

*The following Code does not display images or complicated formatting. Codes should be viewed online. This tool is only meant for editing.*

# Chapter 190

## Zoning

**[HISTORY: Adopted by the Town Board of the Town of Ghent 8-21-1997 by L.L. No. 4-1997. Amendments noted where applicable.]**

### GENERAL REFERENCES

Planning Board — See Ch. 40.

Flood damage prevention — See Ch. 99.

Subdivision of land — See Ch. 156.

Wireless telecommunications facilities — See Ch. 185,

---

### Article I

### General Provisions

#### § 190-1 Title and purpose.

- A. Title. This chapter shall be known and may be cited as the "Town of Ghent Zoning Law."
- B. In 2009, the Town of Ghent adopted a Comprehensive Plan that included the following goals. This chapter is adopted for the purposes of promoting the health, safety and general welfare of the community, and to further the orderly growth, development and redevelopment of the municipality in accordance with the Comprehensive Plan, and with long-term objectives, principles and standards deemed beneficial to the interests and welfare of the people. **[Amended 5-18-2017 by L.L. No. 1-2017]**
- (1) Maintain and enhance the Town's natural beauty and rural character;
  - (2) Protect natural environmental features and preserve open spaces for wildlife, environmental health and outdoor recreation;
  - (3) Promote a sense of community, small-town atmosphere, neighborliness and civic pride;
  - (4) Provide for quality road maintenance while retaining the rural character of Town roads;
  - (5) Provide for new modes of transportation, including public and pedestrian opportunities;

- (6) Provide for small business development that provides quality employment opportunities in a manner that protects the environment and rural character;
  - (7) Maintain quality emergency services and promote safety;
  - (8) Preserve the historic heritage, structures, views and landscapes;
  - (9) Promote agricultural activities and protect farmlands;
  - (10) Provide for a diversity of housing opportunities for residents of all ages and income levels;
  - (11) Enhance the quality of life of residents through diverse and accessible recreational and cultural opportunities;
  - (12) Ensure that local government remains responsive, fiscally responsible and forward thinking in its approach to meeting the needs of residents;
  - (13) Support zoning and planning laws and other strategies that address aging in place issues. Maintain quality health and human services;
  - (14) Support the relationship between protection of the rural character of the Town, ecotourism and education with zoning code changes that provide support and incentive to nontraditional educational venues and activities.
- C. No reliance. The inspections, proceedings, determinations and actions taken herein by the Building Inspector, Deputy Building Inspector and/or Zoning Enforcement Officer are taken solely for the benefit of the Town of Ghent and not for the benefit of any other person or entity. No claim for damages shall be made by any person or entity against the Town of Ghent on the basis that any such inspections, proceedings, determinations or actions are incorrect.

## **§ 190-2 Definitions and word use.**

- A. Scope and meaning of certain words and terms.
- (1) The word "person" includes a profit or nonprofit corporation, company, partnership, individual or other legal entity.
  - (2) The word "shall" indicates a requirement; the word "may" is permissive.
  - (3) The words "lot," "plot" and "land" are interchangeable.

- (4) The word "use" means any purpose or event for which a structure or premises or part thereof is occupied, constructed, maintained, designed, arranged, employed, made available, offered or intended. Any such purpose or event constitutes a use, whether same is temporary or permanent. **[Amended 2-16-2012 by L.L. No. 1-2012]**
- (5) The word "used" refers to the actual fact that a lot or land, building or structure, or part thereof, is being occupied or maintained for a particular use.

B. Definitions of words and terms.

**ACCESSORY DWELLING**

A separate dwelling unit located on the same lot with and detached from any dwelling and is a secondary use on the lot.

**ACCESSORY USE, BUILDING OR STRUCTURE**

A subordinate use, building or structure customarily incidental to and located on the same lot occupied by the main use, building or structure. The term "accessory building" may include a private garage, garden shed, a private playhouse and a private greenhouse.

**ADULT ARCADE**

Any place to which the public is permitted or invited wherein coin-operated or slug-operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by depicting or describing specified sexual activities or specified anatomical areas.

**[Added 12-20-2007 by L.L. No. 2-2007]**

**ADULT CABARET**

A nightclub, bar, restaurant, nonalcoholic bar or similar commercial establishment, either public or private, which regularly features:

**[Added 12-20-2007 by L.L. No. 2-2007]**

- (1) Persons who appear in a state of nudity;
- (2) Live performances which are characterized by the exposure of specified anatomical areas or by specified sexual activities; or

- (3) Films, motion pictures, video cassettes, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

#### **ADULT HOME**

A home for adults conforming to the standards of adult homes as established by the State of New York and providing a residence for adults and/or children who need care or assistance or a place to live, but who do not require assistance for basic living functions.

#### **ADULT MOTEL**

A hotel, motel or similar commercial establishment which offers accommodations to the public for any form of consideration, provides patrons with closed-circuit television transmissions, films, motion pictures, video cassettes, slides or other photographic reproductions that are characterized by the depiction or description of specified sexual activities or specified anatomical areas and has a sign visible from the public right-of-way which advertises the availability of this adult type of photographic reproductions.

**[Added 12-20-2007 by L.L. No. 2-2007]**

#### **ADULT MOTION PICTURE THEATER**

A commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides or similar photographic reproductions are regularly shown that are characterized by the depiction or description of specified sexual activities or specified anatomical areas.

**[Added 12-20-2007 by L.L. No. 2-2007]**

#### **ADULT RETAIL STORE**

- (1) A commercial establishment which, as one of its significant business purposes, offers for sale or rental for any form of consideration any one or more of the following:

**[Added 12-20-2007 by L.L. No. 2-2007]**

- (a) Books, magazines, periodicals or other printed matter, or photographs, films, motion picture, video cassettes or video reproductions, slides, or other visual representations which depict or describe specified sexual activities or specified anatomical areas; or
- (b) Instruments, equipment, devices or paraphernalia primarily intended, labeled, designed, advertised or promoted for use in connection with specified sexual activities.

- (2) A commercial establishment may have other significant business purposes that do not involve the offering for sale or rental of material depicting or describing specified sexual activities or specified anatomical areas and still be categorized as an "adult retail store" so long as one of its significant business purposes is the offering for sale or rental for consideration the specified materials which depict or describe specified sexual activities or specified anatomical areas. For purposes of this definition, "significant business purpose" shall mean 25% or more of any of the following:
- (a) The number of different titles or kinds of merchandise;
  - (b) The number of copies or pieces of such merchandise;
  - (c) The amount of floor space devoted to the sale and/or display of such merchandise;  
or
  - (d) The amount of advertising which is devoted to such merchandise, either in print or broadcast media.

#### **ADULT THEATER**

A theater, concert hall, auditorium or similar commercial establishment which regularly features persons who appear in a state of nudity or live performances that are characterized by the exposure of specified sexual activities or specified anatomical areas.

**[Added 12-20-2007 by L.L. No. 2-2007]**

#### **ADULT USE AND ENTERTAINMENT ESTABLISHMENT**

A public or private establishment, or any part thereof, which presents any of the following entertainments, exhibitions or services: topless and/or bottomless dancers; strippers; topless waitressing, busing or service; topless hair care or massages; service or entertainment where the servers or entertainers wear pasties or g-strings or both; adult arcade; adult bookstore or adult video stores; adult cabarets; adult motels; adult motion picture theaters; and sexual encounter centers. Adult use and entertainment establishments customarily exclude minors by reason of age.

**[Added 12-20-2007 by L.L. No. 2-2007]**

#### **AGRICULTURAL DATA STATEMENT**

A written statement required when certain land use determinations within five hundred (500) feet of a farm operation located in a NYS Agricultural District takes place. The statement must include information about the proposed project, and is included in the application for project approval. A notice of the project application is mailed to owners

of land associated with the neighboring farm operation identified in the statement. The Planning Board is required to evaluate and consider the statement in its review of possible impacts of a project on nearby farm operations.

### **AGRICULTURAL PROCESSING, COMMERCIAL**

A commercial building or buildings, including accessory buildings totaling no larger than 10,000 square feet where animals are killed and processed into meat foods, or a facility where plants and plant products are processed into canned, frozen, or fresh food products.

### **AGRICULTURAL PROCESSING, ON-FARM**

Processing plant or animal products primarily grown on that farm.

### **AGRICULTURAL-RELATED BUSINESS**

A secondary business located on a farm operation that processes, sells or uses products grown primarily on that farm, including but not limited to agri-tourism, canning or freezing of plant products, sale of farm products, farm restaurant, commercial greenhouse, or brewery or distillery.

### **AGRICULTURAL STRUCTURE**

A structure designed and constructed to house farm implements, hay, grain, poultry, livestock, or other horticultural products. This structure shall not be a place of human habitation but used in the raising, growing or storage of agricultural products by a farmer engaged in a farming operation including but not limited to barns, sheds, poultry houses and other buildings and equipment on the premises used directly and solely for agricultural purposes. Wind turbines and solar panels that supply no more than 110% of the electrical needs of a farm operation shall also be considered an agricultural structure.

### **AGRICULTURAL USE, ANIMALS**

The use of land for harboring, raising, harvesting, selling, keeping, or feeding domesticated farm animals, including but not limited to, grazing, breeding, managing, selling, or producing livestock, poultry, fur-bearing animals or honeybees, or by dairying and the sale of dairy products, or by any combination thereof. It also includes the use of land for stabling or training equines, including but not limited to providing riding lessons, training clinics, and schooling shows, including other on-farm niche marketing promotions. Slaughterhouses, meat packing facilities, hide tanning operations, and operations which utilize animals in research, shall not be considered an animal agricultural use. The keeping of household pets for personal enjoyment shall not be deemed agricultural use, animals and shall be allowed in all zones.

## **AGRICULTURAL USE, CROPS**

The use of land for raising, harvesting, and selling crops by horticulture, floriculture, viticulture, aquaculture, hydroponics, silviculture, or by any combination thereof. A garden accessory to a residential use shall not be deemed an agricultural use.

## **AGRITOURISM**

Activities conducted on a farm and offered to the public, or to invited groups, for the sale of agricultural products, education, recreation or active involvement in the farm operation. An agri-tourism activity may be secondary to the primary farm use on a property. Agri-tourism activities may be conducted in an accessory building or structure. Agri-tourism activities include, but are not limited to, on-farm bed and breakfasts, farm stay programs, u-pick operations, and pumpkin patches.

## **AIRCRAFT REPAIR OR RESTORATION**

An establishment that engages in the repair and/or restoration of modern, classic or antique aircraft. The facility operator must employ only FAA certified mechanics and shall submit documentation of such to the fixed based operator of the Columbia County Airport.

## **AIRPORT AND ANCILLARY USES**

A facility where aircraft can land and take off. Ancillary uses shall include hangers for aircraft storage, whether owned or leased, refueling facilities, tiedown areas and sales and service of aircraft and products accessory to aircraft or those required by pilots and/or owners. The sale, installation and repair of electronic equipment shall be included.

## **ALTERATION**

As applied to a building or structure, a change or rearrangement in the structural parts or in the exit facilities; or an enlargement whether by extending on a side or by increasing in height; or moving from one location or position to another; the term "alter" in its various modes and tenses and its participial form refers to the making of an alteration.

## **ARTISTS CULTURAL CENTER OR RETREAT**

Land and buildings used as a meeting place, retreat and/or exhibition center for the exchange of ideas between artists, members of the professional art community and the general public. Artists shall include persons working in all art forms and mediums, including, but not limited to, painters, sculptors, authors, screen writers, playwrights, film makers, musicians and photographers. A cultural center or retreat may provide

indoor and outdoor exhibition space, work space, meeting space, lecture halls, performance space and sculpture parks, as well as living and dining facilities for the staff, artists and participants in the center's or retreat's programs.

#### **AUTOMOBILE LEASE/RENTAL FACILITY**

A facility where vehicles are leased or rented. This use shall include all areas, whether enclosed or open, where such vehicles are stored. No repair services other than necessary washing and cleaning or fueling shall be performed on the premises.

#### **BED-AND-BREAKFAST FACILITY**

A dwelling that offers overnight lodging consisting of up to four rooms to guests on a temporary basis and that may also offer breakfast to its guests only. A facility that qualifies as a motel, hotel, restaurant or camp ground shall not be considered to be a bed-and-breakfast facility.

#### **BUFFER AREA**

An undeveloped part of a property or an entire property specifically intended to separate and thus minimize the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties. Natural vegetative covers existing within the buffer area shall be encouraged to be preserved as part of that buffer to the maximum extent practical.

#### **BILLBOARD**

A sign that directs attention to a business, commodity, service, entertainment or attraction sold, offered or existing elsewhere than upon the same lot where such sign is displayed, or only incidentally sold, offered or existing upon such lot.

#### **BUILDING**

A structure with a roof supported by columns or walls and having a ground area of more than 50 square feet.

#### **BUILDING INSPECTOR OR ZONING ENFORCEMENT OFFICER**

The official Building Inspector, Deputy Building Inspector or Zoning Enforcement Officer of the Town of Ghent.

#### **CABIN**

Any structure designed primarily for seasonal use, not greater than 500 square feet, and not used or capable of being used for year-round residency.

#### **CAMPGROUND**



A transient outdoor recreational activity on a parcel of land in which are located two or more tents, yurts, shelters, recreational vehicles, or other accommodations of a design or character suitable for seasonal or temporary living purposes, but not including a manufactured home park, boarding house, hotel or motel, bungalow colony, or permanent storage and use of any such accommodations. A seasonal campground may not serve as a place for permanent residency, but is a place for vacationers or for recreational purposes for no more than eight months per year.

#### **CAR WASH**

A structure or building designed for the washing, waxing, simonizing or similar treatment of automotive vehicles as its principal function. A filling station having portable washing equipment shall not be deemed to be a car wash where such use is an accessory service to the principal service of the filling station.

#### **CEMETERY**

Licensed human burial grounds.

**[Added 5-18-2017 by L.L. No. 1-2017]**

#### **CLUB, COUNTRY**

A club for golfing, tennis, swimming, hunting, fishing, horseback riding or similar sports.

#### **COMPOST FACILITY – ON FARM**

A farm operation related commercial establishment designed to manage and control the process of degrading organic matter by microorganisms. A composting facility can accept no more than 1,000 cubic yards of source-separated organic waste per year, animal manure and associated animal bedding material, not more than 3000 cubic yards of yard and brush waste and food waste. Organic materials suitable for a composting facility shall not include construction and demolition debris, organic materials containing heavy metals, or sewage sludge.

#### **CONCERT**

A program of vocal or instrumental music.

**[Added 8-15-2013 by L.L. No. 1-2013]**

#### **CONTRACTOR FACILITY**

A parcel of land used for the storage of vehicles, equipment and materials used by a general contractor, excavation contractor, plumber contractor, electrical contractor or similar business including any office space and the repair and maintenance of vehicles and equipment owned by the on-premises business. This use shall also allow for the

fabrication of components used as part of the contractor's normal course of business (i.e., a general contractor may have a woodworking shop, an electrical contractor may assemble lighting components, etc.).

## **COURT**

An open, unoccupied space, other than a yard, on the same lot with a building or group of buildings, which is bounded on two or more sides by such building or buildings. An offset to a court shall be deemed a separate court for the purpose of determining its required dimensions.

## **COURT, DEPTH OF**

The maximum horizontal dimension at right angles to the width.

## **COURT, HEIGHT OF**

The greatest vertical distance measured from the lowest level of such court up to the roof of the building.

## **COURT, INNER**

Any court which is not an outer court.

## **COURT, OUTER**

A court extending to a street line or opening on another outer court or any required front, side or rear yard.

## **COURT, WIDTH OF**

The horizontal dimension parallel to the principal open side in the case of an outer court; and the least horizontal dimension in the case of an inner court.

## **DWELLING**

A building (other than a mobile home) arranged, intended or designed to be occupied by one or more families living independently of each other upon the premises.

## **DWELLING, MULTIPLE**

A building or portion thereof containing more than two dwelling units.

## **DWELLING UNIT**

One or more rooms with provisions for cooking, living, sanitary and sleeping facilities arranged for the use of one family.

## **ELECTRIC VEHICLE CHARGING STATION**

An accessory use of a business that supplies electric energy for the recharging of electric vehicles and plug-in hybrid vehicles.

**[Added 5-18-2017 by L.L. No. 1-2017]**

## **EXHIBITION**

A show or display for entertainment or competition.

**[Added 8-15-2013 by L.L. No. 1-2013]**

## **FAMILY**

One or more persons occupying a dwelling unit as a single, nonprofit housekeeping unit. For the purposes of this chapter, there shall be a presumption that more than three persons exclusive of domestic servants, not related by blood, marriage or adoption and occupying the dwelling unit as a single, nonprofit housekeeping unit shall not constitute one family, except for a foster home. This presumption may be rebutted by an applicant in accordance with the procedure set forth in § **190-57** of this chapter.

## **FARM, OPERATION**

The land and on-farm buildings, equipment, manure processing and handling facilities, and practices which contribute to the production, preparation and marketing of crops, livestock and livestock products as a commercial enterprise, including a "commercial horse boarding operation" as defined in subdivision thirteen of Article 25-AA of the Agricultural Districts Law and "timber processing" as defined in subdivision fourteen of Article 25-AA. Such farm operation may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.

## **FARM MARKET**

A structure larger than 400 square feet, where one or more farmers or vendors sell agricultural produce to the public on a permanent basis, whether seasonal or year-round.

## **FARM STAND**

A temporary use of a structure including small buildings, carts, wagons or stands for the display and sale of farm products produced primarily on the parcel on which the farm stand is located, and not more than 400 square feet in size. It may have one sign with a maximum of six square feet in size. A farm stand that is temporary and has a horizontal display area of 400 square feet or more requires a special permit. A farm stand that is in a permanent structure or within a building used for other purposes shall be considered a farm market.

## **FARM WORKER HOUSING**

An accessory apartment or other dwelling used to house farm workers on a parcel of land used as farm operation.

**FENCE**

A structure designed either to limit access to a land area or to screen such area from view, or both.

**FESTIVAL**

An occasion or event for celebration including cultural performances, entertainment or exhibitions. This does not include a private party hosted at a private residence and not open to the general public for attendance, which is considered to be an accessory use to the private residence.

**[Added 8-15-2013 by L.L. No. 1-2013]**

**FILLING STATION**

A building or lot or part thereof supplying or selling gasoline or other equivalent fuel for motor vehicles at retail direct from pumps and storage tanks. A filling station may include a convenience store or accessory facilities for rendering service for motor vehicles, such as lubrication, washing, and minor repairs. It shall not include a used car lot.

**[Amended 5-18-2017 by L.L. No. 1-2017]**

**FLOOD AREA OVERZONE (FAO)**

Provisions regarding regulations for flood zones are now covered separately by Local Law No. 1 of the year 1987, entitled a "Local Law Regulating The Flood Area Overzone in the Town of Ghent."

**FOOD PROCESSING FACILITY**

A business premises used for the transformation of raw ingredients, by physical or chemical means, into food, or of food products into other forms. Food processing may include the cutting and packaging of meat, poultry and fish, baking, blending, curing or brining, grinding, roasting, smoking, or packing or repackaging in bulk. This does not include Agricultural Processing, Commercial.

**[Added 4-7-2016 by L.L. No. 2-2016]**

**FRONTAGE**

The linear distance between the side lots measured parallel and adjacent to the roadway on which the parcel fronts at the edge of the roadway.

**GREENHOUSE, NURSERY**

A structure where plants are cultivated and sold for retail or wholesale purposes.

**HAMLET**

An unincorporated grouping of cluster of residences and businesses.

**HEALTH CLUB**

An entity providing space and equipment for health and athletic purposes or providing exercise and physical benefit to members and guests on the premises.

**HEIGHT OF STRUCTURE OR BUILDING**

The vertical distance measured from the average elevation of the finished grade along the side of the structure fronting on the nearest street to the highest point of such structure.

**HOME OCCUPATION – (HO-1)**

A business resulting in a product or service for financial gain, conducted wholly or partly within a dwelling unit as a non-residential use that is secondary and subordinate to the use of the dwelling for living purposes and which does not change the residential character of the dwelling unit or vicinity. The enterprise is conducted by an owner/operator who must reside on the premises and does not employ more than three persons, in addition to the owner/operator and any other family participants in the home occupation who reside on the premises. Exterior evidence of this secondary use, if present at all, is limited to a small sign or lawn plaque. Few customers, clients, or other business associates enter the premises daily. The business does not store business products, equipment or vehicles outside. The enterprise normally produces only household quantities and types of waste and does not involve delivery truck visits or other traffic beyond that expected of a typical residence.

**HOME OCCUPATION, 2 (HO-2)**

A business activity resulting in a product or service for financial gain, conducted wholly or partly within an accessory structure no larger than 1,000 square feet as a non-residential use that is secondary and subordinate to the use of the parcel for living purposes and which does not change the residential character of the parcel or vicinity. The enterprise is conducted by an owner/operator who must reside on the premises and does not employ more than three persons, in addition to the owner/operator and any other family participants in the home occupation who reside on the premises. A sign is likely to be present. Other exterior evidence of this secondary use includes customers, clients, and other business associates entering the premises daily

**HOME OCCUPIED BUSINESS**

A business which is carried out in an outbuilding of a lot, larger than 1,000 square feet but less than 1,600 square feet in a new outbuilding or less than 5,000 square feet in an existing outbuilding. Such lot shall also contains the principal residence of the owner of the business. A home occupied business must meet all of the requirements set forth in § 190-9 of this Zoning Chapter.

### **HOME PROFESSIONAL OFFICE**

A home occupation or home occupied business for the office or studio of a resident physician, surgeon, dentist or other person licensed by the State of New York to practice a healing art, lawyer, architect, artist, engineer or teacher, with a limitation of no more than five personnel, including the proprietor(s), and with a maximum square footage of 1,600 square feet. Any such use involving more personnel or more square footage shall be considered to be a commercial use and shall not be considered to be a professional office, nor permitted in a residential zone. The square footage requirement referred to herein for a new building shall include the total of all floor areas except for any floor area where the floor to ceiling height requirement is less than six feet. The square footage referred to herein for an existing building shall be the area which is actually being used for a professional office. Only one professional office is permitted per dwelling, and to qualify as a home professional office, the operator(s) of the office must live in the dwelling or on the parcel containing the outbuilding.

### **HORSE BOARDING OPERATION**

An agricultural activity that provides care, housing, health related services and training to animals kept on the premises or on other properties owned or leased by the farm operator. Riding and training activities that are directly related to and incidental to the boarding and raising of horses, including riding lessons for persons who own or have a long-term lease from the farm owner for the horse that is boarded at the farm and used for such activities, are part of the farm operation. Horse shows for horses either boarded at or owned by the farm operation, which are not open to the general public, are also part of the farm operation. A riding academy is not considered to be an agricultural activity under the New York State AML. A riding academy generally offers riding lessons to the public and to individuals that do not own or have a long-term lease for the horse that is boarded and used at the facility for such riding.

### **IN-LAW APARTMENT**

See Accessory Dwelling

### **KENNELS**

The keeping of two or more dogs over six months of age for sale or for boarding purposes, if the dogs are not owned by the owner or occupant of the premises. Also,

the keeping of four or more dogs over six months of age for any purpose if the dogs are owned by the owner or occupant of the premises.

## **LODGINGS**

A building or group of buildings, whether detached or in connected units, used as individual sleeping or dwelling units with direct access and related office, and with or without restaurant facilities, designed primarily for transient automobile travelers and provided with accessory off-street parking facilities. The term "lodging" includes buildings designed as inns, tourist courts, motor lodges, motels, hotels, auto courts and other similar appellations, excluding bed-and-breakfasts, but shall not be construed to include parking areas for house trailers or mobile homes or dwelling units except for that of a manager or property caretaker.

**[Added 5-18-2017 by L.L. No. 1-2017]**

## **LOT**

A parcel of land occupied or used by one main building or use with its accessory buildings and the required open spaces. For the purposes of this chapter, any real property owned by the same party or parties which is contiguous, and regardless of when obtained, shall constitute one lot, subject, however, to the provisions of Article **IX**. For the purposes of this chapter, any parcel which is completely divided by a Town, County or state highway shall constitute a separate lot. Each lot shall be fully subject to the dimensional requirements of this chapter.

## **LOT AREA**

The total horizontal area included within lot lines.

## **LOT, CORNER**

A lot at the junction of and fronting on two or more intersecting streets.

## **LOT COVERAGE**

The percentage of the area of the lot covered by a building or buildings.

## **LOT, INTERIOR**

Any lot other than a corner lot.

## **LOT LINE**

Any boundary of a lot. Any lot line not a rear lot line nor a front lot line shall be deemed a side lot line.

## **LOT LINE, FRONT**

The street right-of-way line at the front of a lot. On a corner lot, the owner may specify

the front lot line on the plot plan.

**LOT LINE, REAR**

The lot line opposite to the front lot line.

**LOT, THROUGH**

A lot extending from one street to another.

**LOT WIDTH**

The dimension measured from side lot to side lot, measured at the place where the main improvement is to be located.

**MANUFACTURED HOME, DOUBLE-WIDE**

A dwelling unit, transportable in two sections, which in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is a minimum of 700 or more square feet, and designed to be used as a dwelling with a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein. A recreational vehicle is not included in this definition. Manufactured homes differ from modular or industrialized housing.

**MANUFACTURED HOME, SINGLE-WIDE**

A dwelling unit, transportable in one section, which in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is 700 or more of square feet, and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. A recreational vehicle is not included in this definition.

**MANUFACTURED HOUSING**

Factory-built, single-family structures that meet the National Manufactured Home Construction and Safety Standards Act (42 U.S.C. Sec 5401), commonly known as the HUD code. Mobile homes are manufactured housing. Manufactured homes and mobile homes are normally built in one or two pieces and transported to the site with a chassis that allows the home to be moved. A manufactured house is a house built in conformity with the provisions of the federal HUD Code. Mobile homes are those built prior to the adoption of the HUD Code.

**MEMBERSHIP CLUB, NONPROFIT**

The premises and buildings used by a local chapter holding a valid charter from an



international, national or state organization or by a bona fide local civic association catering exclusively to members and their guests primarily for a patriotic, fraternal, benevolent, social, educational, religious or political purpose. The club shall not be used in whole or in part for the conduct of any business or enterprise for profit, but this shall not be construed as preventing the utilization of a club for benefits or performances for a recognized charity; nor for the meeting of other organizations, nor for educational and cultural purposes.

## **MINING**

The excavation or extraction of earth, sand, gravel, stone, quarry material, clay, loam, humus, top soil or other earth material from a lot and removal thereof from that lot; or any temporary storage of such materials by stockpiling, or any processing of excavated or stockpiled materials, or any of the related land use activities engaged in during the above activities, such as construction of buildings, barriers and other structures, clearing of property, removal or placement of trees, vegetation and earth material, or the regrading or movement of earth material within the boundaries of a single lot or subdivision.

**[Added 4-21-2005 by L.L. No. 3-2005]**

## **MINING OVERZONE MAP**

The map established by the Town of Ghent showing those areas in the Town where mining shall be permitted by special permit subject to the regulations set forth in this chapter. Mining shall not be permitted in any other areas in the Town of Ghent except as expressly otherwise permitted in the mining law set forth in this chapter.

**[Added 4-21-2005 by L.L. No. 3-2005]**

## **MINOR**

A person less than 18 years of age.

**[Added 12-20-2007 by L.L. No. 2-2007]**

## **MIXED-USE BUILDING**

A building with space for permitted commercial, business, or office use, and space for residential use.

**[Added 4-7-2016 by L.L. No. 2-2016]**

## **MOBILE HOME**

Manufactured homes built prior to the adoption of the HUD Code.

## **MOBILE HOME LOT**

A designated site of specific total land area which is located within a mobile home

park for the accommodation of one mobile home or its occupants.

**MOBILE HOME PARK**

Any parcel of land which is planned and improved for the placement of two or more mobile homes which are used as dwellings and for occupancy of more than 90 consecutive days.

**MOBILE HOME STAND**

A durable surface located on a mobile home lot which is to be used for the placement and capable of supporting a mobile home.

**MODULAR HOME**

A factory-fabricated, New York State code approved, transportable building unit designed to be used as a residence. Modular homes typically are manufactured in one or more pieces and transported to the site for placement on a permanent foundation.

**MULTIUSE INDUSTRIAL/COMMERCIAL STRUCTURE**

A single structure which was designed for and occupied by more than one permitted commercial use. The minimum lot size required for this type of use shall be computed by adding 20,000 square feet for each use within the structure to the minimum lot size required within the zone.

**[Amended 4-7-2016 by L.L. No. 2-2016]**

**MULTIPLE DWELLING**

A building or portion thereof containing three or more dwelling units designed or used for occupancy by three or more families living in separate areas, including senior housing. In accordance with the New York State Building Code, a multiple dwelling shall be considered a commercial use.

**MUSEUM**

A place for exhibiting for public display works of art, science, invention, education, antiquities, curiosities or objects of natural history.

**NONCONFORMING STRUCTURE**

A structure lawfully existing at the effective date of this chapter or any amendment thereto affecting such structure, which does not conform to the Table of Dimensional Regulations of this chapter for the district in which it is situated, irrespective of the use to which such structure is put.

**NONCONFORMING USE**

Any use of a building, structure, lot or land or part thereof, lawfully existing at the effective date of this chapter or any amendment thereto affecting such use, which does not conform to the Table of Use Regulations of this chapter for the district in which it is situated.

### **NONNUISANCE COMMERCIAL BUSINESS**

Includes all light manufacturing and assembly, packaging, finishing or treating of products carried on completely within an enclosed structure, and involving no permanent outside storage of equipment or materials. Said use shall not include any commercial operations which would: a) cause danger of fire or explosion; or b) which shall result in significant objectionable vibration, noise, smoke, fumes, odor, dust, gas fumes, chemicals, radiation, or other waste materials, including hazardous waste, which would: i) cause a nuisance; or ii) adversely effect other private or public properties. Excludes any industrial operation and all other permitted uses in Appendix C. Nothing herein shall in any way restrict or limit the requirements or language of §§ 190-12, 190-22 and 190-23.

**[Added 5-18-2017 by L.L. No. 1-2017]**

### **NUDITY or STATE OF NUDITY**

The appearance of:

**[Added 12-20-2007 by L.L. No. 2-2007]**

- (1) Human bare buttocks, anus, male genitals, female genitals or areola or nipple of the female breast; or
- (2) State of dress which fails to opaquely and fully cover human bare buttocks, anus, male genitals, female genitals or areola or nipple of the female breast.

### **NURSERY SCHOOL**

A building or structure, together with its lot and its accessory uses, building and structure, used as an organized instructional facility for five or more enrolled children other than the children of the resident family, but not provided with customary commercial public recreation such as Ferris wheel or roller coasters, and not furnishing sleeping quarters except for the resident family.

### **NURSING HOME**

A facility licensed by the State of New York pursuant to the Public Health Law providing nursing care to sick, invalid, infirm, disabled or convalescent persons in addition to lodging and board or health-related service, or any combination of the foregoing and, in addition thereto, providing nursing care and health-related service, or either of them, to persons who are not occupants of the facility.

**OFFICES: BUSINESS, PROFESSIONAL OR UTILITY**

A room, group of rooms or building used primarily for conducting the affairs of a business, profession, service, industry or government, or like activity, that may include ancillary services such as cafeterias and lounges. To qualify as a professional office, this use must also meet the definition of professional office as set forth herein.

However, a use for conducting the affairs of a profession or service which does not meet the definition of professional office because of the number of personnel or square footage will still be deemed to be a business office if it otherwise qualifies as such under this definition.

**OPEN SPACE**

Land used for the purpose of recreation, resource protection, amenity or buffers; freely accessible to all residents and protected by the provisions of this chapter to ensure that it remains in such uses. Open space does not include land occupied by buildings, roads or road right-of-way; nor does it include the yard or lots of single or multifamily dwelling units or parking areas as required by the provision of this chapter. Open space shall be left in a natural state except in the case of recreation uses, including recreational buildings.

**PARKING AREA**

A lot or part thereof used for the storage or parking of motor vehicles, with or without the payment of rent or charges in money and/or other consideration.

**PARKING GARAGE**

A building designed for the parking or storage of vehicles or trailers.

**PARKING SPACE**

A stall or berth which is arranged and intended for parking of one motor vehicle in a garage or parking area. Each space shall be no less than nine feet by 18 feet.

**PERMITTED USE**

A specific main use of a building, structure, lot or land, or part thereof, allowed by this chapter in a particular district as a matter of right. Any use which is not listed as a permitted, special permit or accessory use, or one requiring a site plan or modified site plan approval, shall be considered a prohibited use.

**PERSON**

An individual, proprietorship, partnership, corporation, association or other legal entity.

**[Added 12-20-2007 by L.L. No. 2-2007]**

## **PLANNED RESIDENTIAL DISTRICT**

Planned Residential District shall be considered a special district which may be granted as a zoning change to a developer for the purpose of building a residential community or neighborhood containing a variety of housing types. Such zoning change shall be granted according to the procedures in Article **III** of this chapter. A Planned Residential District is permitted in the following districts: Rural Residential /Agricultural-1 (RRA-1), Rural Residential/Agricultural-2 (RRA-2), Hamlet Residential (HR) and Village Residence (VR).

**[Amended 5-17-2012 by L.L. No. 4-2012]**

## **PRIVATE RECREATION AREA, NONPROFIT**

A park, playground or recreation area operated by a nonprofit organization for the primary purpose of providing relaxation or an opportunity for the playing of games or sporting activities.

## **PROFESSIONAL OFFICE**

A building used for an office by a duly licensed architect, medical doctor, dentist, psychologist, psychiatrist, therapist, lawyer, insurance agent, real estate broker, stockbroker, ophthalmologist, optometrist, optician, engineer or surveyor, with a limitation of no more than nine personnel, including the proprietor(s) and with a maximum square footage of 1,600 square feet. Any such use involving more personnel or more square footage shall be considered to be a commercial use and shall not be considered to be a professional office, nor permitted in a residential zone. The square footage requirement referred to herein for a new building shall include the total of all floor areas except for any floor area where the floor to ceiling height requirement is less than six feet. The square footage referred to herein for an existing building shall be the area which is actually being used for a professional office.

## **PROHIBITED USE**

A use of a building, structure, lot or land, or part thereof, which is not listed as a permitted, special permit or accessory use or as a use requiring site plan or modified site plan approval.

## **RACETRACK**

A course prepared for racing. This shall include motorized racing or animal racing, but not human racing. This does not include a temporary course which will be completely dismantled immediately after the event is concluded. This does not preclude incidental items for exhibitions such as barriers, fencing and guardrails, which will be immediately dismantled after the conclusion of such exhibition. A temporary course is

not a use but may be permitted in connection with an exhibition or festival.  
[Added 8-15-2013 by L.L. No. 1-2013]

#### **RECREATIONAL VEHICLE (RV)**

A vehicle that is either self-propelled or towed, is primarily designed to provide temporary living quarters for recreational, camping or trailer use and does not require a special permit to legally use the highways. Recreational vehicles include motor homes, tiny houses on wheels, travel trailers, fifth wheel trailers and folding camping trailers. Any RV used as a Dwelling Unit for a period of more than 8 months per year must meet the requirements 190-7 of manufactured housing.

[Added 5-18-2017 by L.L. No. 1-2017]

#### **RESEARCH INSTITUTE OR LABORATORY**

A building for experimentation in pure or applied research design, development and production of prototype machines or devices or of new products, and uses accessory thereto; with respect to the application of this chapter, such research institute or laboratory shall meet the standards of a nonnuisance industry.

#### **RESIDENTIAL DISTRICT**

Refers to the HR (Hamlet Residential), RRA-1 and RRA-2 (Residence/Agricultural), and VR (Village Residential) districts.

#### **RESTAURANT**

A public eating place that may or may not have a liquor license. The principal activity shall be the service of food to the public, and a secondary activity may be alcoholic beverage sales to supplement the service of food. Music for or dancing by patrons only (but no other live entertainment) shall be considered as an accessory use to a restaurant. A patron is someone who comes to such establishment for his/her personal use and enjoyment only, and does not receive any form of remuneration or payment for being there.

#### **RETAIL SHOPPING CENTER**

A group of two or more commercial establishments planned, constructed and managed as a total entity with customer and employee parking on site, and with provisions for goods delivery separated from customer access.

[Added 5-18-2017 by L.L. No. 1-2017]

#### **RIDING ACADEMY**

A commercial establishment that generally offers riding lessons to the public and to individuals that do not own or have a long-term lease for the horse that is boarded and

used at the facility for such riding.

### **RIGHT TO FARM LAW**

A State, County, or local law passed that states that an agricultural practice used on land subject to an agricultural assessment shall not constitute a private nuisance, when an action is brought by a person, provided such agricultural practice constitutes a sound agricultural practice pursuant to an opinion issued upon request by the commissioner of NYS Department of Agriculture and Markets.

### **ROADSIDE STAND**

A place for the sale of farm or home occupation products actually produced on the parcel on which the roadside stand is located. A structure shall not qualify as a roadside stand if it is located within any building that is used for any other use.

### **ROADSIDE STAND, LARGE**

A roadside stand that has 32 square feet or more in horizontal display area.

### **ROADSIDE STAND, SMALL**

A roadside stand that has less than 32 square feet in horizontal display area.

### **SAWMILL**

A mill or machine used for the processing of lumber products from raw uncut timber obtained onsite or offsite to be sold for commercial purposes.

### **SAWMILL, AGRICULTURAL**

Means the on-farm processing (including milling and drying) and marketing of timber grown on that same farm operation (as defined in Agriculture and Markets Law 25-AA) into woodland products, including but not limited to logs, lumber, posts and firewood, provided that such farm operation consists of at least seven acres and produces for sale other crops, livestock or livestock products of an annual gross sales value of ten thousand dollars or more and that the annual gross sales value of such processed woodland products does not exceed the annual gross sales value of such crops, livestock or livestock products. An agricultural sawmill may be permanent or portable.

### **SAWMILL, COMMERCIAL**

Means the processing (including milling and drying) and marketing of timber grown on off-site parcels, or on parcels that are not farm operations into woodland products, including but not limited to logs, lumber, posts and firewood. A commercial sawmill may use portable sawmill equipment on-site.

**SAWMILL, PORTABLE**

A mill that can be moved from place to place and used to process timber for less than 2 months per year on any one parcel.

**SELF-STORAGE UNITS**

A facility containing a structure or structures containing separate individually leasable or rentable storage spaces varying in sizes which may be rented or made available for use by one or more persons or entities for the storage of materials and equipment of that person or entity.

**[Added 5-17-2012 by L.L. No. 4-2012]**

**SEMINUDE**

A state of dress in which clothing covers no more than the specified anatomical areas, notwithstanding portions of the body covered by supporting straps or devices.

**[Added 12-20-2007 by L.L. No. 2-2007]**

**SENIOR HOUSING**

Multifamily housing designed for people aged 62 years and older. This includes adult retirement community, assisted living facility, continuing care retirement community, and retirement community types of structures.

**SHOPS FOR CUSTOM WORK**

A business premises used for custom made products such as the making of clothing, millinery, shoes or other personal articles to individual order and measure, for sale at retail on the premises only, and not including the manufacture of ready-to-wear or standardized products. Facilities producing articles that are wholesaled or marketed in traditional retail outlets shall be deemed industrial/commercial uses.

**SIGN**

Any kind of signboard, pennant or other device or display used as an advertisement or announcement or used to give directions or otherwise attract attention. Signs may be permanent or temporary.

**SIGN, TEMPORARY**

A temporary sign is a sign that is displayed for a limited period of time relating to a special event or activity, and is required to be removed promptly upon the completion of such special event or activity. No sign which is displayed for more than three months shall be considered a temporary sign. A sign that is lighted or that is greater than eight square feet in area does not qualify as a temporary sign.



**SINGLE-FAMILY DETACHED**

A single-family residence on an individual lot with private yards on all four sides of the house.

**SOLAR ENERGY EQUIPMENT**

Electrical energy storage devices, material, hardware, inverters, or other electrical equipment and conduit of photovoltaic devices associated with the production of electrical energy.

**SOLAR ENERGY SYSTEMS**

An electrical generating system composed of a combination of both Solar Panels and Solar Energy Equipment.

**SOLAR ENERGY SYSTEM, AGRICULTURAL**

A solar energy system on a farm operation as defined by New York State Agriculture and Markets Law 305-a that provides up to the maximum allowable energy output as defined by state and/or federal requirements generating no more than 110% of the electrical needs of such farm operation. These may be building mounted or ground-mounted systems.

**SOLAR ENERGY SYSTEM, BUILDING MOUNTED FOR INDIVIDUAL USER**

A solar energy system that is affixed to the roof or side(s) of a building or other legally permitted structure either directly or by means of support structures or other mounting devices primarily servicing on-site residential or business uses and that produce 25 kW or less electricity.

**SOLAR ENERGY SYSTEM, COMMERCIAL**

A solar energy system that produces energy primarily for supplying more than 200 kW of electrical energy into a utility grid for wholesale or retail offsite sale or consumption, whether generated by photovoltaics, solar thermal devices or other solar technologies, and whether ground-mounted or building-mounted. A commercial solar energy system may also be referred to as a “solar plant”, “solar farm”, “commercial solar energy system” or “solar power plant”.

**SOLAR ENERGY SYSTEM, GROUND MOUNTED FOR INDIVIDUAL USER**

A Solar Energy System that is directly anchored to the ground and attached to a pole or other mounting system, not attached or affixed to an existing structure, and detached from any other structure designed to serve on-site residential or business uses as the principal user and that produce 200 kW or less electricity.

**SOLAR PANEL**

A photovoltaic device capable of collecting and converting solar energy into electrical energy.

**SPECIAL EVENT VENUE**

A property, building, or area which is rented by individuals or groups by the property owner to accommodate private functions, including, but not limited to, banquets, weddings, parties, family reunions, corporate events, meetings and other similar celebrations or events as its primary use. This does not apply to a special permit issued for another use.

Such a use may or may not include:

- (1) Catering kitchen facilities for the serving of food and not primarily for food preparation.
- (2) Outdoor gardens or reception facilities.

**SPECIAL PERMIT USE**

A use in one or more districts, for which the Board of Appeals or the Planning Board may grant a permit, pursuant to the provisions of Article V, Chapter 190.

**SPECIFIED ANATOMICAL AREAS**

All of the following areas unless completely and opaquely covered: human buttocks, anus, male genitals, female genitals, pubic region, breasts below a point immediately above the top of the areola and, unless completely and opaquely covered, male genitals in a turgid state.

**[Added 12-20-2007 by L.L. No. 2-2007]**

**SPECIFIED SEXUAL ACTIVITIES**

Any of the following:

**[Added 12-20-2007 by L.L. No. 2-2007]**

- (1) The fondling or other erotic touching of human buttocks, anus, male genitals, female genitals, pubic region or breasts;
- (2) Masturbation, actual or simulated; or
- (3) Excretory functions.

**STABLE**

A structure that is used for the shelter or care of horses and livestock.

**STREET**

Any existing federal, County or municipal highway or any existing street shown on a subdivision plan filed in the County Clerk's office, and which has been approved by the Town of Ghent Planning Board.

**STREET LINE**

The dividing line between a lot and a street right-of-way.

**STRUCTURE**

Anything constructed or erected on or under the ground or upon another structure or building.

**TAVERN**

A place where beverages, including alcoholic beverages, are sold to be consumed by the public on the premises. A tavern may also serve food for public consumption on the premises. Music for or dancing by patrons only (but no other live entertainment) shall be considered as an accessory use to a tavern. A patron is someone who comes to such establishment for his/her personal use and enjoyment only, and does not receive any form of remuneration or payment for being there.

**TELECOMMUNICATIONS**

The transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.

**[Added 6-17-2004 by L.L. No. 5-2004]**

**TELECOMMUNICATIONS SITE**

See definition for "wireless telecommunications facilities."

**[Added 6-17-2004 by L.L. No. 5-2004]**

**TELECOMMUNICATIONS STRUCTURE**

A structure used in the provision of services described in the definition of "wireless telecommunications facilities."

**[Added 6-17-2004 by L.L. No. 5-2004]**

**TEMPORARY RESIDENTIAL USE/HEALTH RELATED**

A temporary permit for use of a mobile/manufactured home, modular unit or for the temporary conversion of a one-family detached dwelling for another family in a

situation where, for health-related reasons it is necessary for a person related by blood, marriage or adoption to reside near the owner/resident of the parcel in question.

#### **TEMPORARY BUILDING PERMIT/CONSTRUCTION**

The Zoning Enforcement Officer may grant a temporary building permit for a period not to exceed one year for a nonconforming building, structure or use incidental to a building or other construction project, including such uses as the storage of building supplies and machinery, real estate office or model homes located on or near a tract of land where individual properties are being offered for sale. Such temporary permit shall be issued only upon written agreement by the owner or his agent to remove such building, structure or use or to convert it to a conforming use upon the expiration of the permit. Such permit shall also be subject to site plan review by the Planning Board.

#### **TEMPORARY BUILDING PERMIT/MOBILE OR MANUFACTURED HOMES FOR FARMING PURPOSES**

The Zoning Enforcement Officer may grant a temporary building permit for mobile/manufactured homes utilized for farming purposes to the owner of a farm in order to set up not more than two mobile/manufactured homes on his or her property to be occupied only by full-time farm workers employed by the owner and their families, provided that such mobile/manufactured homes are in compliance with the provisions of § 190-7 of this chapter, except for the provisions providing for minimum distances between mobile/manufactured homes, which shall not apply. Such a temporary permit shall be valid until January of the next year at which time the owner of the farm shall renew same. Such a permit is not transferable and becomes void if the ownership of the farm changes or if the occupancy of the mobile/manufactured home ceases. In either of such events, the mobile/manufactured home shall be removed from the premises within 90 days therefrom.

#### **TOWNHOUSE**

The townhouse is a single-family attached dwelling unit, with one dwelling unit from the ground to roof, having individual outside access.

#### **VARIANCE**

A modification of the regulations of this chapter, granted on grounds specified in Article X.

#### **VEHICLE REPAIR SHOP**

Premises or building, or portion thereof, arranged, intended, or designed to be used for making repair to vehicles, including repair and paint shop, used for adjustment, painting, replacement of parts or other repair of vehicles, or parts thereof, whether or

not accessory or incidental to another use. No sales are permitted.  
[Added 5-18-2017 by L.L. No. 1-2017]

### **VOCATIONAL SCHOOL**

An educational institution whose primary purpose is the teaching of a trade, profession or occupation.

### **WALL**

A structure of wood, stone or other materials or combination thereof intended for defense, security, screening, or enclosure, or for the retention of earth, stone, fill or other materials as in the case of retaining walls or bulkheads.

### **WAREHOUSE**

A building or part of a building including existing structures, such as barns, for storing of goods, wares, and merchandise. A public warehouse is used primarily for the storage of goods and materials and is available to the general public for a fee. Private warehouse is a building used for the storage of goods and materials for a particular commercial establishment.

[Added 5-18-2017 by L.L. No. 1-2017]

### **WILDLIFE REHABILITATION**

A person or entity certified under the applicable rules and regulations of the State of New York to care for and treat animals for purposes of rehabilitating them toward the goal that such animals may ultimately be returned to their natural environment.

### **WIRELESS TELECOMMUNICATIONS FACILITIES**

Includes a "telecommunications tower" and "tower" and "telecommunications site" and "personal wireless facility." A structure, facility or location designed, or intended to be used as, or used to support, antennas or other transmitting or receiving devices. This includes, without limit, towers of all types and kinds and structures that employ stealth technology, including, but not limited to, structures such as a multistory building, church steeple, silo, water tower, sign or other structure that can be used to mitigate the visual impact of an antenna or the functional equivalent of such, including all related facilities and equipment such as cabling, equipment shelters and other structures associated with the site. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, paging, 911, personal telecommunications services, commercial satellite services, microwave services and services not licensed by the FCC, but not expressly exempt from the Town's siting, building and permitting authority, excluding those used exclusively for the Town's fire, police or exclusively for private, noncommercial radio and television reception and private citizen's bands,

amateur radio and other similar noncommercial telecommunications.  
[Added 6-17-2004 by L.L. No. 5-2004]

**YARD, FRONT**

A space on the same lot with a building, situated between the nearest roofed portion of the main building or buildings and the rear lot line of the lot, and extending from side lot line to side lot line.

**YARD, REAR**

A space on the same lot with a building, situated between the nearest roofed portion of the main building or buildings and the rear lot line of the lot, and extending from side lot line to side lot line.

**YARD, SIDE**

A space on the same lot with a building, situated between the nearest roofed portion of the main building or buildings and the side lot line of the lot, and extending through from the front yard or from the front lot line where no front yard exists, to the rear yard or to the rear lot line where no rear yard exists.

**ZONING ENFORCEMENT OFFICER**

The person appointed to enforce the provisions of this chapter. The Zoning Enforcement Officer shall have all the powers of the Building Inspector as set forth herein.

**§ 190-3 Application of regulations.**

- A. General. The provisions of this chapter shall be deemed to be specific. Those uses and procedures for which there are no specific provisions in this chapter shall be deemed to be prohibited.
- B. Use regulations.
  - (1) Except as hereinafter provided, no building or structure or part thereof and no lot or land or part thereof shall hereafter be used except for a purpose specifically permitted by the provisions of the Table of Use Regulations for the district in which such building or structure, lot or land is located on the Zoning Map. The Table of Use Regulations is set forth in Appendix B and Appendix C.
  - (2) Any lawful use that does not conform to the use regulations of this chapter shall be deemed a nonconforming use.

- (3) A special permit use authorized by the Board of Appeals or the Planning Board shall be deemed a conforming use.
- (4) A use authorized by a variance from the use regulations of this chapter, granted by the Board of Appeals, shall be deemed a nonconforming use.

C. Dimensional regulations.

- (1) Except as hereinafter provided, no building or structure or part thereof shall hereafter be erected, structurally altered, enlarged, rebuilt or moved except in conformity with the provisions of the Table of Dimensional Regulations for the district in which such building or structure is located on the Zoning Map.
- (2) Any lawful existing building or structure that does not conform to such dimensional regulations of this chapter shall be deemed a nonconforming building or structure, irrespective of the use of which it is part.
- (3) A lot authorized as a variance from the dimensional regulations shall be deemed a conforming lot.
- (4) Exception to density requirements. **[Added 5-17-2012 by L.L. No. 3-2012]**
  - (a) Notwithstanding anything set forth in Appendix B regarding density requirements, any person or entity who owned an improved lot with a dwelling thereon in an RRA-1 Zone as of May 18, 2006, and which lot is at least two acres, but less than six acres, shall be entitled to subdivide said property so as to create one additional lot of at least one acre, and which minor subdivision shall be exempt from the minimum density requirements for the RRA-1 Zone. However, this exception to the density requirements shall not apply where such subdivision would not otherwise qualify as a minor subdivision, and each subdivided lot must also meet all other dimensional requirements as set forth in Appendix B.
  - (b) Notwithstanding anything set forth in Appendix B regarding density requirements, any person or entity who owned an improved lot with a dwelling thereon in an RRA-2 Zone as of May 18, 2006, and which lot is at least four acres, but less than 10 acres, shall be entitled to subdivide said property so as to create one additional lot of at least two acres, and which minor subdivision shall be exempt from the minimum density requirements for the RRA-2 Zone. However, this exception to the density requirements shall not apply where such

subdivision does not meet all other dimensional requirements as set forth in Appendix B.

- (c) This exception is personal to any person or entity who was an owner of record of the subject lot as of May 18, 2006, and does not inure for the benefit of any subsequent owner, assignee or mortgagee.

## Article II Districts and Boundaries

**§ 190-4 Class of districts; district boundaries, district purposes.  
[Amended 5-17-2012 by L.L. No. 4-2012; 4-7-2016 by L.L. No. 2-2016]**

- A. Classes of districts. For the purpose of this chapter, the Town of Ghent is hereby divided into several classes of districts, as follows:

- C-1 Commercial-1
- C-2 Commercial-2
- C-3 Commercial-3
- HB Hamlet Business
- HR Hamlet Residential
- PRD Planned Residential District
- RRA-1 Rural Residential/Agricultural-1
- RRA-2 Rural Residential/Agricultural-2
- VB Village Business
- VR Village Residential
- A Airport

- B. Boundaries of districts on Zoning Map.

- (1) The boundaries of each of the districts listed in Subsection A are hereby established as shown upon the duly adopted Zoning Map which accompanies this chapter, and which, with all notations, references and other matters shown thereon, is hereby declared a part of this chapter.
- (2) The district boundary lines, unless shown otherwise, are intended generally to follow street center lines, watercourses or municipal boundary lines, all as shown on the Zoning Map. Where a district boundary line does not follow such a line, but is shown parallel to such a line on the Zoning Map, the distance between the parallel line shall be as dimensioned on the Zoning Map. Such dimensions shall be construed to read



from the center lines of rights-of-way at right angles.

- (3) Where the location of a district boundary line cannot be determined, the Building Inspector/Zoning Enforcement Officer shall use a known line and measure to scale the district boundary line in question.
- (4) In the case of uncertainty as to the true location of a district boundary line in a particular instance, an appeal may be taken to the Board of Appeals, as provided in Article X.
- (5) When a district boundary line divides a lot in a single ownership at the effective date of this chapter or any subsequent amendment thereto, the Board of Appeals may permit extension into one district, as hereinafter provided in Article X.

C. District Purposes. The following purposes are established for each zoning district:

Commercial – To promote a variety of commercial uses. The difference between Commercial -1, -2, and -3 is in intensity of use and scale, with the largest intensity and scale in the Commercial -3 district and with smaller building footprints and narrower setbacks in the C-1 district.

HB Hamlet Business – To recognize the hamlet areas as traditional concentrations of settlement in Ghent and to allow for a mix of small scale intensity commercial uses in a manner that is consistent with the density, scale, layout and design of a hamlet.

HR Hamlet Residential – To promote primarily residential development with select commercial uses that are consistent with residential neighborhoods and to ensure that new development has the density, scale, layout and design that will improve aesthetic character. This district will provide for a mix of housing types and opportunities to meet the housing needs of Town residents.

PRD – Planned Residential District – To allow for large tracts of land to be developed and designed as harmonious units, to provide flexibility in land development regulations to promote additional land uses, and site layout and design patterns that would be of benefit to the Town and that are not otherwise permitted in this zoning law.

RRA-1 Rural Residence/Agricultural-1 – To promote a mix of low density housing and small-scale business development and agricultural activities.

RRA-2 Rural Residence/Agricultural-2 – To promote agriculture and farm operations,

small-scale business development, and a mix of housing options at very low density of development in Ghent.

VB Village Business – To promote commercial uses that have a greater intensity of use and scale than those found in the hamlet and in the Rural Residential/Agricultural districts.

VR Village Residential – To promote a variety of residential and small business uses on very small lots along with village scale setbacks and other dimensions.

A Airport – To allow for airport related uses including but not limited to runway, hangar, storage areas, fuel depot, and other airport operations such as an office.

### Article III Residential Districts and Uses

#### § 190-5 **General provisions.**

Within any Residential District, a building, structure or lot shall only be used for one of the uses indicated in Appendix A, Table of Use Regulations, for the specific district in which it is located on the Zoning Map, and in accordance with the particular classification of that use in that district. Further, any such building, structure or lot shall only be utilized in conformance with the provisions of Appendix B, Table of Dimensional Regulations. In addition, such use shall also comply with all other applicable provisions of this chapter. There shall be no more than one use permitted on any one lot, except as otherwise expressly permitted herein.

#### § 190-6 **Planned Residential District.**

- A. Purpose. This article is designed to permit modification of the strict application of the provisions of this chapter for the following purposes and when such modification is consistent with the Town of Ghent Comprehensive Plan and would conform to the appropriate and orderly development of the Town and the neighborhood:
- (1) To permit tracts of land of considerable size in the RRA-1, RRA-2, HR, and VR zoning districts to be developed and designed as harmonious units.
  - (2) To permit the establishment of uses of land, buildings and other structures that are not otherwise permitted when such uses would be beneficial to the Town.
  - (3) To permit the design and construction of buildings, structures and facilities that

otherwise do not conform to the present area, location and bulk standards and which by virtue of their location, orientation, texture, materials, landscaping or other features demonstrate design merit.

- (4) To permit a residential development to include mixed uses to create a live/work environment.

B. Objectives. In order to carry out the intent of this article, a planned unit development district shall achieve the following objectives:

- (1) A development pattern that has design, aesthetic qualities, scale and density that is consistent with the small town, rural character of Ghent.
- (2) A development pattern that is in harmony with any adjacent or nearby agricultural operations.
- (3) A density of development that does not adversely impacts traffic conditions.
- (4) The preservation of environmental features, suitable open space, and recreation areas.
- (5) A development that provides a maximum choice in the types of housing, lot sizes, and community facilities for a variety of income levels.
- (6) More convenience in location of accessory commercial and service areas.
- (7) An efficient use of land resulting in smaller networks of utilities and streets.
- (8) An opportunity to provide for a live/work environment.

C. Procedure. In Planned Residential Districts, land and buildings may be used for the purposes as authorized by the Town Board. The procedure for review of Planned Residential Districts shall consist of preliminary and interim proposal review by the Planning Board and final proposal review by the Town Board in accordance with the following procedures:

- (1) The proposal for a Planned Residential District shall generally be submitted and reviewed by the Planning Board and Town Board in three stages, as follows:
  - (a) Preliminary proposal to the Planning Board.

- [1] This submission is intended to permit initial review and evaluation of the design and development concept and to secure agreement of and approval of the general concept.
- [2] Submission of the following type of information is required: sketch plan, sketches, diagrams and other materials as may be requested to clarify or explain the design or other aspect of the proposal, a written statement of the proposal. The sketch plan shall at a minimum include:

- Sketch plan based upon generalized topographical data (USGS five-foot contour interval) showing land use areas, approximate building locations, natural features to be preserved, data concerning the number and type of residential units proposed and the amount (in area) of any other uses to be built.
- Sketch plan to show generally the proposed traffic circulation, including existing public roads to be used, on-site circulation and/or approximate parking and loading.
- General discussion of the open space plan.
- Sketches of typical structures proposed.
- Narrative of the proposed project, addressing its scope of operation, purpose, justification and impact on the immediate area of influence and the town in general (school, traffic generation, population, utilities aesthetics and land use compatibility).

- [3] If the Town Board deems the application merits review, the sketch plan and all application materials shall be forwarded to the Planning Board for review.

(b) Interim proposal for review by the Planning Board.

- [1] This proposal is intended to permit further review, including any revision based upon prior review or otherwise proposed by the developer.
- [2] Submission of the following type of information is required: preliminary site development plan, general building plans and other information as may be requested. This shall include:
- A. Proposed public utilities concept plan, including water supply, wastewater disposal and storm drainage facilities to be constructed.
  - B. Proposed construction sequence for buildings, recreation and open spaces,

parking areas and public utilities and roads.

- C. Traffic impact analysis. The applicant may be required to submit a traffic impact analysis to indicate the trip generations from the project and any potential impacts that may occur on the surrounding road network. The analysis should discuss any possible mitigation measures that may be required. Upon review of the impact analysis, the Planning Board may require that a traffic impact study be performed with the scope of the report to be determined by the Planning Board and its engineering consultant.
- D. Stormwater management. The applicant shall submit for review a stormwater management analysis that describes the existing runoff and hydrology of the project site and the impacts of the proposed project. The analysis should contain a description of how the runoff will be collected, treated and controlled in accordance with Town and New York State requirements. Upon review of the impact analysis, the Planning Board may require a stormwater management report containing, as a minimum, hydraulic computations, analysis and mitigation measures; additional scope of the report to be determined by the Planning Board and its engineering consultant.
- E. The following specific information:
  - (1) Address of site (street and number, Tax Map block and section).
  - (2) Name of applicant.
  - (3) Type of proposed tenant/business.
  - (4) Site zoning.
  - (5) Description of existing site and use.
  - (6) Description of intended site development and use.
  - (7) Proposed gross floor area.
  - (8) Building heights.
  - (9) Number of dwelling units, where applicable.

- (10) Number of employees.
- (11) Hours and days of operation.
- (12) Proposed number of parking lots.
- (13) Site coverage statistics (building coverage, paved areas, green area, by percentage of site and square footage).
- (14) Impact on adjoining property: noise, visual, drainage, other.
- (15) Anticipated impact on services (quantify and discuss impacts): traffic, sewer, water, solid waste.
- (16) Storage and disposal method of chemicals used (solvents, soaps, etc.).

F. Any other information that the Planning Board may deem necessary for its review of the project.

[3] The Planning Board shall hold a public hearing, conduct an environmental analysis pursuant to Part 617 (SEQRA) and refer the application to the Columbia County Planning Board pursuant to GML 239-m.

[4] The Planning Board shall approve, approve with modifications or disapprove such application and shall report its recommended decision to the Town Board.

(c) Final proposal for determination by the Town Board.

[1] The following information is required: site plan developed in detail to describe the character and scope of the proposal completely. In addition, the developer may be required to furnish such drawings and specifications for a further understanding of the project. In reaching its final decision on the proposed development, the Planning Board shall consider, among other things, the Town of Ghent Comprehensive Plan, the need for the proposed use in the proposed location, the existing character of the neighborhood in which the use would be located, and the safeguards provided to minimize possible detrimental effects of the proposed use on adjacent property.

[2] The Town Board shall hold a public hearing on the application with the same notice as required by law for amendment to this chapter. After the public

hearing the Town Board may approve the application, approve it subject to modifications or disapprove the application. If the application is approved, or approved subject to modifications, the Planned Residential District shall be considered established and this chapter and the Zoning Map shall be considered modified to permit establishment of the development in accordance with plans approved as part of the application and in accordance with any additional standards and conditions specified by the Town Board.

- (2) Time limit. Within three years after the decision of the Town Board, any construction authorized by such decision shall have been completed and any use authorized by such decision shall have been commenced; otherwise, the Planned Residential District shall be null and void and the land area covered by such District shall revert, after public hearing, to the previous zoning district, provided that upon written request of the applicant and after public hearing the Town Board may grant extensions of the three-year limitation for periods of not more than one year when the applicant shows good cause for such extension.
- (3) Zoning Map. An approved Planned Residential District shall be shown on the Zoning Map with a reference to the records of the Town Board where the approved standards and plans may be seen.
- (4) The applicant shall reimburse the Town for all engineering and other professional fees incurred in review of the development project. The Town Board shall require payment of the applicant of an amount equal to the estimated cost of such professional fees to be held in escrow by the Town, which estimated cost shall be paid prior to the Town incurring any professional costs.

#### D. Standards.

- (1) Minimum size. A Planned Residential District shall be at least 15 acres and a maximum of 40 acres.
- (2) Access. All Planned Residential Districts of 20 or more dwelling units shall have direct ingress and egress to either a state or County highway. The Planning Board may require a traffic impact analysis to be conducted to ensure no adverse impacts will occur to such highways.
- (3) Sewage and water system. Any Planned Residential District must be serviced by either a central or public sewer and water system that has been approved by the Columbia County Health Department.

- (4) Buffering. In the absence of an intervening secondary or major street dividing a Planned Residential District from an abutting residential district (Agricultural, Suburban or Village), a seventy-five-foot minimum buffer strip shall be left as open space. If the Planned Residential District abuts a commercial, industrial or business district, a one-hundred-foot minimum buffer strip shall be in addition to side yard requirements.
- (5) Dwelling types.
  - (a) A Planned Residential District may include single-family dwellings, townhouses, condominium and/or multifamily dwellings.
  - (b) There may be no more than eight townhouse units or condominiums in any continuous group.
  - (c) Multiple dwellings may be no more than 35 feet in height and may not include more than 12 dwelling units per structure.
- (6) Average density. The average density of the entire Planned Residential District shall not exceed one dwelling unit per 40,000 square feet.
- (7) Minimum lot and yard requirements and off-street parking (see Planned Residential District Schedule located at the end of this chapter).
- (8) Open space. At least 50% of the entire land area of any Planned Residential Development shall remain as open space. Such land shall be held in corporate ownership by the owner of lots within the development or, if the Town Board, in its sole discretion, agrees, may be deeded to the Town or a special district created by the Town. The Town hereby retains the right to refuse to accept such land. If such land is to be held in corporate ownership the developer shall incorporate into the deeds of all property within the development a clause giving to the owners an interest in such open land which shall be used for the recreational or agricultural purposes only. No structure other than those incidental to the recreational, preservation of natural features or agricultural use shall be permitted thereon. Such land shall be suitably maintained.
- (9) Districts. Application for a Planned Residential District may only be made if the subject property is located exclusively within an agricultural or residential zone.
- (10) Low-impact business uses. Low-impact business uses which are compatible with the



district and offer goods or services to the residents of the district may be permitted where it is shown that such uses are secondary to the residential district and contribute to the project for the benefit of the residents of said district. Live/work developments in which the residents of the PRD can walk or bike to work on site are acceptable provided the business use is also of low-impact, non-nuisance uses. The number of business uses shall not constitute more than 20% of the total number of units to be constructed or developed in the district. **[Added 5-17-2012 by L.L. No. 4-2012]**

(11) Sidewalks. All planned residential districts shall have active and passive recreation to include greenways, sidewalks, and other pedestrian/bicycle circulation networks that serve to connect significant areas and various land uses. **[Added 5-17-2012 by L.L. No. 4-2012]**

(12) All planned residential districts shall have at least 50% open space. **[Added 5-17-2012 by L.L. No. 4-2012]**

(13) Design Standards. All commercial structures shall meet all design standards pursuant to 190-13. The Planning Board may require, or the applicant may voluntarily apply traditional neighborhood design standards to the PRD. Traditional designs seek to emulate hamlet and village neighborhoods with grid style streets, small lots, shallow front setbacks, sidewalks, narrow streets, and structural design features such as porches and detached garages. Any multi-family dwelling or business use allowed within a PRD shall meet all design standards of 190-13. PRD's shall include a variety of lot sizes and home sizes to prevent monotony of design. Multi-family and other commercial PRD's shall provide for provisions for shared parking where feasible to use land efficiently.

**§ 190-7 Mobile and manufactured homes.**  
**[Amended 5-17-2012 by L.L. No. 4-2012]**

Any mobile or manufactured home located in a RRA-1 or RRA-2 zone, and not in an approved mobile home park, may not be located within 500 feet from any other mobile/manufactured home in that zone, exclusive of any mobile or manufactured home located in an approved mobile home park. Individual mobile homes:

- A. Shall be located on a permanent foundation or concrete slab and shall be permanently anchored. The foundation or slab shall be at least four inches thick.
- B. Shall be skirted within 30 days of installation on the site.
- C. Prior to the occupation of the mobile or manufactured home, the water and sewer system

shall be inspected and approved by the Columbia County Health Department and such proof shall be presented to the Zoning Enforcement Officer.

- D. Electrical wiring to the mobile or manufactured home shall be underground from the last pole to the mobile or manufactured home, and the last pole shall be at least 50 feet from the mobile home.
- E. Prior to occupancy, a mobile or manufactured home shall have sleeping accommodations, flush toilet, a tub or shower, kitchen facilities, plumbing and heating connections for attachment to outside systems and shall otherwise fully comply with the requirements of the State Building Code.

**§ 190-8 Home occupations.**

- A. There are two levels of home occupation, HO-1 and HO-2. Home Occupation-1 (HO-1) is limited to a use occurring fully within the principal dwelling on the lot and shall be considered a permitted use. Those home occupations occurring wholly or partially in an outbuilding shall be considered as Home Occupation-2 (HO-2), and which may only be authorized by special use permit granted by the Planning Board.
- B. All home occupations must comply with the definition set forth in § **190-2** of this chapter. A use permit is required for all home occupations. Application for a use permit shall be made to the Zoning Enforcement Officer. The application shall include a description of the proposed use and shall address each of the items listed below. If, after such use permit is granted, it is subsequently determined that the home occupation use no longer complies with any of these conditions, the Zoning Enforcement Officer may revoke such use permit. If this occurs, the applicant may appeal such determination to the Zoning Board of Appeals, provided that such appeal is taken within 30 days of the decision of the Zoning Enforcement Officer.
  - (1) The following additional requirements shall be applicable for all home occupations. The applicant shall have the burden of establishing, by clear and convincing proof, that the proposed home occupation will comply with all of these items.
    - (a) Not more than two home occupations may occur on a single residential lot.
    - (b) A home occupation shall not cause a significant increase in neighborhood traffic.
    - (c) There may be no more than two vehicles used in connection with the operation of the business on the premises. Any such vehicles shall be screened or stored in an

enclosed structure. However, this does not refer to a passenger vehicle and/or pickup truck used by the occupants for their personal use.

- (d) A sign is allowed, which shall not exceed dimensions two feet by three feet and may be double-sided. It may be located in the required front yard, provided that it is set back at least 15 feet from all property lines, and is not more than six feet above the natural ground level at its location. The sign shall not be lighted.
- (e) Retail sales shall not be permitted on the premises except for small scale sales of goods actually produced on the premises or small scale sales of goods incidental to the main service provided.
- (f) There may be no exterior storage of materials or exterior variations from the residential character of the neighborhood. Generally, the display of goods in the front yard of the premises shall not be permitted. However, the applicant may have a sample display of goods in the front yard where the applicant can demonstrate that this will not have an adverse impact on the residential area and that such display will be maintained in a neat and orderly condition. Goods for retail sale only may be displayed elsewhere on the property if appropriately covered by a structure and/or screened by a fence or natural vegetation, provided that outdoor display of goods does not occur within 40 feet of an adjoining lot.
- (g) The proposed home occupation shall not produce any unusual appearance, noise, vibration, smoke, dust, odors, heat, glare or electrical disturbances that would exceed those normally produced by a residence.
- (h) Storage, use and disposal of hazardous substances and petroleum products must meet applicable state and federal regulations.
- (i) Any new construction undertaken to accommodate the home occupation activity shall be wholly consistent with the character of a residential premises.
- (j) No more than three persons, other than members of the household occupying such dwelling, shall be employed on the residential premises in the conduct of all home occupations thereon; provided, however, that the applicant shall have the right to appeal to the Zoning Board of Appeals which, after public hearing, may allow more than three persons in such circumstances where the Zoning Board of Appeals has determined that the use of the property, with such additional employees, still qualifies as a home occupation under the definitions and requirements set forth in this chapter. Should the Zoning Board of Appeals

determine that more than three persons other than members of the household may be employed at the property in the conduct of such home occupation(s), the Zoning Board of Appeals shall set the maximum number of persons, other than members of the household occupying the dwelling, who may be employed on the residential premises in such circumstances.

- (k) There may be no sharing, letting or subletting of space for use by others in connection with a home occupation.
- (l) There shall be sufficient off-street parking to avoid parking congestion in the public roadway and in order to adequately accommodate the anticipated use of the property in connection with such home occupation.
- (2) The following shall apply to HO-1: a home occupation within a principal dwelling shall not be permitted where more than 1/3 of the total square footage is utilized in connection therewith.
- (3) The following shall apply to HO-2: a home occupation in outbuildings shall be limited to a maximum of 1,000 square feet and the structure shall otherwise comply with the dimensional requirements in the applicable zone. However, the Planning Board may grant an area variance with respect to any setback requirement.

**§ 190-9 Home occupied business (HOB).**

- A. A home occupied business (HOB) involves a lot containing both the principal residence of the owner/operator of the business, and an outbuilding in which such owner conducts such business. Where the principal residence is separated from an outbuilding by an existing Town, County or state road, and where both buildings are in existence as of April 19, 2001, both lots together shall be considered a single lot for purposes of an HOB permit, if both lots have the same tax parcel identification number. The review process for a home occupied business shall be conducted by the Planning Board which may authorize such use by special permit in the RRA-1 and RRA-2 zones. An application to the Planning Board for a special permit for a home occupied business shall include a site plan of the property, drawn to scale by a professional. In general, the Planning Board in granting such a special permit shall determine that the applicant has established by clear and convincing evidence that the impact to the residential area is acceptable, in the sense that, although there is the possibility of generating some impact, the overall use of the lot will not have an adverse impact on the present character of the neighborhood. In addition, the granting of a permit for a home occupied business is subject to the following requirements and provisions. The applicant must establish compliance with these requirements and provisions by clear and

convincing evidence. [Amended 5-17-2001 by L.L. No. 2-2001; 5-17-2012 by L.L. No. 4-2012]

- (1) The residence and the business structure may not be subdivided from each other while the business use is in force. If subdivided, the business use may not continue nor shall the same be considered to be grandfathered to become a separate structure.
- (2) The lot must be a minimum of four acres.
- (3) The business use shall be a nonnuisance use in accordance with the definition for nonnuisance commercial business, § 190-2.
- (4) The owner/resident of the residence must be the active and primary owner/operator of the business.
- (5) The business structure shall be located to the rear of the residence, except for a structure in existence as of the effective date of this chapter. This limitation shall also not apply to any outbuilding which is located farther than 200 feet from the front yard boundary line.
- (6) The business structure shall have a minimum setback of 100 feet from any boundary line. This requirement shall not be applicable for structures existing as of the effective date of this chapter.
- (7) All trash and waste must be kept in covered containers and disposed of as required. No trash or waste materials may be disposed of on the parcel.
- (8) Noise. The applicant must demonstrate by clear and convincing evidence that there shall be no noise emanating from the business which is excessive, unnecessary or unusually loud due to volume, intermittence, beat frequency or shrillness, such that the same shall be perceptible outside the property from where it originates.
- (9) Parking. There shall be one space for each employee plus two additional spaces, and in addition there shall be at least two parking spaces for the residents.
- (10) Employees. The Planning Board shall determine the maximum number of employees allowed to work at the premises, including the proprietor(s). Such determination shall be based upon each of the factors set forth herein and the requirement that the impact to the residential area is acceptable as provided for herein. In no event shall more than nine employees be allowed to work at the premises, including the proprietor(s).

- (11) Exterior lighting must be employed so as not to provide excess glare or lighting directed toward an adjoining property.
- (12) Screening. Minimum screening shall be planting or fencing of such type, height, spacing and arrangement as will effectively screen the business activity from any adjoining lot.
- (13) The business use shall not be entitled to any further accessory uses or additional structures for the business use.
- (14) Sign. A sign is allowed, which shall not exceed dimensions two feet by three feet and may be double-sided. It may be located in the required front yard, provided that it is set back at least 15 feet from all property lines, and is not more than six feet above the natural ground level at its location. The sign shall not be lighted.
- (15) A home occupied business shall not cause a significant increase in neighborhood traffic.
- (16) The Planning Board shall determine the number of vehicles that may be used or stored at the property in connection with the operation of the business. In making such determination, the Board shall consider the size of the lot, the location for parking, and the overall impact the storage and/or use of such vehicles will have with regard to the use of the lot and the present character of the neighborhood. All such vehicles shall be adequately screened or stored in an enclosed structure. The maximum number of vehicles which can be used or stored on the property in connection with the operation of the business shall be four. However, this does not refer to a passenger vehicle and/or pickup truck used by the occupants for their personal use.
- (17) The proposed business use shall not produce any unusual appearance, noise, vibration, smoke, dust, odors, heat, glare or electrical disturbances that would have an adverse impact on the present character of the neighborhood.
- (18) Storage and use and disposal of hazardous substances and petroleum products must meet applicable state and federal regulations.
- (19) Generally, any outbuilding constructed after the effective date of this chapter which is sought to be utilized as a home occupied business shall not be greater than 1,600 square feet. However, the Planning Board may permit a larger structure taking into consideration the proposed location, size of the lot, adequate setbacks, screening and

any other pertinent factors and conditions as set forth herein in support of the requirement that the applicant shall establish by clear and convincing evidence that the size of such building will not have an adverse impact on the present character of the neighborhood. This provision regarding the size of the outbuilding shall not be applicable to existing buildings as of the effective date of this chapter, provided that this shall not relieve the applicant from complying with all of the other terms and provisions required herein. However, in no event shall any such structure exceed 5,000 square feet.

- B. If the Planning Board determines that all of the requirements as set forth herein are met, a special permit will be issued for a period of up to one year, extendable every December 1. For extension, the owner/operator will make an application for such extension to the Zoning Enforcement Officer. The Zoning Enforcement Officer will ascertain (by inspection) that all conditions (general and specific) of the permit are being met. If conformance is determined, then the Zoning Enforcement Officer will renew the special permit for another year. If the Zoning Enforcement Officer believes that not all conditions of the permit are being met, or if there are other zoning violations on the subject property, the Zoning Enforcement Officer shall deny the renewal of the permit and the use of the property for home occupied business shall cease.
- C. The applicant has the right to request a review of any determination by the Zoning Enforcement Officer with respect to renewal of the permit to the Zoning Board if the Zoning Enforcement Officer determines nonconformance, with which the applicant does not agree. Such request must be made within 30 days of such determination by the Zoning Enforcement Officer. The applicant may also make a new application for a special permit at any time, should conditions change and the applicant find that he/she is unable to conform to the conditions of the current special permit.
- D. The fee for a special permit for a home occupied business and the fee for renewal of any such permit shall be as set from time to time by resolution of the Town Board. [**Amended 4-27-2000 by L.L. No. 1-2000**]
- E. The construction of any building(s) or structure(s) by the applicant in connection with any permit issued for a home occupied business shall not be considered as grounds for a variance under any other provision(s) of this chapter or for any proposed use which is not permitted under this chapter, should the special use permit for home occupied business be discontinued.

**§ 190-9.1. Agriculture Farm Stands/Markets and Farm Worker Housing.**

A. Farm Worker Housing. Single and double-wide manufactured homes may be used for farm worker housing. All New York State Fire Prevention and Uniform Building Code requirements for manufactured homes shall be met. Farm worker housing shall meet all Columbia County Department of Health requirements for water and septic systems.

1. All modular, double-wide manufactured, and stick-built housing to be erected for farm worker housing shall be sited so that all density, frontage and setback regulations of the Town of Ghent Zoning Law shall be met so that a future subdivision would result in a conforming lot.
2. Single-wide manufactured homes may be used only for farm worker housing as an accessory use to an active farm operation. In that circumstance, such structures do not need to meet density requirements but shall be set back a minimum of one hundred (100) feet from all side and rear property lines, fifty (50) feet from public road rights-of-way, and fifty (50) feet from other dwelling units or agricultural structures. Any single-wide manufactured home used for farm worker housing shall be removed from the premises within six (6) months of cessation of a farm operation, or when such housing no longer is needed for farm workers.

B. Farm Stands and Farm Markets

1. As per Article 17 of the NYS Agriculture and Markets Law, all packaged food products sold at farm stands and farm markets must be properly labeled in accordance with NYS food labeling requirements. No packaging, cutting, slicing, or portioning of agricultural products or ready-to-eat foods is permitted at farm stands or farm markets unless the proper retail food store sanitary facilities are provided as per Department Circular 962 rules and regulations related to retail food stores. Circular 962 outlines that certain food products may not be sold at farm stands and farm markets unless the proper refrigeration or preparation methods as per NYS Sanitary Rules for Direct Marketing are met.
2. Structures used for Farm Markets must meet the State Uniform Fire Prevention and Building Code, Fire Code and Health Department requirements and receive a Building Permit from the Town of Ghent.
3. All front and side yard required setbacks as per the district schedule of this zoning law shall be met for farm stands and farm markets. When a site plan review is required for a farm market, the Planning Board shall ensure that there will be adequate ingress, egress, parking, and site distances to ensure vehicular and pedestrian safety. All parking for a farm stand shall be provided outside of the roadway or right of way so



that no parked cars are in any travel or right of way at any time.

4. All signage shall meet requirements of Article VIII (signs) of this zoning law.
5. Farm Markets may sell some agricultural products grown off the farm operation. However, a predominance of on-farm products is required.
6. Farm Markets with on-site preparation of processed foods and consumption of foods on-site shall be considered part of a farm operation as per New York State Department of Agriculture if the products that are prepared or consumed are composed primarily of ingredients produced on-farm.
7. Farm Markets shall show proof that facilities are in compliance with local, county and state health requirements.
8. Such use will not interfere with the normal flow of traffic or present a hazard by way of its proximity to the highway and in this regard that adequate pull-off and parking area is provided.
9. Such use will not present a nuisance or be objectionable to neighboring uses in terms of traffic, noise or unsightliness.

## Article IV **Business, Commercial and Industrial Districts**

### **§ 190-10 General provisions.** **[Amended 4-7-2016 by L.L. No. 2-2016]**

Within any Hamlet Business (HB), Village Business (VB), Commercial (C-1, C-2, or C-3) Zone, a building, structure or lot shall conform to the uses indicated in Appendix A, Table of Use Regulations, for the specific district in which it is located on the Zoning Map, and in accordance with the particular classification of such uses in that district. Further, any such building, structure or lot shall only be utilized in conformance with the provisions of Appendix B, Table of Dimensional Regulations. In addition, such uses shall also comply with all other applicable provisions of this chapter. Within any such district or zone, a parcel may be used for more than one use.

**§ 190-11 Airport District.**

If an airport ceases operation for more than two years, the airport district as shown on the Zoning Map and detailed in this local law shall revert to a C-3 commercial district.

**§ 190-12 Performance standards.**

**[Amended 4-7-2016 by L.L. No. 2-2016; 5-18-2017 by L.L. No. 1-2017]**

The following performance standards shall be applicable to any use in a commercial district (C1, C2, C3), hamlet and village business districts (HB and VB) and any non-residential use allowed in a residential district (RRA-1, RRA-2, VR, and HR). The issuance of any permits and/or certificates of occupancy shall be contingent upon compliance with these standards and conditions.

- A. Performance standards procedure. Any application for a building permit for a use which shall be subject to performance standards shall be accompanied by a sworn statement by the owner of subject property that said use will be operated and maintained in accordance with the performance standards set forth herein.
- B. Definition of elements. No land or building subject hereto shall be operated, used or maintained in any manner that may create any dangerous, injurious, noxious or otherwise objectionable fire, explosive or other hazard; noise or vibration, smoke, dust, dirt or other form of air pollution; groundwater or surface water pollution; soil pollution; electrical or other disturbance; glare; or other substance, condition or element in such amount as to adversely affect the surrounding area or premises (referred to herein as "dangerous or objectionable elements").
- C. Determination of enforcement location. The determination of the existence of any dangerous and objectionable elements shall be made: 1) at the point or points where such elements shall be most apparent for fire and explosion hazards, for radioactivity and electrical disturbances, for smoke and other forms of air pollution; 2) at or beyond the property lines of the use creating such elements for noise, for vibration, for glare, for odors, and for other substance, condition or element, wherever the effect is greatest; and 3) at the point(s) of discharge or release for soil, groundwater, or surface water.
- D. Standards to be enforced.
  - (1) Fire and explosion hazards. All activities involving, and all storage of, inflammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and adequate firefighting and fire suppression equipment and devices standard to this industry. Burning of waste materials in open fires is

prohibited. The relevant provisions of state and local laws and regulations shall also apply.

- (2) Radioactivity or electrical disturbance. No activities shall be permitted which emit dangerous radioactivity or electrical disturbance adversely affecting the operation of any equipment. All applicable federal regulations shall be complied with.
- (3) Noise. No noise which is objectionable due to volume, intermittence, beat frequency or shrillness shall be perceptible outside the property where it originates.
- (4) Vibration. No vibration shall be permitted which is detectable without instruments at the points of measurement specified in Subsection C.
- (5) Glare. No direct or sky-reflected glare, whether from floodlights or from high-temperature processes such as combustion or welding, or otherwise, so as to be visible at the points of measurement specified in Subsection C.
- (6) Smoke. No emission shall be permitted from any chimney or otherwise of visible grey or dark smoke of a shade equal to or darker than No. 2 on the Power's Micro-Ringlemann Chart, as amended (being a direct facsimile reduction of a standard Ringlemann Chart issued by the United States Bureau of Mines).
- (7) Odors. No emission shall be permitted of odorous gases or other odorous matter in such quantities as to be readily detectable without instruments at the property line of the zone lot from which they are emitted.
- (8) Other forms of air pollution. No emission of fly ash, dust, fumes, vapors, gases and other forms of air pollution shall be permitted which can cause any health hazard, physical hazard or damage to humans, animals, or the environment.
- (9) Groundwater and surface water pollution. No release by any means of any substance shall be permitted that can pollute or harm groundwater or surface water, including any associated floodplain(s).
- (10) Soil pollution. No release by any means of any substance shall be permitted that can pollute the soil of the property location or any surrounding property. Any use pursuant to this section must adequately prevent soil erosion and/or siltation of surface water bodies.

E. Compliance with this chapter. Upon approval of an application for site plan or a special

permit, the Board may request that applicant agrees to authorize the Town's Zoning Enforcement Officer and/or Building Inspector to enter the property and any structures for the purpose of determining compliance with this chapter including §§ **190-12, 190-13 and 190-19**. Additionally, no site plan approval or special permit shall be granted for any property on which there exists a violation of this chapter, including a violation of any condition of a previous approval, unless the Board finds that the applicant has no legal right or ability to remedy the violation or that the site plan approval or grant of a special permit is necessary to remedy a condition that poses a risk to public health or safety.

**§ 190-13 Design standards.**

**[Amended 8-19-2010 by L.L. No. 4-2010; 4-7-2016 by L.L. No. 2-2016]**

The following design standards shall be applicable to any use in a commercial district (C1, C2, C3), hamlet, and village business districts (HB and VB) and any non-residential use allowed in a residential district (RRA-1, RRA-2, VR and HR). The issuance of any permits and/or certificates of occupancy shall be contingent upon compliance with these standards and conditions.

**A. Access standards.**

**(1) Vehicle access and circulation.**

(a) Curb cuts shall be consolidated in order to provide clearly defined entrances and reduce conflicting vehicular movement.

(b) All uses shall utilize the existing streets to the extent possible.

[1] Any new street shall be located consistent with the official map, if such exists, unless otherwise sufficiently justified and shall be constructed in full compliance with the requirements for new Town roads.

[2] Any alley or lane shall be located consistent with the guidelines for the district in which it is proposed and shall be constructed in compliance with the requirements for driveways.

(c) Driveways, when provided, shall comply with the following:

[1] The minimum distance between the center-line intersection of any two streets and the intersection of a driveway center line and one of said street center lines shall be no less than 60 feet.

[2] All driveway entrances to streets shall be constructed in compliance with the

applicable regulations of the state, county or local agency having jurisdiction over such street.

- [3] In any nonresidential district, wherever a driveway or alley crosses a walkway, special paving accents or textures shall be provided to delineate the walkway.
- (d) Sight triangle. To assure motorists have a clear line of sight at intersections, the Planning Board shall refer to guidance in Guidelines for Driveway Design and Location, by the Institute of Transportation Engineers, and Policies and Standards for Entrances to State Highways, published by the New York State Department of Transportation, as amended, or similar guidelines. In general, except for existing trees having all branches within six feet of the ground removed, no structure or planting more than three feet in height, as measured from the street surface at the nearest edge of the street, shall be erected, placed or maintained within the triangular area formed by:
  - [1] For streets, the intersecting center lines of the streets and a line through two points, each of which is 50 feet distant from such intersection along said center line.
  - [2] For alleys or driveways, the intersecting center lines of the alley or driveway and the street and a line through two points, each of which is 30 feet distant from such intersection along said center line.
- (e) All streets shall be separated physically from walkways by a curb, vegetated strip or other physical separation. Streets and off-street parking facilities may not be used to satisfy any requirement for pedestrian circulation.
- (f) Fire lanes providing access for emergency vehicles shall be established, identified and maintained free from obstruction in consultation with the Fire Department.
- (g) In order to minimize the number of entrances and exits on Routes 9, 9H and 66, owners of lots having frontage on these roads shall, using its best efforts, cooperatively develop inter-lot connections between parking lots, driveways and alleys as part of any new development.
- (h) The Planning Board shall evaluate traffic impacts of a proposed project and shall ensure that any such traffic impacts are minimized, especially in residential neighborhoods.

(2) Bicycle paths. When indicated on the official map, if such exists, or when existing bicycle paths have been developed to or along a lot for which a new use is proposed, such proposal shall include a bicycle path across said lot which shall be separated from the walkways and streets and shall have a minimum of crossings therewith.

(3) Pedestrian access and circulation for all non-residential uses:

(a) Pedestrian access shall be provided and maintained for all parking areas to all uses.

(b) For HB and VB Zones only, a walkway shall be provided to and between each use on a lot.

(c) Walkways may consist of any combination of walks, paths, terraces, patios and similar elements interconnected so as to provide access to all buildings and off-street parking.

(d) The development of any lot shall provide a walkway utilizing sidewalks or an equivalent acceptable to the Planning Board along the full frontage of said lot to connect adjacent lots and to enhance and provide definition to the street providing frontage for the lot.

[1] All sidewalks shall be constructed of concrete, brick, stone, tile, rubber or similar material or combination of materials that exhibit a modular size and pattern. Blacktop or asphalt concrete shall be discouraged for sidewalks, unless it is used as a landscape design element.

[2] All sidewalks shall be designed to be consistent with the Americans with Disabilities Act Accessibility Guidelines, as amended or other similar guidelines, as well as standards of the highway agency if sidewalks are to be located within the right-of-way.

B. Sewer and water requirements. The Columbia County Health Department and, when necessary, the New York State Department of Environmental Conservation shall approve all sewerage and water systems which will service the use in these districts.

C. Distance from residential districts. No building or use other than parking shall be permitted within 50 feet from the boundary line of any residential district or from a property line in a residential district.

D. Screening standards.

(1) Required locations.

- (a) Screening shall be provided to minimize the view of any off-street parking or storage of motor vehicles not located to the rear of the front building line.
- (b) Screening shall be provided to minimize the view of accessory storage.
- (c) Screening shall be provided around any potentially dangerous or hazardous use. Such screening shall also minimize entry by any unauthorized persons.
- (d) Screening shall be provided to minimize the view of any off-street loading dock from any point along a property line common to any residential use or from any street.
- (e) Screening shall be provided to minimize the view of any nonresidential use from any point along a property line common to any residential use, unless the nonresidential uses reasonably blend in with the adjoining residential uses.

(2) Materials. Screening shall be accomplished using the following materials:

- (a) Existing native plant growth.
- (b) An existing combination of topography and native plant growth.
- (c) New landscaping materials.
- (d) A stone or brick wall no more than six feet in height as measured from the adjoining finish grade.
- (e) A fence which blends into the site and its surroundings.

[1] Chain-link fencing may be used where necessary for security purposes, but shall be provided with interwoven or applied material which obscures vision and shall be finished in an earth tone or black color.

[2] Except for agricultural uses, no barbed wire, razor wire, electrically charged wire or similar material that will cause harm to any person or animal shall be installed for the purposes of security, unless the applicant makes a clear demonstration of need.

(f) A vegetated berm.

- (3) Specifications. The Planning Board, in its review of each application, applying the above standards, shall determine the degree of opacity and the height of the screening. In each case, the final design shall provide screening of sufficient height and opacity to minimize the view.

E. Landscaping standards. Landscaping shall define and shape exterior spaces and shall also be used to assist in the direction of pedestrian or vehicular movement, and contribute to the overall aesthetic quality of the site and its environs. A landscape plan shall be prepared by a landscape design professional, architect, engineer or nurseryman. Landscaping shall be required for, among other areas, corridor walkways, parking islands and beds, and screening.

(1) Specifications.

(a) Off-street parking.

[1] Any planting bed shall contain at least one tree and such other plant materials as are recommended by a landscape design professional, architect, engineer or nurseryman for such location.

[2] Any planting island shall contain sufficient trees, shrubs and other plant materials as are recommended by a landscape design professional, architect, engineer or nurseryman for purposes of establishing vertical interruption and definition to vehicular movement.

[3] Any required street separation shall include trees, shrubs, ground cover and grass as appropriate to minimize impervious materials and to provide definition for any walkway contained therein.

(b) Transportation corridors. All new trees shall be spaced according to the height and spread at maturity for each species.

[1] Street trees shall be located within the right-of-way of the street providing frontage for the subject lot, and in accordance with any applicable design guidelines, unless permission cannot be obtained from the agency with jurisdiction over the street to locate trees in the right-of-way. In that case, street trees shall be located on the subject lot adjacent to the right-of-way, in



locations to be determined by the Planning Board.

[2] As required by the Planning Board, vegetative buffers and/or trees shall be provided within the walkway that is part of the street providing frontage for any lot. In no event shall trees be planted in the Town, county or state road right-of-way without permission of the state or local authority with jurisdiction over the right-of-way.

(c) Site furnishings such as benches, tables and chairs, fountains, sculpture, trash receptacles, planters, etc., may be provided in defined public spaces.

(2) Plant materials. All plants shall be natural and shall be maintained in a vigorous growing condition as a requirement of site plan or special use permit approval. Any plant not so maintained shall be replaced with a new plant no later than the beginning of the next growing season. Care shall be taken in the selection and planting of trees so that their roots do not disturb the sidewalk.

(3) Protection. All shrubs and trees shall be protected from potential damage inflicted by vehicles using off-street parking, driveways or other streets by means of a raised curb placed at the edge of the pavement or some other means deemed equally appropriate for this purpose by a landscape design professional, architect, engineer or nurseryman.

(a) The base of any new tree or shrub shall be maintained free from impervious materials that would impede the growth or otherwise impair the health of such plant.

(b) No new tree shall be located closer than 10 feet to any fire hydrant nor closer than three feet to any curb, as measured from the trunk center line of such tree.

F. Open space standards.

(1) Open spaces disturbed by construction shall be restored with appropriate landscaping after construction is completed in accordance with a schedule previously agreed to by the Planning Board. In addition to the definition of "open space" herein, the following specific standards shall apply:

(a) Any space required for the purposes of providing a fire lane shall be maintained free from combustible material.

(b) Any open space required for the purposes of providing a buffer shall be

landscaped and maintained.

- (2) Open space, where required, shall be contiguous and connect to open space on adjacent lots.

G. Architectural features standards. Any documentation describing the architectural features, location and dimensions of buildings shall be prepared by an architect or engineer, including documentation describing new buildings, additions or alterations to existing buildings, and all physical improvements accessory to or necessary for such buildings.

- (1) Architectural features are regulated by the Table of Dimensional Regulations, Appendix B and other provisions in this chapter and the State Building Code. In addition, the following standards shall apply:

- (a) Form. Within any Hamlet or Village Business District, no alteration shall significantly alter, remove or destroy the proportion or detail of any original facade. The proportion and detail of any existing facade shall be maintained when it represents a reasonably accurate example of traditional architecture. The practice of removing or "boxing" period ornamentation with contemporary siding materials shall be discouraged; constructing porches, stoops and verandas consistent with the existing facade shall be considered appropriate alterations.

- (b) Materials. Additions to existing buildings should use materials and details complementary with those incorporated in the parent structure on building facades within any Hamlet or Village Business District.

- (c) Fenestration. New buildings shall articulate each opening in a manner consistent with its location, importance, and purpose. Fenestration shall be of a shape and proportion that is consistent with these guidelines and that of buildings fronting on the same corridor.

- [1] New buildings, or additions to existing buildings, shall reflect any discernible pattern of window and door openings that is established among adjacent structures or is present in the existing building.

- [2] Constructing any blank, windowless facade facing a corridor that provides frontage for the lot on which the building is located should be avoided.

- (d) Roof shape. New buildings shall have a roof shape consistent in proportion, form and character to traditional architecture or buildings in surrounding

neighborhoods.

[1] Flat roofs are inconsistent with the traditional building character of the Town and are not permitted, except where the size or type of the building requires a flat roof, and facade variations and other architectural features can disguise the flatness of the roof, e.g., use of a decorative parapet. At the discretion of the Planning Board, a flat roof may be permitted where it is determined that the roof shape is consistent with the historic character of adjoining buildings, or buildings within 100 feet of a proposed building.

[2] Low-slope roofs utilizing parapets, cornices and false fronts may be considered depending on the style of nearby buildings.

(e) Large building design, where the building has a facade longer than 100 feet, shall present the appearance of a grouping of two or more small, well-proportioned buildings incorporating bays, wings, verandas, porticos, courtyards and similar elements as unifying features.

(2) Building location is restricted by the Table of Dimensional Regulations, Appendix B. In addition, building heights and architectural and landscaping features shall establish or retain the spatial definition of all corridors.

(3) Building dimension is restricted by the Table of Dimensional Regulations, Appendix B. In addition, the following guidelines shall apply:

(a) Any large building facade and the sides visible from the transportation corridor shall incorporate changes in plane and architectural features that give the appearance of several common-wall buildings.

(b) The height of any new building shall generally be within one full story of the existing buildings on adjacent lots.

H. Protection standards. For the purposes of protecting adjacent land uses and the environment, certain physical features or improvements shall be required.

(1) Lighting. No artificial illumination device shall be erected, constructed or otherwise installed except in accordance with the following:

(a) No such device shall spill light beyond the boundaries of the lot upon which it is

located to the extent that it would disturb a reasonably sensitive individual on the adjacent lot, and provided that there is no spillage into any street, thereby becoming a potential traffic hazard, provided that light spillage may be permitted, upon review and approval of the Planning Board, where the light spillage is intended to light adjoining sidewalks for safety purposes.

- (b) All such devices shall direct light downward. Upward illumination is permitted for flags, provided there is no spillage to adjacent residential properties to the extent that it would disturb a reasonably sensitive individual on the adjacent lot, and provided there is no spillage into any street, thereby becoming a potential traffic hazard.
  - (c) The maximum height of any freestanding illuminating device shall be 16 feet as measured from the finish grade at the base of the supporting structure to the point of the light source on the device.
  - (d) Any illuminating device located within, along or immediately adjacent to any walkway shall be restricted to a maximum height of 12 feet as measured from the finish grade directly below such device to the point of the light source on such device.
  - (e) No illuminating device shall consist of any flashing, blinking or moving light source.
  - (f) Any device used to illuminate and display any building, structure, landscape, sign or the like, that incorporates a lamp greater than 375 lumens, shall have such lamp or bulb screened from direct view by the general public.
- (2) Historic site. Any use within 50 feet of any place located on the State or National Register of Historic Places shall minimize any adverse impacts on the historic character of such place.

#### I. Loading facilities.

- (1) Provisions for handling of all freight shall be on those sides of any building which do not face any street or any proposed street. Furthermore, loading docks or areas, trash pickup points and truck delivery routes shall be restricted to locations that are separate from customer-travelled areas.
- (2) Where loading facilities are required for a use, they must be adequate.

## J. Parking requirements.

- (1) Parking facilities specifications. The parking layout shall reflect a well-conceived parking/customer access plan which utilizes appropriate channelization and movement control devices.
- (2) Required off-street facilities may be enclosed in a structure or may be open. The minimum paved width of an ingress and egress to parking spaces shall be: for parallel side parking, 12 feet; for thirty-degree singular side parking, 11 feet; for forty-five-degree singular side parking, 14 feet; for sixty-degree singular side parking, 19 feet; for ninety-degree perpendicular side parking, 24 feet. A car space shall be a usable area of not less than 162 square feet in area and not less than 9 feet in width, all paved with appropriate impervious material. Such space(s) shall be accessible from an approved street or ingress-egress way, as approved by the Planning Board. Parking areas shall be constructed and suitably maintained. Notwithstanding the above, the minimum width shall be 9 feet and minimum depth shall be 18 feet for parking spaces.
- (3) Use specifications.

Use	Minimum Recommended Parking Space
Residential use in VB and HB	1.5 space per unit
Nonresidential use in VB and HB	4 spaces for each 2,000 square feet floor area
Business, professional governmental offices and service businesses	1 space for every 300 square feet of floor area
Restaurants or other places serving food, beverages or other refreshments	1 per 200 square feet of floor area
Retail food stores	1 per 200 square feet of floor area
Retail or service businesses, including laundries and laundry pickup stations	1 per each 300 square feet of floor space designed to be used for business purposes
Hotel or motel	1 for each guest room plus 1 for each 2 employees
Nursing home or health-related facility	1 per employee plus 1 space for each 4 beds in the facility
Manufacturing or industrial establishment, including offices and other incidental operations on the same site	1 space for each 400 square feet of gross floor area, or 3 spaces for each 4 employees
Laboratories and research establishments	1 space for each 400 square feet of gross floor area, or 3 spaces for each 4 employees
Warehouse or storage building	1 space for each 1,000 square feet of gross floor area, or 1 space for each employee
Public utility facilities, electric, gas, water,	1 space for each employee, including but not less

<b>Use</b>	<b>Minimum Recommended Parking Space</b>
telephone and telegraph facilities not having business offices on the premises	than 2 spaces for each such facility
Public utility facilities, electric, gas, water	1 space for each employee, including but not less than 2 spaces
Other permitted uses	As deemed necessary by the Planning Board during site plan review

K. Refuse area. Any refuse area shall be fenced or screened from view and must be approved by the appropriate reviewing board as to location and design.

**§ 190-14 Application for building or use permits.**

**[Amended 5-16-2002 by L.L. No. 2-2002; 4-7-2016 by L.L. No. 2-2016]**

Application shall be made to the Zoning Enforcement Officer and will be subject to review in accordance with Appendix A and B. The Zoning Enforcement Officer shall also review the application to determine whether a site plan or modified site plan review pursuant to Article VI is required, whether a review under the State Environmental Quality Review Act (SEQRA) is required, and shall conduct a review to assure compliance with all the applicable performance standards and design standards referred to herein. For projects that require Planning Board review, and in order to assure compliance with performance and design standards, the Planning Board may require the posting of a bond. If a special permit, site plan, or modified site plan review is needed, the application will be referred to the Planning Board for review and determination. If a variance is needed, the application will be referred to the Zoning Board for determination. Appeals being considered by the Zoning Board of Appeals shall also be referred to the Planning Board for its recommendation. In case of dual referral to both the Planning Board and the Zoning Board of Appeals, the Planning Board shall take the lead agency role and conduct the review under the State Environmental Quality Review Act (SEQRA). The application will include the following:

- A. Application fee as provided for in the fee schedule adopted by the Town Board.
- B. Proof of landownership or lease. Applicant(s) must show evidence of a full ownership interest in the land such as legal title to the land or the execution of a binding sales agreement or lease.
- C. Site plan developed in detail to describe the character and scope of the proposal completely, as set forth in Article **VI** herein.
- D. The Planning Board and/or Zoning Board shall approve, approve with modifications or disapprove such application. In making its determination, the Planning Board or Zoning

Board shall satisfy itself that the applicant meets or will meet all of the performance and design standards set forth herein. In the appropriate instance, the Planning Board or Zoning Board may grant preliminary approval, subject to further review and final approval after completion of the project.

**§ 190-15 Solar energy facilities.**

**[Added 4-7-2016 by L.L. No. 2-2016]**

- A. Purpose and objectives. The proliferation of solar energy systems ("SES") as an environmentally friendly and cheaper energy alternative is expected in the coming years, and this equipment and the installation thereof must be reasonably regulated in order to protect the health, safety and welfare of the citizens of the Town of Ghent and, to the maximum degree possible, to coordinate and control the same to preserve and protect the aesthetic qualities of the Town. The Town recognizes the demand for SES facilities and the need for the services they provide. This section regulates SES installations to ensure that any such proposed energy system is designed, located, and installed in accordance with sound planning by:
  - (1) Promoting the health, safety and welfare of the residents of the Town.
  - (2) Minimizing the adverse visual effects of alternative energy systems and protecting the natural features, aesthetics and residential character of the Town through careful planning, design, location, buffering, and screening.
  - (3) Avoiding potential damage to adjacent properties from falling or flying debris from SES facilities through careful engineering and reasonable siting of energy system structures.
- B. The primary purpose of any commercial SES facility shall be to generate power for sale or resale to utilities or commercial users. Building mounted, ground mounted and agricultural SES primary purpose shall be to provide power for use by individual, principal residences, businesses or farms. **[Amended 5-18-2017 by L.L. No. 1-2017]**
- C. No SES shall be located or operated so as to impede the function of any other SES facility or of any radio or microwave communication device.
- D. No SES shall be located so as to reduce or impede the amount of sunlight that would fall on an adjoining lot absent the SES.
- E. Solar energy systems.

- (1) Notwithstanding that a building permit shall be required, building-mounted SES facilities shall be permitted without site plan approval, provided such facilities meet the following standards:
  - (a) SES facilities on a peaked, pitched, gable, hip, or mansard roof shall be mounted parallel to and no more than 18 inches above the roof surface and shall be located no less than three feet from the edge of any part of the roofline.
  - (b) SES facilities on flat roofs having no parapet shall be located no less than three feet from the edge of any part of the roofline nor more than three feet above the height of the roof.
  - (c) SES facilities on flat roofs with a parapet shall be located no less than three feet from the edge of any part of the roofline or parapet nor above the height of the parapet.
  - (d) SES facilities shall use neutral, nonreflective colors and shall, unless proven to be impractical or unnecessary, match the roof or wall color mounted thereon.
  - (e) All utility services and electrical wiring shall be underground or otherwise placed within conduit securely attached to the roof and walls.
- (2) Ground-mounted SES facilities of any type shall be permitted subject to the following standards:
  - (a) Site plan approval shall be required for each ground-mounted SES facility.
  - (b) Accessory use SES facilities shall be located only in the side yard or rear yard and shall meet the minimum setback requirements for a principal structure for the zoning district in which it is located. **[Amended 5-18-2017 by L.L. No. 1-2017]**
  - (c) No part of the SES shall exceed 20 feet in height above the finished grade of the site at the SES location.
  - (d) The SES shall be adequately screened pursuant to § **190-13D**.

F. If an SES facility ceases to perform its originally intended function for more than 12 consecutive months, the property owner shall remove the facility no later than 90 days after the end of the twelve-month period.



- G. If any subsection or specific part or provision or standard of this section or the application hereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such subsection or specific part or provision or standard shall be deemed a separate, distinct and independent provision, and such judgment shall not affect the validity of the remaining portions thereof.
- H. To the extent that any provision of this section is inconsistent with the Town Law or the Energy Law, or the Real Property Law, or the General Municipal Law, the provisions of this section are expressly intended to and do hereby supersede any such inconsistent provisions under the Town's municipal home rule powers, pursuant to Municipal Home Rule Law § 10, Subdivision 1(ii)d(3), § 10, Subdivision 1(ii)a(4); and § 22 to supersede any inconsistent authority.

## Article V

### Special Permit Uses

**§ 190-16 Delegation of authority.**

**[Amended 5-20-1999 by L.L. No. 4-1999; 5-16-2002 by L.L. No. 2-2002]**

The Town of Ghent Planning Board is hereby authorized to act on proposed special permit uses which are specifically provided for in this chapter, including special permits for home-occupied businesses and also for telecommunications towers. Such action may include approval, conditional approval or disapproval based on the standard set forth herein. Any reference hereafter to the “Board” shall mean the Town of Ghent Planning Board.

**§190-17 General procedure and conditions.**

- A. The Board shall adopt such rules of procedure as it may deem necessary to the proper exercise of its responsibilities with respect to special permit uses.
- B. Prior to taking action on any special permit use, the Board shall hold a public hearing after public notice as provided for herein. No action shall be taken respecting such matter until all interested parties shall have been given an opportunity to be heard. Within sixty-two (62) days of receipt of a complete application, the Planning Board shall hold a public hearing. Notice of the public hearing shall be published in the official newspaper at least five (5) days prior to the date set for public hearing. The Planning Board shall send, or cause to be sent, notice of the Public Hearing to abutting property owners and those agricultural operators identified on the Agriculture Data Statement at least seven (7) days prior to the public hearing. At least ten (10) days before such hearing, the Planning Board shall mail such notices thereof to the applicant and to the Columbia County Planning Board as required by Section 239-m of the General Municipal Law, which shall be accompanied by a full statement of such proposed action.
- C. All matters which are subject to a mandatory referral or notice to other agencies, as set forth in the General Municipal Law, shall be transmitted to the appropriate agencies in accordance with the provisions of those sections.
- D. Each decision of the Board with respect to the approval of a special permit use shall be set forth in writing and filed in the Town Clerk's office and a copy shall be sent to the Building Inspector and/or Zoning Enforcement Officer.
- E. A special permit authorization by the Board for the issuance of a building permit shall expire within 90 days of such authorization in the event that such permit shall not be applied for within such ninety-day period. Extension of such authorization may be granted by the Board for two additional ninety-day periods upon good cause shown.
- F. A special permit use for which a building permit is authorized by the Board pursuant to the provisions of this section shall be construed to be a conforming use.
- G. Any violation of the limitations or special conditions and safeguards established by the Board with respect to a specific authorization for a special exception use shall be deemed a violation of this chapter, punishable under the provisions of Article XI.
- H. The fees for special permit use applications shall be established by the Town Board.
- I. Coordination with Site Plan. All applications that require a Special Use Permit shall also require Site Plan Review and Approval by the Planning Board.
- J. The Planning Board shall review site plans and special use permit applications concurrently. All procedural and submission requirements shall be coordinated so as not to delay review and decision-making. In order to facilitate this coordination, any required information from Article VI shall accompany the special use permit application.

- K. Area variance. Where a proposed special use permit contains one or more features which do not comply with the zoning regulations, application may be made to the Zoning Board of Appeals for an area variance pursuant to Article X, without the necessity of a decision or determination by the Zoning Enforcement Officer.
- L. Use variance. All use variance applications to the Zoning Board of Appeals shall be made only after denial of a permit by the Code Enforcement Officer.
- M. Expansion of special use. The expansion of any special use shall require amendment and approval of the special use permit by the Planning Board in accordance with the procedures set forth in this Zoning Law. For purposes of this section, expansion shall be interpreted to mean an increase in the floor or lot area allocated to the special use, an increase in development coverage, increased hours of operation, or an increase in the intensity of the use, e.g., an increase in traffic or need for on-site parking.
- N. Decisions
  - 1. Time of decision. The Planning Board shall decide upon the special use permit application within sixty-two (62) days after the close of the public hearing, subject to compliance with the requirements of SEQRA and the General Municipal Law Sections 239-l and 239-m. The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Planning Board.
  - 2. Type of Decision. In rendering its decision, the Planning Board shall approve, disapprove or approve with modifications and conditions the special use permit application. In authorizing the issuance of a special use permit, the Planning Board has the authority to impose such reasonable conditions and restrictions as are directly related to, and incidental to, the proposed special use. Upon its granting of said special use permit, any such conditions must be met before issuance of permits by the Zoning Enforcement Officer, Code Enforcement Officer or Building Inspector.
  - 3. Filing. The decision of the Planning Board shall be filed in the office of the Town Clerk within five (5) business days of the date such decision is rendered, and a copy thereof shall be mailed to the applicant.
  - 4. A special use permit shall be deemed to authorize only the particular special use or uses permitted. Once a special use permit has been granted, it shall apply to the approved use on that parcel regardless of ownership, as well as to any subsequent use of the property in the same use category as per the Use Table, provided that such use has no greater impact on adjoining properties, complies with all terms and conditions of the special use permit, and does not involve new construction, enlargement, exterior alteration of existing structures, increased parking, or other changed use of outdoor areas, or lapses in use.
- O. Conditions. The Planning Board shall impose additional conditions and safeguards to the special permit use as are directly related to and incidental to the proposed special use

permit and which may be necessary to assure continual conformance to all applicable standards and requirements, including reasonable assurance that these conditions and safeguards can be responsibly monitored and enforced. Restrictions and/or conditions may include those related to design of structures or operation of the use (including hours of operation) necessary either to ensure compatibility with the surrounding uses or to protect the resources of the Town.

- P. Special use permits shall expire if the applicant fails to obtain any required building permit within 90 days after the date of issuance of the special use permit.
- Q. Special use permits shall expire if the applicant fails to comply with any of the conditions of the special use permit within the time frame established in the special use permit or otherwise within 180 days after the date of issuance of the special use permit.
- R. Special use permits shall expire if required construction operations have not substantially commenced within 180 days after the date of issuance of the special use permit. Extension may be granted by the Planning Board upon an application showing reasonable grounds for delay and a reasonable date by which construction operations will substantially commence. A determination should be made by the Planning Board within 65 days of submission of a completed application to the Planning Board.
- S. Special use permits shall expire if required construction operations, once substantially commenced, shall cease for a period of more than 90 days. Extension may be granted upon a showing of reasonable grounds for delay and a reasonable date by which construction operations will substantially resume.
- T. Special use permits shall expire if the special use or uses shall cease for more than 12 consecutive months for any reason.

#### § 190-18 **General standards.**

For every such special permit use, the Board shall determine that:

- A. Such use will be in harmony with and promote the general purposes and intent of this chapter and shall be consistent with the Town of Ghent Comprehensive Master Plan.
- B. Such use will be in harmony with the character and environment of the district and with permitted uses in the general area of the property and shall not be detrimental to such district or uses.
- C. The proposed use will not have a significant adverse impact on adjacent properties.
- D. The lot shall be of sufficient size, appropriate and adequate for the proposed use and the reasonably anticipated operation and expansion thereof.

- E. The proposed use conforms with any special requirements or conditions as set forth hereafter.
- F. Access facilities, entrances and exits shall not have the effect of creating traffic congestion or a potentially unsafe condition. In this regard the Board shall consider the estimated traffic to and from the site and the use of the site by customers and/or the public. Vehicle entrances and exits shall be clearly visible from the street.
- G. All proposed curb cuts and/or driveways have been approved by the appropriate agency or agencies having jurisdiction.
- H. There is adequate off-street parking and loading facilities sufficiently constructed for the anticipated number of occupants, both employees and patrons or visitors, and further that the layout for the spaces and driveways adequately addresses all safety issues.
- I. There is adequate buffering and screening between the proposed site and adjoining properties in order to adequately protect the characteristics and uses of the adjacent properties and land uses.
- J. The applicant shall demonstrate that there is an adequate supply of water to the site and that adequate provisions have been made for sewage, refuse or other waste.
- K. The applicant shall demonstrate that there has been adequate provision for the collection and disposal of all drainage and stormwater runoff from the site. All requirements of the New York State SPDES General Permit for Stormwater Discharges from Construction Activities shall be met.
- L. The proposed use shall be in compliance with all applicable performance and design standards as set forth in this chapter.
- M. The location, size of the use, nature and intensity of the operations, site layout and its relation to streets and highways giving access to the site shall be such that the proposed use will not be hazardous, inconvenient or detrimental to the neighborhood. In applying this standard, the Board shall consider, among other things, convenient and safe routes of pedestrian traffic, particularly of children, relation to main traffic thoroughfares and to street and road intersections, and the general character and intensity of the development of the neighborhood.
- N. The applicant has secured all necessary permits from any federal, state or local authority,

including site plan approval; provided, however, that the Board may, in its sole discretion, grant conditional approval and establish a time frame for final approval upon the issuance of any required permits. In this regard, the applicant shall demonstrate that all necessary permits have been applied for. Conditional approval shall not be applicable for permits required for ingress and egress.

- O. The applicant has demonstrated compliance with all wetlands and all flood zone regulations.
- P. The proposed use shall have adequate lighting, but such lighting will not shine directly on or result in unnecessary glare to adjacent properties.

**§ 190-19 Special conditions and safeguards for certain special permit uses.**

No authorization for a building shall be granted by the Board for any use listed in this section, unless the Board shall specifically find that, in addition to meeting all the general standards set forth in Article V, the proposed special permit use also meets the special conditions and safeguards required in this section. Notwithstanding the foregoing, any use by special permit in all districts shall also comply with the design standards set forth in § 190-13 and the Dimensional Regulations of Appendix B.

- A. Adult use and entertainment establishments. Adult use and entertainment establishments shall be permitted subject to the following special conditions and safeguards. No variance may be granted with respect to any of these requirements:
  - (1) An adult use and entertainment establishment shall be allowed only in the C-I-3 Zoning District and within such district shall not be allowed:
    - (a) Within 500 feet of the boundary of any residential zoning district in the Town;
    - (b) Within 500 feet of the property line of a parcel used for residential purposes in the Town;
    - (c) Within 500 feet of the property line of a parcel containing a church, synagogue, other place of worship, library, school, day-care facility, park or playground in the Town;
    - (d) On the same parcel as another adult use and entertainment establishment; or
    - (e) Within 1,000 feet of the property line of another adult use and entertainment

establishment, whether or not such other establishment is located in the Town.

The above distances of separation shall be measured from the nearest exterior wall of the portion of the structure containing the adult use and entertainment establishment.

- (2) An adult use and entertainment establishment cannot be an accessory or secondary use to any other permitted use existing at the subject property.
- (3) All adult use and entertainment establishments shall be conducted in an enclosed building. It shall be a violation of this Zoning Law to display or exhibit (in the open air, through a window, or by means of a sign, depiction or decoration), or to allow to be displayed or exhibited, any specified anatomical area or specified sexual activity.
- (4) All adult use and entertainment establishments must also comply with all of the other rules, regulations and laws of the Town of Ghent, including but not limited to district lot, bulk and setback requirements and reasonable parking, signage, screening and lighting requirements, as well as all of the rules, regulations and laws of the State of New York and the United States of America.
- (5) Adult use and entertainment establishments shall not permit persons under the age of 18 years to enter the premises.
- (6) Adult use and entertainment establishments shall not publicly display explicit or sexual messages or images.
- (7) No alcoholic beverages may be served or allowed on the premises of an adult use and entertainment establishment; nor shall alcoholic beverages be sold at an adult use and entertainment establishment for consumption off premises.

B. Agricultural Processing, Commercial and On-Farm.

- (1) No person shall operate a commercial agricultural processing operation unless that person has first obtained any and all required State or Federal licenses or permits, including USDA certification where required.
- (2) However, the processing of a person's own animals, including transportation in intrastate commerce of the animal's products, is allowed without special certification if they are exclusively for use by the owner or members of the owner's household, non-paying guests or employees. See also Use Table for agricultural processing, on-farm.

- (3) The butchering or processing of any wild game taken by permit issued by the New York State Department of Environmental Conservation is a permitted accessory use in all districts of the Town.
- (4) Agricultural processing facilities shall meet the following conditions:
  - (a) The slaughter of animals shall take place inside a closed building in a confined area to prevent the transmission of sound associated with the slaughter to the outside.
  - (b) Animals shall be enclosed in gated enclosures with a minimum height of six feet. Fencing shall be sufficient to provide adequate screening and contain animals securely on the property at all times.
  - (c) All loading and unloading areas shall be screened from view from adjacent properties and public streets. All exterior storage areas shall be fenced and fully screened from adjacent property and public streets.
  - (d) There shall be a 200' setback from an agricultural processing operation to any commercially used property and a 200' setback from any residentially used property.
- (5) For commercial agricultural processing facilities:
  - (a) There shall be a minimum lot size of 10 acres for any commercial agricultural processing facility.
  - (b) The maximum area the entire operation including for the keeping or slaughtering of animals shall not exceed 10,000 square feet.
  - (c) The main entrance to a commercial agricultural processing facility must be located on a state highway or county road.
  - (d) No feedlot shall be allowed on-site for commercial facilities.
  - (e) Live animals at a commercial agricultural processing facility may be held on the site for no more than twenty-four hours.
- (6) Disposal of waste shall be in accordance with all applicable state and county laws and regulations. The facility must have all necessary federal and state permits and



approvals and comply with all health and safety regulations. This is meant to include, but is not limited to all sewage, processed and unprocessed animal parts, manure, entrails, blood, hides and bones.

C. Artists cultural center or retreat. An artist's cultural center or retreat must have at least 20 acres of land.

D. Auditorium, meeting hall.

(1) No building or structure shall be located within 50 feet of any property line.

(2) Lot coverage shall not exceed 20%.

(3) The site boundaries shall be at least 200 feet distance along any bounding street from any residential district boundary line.

E. Bed-and-breakfast facility.

(1) Any application shall include a site plan which shall be reviewed and approved by the Board in accordance with the applicable standards of this chapter. The site plan shall show the location of all improvements on the property, including the location of the well, septic system and proposed area for parking.

(2) The facility must be operated by the owner(s) of the parcel or structure involved, who shall reside on the premises at all times that guests are there.

(3) The facility shall have not more than four rooms for fee paying guests. Such rooms must be located in the main dwelling.

(4) The minimum lot size required for the establishment of such a facility shall be the minimum lot size for a single-family dwelling in the district where the parcel is located, plus 10,000 square feet for each room utilized by fee paying guests.

(5) The applicant must submit proof satisfactory to the Board, demonstrating that the on-lot septic system and water supply is adequate for the maximum occupancy of this facility, including the resident/owner operator.

(6) No meals may be served other than breakfast. No meals or beverages shall be served to persons other than those who are actual fee-paying guests or the resident/owner operator.

- (7) There must be a common dining area; a separate dining area for guests only is not permitted.
- (8) Off street parking requirements:
  - (a) Generally, off street parking shall be located in the rear yard only. However, an area variance for this requirement may be granted by the Board under appropriate circumstances.
  - (b) The parking area shall be constructed of a suitable surface.
  - (c) The minimum number of parking spaces shall be as follows: one person per each room to be utilized by fee paying guests, three for the resident owner/operator and his or her family.
- (9) There shall be compliance with the sign regulations as set forth in Article VIII.
- (10) Approval of ingress and egress to and from the premises shall be obtained from the highway agency having jurisdiction over the road in which the property fronts.
- (11) If, after the approval and issuance of a special permit for a bed-and-breakfast facility, the Zoning Enforcement Officer shall subsequently determine that there is a violation of any of the applicable terms, conditions and standards set forth herein for a bed-and-breakfast facility, or with regard to any of the applicable provisions of the Zoning Chapter, then the Zoning Enforcement Officer may revoke the special permit issued for the bed-and-breakfast facility.

F. Bulk storage and distribution of fuel, kerosene, oil, or propane, excluding Filling Stations.

- (1) Any such installation of flammable liquids or gas shall be in conformance with the applicable recommendations of the National Board of Fire Underwriters.
- (2) The recommendations of the local fire chief having jurisdiction shall also be considered prior to approval of such a use.
- (3) All such uses shall be located on sites large enough to contain the impact of any potential accident that might result from their existence without damage to adjacent properties.

G. Bus passenger shelter. The shelter shall be so located that there is ample room to permit the bus to leave the traveled roadway conveniently for picking up or discharging passengers.

H. Campgrounds.

- (1) The maximum number of sites shall be 50.
- (2) A seasonal campground shall be a minimum of 10 acres.
- (3) The applicant shall demonstrate that there is adequate water and sewers for each unit.
- (4) The applicant shall demonstrate that there is adequate ingress and egress for each unit and adequate ingress and egress to and from the public roadway.
- (5) The applicants shall secure all necessary permits from New York State and from the Columbia County Health Department.

I. Car wash.

- (1) The lot area shall not be less than 20,000 square feet, and shall have a minimum frontage of 150 feet along a major street or highway.
- (2) No church, school, library, playground or similar place of public assembly shall be within 500 feet of the site.
- (3) Storage area for vehicles waiting for service shall be provided on-site and shall not occur on a public street or highway. Not more than five motor vehicles shall be stored outdoors overnight.
- (4) A car wash shall not provide other than washing, waxing, simonizing or similar treatment services.
- (5) Outdoor storage and display of accessories, portable signs and outdoor repair work shall be prohibited at all times. Premises shall not be used for the sale, rent or display of automobiles, trailers, mobile homes, boats or other vehicles.

J. Commercial rural recreational facilities.

- (1) Commercial rural recreational facilities shall be limited to those customarily considered to be outdoor sports, except those sports that involve motorized racing or contests involving motorized vehicles.

- (2) Supplementary accessory commercial uses designed to support the principal use of the land shall be oriented in the site plan and in appearance toward that principal use rather than to the road frontage and transient services.
- (3) Public access to such use shall only be from a public highway.
- (4) There shall be compliance with the sign regulations set forth in Article VIII.
- (5) All the activities of such recreational use shall be contained on the site and at a sufficient distance from the boundaries so as not to adversely influence the development of adjacent properties.
- (6) The development plan for such site shall clearly demonstrate the intent to maintain the site's natural environment in its native condition and thus to conserve the appearance of the countryside and minimize the impact of parking areas and of cleared wooded areas.
- (7) The site shall have a minimum area of 50 acres unless the applicant can demonstrate by clear and convincing proof that the use can adequately exist with less acreage. Not more than 50% of the site shall be devoted to such use. The remaining 50% shall be maintained as a natural transition or buffer area.

K. Commercial Sawmills.

- (1) All commercial sawmills shall require either site plan approval or both special use permit and site plan review by the Planning Board as per the Use Table.
- (2) Commercial sawmills shall be allowed only when accessible from either a State or County highway.
- (3) Hours of operation shall be limited to 7AM to 6PM, Monday through Friday and Saturday 7AM to 12 noon. Operation of the sawmill business shall not occur on the following holidays: Memorial Day, Labor Day, July 4th, Thanksgiving, Christmas and New Year's Day.
- (4) Vehicular access to the sawmill shall be by means of an access drive at least twelve feet (12') wide and the first fifty feet (50') of which from the road along the drive must be paved. The rest of the drive beyond the first fifty feet (50') can be a stone surface.
- (5) All aspects of the sawmill operation (except access drives) shall be set back no less

than 200 hundred feet (200') from the front and rear of the property and one hundred feet (100') from the side property lines and five hundred feet (500') from any residentially zoned or used property or church or school. The Planning Board may require a visual screen comprised of evergreen trees to be planted along any site boundary line that abuts one or more residential lots. The Planning Board shall have the discretion to require greater front, back and side setbacks of up to five hundred feet (500'), and/or to require a berm or other appropriate noise barriers, where circumstances require, to prevent a disturbance to persons or farm animals on neighboring properties.

- (6) All sawmill by-products shall be disposed of on a regular basis so as not to create a nuisance or hazard and shall in no event be allowed to accumulate longer than three (3) months before being removed and properly disposed of. No storage of logs, lumber, sawdust, bark, scrap wood or equipment of any kind shall be permitted within any yard setback area at any time. Lumber/logs shall be piled with due regard to stability of piles and in no case higher than twenty (20) feet.
- (7) No sawmill activity or storage shall be within one hundred feet (100') from the edge of any stream or any wetland as defined by state or federal law.
- (8) The minimum lot size for a sawmill shall be twenty (20) acres with four hundred feet (400') of road frontage.
- (9) Timber and logs shall not be skidded across any roads or highways nor shall log skidders cross same as part of operations at any time.
- (10) Sawmills shall be housed in the confines of a building.
- (11) No burning of shavings, sawdust and refuse materials shall be permitted on the premises.
- (12) These sawmill regulations apply to all operations involving the processing of timber not constituting a "timber operation" as defined in Section 30 I subdivision 14 of the NYS Agriculture and Markets Law.

L. Concerts, exhibitions or festivals.

- (1) This use shall be subject to site plan review by the Planning Board.
- (2) The applicant must notify the relevant fire departments, police agencies, Columbia

County Health Department and emergency management agencies and shall demonstrate compliance with all requirements from these entities.

- (3) The applicant must demonstrate adequate measures have been taken in connection with fire protection, crowd security, police protection, public safety, traffic regulation, parking, sanitary facilities, adequate water supply, garbage disposal, emergency evacuation plan, first aid and cleanup.
- (4) The Planning Board is authorized to regulate hours for the event.
- (5) No such activity shall take place within 300 feet of an adjoining lot owned by a different person or entity. The Planning Board is authorized to require adequate fencing of the perimeter for this proposed use, if appropriate.
- (6) The Planning Board shall have the authority to require a bond posted for the adequate performance by the applicant of the conditions of any permit.
- (7) The applicant shall execute a written authorization permitting officials of the Town, county and state, or their designated agents, including fire personnel and police, for concert/festival inspections before, during and after such event.
- (8) The applicant shall obtain adequate insurance to be reviewed and approved by the attorney for the Town. The Planning Board shall require the applicant to name the Town as an additional insured for any such concert or festival. Such insurance shall be for a minimum of \$1,000,000 for bodily injury or death and not less than \$1,000,000 for property damage. The Planning Board shall further have the authority to require insurance at greater levels upon a determination that such minimum amounts are insufficient based upon the size and/or scope of the event. Failure of the applicant to keep such policy in effect will result in automatic revocation of the permit.
- (9) There shall be no more than two concerts/exhibitions/festivals held at any one site during the course of any calendar year. The maximum duration for each such event shall be part or all of two calendar days.
- (10) There shall be no more than two concerts/exhibitions/festivals held by any organization or individual(s) during the course of any calendar year. The maximum duration for each such event shall be all or part of two calendar days.
- (11) The Planning Board shall have the authority to deny the request for a special permit for concerts, exhibitions or festivals in the case where the applicant has previously held

such event and did not adequately comply with the requirements of the special permit issued for such previous event.

- (12) Any special permit granted for concerts, exhibitions or festivals as provided for herein shall be specific to that particular event only and shall not run with the land.
  - (13) No application for special permit for concerts, exhibitions or festivals shall be made greater than one year from the proposed date for such activity.
  - (14) The applicant shall provide the name of an individual who is determined by the Board to be responsible as the person in charge of the use and who shall be on the property or available while the property is occupied or in use for such activity.
  - (15) The applicant shall authorize any employee or representative of the Town to enter the premises at any reasonable time to ascertain compliance with the provisions of any such permit.
  - (16) The applicant shall provide satisfactory proof to the Planning Board that there will be removal of all structures erected for use during such event immediately after conclusion of such event.
  - (17) Nothing set forth herein shall be construed to waive the requirements of § 190-18 of the Ghent Code, which shall be applicable hereto.
  - (18) The Planning Board shall create an application for this use in accordance with the provisions set forth herein and may amend same from time to time as it deems necessary.
  - (19) Notwithstanding anything set forth in this subsection to the contrary, any event conducted or sponsored by the Town or any fire company in the Town for the benefit of the community shall be exempt from these regulations, shall be considered a permitted use and shall not require site plan approval.
- M. Contractor facility. In addition to the existing standards for the applicable zone, the following special performance standards are also applicable to this use:
- (1) All equipment and materials must be stored in buildings and structures having a roof and a minimum of three sides.
  - (2) All motor vehicles and trailers registered for over-the-road use shall be stored only in

the rear yard. Such storage or parking areas shall be screened from adjacent lands by the use of a solid fence, not less than eight feet high, or a double row of evergreen plantings, at least eight feet high, spaced no more than six feet apart, that constitutes a visual barrier.

- (3) No construction debris shall be stored on site except in containers (dumpsters) and such containers shall be emptied on a regular basis. No excavated materials shall be stored on site. Any materials returned to the site for future use shall be stored within a building or structure having a roof and a minimum of three sides. No storage of junk or debris shall be permitted.
- (4) All repair and maintenance of vehicles and equipment shall be performed only within a building or structure. Large excavating equipment may be repaired outdoors, providing the area used for such repairs is completely enclosed by a solid fence not less than eight feet in height.
- (5) Ancillary professional services such as engineering, design services, interior decorating services, etc. may be located on the site as a permitted part of the contractor facility. No retail sale of any products shall be permitted other than those that are actually produced on site.
- (6) All employee, customer or visitor parking shall be located in the side or rear yards and shall be located where no conflict between it and the movement of business vehicles and equipment will result.
- (7) All on-site fuel storage tanks shall be above ground and shall be located within a nonpermeable containment basin. All fuel tanks will be required to have barriers that will prevent accidental striking by vehicles and equipment. The maximum amount of fuel that may be stored on site is 1,000 gallons.
- (8) All contractor facilities shall be designed to provide adequate access for fire-fighting equipment to all buildings and structures. Adequacy of this access will be determined by the local fire chief and a letter, signed by the local fire chief must be presented to the local Zoning/Code Enforcement Official prior to the issuance of any certificate of occupancy.
- (9) All contractor facilities must conform to the requirements for a non-nuisance industry, except that the screening required may be modified in accordance with these special permit provisions.



N. Filling station.

- (1) No church, school, library, playground or similar place of public assembly shall be within 500 feet of the site.
- (2) All pumps and lubricating and other devices shall be located at least 50 feet from any building, structure or street line.
- (3) Premises shall not be used for the sale, rent or display of automobiles, trailers, mobile/manufactured homes, boats or other vehicles.
- (4) The lot area shall be not less than 20,000 square feet, and shall have a minimum frontage along the principal street or highway of at least 150 feet.
- (5) All repair work and storage shall be conducted within a completely enclosed building. The maximum height of that building shall be 25 feet.
- (6) The Planning Board may limit the number of gas pumps to ensure consistency in scale between the gas filling station and adjacent land uses.
- (7) The Planning Board may limit hours of operation or limit acceptable hours of fuel delivery where a gas station is adjacent to residential uses.

O. Horse boarding operation.

- (1) This use shall be permitted by special permit on vacant land or on a lot where a one-family residence or two-family residence already exists.
- (2) Such use shall not be permitted on any lot less than five acres.
- (3) The Board shall determine the maximum number of horses allowed. In making this determination, the Board shall consider the space available, which is required in order to prevent overcrowding, and the available facilities provided for the care and protection of the horses.
- (4) The horses shall be housed in a permanent, enclosed building, having a roof and at least three sides.
- (5) The site plan shall demonstrate that there is adequate control of the horses, including designation of the area of the parcel to be utilized, and including proper fencing to

assure that the horses will not be able to break out of such designated areas or wander onto adjacent properties and/or any public highways.

- (6) Any building, structure or use area (except an off-street parking area) shall be at least 50 feet from the property line.

P. Kennels. In addition to the general requirements of this section for a special permit, the following conditions shall also be required for a kennel:

- (1) The Board shall determine the maximum number of dogs allowed. In making this determination, the Board shall consider the space available within the permanent enclosed building which is required in order to prevent overcrowding.
- (2) A kennel may exist on the same lot as a residence.
- (3) The required lot area for a kennel shall be double the minimum lot area for the zone.
- (4) The dogs shall be housed in a permanent enclosed building which shall be constructed of soundproof materials so as to adequately minimize the noise.
- (5) The dogs shall be kept inside the enclosed kennel structure during the hours of darkness.
- (6) The owner or occupant shall maintain adequate control of the dogs and shall provide adequate protection to ensure that the dogs are not able to leave the premises.
- (7) Any building, structure or use area (except an off-street parking area) shall be at least 50 feet from the property line.
- (8) The owner or occupant shall take all appropriate steps to adequately protect adjacent properties from odor and/or unsightly appearance.
- (9) The applicant must obtain a valid license from the appropriate agency of the State of New York as well as from any other municipal agency which shall require licensing for the dogs.
- (10) A violation of any of the terms and conditions set by the Board for granting the special permit shall result in automatic revocation of such special permit.

Q. Lodging.

- (1) The establishment must provide one parking space for each bedroom, plus one space for each four employees.
- (2) Guest sleeping rooms shall not contain full kitchen facilities and shall not be used as apartments for non-transient tenants. Microwave ovens or small refrigerators are not considered kitchen facilities in the rooms.
- (3) The following accessory uses shall be permitted:

- (a) One (1) apartment within the lodging's facility, with or without kitchen facilities, for the use of the lodging manager or caretaker and their family.
- (b) A coffee shop/dining room facility located within the principal building.
- (c) Recreational facilities for the sole use of guests and employees, including pool, playground, tennis or other game courts, game or recreation rooms, office and lobby.
- (d) Conference rooms/meeting rooms located within the principal building.

R. Membership club, nonprofit. Lot coverage shall not exceed 20%.

S. Mining. Mining is allowed by special permit in certain areas of the Town as set forth on the mining overzone map and in accordance with specific laws involving mining as set forth in Article XII hereafter.

T. Mobile and manufactured home park.

- (1) Application procedure.

- (a) Any special permit for a mobile/manufactured home park shall be granted for one year only, beginning from the day of issuance.
- (b) An application for renewal of a special permit that was issued in accordance with the provisions of this section must be submitted to the Zoning Enforcement Officer on or before the first day of the month preceding the expiration of the permit.
- (c) The renewal application shall not be accompanied by plans of the park unless

changes have been made to it. If changes have been made, initial application procedures must be followed.

- (d) The fees for initial application and annual renewal shall be established by the Town Board.
- (e) Each initial application shall be accompanied by three sets of plans which are prepared by a surveyor, engineer or qualified person. The plans shall be drawn to scale of 20, 40 or 50 feet to one inch, shall include the date, North point and scale and shall furnish the information specified under application data.

(2) Application data.

(a) Legal data.

- [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.
- [2] The description of the land that is proposed to be used as a mobile/manufactured home park, together with a map showing its location in the Town.
- [3] The number of lots to be provided in such park.

(b) Physical features.

- [1] Contours at two-foot intervals.
- [2] Location of watercourses, marshes and areas subject to flooding.
- [3] Wooded areas.

(c) Existing development.

- [1] A location map which shows all land within 300 feet of the proposed park and all structures on the land which abuts the proposed park.
- [2] The location, names and widths of all adjacent streets.

- [3] The location of all water lines and utilities within and adjacent to the proposed site.

(d) Proposed development.

- [1] The location and widths of all entrances, exits, streets and walkways.
- [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] Any proposed grading and plans for landscaping.
- [6] Any proposed stormwater drainage. All requirements of the New York State SPDES General Permit for Stormwater Discharges from Construction Activities shall be met.
- [7] Any proposed utilities.
- [8] Any public improvements proposed by the Town in or adjoining the proposed park.
- [9] Existing zoning.

- (e) Performance bond. The Board, as a condition to the approval of any application for a mobile/manufactured home park, may require a performance bond in an amount deemed necessary by the Board and issued by a reliable surety, insuring the completion of the mobile/manufactured home park according to the specifications and plans submitted with the application.

(3) Requirements for mobile/manufactured home parks.

(a) Site.

- [1] The park shall be located in areas where grades and soil conditions are suitable for use as mobile/manufactured home sites.
- [2] The park shall be located on a well-drained site which is properly graded to

ensure rapid drainage and be free at all times from stagnant pools of water.

[3] The park shall be free from heavy or dense growth of brush and woods.

[4] The park shall be at least five acres in size, 100 feet frontage on a public road.

(b) Mobile/manufactured home lot.

[1] Each mobile/manufactured home park shall be marked off into mobile/manufactured home lots.

[2] The total number of mobile home lots in a mobile/manufactured home park shall not exceed four per gross acre.

[3] Each mobile/manufactured home lot shall have a total area of not less than 10,000 square feet with a minimum dimension of 70 feet.

(c) Mobile/manufactured home placement.

[1] Any mobile/manufactured home shall not be parked or otherwise located nearer than a distance of:

[a] At least 50 feet to an adjacent mobile/manufactured home in any direction.

[b] At least 50 feet to an adjacent property line.

[c] At least 100 feet to right-of-way line of public street or highway.

[d] At least 20 feet to the nearest edge of any roadway location within the park.

[2] Only one mobile/manufactured home shall be permitted to occupy any one mobile home lot.

[3] No more than 50 mobile/manufactured homes shall be allowed to occupy any single mobile home park.

[4] No mobile/manufactured home park shall be located within two miles of any

other mobile/manufactured home park situated in the Town of Ghent.

(d) Individual mobile/manufactured home stand shall be:

- [1] Located on a permanent foundation or concrete slab and shall be permanently anchored. The foundation or slab shall be at least four inches thick.
- [2] Skirted within 30 days of installation on the site.
- [3] Prior to the occupancy of the mobile/manufactured home, the water and sewer system shall be inspected and approved by the Columbia County Health Department and such proof shall be presented to the Zoning Enforcement Officer.
- [4] Electrical wiring to the mobile/manufactured home shall be underground from the last pole to the mobile/manufactured home, and the last pole shall be at least 50 feet from the mobile/manufactured home.
- [5] Prior to occupancy, a mobile/manufactured home shall have sleeping accommodations, flush toilet, a tub or shower, kitchen facilities, plumbing and heating connections for attachment to outside systems and shall otherwise fully comply with the requirements of the State Building Code.

(e) Accessibility.

- [1] Each mobile/manufactured home park shall be easily accessible from an existing public highway or street.
- [2] Where a mobile/manufactured home park has more than 16 mobile/manufactured homes, two points of entry and exit shall be provided, but in no instance shall the number of entry and exit points exceed four.
  - [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] All entrances and exits shall be at right angles to the existing public highway or street.

[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 mobile/manufactured homes attached.

[3] Each park shall have improved streets to provide for the convenient access to all mobile/manufactured home lots and other important facilities within the park. Streets shall be improved to at least meet Erwin Plan specifications.

[a] The street system shall be so designed to permit the safe and convenient vehicular circulation within the park.

[b] Streets shall be adapted to the topography and shall have suitable alignment and gradient for traffic safety.

[c] All streets shall intersect at right angles.

[d] All streets shall have the following minimum widths:

[e] One-way traffic movement: 15 feet.

[f] Two-way traffic movement: 25 feet.

[g] Except in cases of emergency, no parking shall be allowed on such street.

[4] An improved driveway shall be provided for each mobile/manufactured home lot. This driveway shall have a minimum width of nine feet.

(f) Parking.

[1] One off-street parking space shall be provided on each mobile home lot. The parking space shall be of similar construction and grading as the mobile home stand. Such space shall have a minimum width of nine feet and a minimum length of 20 feet.

[2] Additional off-street parking space shall be provided at strategic and convenient locations for guests and delivery and service vehicles.



- [a] There shall be one additional parking space for each two mobile/manufactured home lots within the park.
- [b] Such parking space shall be provided in bays which shall provide for adequate maneuvering.

(g) Utilities and service facilities.

- [1] The following utilities and services facilities shall be provided in each mobile/manufactured home park which shall be in accordance with the regulations and requirements of the Columbia County Department of Health, the New York State Department of Health and the Sanitary Code of New York State.
  - [a] An adequate supply of pure water for drinking to mobile/manufactured home lots and buildings within the park for domestic purposes shall be supplied by pipes to all home lots and shall be provided with proper water connections.
  - [b] Each mobile/manufactured home lot shall be provided with a sewer, which shall be connected to the mobile/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 sewer system 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.
  - [c] Metal garbage cans with tight-fitting covers shall be provided in quantities adequate to permit the disposal of all garbage and rubbish. The cans shall be kept in sanitary conditions at all times. The cans shall be located no further than 200 feet from any mobile/manufactured home lot. Garbage and rubbish shall be collected and disposed of as frequently as may be necessary to ensure that such cans shall not overflow.
- [2] Service buildings shall be provided as deemed necessary for the normal operation of the park, however, such buildings shall be maintained by owner or manager of the park in a clean, sightly and sanitary condition.
- [3] Each mobile/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.

(h) Open space.

- [1] Each mobile/manufactured home park shall provide common open space for the use of the occupants of such park.
- [2] Such open space shall be conveniently located in the park. Such space shall have a total area equal to at least 10% of the gross land area of the park.

(i) Landscaping.

- [1] Lawn and ground cover shall be provided on those areas not used for the placement of mobile/manufactured homes and other buildings, walkways, roads and parking areas.
- [2] Planting shall be provided to the extent needed in order to provide for the screening of objectionable views, adequate shade and a suitable setting for the mobile/manufactured homes and other facilities.
  - [a] Screening planting shall be provided to screen objectionable views. Views which shall be screened include laundry facilities, other nonresidential uses, garage storage and collection areas and all abutting yards of adjacent properties.
  - [b] Other planting shall be provided along these areas within the park which front upon existing public highways and streets to reduce glare and provide pleasant outlooks for the living units.

(j) Recording.

- [1] The owner or operator of each mobile/manufactured home park shall keep a written record of all persons occupying or using the facilities of such park. This record shall be available for a period of at least one year from date of occupancy.
- [2] This record shall include:
  - [a] The name and address of the occupant of each mobile/manufactured

home.

[b] The name and address of the owner of each mobile/manufactured home which is not occupied by such owner.

- U. Motor vehicle, mobile/manufactured home or boat salesroom or outdoor sales lot. The display of motor vehicles, mobile/manufactured homes and/or boats shall not be allowed in the required front, side or rear yard setbacks. The total area for the outdoor display of motor vehicles, mobile/manufactured homes and/or boats, including the rows and/or spaces in between, shall not exceed 25% of the total lot. There shall be adequate spacing in between these vehicles, mobile/manufactured homes and/or boats.
- V. Multiple dwelling, including senior housing. The required minimum lot area for a multiple dwelling shall be computed by adding 10,000 square feet for each dwelling unit to the minimum lot area requirement for a one-family residence in the zone in which the dwelling is located.
- W. Nursery school.
  - (1) The lot area shall be not less than one acre.
  - (2) There shall be not more than one pupil for every 1,500 square feet of lot area.
  - (3) All buildings, structures and areas of organized activity such as play areas, swimming pools, etc., shall be not less than 75 feet from any property line.
  - (4) Off-street parking areas shall be not less than 50 feet from any property line.
  - (5) Only one permanent family dwelling unit shall be located on the premises, and said dwelling unit shall comply with the provisions of this chapter for the district in which the lot is located.
  - (6) Outdoor floodlighting or public address systems are prohibited.
  - (7) There shall be compliance with the sign regulations set forth in Article VIII.
  - (8) Landscaping and fencing shall be provided as required by the Planning Board.
- X. Nursing home.

- (1) The lot area shall be not less than one acre and shall have a minimum frontage of 150 feet along the principal bounding street.
- (2) All buildings and structures shall be not less than 50 feet from any property line.
- (3) Lot coverage shall not exceed 50%.

Y. Parking garage.

- (1) There shall be adequate provision for access to the site.
- (2) Vehicular entrances and exits shall be controlled by curbing.
- (3) Facilities for servicing, repairs and outdoor storage of motor vehicles shall be prohibited.

Z. Philanthropic, fraternal or social organization office or meeting room.

- (1) All buildings and structures shall be not less than 50 feet from any property line.
- (2) Lot coverage shall not exceed 20%.

AA. Self-Storage Units.

- (1) Storage units shall not be used for the servicing or repair of motor vehicles, boats, recreational vehicles, motorcycles, trailers, lawnmowers and other similar equipment, or for office, retail, light manufacturing or other similar uses. The storage of hazardous, toxic or explosive substances is prohibited.
- (2) No activities such as miscellaneous garage sales or auctions shall be conducted on the premises. However, the owner shall have the ability to have a sale for foreclosure purposes.
- (3) All storage uses shall be inside an enclosed building. No outside storage is permitted.
- (4) No residential uses shall be permitted.

BB. Septage spreading.

- (1) The operator must have a valid DEC permit for the specific site involved.

- (2) No septage may be spread within 100 feet of any property line, 500 feet of any dwelling, 25 feet of any swale, 200 feet of any potable water well or 250 feet of any watercourse as shown on the US Geological Topographical Map or within 100 feet of any other area which has been designated as a wetland.
- (3) The applicant shall file a map specifying the exact location of the area to be utilized. The Board may require a survey map showing topographical details. Septage may only be spread within such area as is approved by the Board of Appeals.
- (4) Sod cover must be maintained on any septage site or, in the absence of such cover, septage must be incorporated into the soil within 24 hours of being spread.
- (5) If approved by DEC, the applicant may utilize ditches for temporary winter storage. However, if permission for the same is granted, a liner approved by DEC must be installed and ditches must be pumped dry as soon as possible in the spring.
- (6) No more than 25,000 gallons of septage may be spread per acre in any calendar year.
- (7) The Town must be furnished a copy of the annual report made to the Department of Environmental Conservation showing total acres used and total volume spread.
- (8) The Town of Ghent reserves the right, but not the duty, to inspect the fields being utilized for spreading of septage at any time without notice.
- (9) The granting of a permit is conditional upon the applicant furnishing the Town a written statement agreeing to such inspection.
- (10) The Town of Ghent shall have the right to revoke the special permit issued at any time if any of the above stated conditions are not fulfilled.

#### CC. Special Event Venue.

The intent of this section is to promote health and safety and ensure compatibility with the neighborhood and general area in which the specially permitted events are held and to minimize impact on the surrounding properties and residents.

- (1) Special Event Venues, as defined in this zoning law, shall be allowed pursuant to the Use Table only with a special use permit approved by the Planning Board. In addition to meeting the requirements of this sub-section, a special use permit for special event

venues may include specific conditions to mitigate any adverse impacts as determined by the Planning Board.

(2) General Event Venue Regulations/Requirements:

- (a) There shall be a minimum lot size of 30 acres.
- (b) No vehicles associated with the event shall be permitted to be parked on public roadways. All vehicle parking shall be maintained 'on-site'. 'On-site' is defined as at least 50' within the property boundaries of the parcel on which the event is permitted. The Planning Board may consider remote parking (off-site) with considerations that may include, but not be limited to, distance from the general event area, the topography of the site, site lighting, law enforcement to control traffic, road crossing conditions (if applicable), transportation to and from event site.
- (c) One parking space for every four persons attending the event shall be provided.
- (d) There shall be no regulations of traffic other than by law enforcement on Town, County or State roads.
- (e) The general event area (the actual location(s) in which the gathering is to occur) shall be located 500' from adjacent owners' property lines. All activities associated with the use are to be included within the general event area, the only exception being the allowable parking as allowed above.
- (f) Sources of amplified sound including but not limited to recorded music, live musical performances, spoken word shall commence no earlier than 10:00 AM and shall be terminated by 10:00 PM on Sunday through Thursday nights or 11:59 PM on Friday and Saturday nights. All sources of amplified sound shall be contained wholly within an enclosed structure. Tents, pavilions and other open/non-enclosed structures shall generally not be considered an acceptable location for the source of amplified sound as referenced in this section. However, in the sole discretion of the Planning Board, where the number of events are limited, and/or the site plan provides that amplified sounds will not cause disturbance to the neighboring land uses and owners, the Planning Board may allow amplified sound on a limited basis, setting the hours of operations for said amplified sound to occur in tents, pavilions or other structures.
- (g) All activities associated with the event shall be completed and the property

vacated by 10:00 PM on Sunday to Thursday nights or 11:50 PM on Friday and Saturday nights. This shall include all clean-up activities.

- (h) Light sources (constant and intermittent) shall not be permitted to exceed 0.5 foot candles at the property line.
  - (i) The applicant shall provide a signed and stamped written evaluation by a NYS licensed professional to demonstrate compliance with all applicable NYS building and fire prevention codes, and all temporary and permanent structures to be used for any proposed event shall be inspected for compliance by the Town of Ghent Zoning Enforcement Officer, prior to approval by the Planning Board.
  - (j) All venues will be subject to annual inspections by the Zoning Enforcement Officer and additional inspections at the discretion of the Zoning Enforcement Officer and applicants so authorize by submitting such application.
  - (k) All tents used for an event shall require fire safety data to be submitted to the Zoning Enforcement Officer prior to use. Inspections may be required.
  - (l) No overnight accommodations shall be allowed on the premises.
- (3) The number of events per year shall be determined by the Planning Board and shall be a condition of the approval using the maximums as follows:
- (a) A venue that meets all criteria in subdivision (2) (a) through (l) (above) shall be permitted to hold up to twelve (12) events annually.
  - (b) In addition to the twelve (12) events permitted in (3) (a), if the applicant demonstrates that the minimum distance from the general event area to every point on the property lines of adjacent parcels is at least one thousand (1000) feet, the venue shall be permitted to hold up to ten (10) additional events annually for a total of twenty-two (22).
  - (c) In addition to the above, if the applicant demonstrates that the minimum distance from the general event area to every point on the property line of adjacent parcels is at least one thousand five hundred (1500) feet, the venue shall be permitted to hold up to five (5) additional events annually for a total of twenty-seven (27).
- (4) The following items shall be required for submission to the Planning Board, in addition to other site plan or special use application requirements pursuant to Article V and VI:

- (a) A statement containing the name and address of the owner of record of the property upon which the event is to occur, and a copy of the deed to said property.
- (b) A completed event application including a list of anticipated events proposed including any potential noise or visual impacts and maximum number of persons to attend.
- (c) A detailed site plan prepared by a NYS licensed professional at a scale of 1"=50' minimum showing:
  - 1. The entire parcel and parcel size.
  - 2. All structures (temporary and permanent) including tents, barns, houses, staging areas and event lighting.
  - 3. Proposed parking locations and quantities of all vehicles expected to be on site.
  - 4. Site circulation for all proposed vehicular traffic (ensuring emergency access).
  - 5. The event location(s) and distances from all proposed event areas to property lines.
  - 6. The names of all adjacent property owners and all structures (on adjacent parcels) within 50' of the event site property boundaries.
  - 7. Toilet facilities, temporary and permanent.
- (d) Approval from the Columbia County Department of Health where applicable.
- (5) Applicant must obtain all permits and licenses for entities handling/preparing food and entities distributing/selling alcoholic beverages (if applicable). The applicant must notify the relevant fire departments, police agencies, Columbia County Health Department and emergency management agencies and shall demonstrate compliance with all requirements from these entities.
- (6) There shall be a fee paid at the time of the initial application and additional fees upon Planning Board approval based upon the number of approved events. The amount of



fees shall be set by resolution of the Ghent Town Board.

(7) Enforcement and Penalties for Offences.

- (a) Any violations to this sub-section shall be enforced pursuant to Article XI of this zoning law, except for fines imposed in 190-68 (H) and (I).

DD. Temporary residential use/health related. The Board is hereby specifically empowered to grant a special permit on a temporary basis for temporary residential use in a health-related situation, pursuant to the guiding principles of this section, and where there are practical difficulties in meeting the area requirements set forth in Appendix B. Accordingly, the Board may issue a temporary permit for use of a mobile/manufactured home, modular unit or for the temporary conversion of a one-family detached dwelling for another family in a situation where, for health-related reasons it is necessary for a person related by blood, marriage or adoption to reside near the owner/resident of the parcel in question. Such a temporary permit may be granted where it is shown that the interests of justice will be served, where the granting of such a permit will not result in a substantial detriment to the public welfare, and where other potential solutions to the situation are not practical. The following additional criteria apply:

- (1) Any permit so issued must be renewed each January with the Town Clerk. Each initial application must be accompanied by a physician's statement showing that a health-related need exists, and each application for renewal shall also be accompanied by an updated physician's statement to this effect.
- (2) Such a temporary permit shall not be granted where the parcel in question can meet the standards for the establishment of two residences on a single parcel.
- (3) Health-related temporary residences shall only be utilized by persons related by blood, marriage or adoption to the owner of the parcel, who must also reside on the same parcel.
- (4) The Columbia County Health Department shall inspect and approve the on-lot septic system and adequacy of the water supply, whether a second series of systems is established or whether the existing facilities are used.
- (5) The use must be discontinued within 90 days after such health-related need has ceased. The failure to renew a permit shall be presumptive evidence that such use has ceased.
- (6) The applicant and/or owner/resident cannot use the costs incurred in establishing this

temporary residence or in installing a mobile/manufactured home or modular unit as grounds for obtaining a permanent variance to allow the continuation of such use after the health-related situation no longer exists.

- (7) No mobile/manufactured home or modular unit installed pursuant to such temporary permit shall be located closer than 50 feet to the permanent residence.
- (8) No additions to any mobile/manufactured home or modular unit shall be constructed except for porches and/or decks.
- (9) Any mobile/manufactured home permitted under this subsection shall be skirted within 30 days of occupancy.
- (10) The separation restrictions for mobile/manufactured homes provided for in § 190-7 of this chapter shall not be applicable under this subdivision.
- (11) No mobile/manufactured home or modular unit permitted hereunder shall be greater than 1,000 square feet.
- (12) The fee and the renewal fee for a temporary permit shall be established by the Town Board.

EE. Truck terminal, truck transfer station.

- (1) The lot area shall not be less than 20,000 square feet.
- (2) No church, school, library, playground or similar place of public assembly shall be within 500 feet of the site.
- (3) All outside fuel pumps, lubricating and other devices shall be located at least 25 feet from any building, structure or street line.
- (4) No repair work shall be performed outdoors.
- (5) All fuel, oil, gasoline or similar substances shall be stored at least 30 feet from any and all lot lines and installed and maintained in accordance with the standards of the National Board of Fire Underwriters and in conformity with all federal, state and local laws, rules and regulations.
- (6) All dismantled automobiles, trucks, tractors, trailers and similar equipment, and parts

and accessories thereof, shall be stored within a building.

- (7) All parking areas for operating vehicles shall be paved, curbed and drained in accordance with municipal specifications. Such areas shall be at least 50 feet from any Residence District boundary and at least 10 feet from any property line. No vehicle shall park or stand outside such paved parking area.
- (8) Screening shall include planting of evergreen bushes or trees in addition to a fence so that truck motor noise and the sound of overnight operation of refrigeration units will tend to be muffled.

FF. Two residences on the same lot.

Generally, this chapter does not permit more than one residence on the same lot. However, where there is proposed to be more than one residence on a single lot, such additional residence shall be allowed by special permit (SP) in the RRA-1 and RRA-2 Zones in the following circumstances:

- (1) Where the second residence shall be located on the lot in a manner so that all of the minimum dimensional requirements governing the location for each residence are met. Specifically, the residences shall be located so that, in the event of a future subdivision of the property, all of the dimensional requirements set forth in Appendix B will be met by each residence; or
- (2) In a case where the second residence cannot be located on the lot in a manner so that all of the minimum dimensional requirements governing the location for each residence are met, the second residence shall be allowed as an accessory use for the first residence, provided that:
  - (a) No future subdivision separating the two residences will be permitted, and this restriction shall be noted on the building permit and certificate of occupancy for the second residence.
  - (b) The second residence must still meet the front yard, side yard and rear yard setbacks for a dwelling in the applicable zone.
  - (c) The second residence shall not be greater than 2/3 the size of the existing residence unless the subject lot is 10 or more acres.
  - (d) The lot shall be at least two acres in the RRA-1 Zone and at least four acres in the RRA-2 Zone.

GG. Vehicle repair shop.

- (1) Storage of waste material. All refuse, discarded parts, etc., as a result of servicing motor vehicles, equipment, etc., shall be stored in an enclosed structure or fenced area so as not to be visible from adjacent lots until disposed of. None of these materials may be disposed of on the lot.
- (2) The number of motor vehicles that may be temporarily stored, not exceeding four months, at a repair or service establishment shall be as determined by the Planning Board and shall be based on the amount of adequate off-street parking spaces available and location in regard to how it is screened from the public right-of-way and/or neighboring residential uses. These spaces shall be clearly delineated on all site plan and special use permit applications.

HH. Veterinarian, veterinary hospital or clinic.

- (1) Adjacent properties shall be adequately protected from noise, odors and unsightly appearance.
- (2) All buildings, structures and accessory use areas, except off-street parking, shall be at least 50 feet from any property line.

**§ 190-20 Wireless telecommunications facilities.**  
**[Amended 6-17-2004 by L.L. No. 5-2004]**

The Town of Ghent has adopted Local Law No. 5 of the year 2004, which regulates the placement, construction, modification and removal of wireless telecommunications facilities. All requirements for the issuance of a special permit in connection with the placement, construction, modification and removal of wireless telecommunications facilities are set forth and governed by said local law.

**Article VI**  
**Site Plan Review**

**§ 190-21 Site plan review required.**

- A. Site plan review and approval by the Planning Board shall be required for all uses as indicated in Appendix A.
- B. Any application for a building or use permit shall be referred to the Planning Board or

Zoning Board for site plan review and approval in accordance with the provisions of the Town Law, the performance and design standards set forth in this Zoning Chapter, and procedures set forth in this article.

**§ 190-22 Application for site plan review.**

An application for site plan review shall be made in writing and shall be accompanied by seven prints of a site plan drawn to scale by a professional that includes the following information and any other information that the Planning Board deems appropriate for a particular application:

- A. The title of the drawing, including the name and address of the applicant and of the person(s) responsible for the preparation of such drawing.
- B. A North arrow, scale and date.
- C. Accurate boundaries of the parcel plotted to a scale of one inch equals 40 feet. The scale may be altered for projects exceeding a total land area of five acres.
- D. All existing watercourses, wetlands and floodplains, including reference to the specific data source and within 100' of the parcel boundaries.
- E. A grading or drainage plan, showing existing or proposed contours at a minimum of two-foot intervals for that portion of the parcel actually proposed for development or where the existing site may be susceptible to erosion, ponding or flooding, including any drains, culverts or retaining walls.
- F. The location, design, proposed use, exterior dimensions of all proposed and existing buildings, parking areas and drives, truck loading areas, wells, septic systems, water and sewer lines and service, outdoor storage of equipment and materials and signage.
- G. A floor plan and front elevation of any building or fencing to include details for the areas to be used for offices, manufacturing areas and areas for retail/wholesale operations, including exterior display of products for sale.
- H. A general landscaping plan and planting schedule showing existing vegetative cover being retained as well as new plantings and any buffer area.
- I. A survey of the property, if required by the Board.
- J. The locations of all outdoor lighting, including lighting levels both within the site and at the site's boundaries.

- K. Location and identification of any existing or proposed right-of-way, easement or areas to be reserved for public use on site.
- L. Provisions for pedestrian access.
- M. Location of outdoor storage, if any.
- N. Location of fire and other emergency zones.
- O. Proof of approval for any necessary permits from federal, state, county or local agencies; provided, however, that the Board may, in its sole discretion, grant conditional approval and establish a time frame for final approval upon the issuance of any required permits. In this regard, the applicant shall demonstrate that all necessary permits have been applied for.
- P. Detailed sizing and final material specifications of all required improvements.
- Q. An environmental assessment form, as deemed appropriate by the Planning Board, completed and signed by the applicant.
- R. A check made payable to the Town for the applicable fee for the review and approval.
- S. A check made payable to the Town for payment of expenses to be incurred by the Town in connection with the review of the project by professionals such as engineers, planners and/or attorneys.
- T. The names and addresses of the owners of all adjoining properties.
- U. A list of any substance or material that is intended to be used or stored on the property that could potentially be subject to the performance standards set forth in § 190-12.
- V. Agriculture data statement. An agriculture data statement is required where the proposed use is located in, or within 500 feet of, the boundaries of a certified New York State n agricultural district. If an agricultural data statement has been submitted, the Secretary of the Planning Board shall, upon receipt of the application, mail written notice of the site plan application to the owners of land as identified by the applicant in the agricultural data statement. Such notice shall include a description of the proposed project and its location. The cost of mailing the notice shall be borne by the applicant. The Planning Board shall evaluate the impact of the proposal on existing agricultural operations in that district.

W. Additional Requirements for Site Plans. If, in the opinion of the Planning Board, projects could have traffic, visual, or stormwater impacts, the applicant shall submit, at their expense, traffic impact, drainage design reports, visual impact assessment, and proposed grading plans as follows. Costs for all reports, assessments, or plans required by the Planning Board shall be borne by the applicant pursuant to this local law.

a. Traffic Report. Traffic Reports shall include the following for the study area:

1. Internal traffic flow analysis.
2. Existing and projected average daily traffic and peak hour levels.
3. Existing and projected intersection levels of service (LOS).
4. Directional vehicular flows resulting from the proposed project.
5. Proposed methods to mitigate the estimated traffic impact.
6. Identification of any pedestrian crossing issues.
7. The methodology and sources used to derive existing data and estimations.

b. Visual Impact Report. The Visual Impact Assessment shall be prepared by a registered Landscape Architect or other qualified professional and shall include:

1. The Visual Assessment Form pursuant to SEQRA.
2. A report that visually illustrates and evaluates the relationship of proposed new structures or alterations to nearby natural landscapes and to pre-existing structures in terms of visual character and intensity/scale of use (e.g. scale, materials, color, door and window size and locations, setbacks, roof and cornice lines, and other major design elements);
3. An analysis of the visual impacts on neighboring properties from the proposed development and alterations, and of the location and configuration of proposed structures, parking areas, open space, and gradient changes;
4. The Planning Board may require use of photo-simulations or balloon tests as part of the visual impact assessment.

- c. Stormwater Management Plan. For all developments one acre in size or more, a stormwater plan pursuant to NYS DEC shall be required. The contents of the stormwater management plan shall contain sufficient information for the Planning Board to evaluate the hydrological and hydrological-dependent characteristics of the land to be developed, the potential and predicted impacts of land development on the local hydrology, and the effectiveness and acceptability of all measures proposed by the applicant for reducing adverse impacts. The stormwater management and stormwater pollution prevention plans shall be prepared in compliance with the Stormwater Design Manual of the New York State Department of Environmental Conservation (SPDES), and/or with the requirements of the Environmental Protection Agency's Phase II National Pollutant Discharge Elimination System (NPDES) regulations.
- X. The site plan applications and associated maps shall include all proposed phases of development. Site plan approval shall be based on the total planned project in order to facilitate the assessment of all potential development impacts. The Planning Board shall consider applications incomplete where there is reason to believe the application applies to only a segment of the total planned development. In such situations, the Planning Board shall return such application to the applicant together with a letter stating the basis for its determination.

**§ 190-23 Site plan review criteria.**

The site plan review shall include, as appropriate, but not be limited to, the following:

- A. Adequacy and arrangement of vehicular traffic access and circulation, including intersections, road widths, pavement surfaces, dividers, structures and traffic controls.
- B. Location, arrangement, appearance and sufficiency of off-street parking and loading facilities.
- C. Location, arrangement, size, design and general site compatibility of principal and accessory buildings, lighting and signage.
- D. Adequacy of drainage and stormwater facilities. All requirements of the New York State SPDES General Permit for Stormwater Discharges from Construction Activities shall be met.
- E. Adequacy of water supply and sewage disposal facilities.
- F. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise deterring buffer between applicant's adjoining lands, including maximum



retention of existing vegetation.

- G. Protection of adjacent or neighboring properties against noise, glare, traffic, odors, fumes, vibration, unsightliness or other objectionable features.
- H. Adequacy of fire lanes and other emergency zones, and water supply for firefighting purposes.
- I. Compatibility of building design with existing characteristics of the neighborhood.
- J. Compliance with all applicable performance and design standards per 190-12 and 190-13.
- K. Compliance with requirements for wetlands and flood zone regulations. In this regard, the site plan shall show all wetlands and flood zone areas on the map.
- L. Adequacy of utilities. When feasible, existing utility service systems shall be placed underground.
- M. Adequacy of site accessibility, fire lanes and other emergency zones and the provision of fire hydrants. All buildings shall be accessible to emergency vehicles. If the Planning Board deems it necessary, it shall refer the application to the applicable emergency services providers and to the engineer retained by the Planning Board for comment on the proposed access arrangements.
- N. Location of and adequacy of measures proposed to protect environmentally sensitive areas. The Planning Board may request an advisory opinion on these matters from the Columbia County Soil and Water Conservation District, NYS DEC, or other agencies prior to final decision. In general, sites to be developed should avoid areas with slopes greater than 20%, exposed or shallow bedrock, floodplains, banks of watercourses, and wetlands.
- O. Type, frequency, pitch, and decibel levels of noise that may be generated from project. The Planning Board may request a noise analysis be conducted by measuring existing ambient sound levels measured with a sound-level meter and associated octave band analyzer conforming to standards prescribed by the American Standards Association and comparing to proposed sound levels.
- P. Any matters deemed appropriate to be consistent with § 190-1B of this Code.

#### § 190-24 **Review procedures.**

- A. Public hearing. The Board shall conduct a public hearing on the application for site plan

approval. The public hearing shall be conducted within 62 days of the receipt of a complete application and shall be advertised, at the expense of the applicant, in a paper of general circulation in the Town at least five days prior to said hearing. Notice of said hearing shall also be given to the owners of all adjoining properties.

- B. Required referral. Prior to taking any action, the Board shall refer the site plan, when applicable, to the Columbia County Planning Board for an advisory review and report in accordance with General Municipal Law §§ 239-l and 239-m.
- C. Required Agricultural Review. Pursuant to NYS Agriculture and Markets Law 25-aa, an application for a site plan review must also contain an agricultural data statement if any portion of the project is located on property within a New York State certified Agricultural District containing a farm operation, or other property with boundaries within 500 feet of a farm operation located in an agricultural district. The agricultural data statement shall contain the name and address of the applicant; a description of the proposed project and its location; the name and address of any owner of land within the agricultural district which contains farm property upon which the project is proposed; and a tax map or other map showing the site of the proposed project relative to the location of farm operations identified in the agricultural data statement.

A written notice of such application and date of public hearing shall be mailed to the owners of land as identified by the applicant in the agricultural data statement. The Planning Board shall evaluate the impact of the proposal on existing agricultural operations in that district. The Planning Board may request an advisory opinion from the Columbia County Farmland Protection Board, Columbia County Soil and Water District, New York State Department of Agriculture and Markets, or other suitable agencies as needed, with any costs borne by the applicant.

- D. Prior to making any determination, the Board will cause a review of the proposal pursuant to the requirements of the State Environmental Quality Review Act (SEQRA).
- E. Within 62 days of the close of the public hearing, the Board shall render a decision on the site plan application.
- F. Action by resolution. The Board shall act by resolution to either approve, approve with modifications or disapprove the site plan application. A resolution either approving or approving with modifications shall include the authorization for the Planning or Zoning Board Chairman to stamp and sign the site plan upon the applicant's compliance with the submitted site plan. Any modifications required by the Board shall be deemed a condition of approval. If the site plan has been disapproved, the Board's resolution shall state the reasons for such decision.
- G. The Planning Board's action shall be in the form of a resolution stating whether the site plan is approved, disapproved or approved conditionally with modifications.
  - (1) Approval. Upon approval of the site plan and payment by the applicant of all fees due

to the Town, the Planning Board shall endorse its approval on a copy of the site plan and shall, within five (5) business days of its decision, file with the Town Clerk a copy of the approved resolution approving the site plan with the Zoning Enforcement Officer. A copy of the written statement of approval shall be mailed to the applicant. Upon approval of the site plan, the applicant shall be eligible for applying for a building permit if one is required.

- (2) Approval with Modifications. The Planning Board may approve the site plan and require that specific modifications or conditions be made. Any modification required by the Planning Board shall be considered a condition for issuance of a building permit. A copy of the resolution of approval containing the modifications required by the Planning Board shall be mailed to the applicant and filed with the Town Clerk and the Zoning Enforcement Officer within 5 business days. The Zoning Enforcement Officer shall not issue a building permit until the site plan has been reviewed and determined that the plan reflects modifications as required by the Planning Board.
- (3) Disapproval. The Planning Board shall make a resolution if its decision is to disapprove the application. The resolution shall set forth the reasons for the Board's decision not to approve the application. In such a case, the Planning Board may recommend further study of the site plan and resubmission to the Planning Board after it has been revised or redesigned. Upon disapproval of the site plan, the Planning Board shall, within five (5) business days, file the resolution with the Town Clerk and Zoning Enforcement Officer. No building permit shall be issued when an abbreviated site plan has been disapproved.

#### H. Extension of Time.

- (1) The time period in which the Planning Board must render its decision on the site plan may be extended only upon mutual consent of the applicant and the Planning Board.
- (2) The time period in which the Planning Board must either hold a public hearing, if required, or render its decision on the site plan may be extended by mutual consent of the applicant and the Planning Board. Failure of the Planning Board to act within the time period specified or agreed upon between the applicant and Board shall not constitute Planning Board approval of the site plan.
- (3) Any approval shall expire after 180 days from the date that such approval was filed with the Town Clerk unless the applicant shall have obtained all other necessary permits and approvals and commenced, and substantially proceeded with, construction of the project in full conformity with the approved site plan. The Planning Board may in its sole and absolute discretion, and without the necessity of a new public hearing, extend the date of its site plan approval for up to one year at the request of an applicant.

#### I. Limited Review. The Planning Board may find that some requirements of this local law are not requisite in the interest of the public health, safety or general welfare, or are

inappropriate to a particular site plan. Waivers shall be explicitly requested by the applicant in writing, and expressly granted only by the Planning Board. The Planning Board may waive any requirements for the approval, approval with modifications, or disapproval of site plans submitted for approval provided such a waiver does not prevent or circumvent the purposes and intent of this local law. The Planning Board may, in granting waivers, incorporate such reasonable conditions as will in its judgment, substantially secure the objectives of the requirements so waived. The Planning Board must state, in writing, its grounds for electing to conduct less intensive review and file such statement along with the site plan application and supporting documents. Requirements of this law may not be waived except as properly voted by the Planning Board.

**§ 190-25 Reimbursable costs.**

- A. The Planning Board reserves the right to hire professional consultants, at the applicant's expense, to review any information filed by the applicant, including that filed under the SEQRA process. The Planning Board is authorized to retain consultants to aid in the review of the site plan, which may include, but is not limited to engineering, legal, planning, architecture, landscape architecture, surveying, and traffic engineering. Costs incurred by the Planning Board for consultation fees or other extraordinary expenses made regarding the review of a proposed site plan shall be charged to the applicant in total.
- B. All costs related to the site inspection and review of a site plan, including any studies, reports, analysis, or other information that may be required by the Planning Board, shall be borne by the applicant. In addition to the application fees established by the Town Board, an escrow account, funded by the applicant, may be established to cover all costs related to the review of a site plan. The applicant shall supply the Planning Board information as may be required to calculate the dollar amount required for the escrow account. When an escrow is required, the Planning Board shall not be obligated to proceed with the review until the escrow is funded as required by the Planning Board.

**§ 190-26 Modified Site Plan Review.**

- A. Applicability. Any agricultural use identified in the Table of Use Regulations indicating a requirement for MSPR (Modified Site Plan Review) shall meet all requirements of this section.
- B. The applicant shall submit the following documents or information to the Planning Board for a modified site plan review:
  - (1) Sketch of the parcel on a location map (e.g., tax map) showing boundaries and dimensions of the parcel of land involved and identifying contiguous properties and any known easements or rights-of-way and roadways. The sketch shall also contain:
    - a. Existing features of the site including land and water areas, water or sewer systems, and the approximate location of all existing structures on or immediately adjacent to the site.
    - b. Description of the proposed farm or agri-related operation and a narrative of the intended use.
    - c. The proposed location and arrangement of specific livestock containment areas, or manure storage/manure composting sites.
    - d. Location and proposed size and dimensions and sketch of any proposed building or structure, and any proposed signs, means of ingress and egress, parking, circulation of traffic, and lighting.
    - e. Any anticipated changes in the existing topography and natural features of the parcel to accommodate the changes and describe setbacks or other methods to minimize impacts to adjacent lands, environmental features and water bodies.
    - f. Include the name and address of the applicant or if the applicant is not the owner of the property, provide authorization of the owner.
    - g. If any new structures are going to be located adjacent to a stream or wetland provide a copy of the floodplain map and wetland map that corresponds with the boundaries of the property and describe provisions for an adequate buffer between the new farm use and wetlands or water bodies.
  - (2) Application form and fee (if required).
- C. Planning Board Action on a Modified Site Plan. All procedures of 190-24 (Site Plan Review Procedures) shall be followed for a modified site plan review.

## Article VII Additional Regulations

### § 190-27 **Placement of accessory buildings and uses, including garages and off-street parking.**

#### A. In all districts:

- (1) A private garage may be constructed as a structural part of a main building, provided that when so constructed, the garage walls shall be regarded as the walls of the main buildings in applying the front, rear and side yard regulations of this chapter.
- (2) Accessory buildings, including private garages, shall not be placed within a required front yard. **[Amended 5-17-2012 by L.L. No. 4-2012]**
- (3) No accessory building or structure, other than a fence, shall be located nearer to any side or rear lot line other than the following setbacks (see also Appendix B for dimensions):
  - (a) Commercial Industrial District: 50 feet (unless the property is utilized as a one- or two-family residence or as a multiple dwelling, in which event the setback requirement shall be at least 10 feet).
  - (b) Village Business District: five feet.
  - (c) All others: 10 feet.
- (4) The use or storage of any mobile or manufactured home which was at one time capable of being occupied but which is no longer so by reason of deterioration or damage is prohibited in all districts.
- (5) The outdoor storage and/or collection of secondhand materials, auto or machinery parts or bodies, used metals, junk, refuse or litter is prohibited. **[Added 5-17-2012 by L.L. No. 4-2012]**

#### B. In residential districts:

- (1) No more than one unregistered vehicle, other than farm vehicles, may be stored or parked outside an enclosed building on any premises.

- (2) The conversion of an existing one-family dwelling to a two-family dwelling is permitted in the RRA-1, RRA-2, VR and HR zones; provided, however, that the following minimum acreage requirement is met: The minimum lot area required shall be computed by adding 10,000 square feet to the minimum lot area required for a one-family dwelling use in the zone in which the existing structure is located. Also, the plan for the septic system shall be approved by the Columbia County Health Department prior to the granting of any such permit, and the premises shall be in compliance with all of the requirements of the Building and Fire Prevention Code of the Town of Ghent before the issuance of a certificate of occupancy. **[Amended 5-17-2012 by L.L. No. 4-2012]**

C. In Nonresidential Districts. The Town Board, Zoning Board and/or Planning Board may require a surety bond for any permits granted for the approval and/or development of a commercial site, conditioned upon the fact that all such improvements to be made or conditions of any such permits, as required, are satisfactorily completed within the time frame as established by the Board.

**§ 190-28 Height and lot coverage.**

**[Amended 4-7-2016 by L.L. No. 2-2016; 5-18-2017 by L.L. No. 1-2017]**

- A. Nothing herein contained shall restrict the height of the following: church spire, cupola, dome, belfry, clocktower, barn or silo.
- B. No building or structure erected to a height in excess of the height limit for the district in which is it situated shall:
  - (1) In any residential district, have a lot coverage in excess of 10% of the lot area.
  - (2) Be used for residence or tenancy purposes.
  - (3) Have any sign, nameplate display or advertising device of any kind whatsoever inscribed upon or attached to such building or structure.

**§ 190-29 Yards.**

Where a lot extends through from street to street, the applicable front yard regulations shall apply on both street frontages.

**§ 190-30 Spacing between buildings.**

- A. In the layout of a development of garden apartments or other multiple dwellings on a lot, a horizontal distance of not less than 35 feet or  $\frac{2}{3}$  the height of the higher building, whichever is the greater, shall be maintained between all main buildings; and between main buildings and major detached accessory buildings or groups of accessory buildings, such as a garage compound, having a ground coverage equal to that of a main building.
- B. The above requirement need not exceed 35 feet when the top of one building is less than eight feet above the level of the first floor of the other building.
- C. Minor accessory buildings shall meet the requirements of § **190-22**.

#### § 190-31 **Fences.**

The maximum height for any fence shall be six feet unless otherwise stated within this chapter. Fences are allowed to be placed up to the property line. No fence shall be erected so as to encroach upon or interfere with the use of any adjoining property.

#### § 190-32 **Frontage.**

The minimum frontage requirements for all districts shall not be less than 60 feet.

#### § 190-33 **Waste.**

The storage of nuclear waste products, hazardous waste products or toxic waste products in any district within the Town of Ghent for a period of greater than 30 days shall constitute a prohibited use of the subject property in any district within the Town of Ghent. The disposition of such waste products referred to herein into the atmosphere or the discharge of the same into the ground or water shall constitute a prohibited use in any district within the Town of Ghent; this section shall not be construed to prohibit the legal use of fertilizers and/or agricultural chemicals in connection with a farming operation; nothing contained herein shall be construed to supersede any other state or federal laws, rules or regulations regarding the storage or disposal of such waste products as referred to herein, but rather the use prohibition set forth herein shall be in addition to such laws, rules and regulations.

##### § 190-33.1 **Driveways.**

**[Added 5-17-2012 by L.L. No. 4-2012]**

A private driveway shall be set back at least five feet from the property line of any lot. This shall not apply to a shared driveway.



**§ 190-33.2 Ponds.**

**[Added 8-2-2012 by L.L. No. 7-2012]**

Any pond greater than 50 square feet in area shall require the issuance of a use permit to be issued by the Building Inspector or Zoning Enforcement Officer and is subject to the following regulations:

- A. Ponds must be at least 25 feet from any roadway, must be at least 20 feet from any side yard boundary and must be at least 40 feet from any rear yard boundary. Ponds must also be no closer than 100 feet from any septic system, septic tank or leach field. The provisions of this section regarding ponds shall be in addition to any other provisions of the Zoning Code which may also apply.

**§ 190-33.3 Confinement of animals.**

**[Added 8-2-2012 by L.L. No. 8-2012]**

Notwithstanding any provision in Chapter **190** which allows for the keeping of farm animals such as horses, cows, steers, goats, sheep, pigs, rabbits, chickens and other fowl, any such provision will be subject to the requirement that such animals that are otherwise lawfully allowed to be present on any lot shall be adequately confined so that all such animals do not enter onto any other lot or onto any public roadway. Such confinement shall include adequate fencing, if required. If said animals are not adequately confined, the Zoning Enforcement Officer shall notify the owner or occupant of said lot or the owner of said animals to remedy this situation so as to provide adequate confinement. At any time after 10 days from the providing of such notice requiring this correction, if the animals continue to be inadequately confined so that they are entering onto any other lot or onto a public roadway, then in such event, the owner or occupant of said lot, and/or the owner of said animals, shall be in violation of the requirements of this section and shall be subject to a fine not exceeding \$250 for a first offense and not exceeding \$500 for any subsequent offense.

## **Article VIII Sign Regulations**

**[Amended 9-21-2000 by L.L. No. 3-2000]**

**§ 190-34 Purpose.**

The purpose of this article is to set forth regulations and guidelines for the design and placement of signs in the Town of Ghent. Such regulations and guidelines are meant to help maintain the attractive appearance of the Town and to avoid conditions of clutter and unsightliness by controlling the location, size, number, design, and lighting of signs. The specific purposes of this

article are to:

- A. Preserve public health, safety, and welfare by controlling the size, location, and character of signs, so they will not confuse or distract motorists or obstruct vision necessary for traffic safety.
- B. Maintain community character and protect property values, thereby encouraging present and future economic growth.
- C. Prevent negative impacts on adjoining/adjacent properties.
- D. Establish enforcement protocols for the Town of Ghent Zoning Enforcement Officer concerning signs.

**§ 190-35 Permit requirements.**

No permanent sign may be erected or installed without first obtaining a permit from the Town Building Inspector or Zoning Enforcement Officer. The Town Board shall establish a fee schedule for all sign permits.

**§ 190-36 Design and performance standards.**

- A. No blinking, flashing, animated or rotating signs are allowed on any property in the Town of Ghent. No posters, pennants, ribbons, streamers, spinners or similar moving or fluttering devices are allowed on any property in the Town of Ghent.
- B. Billboards are prohibited on all property in the Town of Ghent.
- C. No signs shall interrupt a roofline or be placed on the roof of a structure.
- D. Portable signs (including, but not limited to, signs mounted on wheels) are prohibited.
- E. The lighting of a sign may not result in light shining directly on or resulting in glare directed toward any adjacent property, or onto any public roadway or right-of-way.
- F. Signs shall not be placed on fences, or vehicles, except for a temporary "For Sale" sign.
- G. No red or green lighting for a sign shall be allowed within 75 feet of any intersection involving a public roadway.

- H. Signs shall be located so as not to constitute a visual hazard to traffic, either by blocking sight lines or causing undue distraction to motorists.
- I. The size of a sign shall be determined by measuring a rectangle around any letters, numbers or illustrations on the sign, along with the area of any distinct background encompassing the letters, numbers, or illustrations.
- J. No sign may be located so as to detract from or obstruct public view of an historic building.
- K. Signs shall be properly installed to avoid any health and safety hazard that might result from unsafe placement or unsafe or insecure construction or installation.
- L. No sign may be located within the legal maximum right-of-way width of any roadway; no sign may be located within 10 feet of any other adjacent property line.
- M. No sign is authorized in connection with a use that is in violation of or has not been legally permitted under any of the provisions of the Zoning Law.
- N. Signs or lettering attached to outside walls may not be extended more than one foot from the face of the wall.

**§ 190-37 Dangerous or hazardous signs.**

If the Zoning Enforcement Officer finds that any sign is unsafe or insecure, or is otherwise a danger to the public, he shall give written notice to the owner, lessee, and/or occupant of the land on which the sign is erected. The owner, lessee, or occupant shall at his or her own expense remove or repair the sign. If the sign is not removed or repaired within seven days of the notice, the Zoning Enforcement Officer shall revoke any permit for such sign, and may remove the sign, assessing all costs and expenses incurred against the owner, lessee, or occupant. If the Zoning Enforcement Officer deems a sign to be an immediate hazard presenting imminent danger to persons or property, the notice requirement in this § 190-37D shall be shortened to one day.

**§ 190-38 Outdoor signs in business, industrial, and commercial zones.**

Each business or facility established within a commercial, business, or industrial zone shall be allowed two signs and two signs only. Signs may be internally lit. One sign may be attached to the facade of the building and shall not exceed 60 square feet or 20% of the surface area of the facade, whichever is smaller. Such signs shall be for identification purposes only and shall not advertise any services or products for sale. Each business/facility is also allowed one ground sign. That sign may include information on products and/or services for sale. Ground signs

cannot exceed 20 square feet in size in the Village Business (VB) Zone and cannot exceed 32 square feet in all other business, industrial and commercial zones, and no ground signs can be higher than 12 feet, as measured from the ground to the top of the sign. No signs are allowed within 50 feet of an abutting residential district.

**§ 190-39 Signs in residential districts.**

Unless otherwise expressly set forth herein, all legally permitted uses in residential districts are allowed one sign. The sign can only bear the name of the business or profession and/or the name of the proprietor. Such signs may not advertise products or services for sale. Such signs can be no larger than six square feet and may be placed on the wall of a residence/business structure or in the yard, provided that the sign is set back at least 10 feet from the front property line and at least 25 feet from all other property lines. No sign in a residential district shall be higher than eight feet off the ground, as measured to the top of the sign.

**§ 190-40 Churches/religious gathering places.**

Churches and other religious gathering places are allowed one announcement sign, not larger than 12 square feet. Such sign must be set back at least 10 feet from the front property line and 25 feet from all other property lines, and can be no higher than eight feet off the ground, as measured to the top of the sign.

**§ 190-41 Commercial rural recreational facilities.**

One identification sign no larger than 32 square feet in area is allowed, provided that such sign is set back at least 50 feet from the edge of any public roadway. It may not be illuminated.

**§ 190-42 Real estate and construction signs.**

Real estate and construction signs must be set back from front property lines at least 10 feet. Such signs shall be limited to a maximum of eight square feet, except in subdivisions where signs may be a maximum of 32 square feet. Real estate "For Sale" signs shall be considered temporary signs and do not require a sign permit.

**§ 190-43 Agricultural signs.**

Signs used in connection with agriculture shall have a maximum area of 32 square feet. Agricultural signs may be illuminated, but such illumination must comply with the requirements set forth in this article.

#### § 190-44 **Sign bonuses.**

To encourage design excellence, the maximum sign sizes specified in this article may be increased to the percentages listed below. A separate increase is granted for compliance with each of the criteria, and the total is cumulative. Sign bonuses do not apply to signs in windows. Sign sizes may increase as follows:

- A. Fifteen percent, if the sign is made of wood, high-density urethane foam or medex (cast wood product).
- B. Twenty percent, if the sign is not illuminated.

#### § 190-45 **Removal of nonconforming signs.**

- A. Signs legally existing prior to the effective date of this article (September 21, 2000) that do not conform to the provisions of this Article **VIII** must be removed in the following circumstances:
  - (1) Where there is a change of use for the property upon which the sign is located; or
  - (2) Where the sign has been removed.
- B. In either of these events, no replacement sign is authorized unless such replacement sign conforms to all of the provisions of these sign regulations.

#### § 190-46 **Temporary signs.**

Temporary signs as defined by this Zoning Law (§ **190-2**, Definitions and word use) do not require a permit, but are subject to all of the regulations set forth in this article.

##### § 190-46.1 **Rules for specific temporary signs.**

In addition to the requirements set forth in this article and also in § **190-2**, Definitions and word use, regarding temporary signs, the following rules apply for certain specific temporary signs:

- A. All political signs must be removed within 10 days following the election.
- B. There may be no more than two temporary signs on any one lot.

- C. Signs for yard sales or garage sales that are legal pursuant to the provisions of this Zoning Law may not be placed on any lot prior to seven days before the sale and must be removed no more than seven days after the sale.
- D. One temporary promotional banner or poster, not exceeding 16 square feet in size, may be located on nonresidential property and shall be considered as a temporary sign.

§ 190-46.2 **Exempt signs.**

- A. Holiday lighting in season shall not be subject to these sign regulations, provided that same is temporary. Such temporary holiday lighting may be placed on all or part of a building, such as a gable, roof, wall, side, or corner.
- B. The provisions of this article shall not apply to safety signs, road signs, municipal signs, historic markers, or highway directional signs that are erected by municipal or public agencies.
- C. The provisions of this article shall not apply to the American flag or the New York State flag. The provisions of this article also shall not apply to any flags used at a residence for decorative purposes only.

## Article IX **Nonconforming Uses, Buildings or Structures**

§ 190-47 **Application of regulations.**

These provisions shall apply to all buildings or structures and to all uses of buildings or structures or lots lawfully existing prior to the effective date of this chapter, or of subsequent amendments, revisions or reenactments of such chapter, which do not conform to the provisions of said original Zoning Chapter, or to such revisions or reenactments of their effective dates.

§ 190-48 **Unlawful buildings, structures or uses to be construed as nonconforming.**

Any unlawful building or structure, or unlawful use of a building or structure or lot existing as of the original effective date of this chapter or any amendment thereto shall be deemed to be a nonconforming building, structure or use.

§ 190-49 **Continuance.**

- A. Any lawful use occupying any building, structure, lot or land at the time of the effective date of this chapter or any amendment thereto, which does not comply, after the effective date of this chapter or any amendment thereto, with the use regulations of the district in which it is situated, may be continued in the building or structure or upon the lot or land so occupied, except as provided in Article **IX**.
- B. A nonconforming building or structure that is not devoted to a nonconforming use may be reconstructed, structurally altered, restored or repaired in whole or in part.
- C. A nonconforming lot owned by the owner of a lot adjacent to the nonconforming lot shall be considered to be a part of the other lot so owned, and the entire property shall be considered to be one lot.
- D. A nonconforming lot separately owned and not adjoining any lot or land in the same ownership at the effective date of this chapter may be used, or a building or structure may be erected on such lot for use, in accordance with all the other applicable provisions of this chapter, provided that proof of such separate ownership is offered in the form of a title search.
- E. An existing building designed and used for a conforming use but located on a nonconforming lot, whether the building is conforming or nonconforming with respect to lot coverage and minimum yard requirements, may be reconstructed, structurally altered, restored or repaired in whole or in part, except that the degree of nonconformity shall not be increased.
- F. An existing nonconforming mobile/manufactured home can be replaced by another mobile/manufactured home at the same location, provided that the replacement mobile/manufactured home is not larger than the home it is replacing. In such circumstances, the Zoning Enforcement Officer is authorized to issue a building permit, use permit and/or certificate of compliance. The replacement mobile/manufactured home shall be required to comply with all requirements of the New York State Building Code. [**Added 5-17-2012 by L.L. No. 4-2012**]

**§ 190-50 Extension.**

- A. A nonconforming use shall not be enlarged or extended, except as provided in Article **X**.
- B. Any building, other than a sign, the use of which is in conformity with the regulations set forth herein, but which building does not conform with the dimensional requirements of the district in which the parcel is located, may be altered, enlarged or rebuilt so long as the

degree of nonconformity is not increased.

§ 190-51 **Change.**

A nonconforming use shall be changed only to a conforming use, except as provided in Article **X**.

§ 190-52 **Abandonment.**

A. A nonconforming use shall be deemed to be abandoned:

(1) When it is changed to a conforming use.

(2) In cases where such nonconforming use of a building or structure designed for such use, when it has been discontinued for a period of 12 consecutive months.

B. A nonconforming use that has been abandoned shall not thereafter be reinstated.

§ 190-53 **Destruction.**

Nothing in this chapter shall prevent the restoration, within one year, of a building or buildings destroyed, in whole or in part, by fire, explosion, Act of God or act of a public enemy or prevent the continuance of the use of such building or buildings or part thereof.

§ 190-54 **Signs.**

All signs erected shall comply to the signing regulations pursuant to Article **VIII** of this chapter.

Article X  
**Board of Appeals**

§ 190-55 **Organization and general procedure.**

A. There shall be a Board of Appeals. Said Board shall consist of five members. The method of appointment, terms of office and tenure of its members shall be as prescribed by law.

**[Amended 1-17-2008 by L.L. No. 1-2008]**

B. The Board shall have all the powers and duties prescribed by law and by this chapter.



- C. The Board shall appoint a Secretary and shall prescribe rules for the conduct of its affairs.
- D. All meetings of the Board of Appeals shall be open to the public. A quorum shall be determined pursuant to the provisions of New York General Construction Law § 41.  
**[Amended 10-20-2011 by L.L. No. 1-2011]**
- E. Every decision by the Board shall be by resolution, and shall contain a full record of the findings of the Board in the particular case.

**§ 190-56 Application and public hearing procedure.**

- A. Applications for any action by the Board of Appeals shall be submitted in the form required by the Board and filed in the municipal office.
- B. The Board shall fix a time and place for a public hearing thereon, and shall provide for the giving of notice at least five days prior to the date thereof, as follows: **[Amended 4-27-2000 by L.L. No. 1-2000]**
  - (1) By publishing a notice in the official newspaper and sending a notice by mail to the owners of properties within 300 feet of the property affected by the proposed application, including properties on the opposite side of the street or highway.
  - (2) If the land involved in an application is within 500 feet of the boundary of any other municipality, notice of the public hearing shall also be mailed to the Municipal Clerk of such other municipality.
- C. Notice of the public hearing and a description of the applicant's proposal shall be mailed to the Columbia County Planning Board in any case required pursuant to the provisions of the General Municipal Law of the State of New York.
- D. No action shall be taken on applications referred to the Columbia County Planning Board until the Board's recommendation has been received or 30 days have elapsed after the Board received the full statement on the applicant's proposal.
- E. A record, subject to public inspection, shall be established of all variances granted pursuant to action of the Board of Appeals under this chapter.
- F. The Board shall keep minutes of its proceedings for public record showing the vote of each member upon every question.

- G. Building or use permits authorized by the appropriate Board on variance cases or in connection with applications for special permits must be obtained within 90 days from the date of approval by the Board; and any construction or use authorized by such permit must be completed or established within one year from the date of approval. Any permit authorized or issued shall lapse if it has not been completed or fulfilled within the time limitations set forth herein, and the applicant must then reapply. Extensions of these periods may be granted by the appropriate Board where good cause is shown; provided, however, that in no event shall such an extension be granted where the delay has been more than one year from the last date authorized for the issuance of a permit or for completion of the project or establishment of the use. **[Amended 5-16-2002 by L.L. No. 2-2002]**
- H. The fee of variance applications to the Board of Appeals shall be established by the Town Board.
- I. If a project before the Zoning Board requiring a special permit or a variance or before the Planning Board requiring a special permit would, upon completion, require approval from the Columbia County Health Department for the septic system, then such approval for the septic system shall be obtained prior to the granting of any special permit or variance hereunder, except that, in the alternative, the applicant may satisfy this requirement by obtaining a letter from a licensed professional engineer with experience in the design of on-lot sanitary systems, stating that there is a suitable area for the installation of an inground, private septic system, including a fill system, which will meet all of the requirements of the Columbia County Health Department and will comply with all of the required setbacks. If the applicant chooses to secure such a letter from an engineer, it shall in no way relieve the applicant from the further requirement that Columbia County Health Department approval as referred to above shall be obtained for any private septic system prior to the issuance of a building permit. **[Amended 5-16-2002 by L.L. No. 2-2002]**

**§ 190-57 Appeals on interpretation of the Zoning Chapter and Map.**

The Board of Appeals shall, upon appeal, hear and decide:

- A. Any matter where the applicant alleges that the Building Inspector or Zoning Enforcement Officer was in error in refusing to issue a building permit, use permit or certificate of occupancy, as a result of misinterpreting the meaning, intent or application of any section or part of this chapter.
- B. Any matter where the applicant alleges that the Building Inspector or Zoning Enforcement Officer was in error in his determination as to the exact location of a district boundary line on the Zoning Map that forms a part of this chapter.

- C. Any other matter for which review is authorized pursuant to any of the provisions of this Zoning Chapter.
- D. Where an application has been made by or on behalf of more than three persons not related by blood, marriage or adoption to be considered to constitute a single-family unit, and the application is denied by the Building Inspector or Zoning Enforcement Officer, the applicants may appeal to the Zoning Board. There shall be a presumption that such applicants do not constitute a single family for the purposes of this chapter and the applicants must rebut this presumption by clear and convincing evidence to the contrary. Such evidence shall establish that the unit is permanent in nature and not transient, does not constitute a temporary living arrangement such as a group of students sharing a house on a temporary basis, is in all respects a single housekeeping unit and is by all outward appearances a normal, stable and permanent family unit in the community. The applicant shall also have the burden of establishing that the number of persons in the unit is reasonably related to the size of the dwelling proposed to be occupied, that the dwelling unit has adequate water and septic facilities, and that the approval of the application will not significantly change the character of the neighborhood or district.
- E. Any application for appeal to the Board of Appeals shall be filed within 30 days from the date of the decision or determination made by the Building Inspector or Zoning Enforcement Officer.

§ 190-58 **Variances.**

- A. The Board of Appeals shall have the power in passing on appeals as provided by the Town Law or as otherwise provided for herein or by any general or local law, rule or regulation, including the power to grant use variances and/or area variances in accordance with the provisions thereof and as set forth herein.
- B. All applications for a variance shall include a map showing the existing property and all improvements thereon, and showing the proposed site plan. The Board of Appeals may require a formal survey map where such map will help to resolve the issues before the Board.
- C. Guiding principles:
  - (1) Every decision by the Board of Appeals granting a variance shall clearly set forth the nature and extent of such variance.

- (2) Every variance granted by the Board of Appeals may be made subject to such conditions and safeguards as the Board shall deem to be applicable to the particular case. Violations of such conditions or safeguards that are a part of the Board's decision shall be deemed a violation of this chapter punishable under the provisions of Article **XI**.
- (3) Any variance granted by the Board of Appeals pursuant to the provisions of this section shall be construed to be a nonconforming use.

D. General standards for use variances.

- (1) No use variance shall be granted by the Board of Appeals without a showing by the applicant that the applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:
  - (a) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence.
  - (b) That the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood.
  - (c) That the requested use variance, if granted, will not alter the essential character of the neighborhood.
  - (d) That the alleged hardship has not been self-created.
- (2) In addition, the Board of Appeals, in granting a use variance, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proven by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

E. General standards for area variances.

- (1) The Zoning Board of Appeals, in considering whether or not to grant an area variance, shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination, the Board shall also consider:

- (a) Whether any undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.
  - (b) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.
  - (c) Whether the requested area variance is substantial.
  - (d) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
  - (e) Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Board of Appeals, but shall not necessarily preclude the granting of the area variance.
- (2) The Board of Appeals in granting of area variances shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
- F. The Board of Appeals in the granting of both use variances and area variances shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such condition shall be consistent with the spirit and intent of the Zoning Chapter, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.
- G. Specific types of variances. In the instances of the following types of variances, the Board of Appeals is hereby specifically empowered to grant the variance pursuant to the guiding principles and the general standards stated in Article **IX** and to the following provisions:
- (1) With respect to lots lying across district boundary lines: to grant a permit, in appropriate cases, where the lot of the appellant, as such lot legally existed on the date of the last amendment of the Zoning Law, lies across the boundary of two districts for extension into a residential district of a lawful conforming use permitted in a commercial or business district, but for a distance not exceeding 50 feet measured at right angles to such district boundary line. **[Amended 4-7-2016 by L.L. No. 2-2016]**
  - (2) With respect to nonconforming uses, buildings and lots:

- (a) To grant a permit for the enlargement or extension of a nonconforming use or building on the lot or land occupied by such use or building on the effective date of this chapter, provided that such enlargement or extension shall not exceed 50% of the existing capacity on the effective date of this chapter.
- (b) To grant a certificate of occupancy for a change in a nonconforming use, provided that:
  - [1] The Board of Appeals shall have made a determination that such change will be beneficial to the general neighborhood.
  - [2] Such change be made subject to such reasonable conditions and safeguards as the Board of Appeals may stipulate.
  - [3] There has been site plan review and approval by the Planning Board.

## Article XI **Administration and Enforcement**

### **§ 190-59 Interpretation.**

In applying and interpreting this chapter, its provisions shall be held to be minimum requirements adopted for the promotion of the public health, safety, morals, comfort, convenience or the general welfare. The following specific regulations apply:

- A. A minimum required lot or yard size for one building or structure shall not be used in whole or in part as any part or a required lot or yard for a second structure.
- B. The required lot or yard for an existing building or structure shall not be diminished below the minimum requirements of this chapter, unless a variance is granted pursuant to Article **IX**.
- C. The parking spaces required for one building or structure or use shall not include in the computation of required parking spaces for a second building or structure or use.

### **§ 190-60 Relation of these provisions to other provisions of law and to private covenants and agreements.**

- A. Nothing contained in this chapter shall be taken to repeal, abrogate, annul or any way impair or interfere with the Building Code or any rules or regulations adopted or issued

thereunder, or any other provisions of law or ordinance or regulations, existing or as may be adopted in the future, when not in conflict with any of the provisions of this chapter. Nor is it intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that when this chapter imposes a greater restriction upon the use of buildings, structures, premises, lots or land or upon the height of buildings or structures or required larger lots, yards, courts or other open spaces than imposed or required by such other provision of law, ordinance or regulations, or by such easements, covenants or agreements, the provisions of this chapter shall control.

- B. Wherever the provisions of any other law or ordinance or regulations impose a greater restriction than this chapter, the provisions of such other law or ordinance or regulations shall control.
- C. No provision contained in this chapter shall be construed as justifying the encroachment of any building or structure within any street lines now or hereafter laid down on any subdivision plat filed in the office of the County Clerk or within any federal, state, County or municipal street or highway.

**§ 190-61 Enforcement.**

- A. It shall be the right and the duty of the Building Inspector, Deputy Building Inspector and/or the Zoning Enforcement Officer to administer and enforce the provisions of this chapter. Any reference in this chapter to the Building Inspector shall include the Deputy Building Inspector or the Zoning Enforcement Officer.
- B. Should said Building Inspector or Zoning Enforcement Officer be in doubt as to the meaning or intent of any provision of this chapter, or as to the location of any district boundary line on the Zoning Map, or as to the propriety of issuing a building permit or a certificate of occupancy in a particular case related to the provisions of this chapter, he shall deny the application and the applicant may then appeal to the Board of Appeals for interpretation and decision.
- C. The Building Inspector or Zoning Enforcement Officer may adopt rules of procedure, consistent with this chapter, for the purpose of assuring efficient and uniform administration of its provisions.
- D. If the Building Inspector or Zoning Enforcement Officer should mistakenly issue any permit or make any determination which is not authorized or violates the provisions of this Zoning Chapter, such permit or authorization shall be invalid.

**§ 190-62 Expenses of Zoning Board of Appeals and Planning Board.**

- A. In addition to any fees required by an applicant appearing before the Zoning Board of Appeals or Planning Board with respect to a request for special permit, variance, site plan review or interpretation of the Zoning Chapter, the applicant shall also be required to pay all expenses incurred by the Board in connection with such application, including fees for mailing and advertising expenses, and including any fees and expenses incurred by the Board for the retention of any experts as provided for herein.
- B. In connection with any application before the Zoning Board of Appeals or Planning Board, the Board is hereby authorized and empowered to retain any expert necessary in order to properly review and evaluate the proposed application, being a cost borne by the applicant, including but not limited to the costs for an engineer and/or attorney. In this regard, the Board may require such costs to be paid in advance and may deny an application upon failure of the applicant to make such payment in a timely manner. **[Amended 5-17-2012 by L.L. No. 4-2012]**

**§ 190-63 Building or use permits, general procedure.**

- A. Every structure or use built, established, placed, enlarged or significantly altered upon any real property on or after the effective date of this chapter shall require the issuance of a building and/or use permit from the Building Inspector, upon submission of a completed application and payment of the required fee. Any person who commences building any structure or establishes any use without securing the required permit is in violation of the Zoning Chapter and is subject to the provisions of Article **XI**, § **190-68**, Penalties for offenses; remedies.
- B. Site plan approval pursuant to the provisions of Article **VI** of this chapter shall be required before the issuance of any building or use permit, except for a building permit for a one- or two-family residence.
- C. All procedure with respect to applications for and issuance of building permits shall be in conformity with the provisions of any adopted Building Code. All such applications shall be accompanied by such other information as may be necessary to determine and provide for the enforcement of this chapter.
- D. No building permit shall be issued for the erection, construction, reconstruction, structural alteration, restoration, repair or moving of any building or structure or part thereof, unless the plans and intended use indicate that such building or structure is designed and intended to conform in all respects to the provisions of this chapter.



- E. Where a lot is formed from part of an existing lot, whether already improved or not, the separation must be effected in such a manner that neither of the lots, nor any existing or proposed improvements thereon, contravene the provisions or intent of this chapter.
- F. After completion of footings and establishing of the forms on the first course of the foundations walls, or equivalent structure, the owner shall notify the Building Inspector. If required by the Building Inspector, the owner shall cause a survey to be made by a licensed land surveyor, showing the true location of such foundation walls with respect to the lot lines of the lot, and a copy of such survey shall be filed with the Building Inspector before construction is continued.
- G. No building permit shall be issued herein unless and until the owner can demonstrate full compliance with the New York State Uniform Fire Prevention and Building Code, and full compliance with the regulations concerning the Flood Area Overzone, if applicable.
- H. Notwithstanding anything set forth herein, a building permit shall not be required in an instance where a proposed structure is 50 square feet or less, except that such structure must otherwise fully comply with the requirements of this chapter, including the dimensional requirements, and must also fully comply with the New York State Uniform Fire Prevention and Building Code.
- I. No driveway shall be constructed, nor any building permit issued, nor any subdivision approved, unless and until the owner has received approval in writing from the applicable state or local municipal authority for the entrance location to the subject premises. The Town Superintendent of Highways shall review and approve the proposed entrance location with regard to any Town highways to determine that there is adequate sight distance, that such proposed location will provide adequate access to the subject premises and is not excessively steep, and that the installation of any culverts and other required improvements shall be made in order to provide for maximum effective drainage. Further, the proposed entrance location shall be designed in order to adequately protect against runoff of water onto the Town highway, including the use of culverts and/or drainage ditches, if necessary. In making such review, the Town's Highway Superintendent may consult and receive input from the Town Engineer, if appropriate. The Town may require an easement, if necessary, to permit the Town to properly maintain the areas adjacent to the roadway. The Town Highway Superintendent shall have the right to disapprove the entrance location proposed by the applicant where the criteria for sight distance, drainage and/or access are not met, and where there is a better location for such entrance. However, nothing set forth herein shall be construed to impose any liability upon the Town Superintendent of Highways or the Town of Ghent with regard to the location of any such entranceways.

- J. The fee for all building or use permits shall be as established by the Town Board.
- K. Any applicant applying for a building permit or a use permit for a nonresidential purpose in any zone within the Town shall, in connection with any such application, execute a consent form authorizing the Town of Ghent and/or its designated agents to enter upon the premises of the applicant, its successors and/or assigns, at reasonable times for purposes of inspecting the premises to ensure compliance with the conditions and provisions of the Zoning Chapter and/or any other conditions which have been imposed with any building or use permit, site plan approval, special permit or variance affecting the subject premises.

**§ 190-64 Building permits for one- or two-family dwellings and residential accessory structures.**

- A. Building permit applications shall include two copies of a layout or plot plans showing the actual dimensions of the lot to be built upon and its tax map and subdivision plat name, lot and block identification, the size and location on the lot of the structures, and accessory structures to be erected, other pertinent site improvement information and any other facts necessary to determine compliance with and provide for the enforcement of this chapter.
- B. One copy of each layout of plot plan shall be returned to the applicant when the building permit has been approved.

**§ 190-65 Completion of building for which a permit has been issued.  
[Amended 10-19-2017 by L.L. No. 2-2017]**

Nothing in this chapter shall require any change in the plans, construction, or designated use of a building or structure for which a lawful building permit has been issued prior to the effective date of this chapter, or any amendment thereto affecting such building or structure, or the use thereof, provided that:

- A. The construction of such building or structure shall have been begun and diligently prosecuted within three months from the date of such permit.
- B. The entire building or structure shall be completed according to such filed and approved plans upon which the issuance of such permit was based, within one year from the effective date of this chapter or any such amendment thereto.
- C. The construction or completion of such building or structure shall be in full compliance with §§ **190-17** and/or **190-26** of this chapter, as applicable.

- D. In the event that any of these conditions are not complied with, such building permit shall be revoked by the Building Inspector.

**§ 190-66 Certificates of occupancy.**

- A. It shall be unlawful to use or occupy or to permit the use or occupancy of any building, structure, premises, lot or land, or part thereof, hereafter erected or altered, enlarged or moved, or put into use, in whole or in part, after the effective date of this chapter, or of any building, structure, premises, lot or land, or part thereof of which the use is changed, until a certificate of occupancy has been obtained by the owner.
- B. No certificate of occupancy shall be issued for any building, structure, premises, lot or land unless the erection, construction, reconstruction, structural alteration, restoration, repair or moving of such building or structure or part thereof and the intended use thereof are in conformity in all respects with the provisions of this chapter, and also in conformity in all respects with the New York State Uniform Fire Prevention and Building Code, and with the Local Law regulating the Flood Area Overzone, if applicable.
- C. The Building Inspector shall obtain a written order from the Board before issuing a certificate of occupancy in a case involving a special permit use pursuant to Article V; and shall obtain a written order from the Board of Appeals before issuing a certificate of occupancy involving a variance from the provisions of this chapter.
- D. All structures erected and/or uses established that necessitate water and/or sewer facilities shall not be occupied, nor shall any certificate of occupancy be issued until such time as the systems have been inspected and approved by the Columbia County Health Department, and such proof is presented to the Building Inspector.

**§ 190-67 Fees.**

All fees for the issuance of any building, use or other permit, certificate of occupancy or in connection with any application to the Building Inspector or Zoning Enforcement Officer, Zoning Board, Planning Board or Town Board shall be established by the Town Board pursuant to a Resolution which the Town Board may amend from time to time as is deemed appropriate.

**§ 190-68 Penalties for offenses; remedies.**

- A. Where a violation of this chapter is determined to exist, including a violation of any conditions of any variance, special permit, use permit, building permit or certificate of

occupancy issued hereunder, the Building Inspector or Zoning Enforcement Officer shall serve notice personally or by certified mail, return receipt requested, on the owner, agent, contractor or party in possession or control of the building, structure or lot where such violation has been committed or shall exist; or upon the agent, architect, contractor or any other such person who takes part or assists in such violation, or who maintains or controls any such building, structure or lot on which any such violation shall exist. There shall be a presumption that the owner of any structure, building or lot shall have knowledge and control of the existence of a violation occurring in such building or structure or upon such lot and shall have the power to remedy same.

- B. Such notice shall require the removal of the violation within 10 days after service of the notice.
- C. In cases where the removal of the violation within 10 days would be manifestly impossible the Building Inspector or Zoning Enforcement Officer shall apply to the governing body of the municipality for a determination as to a reasonable period of time within which such violation shall be removed.
- D. If those persons notified shall fail to remove such violation within the allotted time period, the Building Inspector or Zoning Enforcement Officer shall charge them with such violation of this chapter before the appropriate court of law, and may file all appropriate documents in connection therewith, including the issuance and service of a notice of appearance. A notice of appearance may also be served by a Town Constable. The owner of any building, structure or lot in or upon which a violation exists may, within the applicable ten-day period, provide the Building Inspector or Zoning Enforcement Officer with evidence that such owner has no possession or control over same and has in no way caused or permitted such violation. Such submission must be in writing and must also set forth, to the best of the owner's knowledge, the person or party who has possession and/or control of the premises and/or who has caused or permitted the violation to exist. If the Building Inspector or Zoning Enforcement Officer is satisfied that the owner has, by clear and convincing evidence, established that such owner is in no way responsible for the violation, the Building Inspector or Zoning Enforcement Officer shall not proceed against the owner, but shall instead proceed against the party or parties who have caused the violation. The failure of the owner to notify the Building Inspector or Zoning Enforcement Officer that such owner has no control over the building, structure or premises involved and has in no way caused the violation shall be presumptive evidence that such owner has, in fact, caused or is responsible for such violation, and upon the trial of the matter, the Building Inspector or Zoning Enforcement Officer need only establish the ownership of the premises and the facts constituting the violation.

- E. Any person or corporation, whether as owner, contractor, lessee, agent or employee, who violates any of the provisions of this Zoning Chapter or fails to apply for a permit when a permit is required or who fails to comply with an order or regulation made hereunder or with regard to any conditions imposed for any use or building permit hereunder or who erects, alters, moves or uses any buildings or land in violation of any statements or drawings submitted by him and approved under the provisions of this Zoning Chapter shall be guilty of a violation and, upon conviction, shall be punished by a fine not exceeding \$1,000 or imprisonment not to exceed 15 days, or both, for a first offense; for conviction of a second offense committed within a ten-year period, by a fine not exceeding \$5,000 or imprisonment not to exceed 15 days, or both; and for conviction of a third violation within a ten-year period, by a fine not exceeding \$10,000 or imprisonment not to exceed 15 days, or both. Each and every week any such violation continues after the allotted period of time for its removal shall be deemed a separate and distinct violation without the necessity of the Building Inspector or Zoning Enforcement Officer sending any further notices in this regard.
- F. In addition to other remedies provided by law, any appropriate action or legal proceeding may be instituted or taken to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, moving, maintenance or use; to restrain, correct or abate such violation; to prevent the occupancy of such building, structure or lot; or to prevent an illegal act, conduct, business or use in or about such premises. In the event that legal action is required under the provisions of this Zoning Chapter, damages shall include reasonable legal fees and court costs incurred by the Town, which shall be determined by the court and paid by the person(s) or entity (entities) in violation of any such actions.
- G. Revocation of special use permits. In addition to any other remedies or penalties set forth in New York Town Law section 268 or in this chapter, or that may otherwise be applicable, and without limiting or impairing the availability of such remedies or penalties, the Zoning Enforcement Officer is authorized to revoke any special use permit granted pursuant to this chapter, upon a second or subsequent violation of the terms and conditions of such special use permit, or in the event any order to remedy a violation of such terms or conditions is not satisfied within the time period and in accordance with the provisions of such order.
- H. Any person may file a complaint with the Building Inspector or Zoning Enforcement Officer regarding a violation of this chapter.
- (1) All such complaints shall be in writing.
  - (2) All such filed complaints shall be investigated by the Building Inspector or Zoning Enforcement Officer and a report prepared thereon and action instituted where

appropriate within five business days after receipt of same, which report shall be maintained in his files with respect to the subject property.

- (3) Nothing set forth herein shall be construed to limit the right of the Building Inspector or Zoning Enforcement Officer from investigating any potential violation without the requirement of a written complaint.
- I. Notwithstanding any other provision set forth in this section to the contrary, where an owner, agent, contractor or party in possession or control of a building, structure or lot commences construction of a structure thereon, including the alteration of an existing structure, or authorizes, allows, engages in or permits a use on any lot without having first obtained all permits required herein, or authorizes, allows, engages in the use on any lot which is not permitted under the provisions of Chapter 190 of the Ghent Code, such person(s) hereunder shall be in violation of this chapter and shall be subject to prosecution for such violation as provided for in this section, except that the requirement for service of the notice for removal of such violation within 10 days shall not apply when the Zoning Enforcement Officer or Building Inspector elects to issue a cease and desist order as provided for herein. The Building Inspector or Zoning Enforcement Officer may also, in addition to all of the other remedies set forth herein, serve upon any person or entity in violation of any of the terms and provisions of this Zoning Chapter or in violation of any of the requirements for a building or use permit, special permit or variance, a notice to cease and desist from any illegal construction, usage or other such violation(s). If such violation continues at the subject premises after service of such notice, this shall constitute a distinct and separate violation of the Zoning Chapter and shall be punishable by a fine not exceeding \$5,000 for a first violation and a fine not exceeding \$10,000 for a second and each subsequent violation committed within a period of 10 years of the previous violation. Service of the cease and desist order may be made by personal service upon the violator(s) or may be made by certified mail, return receipt requested, to the violator's address, with an additional copy being mailed by regular mail.
- J. Civil penalties.
- (1) In addition to and not in lieu of the above, any person who violates any provision of this Zoning Chapter, or who builds or alters any structure or use of land in violation of any statement or plan submitted and approved hereunder, or who assists therein, or who violates any terms or conditions set forth in any variance, special permit, use permit, building permit, site plan approval, or certificate of occupancy, shall be liable to the Town for a civil penalty in an amount not to exceed \$5,000 for a first violation; in an amount not more than \$10,000 for a second violation committed within a period of 10 years of the previous violation; and in an amount of not more than \$15,000 for a

third and each subsequent violation committed within a period of 10 years of the previous violation. Each week's continued violation shall constitute a separate additional violation.

- (2) Civil penalties may be ordered in any action or proceeding by any court of competent jurisdiction, including but not limited to state and federal courts. All penalties shall be paid to the Town.
- (3) The judgment amount of any civil penalty ordered pursuant to this section, if not paid, may be assessed and levied against the real property which is the subject of the penalty and collected in the same manner as a real property tax.
- (4) In the event that the Town elects to pursue civil penalties under this section to enforce the provisions of this Zoning Chapter, the damages sought may include legal fees and court costs incurred by the Town.

**§ 190-69 Procedures for amendment.**

- A. The municipal legislative body may from time to time on its own motion, or on petition, or on recommendation of the Planning Board amend, supplement or repeal the regulations and provisions of this chapter, including the Zoning Map, after public notice and hearing, in accordance with state law.
- B. Petitions for amendments shall be submitted in quadruplicate to the Municipal Clerk and referred to the Town Board.
- C. Any petition for a change in the Zoning Map shall include the following:
  - (1) The name of the property owner.
  - (2) A map accurately drawn to an appropriate scale, showing the proposed zone district boundary changes, property lines, the calculated areas affected in acres or square feet, the street rights-of-way in the immediate vicinity and the lands and names of owners immediately adjacent to and extending within 300 feet of all boundaries of the property to be rezoned.
  - (3) A survey description of the proposed amendment.
- D. The municipal legislative body, by resolution adopted at a stated meeting, shall fix the time and place of a public hearing on the proposed amendments and cause notice to be given.

- E. Every such proposed amendment or change, whether initiated by the municipal legislative body or by petition, shall be referred to the Planning Board for report before the public hearing is held thereon.
- F. Proposed amendments that must be referred to the Columbia County Planning Board under the provisions of § 239-m of Article 12-B of the General Municipal Law shall be transmitted as soon as possible and in any case prior to the public hearing.
- G. The municipal legislative body shall require the petitioner to submit evidence that he has notified by certified mail, return receipt requested, all the property owners within 300 feet of all boundaries of the affected property.
- H. The municipal legislative body shall reserve decision on all zoning amendments or changes that must be referred to the Columbia County Planning Board until its report has been presented, provided that such report is presented within a period of 30 days after the Columbia County Planning Board receives such referral.
- I. Upon adoption of a change in the Zoning Map pursuant to a petition, the petitioner shall cause a monument to be placed at one location on the property's street frontage, and shall also file with the Municipal Clerk and the Building Inspector or Zoning Enforcement Officer copies of an accurate survey description and drawing of the area affected by such amendment.
- J. The Town Board shall have the right to retain experts such as engineers, attorneys and/or surveyors in connection with its review/approval process hereunder, the fees of such experts to be paid for by the applicant.

**§ 190-70 Relief from decisions.**

**[Amended 5-16-2002 by L.L. No. 2-2002]**

Any person or persons jointly or severally aggrieved by a decision by the Board of Appeals or by the Planning Board may apply to the Supreme Court for relief by proceeding under Article 78 of the Civil Practice Law and Rules of the State of New York. Such proceeding shall be governed by the provisions of Article 78 of the Civil Practice Law and Rules, except that it must be instituted as therein provided within 30 days after the filing of a decision in the Office of the Town Clerk; that the Court may take evidence or appoint a referee to take such evidence as it may direct and report the same with findings of fact and conclusions of law, if it shall appear that testimony is necessary for the proper disposition of the matter; and that the Court at special term shall itself dispose of the cause on the merits, determining all questions of § 7803 of said Article. Costs shall not be allowed against the Board of Appeals or the Planning Board unless it shall



appear to the Court that the Board acted with gross negligence or in bad faith or with malice in making the decision appealed from.

## Article XII **Mining**

**[Added 4-21-2005 by L.L. No. 3-2005]**

### **§ 190-71 Definitions.**

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

#### **MINING**

The excavation or extraction of earth, sand, gravel, stone, quarry material, clay, loam, humus, topsoil or other earth material from a lot and removal thereof from that lot; or any temporary storage of such materials by stockpiling, or any processing of excavated or stockpiled materials, or any of the related land use activities engaged in during the above activities such as construction of buildings, barriers and other structures, clearing of property, removal or placement of trees, vegetation and earth material, or the regrading or movement of earth material within the boundaries of a single lot or subdivision.

### **§ 190-72 Removal.**

The removal of up to 200 yards of earth material from any lot requires a permit from the Building Inspector or Zoning Enforcement Officer but shall not require a special permit nor be subject to the mining overzone location requirement. The applicant shall submit relevant documentation to the Building Inspector or Zoning Enforcement Officer in connection with any such project, and if the Building Inspector or Zoning Enforcement Officer, in his sole discretion, is satisfied that no more than 200 yards of earth material will be removed from such lot, the Building Inspector or Zoning Enforcement Officer may issue a permit. If the Building Inspector or Zoning Enforcement Officer is in doubt as to the overall scope of the project or the exact amount of earth material that will be removed, the Building Inspector may deny the issuance of a permit and the applicant shall then be required to obtain a special permit from the Planning Board. There should be no fee for the permit except that, if the removal of earth material has taken place prior to the application for a permit, the fee for a permit in such instance shall be in the amount as set forth from time to time by the Town Board. The permit referenced herein shall not be applicable in connection with any lot that is part of a subdivision.

### **§ 190-73 Mining overzone.**

There shall be a mining overzone as shown on the Town of Ghent Mining Overzone Map in which zone mining shall be permitted by special permit subject to the regulations set forth hereafter. Mining is not permitted in any other area of or zone in the Town of Ghent unless specifically excluded from this requirement pursuant to the provisions of this section.

A. Exceptions to the mining overzone:

- (1) The removal of up to 200 yards of earth material as set forth above or the regrading or moving of earth material within the boundaries of a single lot or subdivision comprising of not greater than 200 yards of material.
- (2) In the RA1 and RA2 Zones, in connection with the construction and development of a subdivision, the excavation and removal of earth material of a total quantity that does not exceed the smaller of the following:
  - (a) A total amount of 10,000 tons or 7,500 cubic yards (whichever is less); or
  - (b) The number of tons or cubic yards computed by multiplying the total number of lots to be created by the subdivision times the amount of 500 tons or 375 cubic yards per lot (whichever is less).
- (3) Also exempt from the mining overzone location requirement shall be the construction and development of a site plan requiring approval by the Planning Board and, in conjunction therewith, the excavation and removal of earth materials of a total quantity that does not exceed 500 tons or 375 cubic yards (whichever is less).
- (4) Ponds: Also exempt from the mining overzone location requirement is the construction of a pond where no more than 8,000 cubic yards of material are removed from the site.

B. With respect to exceptions in Subsections A(2), (3) and (4) above (subdivisions, site plans and ponds), these exceptions are still subject to all other mining regulations set forth herein.

§ 190-74 **Special permits.**

A special permit shall be required from the Planning Board for the removal of more than 200 cubic yards of earth material, whether or not a permit by the Department of Environmental Conservation is also required. Section 23-2711 of the Environmental Conservation Law requires a mining permit from the New York State Department of Environmental Conservation where the mining activity involves removal of more than 1,000 tons or 750 cubic yards of material, whichever is less, in any 12 successive calendar months. In the latter instance, one of the

conditions for obtaining a special permit from the Town of Ghent shall be the approval by the Department of Environmental Conservation of the application.

**§ 190-75 Special permits not subject to DEC.**

With regard to all special permits which are not subject to the applicant having to obtain a permit from DEC, the Planning Board, in granting such special permit shall consider the health, safety and welfare of the community and shall address the following issues:

- A. Appropriate setbacks from property boundaries, public roads and/or rights-of-way. In this regard, no mining may take place within 75 feet of any property boundary nor within 200 feet from any public roadway.
- B. The existence or creation of man-made or natural barriers designed to provide adequate screening and the type, length, height and location of same.
- C. The control of dust; so that dust does not migrate off the site.
- D. The hours of operation, which shall not exceed 12 hours in any one day nor commence before 7:00 a.m. on any day nor extend beyond 7:00 p.m. on any day, nor shall there be any activities conducted at the site on Sunday.
- E. The area and depth of excavation. No excavation shall be within five feet of the existing water table.
- F. The steepness of slopes excavated.
- G. Adequacy of public roadways or rights-of-way providing direct access to and from the site. If an existing Town roadway is proposed to be utilized for direct access to and from the site, the Planning Board shall determine, based upon written information presented, including input from the Town Highway Superintendent and the Engineer retained by the Planning Board for the project, that the roadway is adequate to support the projected truck traffic for this project. If the Planning Board determines, based on such input and written information presented, that the roadway is not adequate to support the projected truck traffic for this project, then mining at the proposed site shall not be permitted unless suitable arrangements are made by the applicant, subject to the approval of the Town Board, to improve the Town roadway so that it is adequate to support the projected truck traffic for this project.  
**[Amended 5-20-2010 by L.L. No. 1-2010]**
- H. A mining plan setting forth in reasonable detail the proposed mine site, length of operation

and type and quantity of materials to be removed.

- I. A reclamation plan to provide for restoration of the proposed site.
- J. A reclamation bond in the amount of at least \$3,000 per acre or other suitable financial security in at least such amount suitable in the discretion of the Board to ensure compliance with the reclamation plan. The reclamation bond shall remain in effect until the reclamation is completed in accordance with the requirements of the approved plan.
- K. The applicant's plan shall provide for proper drainage of the area, both during and after the excavation.
- L. No excavation shall interfere or alter any natural watercourse.
- M. The Planning Board may, if it deems appropriate, direct that the applicant proceed to mine in stages and may require reasonable provisions in connection with closing and reclamation of the existing stage prior to permitting the applicant to commence mining activities in the next stage.
- N. Upon reclamation, no sharp and declivities pits, depressions or soil erosion problems shall be created and no slopes or banks shall exceed whatever slope is necessary in order to obtain stability.
- O. The Planning Board may require suitable fencing for enclosing the property if it deems that this is appropriate.
- P. The applicant must demonstrate that the proposed access to and from the property will not create safety or traffic hazards, and shall provide a plan whereby trucks and other vehicles coming to and leaving from the site will utilize the most desirable routes to and from the state highway so as to minimize to the greatest extent possible such traffic passing through residential areas.
- Q. Loading and hauling. Trucks and vehicles shall be loaded and operated so as not to spill gravel, rocks, sand or other earth materials upon the roads and highways utilized to and from the site, or otherwise impair or damage the roads or highways.
- R. Noise and vibration. The applicant shall be required to take all measures necessary in order to reduce the noise level to the greatest extent possible. The applicant shall demonstrate that there shall be no vibration affecting properties beyond the limits of the lot.

- S. The Planning Board may in its discretion require the applicant to submit written proof that the proposed mining is not subject to the laws and rules set forth in the New York State Mined Land Reclamation Law.
- T. In consideration of whether the special permit should be granted, the Planning Board may also consider such criteria as it deems necessary as set forth in Article **VI**, Site Plan Review.
- U. In considering whether to grant a special permit, the Planning Board shall also determine that the project meets all of the requirements set forth in the Town of Ghent Code § **190-18**, General standards for the granting of a special permit.
- V. The Planning Board may also consider such other measures reasonably necessary to mitigate any other environmental impact that may arise as a result of the mining operation.

**§ 190-76 Special permits subject to DEC permit.**

With regard to all special permits which are subject to the applicant having to obtain a permit from DEC, the Planning Board, in granting such special permit, shall consider the health, safety and welfare of the community and shall address the following issues:

- A. Appropriate setbacks from property boundaries, public roads and/or rights-of-way. In this regard, no mining may take place within 75 feet of any property boundary nor within 200 feet from any public roadway.
- B. The existence or creation of man-made or natural barriers designed to provide adequate screening and the type, length, height and location of same.
- C. The control of dust; so that dust does not migrate off the site.
- D. The hours of operation, which shall not exceed 12 hours in any one day nor commence before 7:00 a.m. on any day nor extend beyond 7:00 p.m. on any day, nor shall there be any activities conducted at the site on Sunday.
- E. Adequacy of public roadways or rights-of-way providing direct access to and from the site. If an existing Town roadway is proposed to be utilized for direct access to and from the site, the Planning Board shall determine, based upon written information presented, including input from the Town Highway Superintendent and the Engineer retained by the Planning Board for the project, that the roadway is adequate to support the projected truck traffic for this project. If the Planning Board determines, based on such input and written information presented, that the roadway is not adequate to support the projected truck traffic for this

project, then mining at the proposed site shall not be permitted unless suitable arrangements are made by the applicant, subject to the approval of the Town Board, to improve the Town roadway so that it is adequate to support the projected truck traffic for this project.

**[Amended 5-20-2010 by L.L. No. 1-2010]**

- F. The Planning Board may require suitable fencing for enclosing the property if it deems that this is appropriate.
- G. The applicant must demonstrate that the proposed access to and from the property will not create safety or traffic hazards and shall provide a plan whereby trucks and other vehicles coming to and leaving from the site will utilize the most desirable routes to and from the state highway so as to minimize to the greatest extent possible such traffic passing through residential areas.
- H. Loading and hauling. Trucks and vehicles shall be loaded and operated so as not to spill gravel, rocks, sand or other earth materials upon the roads and highways utilized to and from the site, or otherwise impair or damage the roads or highways.
- I. Noise and vibration. The applicant shall be required to take all measures necessary in order to reduce the noise level to the greatest extent possible. The applicant shall demonstrate that there shall be no vibration affecting properties beyond the limits of the lot.
- J. In considering whether to grant a special permit, the Planning Board shall also determine that the project meets all of the requirements set forth in the Town of Ghent Code Section **190-18**, General Standards for the Granting of a Special Permit.
- K. The Planning Board may also consider such other measures reasonably necessary to mitigate any other environmental impact that may arise as a result of the mining operation.

**§ 190-77 Special permit application rules.**

With respect to all special permit applications where the applicant must also obtain a permit from DEC, the following rules apply:

- A. Any conditions imposed by the Board shall be subject to the provisions of Environmental Conservation Law § 23-2711.
- B. Upon receipt by the Town of notification of an application to DEC for a permit for mining, the application shall be referred to the Planning Board and the Planning Board shall conduct a preliminary review under § 23-2711 of the Environmental Conservation Law or its

successor and shall issue its findings to the Department of Environmental Conservation within 30 days of the date of such referral was made.

- C. In the instance where a mining permit from the Department of Environmental Conservation is required, the applicant shall submit to the Planning Board copies of all correspondence and documentation between the applicant and DEC, specifically including but not limited to the mining application, mining plan, reclamation plan, reclamation bond(s), any environmental assessment form, any environmental impact statement, any other documents required pursuant to SEQR regulations, engineering reports and renewal application(s).
- D. At all times the applicant shall maintain a valid, in-force DEC mining permit which shall be available for inspection by the Town Building Inspector or Zoning Enforcement Officer.
- E. At all times the applicant shall be required to operate in compliance with the DEC mining permit.

#### **§ 190-78 Application.**

Applications for a special permit shall be submitted in writing to the Town of Ghent Planning Board. The application shall be accompanied by 10 copies of maps and plans prepared by an engineer or surveyor licensed to practice in the State of New York and showing the following:

- A. Participants. The full names, signatures and addresses of the owner, lessee, operator and applicant and the written consent of the mortgagee, if any.
- B. Proof of ownership of the property and the names and addresses of all parties having an interest in any entity involved as the owner or operator of the site, such as a limited liability company, corporation or limited partnership which owns or has an interest in the property.
- C. Description of proposed operations. A statement clearly detailing the nature and extent of operations, including the type and amount of material to be filled, regraded or removed, the manner in which it will be accomplished, the proposed hours of operation, and a time schedule for the completion of the various stages of the operation.
- D. Site plan map. A site plan map drawn to scale, prepared by an engineer or surveyor licensed to practice in the State of New York, showing all improvements on the property as well as the proposed area for mining and other improvements to be constructed in connection with the mining operation.
- E. Boundaries of property. The boundaries of the property where the excavation is proposed

and the area to be excavated, filled or regraded.

- F. Existing contours. Existing contours in the area of operations and proposed contours after completion of the work, which contours shall be prepared from an actual field survey, shall be based on a benchmark noted and described on the map and shall be drawn to a scale of not less than 100 feet to the inch and with a contour interval not to exceed two feet. If necessary, the Planning Board may require more detailed contours.
- G. Existing and proposed water bodies and drainage. Existing and proposed watercourses, water bodies, erosion control and drainage on the premises.
- H. Surrounding area. Surrounding streets and property lines and names of property owners.
- I. Natural features. Principal wooded areas, any rock outcrops and watercourses.
- J. Existing and proposed structures. Existing and proposed structures on the premises and surrounding properties.
- K. Proof that there are no unpaid real property taxes or assessments on the premises which are delinquent. **[Amended 5-17-2012 by L.L. No. 4-2012]**
- L. Phasing plan. Phasing plan for operations and restoration of the site.
- M. Other. Such other maps, plans, boring tests, feasibility studies and engineering data as may be required by the Planning Board in order to determine and provide for the proper enforcement of these regulations.
- N. State environmental quality review. The application must include an environmental assessment form and such information necessary to comply with SEQR. The application shall be subject to all SEQR laws and regulations.

**§ 190-79 General provisions.**

- A. The mining overzone shall not apply to the mining of shale or peat, but the special permit requirements shall be applicable.
- B. No stockpiling of more than 200 yards of material on any lot shall be permitted for more than 60 days unless associated with an approved mining plan or unless a use permit has been obtained from the Town in connection with the operation of a business. With respect to any proposed or approved subdivision, the limitation of no stockpiling of more than 200



yards of material for more than 60 days shall apply to the entire parcel being subdivided.

- C. Other criteria; inspection. The Town Building Inspector and/or Zoning Enforcement Officer shall have the right to inspect all or any part of the mine or mining operation at any time. If the Town Building Inspector and/or Zoning Enforcement Officer determines that there is a violation of operating conditions and/or that the mining operation is not being conducted or cannot be conducted in accordance with the plans as approved, the mining permit shall automatically become null and void, upon notification sent to the permittee by regular mail to the address given on the application. The permittee may change this address from time to time in writing submitted to the Town Building Inspector and/or Zoning Enforcement Officer.
- D. Length of permit. The Planning Board shall determine the length of any mining permit issued; however, no mining permit shall be issued for more than five years. If it is contemplated that the mining operation will take more than five years, then the applicant shall apply to the Planning Board for renewal of the permit before the expiration of the five-year period. Upon an application for renewal, the Planning Board shall review the status of the mining operation and determine if the applicant has complied with all existing permit conditions. Renewal shall not be permitted in a case where there is any outstanding violation with respect to any permit or approval or where a required permit or approval has not been obtained or has been revoked. If the applicant is seeking any modifications or changes to the original permit or approval previously given, the Planning Board shall review any such request(s) in accordance with the provisions of this section.
- E. Escrow account. Each applicant shall deposit with the Town of Ghent an amount of money to be determined by the Planning Board in order to cover any expenses incurred or to be incurred by the Town of Ghent in connection with the inspection of the mine or mining operation. The amount of the escrow deposit shall be determined by the Planning Board based upon the scope of the mining operation, including but not limited to the area of land involved, proposed amount of material to be removed, and length of operation. The minimum amount for such deposit shall be the sum of \$500. The money in the escrow account shall be used by the Town of Ghent to pay for any experts, professionals or other personnel retained by the Town of Ghent in connection with any such inspections or reports made in connection with the mining operation.

#### **§ 190-80 Other required permits.**

Any special permit shall be subject to the applicant obtaining any other necessary permits required by the Town, county, state or any other regulating agency, including but not limited to permits for water control and entrances from the public highway to the site.

**§ 190-81 Fines.**

**[Amended 11-20-2014 by L.L. No. 3-2014]**

The fines for violation of the conditions set forth in the permit or for mining without having obtained the necessary permit or for the continuance of mining after the permit has expired shall be as follows:

- A. For each day mining continues after a cease-and-desist order or violation notice is served, there should be a minimum fine of \$1,000 per day and a maximum fine of \$15,000 per day. The fine shall be determined by the Town Justice, who shall consider the market value of any unlawfully mined material when setting the appropriate fine, as well as any other criteria said Town Justice determines to be reasonably related to the subject violation.

**§ 190-82 Preexisting mines.**

With respect to mines which currently are being operated in the Town of Ghent pursuant to valid permits which have not expired, the owner of any such property shall be entitled to continue the operation of same pursuant to the provisions of a valid permit currently in effect through the time that such permit expires. Thereafter, any application for renewal of an existing valid permit shall be subject to the provisions of this law.

**§ 190-83 Overzone map.**

The Town of Ghent hereby adopts a mining overzone map which is entitled "Town of Ghent Mining Areas," prepared by Morris Associates, P.S., LLC, dated February 22, 2005 and which map is on file at the office of the Ghent Town Clerk and which map shows the area in which mining shall be permitted in the Town of Ghent by special permit subject to the laws set forth in this article.