected by this section shall provide at least one developed picnic area, including tables and benches, and a system of marked and improved trails or sidewalks connecting each manufactured home to the recreation and other open space areas created. Unless the park shall be restricted to senior citizens, it shall also include at least one improved ball field. These recreational improvements shall be included on the landscaping plans presented as part of the application package.

S. Landscaping

- (1) Ground cover shall be provided on those areas not used for the placement of manufactured homes and other buildings, walkways, roads and parking areas.
- (2) Screening acceptable to the Planning Board shall provide for adequate shade and a suitable setting for the manufactured homes and other facilities. A side or rear yard adjacent to an existing developed area shall be a minimum width or depth of 100 feet and the 50 feet nearest to the existing developed area shall be planted or screened with materials approved by the Planning Board. Such screening shall be designed to create and maintain a high quality neighborhood character for existing residents as well as new manufactured home park residents. Natural landscape buffers shall be required as opposed to fencing or other artificial measures. It shall provide, to the maximum extent practical, for the effective screening of other development from the view of manufactured home residents and of all manufactured homes and accessory structures from view by adjoining. The Planning Board shall also require and approve a landscaping plan for the interior of the manufactured home park to buffer individual manufactured homes, provide shade and green areas and ensure a wholesome living environment.
- (3) Skirting acceptable to the Planning Board shall be installed along the perimeter of each manufactured home, extending from the manufactured home stand to the floor of the manufactured home unit and fully screening the area beneath the unit from view. The landscaping plan required above shall also address landscaping of individual manufactured home sites and ensure effective separation of manufactured homes from each other for purposes of privacy as well as aesthetics.

T. The owner or operator of each manufactured home park shall keep a register wherein there shall be recorded the name and permanent address of the owner and occupant of each manufactured home situated in the court, the registration number of the same, the date it was admitted and the date of its removal. Such register shall be signed by the owner of the manufactured home or the person bringing the same into the court. Such register shall be open for inspection to the Town Clerk, the Town Planning Board, the Town Board or the Town Assessor at all reasonable times. Registers shall be kept for a period of seven (7) years.

U. Fire District Approval and Firefighting Requirements

- (1) No application for a manufactured home park license shall be approved unless and until the appropriate officer of the applicable Town fire district shall have reviewed the plans as well as the site and determined the district firefighting equipment can provide adequate coverage of the park and that there are no major obstacles in the design or layout of the facility to providing fire protection. The applicant shall document to the fire district and the Planning Board, that there is a fire hydrant(s), with sufficient capacity to meet the firefighting needs associated with the development, located on the site and convenient for easy access. Water storage facilities may be provided as an alternative to hydrants if the same are secured from access by small children.
- (2) If the fire district approval cannot be obtained because the district lacks the specific services and facilities needed to serve the proposed park, the Town shall be authorized, through its Planning

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Board and Clerk, to require a condition of special use and site plan approval as well as licensing hereunder, a financial contribution from the applicant toward providing those services or facilities. Such contribution shall be reasonable and directly related to the costs of serving the manufactured home park.

V. Sales and Storage

- (1) No sales of manufactured homes for offsite placement shall be permitted within the manufactured home park, excepting for previously occupied manufactured homes sold individually by residents of the manufactured home park. Also, no manufactured home shall be used for rental purposes except for temporary periods in those instances where an individual owner of such home, not including the manufactured home park operator, shall have placed such home on-site for purposes of personal occupancy and is no longer, for reasons of health or circumstance able to live there.
- (2) No individual manufactured home shall be placed anywhere within the Town of Gilboa for a period of six (6) months or more for any purpose other than use as a dwelling.
- (3) Storage of any unlicensed vehicles within a manufactured home park for a period six (6) months or more is prohibited.

§ 10.7. Campgrounds.

- A. The procedures applicable to Manufactured Home Parks shall apply.
- B. Campgrounds shall be marked off into camp sites.
- C. Camp sites shall not exceed ten (10) per acre.
- D. Utilities and service facilities shall be provided in accordance with the regulations and requirements of the Schoharie County Department of Health, the New York State Department of Health and the Sanitary Code of New York State.
- E. Any camp site provided with electric service connections or outlets must meet National Fire Protection Association requirements.
- F. No less than 25% of the campground shall be devoted to open space and recreation use.
- F. Landscaping shall meet the provisions found in Section 10.6 of this Law.
- G. The owner or operator of each camp ground shall keep a written record of all persons occupying or using the facilities of such camp. This record shall be available for a period of at least one (1) year from date of occupancy. The record shall include:
 - (1) The name and address of the occupant of each site.
 - (2) The name and address of the owner of each trailer which is not occupied by such owner.
 - (3) State in which the trailer is registered and the registration number.
 - (4) Name and address of owner of automobile or other vehicle which propelled the travel trailer.
 - (5) State in which automobile is registered and the registration number.

§ 10-8. Existing Home Sites.

A home site lawfully in existence prior to the enactment of this ordinance may be continued to be used as a home site without permits hereunder.

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§ 10-9. Recreational Vehicles.

The provisions found in Sections 10-5 with the exception of Subsection E shall apply.

§10-10. Enforcement.

The Building Inspector of the Town of Gilboa shall enforce all of the provisions of this ordinance. Such Building Inspector shall have the right at all times to enter and inspect any home site, mobile home park, camp ground and other areas used for parking or placement of a mobile home. The Building Inspector is to monitor all construction in the Town of Gilboa.

- A. The Building Inspector shall have a supply of blank building permits. A similar supply shall be maintained at the Town Clerk's office.
- B. The Building Inspector must approve or disapprove within 15 days after receiving the building permit application. If disapproved, the notification must be in writing to the applicant and to the Town Clerk.
- C. Violators of the homesite ordinance must stop activity immediately. Noncompliance can result in the issuance of a written notice of violation by the Building Inspector to the landowner or his representative.
- D. In the case of Mobile Home Park or Campground violations the Building Inspector shall notify the Town Planning Board and the procedure outlined below for Revocation of Mobile Home Park and Campground Permits shall be followed.

§ 10-11. Revocation of Manufactured Home Park and Campground Permits.

- A. The Town Planning Board may serve a written notice of violation upon the holder of the permit directing that the condition or conditions therein specified be remedied within ten (10) days after the service of the notice.
- B. If the holder of such permit shall refuse or fail to correct the condition or conditions specified in such notice within (10) days after the personal service of such notice, the Town Planning Board may, by resolution, revoke such permit. The holder of the permit shall thereupon terminate the operation of such mobile home park or campground.
- C. If the owner or operator of such manufactured home park or campground shall thereafter correct such conditions and bring the mobile home park or camp ground into compliance with this ordinance, such owner may then apply for the issuance of a new permit for such park or campground. If the application is approved and a permit is granted, the applicant shall pay the Town Clerk the fee required by this Law without any credit for the fee paid for the revoked permit.

§ 10-12. Penalties.

If, after a notice of violation, any person, partnership, association or corporation continues to willfully violate any provision of this ordinance, they shall be guilty of an offense against this ordinance and subject to a fine of not less than one hundred (\$100.) dollars or more than five hundred (\$500.) dollars or to imprisonment for a period for a period of not more than thirty (30) days or both fine and imprisonment. When a violation of any of the provisions of this Law is continuous, each week or portion thereof shall constitute a separate and distinct violation.

§10-13. Exceptions.

None of the provisions of this ordinance shall be applicable to the following:

- A. The business of mobile home or recreational vehicle sales, except that where units are used as living quarters, they shall conform with the provisions of the ordinance.
- B. A manufactured home or recreational vehicle located on the site of a construction project, survey project, or other similar work project and which is used solely as a field office or work or tool house in connection

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with such project, provided that such manufactured home or recreational vehicle is removed from such site within thirty (30) days after the completion of such project.

§ 10-14. Validity.

If any section, paragraph, subdivision, or provision of this ordinance shall be found invalid, such invalidity shall apply to the section, paragraph, subdivision or provision adjudged invalid and the remainder of the ordinance shall remain valid and effective.

§ 10-15. Waivers.

The Town of Gilboa Planning Board shall, pursuant to Section 274-a(5) of the Town Law, have the right to waive, when reasonable, any of the above submission requirements for the approval, approval with modifications, or disapproval of site plans submitted for approval. This waiver authority may be exercised in the event any such requirements are found not to be requisite in the interest of the public health, safety, or general welfare or are inappropriate to a particular site plan. Waivers shall generally be limited to those situations where the full application of the requirements contained herein would generate unnecessary data and create unnecessary costs with regard to deciding the matter at hand, due to the scope or nature of the project involved. The Planning Board shall consider a site plan as adequate when, in its judgment, the information submitted is sufficient to make a determination of compliance with the development standards contained herein and the intent of site plan review criteria found herein.

§ 10-16. Reliability.

Meeting the requirements of the Homesite Law should not be construed as a guarantee that the systems will function reliably.

§ 10-17. Other Regulations.

These regulations in no way waive the requirements of the other regulatory organizations or the requirements of the State Environmental Quality Review Act which are incorporated herein by reference and made a part of these procedures for all applications subject to review thereunder.

§10-18. Effective Date.

This Local Law shall take effect ten (10) days after posting, publication and filing thereof, and immediately against any person who is personally served with a certified copy thereof in accordance with the Town Law of the State of New York.

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1.0 General Provisions

1.1 Authority

- 1.1.1 This Law is adopted under the authority provided to the Town of Gilboa by the New York State Town Law, Municipal Home Rule Law and the State Environmental Quality Review Act.
- 1.1.2 The Town of Gilboa Planning Board shall be authorized and empowered to approve preliminary and final plats of subdivisions showing lots, blocks, or sites, with or without streets or highways, within the Town of Gilboa, pursuant to § 276 of the Town Law.
- 1.1.3 The Planning Board shall be also authorized and empowered, to approve the development of those plats, filed in the office of the County Clerk prior to February 8, 1975, where twenty percent or more of the lots are unimproved unless existing conditions such as poor drainage have prevented their development.
- 1.1.4 The Planning Board shall be further authorized and empowered, pursuant to § 278 of the Town Law pertaining to cluster development and simultaneously with the approval of a plat or plats, to modify applicable provisions of the Town of Gilboa Zoning Law, subject to the conditions set forth in § 278 and later herein.
- 1.1.5 The regulations which follow have been prepared by the Town of Gilboa Planning Board and are approved and adopted by the Town Board of the Town of Gilboa as local law pursuant to the authority of the New York State Municipal Home Rule Law. They repeal previously enacted Subdivision Regulations. Section 276.5(a) of New York State Town is hereby specifically superseded so as to permit exemption of certain subdivisions from the requirement to file plats for Planning Board approval, pursuant to Section 1.3.3 hereof. The definition of subdivision is also superseded to encompass divisions of lands for purposes of immediate or future sale, lease, partition by the court for distribution to heirs or devisees, transfer of ownership, building or lot development. Finally, the requirement for final plans to be submitted within six months of preliminary approval is superseded to provide for extensions of up to five years for this purpose.

1.2 Purposes

This Law is adopted for the following purposes;

- 1.2.1 Promoting the orderly growth and development of the Town in accordance with the Town of Gilboa Comprehensive Plan.
- 1.2.2 Affording adequate facilities for the housing, transportation, distribution, comfort, convenience, health and safety of Town residents.
- 1.2.3 Minimizing foreseeable maintenance and improvement problems as well as economic burdens associated with development of land.
- 1.2.4 Conserving the Town's natural resources and protecting its attractive environment so as to maintain property values and otherwise provide for the general welfare of residents of the Town of Gilboa.

1.3 Jurisdiction

- 1.3.1 Regardless whether or not any formal conveyance by metes and bounds shall be made, when any subdivision of land is proposed and before any offer is made to sell any part or all of a subdivision and before any permit for the erection of any structure in such subdivision shall be issued or any grading, clearing, construction or other improvements shall be undertaken, the subdivider or his authorized agent shall first obtain the appropriate approval of the proposed subdivision in accordance with the requirements of this Law.

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- 1.3.2 It shall further be the obligation of each prospective purchaser or developer of a lot which forms any part of a subdivision to ensure that appropriate subdivision approval has been obtained. In the absence of such subdivision approval, a prospective purchaser shall not commence the erection of any structure on such lot, nor commence any grading, clearing, construction or other improvements.
- 1.3.3 The regulations of this Law shall not apply to lot improvements and natural subdivisions as defined herein (see § 3.7). The Planning Board shall be authorized, where requested and for legal recording purposes, to indicate in writing on any qualifying plat presented that "These plans are acknowledged by the Town of Gilboa, and for recording purposes only, to represent an exempt lot improvement in accord with Section 3.7 of the Town of Gilboa Subdivision Regulations. No subdivision approval is required or given." No plat so submitted, however, shall indicate that a subdivision is being created or approved through action of the Planning Board.

1.4 Interpretation, Conflict and Separability

- 1.4.1 The provisions of this Law, in their interpretation and application, shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.
- 1.4.2 This Law is not intended to interfere with, abrogate, or annul any other law, rule or regulation statute or provision of law. Where any of the provisions of these regulations impose restrictions different than any other law, rule or regulation or other provision of law, whichever provisions are more restrictive or impose higher standards shall control. This Law, however, shall repeal and replace in their entirety the Subdivision Regulations approved by the Town Board on March 8, 1975, including all amendments thereto preceding the enactment of this Law as local law.
- 1.4.3 If any part or provision of these regulations is judged invalid by any court of competent jurisdiction, such judgment shall be confined in application to the part or provision directly on which judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Law or the application thereof to other persons or circumstances. The Town hereby declares that it would have enacted the remainder of these regulations even without such part or provision or application.

1.5 Waivers and Modifications

- 1.5.1 Applications for waivers of standards or procedures shall ordinarily be submitted in writing by the subdivider at the time the preliminary plat is filed. The application shall state fully the grounds on which it is made.
- 1.5.2 The Planning Board may, by resolution, authorize a waiver or modification of the regulations of this Law when, in its opinion, unreasonable restriction will result from strict compliance.
- 1.5.3 Waiver applications shall, in those instances where the Planning Board determines they could, if granted, have an impact on adjoining properties, be subjected to a public hearing at the applicant's expense.
- 1.5.4 Any resolution by the Planning Board authorizing a waiver of these regulations shall include the basis for its finding that unreasonable hardship will result from strict compliance with this Law.
- 1.5.5 In authorizing a waiver, the Planning Board shall attach conditions and require such guarantee or bond as it may deem necessary to assure compliance with the objectives of these regulations. No waiver shall be granted which would substantially change the character of an area or compromise the purposes of these regulations.

1.6 Appeals

Any person or persons, jointly or severally aggrieved by the decision of the Planning Board or Town in regard to

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the administration of this Law may apply to the supreme court for review under article seventy-eight of the civil practice laws and rules.

1.7 Violations and Penalties

- 1.7.1 Any person who shall lay out, construct or open any street, sanitary sewer, storm sewer, water main or other improvements for public use, travel, or other purposes or for the common use of occupants of buildings located or abutting thereon, or who sells, transfers, rents, leases, conveys by other means, or agrees or enters into an agreement to do the same with any land in a subdivision, unless and until a final plat has been prepared, approved and recorded in full compliance with the provisions of this Law, shall be deemed to have committed a violation of this Law and shall be liable for such violation.
- 1.7.2 Any person found in violation of this Law shall be subject to a fine not exceeding three hundred fifty dollars (\$350) per lot, parcel or dwelling. All fines collected for such violations shall be paid over to the Town of Gilboa.
- 1.7.3 Each day that a violation continues shall be a separate violation, but nothing herein shall require the Town to post separate notice each day that a violation continues.
- 1.7.4 The description by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the seller or transferor from such penalties or from the remedies herein provided.
- 1.7.5 The Town shall be authorized to initiate and maintain a civil action to obtain a writ of injunction against subdividers who attempt the improper sale, lease, or conveyance of land, or to set aside and invalidate any conveyance of land made prior to Town approval. It shall take other action as necessary to prevent or remedy any violation.

1.8 Amendments

Amendments to this Law shall be made pursuant to the New York State Municipal Home Rule Law. Also, should provisions of New York State Town Law be amended to require actions different from those specified herein, the State requirements shall prevail.

1.9 Effective Date

This Law shall be effective immediately upon enactment.

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2.0 Definitions

2.1 General

As used in this Law, words in the singular include the plural and those in the plural include the singular. The words "shall" and "will" for the purpose of this Law are defined as mandatory.

2.1.1 For the purpose of this Law, the following terms shall be considered interchangeable:

- (1) The words "Law," " regulation(s)" and "Law."
- (2) The terms "Town" and "Town of Gilboa."
- (3) The terms "subdivider" and "developer" and the terms "subdivision" and "development."
- (4) The terms "State Environmental Quality Review Act" and "SEQRA."

2.1.2 Unless otherwise expressly stated, the following definitions shall, for the purpose of this Law, have the meaning herein indicated. Any pertinent word or term not a part of this listing shall be construed to have its legal definition.

2.2 Glossary of Terms

The following is a list of specific terms, found elsewhere in the Law, along with definitions of their intended meaning:

ALLEY - A permanent service way providing a secondary means of access to abutting lands.

ALL-WEATHER SURFACED - The surfacing of a street, parking area, access or walkway to a mud-free or otherwise permanently passable condition during all seasons of the year and under adverse weather conditions. Macadam, gravel, crushed stone and shale surfaces will all suffice to meet this test but the depth and installation of the material shall be subject to the approval of the Town Engineer.

APPLICANT - A landowner, developer or subdivider, as hereinafter defined, who has filed an application for subdivision plat approval, including heirs, successors and assigns.

BERM or SHOULDER - That portion of a roadway between the outer edge of the traveled way or pavement and the point of intersection of the slope lines at the outer edge of the roadway, for the accommodation of stopped vehicles and for lateral support.

BLOCK - A tract of land or a lot or group of lots bounded by streets, public parks, railroad rights-of-way, watercourses, bodies of water, boundary lines of the Town, or by any combination of the above.

BUILDING - A structure formed of any combination of materials which is erected on the ground and permanently affixed thereto, and designed, intended or arranged for the housing, shelter, enclosure or structural support of persons, animals, or property of any kind.

CENTRAL SEWAGE or WATER SUPPLY - A sewage system or water supply system designed to serve more than one dwelling unit or building; not including the use of a single well or disposal system for two dwellings on the same parcel of land. See "ON-SITE SEWAGE or WATER SUPPLY " for further information.

CLEAR SIGHT TRIANGLE - An area of unobstructed vision at a street intersection(s), defined by lines of sight between points at a given distance from the intersecting street centerlines.

COMMON OPEN SPACE - A parcel or parcels of land or an area of water, or a combination of land and water, within a subdivision, which parcel or parcels have been designed and intended for the use or enjoyment of residents of the development. It does not include streets, off-street parking areas and areas set aside for utility placement,

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rights-of-way or similar public facilities.

COMMON PROPERTY - All of the land and improvements part of a subdivision which is to be jointly owned and maintained by the lot owners, lessees and/or members of the subdivision and identified as such by the subdivider on any plat offered to the Town for approval.

CONSERVATION SUBDIVISION - A form of development for single-family residential subdivisions that permits a reduction in lot area and other development standards, provided there is no increase in the number of lots permitted under a conventional subdivision, given the specific site conditions, and no less than 50% of the total land area is devoted to permanent open space.

COUNTY - The County of Schoharie, State of New York, and its planning agency.

CUL-DE-SAC - A minor street providing a single access to a group of lots with a turnabout area at the end of such street.

DEC - The New York State Department of Environmental Conservation

DEVELOPER - The owner, or authorized agent of the owner; including but not limited to, any individual, partnership or corporation that undertakes a subdivision or any of the activities covered by this Law, particularly the preparation of a subdivision plat showing the layout of the land and the public improvements involved therein. The term "developer" is intended to include the term "subdivider," even though the personnel involved in successive stages of this project may vary.

DRIVEWAY - A defined private access from an individual lot to a public or approved private right-of-way.

DWELLING - A building arranged, intended, designed, or used, as the living quarters for one or more families living independently of each other upon the premises. The term "dwelling" shall not be deemed to include hotel, motel, rooming house or tourist home.

A. **DWELLING, SINGLE-FAMILY** - A building arranged, designed and intended, for and occupied exclusively by, one family.

B. **DWELLING, TWO-FAMILY** - A building arranged, designed and intended for and occupied by two families living independently.

C. **DWELLING, MULTI-FAMILY** - A building arranged, designed and intended for and occupied by three (3) or more families living independently and having no cooking or sanitary facilities in common with any other dwelling unit; including apartment houses, apartment hotels, flats and garden apartments.

EASEMENT - A right-of-way granted, but not dedicated, for limited use of private land for a public or quasi-public or private purpose, and within which the lessee or owner of the property shall not erect any permanent structure, but shall have the right to make any other use of the land which is not inconsistent with the rights of the grantee.

FRONTAGE - That side of a lot abutting on a street or way and ordinarily regarded as the front lot, but it shall not be considered as the ordinary side of a corner lot.

LOT - A tract or parcel of land held in single or joint ownership, not necessarily shown on a duly recorded map, which is occupied or capable of being occupied by buildings, structures and accessory buildings, including such open spaces as are arranged, designed, or required. The term lot shall also mean parcel, plot, site, or any similar term.

A. **LOT AREA** - The area of land contained within the limits of the property lines bounding that lot. Any portion of a lot included in a street right-of-way shall not be included in calculating lot area.

B. **LOT IMPROVEMENT** - A division or redivision of land wherein lot area is shifted from one parcel to another so to improve the shape or dimension of each. See Section 3.7 for further clarification.

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- (2) Not requiring any new street or road or the extension of municipal facilities; and
- (3) With all lots fronting on an existing approved and improved street excepting that in situations where a minor subdivision is located more than three hundred (300) feet from the nearest Town road, in which case the Planning Board may vary this requirement to allow a fifty (50) feet wide right-of-way with a twelve (12) feet wide travelway; and
- (4) Not adversely affecting the development of the remainder of the parcel or adjoining property; and
- (5) Not in conflict with any provision or portion of the Town Zoning Law or these regulations.

Notwithstanding these requirements, the Planning Board may, however, by waiver classify any subdivision as minor which does not involve new improvements.

B. MAJOR SUBDIVISION - Any subdivision or land development which is not a minor subdivision or lot improvement. Any subdivision which involves the utilization of central sewage disposal systems or water supplies, the construction of any streets, or the utilization of conservation subdivision techniques shall also be considered a major subdivision, regardless of the number of lots.

SURVEYOR - A land surveyor licensed by the State of New York.

TOWN - Town of Gilboa, Schoharie County, New York.

TOWN BOARD - Governing council - the Town of Gilboa.

TOWN ENGINEER - A Professional Engineer licensed as such by the State of New York and appointed or hired on a consulting basis to provide engineering advice to the Town.

TOWN LAW - The New York State Town Law which governs the operation of all Towns within the State.

TOWN ROAD SPECIFICATIONS - The standards of the Town of Gilboa pertaining to the approval of streets by the Town Highway Superintendent and the acceptance of such streets for formal dedication to the Town.

WATERCOURSE - A discernible, definable natural course or channel along which water is conveyed ultimately to streams and/or rivers at lower elevations including intermittent streams but excepting drainage ditches, swales or diversion terraces.

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and show adjacent lots already taken from the parcel.

- 3.1.4 Soil tests. Documentation as may be required by the New York State Department of Health, along with a soils evaluation by the test pit method and/or other required supplemental data relating to sewage disposal shall be submitted.
- 3.1.5 Street encroachment permits. A completed application to the Gilboa Highway Superintendent, the State Department of Transportation or County Department of Public Works, as the case may be, for a street encroachment permit, shall also be required.
- 3.1.6 Public Hearing. The Planning Board shall, within sixty-two (62) days of the receipt of a complete Final Plat by the Planning Board Secretary, shall hold a public hearing, advertising such hearing at least once in a newspaper of general circulation in the Town at least five (5) days prior to the hearing and providing such other notice as it deems appropriate. The hearing shall be closed on motion of the Planning Board within one-hundred-twenty (120) days after it is opened and be used to guide the Planning Board in acting upon the Environmental Assessment.
- 3.1.7 Action on Final Plat. The Planning Board shall, by resolution, conditionally approve with or without modification, disapprove or grant final approval and authorize signing such plat within sixty-two (62) days of the close of the public hearing, provided it has first acted upon the Environmental Assessment and made a Negative Declaration with respect to environmental impacts. Should the Board be unable to make a Negative Declaration, it shall proceed in the manner provided by New York State Town Law § 276.
- 3.1.8 Certification, filing and signing of Final Plat. Within five (5) business days of the adoption of the resolution granting conditional or final approval of the final plat, such plat shall be certified by the Secretary as having been granted conditional or final approval and a copy of such resolution and plat shall be filed in such Secretary's office and with the Town Clerk and shall be mailed to the subdivider. In the case of a conditionally approved plat, such resolution shall include the requirements which, when completed, will authorize the signing thereof. Upon completion of such requirements the plat shall be signed by a duly authorized officer of the Planning Board, filed with the Secretary.
- 3.1.9 Time limits on conditional approvals. A conditional approval of a final plat shall expire within one-hundred-eighty (180) days unless all conditions are satisfied and certified as completed. This period may be extended for not more than two additional periods of ninety (90) days where particular circumstances so warrant in the judgment of the Planning Board.
- 3.1.10 Approvals by default. In the event the Planning Board fails to take action on a plat within the time periods prescribed herein or within such extended periods as may have been established by mutual consent of the subdivider and Planning Board, the subscriber shall be entitled to an approval by default pursuant to the Town Law
- 3.1.11 Recording of final plats. All final plats shall be filed in the office of the County Clerk within sixty-two (62) days of approval, subject to the provisions of § 276 of the Town Law.
- 3.1.12 County Planning Board review. Applications for preliminary or final plat approval shall be subject to referral to the County Planning Board pursuant to Section 239-n of the General Municipal Law, if located within five-hundred (500) feet of:
 - (1) the Town boundaries; or
 - (2) the boundaries of any existing or proposed County or State park or other recreation area; or
 - (3) the right-of-way of any County or State highway, or
 - (4) the right-of-way of any existing or proposed stream or drainage channel owned by the

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County or for which the County has established channel lines; or

- (5) the boundary of any existing or proposed County or State land on which a public building or institution is situated; or
- (6) the boundary of a farm operation in an Agricultural District.

3.2 Procedures for Major Subdivisions

Major subdivision plat submissions shall be subject to SEQRA review and be processed as follows:

- 3.2.1 Sketch plan required. Submission of a sketch plan as provided in § 3.3 shall be required as part of the Preliminary Plat approval process for all major subdivisions. This plan shall be used to determine the number of lots permitted, determine whether the subdivision will involve other agencies and make a preliminary classification of the subdivision as a Type I or Unlisted SEQRA action. The Planning Board shall also use the sketch plan for purposes of determining lead agency status, arranging and conducting a site inspection of the property and establishing whether the subdivision is located in an Agricultural District. A sketch plan shall be considered filed at the first regular meeting of the Planning Board following the Secretary's receipt of the plan and all determinations with respect to the plan shall be made within twenty (20) days of said meeting.
- 3.2.2 When Planning Board is not lead agency or an EIS is required. Should the Planning Board not assume lead agency responsibilities in the SEQRA review of the subdivision, or should an Environmental Impact Statement be required, the provisions contained herein pertaining to public hearings, notices and decisions shall be modified as provided in § 276 of the Town Law.
- 3.2.3 When Planning Board is lead agency and no EIS is required. If the Planning Board acts as lead agency and determines an Environmental Impact Statement is not required, the subdivider shall complete preparation of the Preliminary Plat as required by § 75-15 and provide Part 1 of the SEQRA Long Form Environmental Assessment. The Planning Board, within sixty-two (62) days of the receipt by the Secretary of a Preliminary Plat which is complete except for a negative declaration filed pursuant to SEQRA, shall hold a public hearing on this Preliminary Plat, advertising such hearing at least once in a newspaper of general circulation in the Town at least five days prior to the hearing and providing such other notice as it may deem appropriate. The hearing shall be closed on motion of the Planning Board within one-hundred-twenty (120) days after it is opened and be used to guide the Planning Board in acting upon the Environmental Assessment.
- 3.2.4 Action on Preliminary Plat. The Planning Board shall approve, with or without modifications, or disapprove the Preliminary Plat within sixty-two (62) days of the close of the public hearing, provided a negative declaration has first been filed pursuant to SEQRA.
- 3.2.5 Grounds for action. The grounds for modification, if any, or the grounds for disapproval shall be stated upon the records of the Planning Board. When so approving a Preliminary Plat the Planning Board shall state in writing any modifications it deems necessary for submission of the Final Plat.
- 3.2.6 Preliminary Plat certification. Within five (5) business days of the approval of any preliminary plat, such plat shall be certified by the Secretary as approved and a copy of the plat and approval resolution shall be filed in the Secretary's office with a copy of the resolution provided to the subdivider and also filed in the office of the Town Clerk. Disapproval resolutions shall be filed and mailed in the same manner.
- 3.2.7 Time to submit final plat. The subdivider, within six (6) months of the approval of the preliminary plat, shall install or, pursuant to § 3.5, financially guarantee all subdivision improvements and submit the plat in final form as provided in § 3.6. The Planning Board may revoke preliminary plat approval if a final plat is not submitted within six (6) months or grant an extension of the preliminary approval provided that no preliminary plat shall remain valid if a

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final plat has not been submitted within five (5) years.

- 3.2.8 Action on final plat. When the final plat is in substantial agreement with the preliminary plat, the Planning Board shall, by resolution, conditionally approve with or without modification, disapprove, or grant final approvals and authorize signing of such plat within sixty-two (62) days of its receipt by the Secretary. No additional public hearing shall be required. When the final plat is not in substantial agreement with the preliminary plat, the preliminary plat procedures shall apply to a final plat insofar as SEQRA review, public hearing, notices and decision.
- 3.2.9 Certification, filing and signing of final plats. Within five (5) business days of the adoption of the resolution granting conditional or final approval of the final plat, such plat shall be certified by the Secretary as having been granted conditional or final approval and a copy of such resolution and plat shall be filed in such Secretary's office and with the Town Clerk and shall be mailed to the subdivider. In the case of a conditionally approved plat, such resolution shall include the requirements which, when completed, will authorize the signing thereof. Upon completion of such requirements the plat shall be signed by a duly authorized officer of the Planning Board, filed with the Secretary.
- 3.2.10 Final plats by section. The Planning Board may permit any subdivision for which preliminary plat approval has been granted to be submitted in sections for final plat approval.
- 3.2.11 Time limits on conditional approvals. A conditional approval of a final plat shall expire within one-hundred-eighty (180) days unless all conditions are satisfied and certified as completed. This period may be extended for not more than two additional periods of ninety (90) days where particular circumstances so warrant in the judgment of the Planning Board.
- 3.2.12 Approvals by default. In the event the Planning Board fails to take action on a plat within the time periods prescribed herein or within such extended periods as may have been established by mutual consent of the subdivider and Planning Board, the subscriber shall be entitled to an approval by default pursuant to the Town Law.
- 3.2.13 Recording of final plats. All final plats shall be filed in the office of the County Clerk within sixty-two (62) days of approval, subject to the provisions of § 276 of the Town Law.
- 3.2.14 County Planning Agency review. Applications for preliminary or final plat approval shall be subject to referral to the County planning agency pursuant to Section 239-n of the General Municipal Law, if located within five-hundred (500) feet of:
- (1) the Town boundaries; or
 - (2) the boundaries of any existing or proposed County or State park or other recreation area; or
 - (3) the right-of-way of any County or State highway, or
 - (4) the right-of-way of any existing or proposed stream or drainage channel owned by the County or for which the County has established channel lines; or
 - (5) the boundary of any existing or proposed County or State land on which a public building or institution is situated; or
 - (6) the boundary of a farm operation in an Agricultural District.

3.3 Sketch Plans for Major Subdivisions

The Sketch Plan should be at a scale sufficient to show the entire tract on one sheet, and should show or include the following:

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- 3.3.1 The location of that portion which is to be subdivided in relation to the entire tract.
 - 3.3.2 An existing and natural site features analysis which depicts all structures, wood area, stream, natural features, stone walls, wetlands, outstanding views and other aspects of the property around which a subdivision plan should be designed.
 - 3.3.3 The name of the owner and of all adjoining property owners as disclosed by the most recent deed or tax records.
 - 3.3.4 All streets or roads, streams, water, sewage and gas and power lines within 500 feet of the subdivision.
 - 3.3.5 The tentative layout of the remainder of the tract owned by the subdivider.
 - 3.3.6 North Point, graphic scale, date and name/address of subdivider and landowner.
 - 3.3.7 A location map with sufficient information to enable the locating of the property.
 - 3.3.8 Proposed open spaces.
- 3.4 Preliminary Plat Requirements for Major Subdivisions
- 3.4.1 The Preliminary Plan shall be clearly and legibly drawn and ordinarily shall be not less than 11" X 17" nor more than 24" X 36" in size and should, when possible, show the entire tract to be divided.
 - 3.4.2 The Plat shall be based on the concepts presented in the Sketch Plan and contain the following information:
 - (1) Proposed name of the subdivision. This name shall not duplicate in spelling or pronunciation any recorded subdivision within Schoharie County. The name and address of landowner and subdivider shall also be provided.
 - (2) Location by Town, County and State. The plan shall also include tax map numbers for affected and adjacent parcels and a 1" = 2000' location map.
 - (3) North point, date and graphic scale.
 - (4) Boundaries of total tract and acreage contained within it. (Also see Section 3.6.7)
 - (5) Locations, and where appropriate, dimensions of parks and public grounds, permanent buildings in, or adjacent to, the subdivision, open space easements and other significant existing site features.
 - (6) Approximate locations of existing sanitary sewers, public water mains, storm sewers, electric power and transmission lines, gas lines, and all other items above or below ground with direction of flow and pressure.
 - (7) Names of owners of abutting properties, and lines showing where they intersect.
 - (8) Existing contours at intervals of at least every twenty feet. U.S.G.S. maps may suffice for the basis of this item. The Town reserves the right to request greater detail when the scope or nature of the development demands the same.
 - (9) Proposed layout of streets, alleys and other public rights-of-way, including widths and proposed names which shall not duplicate existing names by spelling or pronunciation. The street proposals shall be accompanied by a submission of plans as required by the Town Road and Street Encroachment Laws, including profiles, cross-sections, and

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preliminary designs for bridges and culverts.

- (10) The proposed layout, numbering and approximate dimensions and acreage of lots.
- (11) Parcels to be dedicated to the public, or reserved for their use, or to be reserved by covenant for residents, shall be shown and marked as such.
- (12) Building setback lines. Where lots are located on a curve, or side lines are not parallel, the width at the building line shall be shown.
- (13) All drainage easements shall be shown and marked as such.
- (14) Approximate final grades in areas of cut or fill shall be shown.
- (15) Any lots designated for uses other than residential shall be indicated.
- (16) Proposed covenants and restrictions.
- (17) Evidence of water supply. In cases where no public water supply is planned as part of the subdivision, the subdivider shall supply acceptable evidence of the availability of other potable water source. This evidence may be in the form of logs existing wells established by professional well drillers.
- (18) Letters from each utility servicing the area indicating that the utility company is aware of and will provide service to the proposed subdivision.
- (19) An erosion and sedimentation control plan indicating those measures to be employed during construction and as may be necessary to prevent loss of soil from erosion and to prevent resulting property damage, siltation and contamination of water courses or impoundments.
- (20) A storm water management plan prepared in accord with the requirements hereof and DEC guidelines and standards (see "Reducing the Impacts of Stormwater Runoff from New Development").
- (21) Documentation as may be required by the New York State Department of Health or the Planning Board, along with a soils evaluation by the test pit method and/or other required supplemental data relating to sewage disposal.
- (22) All applicable zoning data.
- (23) Completed applications to Town of Gilboa, County of Schoharie or the New York Department of Transportation, as the case may be, for street encroachment or highway occupancy permits.
- (24) Detailed landscaping plans for such common areas or improvements as may require new landscaping.

3.5 Requirements for Guarantee of Improvements

3.5.1 After approval of the Preliminary Plat, the subdivider, in a manner consistent with the New York State Town Law, shall provide for the installation of the required improvements (those physical additions and changes which may be necessary to provide usable and desirable lots). Before requesting Final Plat approval the subdivider must:

- (1) Install all the improvements approved on the Preliminary Plat or required by § 4.0 standards, or

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- (2) File with the Town Board a performance guarantee to insure installation and construction of those improvements at the standards required. Such guarantee shall meet with the approval of the Town Attorney as to form and procedure.

- 3.5.2 The subdivider shall meet with the Town Engineer to develop a schedule, so that at the time each improvement is to be installed and upon its completion, adequate inspections can be made.

- 3.5.3 This Section is designed to be consistent with § 277 of the New York State Town Law and the Town of Gilboa hereby incorporates all authorities and requirements contained therein as part of this Law.
 - (1) Posting - The performance guarantee must be approved by the Town Board and Town Attorney, with the advice of the Town Engineer, and must:
 - (a) Be a corporate surety bond, irrevocable letter of credit from a bank or certified check, provided the same is satisfactory to the Town Board and Town Attorney and meets Town Law § 277 requirements.
 - (b) Be payable to the Town of Gilboa.
 - (2) Be in an amount sufficient to complete the improvements in compliance with these regulations plus any expected cost increases over the period of the guarantee. Costs shall be assumed to escalate a minimum of 10% per year for purposes of determining the amount of a guarantee.
 - (3) In the case of cash or its equivalent, be held in an escrow fund in the name of the Town of Gilboa.
 - (4) Specify a satisfactory completion date for improvements which shall, unless extended by mutual consent of the subdivider and the Planning Board, be not more than three (3) years from the date of the Final Plat approval. Should an extension be granted the amount of the guarantee shall be increased as may be required to cover further cost increases as provided in subsection (3) above. Provisions may also be made, pursuant to the aforementioned Town Law § 277, for completion of improvements in phases.
 - (a) Return - When the improvements have been completed and approved for conformity with these regulations by the Planning Board and Town Engineer or other qualified individual designated by the Town and accepted by the Town Board, the guarantee must be released and returned. When any of the required improvements have been completed and approved or materials for the same have been secured on-site, a portion of the security commensurate with the cost of these improvements, may be released and returned.
 - (b) Default - In the event of default, the obligor and surety shall be liable thereon to the Town of Gilboa for the cost of the improvements or parts thereof not installed. If proceeds of such bond, or other security are insufficient to pay the cost of installing or making repairs or corrections to all the improvements covered by said security, the Town Board may, at its option, install part of such improvements in all or part of the subdivision or land development and may institute appropriate legal or equitable action to recover the moneys necessary to complete the remainder of the improvements. All of the proceeds, whether resulting from the security or from any legal or equitable action brought against the subdivider, or both, shall be used solely for the installation of the improvements covered by such security, and not for any other municipal purpose.
 - (5) Prior to the certification of any improvements or release of any guarantee, the subdivider shall pay all inspection and related costs (for professional services, meetings,

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advertisements and expenses) associated with the improvements or guarantees. These costs will be assessed as a special fee apart from the regular fees provided for in this Law. Said payment shall be made to the Town of Gilboa.

- 3.5.6 Where improvements are being dedicated to the Town, the subdivider shall comply with the applicable requirements of any other Town Laws governing dedication of improvements and submit a maintenance bond or other approved performance guarantee to guarantee maintenance and repair of those improvements for eighteen (18) months from the date of dedication. The maintenance bond shall generally be a maximum of 15% of the costs of improvements, subject to approval of the Town Board. Similar maintenance agreements may be required for private streets and nothing herein shall be deemed to require acceptance of dedication by the Town under any circumstances.

3.6 Final Plat Requirements for Major Subdivisions

The Final Plat shall be prepared on one or more sheets of a uniform size coinciding with requirements of the Schoharie County Clerk's office. Final Plat attachments and exhibits shall be numbered and labeled in accordance with the requirements of this Section and a "subdivision checklist" to be developed by the Town. The Final Plat shall include, in addition to the information required for the Preliminary Plat submission, the following:

- 3.6.1 Exact locations, widths and names of all streets and all crosswalks within the subdivision.
- 3.6.2 Complete curve data for all curves included in the Plat.
- 3.6.3 Exact descriptions of all easements being provided for services or utilities in the subdivision, and any limitations placed on the use of such easements.
- 3.6.4 Accurate outlines of any lots or areas to be reserved or dedicated for common use by residents of the subdivision, or for general public use, with the purpose indicated thereon, including all open space, conservation or drainage easements.
- 3.6.5 Front building lines, shown graphically with dimensions.
- 3.6.6 A final version of all restrictions and covenants, if any, the subdivider intends to place in the deeds to the lots in the subdivision. If no such restrictions or covenants are to be imposed, a statement to that effect shall be included.
- 3.6.7 The total tract boundary lines of the area being subdivided, with accurate distances to hundredths of a foot and bearings to one minute. These boundaries shall be determined by accurate survey in the field; provided, however, that the boundary(s) adjoining additional unplatted land of the subdivider (for example, between separately submitted Final Plat sections) are not required to be based upon field survey, and may be calculated. The location of all boundary line (perimeter) monuments shall be indicated, along with a statement of the total area of the property being subdivided. In addition, the engineer or surveyor shall certify the placement of the monuments.
- 3.6.8 The Final Plat shall contain a certificate signed by the project engineer indicating that all improvements have either been installed and approved by the proper officials or agencies, or that a guarantee in an amount satisfactory to the Town Engineer and sufficient to ensure their installation has been submitted to the Town.
- 3.6.9 Complete final construction plans and profiles of installed or proposed public sanitary sewage disposal systems and storm drains, with grades and pipe sizes, unless on-site sewage disposal systems are to be used.
- 3.6.10 Complete final construction plans of installed or proposed public water distribution systems showing pipe sizes and locations off valves and fire hydrants, if any, unless private wells are to be used.

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- 3.6.11 Evidence of actual arrangements made with utility companies or agencies for supplying each lot in the subdivision.
- 3.6.12 A key map for the purpose of locating the site to be subdivided, at a scale of not less than 2000 feet to one inch, showing the relation of the property to adjoining property and to all streets, roads and municipal boundaries existing within 4000 feet or any part of the property proposed to be subdivided. U.S.G.S. quadrangle maps may suffice as a base for such a key map.
- 3.6.13 Blank approval blocks for the Town Planning Board stamp and signatures shall appear on every sheet of the set of plans.
- 3.6.14 A statement that Erosion and Sedimentation and Storm Water Management Plans, as required, have been prepared and where appropriate approved by the Schoharie County Soil and Water Conservation District.
- 3.6.15 Copies of street encroachment or highway occupancy permits and complete final construction plans, including agreements as may be required to ensure maintenance of private streets.
- 3.6.16 Each Final Plat submission shall, in addition to the items required above, include new submissions of Preliminary Plat data in any instance where there has been a change in the plans or the circumstances surrounding them.

3.7 Lot Improvements

Lot improvements and natural subdivisions shall be exempt from other requirements of these regulations provided three (3) copies of a plan prepared by a licensed Land Surveyor have been submitted describing the conveyances involved by metes and bounds and in sufficient detail to determine the situation fits the criteria below.

- 3.7.1 Parcels shall, to qualify as lot improvements:
 - (1) Involve the addition of land to an existing parcel so as to:
 - (a) Improve ability of that parcel to comply with setback or other building standards; or
 - (b) Increase suitability of the parcel for building development; or
 - (c) Add to the availability of open space; or
 - (d) Resolve a boundary line dispute or produce a corrected deed if a map reflecting the same is desired for recording purposes.
 - (2) Not substantially reduce the ability of the lot, from which the lot improvement parcel is taken or reconfigured, to comply with the applicable standards of this Law.
 - (3) Include a map restriction to the effect the improvement parcel will never be considered a separate building lot apart from the tract to which it is being added.
- 3.7.2 Parcels shall, to qualify as a natural subdivision, be separated by an existing Town, County or State highway that is improved to passable condition for vehicular traffic.

The Planning Board shall, within forty-five (45) days of the receipt of the lot improvement plans, determine whether they comply with the exemption criteria found above. Should the Planning Board fail to act in the provided time or make a finding that the plans do not meet the criteria, such plans shall be deemed rejected unless an extension is granted by the Planning Board. If the Planning Board finds they do qualify as a lot improvement, the Board shall sign the plans with the following notation: "These plans are acknowledged by the Town of Gilboa, and for recording purposes only, to represent an exempt lot improvement in accordance with Section 3.7 of the Town of Gilboa Subdivision Regulations. No subdivision approval is required or given." No person shall record

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plans for any lot improvement without so first obtaining the Planning Board's clearance.

3.8 Fees

At the time an application for subdivision approval is filed, a fee shall be paid to the Town by the subdivider; such fee to be determined from a schedule of fees as adopted by the Town Board by resolution. Additional fees may be imposed to cover the costs of inspections, professional reviews and SEQRA compliance, as well as the expenses connected with notices and hearings.

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4.0 Design Standards

4.1 Application

The design standards and requirements set forth in this Article shall be observed as minimums by the subdivider in the design of each subdivision within Town of Gilboa. The Planning Board shall require more-restrictive standards where necessary to protect health, safety and welfare of the public, and where circumstances unique to the property so dictate.

4.2 General Site Requirements

- 4.2.1 Those areas which are subject to such hazards of life, health, or property as may arise from fire, flood or noise, or are considered to be uninhabitable for other reasons, may not be subdivided for building purposes unless the hazards have been eliminated or the plans show adequate safeguards correcting the hazards.
- 4.2.2 In addition, the Town may rely upon information contained in its Comprehensive Plan and, in determining and evaluating potential hazards use historical records, soil evaluations, engineering studies, expert opinions, established standards used by licensed insurance companies or in professional practice, and Federal, State, or local policies.
- 4.2.3 All portions of a tract being subdivided shall be taken up in lots, streets, public lands, dedicated open space or other proposed uses, so that remnants and landlocked areas shall not be created. The layout of a subdivision shall also be planned with consideration to existing nearby developments or neighborhoods, so that the development is coordinated in terms of traffic movement, drainage, and other reasonable considerations.
- 4.2.4 In all subdivisions, care shall be taken to preserve natural features such as trees, water courses, views, and historical features which will add attractiveness and value to the remainder of the land. Where a subdivision of land is on a site that has a slope of more than 15% the Planning Board may require larger lot sizes than the minimum standards set forth herein.
- 4.2.5 Damming, filling, relocating or other interference with the natural flow of surface water along any surface water drainage channel or natural water course shall not be permitted except with the approval of the Planning Board and, where appropriate, DEC.
- 4.2.6 Wherever possible, lot lines shall follow Town boundary lines rather than cross them, and reserve strips controlling access to lots, public rights-of-way, public lands or adjacent private lands are prohibited.

4.3 Blocks and Lots

- 4.3.1 Blocks shall ordinarily not exceed 1,200 feet in length.
- 4.3.2 Pedestrian interior walks or trails may be required, where necessary to assist circulation or provide access to community facilities and open space. Such walks or trails shall have a right-of-way width of not less than 6 feet and be all-weather-surfaced for not less than 3 feet in width.
- 4.3.3 Blocks shall be of sufficient width to permit two tiers of lots of appropriate depth, except where an interior street parallels a major street, or where it backs up to a railroad, creek, or other natural barrier unsubdivided area.
- 4.3.4 Where a subdivision adjoins a major highway (one which is designated and marked for two lanes or more and carries at least 1,000 vehicles per day), the greater dimension of the block shall front along said highway, and interior streets may be required to minimize the number of points of access. Such streets may be required whenever topographic conditions, traffic density or lack of proper sight distance dictate for reasons of health and safety. Any subdivision of five lots or more

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with frontages averaging less than 300 feet along the highway shall be subject to this requirement, if the Planning Board determines, after inspection, that safety demands restricting access.

- 4.3.5 Cul-de-sac streets, permanently designed as such, shall not exceed 2,500 feet in length and shall furnish access to not more than 50 dwelling units. Cul-de-sac streets shall have, at the closed end, a turnaround with the right-of-way having an outside diameter of not less than 80 feet and not more than 120 feet and shall be paved to a diameter of not less than 80 feet and not more than 100 feet. An inside landscaped area of not more than 60 feet in diameter shall be encouraged. Drainage of cul-de-sacs shall preferably be toward the open end. The Planning Board shall have authority to require the use of loop streets and other alternatives to cul-de-sacs where such alternatives are available and preferable as a means of providing safe access to lots, making street connections or limiting environmental impacts.
- 4.3.6 All side lines of lots shall be at approximate right angles to straight street lines and radial to curved street lines, except where a variation to this rule will provide a safer layout.
- 4.3.7 Double frontage lots shall ordinarily not be platted, except as specifically provided herein. In that event, a planting strip of at least 20 feet in width may be required along the back of the lot.
- 4.3.8 If remnants of land exist after subdividing, they shall be incorporated in existing or proposed lots, unless designated as common area or dedicated to open space.
- 4.3.9 Either of the two sides of a corner lot may be designated as the front, provided the rear yard shall always be opposite the frontage so designated.
- 4.3.10 All lots shall front on a public or private street (existing or proposed) and the right-of-way of the principal access to any subdivision shall be a minimum of fifty (50) feet in width. However, upon written request by the subdivider, the Town may grant a waiver from this and other street requirements of this Law to permit access to no more than three (3) single-family residential lots from a private drive, provided a release has been given the Town and approved by the Town Board making clear that the Town is exempted from all responsibility for the maintenance of the same and that the lot in question is not capable of being subdivided further or is so restricted. Evidence of satisfactory shared arrangements for ownership and maintenance of the drive shall also be provided. See Section 4.9.18 hereof.
- 4.3.11 Monuments shall be placed at perimeter corners and the corner of each street, and markers set at the corner of each lot, consistent with surveyors' professional practice, to permanently and accurately define the metes and bounds of the block and lots created.

4.4 Common Open Space

Except where such area would be less than one acre or the Planning Board shall waive the requirement, not less than 10% of the gross area of the entire tract, exclusive of lakes or ponds, shall be reserved for common open space directly accessible from the lots to be created. Such open space shall be suitable for recreational use of the residents of the subdivision or the general community. The following and similar facilities shall meet this requirement: swimming pools, tennis courts, riding and cycling paths, playgrounds, community centers, and other open areas. Such areas as are designated for play lots, parks and other outdoor recreational facilities shall be of a size, shape and other physical characteristics so as to be free of health and safety hazards and suitable for the designated use. No portion of the 10% requirement shall be met with wetlands, slopes exceeding 15% in grade or other otherwise undevelopable areas. Sites so dedicated shall not be deemed to be accepted by the Town unless and until the Town Board has taken formal action to accept the same. The subdivider and the Town may also agree to otherwise provide recreational land for the use of residents pursuant to the authority of § 277 of the Town Law including fees in lieu of dedication.

4.5 Water supply

- 4.5.1 Where a central water supply is available within 1,000 feet of the proposed residential development, the subdivider shall, if legally and practically feasible, construct a system of water

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mains tied to such system and provide a connection for each lot.

- 4.5.2 Plans and specifications for central water systems (i.e. extension of an existing system or a proposed new facility) shall be prepared by a professional engineer and shall conform to requirements of the New York State Department of Health and the local fire district(s). Suitable agreements shall also be established for the ownership and maintenance of such distribution system.
- 4.5.3 The applicant proposed a central water supply must demonstrate ability to provide a minimum of 100 gallons of water per capita per day (GPCD) and/or 400 gallons per day (GPD) for each residential dwelling unit to be serviced. Service to industrial or commercial establishments shall meet standards established by the American Water Works Association or insurance industry underwriting standards.
- 4.5.4 New central water supply wells shall be sited, drilled, and tested under the direct supervision of a professional engineer or a professional groundwater geologist. Wells shall be so located that no potential pollution sources can exist within a 100 foot radius (200 feet if located downslope from the pollution source). Wells shall also be located on reserved parcels.

4.6 Sewage Disposal

- 4.6.1 All residential lots shall contain suitable areas for on-site sewage disposal systems or be served by an approved central sewage disposal system. Plans and specifications for central systems, as required by the New York State Department of Environmental Conservation ("DEC"), shall be submitted with all preliminary subdivision plats and design standards shall meet DEC requirements. Formal approval of DEC shall be required prior to final plat approval.
- 4.6.2 When a central sewage disposal system is located within 1,000 feet of the proposed residential development, the subdivider shall, if legally and practically feasible, provide a system of collection lines to connect to said system. Regardless of this requirement, all subdivision and land developments shall be provided with an adequate sewage disposal system(s). Central sewage disposal systems shall also be required for all residential lots and non-residential developments where on-site soil conditions are unsuitable for on-lot subsurface sewage disposal systems.
- 4.6.3 Where connection to a central sewage disposal system is not required, on-site systems shall be provided in accordance with criteria set forth by the New York Department of Health. The applicant's professional engineer, subject to the approval of the Planning Board, shall determine the number and location of test pits and soil percolation tests necessary to determine the general suitability of soils throughout the subdivision for on-site subsurface sewage disposal.
- 4.6.4 Sanitary sewers shall not be used to carry storm water.

4.7 Erosion and Sedimentation

In the event that any subdivider shall intend to make land changes by grading, filling, excavating or the removal or destruction of the natural topsoil or vegetative covering thereon in accordance with a subdivision plan submitted to the Town, the same shall only be approved and accomplished after the developer has submitted to the Town an Erosion and Sedimentation Control Plan. Erosion control measures shall be employed as necessary to prevent loss of soil from erosion and also to prevent resulting property damage, siltation and contamination of water courses or impoundments. Erosion control measures may include hay bales, silt fences or other provisions or combinations thereof.

4.8 Storm Drainage

- 4.8.1 A storm water drainage plan shall be required for major subdivisions. Such a plan shall be prepared using DEC guidelines and standards (see "Reducing the Impacts of Stormwater Runoff from New Development"), but complying with the following standards.

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- 4.8.2 Stormwater drainage facilities shall be designed to accommodate storms of a 25 year frequency unless a more stringent standard shall be required by the Planning Board. The general performance standard shall be that the amount of uncontrolled stormwater leaving the site along any property line after development shall not exceed that estimated for the site prior to development. In instances where stormwater facilities are impractical for engineering reasons the Town may modify this standard as it applies to a particular project but shall provide for the maximum practical reduction in flow which can be achieved under the circumstances. The subdivider shall provide full information, prepared by a professional engineer, regarding the predevelopment stormwater flows and estimates at the time of application.
- 4.8.3 The following additional requirements shall apply:
- (1) Lots shall be laid out and graded to prevent cross-lot drainage away from proposed building areas. Natural drainage courses shall be maintained.
 - (2) The existing points of natural drainage discharge onto adjacent property shall not be altered, nor shall the rate of water runoff be increased because of development, without the written approval of all affected land owners.
 - (3) No storm water runoff or natural drainage water shall be so diverted as to overload existing drainage systems, or create flooding or the need for additional drainage structures on other private properties or public lands, without complete approval of provisions being made by the developer for properly handling such conditions.
 - (4) Stormwater calculations and design shall be prepared by a professional engineer, land surveyor, landscape architect or others certified to perform such work.
 - (5) Storm drainage facilities should be designed to handle the anticipated peak discharge from the property being subdivided.
 - (6) Where a subdivision is traversed by a watercourse, there shall be provided a drainage easement of at least 25 feet to each side of the stream from that stream bank, or such additional width as will be adequate to preserve the unimpeded flow of natural drainage.
 - (7) Drainage structures that are located on State highway rights-of-way shall be approved by the New York State Department of Transportation, and evidence of the same shall be provided to the Town prior to final plan approval.
 - (8) All streets shall be so designed as to provide for the discharge of surface water from their rights-of-way. The slope of the crown on proposed streets shall be 1/4" per foot away from the center line.
 - (9) All proposed surface drainage structures shall be indicated on the preliminary plan.
 - (10) Drainage plans shall include all appropriate designs, details and dimensions necessary to clearly explain proposed construction materials and elevations.
 - (11) Whenever storm drains are required by the Town, such storm sewer systems shall be separate from the sanitary sewer system. Storm drains or storm sewer facilities may be required in any development situation where the Town Board determine that surface drainage facilities are inadequate to prevent excessive erosion and lot or road maintenance problems.
 - (12) Drainage systems shall be designed in accordance with engineering practice, using hydraulic computations to show effects of the flow of water. The general standard shall be that the amount of stormwater leaving the site along any property line after development shall not exceed predevelopment stormwater flows for that area. In no case shall any pipe system of less than 15" in diameter be used underneath a street or

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driveway.

- (13) Where a subdivision is traversed by a water course, drainage way, channel, or stream, there shall be provided a drainage easement conforming substantially with the line of such water course, drainage way, channel or stream, and of such width (minimum 20 feet) as will be adequate to preserve the unimpeded flow of natural drainage, or for the purpose of widening, deepening, relocating, improving or protecting such drainage facilities.
- (14) All drainage systems and structures shall be subject to the approval of the Town Engineer, or any such other qualified person as may be appointed for this purpose by the Planning Board.

4.9 Street Requirements

4.9.1 The arrangement, character, extent, width, grade and location of all streets shall conform to the provisions found herein.

- (1) In general, all streets shall be continuous and in alignment with existing streets and shall compose a convenient system to insure circulation of vehicular and pedestrian traffic.
- (2) Streets shall be logically related to the topography so as to produce usable lots and reasonable grades as required by this Law.
- (3) Dead-end streets shall be prohibited, except as stubs to permit future street extension into adjoining tracts, or when designed as cul-de-sacs.
- (4) Where adjoining areas are not subdivided, the arrangement of streets in new subdivisions shall make provision for the extension of streets.
- (5) Streets shall be laid out to intersect as nearly as possible at right angles; in any event, no street shall intersect another at less than sixty (60) degrees. Intersections of more than two streets shall be avoided. Where this proves impossible, such intersections shall be designed with care for safety, and suitable curbs, barriers, signs and other devices as may be required. Streets entering opposite sides of another street shall be laid out directly opposite one another or offset a minimum of one-hundred-twenty-five feet (125').
- (6) Street and driveway intersections with arterial streets shall not be so numerous, nor so close to each other, as to impede the flow of traffic.
- (7) Clear sight triangles shall be provided at all street intersections. Within such triangles, no structure or vision-obstructing object other than utility poles, street lights, street signs, or traffic signs shall be permitted which obscures vision above the height of thirty-six (36) inches and below ten (10) feet measured from the centerline grade of intersecting streets. Such triangles shall be established from a distance of seventy-five (75) feet from the point of intersection of the centerlines.
- (8) Whenever, in connection with a major subdivision, the principal access (whether public or private) to such subdivision, by virtue of bridge weight limits of less than ten (10) tons or other comparable limitations, would restrict access to the property by emergency vehicles or school buses, the subdivider shall so indicate in writing on the final plats to be recorded and shall provide for notification to prospective lot buyers through deed covenant provisions which shall be approved by the Planning Board as to form.

4.9.2 Alleys may be permitted in residential areas under special circumstances, but in no case shall an alley provide the only means of access to a lot. Alleys are required on the rear of all commercial and industrial lots, if no other provisions are made for adequate service access or for parking.

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4.9.3 Profiles: No street grade shall be less than one (1) percent or exceed the following, with due allowances for reasonable vertical curves:

Type of Street or Way	Maximum Grade
Major Traffic Streets	8% (10% for up to 250 feet)
Collector Streets	10% (12% for up to 250 feet)
Minor Streets	12% (15% for up to 250 feet)

Streets shall have a grade not to exceed two percent (2%) for a distance within fifty (50) feet of the street right-of-way line of any intersecting street.

4.9.4 Cross Section: The cross-section gradients of streets shall be not less than two percent (2%).

4.9.5 Minimum vertical and horizontal visibility (measured 3.5 feet eye level to tail lights 1.5 feet above ground level), for curves.

Type of Street or Way	Minimum Visibility Distance
Major Highways	500 feet
Collector Streets	300 feet
Minor Streets	300 feet
Streets shorter than 500 feet	150 feet

4.9.6 The minimum right-of-way widths for streets are as follows:

Type of Street or Way	Minimum Right-of-Way Width
Major Streets	50 feet
Collector Streets	50 feet
Minor Streets	50 feet
Alleys	25 feet
Private Drives	(See § 4.9.18)

4.9.7 On all dead-end roads a turnabout area with a eighty (80) foot diameter right-of-way and sixty (60) foot diameter traveled portion shall be provided.

4.9.8 The entire width of the travel way of each street in a proposed subdivision shall be graded and suitably prepared for installation of paving and drainage structures, in accordance with the appropriate standards for the class of street. The subgrade shall be free of sod, vegetative matter, or other similar material. Where poor subsurface drainage conditions exist, adequate drainage shall be installed. The subgrade construction shall conform to minimum standards of the Town Road Specifications.

4.9.9 The width of pavement required shall vary, depending upon the character of the development served and the amount of traffic expected to utilize the street. The following are minimum street pavement widths:

Type of Street	Minimum Shoulder Width	Minimum Clearance Beyond Shoulder	Minimum Pavement Width
Major Streets	5 feet	2 feet	24 feet
Collector Streets	5 feet	2 feet	24 feet
Minor Streets	3 feet	2 feet	18 feet
Private Drives	(See § 4.9.18)	None	(See § 4.9.18)

4.9.10 Unless otherwise specified herein, pavement construction shall be in accordance with

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specifications and standards contained in the Town Road Law, excepting that macadam pavement requirements may be waived for private streets.

- (1) Street shoulders shall be constructed with materials as specified by the Town Road Law. The entire shoulder area shall be uniformly and thoroughly compacted by rolling and must be level with the top of the road paving, or as directed by the Town Engineer.
 - (2) Embankments at the sides of streets and cross-sections of drainage ditches shall not exceed a maximum slope of three (3) feet horizontally to one (1) foot vertically in a cut or fill section. In special cases, the Town Engineer may require more-rigid standards.
- 4.9.11 In commercial or multi-family subdivisions or any other case where other similar intensive uses exist or are anticipated, curbs may be required, if such construction is deemed necessary for public safety by the Planning Board, based on consultation with the Town Engineer and shall be constructed to according to good engineering practice. Curbs shall not be constructed, however, where pavements are less than 22 feet in width.
- 4.9.12 Where the grade of the street is above or below the grade of the adjacent land, walls or slopes shall be constructed in a manner satisfactory to the Planning Board, and shall be sufficient to support the street or the adjacent land, as the case may be. Where the grade of the street is three (3) feet or more above the grade of the adjacent land, guards shall be built to protect travel, if required by the Town Engineer.
- 4.9.13 All streets, including cul-de-sacs and alleys, shall be constructed as shown on the Preliminary and Final Plat approved by the Planning Board and in conformity with the Town Road Law. Where such Law does not provide a clear standard, the Town may rely upon the standards promulgated by the New York State Department of Transportation for local streets.
- 4.9.14 Four-way street name signs of a design approved by the Planning Board will be installed at each street intersection by the subdivider at his own expense. Streets that are extensions of, or obviously in alignment with, existing streets shall bear the name of existing streets. Street names shall not be repeated within the Town and shall be subject to Planning Board approval.
- 4.9.15 Street lighting is the responsibility of the applicant to provide, and the lot owners to maintain and operate. The Town Engineer will determine when and if street lighting is necessary, evaluating need on the basis of safety considerations and commonly accepted standards of lighting. Whether or not street lights are initially installed, the developer shall be responsible for providing utility easements for future street lighting installation, upon consultation with the public service utility company involved.
- 4.9.16 Shade trees and other natural buffers along any proposed street right-of-way shall be retained to the maximum extent possible and cuts and fills which would necessitate removing such cover shall be minimized. Wide swath cuts or removal of natural vegetation shall not be permitted without compelling safety reasons.
- 4.9.17 No driveway, street or drainage facility or structure shall be constructed or altered within a state right-of-way, and no drainage facility of the New York State Department of Transportation shall be altered or connected onto without first obtaining a permit from the New York State Department of Transportation. No driveway, local road or drainage facility or structure shall be constructed or altered within a Town right-of-way, and no drainage facility of the Town of Gilboa shall be altered or connected onto without first obtaining a permit from the Town of Gilboa Highway Superintendent.
- 4.9.18 Individual driveways serving only one single-family each shall not be subject to street improvement requirements of this Law or in the Town Road Law. Also, private drives to service no more than three (3) single-family dwellings shall be permitted (see Section 4.3.10 hereof) provided the Town is given satisfactory evidence, in the form of declaration of restrictive covenants, that the private status of said road is permanent and the following standards are met:

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Type of Street or Way	Minimum Right-of-Way Width
Minimum Right-of-Way	50 feet
Minimum Pavement Width	16 feet
Minimum Shoulder Width	3 feet

Pavement may consist of any all-weather surface satisfactory to the Town Engineer (if one shall be appointed) and Town Highway Superintendent. All drainage plans shall also be subject to approval of the Town Engineer (if one shall be appointed) and Town Highway Superintendent.

- 4.9.19 Nothing contained herein shall be construed in any way to require the Town of Gilboa to accept dedication of any street. These regulations are intended, rather, to set standards of construction for private streets and a proposed dedication of any such streets shall be subject to the specific dedication requirements of the Town Road Law.

4.10 Conservation Subdivisions.

Developments which provide for single-family dwelling units wherein dwelling units are grouped in sections in order to maximize the amount of common open space and to preserve the natural settings, shall be designated as conservation subdivisions. This section is intended to provide for such conservation subdivisions so that landowners might be able to preserve the equity in their land for development purposes while also preserving open space for public benefit. Conservation subdivisions can produce the same return for landowners, reduce the cost of public services, create a far more solid sense of community and truly preserve open space while conventional subdivisions tend to isolate, require more roads and services, reduce the potential for agriculture and consume vast amounts of open space in the name of "preserving rural character." Conservation subdivisions are encouraged and may be required by this ordinance. They shall be processed in the same manner as other major subdivisions and in accord with the standards and procedures which follow.

- 4.10.1 Sketch Plan Requirements. The Planning Board shall have the authority to require preparation of two Sketch Plans as provided herein, for any subdivision of ten (10) lots or more, one illustrating a conventional subdivision and the other depicting how the property might be developed using the conservation subdivision technique. If this latter Sketch Plan is determined to provide a superior design in accord with the purposes of this ordinance and the same density can be achieved, the Planning Board may then require use of this technique. This review and decision making process shall take place within the total time frame provided for review of and action on a Preliminary Plan.

- 4.10.2 Permitted Number of Dwelling Units. The maximum permitted number of dwelling units shall be determined by deducting from the total tract area:

- (1) All areas within the rights-of-way of any existing or proposed streets; and
- (2) All areas occupied by public utility easements.
- (3) All wetlands, floodplains, slopes of 15% or more, water bodies and other undevelopable areas.

The net figure shall be divided by the minimum lot size applicable and rounded to the nearest whole number of dwelling units permitted.

- 4.10.3 Dwelling Types Permitted. Only single-family detached dwellings, not including manufactured (mobile) homes, shall be employed in this concept.

- 4.10.4 Reduction of Development Standards. Development standards for lot size, lot width and setbacks may be reduced as necessary to create a safe and workable design that maximizes preservation of open space, provided no dwelling structure (single-family or two-family) is located on less than one-acre of land where on-site sewer and/or water facilities are to be provided or one-fourth acre of

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land where offsite sewer and water facilities are to be provided (half the normal requirements); and further provided the total density (in individual dwelling units) for the tract shall not exceed that which would result from a conventional subdivision plan designed in accord with these regulations, as determined from the basic Sketch Plan submission. No lot in a conservation subdivision shall exceed 150% of the minimum lot size that otherwise would apply excepting that up to 20% of the open space requirement may be met with estate lots exceeding ten (10) acres in lot area, provided that such lots are limited to one dwelling unit each.

- 4.10.5 Open Space Requirements. No individual parcel of common open space shall be less than one (1) acre except as to roadway median strips, traffic islands, walkways, trails, courtyards, play areas, recreation facilities, drainageways leading directly to streams, historic sites or unique natural features requiring common ownership protection. No less than 50% of the total land area of the conservation subdivision shall be dedicated to permanent open space. No less than 30% of the this open space shall be usable for active recreational activities and not include wetlands, floodplain, slopes over 15% in grade or other undevelopable area.
- 4.10.6 Protection of Open Space. The open space resulting from conservation subdivision design shall be permanently protected through a conservation easement and generally titled to a property owner's association (POA) prior to the sale of any lots or dwelling units by the subdivider. Membership shall be mandatory for each property owner within the subdivision and successive owners with voting of one vote per lot or unit and the subdivider's control, therefore, passing to the individual lot/unit owners on sale of the majority of the lots or units. All restrictions on the ownership, use and maintenance of common open space shall be permanent and the POA shall be responsible for liability insurance, local taxes, and maintenance of all open space, recreational facilities and other commonly held amenities. Each property owner must be required to pay their proportionate share of the POA's cost and the POA must be able to file liens on the lot/unit owner's property if levied assessments are not paid. The POA must also have the ability to adjust the assessment to meet changing needs.
- 4.10.7 Trail Requirements. All lots and dwelling units shall have direct access to the open space provided in a conservation subdivision and there shall be a system of marked and/or improved trails developed to connect the open spaces with each other and with individual lots and dwelling units.
- 4.10.8 Density Bonus. If the permanent open space created by the conservation subdivision technique is in active agricultural use for the raising of farm animals or crops (not including forestry) and this use is continued and protected by an easement for this purpose, the total number of dwelling units permitted in the conservation subdivision may be increased by up to 20%. A similar bonus will be provided in those instances where no new lots are created along an existing public highway, but rather are fronted on interior or marginal access streets.

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APPENDIX D - SAMPLE JUNKYARD LAW

A local law regulating the operation of junkyards in the Town of Gilboa.

Be it enacted by the Town Board of the Town of Gilboa, Schoharie County, New York as follows:

§ 30-1. Purpose.

This Law is enacted for the purpose of establishing minimum health and safety standards for junkyards in the Town of Gilboa. The regulations contained are enacted pursuant to the authority granted towns by § 136 of the General Municipal Law and § 136(1) of the Town Law.

§ 30-2. Jurisdiction and Scope.

This Law shall apply to all junkyards hereafter proposed in the Town of Gilboa and expansions of existing junkyards. The following land uses shall be exempt from these requirements provided they do not include a junkyard operation:

- A. Storage areas for officially recognized and operable antique or classic automobiles or other operable special purpose vehicles.
- B. Agricultural equipment which is utilized as part of an active farming operation or contractors' construction equipment which is part of an active contracting business.
- C. Automobile repair businesses or automobile, vehicle and equipment sales operations managed by State licensed dealers.

§ 30-3. Definitions.

The term "junkyard" shall be interpreted and are hereby defined as follows:

- A. An area of land, with or without buildings, used for the storage, outside a completely enclosed building, of used materials, including but not limited to wastepaper, rags, metal, glass, building materials, house furnishings, machines, vehicles or parts thereof, with or without the dismantling, processing, salvage, sale or other disposition of the same.
- B. Any place where three (3) or more old, secondhand, abandoned, partially disassembled, dilapidated or unlicensed vehicles or parts of vehicles, no longer intended or in condition for legal operation on the public highways, are stored outside for any purpose for a period of six (6) months or more. The Town of Gilboa Clerk(s) shall determine when a vehicle or part thereof shall meet these conditions and it shall be the burden of the landowner in such instance to demonstrate conclusively, within a period of seven (7) days after notice, that a vehicle is legally operable.

§ 30-4. License Required.

- A. No owner or occupant of any land within the Town of Gilboa shall use or allow the use of such land for a junkyard unless a license has been obtained and maintained as herein provided.
- B. The Clerk of the Town of Gilboa shall issue a license within ten (10) days after approval of the application by the Town Planning Board pursuant to this Law. Said license shall be effective from the date of issuance until renewal as provided herein, surrender by the licensee or revocation by the Clerk for failure to comply with this Law.
- C. No license shall be issued until the Clerk has received;
 - (1) A written application from the applicant on the form provided by the Town Clerk.
 - (2) The required fees.
- D. The license may be transferred to a new owner of a junkyard provided all of the requirements of this Law

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are met and the Town is so notified.

- E. Any disapprovals shall be in writing and include the reasons therefore.
- F. The Town of Gilboa Building Inspector shall enforce all of the provisions of this Law and shall have the right, at all reasonable times, to enter and inspect any junkyard. The Town Board shall specify the frequency of such inspections.
- G. If the Building Inspector finds that a junkyard for which a license has been issued, is not being operated in accordance with this Law, he may serve, personally or by certified mail to the holder of the license, a written order requiring the licensee to make the corrections specified in such order within ten (10) days.
- H. If the holder of such license shall refuse or fail to correct the condition or conditions specified in such order within ten (10) days after the service of such order, the Building Inspector may suspend or revoke such license and the holder of the license shall thereupon terminate the operation of such junkyard.
- I. Any license not used for the purpose intended within two (2) years of the date of issuance shall automatically expire.
- J. Junkyard owners shall be required to renew licenses every two years. Information required for renewal, however, shall be limited to ownership data, the number of vehicles stored on site, copies of State and other permits required and evidence regarding compliance with previously established conditions of site plan approval and/or license issuance. An inspection of the junkyard premises by the Building Inspector and/or other Town officials shall be made to ascertain compliance with these regulations and the license requirements as a condition of renewal.

§ 30-5. Standards Applicable to New Junkyards.

All new junkyards shall conform to the following standards:

- A. Junkyards shall be located no closer than five-hundred (500) feet to an existing public right-of-way or five-hundred (500) feet to any adjoining property.
- B. All new junkyards must erect and maintain a eight (8) foot fence or dense natural screening along the boundaries of the property adequate to discourage the entrance of children or others into the area and to contain, within such fence, all materials in which the owner or operator deals. Such fence or screening shall also substantially screen the junkyard from public view and otherwise comply with the requirements of § 136 of the General Municipal Law.
- C. No junkyard shall be used as a dumping area for refuse or for the burning of trash.
- D. All dismantling operations shall take place inside an enclosed structure and any parts of vehicles or equipment shall similarly be stored inside an enclosed structure. All vehicles awaiting dismantling or retained for sale or use intact shall be stored in improved parking areas specifically designated for this purpose.
- E. The Planning Board, in acting upon the application for any new junkyard, shall consider aesthetics and the impact on surrounding property consistent with the demands of § 136-7 and § 136-8 of the General Municipal Law.

§ 30-6. Standards Applicable to Existing Junkyards.

All existing junkyards shall conform to the following standards:

- A. Existing nonconforming junkyards shall, within a period of three (3) years following the effective date of this Law shall be removed unless a license shall have been obtained for continued operation and the facility has been made to conform to the regulations provided below, excepting that existing junkyards with approved licenses and site plans shall have a period of five (5) years to fully implement such plans

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provided a specific schedule for the same has been approved by the Planning Board and met by the applicant.

- B. Applications for licenses to continue operating existing non-conforming junkyards shall, unless the owners thereof have indicated in writing their intention to discontinue operations as provided above, be made within one (1) year following the effective date of this chapter.
- C. Applications for licenses to continue operation of existing non-conforming junkyards shall include a site plan prepared by a Professional Engineer depicting the existing operation and any planned improvements as may be required by this chapter.
- D. The plan shall comply with the requirements applicable to new junkyards to the maximum extent practical and shall include provisions for screening of the view of the junkyard from adjacent property as well as the public highway. A six (6) foot high fence along the side and rear boundaries of the property adequate to discourage the entrance of children or others into the area and to contain, within such fence, all materials in which the owner or operator deals shall be required unless physical circumstances would make such fencing wholly impractical.
- E. All fencing must be approved by the Town of Gilboa Planning Board and produce a screen through which one generally cannot see and children cannot enter. Dense evergreen screening shall be preferred and may be required in combination with other fencing. The Town Board shall be responsible for taking measures, including securing injunctive relief, to ensure maintenance of such fencing or screening.
- F. The license application and site plan for the existing non-conforming junkyard shall be processed in a manner identical to that for homesites under the Homesite Law and shall include other information as may be required to determine compliance with this chapter. The Planning Board, in acting upon the application, shall consider the following:
 - (1) The impacts of the use on the enjoyment and use of adjoining properties as well as the community as a whole.
 - (2) The degree to which the use can economically be made to comply with requirements for new junkyards.
 - (3) The effectiveness of screening available or to be provided, visibility from the highway and the extent to which the operator's plans address various health, safety and aesthetic concerns.
 - (4) The extent to which dismantling operations can or do take place inside an enclosed structure and whether or not all parts of vehicles or equipment are similarly stored inside an enclosed structure. Likewise, the Board shall consider whether or not vehicles awaiting dismantling or retained for sale or use intact are or will be stored in improved parking areas specifically designated for this purpose.
- G. Existing junkyards that are made to comply with the above requirements, continue to meet all licensing standards and for which the owners have implemented approved site plans may be expanded within the bounds of the existing parcels on which they are located but not onto new properties unless the requirements applicable to new junkyards are fully met, and in no case will any change in an existing junkyard which would lessen its conformity with these regulations or with approved site plans be permitted. The Town Board may also waive license renewal fees for owners of existing junkyards who offer specific evidence of progress in the implementation of approved site plans and meeting of the regulations contained herein.
- H. No junkyard shall be used as a dumping area for refuse or as a place for the burning or disposal of trash.

§ 30-7. Site Plans, Notifications and Fees.

- A. Any person or persons proposing to establish or expand a junkyard in the Town of Gilboa shall prepare site plans of the same to be submitted to the Planning Board. Plans shall be prepared by a professional

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engineer at a scale of one (1) inch equals one-hundred (100) feet or larger. They shall be in sufficient detail to document compliance in every respect with the standards of this Law.

- B. Existing junkyards shall be identified and notified of any nonconformities with this chapter within sixty (60) days of the effective date of this chapter. The Town of Gilboa Clerk shall be responsible for this procedure and shall, additionally, inform all owners of existing non-conforming junkyards of the action which must be taken to comply with this chapter, the time available to take those actions and the consequences of violations.
- C. The Town Board shall establish and may, from time to time, revise a fee schedule for junkyard plan submissions, inspections, licenses and renewals.

§ 30-8. Variation of Standards.

Variations to the standards contained herein may be approved by the Town Board upon recommendation of the Town Planning Board or Clerk to accommodate unusual site conditions.

§ 30-9. Penalties for Offenses.

- A. Any person, partnership, association or corporation who violates any provision of this chapter shall be guilty of an offense against this Law and subject to a fine of not more than five-hundred (\$500) dollars. Each day of continued violation after notice thereof shall constitute a separate and distinct violation.
- B. In addition to the above-provided penalties, the Town Board may also maintain an action or proceeding in the name of the town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of any portion of this Law.

§ 30-10. Separability.

Should any section of provisions of this chapter be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

§ 30-11. Effective Date.

This Local Law shall be effective immediately upon filing with the New York Secretary of State.

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APPENDIX E - SAMPLE CELL TOWER LAW

A local law regulating the construction of cellular communications towers in the Town of Gilboa.

Be it enacted by the Town Board of the Town of Gilboa, Schoharie County, New York as follows:

§ 40-1. Purpose.

The purpose of these supplemental regulations is to promote the health, safety and general welfare of the residents of the Town of Gilboa; 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, consideration of visual impact assessment and appropriate landscaping so as to minimize the impact upon the environment.

§ 40-2. Application.

- A. No telecommunications facility, except those approved prior to the effective date of this section, shall be used unless in conformity with these regulations and approved by the Town of Gilboa Planning Board. No telecommunications facility shall hereafter be erected, moved, reconstructed, changed or altered unless in conformity with these regulations. No existing structure shall be modified to serve as a telecommunications facility unless in conformity with these regulations. These regulations shall not, however, apply to emergency services communications systems or to ham-radio and television facilities of less than 100 feet in height.
- B. Applicants proposing a new telecommunications facilities, physical expansions of existing telecommunications facilities or the location of telecommunications facilities within or on other existing structures shall require review and approval hereunder.
- C. Applicants proposing to co-locate new telecommunications arrays on a previously approved telecommunications facilities without extending the height thereof or otherwise physically expanding the facilities except for additional equipment buildings within previously designated fenced-in areas shall not require review and approval hereunder but shall require building permits for buildings.
- D. All applications for permits to construct telecommunications facilities shall be accompanied by the following additional information where applicable:
 - (1) Documentation of intent from the owner of any existing facility to allow shared use of the same.
 - (2) A site plan depicting all existing and proposed structures and improvements including antennas, roads, buildings, guy wires and anchors, parking and landscaping, and shall include grading plans for new facilities and roads. Any methods used to conceal the modifications of the existing facility shall also be indicated on the site plan.
 - (3) A Professional Engineer's report certifying that the proposed shared use will not diminish the structural integrity and safety of any existing structure, and explaining what modifications, if any, will be required in order to so certify. A soils report prepared by such Professional Engineer shall also be submitted to support the design specifications of the foundation for any new tower, and anchors for the guy wires, if used.
 - (4) A completed Visual Environmental Assessment Form addendum. This addendum shall be accompanied by a visual impact assessment which shall include:
 - (a) A Zone of Visibility Map, which shall be provided in order to determine locations where the tower may be seen.
 - (b) Visual representations of "before and after" views from key viewpoints both inside and outside of the town, including but not limited to state highways and other major roads, state and local parks, other public lands, preserves and historic sites normally open to the

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public, and from any other location where the site is visible to a large number of visitors or travelers. The Board shall determine the appropriate key sites at a pre-submission conference with the applicant.

- (c) Assessment of alternative tower designs and color schemes (see below).
 - (d) Assessment of the visual impact of the tower base, guy wires, accessory buildings and overhead utility lines from abutting properties and streets.
 - (e) Review of those alternative sites determined to be feasible from an engineering perspective (see requirements below) to determine which would be in the best interest of preserving the aesthetic and natural character of the neighborhood.
- (5) A certified copy of the Federal Communications Commission (FCC) license to operate the telecommunications facility.
 - (6) If land is leased, documentation of intent from the owner to allow use and affirming intent to remove the tower if abandoned, obsolete or unused for more than twenty-four (24) months.
 - (7) A letter of intent committing the owner of any proposed new tower and successors in interest to negotiate in good faith for shared use of the proposed tower by other telecommunications providers in the future. Failure to abide by the conditions outlined in the letter may be grounds for revocation of any permit granted. The letter shall commit the new tower owner and his/her successors in interest to:
 - (a) Respond 90 days to a request for information from a potential shared-use applicant.
 - (b) Negotiate in good faith concerning future requests for shared use of the new tower by other telecommunications providers.
 - (c) Allow share use of the new tower if another telecommunications provider agrees in writing to pay reasonable charges. The charge may include but is not limited to a pro rata share of the cost of site selection, planning, project administration, land costs, site design, construction and maintenance financing, return on equity and depreciation, and all the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.
 - (8) Documentation that the proposed tower adequately addresses all aspects of aviation safety in view of known local aviation traffic as well as Federal Aviation Regulations (Code of Federal Regulations - Part 77).
 - (9) All property owners and adjacent municipalities within five-hundred (500) feet of the outside perimeter of the communications structure, including guy wires, shall be notified by certified mail at least ten (10) days prior to the Planning Board granting approval for such a structure. This responsibility shall be the applicant's and such applicant shall provide proof of notification as part of their final application.
 - (10) A site location alternative analysis, including an analysis of the location priorities set forth herein, describing the locations of other sites considered, the availability of those sites, the extent to which other sites do or do not meet the provider's service or engineering needs and the reason why the subject site was chosen. The analysis shall address the following issues:
 - (a) How the proposed location of the wireless telecommunication tower or antennae relates to the objective of providing full wireless communication services within the Town of Gilboa.
 - (b) How the proposed location of the wireless telecommunications tower/facility relates to the location of any existing antennas or towers within or near the Gilboa area.

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- (c) How the proposed location of the wireless telecommunications tower/facility relates to the anticipated need for additional antennae or towers within and near the Town of Gilboa by the applicant, and by other providers of wireless telecommunications services within the area.
- (d) How the proposed location of the wireless telecommunications tower/facility relates to the Town's goal of maintaining concealed or reduced tower height with groups of towers within close proximity to one another rather than isolated, taller towers with many users at greater tower heights at random locations throughout the Town of Gilboa.

E. Special Definitions.

ANTENNA - A device of thirty-five (35) or more feet in height used to collect or transmit telecommunications or radio signals. Examples are: panels, microwave dishes, and single pole known as whips. This definition is not meant to include home television or amateur radio apparatus.

ARRAY - Telecommunications signal receiving or transmitting device attached to telecommunications tower and not extending the height thereof.

TELECOMMUNICATIONS FACILITY - Consists of the equipment and structures involved in receiving or transmitting telecommunication or radio signals, but limited to those facilities with respect to which the State and Federal governments have not, under public utility laws, strictly pre-empted the Town of Liberty from regulating.

TELECOMMUNICATIONS EQUIPMENT BUILDING - The building in which the electronic receiving and relay equipment for a telecommunications facility is housed.

TOWER - A structure of thirty-five (35) or more feet in height that is intended to support equipment used to transmit and/or receive telecommunications signals. Examples of such structures includes monopoles and lattice construction steel structures.

F. Design and location standards. The following design and location standards shall apply to all telecommunications facilities:

- (1) The location of the tower and equipment building shall comply with all natural resource protection standards of this Law.
- (2) An evergreen screen consisting of a row of eight (8) feet high evergreen trees planted ten (10) feet on center maximum, shall be located around the perimeter of the security fence. The Planning Board may, however, modify or waive screening requirements if the site is entirely or partially wooded so as to provide existing screening. Existing on-site vegetation shall be preserved to the maximum extent possible.
- (3) An eight (8) foot high security fence shall completely surround the tower (and guy wires if used) and equipment building.
- (4) The tower and antenna shall be designed and constructed to all applicable standards of the American National Standards Institute, TAI/EIA-222-F manual, as amended, and withstand wind gusts of up to 100 miles per hour.
- (5) An antenna may not be located on a building or structure that is listed on a historic register or within five-hundred (500) feet of such a structure.
- (6) Telecommunications facilities shall be permitted subject to the following:
 - (a) Minimum lot size. Five (5) acres

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- (b) Minimum yard setback requirements. Two-hundred (200) feet
- (c) Maximum height. Tower - Two-hundred (200) feet
Equipment building - Thirty (30) feet

Provided no residences directly adjoin the site, and the applicant can demonstrate that lesser standards will, because of buffers and screening, not have a major aesthetic impact on the area or unduly interfere with the use and enjoyment of such adjacent properties, setback requirements may specifically be reduced to the fall-down limit plus fifteen (15) feet. This provision shall also apply where the net effect of requiring the full setback would be to necessitate additional lighting or tower height.

- (7) A telecommunications facility shall be permitted on a property with an existing use subject to the following conditions:
 - (a) The telecommunications facility shall be fully automated and unattended on a daily basis, and shall be visited only for periodic maintenance.
 - (b) Minimum lot area. The minimum lot area required above shall apply to the area proposed for use as a telecommunications facility and the land remaining for accommodation of the principal use on the lot shall comply with the standard minimum lot area for the district.
 - (c) Minimum setbacks. The minimum yards required above shall apply to the area proposed for use as a telecommunications facility and the land remaining for accommodation of the principal use on the lot shall comply with the standard minimum yard provisions of the district.
 - (d) Access. The vehicular access to the equipment building shall, whenever feasible, be provided along the circulation driveways of the existing use.
 - (e) Maximum height: Tower - Two-hundred (200) feet
Equipment building - Thirty (30) feet
- (8) Where an antenna for a telecommunications facility is to be attached to an existing structure or building it shall be subject to the following conditions:
 - (a) Maximum height. Seventy-five (75) feet above the existing building or structure.
 - (b) If the applicant proposes to locate the telecommunications equipment in a separate building, the building shall comply with the minimum setback requirements for the subject zoning district, an eight (8) foot high security fence shall surround the building, a buffer yard shall be planted as required above and vehicular access to the building shall not interfere with the parking or vehicular circulations on the site for the principal use.
 - (c) Elevations of existing and proposed structures showing width, depth, and height, use statistical data on the antenna and support structure shall be presented.
 - (d) The antenna or array shall be camouflaged or otherwise designed to be aesthetically compatible with the existing architectural and natural environment.
- (9) Notwithstanding minimum setbacks provided for above, any tower shall be setback from all property lines a distance that is at least equal to the height of the tower.
- (10) Vehicular access shall be provided to the facility and be of such passable condition as to be safely accessible by emergency and maintenance vehicles and equipment. Road construction shall, at all times, minimize ground disturbance and vegetation cutting to within the toe of fill, the edge of cuts or no more than 10 feet beyond the edge of any pavement. Road grades shall closely follow

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natural contours to assure minimal visual disturbance and reduce soil erosion potential. Parking shall be provided to assure adequate emergency and service access in accordance with the Code.

- (11) No signs shall be permitted on either the tower or equipment building, except for those signs required by law or containing such information as owner contact information, warnings. These signs shall not exceed 2 square feet in total area. Absolutely no commercial advertising shall be permitted on any wireless telecommunications tower or equipment building.

G. Plan Review Criteria. Communications facilities shall be subject to the following review:

- (1) The Planning Board shall be satisfied that the tower for the communications facility is the minimum height necessary for the service area and that the site chosen is the one that will afford the opportunity to construct the lowest height communications tower possible, taking into consideration all lands available within a reasonable distance including those which may lie within adjoining municipalities.
- (2) The need for additional buffer yard treatment shall be evaluated. Proximity of the communications structure to existing or platted residential properties shall be considered in applying such requirements. Existing trees on the site which serve to provide a natural buffer shall be preserved unless absolutely required to be removed for purposes of access or safety.
- (3) Visual assessment data shall be used to determine how the communications facility will appear once constructed in relation to the surrounding natural environment and from the perspective of adjacent or nearby residents as well as travelers. Camouflaging or relocation of the structure may be required. The Planning Board shall also consider alternative sites in assessing visual impacts and the imposing of conditions as may be required to minimize such impacts including requirements that any tower be of a shape, contour and finish (either painted or unpainted) that minimizes its visual impact. The Planning Board may also require a tower to be in the shape of a tree, flagpole, church steeple or other similar tall structures. Accessory structures shall similarly maximize the use of building materials, colors and textures designed to blend with natural surroundings.
- (4) Freestanding pole-type communications structures shall be given preference over towers supported by guy wires.
- (5) All communications structures shall be lighted for safety in a manner consistent with industry best practices and where lighted additional setbacks may be imposed to shield adjacent properties from the effects of such lighting.
- (6) Should any tower cease to be used as a communications facility, the owner or operator or then owner of the land on which the tower is located, shall be required to remove the same within one (1) year from the abandonment of use. Failure to do so shall authorize the Town of Gilboa to remove the facility and charge back the cost of removal to the foregoing parties. The Town of Gilboa may also file a municipal lien against the land to recover the costs of removal and attorney's fees.
- (7) Shared use of existing structures (for example, municipal water towers, multistory buildings, church steeples and farm silos) and existing or approved towers shall be given preference over construction of new towers. Where shared use of all existing tall structures and existing or approved towers is found to be impractical, the applicant shall investigate shared usage of an existing tower site for its ability to accommodate a new tower and accessory uses. Documentation and conditions shall be in accordance with Subsection (11) above.
- (8) An applicant for approval of a communications structure shall include with the application evidence of written contact with all wireless service providers who supply service within the Town for the purpose of assessing the feasibility of co-located facilities and co-location shall be mandatory wherever physically feasible. Should co-location not be feasible, the applicant shall demonstrate that a good faith effort has been made to mount the antenna on an existing building

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or structure, including of proof of contacts, building investigations and similar evidence. Should such efforts fail to result in a suitable site, a new communications tower may be permitted, but shall be constructed to provide available capacity for other providers should there be a future additional need for such facilities, including provision of the necessary tower height to accommodate such other users without adding additional height in the future. Where co-location is proposed, the different companies using the facility shall also work from common maintenance and service buildings, if the same are located on the site.

§ 40-3. Variation of Standards.

Variations to the standards contained herein may be approved by the Town Board upon recommendation of the Town Planning Board or Clerk to accommodate unusual site conditions.

§ 40-4. Penalties for Offenses.

- A. Any person, partnership, association or corporation who violates any provision of this chapter shall be guilty of an offense against this Law and subject to a fine of not more than five-hundred (\$500) dollars. Each day of continued violation after notice thereof shall constitute a separate and distinct violation.
- B. In addition to the above-provided penalties, the Town Board may also maintain an action or proceeding in the name of the town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of any portion of this Law.

§ 40-5. Separability.

Should any section of provisions of this chapter be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the chapter as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

§ 40-6. Effective Date.

This Local Law shall be effective immediately upon filing with the New York Secretary of State.

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APPENDIX F - SAMPLE RIGHT TO PRACTICE FORESTRY LAW

BE IT ENACTED by the Town Board of the Town of Gilboa, Schoharie County, New York, as follows:

§ 50-1. Legislative Intent and Purpose.

The Town Board recognizes forestry as an essential enterprise and as an important industry that enhances the economic base, natural environment and quality of life in the Town of Gilboa. The Town Board further declares that it shall be the policy of this Town to encourage forestry and foster understanding by all residents of the necessary day to day operations involved in forestry so as to encourage cooperation with those practices.

The specific purposes of this Law are to:

- A. respect the existing common law right to engage in forestry practices and support the continuation such practices for the benefit of the Town of Gilboa;
- B. protect the existence and operation of existing forest activities;
- C. encourage the initiation and expansion of additional forestry businesses;
- D. discourage inadvertent impediments to the practice of forestry that may result from inappropriate regulation of forestry activities; and
- E. improve understanding of the economic and environmental contributions that well managed forests bring to the Town of Gilboa.

§ 50-2. Definition.

The Practice of Forestry shall mean practices related to growing, harvesting, or processing of timber on the site where grown, including, but not limited to, on-site and offsite road construction and maintenance, thinning, salvage, harvesting, reforestation, brush control, cutting of firewood, logging and the operation of portable sawmills.

§ 50-3. Right to Practice Forestry Declaration.

Landowners, as well as those employed, retained, or otherwise authorized to act on behalf of landowners, may lawfully engage in the practice of forestry within the Town of Gilboa at all times and all such locations as are reasonably necessary to conduct the business of forestry. Forestry practices conducted in the Town of Gilboa shall not be found to be a public nuisance under Town law if such practices are:

- A. Reasonable and necessary to the particular forestry operation,
- B. Conducted in a manner that is not negligent or reckless,
- C. Conducted in a manner generally consistent with the New York State Department of Environmental Conservation Timber Harvesting Guidelines,
- D. Conducted in a manner that does not constitute a threat to public health and safety or cause injury to health or safety of any person, and
- E. Conducted in a manner that does not obstruct the free passage or use of public roadways.

These criteria shall, in the absence of specific violations of other local, State or Federal law, or direct threats to public health and safety, be construed in favor of landowners and others engaged in the practice of forestry.

§ 50-4. Permit and Other Requirements

Nothing contained herein shall be construed to require a permit from the Town of Gilboa or impose any additional requirements beyond those of existing law. Notwithstanding this limitation, however, a landowner or other person engaged in the practice of forestry who is found, by the Town of Gilboa Town Board, to be operating in a manner

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that is specifically contrary to sound forestry management practices as defined above and that specifically imperils public health or safety may be notified of the same by the Town Board, offered an opportunity to remedy the specific problems identified by the Town within 10 days and, in the absence of such remedies, may be prohibited from continuing operations until such time as appropriate remedies have been accomplished. The Town Board shall, in such instance, be authorized to pursue such additional civil remedies as may be available from a court of competent jurisdiction. Failure of a landowner or other person to comply with the order of the Town Board shall be a violation of this Law and subject to a fine of \$350. Each day of continued failure to comply shall be a separate violation.

§ 50-5. Other Regulations

All local policies, rules and regulations of any agency or department of the Town of Gilboa affecting the practice of forestry in the Town shall be submitted to the Town Board, and to the New York State Commissioner of Environmental Conservation as provided by Section 9-0815 of the New York State Environmental Conservation Law, for review and comment prior to enactment or implementation. The Town Board and the Commissioner shall, in preparing comments and taking action, as the case may be, consider the impact of the proposed policy, rule or regulation upon the long-term viability of forests in the Town of Gilboa and any modifications or alternatives the agency or department could undertake to minimize the impacts to the practice of forestry. No action shall be taken by such agency or department until the Town Board and the Commissioner shall have had 45 days provide comments.

§ 50-6. Separability.

If any part of this local law is for any reason held to be unconstitutional or invalid, such decision shall not effect the remainder of this Local Law. The Town hereby declares that it would have passed this local law and each section and subsection thereof, irrespective of the fact that any one or more of these sections, subsections, sentences, clauses or phrases may be declared unconstitutional or invalid.

§ 50-7. Precedence.

This Local Law and its provisions are in addition to all other applicable laws, rules and regulations.

§ 50-8. Effective Date.

This Local Law shall be effective immediately upon filing with the New York Secretary of State.

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APPENDIX G - SAMPLE ROAD LAW

BE IT ENACTED by the Town Board of the Town of Gilboa, Schoharie County, New York, as follows:

§ 50-1. Title.

A Law regulating the construction and the dedication of any road ordained and other associated facilities (hereinafter referred to as improvements) offered to the Town of Gilboa, Schoharie County, New York. This Law may be referred to as the "Town of Gilboa Road Law."

§ 50-2. Purpose.

This Road Law is enacted to ensure all improvements offered for dedication to the Town of Gilboa meet the standards contained herein and have been reviewed and approved by the Town Board with the advice of the Town Engineer and the Town Highway Superintendent.

§ 50-3. Administration.

A. Application. Any person or persons proposing to dedicate any improvements to the Town of Gilboa shall submit to the Town Clerk of the Town of Gilboa, five (5) copies of a plan, prepared by a Professional Engineer setting forth the details of the proposed dedication. Said plan shall be submitted prior to commencing the construction or reconstruction of the road proposed for dedication. Similar as-built plans shall be required in those instances where existing roads are proposed for dedication. The plan shall include all information necessary to document compliance with this Law and shall include, as a minimum, the following information.

- (1) A map at a scale of one inch equals 100 feet showing the following:
 - (a) Locations, distances and bearings of right-of-way lines.
 - (b) Locations of storm drainage systems and devices.
 - (c) Locations of any existing or proposed easements.
 - (d) Location of utilities.
 - (e) Locations and names of the record owners of real property over which the road passes, said properties abutting on the road proposed for dedication.
 - (f) Road name(s).
- (2) Plans, profiles and cross sections of the roads.
- (3) Detailed specifications for drainage facilities.
- (4) Detailed specifications for any bridges.
- (5) Documentation regarding the identity of each property owner along the right-of-way of the proposed road and certification that each such property owner has joined in the application for dedication and that each such property owner releases any right to assert any claim such property owner might otherwise have against any person, persons, partnership, corporation or political subdivision by reason of the dedication.

B. Plan Distribution. The Town Clerk shall distribute the filed plans as follows:

- (1) One with the Town Highway Superintendent ("the Superintendent").
- (2) One with the Town Engineer.
- (3) One with the Town Planning Board.

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- (4) One with the Town Supervisor.
- (5) One in the Town Clerk's permanent files.

C. Plan Review.

- (1) No action shall be taken by the Town Board until such time as the Town Planning Board and the Town Engineer have reviewed the plan of the proposed dedication.
- (2) The Town Planning Board and the Town Engineer shall within forty-five (45) days of the Town Clerk's receipt of the application, review said application and make recommendations to the Superintendent.
- (3) The Superintendent shall, within sixty (60) days of receipt of said recommendations: (1) review the plans and make an inspection of the road site (the Superintendent may request the Town Engineer to assist with any inspection required by this Law); (2) notify the applicant of deficiencies, if any, in the plan, with such notification in writing, and (3) recommend acceptance or rejection of the plans to the Town Board.
- (4) The applicant shall make any necessary modifications to the plan and resubmit the plans to the Superintendent, who shall have an additional thirty (30) day review and notification period from the date of submittal. However, if more than one (1) year shall elapse between the original filing date and the amendment filing date, an additional filing fee shall be assessed.
- (5) Upon receipt of the Highway Superintendent's recommendation to accept the plans, the Town Board shall within sixty (60) days, vote to accept or reject the plans. The Town Board may make its own inspection of the road site prior to taking action. If the plans shall be rejected for any reason, the applicant shall be notified in writing within fifteen (15) days of the reasons for rejection and how the plans can be brought into compliance with the Law. The applicant may request a conference with the Town Board and Highway Superintendent to review the reasons the plans were rejected and how it can be corrected, which conference shall take place at the earliest date convenient to the Town Board. If the plans are accepted, the applicant shall be so notified and may proceed with construction pursuant to this Law.

D. Construction Procedure.

- (1) The construction or reconstruction of any improvements for dedication shall be in accord with approval plans.
- (2) Prior to the initiation of construction or reconstruction, the applicant shall propose an Inspection Schedule to the Superintendent for approval. The Inspection Schedule shall include inspections adequate to ensure compliance with this Law. Inspections shall be required at all phases of construction when a failure to inspect the construction would result in a physical impossibility to verify compliance at the time of the final inspection.
- (3) The applicant shall provide a minimum of two (2) working days notice prior to the time for each inspection required in the Inspection Schedule.
- (4) If the Superintendent discovers construction is not in compliance with the approved plans, all construction shall be terminated until such time as the identified deficiency is corrected.

E. Dedication Procedures.

When the improvements proposed for dedication are completed to the standards of this Law, the Superintendent shall make a final inspection and verify said completion to the Town Board. The Town Board, at their next meeting following receipt of the Superintendent's report, shall take action to initiate the dedication process as follows:

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- (1) The applicant shall provide to the Town three (3) complete sets on mylar and three (3) complete sets on paper of all plans of the improvements which shall be certified by a Professional Engineer as "AS CONSTRUCTED" plans with the plans labeled as such. The plans shall include the information required by Section 401 of this Law.
- (2) The "Date of Completion" of the improvements shall be established by the Town Highway Superintendent confirmed by the Town Board.
- (3) No improvements shall be accepted by the Town for dedication until one (1) year from the "Date of Completion" has passed. During said one year probationary period, the applicant shall be responsible for all maintenance and repair of the improvements proposed for the dedication.
- (4) At the end of the probationary period the Superintendent shall conduct an inspection of the improvements and verify to the Town Board the improvements integrity and functioning. Any deficiencies shall be corrected by the applicant.
- (5) Following the probationary period and upon the final verification by the Superintendent of compliance with this Law, the Town Board shall accept the improvements for dedication upon the receipt of the following:
 - (a) A maintenance guarantee in the amount of twenty-five (25) percent of the cost of the construction of the improvements as certified by the applicant's Professional Engineer. Such guarantee shall comply with Section 277 of the Town Law and shall be satisfactory to the Town Attorney as to form sufficiency, manner of execution and surety. The term of the guarantee shall be for twelve (12) months from the date of dedication. Upon the failure of any of the improvements, the Town shall enforce said guarantee and make any necessary repairs. If the proceeds of the guarantee are insufficient to complete the repairs, the Town shall institute legal or equitable action to recover the amount of the insufficiency.
 - (b) Deeds for the right-of-ways of all improvements which deeds shall be of a bargain and sale type with covenants against grantors acts and shall transfer all lands in fee simple.

§ 50-4. Standards.

A. Road Construction.

- (1) Private roads shall meet all Town construction requirements in compliance with AASHTO (American Association of State and Transportation Officials) standards for the design speed of 25 miles per hour. Bridges shall meet New York State Specification HS20-44 in compliance with AASHTO standards.
- (2) Road right-of-ways shall be a minimum of sixty (60) feet in width and surveyed by a licensed land surveyor with monument markers placed and shall be deeded to the Town by warranty deed with a clear title. The Town may also require title insurance.
- (3) The Town reserves the right to require verified core samples or other testing measures by approved agencies or other persons to ascertain compliance with these standards during construction and at the time of takeover.
- (4) No road less than 2,640 feet (one-half mile) in length shall be accepted by the Town of Gilboa.
- (5) No branch, spur or interior sections of a subdivision road shall be accepted apart from the entire subdivision road.
- (6) No road shall be accepted by the Town of Gilboa where less three homes have been constructed, or where less than 20% the total number of lots in the subdivision have been built upon, whichever

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shall be greater.

B. Assessed Value Requirement.

- (1) Land and buildings accessed or abutted by a proposed road, with primary access being from said road, shall offer sufficient tax base (assessment value) at the time of takeover to raise, at current combined highway tax rates, sufficient tax revenue to support said road based on the current total highway levy. This amount shall be determined by dividing the total highway cost to the Town by the number of miles of road maintained by the Town. The required assessed value per mile shall be sufficient to generate those tax revenues required to pay the Town's share of these costs.
- (2) Total highway costs shall be determined on the basis of the amount to be raised by tax for the Town of Gilboa Highway Fund in the Town budget for the year of takeover.
- (3) Required assessed value per mile shall be determined by dividing the current cost per mile for Town highway maintenance (town share) by the rate of general levy for the Highway Fund, multiplied by one-thousand (1,000).

§ 50-5. Variations.

Variations to the standards contained herein may be approved by the Town Board on the recommendation of the Town Highway Superintendent in cases where unreasonable hardship would result from strict application of the standard.

§ 50-6. Interpretation, Conflict and Separability.

A. Interpretation.

The provisions of this Law in their interpretation and application shall be held to the minimum requirements for the promotion of the public health, safety, and general welfare.

B. Conflict.

This Law is not intended to interfere with, abrogate, or annul any other Law, Law, rule or regulations, statute or provision of law. Where any of the provisions of these regulations impose restriction different than any other Law, Law, rule or regulation or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.

C. Separability.

If any part or provision of this Law or application thereof to any person or circumstances is judged invalid by any Court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in all controversy in which judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Law or the application thereof to other persons or circumstances. The Town hereby declares it would have enacted the remainder of this Law even without such part, provision or application.