

CANANDAIGUA LAKE UNIFORM DOCKING AND MOORING LAW

CHAPTER 38

TOWN OF GORHAM

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38.001 Title

This local law shall be known and may be cited as the “Canandaigua Lake Uniform Docking and Mooring Law”.

38.002 Purpose

The purposes of this local law are to regulate lakeshore activities in or on the waters of Canandaigua Lake in order to protect the public health, safety and welfare, and to provide reasonable public access and recreational use of Canandaigua Lake without overcrowding, congestion or safety hazards while protecting the resources of the Lake.

38.003 Authority

In accordance with Section 46-a, Subdivision 4, of the New York State Navigation Law, the Town of Gorham has the authority to enact and enforce uniform local laws to regulate the manner of construction and location of boathouses, moorings, and docks including related accessory uses in any waters of Canandaigua Lake bounding or within such municipality from the mean high water level to a distance of 1,500 feet from the shore.

38.004 Definitions

For the purposes of this law the following definitions apply:

Adjacent Upland Owner – The person or persons having title in fee to the adjacent upland parcel. This shall include the owner(s), lessee(s), occupant(s), easement holder(s), or any other person(s) or entity(ies) with a legal or beneficial interest in the adjacent upland parcel.

Adjacent Upland Parcel – A parcel of land bordering on the lakeshore of Canandaigua Lake.

All Other Land Uses Category – All types of land uses on the adjacent upland except those land uses specified in the residential land use category. This includes but is not limited to marinas, yacht clubs, camps, restaurant docking, etc.

Berth – See Boat Slip.

Berthing and Mooring Facility – A waterside area consisting of one or more structures, docks, mooring buoys or a combination thereof, used for the berthing or mooring of boats, yachts, or other floating craft, whether manually, mechanically, or sail powered.

Boat – Any vessel, floating craft, or personal watercraft which utilizes a berthing or mooring facility including but not limited to canoes, rowboats, rowing shells, kayaks, windsurfers, jet skis, and other small boats or personal watercraft which are contained in a berthing or mooring facility.

Boathouse – A permanent enclosed structure, that provides direct water or rail access for boats, and is wholly or partially supported or constructed below the mean high water mark. A boathouse has a permanent roof and one or more enclosed sides. A boathouse shall not be defined to mean a boat hoist structure, boat station or boat accessory structure. No boathouse shall be allowed without a minimum 200 lineal feet of lakeshore.

Boat Accessory Structure – An enclosed storage structure, the purpose of which is the storage of related boating accessories. A boat accessory structure shall not be defined to mean a boat hoist structure, boat station or boathouse.

Boat Hoist – Any mechanical device the purpose of which is to raise or lift a boat out of the water for waterside storage.

Boat Hoist Structure – A temporary open-sided structure placed in the water; a mechanical device is attached to the structure to raise or lift a boat out of the water for waterside storage. A boat hoist structure may have a roof. A boat hoist structure shall not be defined to mean a boat station, boathouse or boat accessory structure.

Boat Slip – A waterside storage area adjoining the lakeshore, any structure, boat hoist structure, boat station, slip, boathouse, dock or pier, the purpose for which is the storage of a boat, yacht, or any floating craft.

Boat Station – A permanent open-sided structure constructed in the water, with a mechanical device, the purpose of which is to raise or lift a boat out of the water for waterside storage. A boat station is intended as a permanent boat hoist structure. A boat station shall not be defined to mean a boat hoist structure, boathouse or boat accessory structure.

Dock – Any structure, or fixed platform built on floats, columns, open timber, piles, or similar open-work supports, or cantilevered structures anchored to the shore including piers and wharfs and designed to provide access from the shore to Canandaigua Lake for swimming, boating or other commercial uses and shall also include accessorial uses including but not limited to boat slips and berths. All structural descriptions provided above which are not placed on the water side of the mean high water mark shall be defined as a dock.

Height – The vertical distance measured from the mean high water level to the highest portion of the building or structure.

Lineal Foot of Lakeshore - The horizontal lineal distance measured in a straight line between the lot lines at the mean high water mark. Lineal foot of lakeshore for developments that involve alteration of lakeshore will be measured at the natural mean high water mark before such alteration. The mean high water tie line of the adjacent upland parcel which is described in Section 38.005(C) determines the lineal feet of lakeshore.

Lot Line Extended – In case of shoreline parcels along a substantially straight shoreline, the lot line extended shall be determined by projecting the parcel lines, where they meet the shoreline, lakeward at right angles from the shoreline. In the case of lakeshore parcels on points or coves, lot line extended shall be determined by projecting the parcel lines, where they meet the mean high water mark, lakeward along the line bisecting the angle formed by the shoreline at its intersection with the parcel lines. Where such projections do not run at least 200 feet from shore the converging lines shall instead run to a point 200 feet from shore.

Mean Low and High Water Levels – The approximate average low water level or high water level for a given body of water at a given elevation, determined by reference from survey datum provided by the United States Geological Service (USGS). According to the New York State Office of General Services, the Mean Low Water Level for Canandaigua Lake is 686.60. According to the New York State Department of Environmental Conservation, Division of Regulatory Affairs, the Mean High Water Level is 689.41.

Mean High Water Mark – The location where the mean high water levels intersect with the adjacent upland parcel.

Mean Low Water Mark – The location where the mean low water level intersects with the adjacent upland parcel.

Mooring Buoy – A floating object anchored to the bed of the lake but not to the lakeshore, to which a boat could be attached for waterside storage.

Permanent – The type of construction for any dock, boathouse, boat station, or boat accessory structure that is anchored to the bed of the lake and intended not to be removed each season.

Pier or Wharf – Any structure extending out into or over the water built upon fill, which shall include, but shall not be limited to earth, clay, silt, sand, gravel, stone, rock, shale, concrete (whole or fragmentary), ashes, cinders, slag, metal, whether or not enclosed, or containing (1) crib, crib work of wood, timber, logs, concrete or metal, or (2) bulkheads and cofferdams or timber sheeting, bracing and piling or steel sheet piling, or steel H piling, separate or in combination.

Personal Watercraft – A vessel which uses an inboard motor powering a water jet pump as its primary source of propulsion and which is designed to be operated by a person sitting, standing in or kneeling on, or being towed behind the vessel rather than in the conventional manner of sitting or standing inside the vessel.

Residential Land Use Category – All land uses on the adjacent upland parcel that are normally classified as a place of dwelling, including but not limited to, single-family, multi-family, boarding houses, apartments, bed and breakfasts, townhouses and condominium units. Hotels and motels are not included in the residential land use category.

Temporary – The type of construction for any dock or boat hoist structure that is intended to be removed each season.

Water Rights Line – The lines which are used solely for determining the boundaries for the placement of berthing and mooring facilities, and all other facilities subject to this law. The method for establishing water rights lines is found in Section 38.005(C).

Waterside – The lake side of the mean high water mark.

38.005 General Regulations for the Placement and Configuration of All Berthing and Mooring Facilities

- A. Placement of docking and mooring facilities in conjunction with a vacant adjacent upland parcel shall comply with the land use category established under local law.
- B. All regulations and rights thereof contained in this local law apply to the adjacent upland owner based upon the number of lineal feet of lakeshore for each adjacent upland parcel.
- C. Berthing and mooring facilities shall be placed within the water rights line of the parcel so as not to interfere with the lakeshore usage of adjacent parcels. Water rights lines are determined using the following method (See Figure 1):
 1. Determine the four points where the mean high water mark intersects the property lines of the parcel and the two adjoining lakeshore parcels.
 2. Connect the points of intersection with straight lines. These lines are called mean high water tie lines.
 3. Where two mean high water tie lines meet, measure the angle on the waterside.
 4. Bisect (or divide by two) that waterside angle measurement. The newly-formed line projected out over the waterside is the water rights line.

Where the water rights lines are less than 200 feet long at the point of intersection, the method described in C (1-4) must be modified in order that all water rights lines are at least 200 feet long at the point of intersection.

The Town of Gorham may require appropriate documentation for the application, including surveys when necessary, to determine water rights lines.

- D. No berth, boat slip, boathouse, boat hoist structure, boat station, boat accessory structure, dock, or other permitted structure, shall be located closer than 10 feet in the Residential Land Use category and 20 feet in the All Other land Uses category, to any water rights line of a parcel.
- E. Mooring buoys shall be placed in such a manner that each moored vessel will avoid contact with any other moored vessel or structure. At no time may a moored vessel or part thereof extend outside the limits of any water rights line of a parcel.
- F. One boat hoist structure is permitted for each boat slip permitted under the regulations contained in the residential land use category. A roof is permitted, however, the sides shall not be enclosed in any manner. Construction of a second floor level inside the boat hoist or of a second floor sundeck is not permitted. The boat hoist structure shall not exceed a height of fifteen (15) feet above the mean high water level.
- G. One boat station may be substituted for a boat hoist structure per adjacent upland parcel within the residential land use category. The boat station shall not exceed a height of fifteen (15) feet above the mean high water level. All boat stations shall be covered by a roof with a slope no less than (3) and (12). The boat station is limited to a maximum of two boat slips, except for those adjacent upland parcels that are limited to one boat slip. The sides shall not be enclosed in any manner. A boat station is intended as a permanent boat hoist structure. Construction of a second floor level inside the boat station or of a second floor sundeck is not permitted. No boat station may be used as a dwelling, sleeping, lodging or boarding place.

- H. One boathouse may be substituted for a boat station per adjacent upland parcel within the residential land use category providing that the lineal feet of lakeshore exceeds two hundred (200) feet. The boathouse is limited to a maximum of two boat slips. The boathouse shall be of a single story and shall not exceed fifteen (15) feet in height above the mean high water level. All boathouses shall be covered by a roof with a slope no less than (3) and (12). Construction of a second floor level inside the boathouse or of a second floor sundeck is not permitted. No boathouse may be used as a dwelling, sleeping, lodging or boarding place.
- I. One boat accessory structure is permitted for adjacent upland parcels within the residential land use category which are characterized by steep slopes. For purposes of this subsection, a steep slope is defined as thirty (30) degrees (or 57% slope) or greater as measured from the horizontal, for a vertical height of twelve (12) feet or more, commencing within ten (10) feet of the mean high water mark. (See Figure 2)
1. Boat accessory structures and dockage exceedences are not permitted on adjacent upland parcels that currently contain a boathouse or have an existing upland structure within sixty (60) feet of the mean high water mark.
 2. The boat accessory structure shall not exceed (120) square feet, and (15) feet in height measured from the mean high water level.
 3. These adjacent upland parcels are permitted to exceed the maximum (720) square footage of dock space in the amount of (400) square feet.
 4. If any or all of the boat accessory structure is located on the lake side of the mean high water mark, such area of the boat accessory structure is to be included in the 1,120 square feet allowance. Boat accessory structures located on the land side of the mean high water mark are subject to local planning and zoning regulations.
 5. The boat accessory structure and additional dock space shall be constructed adjacent to or as close to the steep slope as possible. No part of this may extend beyond twenty (20) feet of the mean high water mark.
 6. All boat accessory structures shall be covered by a roof with a slope no less than (3) and (12). Construction of a second floor level inside the boat accessory structure or of a second floor sundeck is not permitted. No boat accessory structure may be used as a dwelling, sleeping, lodging or boarding place.
- J. The individual side setback requirements for berthing and mooring facilities in the residential land use category may be waived upon agreement of the two adjacent upland owners for the purpose of sharing a berthing or mooring facility. No more than two adjacent property owners may share a berthing or mooring facility under this section. The total square foot dimensional requirements established in Section 38.006 (A)(1)(e) of this law are applicable to this subsection. At no time will a waiver be granted that exceeds the maximum number of berthing and mooring facilities permitted for the sum of individual properties involved. Said waiver application must follow the certification requirements established in Section 38.007 (F) of this local law. The waiver agreement must be recorded in the Ontario County Clerk's Office.
- K. Compliance with the State Environmental Quality Review Act shall be conducted for any site plan approval required under the regulations contained in this local law.
- L. All construction activities are subject to state and federal review by the following agencies as applicable and as required by law: the New York State Department of Environmental Conservation; the New York State Office of Parks, Recreation and Historic Preservation; the New York State Office of General Services; and the United States Army Corps of Engineers. Article 6, Section 75 of the Public Lands Law establishes the terms and conditions for the conveyance of the State's interest on State-owned underwater land. It is the responsibility of the adjacent upland owner to obtain any and all state and federal permits as may be required.

1. All construction is subject to state and federal laws, including New York State Navigation Law. Section 32-c of said law makes it a misdemeanor to build any structure which interferes with the free and safe navigation of the navigable waters of this State.
 2. The Town of Gorham may require that an application be submitted for review to the New York State Office of Parks, Recreation and Historic Preservation or other applicable state agency if the requested docking or mooring facility presents navigation issues.
- M. All site plan approvals required by this local law and all variance applications shall be subject to the provisions of Section 239 of the General Municipal Law and the bylaws of the Ontario County Planning Board.
- N. For the purpose of this local law, only docks, boathouses, boat hoist structures, boat stations, boat accessory structures, and other specified berthing and mooring facilities are permitted on the waterside of the mean high water mark and in compliance with the regulations of this local law. Gazebos, view decks, screen porches, shelters, and other permanent structures not related to docking and mooring are prohibited.
- O. Municipally-owned piers and wharfs providing public access are permitted on a case by case basis.
- P. The permitted number of boat slips, docks, structures, and berthing and mooring facilities is based on the lineal feet of lakeshore and the land use of the adjacent upland parcel. These numbers are specified in Section 38.006 of this local law.

38.006 Specific Regulations for the Placement and Configuration of Berthing and Mooring Facilities for the Land Use Categories

- A. For each adjacent upland parcel the lineal feet of lakeshore determines the permitted number of boat slips and/or berthing and mooring facilities and is subject to the setback requirements in Section 38.005(D):
1. Residential Land Uses:
 - 0 feet to 25 feet: (1) boat slip, (1) dock;
 - 25.01 feet to 50 feet: (2) boat slips, (1) dock;
 - 50.01 feet to 100 feet: (3) boat slips, (1) dock;
 - 100.01 feet to 150 feet: (4) boat slips, (2) docks;
 - 150.01 feet to 200 feet: (5) boat slips, (2) docks.
 - a. For those lakeshore parcels that exceed two hundred (200) feet; one (1) additional boat slip is permitted for each fifty (50) feet of lakeshore and one (1) additional dock is permitted for each one hundred (100) feet of lakeshore.
 - b. An adjacent upland owner may distribute the permitted number of boat slips between berths and mooring buoys. The number of mooring buoys may not exceed the total number of boat slips permitted for each adjacent upland parcel and must conform to the dimensional criteria contained in Section 38.005 (D) of this local law. Mooring buoys are prohibited in the 0 to 25 foot category.
 - c. Residential dock construction shall not exceed the following maximum dimensional criteria: Each permitted dock shall not exceed a total of seven hundred twenty (720) square feet, including walkways. For the purposes of this section, width is measured

parallel to the mean high water mark; length is measured perpendicular to the mean high water mark. (See Figure 3)

- (i) The main walkway of the dock is the section of the dock that extends from the mean high water mark toward the center of the lake. The main walkway shall not exceed a maximum width of eight (8) feet as measured parallel to the mean high water mark. The length of the portion of the main walkway that extends from the mean high water mark towards the center of the lake shall constitute no less than fifty (50) percent of the total length of the dock and associated structures and equipment.
- (ii) No part of the dock or associated structures and equipment shall extend beyond a line which is sixty (60) feet from the mean high water mark; this line or curve, depending on the configuration of the lakeshore, is to be parallel to the mean high water mark.
- (iii) If the water depth is less than three (3) feet as measured from the mean low water level at the "sixty (60) feet line" referenced in (ii), the maximum length of the dock may be extended to the underwater elevation level of 683.60 (established by 686.60 mean low water level minus three (3) feet). Under no circumstances may the seven hundred twenty (720) square feet dimensional requirement be exceeded.
- (iv) The use of finger, "T" or "L" shaped appendages is permitted in any configuration from the main walkway of the dock to form boat slip spaces. Any appendage shall not exceed a total area of 256 square feet.

d. In categories where two or more docks are permitted, the docks shall be separated by at least ten (10) feet.

e. In categories where two or more docks are permitted, the consolidation of two docks into one dock is permitted. The total square footage of the combined dock shall not exceed 1,080 square feet. The consolidated dock shall conform to all other provisions of this law. When applying for dock consolidation under this provision, the adjacent upland owner extinguishes all rights and claims to the second dock.

- (i) The certification requirements established in Section 38.007(F) of this local law shall apply to this section.
- (ii) The adjacent upland owner shall record with the Ontario County Clerk that the claim to an additional dock is waived.

f. Storage capacity of existing boathouses, or boat stations shall be included in the total number of permitted boat slips per adjacent upland parcel.

2. All Other Land Uses:

a. Marinas and Yacht Clubs: The minimum number of lineal feet of lakeshore required for a marina or yacht club is two hundred (200) feet. From 200 feet to 250 feet, up to fifty (50) boat slips and twenty-five (25) moorings are permitted.

- 1. For those lakeshore parcels that exceed two hundred fifty (250) feet, up to ten (10) additional boat slips and ten (10) additional moorings are permitted for each fifty (50) feet of lakeshore.
- 2. The berthing and mooring facilities shall require site plan approval by the planning board in accordance with the provisions contained in Section 38.007 of this local law. The berthing and mooring facilities shall be the minimum necessary to accommodate the permitted number of boat slips.

3. Marinas and Yacht Clubs may also be subject to additional regulations, application procedures and review criteria to determine if the proposed land use is permitted or can be adequately sited in the proposed location.

b. Restaurants: The minimum number of lineal feet of lakeshore required for a restaurant is 100 feet. From 100 feet to 150 feet, up to twenty (20) boat slips are permitted; from 150.01 feet to 200 feet, up to thirty (30) boat slips are permitted.

1. For those lakeshore parcels that exceed two hundred (200) feet, up to ten (10) additional boat slips are permitted for each fifty (50) feet of lakeshore, however at no time will the number of boat slips exceed twenty-five percent (25%) of the seating capacity of the establishment.

2. Boat slips may be distributed between berths and mooring buoys.

3. The berthing and mooring facilities shall require site plan approval by the planning board in accordance with the provisions contained in Section 38.007 of this local law. The berthing and mooring facilities shall be the minimum necessary to accommodate the permitted number of boat slips.

4. Restaurants may also be subject to additional local regulations, application procedures and review criteria to determine if the proposed land use is permitted or can be adequately sited in the proposed location.

5. The permitted number of boat slips allowed for this land use activity is intended for use by the customers of the establishment on a short term basis. At no time shall the boat slips be rented or leased.

- B. Limitations in this section shall be determined by the number of lineal feet of lakeshore in the upland parcel, regardless of how property interests in the upland parcel may be divided among the owner(s), lessee(s), occupant(s), easement holder(s), or any other person(s) or entity(ies) with a legal or beneficial interest in any existing or proposed berthing or mooring facility.

38.007 Permit Requirements and Application Procedures

- A. All reviews required by this local law shall be conducted by the planning board in accordance with the provisions of Section 274-a of Town Law.
- B. The Town may require appropriate documentation for the application, including surveys when necessary, to determine water rights lines.
- C. Site plan approval by the local planning board, building permits, and certificates of compliance are required in accordance with the provisions of this section. Applications may only be submitted by the adjacent upland owner or their agent.
- D. No building permit is required for the placement or construction of temporary berthing and mooring facilities within the residential land use category, provided that the placement of such facilities is in full compliance with the provisions of this local law.
- E. Application for Construction and a Certificate of Compliance are required for the placement or construction of permanent docks and berthing facilities within the residential land use category. An adjacent upland owner shall apply to the Code Enforcement Officer for review of the proposed berthing and mooring facilities in compliance with the provisions of this local law prior to the start of construction. A Certificate of Compliance shall be issued after inspection and prior to use of the berthing and mooring facilities. At the request of an adjacent upland owner a certificate of compliance may be requested for temporary berthing and mooring facilities.

- F. The application form for all land use categories shall include the following statements:
1. I hereby certify that all owners, lessees, occupants, easement holders, and any other persons or entities with a legal or beneficial interest in any existing or proposed berthing or mooring facility related to this property have been notified of this application.
 2. The limitations of the Docking and Mooring Local Law are applicable to all parties who have a property interest in the parcel. The applicant is advised that failure to notify any party with a property interest in the parcel may affect any rights granted as a result of this application and process.
- G. Site plan approval by the local planning board and a building permit are required for the placement of all berthing and mooring facilities within the Other Land Uses category. Boat houses within the Residential Land Use category shall also require site plan approval and a building permit. A development approved under the All Other Land Uses category that involves the seasonal placement of docks or other berthing and mooring facilities does not need to be approved each season, provided that compliance with the original approval, and any conditions thereto, are adhered to.
1. An application for site plan approval shall be submitted to the Code Enforcement Officer for review by the planning board and shall contain:
 - a. A site plan prepared by a New York State registered architect, landscape architect, engineer, or surveyor in accordance with New York State Education Law.
 - b. A site plan drawn to scale and a description of the existing and proposed berthing and mooring facilities, showing at a minimum: name, address, parcel boundaries, tax map number of the adjacent upland parcel; the lineal feet of lakeshore; the water rights lines; the mean high water tie line; depth of the lakeshore bottom; and proposed setbacks.
 2. The site plan approval requirements of this local law may be integrated with the site plan approval and submission requirements contained in the zoning law of the Town of Gorham and any permit applications required therein.
 3. Mooring buoys over 100 feet from the waterside of the mean high water mark require the creation of a special anchorage area.

38.008 Supplemental Review Criteria for Site Plan Approval

- A. The following standards shall be used by the planning board in determining the appropriateness of construction of berthing and mooring facilities for shoreline protection:
1. The construction of such facilities shall be undertaken in such a way as not to impair water quality, cause harm to fish or fish spawning grounds, cause problems of erosion or sedimentation, create hazards for navigation, or otherwise threaten public health or safety.
 2. Such facilities shall be constructed only of materials which are stable and which will have no adverse affects on water quality.
 3. The amount of grading, filling, earth moving, and disturbance of land above the mean high water mark during the construction of such facilities shall be minimized.
 4. Berthing and mooring facilities within the All Other Land Uses category shall provide adequate pumping facilities for waste disposal when deemed appropriate.

38.009 Nonconforming Berthing and Mooring Facilities, Structures, and Uses

- A. For the purpose of this local law, any lawful water-dependent use (including the number of boat slips), building or structure (including permanent and seasonal docks, boat hoists, boathouses, boat stations, and boat hoist structures) existing at the time of the effective date of this local law, or having already received preliminary or final site plan approval by a municipality, which shall be made nonconforming at the passage of this local law, may be continued except as otherwise provided by Article 6, Section 75 of the Public Lands Law.
- B. Upon the effective date of this local law no existing nonconforming building, structure or use shall be enlarged, extended, reconstructed, or structurally altered except when required to do so by law or order and as follows:
1. Any nonconforming building or structure damaged less than fifty percent of its then existing value may be restored, reconstructed or used as before, provided that the volume of such use, building or structure shall not exceed the volume which existed prior to such damage, and that it be completed within eighteen (18) months of such happening.
 2. A nonconforming berthing and mooring facility or other structure may be made in conformance. The replacement of temporary berthing and mooring facilities with permanent berthing and mooring facilities shall comply with the regulations of this local law.
 3. When a nonconformity is changed in accordance with the provisions hereof, the use of the building or structure shall not thereafter be changed again except in accordance with these regulations.
 4. Normal maintenance and repairs and incidental alteration of a building or structure containing a nonconformity is permitted, provided that it does not extend the area or volume of space occupied by the nonconformity. Piers or wharfs may require limited expansion for repair or reconstruction based upon NYSDEC standards.
 5. Whenever a use, building, or structure, or any part or portion thereof, has been discontinued for a period of one (1) year or more, such nonconformity shall not thereafter be re-established, and all future uses shall be in conformity with the provisions of this local law.
 6. Eighty-seven (87) boathouse parcels located at the City Pier in the City of Canandaigua shall be grandfather from the regulations of this local law, but shall continue to be regulated by Chapter 42 of the Municipal Code of the City of Canandaigua.¹
- C. After the effective date of this local law and upon the written request of the adjacent upland owner, an examination by the Code Enforcement Officer of any existing use and structures shall be made. A report of the findings shall be made upon such examination together with a Certificate of Existing Nonconforming Use, which shall clearly describe the extent of use, the number, size, and location of all docks, boat slips, boat structures, and boathouses. Such certificate shall be maintained by the Code Enforcement Officer, and one (1) copy to be furnished to the adjacent upland owner. No certificate shall create or limit existing legal rights.

38.010 Appeals and Variances

- A. Adjacent upland owners aggrieved by the decision of the Code Enforcement Officer may appeal the decision to the zoning board of appeals. Pursuant to Section 267 of Town Law or other applicable requirements specified by New York State statute or case law, the zoning board of appeals may grant a variance to the provisions of this local law. Under no circumstances shall the number of boat slips, moorings, or structures permitted in each land use category be exceeded. Dimensional criteria for the placement of berthing and mooring facilities may be varied in accordance with the applicable requirements of state statute.

38.010**38.015**

- B. Any variance that is granted shall set forth by resolution the findings of fact that the zoning board of appeals made in granting the variance.

38.011 Amendments

Amendment procedures for this local law are contained in Section 46-a, Subdivision 4, of the New York State Navigation Law. Amendments can only be made by a unanimous adoption of a local law by the six municipalities after proper public hearing and environmental review. Such amendments shall become effective only upon approval by the Commissioner of the New York State Office of Parks, Recreation and Historic Preservation.

38.012 Separability

Should any section or provision of this local law be determined by any court to be unconstitutional or invalid, such decision shall not affect the validity of this local law as a whole or any part thereof other than the part(s) so decided to be unconstitutional or invalid.

38.013 Fees

The Town Board may, by resolution, establish appropriate fees for the review and processing of the permits under this local law.

¹ Editor's Note: Section 38.009(B)(6) appears in this chapter only because the State and County required a uniform Local Law be adopted by all municipalities bordering Canandaigua Lake.

38.014 Violations and Penalties

Violations of this local law shall be remedied according to the violation and penalty section of the Town of Gorham zoning code and pursuant with Section 268 of Town Law. In addition, other federal and state laws may apply, including the New York State Navigation Law.

38.015 Effective Date

This local law shall take effect upon adoption by the Town of Gorham, as provided by law, upon approval by the Commissioner of the New York State Office of Parks, Recreation and Historic Preservation, and ten (10) days after filing with the Secretary of State. Filed with NYS 12/11/02 (effective 12/20/02).