

TOWN OF MANCHESTER

CHAPTER 325. ZONING CODE

DRAFT SEPTEMBER 28, 2022

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TOWN OF MANCHESTER

CHAPTER 325. ZONING CODE

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ARTICLE 10 | LEGAL FRAMEWORK

325-10.1 TITLE

This chapter shall be known and cited as the "Zoning Law of the Town of Manchester." For convenience, it is referred to throughout this chapter as the "zoning law" or "zoning code."

325-10.2 EFFECTIVE DATE

The provisions of this zoning law become effective upon filing with the Secretary of State evidenced by the date of the mailing receipt.

325-10.3 AUTHORITY

This zoning law is adopted pursuant to the powers granted and limitations imposed by legislation of the State of New York.

325-10.4 APPLICABILITY

The regulations of this zoning law apply to all development, public or private, within the corporate limits of the Town of Manchester unless otherwise expressly stated in this zoning law.

325-10.5 PURPOSES

There is hereby established a new comprehensive zoning law for the Town of Manchester, which is set forth in the text, tables, illustrations and map that constitute this chapter. The zoning law is adopted to promote and protect the public health, safety and general welfare. The zoning law is also a tool to implement the goals and objectives of the Town of Manchester Comprehensive Plan, which aim to achieve the following:

- A. Improve the condition of the environment and preserve and protect it from degradation;
- B. Shape and improve the quality of the built environment by managing growth so as to provide for the needs of residents while maintaining and improving the overall character and ensuring a healthy environment for future generations;
- C. Enhance agricultural viability and protect the Town's agricultural land resources;
- D. Promote the availability of diverse, high-quality, affordable, and attractive places for people to live;
- E. Promote a stable and diverse local economy;
- F. Provide a transportation system that is safe, efficient, convenient, and environmentally responsible;
- G. Promote the protection of people and their property;

- H. Provide accessible and attractive parks and diverse recreational opportunities; and
- I. Preserve and protect the cultural and public resources of the Town.

325-10.6 COMPLIANCE WITH OTHER APPLICABLE REGULATIONS

- A. The provisions of this zoning law are the minimum requirements deemed necessary to carry out the zoning law's stated purpose and intent.
- B. In addition to the requirements of the zoning law, all uses and development must comply with all other applicable town, county, state, and federal laws and regulations.
- C. All references in the zoning law to other town, county, state, and federal laws and regulations are for informational purposes only and do not constitute a complete list of such regulations. These references do not imply any responsibility for towns to enforce county, state, or federal laws and regulations.

325-10.7 CONFLICTING PROVISIONS

- A. **Conflict with County, State, or Federal Laws and Regulations.** If the provisions of this zoning law are inconsistent with those of the county, state, or federal government, the more restrictive provision will control, to the extent permitted by law. The more restrictive provision is the one that imposes greater restrictions or more stringent controls.
- B. **Conflict with other Town Regulations.** If the provisions of this zoning law are inconsistent with one another, or if they conflict with provisions found in other adopted laws, ordinances, or regulations of the Town, the more restrictive provision will control. The more restrictive provision is the one that imposes greater restrictions or more stringent controls.
- C. **Conflict with Private Agreements and Covenants.** This zoning law is not intended to interfere with, abrogate or annul any easement, covenant, deed restriction or other agreement between private parties. If the provisions of this zoning law impose a greater restriction than imposed by a private agreement, the provisions of this zoning law will control. If the provisions of a valid, enforceable private agreement impose a greater restriction than this zoning law, the provisions of the private agreement will control. The Town does not enforce or maintain a record of private agreements.

325-10.8 SEVERABILITY

If any portion of this zoning law is held to be invalid or unconstitutional by a court of competent jurisdiction, that portion is to be deemed severed from the zoning law, and in no way affects the validity of the remainder of the zoning law.

ARTICLE 11 | GENERAL RULES OF LANGUAGE AND INTERPRETATION

325-11.1 MEANING AND INTENT

The language of the zoning law must be read literally. Regulations are no more or less strict than stated. Words defined in Article 70 (General Terms) have the specific meaning assigned, unless the context expressly indicates another meaning. Words that are not defined in Article 70 but defined in the New York State Uniform Fire Prevention and Building Code applicable to general building construction shall have the meanings ascribed therein.

325-11.2 TENSES AND USAGE

- A. Words used in the singular include the plural. The reverse is also true.
- B. Words used in the present tense include the future tense. The reverse is also true.
- C. The words "must," "will," "shall" and "may not" are mandatory.
- D. The word "may" is permissive, and "should" is advisory, not mandatory or required.
- E. When used with numbers, "up to X," "not more than X" and "a maximum of X" all include X.
- F. The words "building" or "structure" include the whole or any part thereof.

325-11.3 CONJUNCTIONS

Unless the context otherwise clearly indicates, conjunctions have the following meanings:

- A. "And" indicates that all connected items or provisions apply; and
- B. "Or" indicates that the connected items or provisions may apply singularly or in combination.

325-11.4 FRACTIONS

The following rules apply to fractional number unless otherwise expressly stated.

- A. **Minimum Requirements.** When a regulation is expressed in terms of a minimum requirement, any fractional result of 0.5 or more must be rounded up to the next consecutive whole number. For example, if a minimum requirement calling for one tree to be provided for every 30 linear feet of frontage is applied to a 50-foot dimension, the resulting fraction of 1.67 is rounded up to two required trees.
- B. **Maximum Limits.** When a regulation is expressed in terms of maximum limits, any fractional result will be rounded down to the next lower whole number. For example, if a maximum limit of one dwelling unit for every 5,000 square feet is applied to a 12,500

square foot lot, the resulting fraction of 2.5 is rounded down to two permitted dwelling units.

325-11.5 HEADINGS AND ILLUSTRATIONS

Headings and illustrations are provided for convenience and reference only and do not define or limit the scope of any provision of this zoning law. In case of any difference of meaning or implication between the text of this zoning law and any heading, drawing, table, figure, or illustration, the text controls.

325-11.6 CURRENT VERSIONS AND CITATIONS

All references to other town, county, state, or federal laws and regulations in the zoning law refer to the most current version and citation for those regulations, unless expressly indicated otherwise. When the referenced regulations have been repealed and not replaced by other regulations, zoning law requirements for compliance are no longer in effect.

325-11.7 LISTS AND EXAMPLES

Unless otherwise expressly indicated, lists of items or examples that use “including,” “such as,” or similar terms are intended to provide examples only. They are not to be construed as exhaustive lists of all possibilities.

325-11.8 DELEGATION OF AUTHORITY

Whenever a provision appears requiring the head of a department or another officer or employee of the Town to perform an act or duty, that provision will be construed as authorizing the department head or officer to delegate that responsibility to others over whom they have authority. Delegation of authority is not allowed when the provisions of this zoning law expressly prohibit such a delegation.

325-11.9 PUBLIC OFFICIALS AND AGENCIES

All employees, public officials, bodies, and agencies to which references are made are those of the Town of Manchester unless otherwise expressly stated.

ARTICLE 12 | ZONING MAP

325-12.1 ESTABLISHMENT

The location and boundaries of the zoning districts established by this zoning law are shown on the Town's "Official Zoning Map," maintained by the Town Clerk. The Town Clerk will be responsible for keeping the zoning map up-to-date. The official zoning map—together with all notations, references, data and other information shown on the map—is adopted and incorporated into this zoning law. It is as much a part of this zoning law as if actually depicted within its pages.

325-12.2 MAINTENANCE AND UPDATES

The Town Clerk is responsible for recording revisions to the official zoning map to reflect its amendment as soon as possible after the effective date of zoning map amendments (re-zonings). No unauthorized person may alter or modify the official zoning map. The Town Clerk may authorize printed copies of the official zoning map to be produced and must maintain digital or printed copies of superseded versions of the official zoning map for historical reference.

ARTICLE 13 | TRANSITIONAL PROVISIONS

325-13.1 APPLICATIONS SUBMITTED BEFORE EFFECTIVE DATE

Complete development applications, as defined in Section 60.5, that are pending approval before the effective date of this Chapter (Section 10.2) may be reviewed wholly under the terms of the zoning law in effect immediately before this Chapter, or they may be reviewed wholly under the terms of this zoning law. Whether such review takes place under the provisions of the previous zoning law or under this zoning law is applicant's option. The applicant's decision about which law applies, once submitted, may not be changed. All development applications submitted on or after the effective date of this Chapter will be reviewed wholly under the terms of this zoning law.

325-13.2 PERMITS ISSUED BEFORE EFFECTIVE DATE

Any building, development or structure for which a building permit was issued before the effective date of this Chapter (Section 10.2) may be completed in conformance with the issued building permit and other applicable permits and conditions, even if such building, development or structure does not fully comply with provisions of this zoning law. If building is not commenced and diligently pursued within the time allowed under the original permit or any extension granted, then the building, development or structure must be constructed, completed and occupied only in strict compliance with the standards of this zoning law.

325-13.3 VIOLATIONS CONTINUE

Any violation of the previous zoning law will continue to be a violation under this zoning law and be subject to penalties and enforcement under Town Law. If the use, development, construction or other activity that was a violation under the previous law complies with the express terms of this zoning law, enforcement action will cease, except to the extent of collecting penalties for violations that occurred before the effective date specified in Section 10.2. The adoption of this zoning law does not affect nor prevent any pending or future prosecution of, or action to abate, violations of the previous law that occurred before the effective date specified in Section 10.2.

325-13.4 NONCONFORMITIES

Any nonconformity under the previous zoning law will also be nonconformity under this zoning law, as long as the situation that resulted in the nonconforming status under the previous regulation continues to exist. If, however, a nonconforming situation under previous zoning regulations becomes conforming because of the adoption of this zoning law, or any subsequent amendment to it, then the situation will no longer be considered a nonconformity.

TOWN OF MANCHESTER

CHAPTER 325. ZONING CODE

PART 2 | BASE ZONING DISTRICTS

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ARTICLE 20 | RESIDENTIAL DISTRICTS

325-20.1 ESTABLISHMENT

The residential districts established for the Town of Manchester include:

TABLE 20-1: RESIDENTIAL DISTRICTS

DISTRICT NAME	MAP SYMBOL
Rural Residential	RR
Hamlet Residential	HR

325-20.2 PURPOSE STATEMENTS

- A. Rural Residential (RR).** The purpose of the RR District is to complement the rural character and agriculture preservation goals of the Town of Manchester Comprehensive Plan by allowing for low density residential development opportunities. RR District areas should be strategically located where the conditions of the environment, availability of utilities, and surrounding land use patterns dictate that residential densities and the amount of land covered by impervious surfaces remain low. Generally, development shall be directed where public water, but not necessarily public sewer, exists or is expected. Provisions should also be made for clustering building sites where environmental conditions permit and where the clustering of units can preserve the rural character of Manchester's countryside.
- B. Hamlet Residential (HR).** The purpose of the HR District is to implement the vision and development goals contained in the Town of Manchester Comprehensive Plan for the Hamlet of Port Gibson. Although the Hamlet is not urban in a traditional city sense, it provides a denser living environment than found elsewhere in the Town. Port Gibson's neighborhoods are generally characterized by single-family homes on lots of one acre or less with unobstructed front yards and pedestrian-scaled streetscapes. The Hamlet was established in a quasi-grid settlement pattern providing a walkable, connected environment. The highest density of development is located along the Erie Canal and at the center of the Hamlet. The intent of the HR District is to encourage investment and stability in Port Gibson's neighborhoods, while accommodating growth opportunities that respect its existing historic character and the rural areas surrounding the Hamlet.

325-20.3 PERMITTED & SPECIALLY PERMITTED USES

- A.** Uses identified with a "P" in Table 20-2 are permitted in the subject zoning district, subject to compliance with all other applicable standards of this zoning law.
- B.** Uses identified with a "SUP" in Table 20-2 may be allowed if reviewed and approved in accordance with the special use permit procedures contained in Article 64.

- C. Uses not listed and those identified with a "-" are prohibited.

TABLE 20-2: DISTRICT USES

	RR	HR	ADDITIONAL REGULATIONS
RESIDENTIAL			
Single-Family Dwelling ¹	P	P	-
Two-Family Dwelling	SUP	P	-
Multi-Family Dwelling, up to 4 Units	-	SUP	§325-40.24
Adult Care Facility	SUP	SUP	§325-40.3
Bed & Breakfast	SUP	P	§325-40.8
OTHER			
Agricultural Operation	P	-	-
Educational Institution	P	SUP	-
Essential Services	SUP	SUP	-
Public Park or Playground	P	P	-
Religious Institution	P	P	-
Telecommunications Facility	SUP	SUP	§325-40.31
ACCESSORY			
Accessory Structure or Use	P	P	§325-40.2
Exterior Furnace or Outdoor Heating Device	P	-	§325-40.15
Home Occupation, Residential	P	P	§325-40.20
Home Occupation, Agricultural	SUP	-	§325-40.20
Keeping of Farm Animals, Poultry, or Bees	SUP	-	§325-40.21
Parking Area or Lot	P	P	Article 51
Pond	P	SUP	§325-40.28
Tier 1 or 2 Solar Energy Collection System	P	SUP	§325-40.33
Temporary Storage Unit	P	P	§325-40.30

(1) No single-family dwelling shall be smaller than 1,000 square feet in ground floor area.

325-20.4 APPLICABLE STANDARDS

- A. In addition to the requirements within Article 20, the requirements of Part 5, Development Standards, of this Chapter shall apply to the residential districts within the Town.
- B. Uses may be subject to site plan review in accordance with Section 325-62.2.

325-20.5 LOT, AREA, & SETBACK REQUIREMENTS

The following requirements shall apply to principal and accessory structures and uses in the residential districts within the Town. Paved surfaces, such as driveways and parking spaces, shall not be subject to the requirements of Table 20-3, but shall conform to the requirements of Article 51.

TABLE 20-3: LOT, AREA, & SETBACK REQUIREMENTS

	RR	HR
A. MINIMUM LOT SIZE		
Residential Use	30,000 sf	15,000 sf
-- Located Along Erie Canal	-	4,000 sf
-- Without Water Service	2 Acres	20,000 sf
Nonresidential Use	2 Acres	20,000 sf
B. MINIMUM LOT WIDTH		
Residential Use	100 ft	65 ft
-- Located Along Erie Canal	-	50 ft
-- Without Water Service	175 ft	80 ft
Nonresidential Use	200 ft	80 ft
C. MINIMUM FRONT SETBACK		
Residential Use	50 ft	20 ft
Nonresidential Use	50 ft	20 ft
D. MINIMUM SIDE SETBACK		
Principal Structure or Use	25 ft	15 ft
Accessory Structure or Use	10 ft	5 ft
E. MINIMUM REAR SETBACK		
Principal Structure or Use	50 ft	20 ft
Accessory Structure or Use	5 ft	5 ft

325-20.6 DIMENSIONAL & BULK REQUIREMENTS

The following requirements shall apply to the residential districts within the Town.

TABLE 20-4: DIMENSIONAL & BULK REQUIREMENTS

	RR	HR
A. MAXIMUM BUILDING HEIGHT		
Principal Structure	35 ft 2.5 stories	35 ft 2.5 stories
Accessory Structure	18 ft	16 ft
B. MAXIMUM LOT COVERAGE		
Gross Impervious Surface & Structures	25%	35%
C. MINIMUM RESERVED OPEN SPACE ¹		
Green Space or Landscaped Area	35%	30%

(1) These areas shall consist of, to the maximum extent possible, retention of existing natural site vegetation, as well as landscaping. Impermeable surfaces, retention ponds and facilities may not be included in the green space calculation.

ARTICLE 21 | COMMERCIAL DISTRICTS

325-21.1 ESTABLISHMENT

The commercial districts established for the Town of Manchester include:

TABLE 21-1: COMMERCIAL DISTRICTS

DISTRICT NAME	MAP SYMBOL
General Commercial	GC
Hamlet Commercial	HC

325-21.2 PURPOSE STATEMENTS

A. General Commercial (GC). The purpose of the GC District this district is to support the provision of a broad range of commercial goods and services that serve residents and the greater Manchester community in accordance with the vision and development goals of the Town’s Comprehensive Plan. Uses in this District should not only strengthen the economic vitality of Manchester, but also contribute to its attractiveness as a place to live, work, recreate, and invest. The mixing of uses in the GC District is encouraged. Future development and investment in the GC District shall observe the following:

- 1) Building appearance, including architectural treatments, palettes, and the general design of all buildings and grounds, is of such quality and design as to be a visual asset to the area and adjacent development.
- 2) Sound planning, landscape, and buffering management practices are utilized to enhance the separation and compatibility of adjacent commercial, residential, and agricultural uses and all other nearby properties.
- 3) Safe highway management practices are utilized to ensure a sustainable land use development pattern and foster the development of welcoming streetscapes and gateways in and around commercial activity nodes.
- 4) Transportation facilities are located and designed to encourage walking and biking to, from, and within commercial sites and accommodate people of all ages and abilities.

B. Hamlet Commercial (HC). The purpose of the HC District is to support the vision and development goals of the Town of Manchester Comprehensive Plan for the Hamlet of Port Gibson. This District shall support development that enhances and contributes to Port Gibson’s historic character. More specifically, the HC District is intended to foster the development of a small-scale, mixed use residential, commercial, and civic activity center that serves the community in a manner consistent with the pedestrian-oriented and traditional character of the Hamlet.

325-21.3 PERMITTED & SPECIALLY PERMITTED USES

- A. Uses identified with a "P" in Table 21-2 are permitted in the subject zoning district, subject to compliance with all other applicable standards of this zoning law.
- B. Uses identified with a "SUP" in Table 21-2 may be allowed if reviewed and approved in accordance with the special use permit procedures contained in Article 64.
- C. Uses not listed and those identified with a "-" are prohibited.

TABLE 21-2: DISTRICT USES

	GC	HC	ADDITIONAL REGULATIONS
RESIDENTIAL			
Multi-Family Dwelling	SUP	SUP	§325-40.24
Upper Floor Residential Unit	P	P	-
COMMERCIAL			
Administrative or Professional Office	P	P	-
Animal Hospital	P	P	-
Automotive Sales, Service, or Repair Shop	SUP	-	§325-40.6 & 40.7
Brewery, Winery, or Distillery	SUP	SUP	§325-40.9
Car Wash	SUP	-	§325-40.11
Dance, Art, Photo, or Music Studio	P	P	-
Day Care Facility, Youth or Adult	P	P	§325-40.12
Eating or Drinking Establishment	P	P	§325-40.14
Funeral Home	SUP	-	-
Gasoline Station	SUP	SUP	§325-40.7
Gym or Health Club	P	P	-
Hospital	SUP	-	-
Kennel	SUP	-	§325-40.22
Laundromat or Dry-Cleaning Outlet	P	P	-
Lodging	P	P	-
Medical Clinic or Office	P	P	-
Recreation Facility, Indoor	P	P	-
Recreation Facility, Outdoor	SUP	-	§325-40.25
Retail Store or Personal Service Shop	P	P	-
OTHER			
Educational Institution	-	-	-
Essential Services	-	SUP	-
Mix of Uses	See Most Restrictive Use		
Public Park or Playground	P	P	-
Religious Institution	-	-	-

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	GC	HC	ADDITIONAL REGULATIONS
Tier 3 Solar Energy Collection System	SUP	SUP	§325-40.33
Telecommunications Facility	SUP	SUP	§325-40.31
ACCESSORY			
Accessory Structure or Use	P	P	§325-40.2
Drive-Through Facility	SUP	-	§325-40.13
Home Occupation, Residential	P	P	§325-40.20
Outdoor Sales or Display	P	SUP	§325-40.26
Outdoor Storage	P	SUP	§325-40.27
Parking Area or Lot	P	P	Article 51
Tier 1 or 2 Solar Energy Collection System	SUP	SUP	§325-40.33
Temporary Storage Unit	P	P	§325-40.30

325-21.4 APPLICABLE STANDARDS

- A. In addition to the requirements within Article 21, the requirements of Part 5, Development Standards, of this Chapter shall apply to the commercial districts within the Town.
- B. Uses may be subject to site plan review in accordance with Section 325-62.2.

325-21.5 LOT, AREA, & SETBACK REQUIREMENTS

The following requirements shall apply to principal and accessory structures and uses in the commercial districts within the Town. Paved surfaces, such as driveways and parking spaces, shall not be subject to the requirements of Table 21-3, but shall conform to the requirements of Article 51.

TABLE 21-3: LOT, AREA, & SETBACK REQUIREMENTS

	GC	HC
A. MINIMUM LOT SIZE		
	20,000 sf	15,000 sf
B. MINIMUM LOT WIDTH		
	80 ft	40 ft
C. FRONT SETBACK		
Residential Use	40 ft MIN	20 ft MIN
Nonresidential Use	40 ft MIN 70 ft MAX	0 ft MIN 5 ft MAX
D. MINIMUM SIDE SETBACK¹		
Principal Structure or Use	20 / 35 ft	0 / 15 ft
Accessory Structure or Use	25 ft	0 / 5 ft

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	GC	HC
E. MINIMUM REAR SETBACK ¹		
Principal Structure or Use	25 / 50 ft	10 / 25 ft
Accessory Structure or Use	10 / 25 ft	0 / 15 ft

- (1) The first number represents the required setback, the second number is the required setback if the lot is adjacent to a residential use or district.

325-21.6 DIMENSIONAL & BULK REQUIREMENTS

The following requirements shall apply to the commercial districts within the Town.

TABLE 21-4: DIMENSIONAL & BULK REQUIREMENTS

	GC	HC
A. MAXIMUM BUILDING HEIGHT		
Principal Structure	45 ft 3 stories	45 ft 3 stories
Accessory Structure	15 ft	12 ft
B. MAXIMUM LOT COVERAGE		
Gross Impervious Surface & Structures	65%	85%
C. MINIMUM RESERVED OPEN SPACE ¹		
Green Space or Landscaped Area	35%	15%

- (1) These areas shall consist of, to the maximum extent possible, retention of existing natural site vegetation, as well as landscaping. Impermeable surfaces, retention ponds and facilities may not be included in the green space calculation. No permitted or specially permitted use shall take place on any area identified in the approved site plan as making up the green space required by this section.

ARTICLE 22 | INDUSTRIAL DISTRICTS

325-22.1 ESTABLISHMENT

The industrial districts established for the Town of Manchester include:

TABLE 22-1: INDUSTRIAL DISTRICTS

DISTRICT NAME	MAP SYMBOL
General Industrial	GI
Light Industrial	LI
Rail-Enabled Industrial	REI

325-22.2 PURPOSE STATEMENTS

- A. **General Industrial (GI).** The purpose of the GI District is to accommodate industrial activity, which may be more intensive than light industrial activity, in a manner that supports the goals and objectives contained in the Town’s Comprehensive Plan. The General Industrial District is established to provide opportunities for a wide range of manufacturing and extractive activities, which have a greater potential for negative impacts on surrounding properties. Uses permitted in the GI District shall be in areas where public utilities and adequate transportation facilities are available. Developments in this District shall employ techniques to minimize negative impacts (including traffic, parking, glare, noise, odor, etc.) on adjacent non-industrial uses, especially established residential districts and environmentally sensitive areas.
- B. **Light Industrial (LI).** The purpose of the LI District is to encourage the development of a wide range of light industrial, manufacturing, and distribution activities in order to support the goals and objectives contained in the Town’s Comprehensive Plan. Development within this District should be campus-style in building design and layout and should facilitate internal pedestrian circulation systems that are linked to external walkways where practicable. Light Industrial uses allowable within this District shall be operated within an enclosed building and employ techniques to minimize negative impacts (including, but not limited to traffic, parking, glare, noise, dust, odor, etc.) on adjacent non-industrial uses, especially established residential districts and environmentally sensitive areas. The architectural treatment and general appearance of all buildings and grounds shall be in keeping with the purpose of this district and shall be of such quality and design as to be a visual asset to the area in which they are located as well as adjacent properties.
- C. **Rail-Enabled Industrial (REI).**
 - 1) The purpose of this district is to expand economic opportunities for manufacturing and light industrial businesses that make use of freight rail services. This is to be accomplished in a manner that is compatible with, and sensitive to its village and surrounding land use context, and

incorporates reasonable and appropriate site plan design elements consistent with established plans concerning the area to be contained within the district, including the Ontario County Freight Corridor Development Plan.

- 2) These provisions are hereby adopted pursuant to the goals framework and future land use recommendations contained in the 2017 Joint Comprehensive Plan - Town of Manchester & Villages of Clifton Springs, Shortsville, & Manchester adopted by the Town of Manchester in 2018 and the Ontario County Freight Rail Corridor Development Plan - Town of Manchester.

325-22.3 PERMITTED & SPECIALLY PERMITTED USES

- A. Uses identified with a "P" in Table 22-2 are permitted in the subject zoning district, subject to compliance with all other applicable standards of this zoning law.
- B. Uses identified with a "SUP" in Table 22-2 may be allowed if reviewed and approved in accordance with the special use permit procedures contained in Article 64.
- C. Uses not listed and those identified with a "-" are prohibited.

TABLE 22-2: DISTRICT USES

	GI	LI	REI	ADDITIONAL REGULATIONS
RESIDENTIAL				
Live/Work Unit	SUP	P	P	-
Upper Floor Residential Unit	-	P	P	-
INDUSTRIAL/COMMERCIAL				
Agricultural and Food Processing or Packaging Plant	P	P	P	-
Administrative or Professional Office	P	P	-	-
Adult Use & Entertainment Establishment	SUP	SUP	-	§325-40.4
Animal Hospital	SUP	P	-	-
Automotive Sales, Service, or Repair Shop	P	-	-	§325-40.6 & 40.7
Contractor or Building Material Storage Yard	P	-	-	-
Extractive or Mining Operation	P	-	-	§325-40.19
Kennel	SUP	SUP	-	§325-40.22
Landfill Site or Waste Disposal Operation	SUP	-	-	-
Laundry or Dry-Cleaning Plant ¹	P	P	-	-
Lumberyard	P	-	-	-
Manufacturing, Production, Processing, Packaging, or Assembly Facility ¹	P	P	P	-
Outdoor Industrial Operation	P	-	-	-
Printing or Publishing Operation	P	P	P	-

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	GI	LI	REI	ADDITIONAL REGULATIONS
Rail Facility, associated with warehouse and distribution activities	-	-	P	§325-40.32
Research and Development Facility or Laboratory ¹	P	P	P	-
Self-Service Storage Facility	SUP	P	-	-
Warehouse, for storage or distribution of goods ¹	P	P	P	-
Truck or Multimodal Transport Terminal	P	SUP	P	§325-40.32
OTHER				
Agricultural Operation	P	P	P ²	-
Essential Services	P	P	P	-
Mix of Uses	See Most Restrictive Use			
Parking Lot, as Principal Use of Lot	SUP	SUP	SUP	Article 51
Tier 3 Solar Energy Collection System	SUP	SUP	SUP	§325-40.33
Telecommunications Facility	SUP	SUP	SUP	§325-40.31
ACCESSORY				
Accessory Structure or Use	P	P	P	§325-40.2
Outdoor Sales or Display	P	SUP	-	§325-40.26
Outdoor Storage	P	SUP	-	§325-40.27
Parking Area or Lot	P	P	P	Article 51
Tier 1 or 2 Solar Energy Collection System	P	P	SUP	§325-40.33
Storage of Trucks, Trailers, Chassis, and Rail Cars, associated with warehouse and distribution activities	P	P	P	-
Temporary Storage Unit	P	P	P	§325-40.30

- (1) If conducted entirely within an enclosed building.
- (2) If located in an Ontario County Agricultural District.

325-22.4 APPLICABLE STANDARDS

- A. In addition to the requirements within Article 22, the requirements of Part 5, Development Standards, of this Chapter shall apply to the industrial districts within the Town.
- B. Uses may be subject to site plan review in accordance with Section 325-62.2.

325-22.5 LOT, AREA, & SETBACK REQUIREMENTS

The following requirements shall apply to principal and accessory structures and uses in the industrial districts within the Town. Paved surfaces, such as driveways and parking spaces, shall not be subject to the requirements of Table 22-3, but shall conform to the requirements of Article 51.

TABLE 22-3: LOT, AREA, & SETBACK REQUIREMENTS

	GI	LI	REI
A. MINIMUM LOT SIZE			
	2 Acres	2 Acres	SPR ¹
B. MINIMUM LOT WIDTH			
	300 ft	150 ft	SPR ¹
C. MINIMUM SETBACK			
From Front Property Line	100 ft	50 ft	50 ft ²
From Property Boundary of Rail Operator	-	-	25 ft ³
D. MINIMUM SIDE SETBACK ⁴			
Principal Structure or Use	50 / 500 ft	50 / 150 ft	50 / 150 ft ²
Accessory Structure or Use	20 ft	20 ft	20 ft
E. MINIMUM REAR SETBACK ⁴			
Principal Structure or Use	50 / 500 ft	50 / 150 ft	50 / 150 ft ²
Accessory Structure or Use	20 ft	20 ft	20 ft

- (1) SPR indicates that the requirement shall be determined as part of site plan review.
- (2) Lot line setbacks may be reduced to zero at the discretion of the Planning Board where the development encompasses an adjoining parcel owned by the same owner if the Planning Board determines it is in the interest of public health and safety and promotes the efficient use of land and environmental protection.
- (3) Setbacks for rail spurs located on the project property will be determined by the Planning Board based on the recommendation of the rail operator and to assure what is necessary for public safety.
- (4) The larger shall be the required minimum setback from the nearest lot line of a lot on which any dwelling, hospital, school, manufactured home, manufactured home community, manufactured home park use, park or recreational use is already existing, is permitted or is specially permitted. The entirety of such setback buffer area shall be green space but may include detention ponds if they are a part of a green infrastructure stormwater management plan and do not reduce the performance of the buffer to provide visual screening and noise attenuation.

325-22.6 DIMENSIONAL & BULK REQUIREMENTS

The following requirements shall apply to the industrial districts within the Town.

TABLE 22-4: DIMENSIONAL & BULK REQUIREMENTS

	GI	LI	REI
A. MAXIMUM BUILDING HEIGHT			
Principal Structure	45 ft	45 ft	45 ft
Accessory Structure	20 ft	20 ft	20 ft
B. MAXIMUM LOT COVERAGE			
Gross Impervious Surface & Structures	65%	65%	65%
C. MINIMUM RESERVED OPEN SPACE ¹			
Green Space or Landscaped Area	35%	35%	35%

- (1) These areas shall consist of, to the maximum extent possible, retention of existing natural site vegetation, as well as landscaping. Impermeable surfaces, retention ponds and facilities may not be included in the green space calculation. No permitted or specially permitted use shall take place on any area identified in the approved site plan as making up the green space required by this section.

325-22.7 REI DISTRICT PERFORMANCE STANDARDS

- A. Applicability.** This section applies solely to the REI District. Where provisions elsewhere in Chapter 325 conflict with these provisions, the performance standards stated in this Section shall apply.
- B. Flexible Use of Space.** Each parcel is allowed to contain multiple permitted and/or specially permitted uses, and, therefore, each parcel is further allowed to contain multiple buildings, and each building may contain multiple permitted and/or specially permitted uses which may be operated by the building owner or under lease, or other acceptable legal arrangement, to another entity upon receipt of site plan approval.
- C. General Requirements.**
 - 1) All uses and operations shall be required to adhere to federal, state, county and local laws and regulations. The production, processing and assembly operations including storage and/or processing of raw materials on site shall maintain standards and prevent such materials and operations related to the industry so as to mitigate smoke, dust, noise, odors, glare or any other deleterious by-products according to measures specified in the site plan or pursuant to the State Environmental Quality Review process.
 - 2) Upon receipt of the completed application the Planning Board shall submit the completed application to the Ontario County Planning Board for review pursuant to General Municipal Law §§ 239-1 and 239-m.
 - 3) An environmental review pursuant to 6 NYCRR Part 617 (SEQR) shall be completed prior to approval by the Planning Board.

- 4) All required and additional certificates, licenses and permits shall be provided prior to final site plan approval.

D. Site Plan Approval.

- 1) All new construction, whether a new building or structure, any addition to an existing building or structure, any alteration or modification of a current lot or parcel and/or any new use of a lot or parcel shall require a site plan approval by the Planning Board as set forth in Article 62 of this chapter and this section. As applied to agricultural uses, this requirement only applies to agricultural uses on parcels included in an Ontario County Agricultural District that are not deemed unreasonably restrictive pursuant to NYS Department of Agricultural and Markets ARTICLE 25AA — Agricultural Districts.
- 2) All applicants are required to have a pre-application meeting with the Code Enforcement Officer and a member of the planning board to review the proposed project review process and potential timeline.
- 3) The Planning Board shall have the authority to establish reasonable engineering and design requirements that are necessary to protect public health, safety and environmental quality. In addition to the provision of Article 62 the following additional items must be included as part of the site plan:
 - i. Location of current rail access to the site. If the site does not have rail access, the rail operator shall provide a recommendation regarding the technical feasibility of providing access based on safety and applicable design criteria. Based on that recommendation, the rail location shall be delineated on the site plan before siting the location of buildings, structures, and roads.
 - ii. Verification from the railroad operator that the proposed alignment has been reviewed and approved and will provide safe and efficient access. If construction of rail access is included as part of a site plan application, also include details of the construction of the rail access including a timeframe to complete such construction.
 - i. Documentation confirming the proposed site plan provides for preservation and maintenance of the predevelopment detention capacity and complies with applicable NYSDEC regulations and applicable permit requirements (e.g., State Pollution Elimination System Permits (SPDES) for stormwater management).
- 4) An application to modify an approved site plan, including but not limited to an application for a change of use, the addition of a use(s), the addition of an improvement, the alteration of an improvement or the layout or design of any lot or parcel included in an approved site plan must be submitted to the planning board for additional site plan review and approval in accordance with the procedure set forth in Article 62 of this chapter and this section.

- 5) Where a site plan application is associated with a request for subdivision (including parcel consolidation) the Planning Board may require submission of a clustered project pursuant to § 275-30 of the Town of Manchester Subdivision Regulations.
- 6) A preconstruction meeting shall be requested by the developer and scheduled through the Code Enforcement Officer prior to the start of construction of a development. The developer, their contractor and design engineer shall meet with all utility representatives, the Code Enforcement Officer, Town Engineer, appropriate department representatives and project observers to discuss the overall project, its impacts and schedules. A schedule of construction shall be presented in writing at this meeting by the site contractor.

E. Minimum Setback Between Buildings and Structures. The minimum setback between buildings and/or structures shall be determined by the standards established by the New York State Uniform Fire Prevention and Building Code. The Planning Board shall increase the minimum setback upon recommendation of the public official responsible for providing emergency response to assure that adequate access and space is provided for movement and staging of public safety and emergency response vehicles and equipment.

F. Landscaping and Buffering.

- 1) A landscape plan prepared by a licensed landscape architect to specifications provided by the Planning Board is required that will address the following:
 - i. For all new buildings and structures, landscaping across the front of buildings, the front highway line, property boundaries and pedestrian walkway areas and visitor and employee parking areas.
 - ii. Landscaping or other treatments to screen outdoor storage areas.
 - iii. The 150-foot buffer setback shall be designed to address the specific context of the adjoining uses and their buffering needs. It will combine the use of native vegetative plantings, retention of natural vegetation berms, and/or other reasonable and appropriate design elements to create a visual buffer and attenuate noise from the site within two years of installation. The plan will include details concerning the type, height, and location of all plantings and design elements.
- 2) Mechanical appurtenances are to be properly screened by landscaping and rooftop mechanical units are to be screened from public view. The location, size and proposed method of screening is subject to consideration through the site plan review process and must be depicted on site plan and elevation drawings. All dumpsters in a permanent location shall be enclosed and surrounded by a fenced area with a secured gate in front and landscaping around the remaining three sides where applicable. In no instance shall the dumpster be visible from along the public way.

G. Vehicle Traffic Pedestrian Flow Design.

- 1) Traffic impact study shall be provided prepared according to NYS Department of Transportation's "Typical Elements that should be included in a Traffic Impact Study," as amended, and any additional elements deemed necessary by the Planning Board.
- 2) Curb cuts. The site plan must contain a curb cut(s) providing for safe vehicular ingress and egress.
- 3) Ingress and egress design shall provide and maintain highway and access road safety according to requirements established for access to county or local roads.
- 4) All entrance/exit center lines and access roads shall be completely and clearly marked and maintained to provide highway safety.
- 5) Pedestrian walkways, if deemed appropriate, shall be completely and clearly marked and maintained to provide pedestrian safety.
- 6) Curb cuts and landscaped areas shall be designed to be easily maintained and protected by a concrete or granite curbing if deemed appropriate.
- 7) Snow management plan shall be provided.
- 8) Sidewalks, parking lots, loading areas and roadways shall be protected from roof water icing.
- 9) Access road development shall be created for industrial sites with adjoining property boundaries where ingress or egress curb cuts are separated by a distance of less than 400 feet.
- 10) All access roads, driveways and parking areas shall be hard-surfaced stone/gravel roads, concrete or asphalt paved.
- 11) No access road shall be less than 30 feet from the public right-of-way.
- 12) Access points to public highways shall be minimized and spaced and located according to county and local requirements.
- 13) All such roads or highways or culverts are subject to review and approval prior to receipt of site plan approval by the Superintendent of Highways, Fire Department, and Ontario County Department of Public Works as applicable for projects involving county roads.
- 14) No construction or impervious surfaces shall be permitted within 100 feet of the center line of any stream classified by the New York State Department of Environmental Conservation under Article 15, Title 5, of the New York State Environmental Conservation Law.
- 15) All operations that require the outside storage of equipment, fixed or portable, motor vehicles or materials shall not be stored or displayed within 150 feet of the boundary line of a residential district or within the buffer setback.

- H. Maintenance.** The improvements on a lot or parcel and the use or uses permitted on a lot or parcel must be designed and maintained to mitigate smoke, dust, noise, odors, glare or other deleterious by-products according to measures specified in the site plan or pursuant to the State Environmental Quality Review process.
- I. Environmental Protection.** The improvements on a lot or parcel and the use or uses permitted on a lot or parcel shall not discharge, and shall be designed, operated and maintained so that there is no discharge, into any watercourse any contaminated liquids containing deleterious biological or chemical constituents that is in violation of any local, state, or federal regulation or permit.
- J. Exterior Lighting.** An illumination design/lighting plan prepared according to requirements in Article 55 is required as part of site plan approval. The following additional requirements shall be included in the design plan:
- 1) The lighting plan shall provide photometrics, which shall have a maximum footcandle reading at the property line of 0.5 footcandle, except for site access points where a maximum of one-foot candle at the pavement edge is permitted. A maximum of 0.1 footcandles at the property line of the source measured five feet off the ground with the light meter vertical and facing the source is permitted. The plan and shall be prepared by a qualified lighting engineer or designer.
 - 2) Wall pack units shall be full cutoff product. Full cutoff is defined as "light is not emitted above 90°."
 - 3) No light source shall be permitted that exceeds 3,000 Kelvin.
 - 4) All fixtures shall have the IDA fixture seal of approval.
<https://www.darksky.org/our-work/lighting/lighting-for-industry/fsa/>
- K. Architectural Design.** The architectural treatment and general appearance of all buildings and grounds shall be in keeping with the purpose of this district and shall be designed and constructed to assimilate into the surroundings.
- L. Emergency Response Plan.** An emergency response plan is required that meets the criteria included in the Federal Emergency Management Agency response plan for businesses and Chapter 4, Emergency Planning and Preparedness, of the International Fire Code.

ARTICLE 23 | OPEN SPACE DISTRICTS

325-23.1 ESTABLISHMENT

The open space districts established for the Town of Manchester include:

TABLE 23-1: OPEN SPACE DISTRICTS

DISTRICT NAME	MAP SYMBOL
Open Space	OS

325-23.2 PURPOSE STATEMENTS

- A. **Open Space (OS).** The purpose of the OS District is to preserve and enhance the Town’s open spaces and recreational areas by protecting these natural amenities and restricting development that would not respect these environmentally sensitive areas and would not conform to the Town of Manchester Comprehensive Plan. Open Space Districts are intended to apply to private and publicly owned or accessible parks, squares, recreational areas, natural wildlife areas, creeks or streams, and cemeteries.

325-23.3 PERMITTED & SPECIALLY PERMITTED USES

- A. Uses identified with a “P” in Table 23-2 are permitted in the subject zoning district, subject to compliance with all other applicable standards of this zoning law.
- B. Uses identified with a “SUP” in Table 23-2 may be allowed if reviewed and approved in accordance with the special use permit procedures contained in Article 64.
- C. Uses not listed and those identified with a “-” are prohibited.

TABLE 23-2: DISTRICT USES

	OS	ADDITIONAL REGULATIONS
NATURAL / ENVIRONMENTAL		
Botanical Garden, Arboretum, or Conservatory	P	-
Natural Wildlife or Open Space Area	P	-
RECREATIONAL		
Band Shell or Outdoor Theater, not including Drive-In Theater	SUP	-
Campground	SUP	§325-40.10
Golf Course	SUP	-
Gun Range	SUP	-
Park or Playground	P	-
Recreation Facility, Outdoor	P	§325-40.25

- Continued on Next Page -

	OS	ADDITIONAL REGULATIONS
OTHER		
Cemetery	P	-
Community Center or Informational Facility	P	-
Cultural Facility, such as a Museum or Observatory	P	-
Essential Services	SUP	-
Parking Area or Lot, as Principal Use	SUP	Article 51
Religious Institution	P	-
Tier 3 Solar Energy Collection System	SUP	§325-40.33
ACCESSORY		
Accessory Structure or Use	P	§325-40.2
Outdoor Lighting, for Nighttime Use	SUP	Article 55
Parking Area or Lot	P	Article 51
Pond	P	§325-40.28
Retail, Concessions, or Service Stand	P	-
Tier 1 or 2 Solar Energy Collection System	SUP	§325-40.33

325-23.4 APPLICABLE STANDARDS

- A. In addition to the requirements within Article 23, the requirements of Part 5, Development Standards, of this Chapter shall apply to the open space districts within the Town.
- B. Uses may be subject to site plan review in accordance with Section 325-62.2.

325-23.5 LOT, AREA, & SETBACK REQUIREMENTS

The following requirements shall apply to principal and accessory structures and uses in the open space districts within the Town. Paved surfaces, such as driveways and parking spaces, shall not be subject to the requirements of Table 23-3, but shall conform to the requirements of Article 51.

TABLE 23-3: LOT, AREA, & SETBACK REQUIREMENTS

	OS
A. MINIMUM LOT SIZE	-
B. MINIMUM LOT WIDTH	-
C. MINIMUM SETBACK	35 ft
D. MINIMUM SIDE SETBACK	
Principal Structure or Use	50 ft
Accessory Structure or Use	20 ft
E. MINIMUM REAR SETBACK	
Principal Structure or Use	50 ft
Accessory Structure or Use	20 ft

325-23.6 DIMENSIONAL & BULK REQUIREMENTS

The following requirements shall apply to the open space districts within the Town.

TABLE 23-4: DIMENSIONAL & BULK REQUIREMENTS

	OS
A. MAXIMUM BUILDING HEIGHT	
Principal Structure	30 ft
Accessory Structure	15 ft
B. MAXIMUM LOT COVERAGE	
Gross Impervious Surface & Structures	15 %
C. MINIMUM RESERVED OPEN SPACE ¹	
Green Space, Park Land, or Landscaped Area	35%

(1) These areas shall consist of, to the maximum extent possible, retention of existing natural site vegetation, as well as landscaping. Impermeable surfaces, retention ponds and facilities may not be included in the green space calculation.

ARTICLE 24 | MANUFACTURED HOME PARK DISTRICTS

325-24.1 ESTABLISHMENT

The manufactured home park districts established for the Town of Manchester include:

TABLE 24-1: MANUFACTURED HOME PARK DISTRICTS

DISTRICT NAME	MAP SYMBOL
Manufactured Home Park	M-H

325-24.2 PURPOSE STATEMENTS

- A. Manufactured Home Park (M-H).** The purpose of the M-H District is to support the goals and policies contained in the Town of Manchester Comprehensive Plan while providing residents with a housing alternative by permitting manufactured homes and the development of manufactured home parks within the Town. The intent of this District is to regulate the placement of manufactured homes and the design of manufactured home parks to ensure they are attractive and well maintained; thereby, protecting the health, safety, welfare, and quality of life of all residents within the Town of Manchester.

325-24.3 APPLICABILITY

These provisions specified herein shall apply to the approval of new parks, as well as the expansion, alteration, or addition of existing manufactured home parks.

- A. Special Use Permit.** New manufactured home parks may be allowed in the Manufactured Home Park District upon issuance of special use permit by the Code Enforcement Officer in accordance with Article 64 of this Chapter.
- B. Existing Park Compliance.** This Article shall also apply to all existing manufactured home parks located in the Town of Manchester after this Chapter becomes effective. Said parks are subject to the following:
- 1) Existing manufactured home parks shall henceforth be maintained and operated in compliance with all provisions of this Chapter.
 - 2) Manufactured home parks permitted or established prior to the effective date of this Chapter are exempt from the provisions of Section 24.4(B).
- C. Enforcement.** Any law enforcement officer or authorized agent of the Town of Manchester shall enforce all the provision of this Article.
- D. Inspection.** The Code Enforcement Officer and any other authorities invited by the Code Enforcement Officer may inspect the manufactured home park at reasonable intervals and

at reasonable hours to determine whether or not there has been compliance with this Article and with other applicable codes, rules, and regulations.

325-24.4 MANUFACTURED HOME PARK REGULATIONS

- A. Drainage and Grading.** All lands used as a manufactured home park shall be well drained, and free from heavy or dense growth of brush or woods. The land shall be properly graded to ensure proper drainage during and following rainfall and shall at all times be so well drained as to be free from stagnant water.
- B. Subdivision.** Each manufactured home park shall be subdivided and marked, off into lots, which are subject to the following requirements:
 - 1) No more than one manufactured home shall be permitted to occupy any one lot.
 - 2) The area required by the setback from any public right-of-way shall be seeded to lawn, landscaped, and maintained as a lawn to eliminate any fire hazard.

TABLE 24-2: MANUFACTURED HOME LOT REQUIREMENTS

OS	
A. MINIMUM LOT SIZE	
	8,000 sf
B. MINIMUM LOT WIDTH	
	80 ft
C. MINIMUM SETBACK	
From Public Rights-of-Way	50 ft
From Each Lot Line	15 ft
D. MAXIMUM BUILDING HEIGHT	
Principal Structure or Use	35 ft
Accessory Structure or Use	12 ft
D. MAXIMUM LOT COVERAGE	
Gross Impervious Surface & Structures	25%
E. MINIMUM RESERVED OPEN SPACE ¹	
Green Space, Park Land, or Landscaped Area	35%

(1) These areas shall consist of, to the maximum extent possible, retention of existing natural site vegetation, as well as landscaping. Impermeable surfaces, retention ponds and facilities may not be included in the green space calculation.

- C. Numbering.** Each lot shall be numbered according to the plan or layout submitted with the license application, and the number of each lot shall be clearly displayed on such lot so as to be readily visible from the street or highway on which the lot faces.

- D. Parking.** Off street parking shall be provided for two cars at each manufactured home lot.
- E. Streets within Manufactured Home Park.**
- 1) The street systems shall remain as private roads and shall be designed and maintained by the owner.
 - 2) All streets and thoroughfares within each manufactured home park shall have a travel surface of at least 20 feet in width.
 - 3) The travel surface shall be hard surfaced and capable of supporting emergency vehicles weighing up to 15 tons.
 - 4) All turns and curves shall be such as to allow the maneuverability of emergency vehicles.
 - 5) Each manufactured home park shall be easily accessible from an existing public right of way. Where a park has more than six manufactured homes, two points of entry and exit must be provided unless a large improved turnaround area for emergency vehicles is maintained.
 - 6) There shall be no dead end streets.
- F. Sidewalks.** Sidewalks having a minimum width of four feet shall be provided along at least one side of all interior streets to all recreation areas and storage areas.
- G. Lighting.** There shall be a light source of 100 lumen each 300 feet of roadway, at a minimum.
- H. Electric Service and Connections.** Each manufactured home park shall provide weatherproof electric service and outlets for each lot. All such connections and outlets are to be of a type approved by the New York State Board of Fire Underwriter, or the equivalent. All electrical distribution lines shall be placed underground.
- I. Disposal of Sewage and Other Water-Carried Wastes.** All sewage and other water-carried wastes shall be disposed of into a municipal sewage system whenever available; a suitable connection to that system shall be provided at each lot.
- J. Storage.** The park owner/operator shall provide a central storage area, or each lot is permitted a side addition of up to 25% of the existing unit, with a permit, where it will not violate lot setbacks.
- K. Sales.** The sale of and display of manufactured homes will be allowed as part of a manufactured home park, so long as each manufactured home occupies an individual lot.

325-24.5 MANUFACTURED HOME REQUIREMENTS

- A. Skirting.** Within 30 days of arrival in the park, each manufactured home shall be required to enclose the bottom portion of the home with skirting or another enclosure; such skirting or enclosure must be continuously maintained.
- B. Living Area.** A manufactured home shall have a living area of no less than 720 square

feet. In cases of a doublewide manufactured home the living area shall be no less than 1,100 square feet.

- C. Facilities.** No manufactured home shall be parked or located within a manufactured home park that does not contain a water closet, a lavatory and a shower or bathtub.
- D. Condition.** All newly sited manufactured homes shall be no more than 15 years old at the time they are sited. All newly sited manufactured homes shall also meet all federal, state, and local laws and regulations.
- E. Use.** All manufactured homes shall be used solely for single-family residential occupation.
- F. New Manufactured Homes.** The siting of any new manufactured home(s) shall only be permitted as part of a manufactured home park in the Manufactured Home Park District of the Town, unless such manufactured home meets the definition of a single-family dwelling as provided by this Chapter.
- G. Existing Manufactured Homes Outside the M-H District.** All manufactured homes presently sited in the Town of Manchester outside of the Manufactured Home Park District shall be allowed to continue as a pre-existing, nonconforming use in accordance with Article 63. An existing manufactured home may only be replaced with a newer manufactured home provided the new home meets Federal HUD requirements. The replacement manufactured home shall meet current setback requirements for the district in which it is located.

325-24.6 MANUFACTURED HOME PARK ADMINISTRATION

- A. Management.** Every manufactured home park shall be under the direct management of the owner, permit holder, or his agent or representative. The owner, permit holder, or agent shall operate such park from an office located within the park and is directly responsible for the care of said park.
- B. Registration.** The owner or permit holder for a manufactured home park shall maintain a permanent record in writing of all persons occupying or using the facilities of such manufactured home park. Such record shall be a matter of public record and shall at all times be available for inspection by any law enforcement officer or authorized agent of the Town. The records shall include the following:
 - 1) Name and address of the owner of each manufactured home;
 - 2) Number of the park unit upon which the manufactured home is located;
 - 3) Make, model number, and year of each manufactured home;
 - 4) Date of arrival and departure from said park of each manufactured home;
and
 - 5) All applicable New York State Health Department records.
- C. Duties.** It shall be the duty of the license holder of every manufactured home park to provide for the following:

- 1) Collection of garbage and all other waste materials;
- 2) Maintenance of a clean and sanitary condition throughout manufactured home park grounds, including the prohibition of the accumulation or storage of rubbish, garbage, and refuse, and the placement or storage of unregistered vehicles of any kind;
- 3) Maintenance of all private streets within the manufactured home park, including snow removal and other activities required to keep the streets passable at all times; and
- 4) Maintenance of any landscaping, open space, or recreational areas designated with the grounds of the manufactured home park.

ARTICLE 25 | AGRICULTURAL DISTRICTS

325-25.1 ESTABLISHMENT

The agricultural districts established for the Town of Manchester include:

TABLE 25-1: AGRICULTURAL DISTRICTS

DISTRICT NAME	MAP SYMBOL
Agricultural	AG

325-25.2 PURPOSE STATEMENTS

A. Agricultural (AG). The purpose of the AG District is to implement the agricultural use and industry goals of the Town of Manchester Comprehensive Plan. The AG District is intended to achieve the following objectives:

- 1) Protect predominantly agricultural areas from nonagricultural development pressures;
- 2) Support the continuation of commercial agriculture and the associated operations necessary to support it and its local economic viability;
- 3) Prevent scattered nonfarm growth and the unsustainable dissection of farm lands;
- 4) Provide residential opportunities compatible with existing agricultural character; and
- 5) Apply best management practices and regulations consistent with NYS Agriculture and Markets Law and the US Department of Agriculture Natural Resources Services Conservation Practices or any other state or federal regulation or guideline.

325-25.3 PERMITTED & SPECIALLY PERMITTED USES

- A.** Uses identified with a "P" in Table 25-2 are permitted in the subject zoning district, subject to compliance with all other applicable standards of this zoning law.
- B.** Uses identified with a "SUP" in Table 25-2 may be allowed if reviewed and approved in accordance with the special use permit procedures contained in Article 64.
- C.** Uses not listed and those identified with a "-" are prohibited.

TABLE 25-2: DISTRICT USES

	AG	ADDITIONAL REGULATIONS
AGRICULTURAL		
Agricultural, Agri-business, or Agri-tourism Operation	P	-
Brewery, Winery, or Distillery	P	§325-40.9
RESIDENTIAL		
Single-Family or Two-Family Dwelling ¹	P	-
Multi-Family Dwelling	SUP	§325-40.24
Bed & Breakfast	SUP	§325-40.8
COMMERCIAL		
Airport or Heliport	SUP	§325-40.5
Campground	SUP	§325-40.10
Day Care Facility, Youth or Adult	SUP	§325-40.12
Golf Course	SUP	-
Gun Range	SUP	-
Kennel or Animal Hospital	SUP	§325-40.22
OTHER		
Cemetery	P	-
Essential Services	SUP	-
Public Park or Playground	P	-
Recreation Facility, Outdoor	SUP	§325-40.25
Religious Institution	SUP	-
Tier Three Solar Energy Collection System	SUP	§325-40.33
Telecommunications Facility	SUP	§325-40.31
ACCESSORY		
Accessory Structure or Use	P	§325-40.2
Agricultural Waste Management Facility	P	-
Exterior Furnace or Outdoor Heating Device	P	§325-40.15
Farm Worker Housing	P	§325-40.16
Farm Stand	P	§325-40.17
Home Occupation, Residential	P	§325-40.20
Home Occupation, Agricultural	SUP	§325-40.20
Keeping of Farm Animals, Poultry, or Bees	P	§325-40.21
Outdoor Sales, Display, or Storage	P	§325-40.26 & 40.27
Parking Area or Lot	P	Article 51
Pond	P	§325-40.28
Tier 1 or 2 Solar Energy Collection System	SUP	§325-40.33
Temporary Storage Unit	P	§325-40.30

(1) No single-family dwelling shall be smaller than 1,000 square feet in ground floor area.

325-25.4 APPLICABLE STANDARDS

- A. In addition to the requirements within Article 25, the requirements of Part 5, Development Standards, of this Chapter shall apply to the agricultural districts within the Town.
- B. Uses may be subject to site plan review in accordance with Section 325-62.2.

325-25.5 LOT, AREA, & SETBACK REQUIREMENTS

The following requirements shall apply to principal and accessory structures and uses in the agricultural districts within the Town. Paved surfaces, such as driveways and parking spaces, shall not be subject to the requirements of Table 25-3, but shall conform to the requirements of Article 51.

TABLE 25-3: LOT, AREA, & SETBACK REQUIREMENTS

	AG
A. MINIMUM LOT SIZE ¹	
Residential Use	1 Acre
-- Without Water Service	2 Acres
Nonresidential Use	1 Acre
B. MINIMUM LOT WIDTH ¹	
Residential Use	225 ft
Nonresidential Use	225 ft
C. MAXIMUM LOT DEPTH ¹	
Residential Use	200 ft
Nonresidential Use	-
D. MINIMUM FRONT SETBACK ²	
Residential Use	75 ft
Nonresidential Use	75 ft
E. MINIMUM SIDE SETBACK ²	
Principal Structure or Use	25 ft
Accessory Structure or Use ³	15 ft
F. MINIMUM REAR SETBACK ²	
Principal Structure or Use	30 ft
Accessory Structure or Use ³	15 ft
G. ADDITIONAL SETBACKS ²	
Unenclosed Storage of Noxious Materials (manure, etc.)	MIN 150 ft ²
Farm Stand, from front lot line	MIN 15 ft
Keeping of Farm Animals, Poultry, or Bees	MIN 150 ft ²

- (1) Where subdividing a lot greater than two acres, the minimum and maximum lot dimensions shall be determined by the Planning Board as part of site plan review (Article 62).
- (2) Minimum setback required from front lot line and any side or rear lot line where adjacent to a residential use or district.
- (3) Behind front building line.

325-25.6 DIMENSIONAL & BULK REQUIREMENTS

The following requirements shall apply to the agricultural districts within the Town.

TABLE 25-4: DIMENSIONAL & BULK REQUIREMENTS

AG	
A. MAXIMUM BUILDING HEIGHT	
Principal Structure	35 ft 2.5 stories
Accessory Structure	18 ft
B. MAXIMUM LOT COVERAGE	
Gross Impervious Surface & Structures	25%
C. MINIMUM RESERVED OPEN SPACE ¹	
Green Space or Landscaped Area	35%

- (1) These areas shall consist of, to the maximum extent possible, retention of existing natural site vegetation, as well as landscaping. Impermeable surfaces, retention ponds and facilities may not be included in the green space calculation.

TOWN OF MANCHESTER

CHAPTER 325. ZONING CODE

PART 3 | SPECIAL PURPOSE & OVERLAY DISTRICTS

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ARTICLE 30 | FLOODPLAIN OVERLAY DISTRICT

325-30.1 ESTABLISHMENT

The floodplain districts established for the Town of Manchester is listed below:

TABLE 30-1: FLOODPLAIN DISTRICTS

DISTRICT NAME	MAP SYMBOL
Floodplain Overlay	FPO

325-30.2 PURPOSE STATEMENT

- A. **Purpose.** The purpose of the Floodplain Overlay (FPO) District is to provide special controls over land development located in sensitive environmental areas within the Town of Manchester. This District and its associated regulations are designed to preserve and protect unique environmental features within the Town as much as possible, including but not limited to floodplains and watercourses.

- B. **Intent.** Certain areas of the Town of Manchester are subject to periodic flooding that can result in loss of life, property damage, health and safety hazards, disruption of commercial and governmental services, extraordinary public expenditure for flood protection and relief and impairment of the tax base, all of which adversely affect the public health, safety and general welfare of the residents of this Town. These flood losses are caused by the cumulative effect of obstructions in the floodplain causing increases in flood heights and velocities and by the occupancy in flood hazard areas by uses that are inadequately elevated, flood-proofed, or otherwise protected from flood damage. It is the intent of the FPO District to prevent public and private losses due to flood conditions in certain areas with regulations designed to:
 - 1) Protect the health, safety and welfare of the residents of the Town;
 - 2) Minimize public expenditure for flood-control projects;
 - 3) Minimize the need for relief and rescue efforts;
 - 4) Minimize prolonged business interruptions;
 - 5) Minimize damage to public facilities and utilities;
 - 6) Help maintain a stable tax base by minimizing flood damage to private and commercial property; and
 - 7) Identify those structures and properties that are located in areas of special flood hazard and maintain such information for public inspection.

325-30.3 OFFICIAL MAPS

- A. The official set of maps delineating all significant environmental features within the Town shall be known and may be cited as the "Official Town of Manchester FPO Maps" and shall include, with latest revisions the official flood insurance rate maps (FIRM) for the Town, prepared by the Federal Emergency Management Agency (FEMA). Additionally, all areas further identified by the Federal Insurance Administration in the latest version of their report entitled "The Flood Insurance Study for the Town of Manchester, New York" shall be included in the FPO District with accompanying Flood Insurance Rate Map and Flood Hazard Boundary Map.
- B. The aforementioned maps and reports shall be used for reference purposes and not be used to delineate specific or exact boundaries of the various overlay districts. Field investigations and/or other environmental analyses may be required in order to determine whether or not a particular piece of property is included within the Floodplain Overlay District.

325-30.4 INTERPRETATION OF DISTRICT BOUNDARIES

- A. **CEO Interpretation.** The Code Enforcement Officer shall be responsible for interpreting Floodplain Overlay District boundaries based on the review and interpretation of the Official Town of Manchester FPO Maps (as previously outlined in Section 120-30.3). The Code Enforcement Officer may request the assistance of the Town Engineer, County Engineer or other appropriate department or agency in making such a determination.
- B. **Underlying Districts.** Where the Floodplain Overlay District superimposes a principal zoning district delineated on the Official Zoning Map of the Town of Manchester, the requirements of the Floodplain Overlay District shall be met in addition to the requirements specified for development in the respective principal zoning district.

325-30.5 FPO PERMIT APPLICATION PROCEDURES

- A. **Permit Required.** An FPO development permit shall be required prior to the commencement of any regulated activity or the issuance of any Building Permit for regulated development in the Floodplain Overlay District within the Town of Manchester.
- B. **Exempt Activities.** The following activities are exempt from the permit procedures of this article, subject to a determination by the authorized Town official that such activities involve necessary normal maintenance and upkeep of property, and/or are clearly incidental to the principal use on the property, and/or involve public health, safety, or emergency situations.
 - 1) Lawn care and maintenance.
 - 2) Gardening activities.
 - 3) Tree and shrub care and maintenance.
 - 4) Removal of dead or deteriorating vegetation.
 - 5) Removal of structures.

- 6) Repair and maintenance of structures.
- 7) Repair and maintenance of faulty or deteriorating sewage facilities or utility lines.
- 8) Reconstruction of structures damaged by a natural disaster.
- 9) Customary agricultural activities, except structural activities.
- 10) Public health activities, orders and regulations of the New York State Department of Health, Ontario County Department of Health, or other agency, undertaken in compliance with the New York State Environmental Conservation Law.
- 11) Activities subject to the review jurisdiction of the New York State Public Service Commission or the New York State Board on Electric Generation Siting and the Environment, under the provisions of Article 7 of the New York Public Service Law.
- 12) Any actual or ongoing emergency activity that is immediately necessary for the protection and preservation of life, property or natural resource values.

C. Application Requirements. Applications for FPO development permits shall be made in writing to the Code Enforcement Officer on forms made available by the Town Clerk. Such an application shall be made by the property owner or their agent and shall be accompanied by any materials or information deemed appropriate by the Code Enforcement Officer, Town Engineer, or Consulting Engineer, including but not limited to a scaled (1" = 50' or 1" = 100') site plan prepared and certified by a licensed engineer or land surveyor that contains the following minimum information:

- 1) A location plan and boundary line survey of the property;
- 2) The location of all Floodplain Overlay District boundaries, designated Town open space, and any publicly owned parkland.
- 3) The location of all existing and proposed buildings, structures, utility lines, sewers, water and storm drains on the property or within two hundred (200) feet of the proposed work site.
- 4) The location of all existing and proposed impervious surfaces such as driveways, sidewalks, etc., on the property or within two hundred (200) feet of the proposed work site.
- 5) Existing and proposed contour levels at one-foot intervals for the property, unless such property is located within a steep slope protection district whereby contour levels may be shown at two-foot intervals.
- 6) The location and types of all existing and proposed vegetation and shrub masses, as well as all trees with a diameter of six inches or more within and/or adjacent to the property.
- 7) The location of all existing and proposed drainage patterns, drainageways, swales, etc. within and/or adjacent to the property.

- D. Fees.** Each application for an FPO development permit shall be accompanied by the appropriate fee(s) as determined by the Town Board. Said fee(s) shall be in addition to any other fees required for the development under the Town Zoning Law and/or Municipal Code.

325-30.6 ESTABLISHMENT OF FPO ZONES

- A. FPO-I Floodway Zone.** There is hereby established an FPO-I zone to accomplish the purposes of this section. The boundaries of this zone include all areas within the floodways as delineated in the Flood Insurance Study for the Town of Manchester. The following are not permitted in the FPO-I zone:

- 1) New structures (temporary or permanent); any addition or substantial improvement to existing structures; filling of land; excavation; deposits, obstructions or outside storage of materials or equipment.
- 2) The temporary or permanent placement of a mobile home, manufactured home, or similar structure.
- 3) The construction or operation of an on-site sewage disposal system.
- 4) Any other activity that as demonstrated through a technical evaluation will result in any increase in flood levels during the occurrence of the base flood discharge.

- B. FPO-II Floodplain Zone.** There is hereby established an FPO-II zone to accomplish the purposes of this law. The boundaries of this zone include all areas within the 10-year floodplain but does not include any portion of the FPO-I zone. The following are not permitted in the FPO-II zone:

- 1) New structures (temporary or permanent); filling of land; excavation; deposits, obstructions or outside storage of materials or equipment.
- 2) The temporary or permanent placement of a mobile home, manufactured home, or similar structure.
- 3) The construction or operation of an on-site sewage disposal system.
- 4) Any activity that is not in compliance with the standards and requirements set forth in other sections of this law.
- 5) The following activities shall not be allowed in whole or in part in an FPO-II zone without first requesting and receiving a permit from the Code Enforcement Officer as outlined in Subsection 30.5 of this Article:
 - iv. Addition or substantial improvement to structures.
 - v. Subdivision of land.
 - vi. Any person-made change to improved or unimproved real estate including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

- C. FPO-III Floodplain Zone.** There is hereby established an FPO-III zone to accomplish the purposes of this law. The boundaries of this zone include all areas within the one hundred (100) year floodplain as delineated in the Flood Insurance Study but does not include any portion of either the FPO-I or FPO-II zones. The following activities are not permitted in the FPO-III zone:
- 1) The temporary or permanent placement of a mobile home, manufactured home, or similar structure.
 - 2) The construction or operation of an on-site sewage disposal system.
 - 3) Any activity that is not in compliance with the standards and requirements set forth in other sections of this law.
 - 4) The following activities shall not be allowed in whole or in part within an FPO-III zone without first requesting and receiving a permit from the Code Enforcement Officer as outlined in Subsection 50.5 of this Article:
 - i. Additions or substantial improvements to structures.
 - ii. New structures.
 - iii. Outside storage of materials and equipment.
 - iv. Subdivision of land.
 - v. Any person-made change to improved or unimproved real estate including, but not limited to, building or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

325-30.7 FPO PERMIT PROCESS

- A. CEO Authority.** The Code Enforcement Officer shall have the authority to grant or deny an FPO development permit, subject to the standards, criteria, and other regulations contained in this law, regulations contained in Town of Manchester Municipal Code, and the State Environmental Quality Review Act (SEQRA). The Code Enforcement Officer may also request a report from the Town Engineer or Consulting Engineer in acting on such permit applications.
- B. Permit Conditions.** Any development permit issued by the Code Enforcement Officer in accordance with the provisions of this article may be issued with conditions. Such conditions may be attached as are deemed necessary to ensure the preservation and protection of environmentally sensitive areas and to ensure compliance with the policies and provisions of this article. Every permit issued pursuant to this article shall contain the following conditions:
- 1) The Code Enforcement Officer, Town Engineer, Consulting Engineer and/or other appropriate Town officials shall have the right to inspect the project at any reasonable time;
 - 2) The permit shall expire if it is not acted upon within one year; and
 - 3) The permit holder shall notify the Code Enforcement Officer or other appropriate Town official of the date on which project construction is to begin, at least five days in advance of such date of construction.

- C. Suspension.** The Code Enforcement Officer may suspend a permit until such time as the Town Board reviews the suspension. The Town Board may, upon recommendation of the Code Enforcement Officer and after having provided the permit holder five days written notice, suspend or revoke a development permit issued in accordance with the provisions of this section where it has found evidence that the applicant has not complied with all terms or conditions of such permit, has exceeded the authority granted in the permit, or has failed to undertake the project in the manner set forth in writing with its findings and reasons for revoking or suspending a permit issued pursuant to the section. The Code Enforcement Officer shall forward a copy of said findings to the applicant. Permitted work shall immediately cease upon suspension of a permit.
- D. Areas of Special Flood Hazard.** The areas of special flood hazard identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "The Flood Insurance Study for the Town of Manchester, of Ontario County, New York" with accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway Maps is hereby adopted and declared to be part of this law. The Flood Insurance Study and maps and amendments and revisions thereto, are on file at the Ontario County Planning Offices.
- E. Permit Review.** When reviewing an application for an FPO development permit for a regulated action in any zone, the Code Enforcement Officer shall consider all technical information available, all relevant factors and standards specified in the section, and shall determine that:
- 1) The requirements of this law have been satisfied; and
 - 2) That the proposed development does or does not adversely affect the area of special flood hazard (for the purposes of this law "adversely affect" means physical damage to adjacent properties). An engineering study may be required of the applicant for this purpose.
 - i. If there is no adverse effect, then the permit shall be granted consistent with the provisions of this law.
 - ii. If there is an adverse effect, then flood damage mitigation shall be made a condition of the permit.
 - iii. All development shall be reviewed for compliance with Subsection 30.7(J) (Encroachments) of this Article.
- F. Development Standards.** No FPO permit shall be granted for a regulated activity within any floodway or floodplain zone unless the applicant submits a plan certified by a registered professional engineer and shows evidence of the following:
- 1) The structure will be constructed with its lowest floor elevated to at least one foot above the base flood level.
 - 2) The structure will not affect the efficiency or the capacity of the floodway or increase flood heights.
 - 3) The structure will be placed on the site so as not to cause increased velocities or catch or otherwise collect debris that will obstruct flow under flood conditions.

- 4) The structure shall be firmly anchored to prevent flotation, collapse, or lateral movement that may result in damage to other structures, restrictions of bridge openings, and other narrowings of the watercourse.
- 5) All new and replacement water supply and sanitary sewer systems shall be designed to minimize or eliminate infiltration of flood waters into the system and discharge from the systems into floodwaters.
- 6) Service facilities, such as electrical and heating equipment shall be constructed at or above the base flood level for the particular area or shall be flood-proofed.
- 7) New construction and substantial improvements shall be constructed using materials, methods, and practices that minimize flood damage.
- 8) Base flood elevation data shall be provided for subdivision proposals and other proposed developments.
- 9) Such other data or evidence may be requested by the Town Board, Planning Board, Zoning Board, or Code Enforcement Officer pertaining to flooding and site plan information.
- 10) Information and/or a description regarding the extent to which any watercourse will be altered or relocated as a result of any proposed development.
- 11) Plans indicating any walls to be used to enclose space located below the base flood level.
- 12) That there is no reasonable alternative for the proposed regulated activity on a site which is not in a flood hazard area.

G. Considerations. When taking action on an application for an FPO development permit for a regulated action in any Floodplain Overlay District zone, the Code Enforcement Officer shall consider all technical information available, all relevant factors and standards specified in this Section, as well as the following:

- 1) The danger that materials may be swept onto other lands to the detriment of others;
- 2) The danger to life and property due to flooding or erosion damage;
- 3) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
- 4) The importance of the services provided by the proposed facility to the community;
- 5) The necessity to the facility of a waterfront location;
- 6) The availability of alternative locations not subject to flooding or erosion damage for the proposed use;
- 7) The compatibility of the proposed use with existing and anticipated development;

- 8) The relationship of the proposed use to the Town Comprehensive Plan and floodplain management program for that area;
- 9) The safety of access to the property in times of flood for ordinary and emergency vehicles;
- 10) The expected heights, velocity, duration, rate of rise and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
- 11) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems and streets and bridges.

H. Additional Standards for Approval. The Code Enforcement Officer may require that the applicant adequately demonstrate that one or more of the following conditions be met before granting a permit for land use within any of the zones:

- 1) Anchorage to resist flotation and lateral movement.
- 2) Reinforcement of walls to resist water pressure.
- 3) Installation of watertight doors, bulkheads and shutters.
- 4) Use of paints, membranes or mortars to reduce seepage of water through walls.
- 5) Addition of mass or weight to resist flotation.
- 6) Installation of pumps to lower water levels in structures.
- 7) Pumping facilities to relieve hydrostatic water pressure on external walls and basement floors.
- 8) Elimination of gravity flow drains.
- 9) Construction to resist rupture or collapse caused by water pressure or floating debris.
- 10) Compliance with other environmental regulations found in the Code of the Town of Manchester.

I. Encroachments.

- 1) In all areas of special flood hazard in which base flood elevation data is available pursuant to the Town of Manchester Flood Insurance Study and no floodway has been determined, the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.
- 2) In all areas of the special flood hazard where floodway data is provided or available, the requirements of Subsection 30.6(A), FPO-I, shall apply.
- 3) All proposed development in riverine situations where no flood elevation data is available (unnumbered A zones as indicated by the Town of

Manchester Flood Insurance Study) shall be analyzed to determine the effects on the flood carrying capacity of the area of special flood hazards set forth in this law. This may require the submission of additional technical data to assist in the determination.

- 4) When base flood elevation data has not been provided pursuant to the Town of Manchester Flood Insurance Study, the Code Enforcement Officer may obtain, review, and reasonably utilize any base flood elevation and floodway data available from federal, state or other sources.

J. Administration. In addition to the other duties and responsibilities specified in this Chapter, the Code Enforcement Officer is authorized to administer the following provisions of this Chapter. The Code Enforcement Officer shall:

- 1) Secure from the applicant all information necessary for a complete review of the proposed development by the appropriate boards and officials. The information necessary for submission shall be the same as required for site plan approval as specified in Article 62 of this Chapter, plus any additional information that may be required by the Code Enforcement Officer to adequately review a request for a permit.
- 2) Review all applications to determine that all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.
- 3) Obtain and record the actual elevation (in relation to sea level) of the lowest habitable floor (including basement) of all new or substantially improved structures and whether or not the structure contains a basement.
- 4) For all new or substantially improved flood-proofed structures:
 - i. Verify and record the actual elevation (in relation to sea level).
 - ii. Maintain the flood-proofing certifications required in this section.
- 5) Maintain for public inspection all records pertaining to the provisions of this section.
- 6) Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Insurance Administration.
- 7) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood-carrying capacity is not diminished.

K. Restrictions. Where this section imposes greater restrictions than are imposed by the provision of any law, ordinance, regulation or private agreement, this section shall control. Where there are restrictions by any law, ordinance, regulation or private agreement greater than those imposed by this section, such greater restrictions shall control. All uses presently permitted in the zoning districts within the Town of Manchester that also fall within the FPO Zones shall continue to be permitted uses for these districts, except where otherwise restricted by this section.

- L. Appeals.** Appeals for variances to the requirements of this section shall be based upon Section 80.6 (formerly Section 1910.6) of the National Flood Insurance Program Regulations. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
- M. Degree of Protection.** The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by person-made or natural causes. This chapter does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the Town of Manchester, any officer or employee thereof or the Federal Insurance Administration for any flood damages that result from reliance on this section or any administrative decision lawfully made thereunder.

ARTICLE 31 | ROUTE 96 CORRIDOR OVERLAY DISTRICT

325-31.1 INTENT & PURPOSE

The purpose of the Route 96 Corridor Overlay District (COD) is to manage access to property along Route 96 in a manner that preserves the safety, efficiency, development potential, and character of the highway corridor and the individual communities along it. Specific purposes are as follows:

- A. To protect the safety of motorists traveling Route 96 and its crossroad intersections and preserve the efficiency of traffic flow along the corridor;
- B. To protect the safety of pedestrians and bicyclists and provide for pedestrian facilities in appropriate locations;
- C. To encourage development on the corridor that is compatible with or does not detract from the traditional character of the villages and the rural character of the towns along the corridor;
- D. To preserve and enhance development options along the corridor and to promote development of unified access and circulation systems that serve more than one property;
- E. To assure that driveways and street connections along Route 96 are designed according to standards for safe entry and exit and are adequately spaced; and
- F. To promote cooperative planning and coordination between area property owners and the many agencies that have an interest in the Route 96 corridor, including but not limited to Ontario and Seneca Counties, the various towns and villages, and the New York State Department of Transportation (NYS DOT).

325-31.2 APPLICABILITY

- A. The COD shall apply to all parcels within 500 feet of the centerline on Route 96 within the Town limits.
- B. These regulations shall be in addition to all other existing regulations of the Town. Persons with property divided by the COD or that do not have frontage but request an access connection in the COD area must comply with the district standards. This District does not change the zoned use of property. Permitted, conditional, or specially permitted uses in the overlay district shall be as provided for in the existing underlying zoning districts
- C. Connections permitted prior to the adoption of the COD shall be allowed to remain and will be considered legal and conforming until such time as there is a significant change in the use of the property (including the development of land, structures or facilities) that results

in any increase in the trip generation of the property. If the principal activity on a parcel with access connections that do not meet the regulations herein is discontinued or out of service for a period of one year or more, then that parcel must comply with all applicable access requirements of this overlay district.

- D. Where the requirements of this Article conflict with the requirements of Section 61.5, the more stringent requirement shall apply.

325-31.3 SUBMISSION REQUIREMENTS

All site plans shall include the location and dimensions of streets, driveways, turn lanes, access drives, inter-parcel connections, bicycle and pedestrian access, parking areas, landscaped areas and other relevant information. Site plans should include access connection locations and spacing within 500 feet of the subject property on both sides of the roadway.

325-31.4 ACCESS PROVISIONS

Access to Route 96 shall be provided by direct or indirect means, consistent with the following requirements:

- A. **Number of Access Points.** Each tract of land recorded prior to effective date shall be permitted one point of direct or indirect access to the public roadway system, provided that such access conforms to the minimum driveway spacing and corner clearance requirements the COD. Where the roadway frontage of a tract of land is greater than 500 feet, an additional access point may be permitted, if it is determined in consultation with NYS DOT that such access will not be detrimental to highway safety, capacity, or function. Any such additional access shall comply with all applicable sections of this law. Individual property access shall not be provided to NYS Highway System where alternative access is available. Where multiple parcels are developed as a single project, such as a shopping center or similar use, they shall be treated as a single parcel for the purposes of determining the permitted number of access points.

- B. **Minimum Driveway Spacing.**

- 1) Minimum driveway spacing is to be measured from the closest edge of the driveway to the closest edge of the nearest driveway (see Figure 31-1). All direct access connections to Route 96 shall meet or exceed the minimum connection spacing requirements, excluding single-family residences, listed in Table 31-1 below:

TABLE 31-1: MINIMUM DRIVEWAY SPACING

SPEED LIMIT	SPACING (FEET)
35 MPH or Less	125
36 to 44 MPH	250
45 MPH or Greater	500

- 2) There are no minimum driveway spacing requirements for the development of four or fewer single-family dwelling within the COD. However, the access drive or local street that serves a development of five or more single-family residences must meet these standards.
- 3) Where the existing configuration of properties and driveways in the vicinity of a parcel or site precludes spacing of an access point in accordance with those listed above, the Code Enforcement Officer, in consultation with NYS DOT, may waive the spacing requirement if all of the following conditions have been met:
 - i. A joint use driveway will be established to serve two or more abutting building sites;
 - ii. The building site is designed to provide cross access and unified circulation with abutting sites with cross access easements; and
 - iii. The property owner signs an agreement to close any pre-existing curb-cuts that do not meet the requirements of the COD after the construction of both sides of the joint use driveway and agrees to enter a joint maintenance agreement defining maintenance responsibilities of property owners that share the joint use driveway and cross access system.
- 4) In the event that the characteristics or layout of abutting properties would make development of a unified or shared access and circulation system impractical, the Planning Board may modify or waive these requirements during site plan review.

C. Joint and Cross Access.

- 1) Adjacent commercial or office properties and compatible major traffic generators (i.e. shopping plazas, office parks, apartments, etc.) shall provide a cross access drive and pedestrian access way to allow circulation between sites (see Figure 31-2). This requirement shall also apply to a new building site that abuts an existing developed property unless the Planning Board finds during site plan review that this would be clearly impractical. Property owners shall record a cross access easement and a joint maintenance agreement with the public records office.
- 2) Property owners that provide for joint and cross access may be granted a temporary driveway connection permit, where necessary, to provide reasonable access until such time as the joint use driveway and cross access drives are provided with adjacent properties. All necessary easements and agreements shall be recorded with the deed to the property, including:
 - i. An easement allowing cross access to and from the adjacent properties;
 - ii. An agreement to close and eliminate any pre-existing driveways provided for access in the interim after construction of the joint-use driveway; and

- iii. A joint maintenance agreement defining the maintenance responsibility of each property owner that shares the joint use driveway and cross access system.

D. Minimum Corner Clearance. Minimum corner clearance is to be measured along the road from the closest edge of the right-of-way of the intersecting road to the closest edge of the proposed driveway (see Figure 31-1). At signalized intersections, corner clearances in excess of the minimum dimensions of Table 31-2 may be required, in consultation with NYS DOT.

TABLE 31-2: MINIMUM CORNER CLEARANCE

INTERSECTION	CORNER CLEARANCE (FEET)
Driveways Connecting to State Highways	220
Side Streets Connecting to State Highways	110

E. Outparcels. An outparcel can be described as a parcel of land, generally located on the perimeter of a larger parcel of land that is subordinate to the larger parcel for access, parking and drainage purposes. All access to outparcels shall be internalized utilizing the main access drive of the principal commercial center (see Figure 31-3). Access to the outparcel shall be as direct as possible, avoiding excessive movement across the parking aisles and queuing across surrounding parking and driving aisles. In no instance shall the circulation and access of the principal commercial facility and its parking and service be impaired.

F. New Residential Subdivisions. New residential subdivisions consisting of more than five units without direct access to Route 96 shall include an internal street layout that shall connect to the streets of surrounding developments to accommodate travel demand between adjacent neighborhoods without the necessity of using the highway.

G. Shared Access and Reverse Frontage. Inter-parcel connections shall be provided to facilitate the local movement of traffic and minimize demand for local trips on the highway. Based on consultation with the NYS DOT, inter-parcel access may take the form of direct driveway connections or reverse frontage roads.

H. Pedestrian Access. On site pedestrian walkways shall be incorporated into each project and shall be coordinated with on-site landscaping so as to minimize conflicts with vehicular traffic. Pedestrian circulation systems shall be provided to connect multiple uses within individual projects and shall be extended to adjacent parcels where inter-parcel vehicular access is required. Where pedestrian access crosses an access drive (such as crossing from a parking aisle to a building entrance), crosswalk improvements shall be required. In the event that a public sidewalk is adjacent to the property, the pedestrian circulation system shall connect to the existing sidewalk system.

325-31.5 DRIVEWAY LOCATION & DESIGN

A. Driveway connections shall be located and designed to provide adequate sight distance. NYS DOT standards for sight distance shall apply.

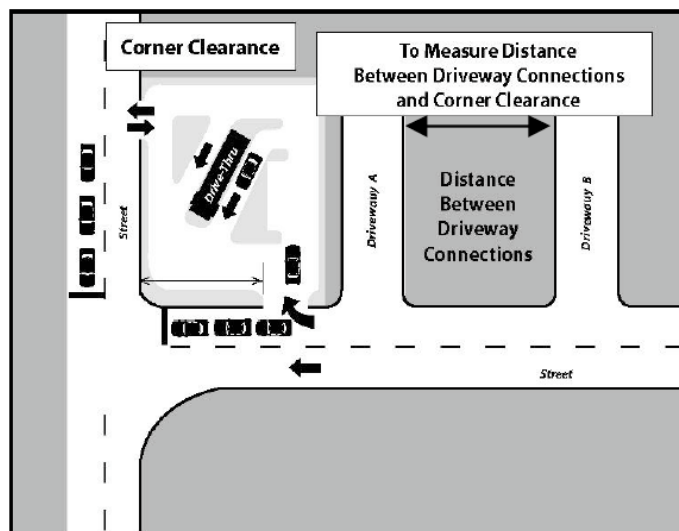
- B. The NYS DOT, in coordination with the municipality, may require turn lanes where deemed necessary due to traffic volumes or where a safety or operational problem exists. The design of left turn and right-turn lanes shall conform to NYS DOT design standards.
- C. Construction of driveways along turn lanes and tapers is prohibited unless no other access to the property is available.
- D. Driveways with more than one entry and one exit lane shall incorporate channelization features to separate the entry and exit sides of the driveway. Double yellow lines may be considered instead of medians, where truck off-tracking is a problem.
- E. Driveways shall be designed with adequate on-site storage for entering and exiting vehicles to reduce unsafe conflicts with through traffic or on-site traffic and to avoid congestion at the entrance.
- F. Guidelines for driveway throat length are provided in Table 31-3 below.

TABLE 31-3: DRIVEWAY THROAT LENGTH

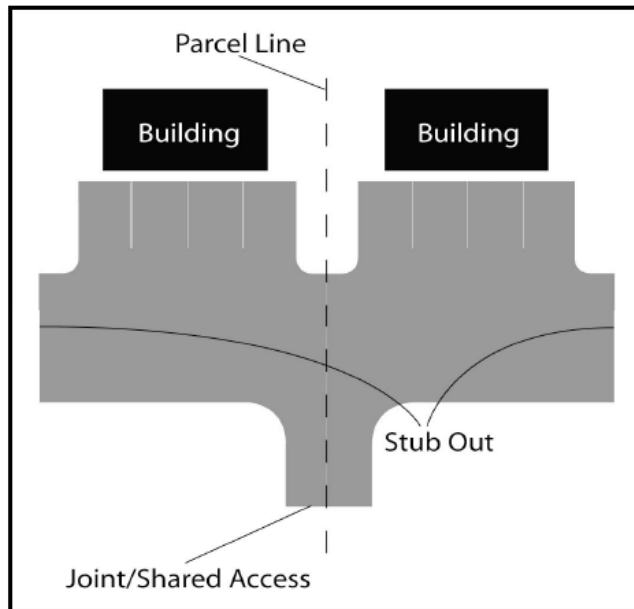
USE	DRIVE LENGTH (FEET)
Developments over 200,000 square feet	125
Developments under 200,000 square feet	
- With Signalized Access Drive	75 – 95
- With No Signal at the Access Drive	40 – 60
Residential Subdivisions of 5 or More Units	40 – 60

325-31.6 ACCESS MANAGEMENT FIGURES

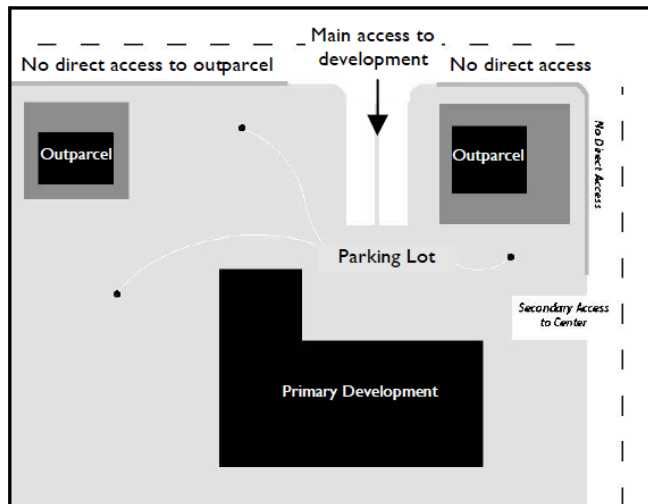
- A. **Figure 31-1.** Corner Clearance and Driveway Spacing.



B. **Figure 31-2.** Cross Access Stub-Outs.



C. **Figure 31-3.** Internalized Access to Outparcels.



TOWN OF MANCHESTER

CHAPTER 325. ZONING CODE

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ARTICLE 40 | REQUIREMENTS FOR CERTAIN USES

325-40.1 PURPOSE & APPLICABILITY

A. Purpose & Intent.

- 1) **Purpose.** This Article provides additional regulations for uses that are generally considered to have a higher potential for incompatibility with residential or low impact commercial uses without proper mitigation measures. The purpose of the regulations contained herein is to promote the health, safety, and general welfare of the public, while also protecting property values and the character of the immediate neighborhood and Town of Manchester community.
- 2) **Intent.** These regulations are intended to mitigate the potentially undesirable impacts of certain uses, which by reason of nature or manner of operation, are or may become hazardous, obnoxious, or offensive owing to excessive and undue increases in the production and presence of odors, dust, smoke, fumes, noise, vibrations, refuse matter, vehicular traffic, or human activity.

B. Applicability.

- 1) The following requirements are applicable to all uses, permitted (P) and specially permitted (SUP), as noted in the use tables of Parts 2 and 3 of this Chapter.
- 2) Specially permitted uses must obtain a special use permit and site plan review approval as required by Article 62.
- 3) Permitted uses do not require a special use permit. However, permitted uses must obtain site plan review approval and conform to the additional use requirements of this Article, where applicable.
- 4) Should the additional use regulations of this Article conflict with other requirements of this Chapter, the regulations contained herein shall take precedence.
- 5) No authorization for a special use permit or building permit shall be granted for any use listed in this Section unless it is determined that the proposed use also meets the additional regulations required in this Section.

325-40.2 ACCESSORY STRUCTURES & USES

Accessory structures and uses are permitted in any zoning district in connection with any principal use lawfully existing within such district as noted in Part 2 of this Chapter. All accessory uses and structures shall be in conformance with this Section.

A. General Requirements. All accessory structures and uses shall:

- 1) Be clearly incidental and subordinate to the principal structure or use by height, area, extent, and purpose.
- 2) Not be located in any required front yard area.
- 3) Be in conformance with the height and setback restrictions of the applicable zoning district and shall not cause the rate of overall lot coverage to exceed the maximum rate permitted.
- 4) Be finished with materials and/or siding that is consistent and compatible with the existing character of the principal structure and surrounding residential neighborhood.
- 5) Maintain a separation of at least 10 feet from any dwelling unit and at least five feet from any other accessory structure, including accessory structures on an abutting lot.
- 6) Not obstruct, block, or force the enclosure of any structural opening (windows, doors, etc.), open porch, deck, or terrace, or required vehicular or pedestrian access way.
- 7) May be built prior to the erection of a principal structure with Planning Board approval.

B. Accessory Buildings in Residential Districts. The following shall apply to all accessory buildings on lots under one acre in size.

- 1) The total area of all accessory buildings on a lot shall not exceed 1,000 square feet and 800 square feet for a single accessory building.
- 2) There shall be no more than one accessory building in addition to a private garage.

C. Permitted Residential Accessory Uses and Structures. The following shall be considered permissible residential accessory uses or structures for the purposes of this Chapter.

- 1) Decks, patios, or terraces.
- 2) Carports and garages.
- 3) Enclosed storage structures, such as sheds.
- 4) Fences and walls subject to the provisions of Section 40.18.
- 5) Fire escapes or other such structures intended to maintain the health, safety, and welfare of residents within the dwelling and the general public.
- 6) Ramps, lifts, or other such structures intended to provide an increased level of accessibility to the structure or use. Such structures shall not obstruct access to required parking.
- 7) Personal or home electric vehicle charging stations.
- 8) Radio and dish antennas limited to one meter or less in diameter.

- 9) Solar energy system, subject to the provisions of Section 40.31.
- 10) Playgrounds or playhouses.
- 11) Private swimming pools, spas and hot tubs, subject to the provisions of Section 40.29.
- 12) Noncommercial nurseries, gardens, or greenhouses.
- 13) Other uses and structures which the CEO deems appropriate by virtue of similarity in nature, activity, and/or extent to those already listed.

D. Permitted Nonresidential Accessory Uses and Structures. The following shall be considered permissible nonresidential accessory uses or structures for the purposes of this Chapter.

- 1) Decks, patios, and terraces.
- 2) Detached garages.
- 3) Enclosed storage structures, such as sheds.
- 4) Fences or walls subject to the provisions of Section 40.18.
- 5) Fire escapes or other such structures intended to maintain the health, safety, and welfare of residents within the dwelling and the general public.
- 6) Ramps, lifts, or other such structures intended to provide an increased level of accessibility to the structure or use. Such structures shall not obstruct access to required parking.
- 7) Off-street parking and loading areas, including electric vehicle charging stations, subject to the provisions of Article 51.
- 8) Radio and dish antennas limited to two meters or less in diameter.
- 9) Solar energy system, subject to the provisions of Section 40.31.
- 10) Walkup service windows facing any public right-of-way when accessory to a permitted retail sales and service use. Pedestrian safety, access, and connectivity shall be addressed through site plan review.
- 11) Commercial vending machines in any commercial district, but not within the required setbacks. If located within 150 feet of a residential district the machine shall be screened from the residential district.
- 12) Plant nurseries, gardens, and greenhouses.
- 13) Other uses and structures which the CEO deems appropriate by virtue of similarity in nature, activity, and/or extent to those already listed.

E. Prohibited Accessory Uses and Structures. The outdoor placement of accessory commercial vending machines in a residential district shall be prohibited.

325-40.3 ADULT CARE FACILITIES

- A. All adult care facilities shall be maintained and operated according to the regulations set forth by the NYS Department of Health and shall not be permitted within the Town without obtaining proper licensing from the state.
- B. No adult care facility shall be located within one-quarter (1/4) mile of any other existing adult care facility regardless of municipal boundary lines.
- C. Adult care facilities shall also be subject to the requirements set forth in Section 40.24 (Multi-Family Dwellings), where applicable.

325-40.4 ADULT USE & ENTERTAINMENT ESTABLISHMENTS

All adult use and entertainment establishments within the Town shall be in accordance with Chapter 101 (Adult Entertainment) of the Town of Manchester Code, as well as the regulations set forth in this Chapter.

325-40.5 AIRPORTS OR HELIPORTS

Airports and heliports, including private landing strips, shall require special use permit and site plan review. In addition to the application requirements of Articles 62 and 64, the following shall also be provided to the reviewing board:

- A. Classification of the proposed airport or heliport (Commercial, noncommercial, or restricted).
- B. Type of aviation activities proposed (aircraft sales and service, flight instruction, crop dusting, air taxi, etc.)
- C. Type of aircraft expected to be based at the airport or heliport (single-engine, multi-engine, turboprop, jet, etc.) and the number of aircraft expected to be based at the airport initially and within five years.
- D. Statement as to the anticipated number of daily operations and whether or not an instrument approach procedure will be offered.
- E. Copy of the airspace clearance granted by the Federal Aviation Administration for this airport, including USGS topographic map.
- F. A copy of the New York State Commissioner of Transportation's determination concerning this airport in accordance with the provisions of 249 of the New York State General Business Law.
- G. A site plan of the airport or heliport at a scale no less than one inch equals 100 feet (1" = 100'), identifying the following:
 - 1) Locations of existing and proposed structures.

- 2) Alignment of existing and/or proposed runways in exact location and magnetic bearing to the nearest 30 minutes.
 - 3) Existing and proposed contours at five foot intervals.
 - 4) Location of aircraft parking and tie-down areas.
 - 5) Provisions for vehicular access and off-street parking.
 - 6) Provisions for sanitary waste disposal and water supply.
 - 7) Location and method of fuel storage.
- H. An area map at a scale of no less than one inch equals 500 feet (1" = 500'), identifying the following:
- 1) Distances, power lines, or other possible obstructions within 2,000 feet of the ends of runways.
 - 2) Properties within 500 feet of all airport property lines and owners thereof identified.

325-40.6 AUTOMOTIVE SALES

- A. All areas for the travel or storage of motor vehicles shall be paved, suitably graded and drained, and maintained in a neat and orderly manner.
- B. The number of cars that may be for sale on the premises must be specified on the special use permit. An increase in the number of cars to be sold shall require a new permit.
- C. Any such use shall be buffered from adjacent uses by no less than 10 feet. The buffer area shall minimally consist either of fencing, evergreen shrubbery, coniferous trees, or any combination thereof that prevents the unwanted transmission of headlight glare across the property line.
- D. Sufficient screening shall be provided along all lot lines abutting or adjacent to residentially zoned or developed property to block any view of operations from all points on such residential property when viewed from ground level.
- E. No repairs, other than minor repairs shall be performed on the premises. All maintenance, service, and repairs of motor vehicles shall be performed within an enclosed structure. No motor vehicle parts or partially dismantled motor vehicles shall be stored outside of an enclosed structure or screened area.
- F. No vehicles shall be displayed for sale within 10 feet of any property line that abuts a nonresidential district. No vehicles shall be displayed for sale within 30 feet of any property line that abuts a residential district.
- G. Perimeter landscaping shall be a minimum of 10 feet in width along the street frontage(s).
- H. The retail sales of fuel shall not be permitted.

- I. Such use shall also comply with all applicable development standards as provided in Part 5 of this Chapter.

325-40.7 AUTOMOTIVE SERVICE OR REPAIR SHOPS & GASOLINE STATIONS

A. General Requirements.

- 1) All areas for the travel or storage of motor vehicles shall be paved, suitably graded and drained, and maintained in a neat and orderly manner.
- 2) Any such use shall be buffered from adjacent uses by no less than 10 feet. The buffer area shall minimally consist either of fencing, evergreen shrubbery, coniferous trees, or any combination thereof that prevents the unwanted transmission of headlight glare across the property line.
- 3) Sufficient screening shall be provided along all lot lines abutting or adjacent to residentially zoned or developed property to block any view of operations from all points on such residential property when viewed from ground level.
- 4) Perimeter landscaping shall be a minimum of 10 feet in width along the street frontage(s).
- 5) The retail sales of fuel at automotive service or repair shops shall not be permitted, unless an additional permit is obtained for a gasoline station in accordance with this Chapter.
- 6) No outdoor storage of materials, merchandise, and equipment shall be permitted during non-business hours.
- 7) All such uses shall also comply with all applicable development standards as provided in Part 5 of this Chapter.

B. Automotive Service and Repair Shops. Service and repair shops shall comply with the following regulations:

- 1) The number of vehicles that can be accommodated on site for repair and storage is to be determined by the Planning Board;
- 2) Repair shops shall not be used for the storage, sale, rental or display of automobiles, trucks, trailers, mobile homes, boats, snowmobiles or other vehicles;
- 3) All maintenance, service, and repairs of motor vehicles shall be performed fully within an enclosed structure. No motor vehicle parts, partially dismantled motor vehicles, or unlicensed motor vehicles shall be stored outside of an enclosed structure for more than 48 hours; and
- 4) A spill prevention plan shall be provided.

C. Gasoline Stations. Gasoline stations shall also comply with the following regulations:

- 1) In addition to the information required for site plan review, the plan shall also indicate the location, number, capacity, and type of fuel storage tanks, the number of pumps to be installed, and the depth to the tanks;

- 2) No gasoline station or automotive repair shop shall have an entrance or exit for vehicles within 200 feet, as measured along the public street, in which there exists an educational institution, public playground, religious institution, hospital or public library, and such access shall be not closer to any intersection than 125 feet.
- 3) Gas stations may include retail sales of food, convenience items, and minor Automobile supplies or liquids provided that the sales of such items are within an enclosed structure and are an accessory use.
- 4) Gasoline stations shall be under the control of an attendant at all times during the hours of operation.
- 5) All oil drainage pits and hydraulic lifts shall be located within an enclosed structure and shall be located no closer than 50 feet to any property line.
- 6) Fuel pumps shall be located no closer than 30 feet from the public right-of-way or 50 feet from any other property lines.
- 7) All storage facilities for fuel, oil, gasoline or similar substances shall be underground and shall be at least 30 feet from any property line. Tanks shall be installed and maintained in accordance with all state and federal standards.
- 8) Tanks shall be located at least 500 feet from a place of public assembly as defined by the NYS Uniform Fire Prevention and Building Code.

325-40.8 BED & BREAKFASTS

In order to protect the residential character of the district in which it is located, a Bed and Breakfast facility shall be limited by the following criteria and/or any other conditions as determined by the Planning Board:

- A. A Bed and Breakfast shall only be permitted as a specified use in a single-family, detached dwelling;
- B. The residential character of the dwelling shall be preserved and no structural alterations, construction features, or site features of a nonresidential nature shall be incorporated. No accessory buildings shall be used for Bed and Breakfast activities;
- C. The owner/operator of the Bed and Breakfast shall live full-time on the premises;
- D. Up to two nonresidents may be engaged as employees of the bed and breakfast operation;
- E. A Bed and Breakfast shall have a maximum of four guest rooms with no more than two guest rooms sharing a single bath and no more than eight adult guests at one time. For the purpose of this section, "adult" means any person over the age of 18;
- F. The maximum length of stay for any guest is 14 consecutive days;
- G. Parking shall be provided in accordance with Article 51 and may not be located in the front yard where practicable. The Planning Board shall approve the location and screening of said parking spaces; and

- H. There shall be no change in the outside appearance of the building or premises that detracts from the residential character of the residence or from the residential character of the neighborhood.

325-40.9 BREWERIES, WINERIES, OR DISTILLERIES

- A. When adjacent to residential uses or districts, such uses shall be buffered to minimize visual and auditory impacts in a method approved during site plan review. Such buffering may include but is not limited to landscaping, screening, and fencing.
- B. All such uses dealing with the importation, manufacture, distribution, or sale of alcohol shall obtain a license as required by the NYS Liquor Authority and operate in accordance of the regulations therein. A complete copy of any application filed with and license issued by the NYS Liquor Authority shall be provided with any application subject to this Chapter.
- C. Bars and tasting rooms of breweries, distilleries, and wineries shall include a minimum food preparation area and menu that satisfies the NYS Liquor Authority's minimum food requirement.

325-40.10 CAMPGROUNDS

- A. Camping grounds shall be occupied only by travel trailers, pick-up coaches, motor homes, camping trailers, recreational vehicles, and tents suitable for temporary habitation and used for travel, vacation, and recreation purposes. The removal of wheels and placement of a unit on a foundation in a camping ground is prohibited.
- B. Not more than 10 travel trailers, campers, tents, recreational vehicles or motor homes shall be permitted per acre of gross site area.
- C. A camping ground shall be so located that no entrance or exit from a site shall discharge traffic into any residential district nor require movement of traffic from the camping ground through a residential district.
- D. A camping ground shall have a minimum of 150 feet of frontage on a public street.
- E. Conditions of soil, groundwater level, drainage and topography shall not create hazards to the property or the health or safety of the occupants. The site shall not be exposed to objectionable smoke, noise, odors, or other adverse influences, and no portion of the camping grounds subject to flooding, subsidence or erosion shall be used for any purpose which would expose persons or property to hazards.
- F. Management headquarters, recreational facilities, toilets, dumping stations, showers, coin-operated laundries, and other uses and structures customarily incidental to the operation of camping grounds are permitted as accessory uses to the camping grounds and must be approved by the Town Planning Board through site plan review. In addition, retail stores and other convenience establishments shall be permitted as accessory uses in camping grounds subject to the following restrictions:

- 1) Such establishments and the parking areas primarily related to their operations shall not occupy more than 5% of the gross area of the camping grounds. Such establishments shall be restricted in their use to occupants of the camping ground.
 - 2) Such establishments shall present no visible evidence from any street outside the camping ground of their commercial character which would attract customers other than occupants of the camping ground.
 - 3) The structures housing such facilities shall not be located closer than 100 feet to any public street and shall not be directly accessible from any public street, but shall be accessible only from a street within the camping ground.
- G. Plans for sewage disposal and water supply shall be designed in accordance with standards promulgated by the New York State Department of Health and/or Environmental Conservation, and shall receive approval from said agencies.
 - H. Streets in camping grounds shall be private, but shall be constructed with a stabilized travel way and shall meet the following minimum stabilized travel way width requirements:

TABLE 40-3: TRAVEL WAY WIDTH REQUIREMENTS

TRAVEL WAY	MINIMUM WIDTH
One Way	
<i>No On-Street Parking</i>	12 ft
<i>On-Street Parking One Side</i>	18 ft
Two Way	
<i>No On-Street Parking</i>	18 ft
<i>On-Street Parking One Side</i>	27 ft
<i>On-Street Parking Both Sides</i>	34 ft

- I. Each travel-trailer site shall be at least 2,500 square feet in area and have a minimum width of 40 feet.
- J. Travel trailers, campers, tents, motor homes and the motor vehicles propelling or carrying the same may be located not closer than 15 feet to any side or rear lot line nor closer than 60 feet to any front lot line.
- K. A minimum of eight percent (8%) of the gross area for the camping ground shall be set aside and developed as common use areas for open or enclosed recreational facilities. No travel-trailer site, required buffer strip, street right-of-way, storage area, or utility site shall be counted as meeting recreational purposes.
- L. Entrances and exits to camping grounds shall be designed for safe and convenient movement of traffic into and out of the camping ground and to minimize friction with movement of traffic on adjacent streets. All traffic into or out of the camping ground shall be through such entrances and exits. An adequate lighting system shall be provided for the camping ground.
- M. All utilities shall be underground.

- N.** Not less than one covered 20 gallon garbage receptacle shall be provided for each camp site. Garbage and rubbish shall be collected and disposed of as often as may be necessary to insure sanitary conditions.
- O.** All applicable sanitation standards promulgated by the State of the New York shall be met.

325-40.11 CAR WASHES

- A.** All washing facilities shall be completely within an enclosed building.
- B.** Vacuuming facilities may be outside of the building but shall not interfere with the free flow of traffic on or off the site.
- C.** Where gasoline stations are either a principal use with or an accessory use to the car wash, the requirements of the gasoline station (§325-40.7) shall also be adhered to.
- D.** All areas for the travel or storage of motor vehicles shall be paved, suitably graded and drained, and maintained in a neat and orderly manner.
- E.** Any such use shall be buffered from adjacent uses by no less than 10 feet. The buffer area shall minimally consist either of fencing, evergreen shrubbery, coniferous trees, or any combination thereof that prevents the unwanted transmission of headlight glare across the property line.
- F.** Sufficient screening shall be provided along all lot lines abutting or adjacent to residentially zoned or developed property to block any view of operations from all points on such residential property when viewed from ground level.
- G.** Perimeter landscaping shall be a minimum of 10 feet in width along the street frontage(s).
- H.** In the event a car wash is abandoned the owner shall immediately remove any outdoor vacuums, and all signs. The owner shall also provide adequate protection against unlawful entry into the building and onto the property and shall close all vehicular entrances to the property. A car wash shall be considered abandoned if it is inactive for a period of 12 consecutive months.
- I.** All such uses shall also comply with all applicable development standards as provided in Part 5 of this Chapter.

325-40.12 DAY CARE FACILITIES, YOUTH OR ADULT

- A.** All day care facilities shall be maintained and operated according to the regulations set forth by NYS Social Services Law and shall not be permitted within the Town without completion of the proper license and/or registration requirements of the state.
- B.** No permanently installed play equipment shall be located in the required front yards.
- C.** Day care facilities conducted as part of a single-family home shall also comply with the requirements of §325-40.20 (Home Occupations).

325-40.13 DRIVE-THROUGH FACILITIES

Drive-through facilities may be allowed as stand-alone facilities or as an accessory use to “fast food” restaurants, pharmacies, banks, and other permitted or specially permitted uses provided such facilities comply with the following regulations:

- A. No drive-through facility shall be permitted in the Hamlet Commercial District;
- B. Each drive-through facility and its associated use shall provide ingress and egress so as to minimize traffic congestion;
- C. Drive-through facilities, including any protective canopies, signage, drive-through travel lanes, or other associated elements, shall meet the setback requirements for the property;
- D. Drive-through facilities with an amplified audio/visual system shall be setback a minimum of 30 feet from the property line. These facilities shall not be located adjacent to residential uses or districts; and
- E. Stacking space for these facilities shall not impede on- or off-site traffic movements. The stacking space shall be delineated from other internal areas through the use of pavement markings that are identifiable during all seasons. The minimum numbers of stacking or queuing spaces required by drive-through activity type are provided in Table 40-1 below.

TABLE 40-1: MINIMUM STACKING REQUIREMENTS

ACTIVITY TYPE	SPACES	MEASURED FROM
Automated Teller Machine	3	Teller or Window
Bank Teller Lane	4	Teller or Window
Car Wash Stall, Automatic	8	Entrance
Car Wash Stall, Self-Service	3	Entrance
Gasoline Pump Island	2	Pump Island
Pharmacy	4	Window
Restaurant Drive-Through	6	Order Box
Restaurant Drive-Through	4	Order Box to Pick-up Window
Oil Change and Quick Lube	3	Per Bay
Other	Determined by Planning Board	

325-40.14 EATING & DRINKING ESTABLISHMENTS

- A. Eating and drinking establishments shall provide ingress and egress so as to minimize traffic congestion.
- B. Eating and drinking establishments that are adjacent to residential uses or districts shall be buffered or screened to minimize visual and auditory impacts.
- C. All such uses shall also comply with all applicable development standards as provided in Part 5 of this Chapter.

325-40.15 EXTERIOR FURNACES OR OUTDOOR HEATING DEVICES

Exterior furnaces, outdoor solid-fuel heating devices and outdoor woodburning furnaces shall be subject to the following provisions:

- A.** Any exterior furnace, outdoor solid-fuel heating device or outdoor woodburning furnace in existence on the effective date of this section shall be permitted to remain, provided that the owner applies for and receives a permit from the Town Code Enforcement Officer within one year of such effective date; provided, however, that upon the effective date of this section all the provisions of this section are met. If the owner of an existing exterior furnace, outdoor solid-fuel heating device or outdoor woodburning furnace does not receive a permit within one year of the effective date of this section, the exterior furnace, outdoor solid-fuel heating device or outdoor woodburning furnace shall be removed. "Existing" or "in existence" means that the outdoor furnace is in place on a lot prior to the effective date of this section.
- B.** The applicant shall supply a copy of the manufacturer's installation directions with the application for a special use permit. The exterior furnace, outdoor solid-fuel heating device or outdoor woodburning furnace shall be installed per the manufacturer's installation directions.
- C.** The exterior furnace, outdoor solid-fuel heating device or outdoor woodburning furnace is to be installed behind the front wall of the principal building on the lot.
- D.** The exterior furnace, outdoor solid-fuel heating device or outdoor woodburning furnace shall be located no closer than 10 feet to any building or the distance recommended by the manufacturer, whichever is greater.
- E.** The exterior furnace, outdoor solid-fuel heating device or outdoor woodburning furnace shall be located not less than 100 feet from any and all lot lines.
- F.** The chimney of every exterior furnace, outdoor solid-fuel heating device and outdoor woodburning furnace shall be appropriate for the application and installed per the manufacturer's recommendations.
- G.** No garbage, petroleum products, household waste or industrial waste products shall be used as fuel in or burned in an exterior furnace, outdoor solid-fuel heating device or outdoor woodburning furnace. An outdoor furnace may not be used as a waste incinerator.
- H.** The exterior furnace, outdoor solid-fuel heating device or outdoor woodburning furnace may burn only the fuel for which the unit was designed, except for those items banned by these regulations.
- I.** All ashes produced from any burning in an exterior furnace, outdoor solid-fuel heating device or outdoor woodburning furnace shall be disposed of properly to avoid cosmetic or environmental problems.
- J.** An application for an exterior furnace, outdoor solid-fuel heating device or outdoor woodburning furnace must be accompanied by a site plan and include the setback dimensions of the unit from all adjacent property lines.

- K.** Nothing contained herein shall authorize or allow burning which is prohibited by codes, laws, rules or regulations promulgated by the United States Environmental Protection Agency, New York State Department of Environmental Conservation or any other federal, state, regional or local agency. Exterior furnaces, outdoor solid-fuel heating devices and outdoor woodburning furnaces, and any electrical, plumbing or other apparatus or device used in connection with an exterior furnace, outdoor solid-fuel heating device or outdoor woodburning furnace, shall be installed, operated and maintained in conformity with the manufacturer's specifications and any and all local, state and federal codes, laws, rules and regulations. In case of a conflict between any provision of this section and any applicable federal, state or local ordinances, codes, laws, rules or regulations, the more restrictive or stringent provision shall prevail.

325-40.16 FARM WORKER HOUSING

- A.** Farm worker housing is permitted for occupancy by farm workers and their families in accordance with the provisions of NYS Agriculture and Markets Law.
- B.** Farm worker housing shall meet all requirements of the New York State Sanitary Code, Uniform Fire Prevention and Building Code, and all other applicable laws, rules or regulations.

325-40.17 FARM STANDS

A farm stand may be permitted as a seasonal accessory use and as such may sell agricultural and horticultural products associated with an agricultural use. Such stands shall be subject to Site Plan Review per Article 62 and must comply with the following:

- A.** No more than two structures of a temporary and movable nature shall be permitted per lot. Such structures must conform to the dimensional and bulk requirements of Article 25.
- B.** Such structures shall not exceed 500 square feet in floor area and shall not be fully enclosed. At least one side of the farm stand shall be open to provide free access to patrons. All farm stands must also be inspected and approved by the Code Enforcement Officer.
- C.** A ground display area may be permitted provided it is located immediately adjacent and secondary to the farm stand and does not exceed 500 square feet in area.
- D.** If adequate parking is not available on the street so as to not interfere with the safety and flow of traffic, the owner must designate a temporary, off-street parking area.
- E.** Should any provision regulating farm stands within this zoning law be in conflict with the New York State Department of Agriculture and Markets Law, the state's provisions shall take precedence.

325-40.18 FENCES**A. Permit Required.**

- 1) No fence may be installed or constructed within the Town unless the CEO has issued a building permit. No permit for a fence shall be issued unless the proposed fence shall comply with the standards contained in this Article.
- 2) Fence permit applications shall be accompanied by a certified lot or parcel survey map. Applications absent a survey shall be deemed incomplete and the fence may not be permitted or erected.
- 3) A sketch plan with accurate measurements setting forth the placement, length, and height of the fence, including distance from adjoining property is required. All gates and/or entrances shall be considered part of fence.

B. Permit Exceptions. The following fence configurations shall not require the issuance of a permit. Such fences shall still conform to the requirements of this Section.

- 1) Fences installed as part of a permitted agricultural use.
- 2) Fences no more than three feet in height and no more than 50% opaque, which are erected within the required setback area for the purposes of enclosing a garden or other such feature.

C. General Requirements.

- 1) All fences must be erected within the private property lines, and no fence, hedge, shrub or bush shall be erected as to encroach upon a public right-of-way or public sidewalk.
- 2) No fence shall be erected less than six inches from the property line.
- 3) All fences shall be constructed so that the finished side faces outward from the premises with the backers and/or support facing inward toward the property owner's side of the fence.
- 4) All fences shall be maintained in a safe, sound, and upright condition.
- 5) The use of motor vehicle, farm implements, parts, components, body parts, tires or trailers as a fence or support of a fence is prohibited.
- 6) Barbed wire, electricity, or similar materials or devices may not be used in conjunction with or as part of any fence. The provisions of this subsection shall not apply to fences on premises used exclusively for a permitted agricultural use as set forth in this Chapter.

D. Fence Height.

- 1) Fencing located in the front yard area shall not exceed four feet in height.
- 2) Fencing in the side or rear yard area shall not exceed six feet in height in residential districts or eight feet in height in all other districts, except where otherwise permitted by this Chapter.

- 3) Fencing for kennels and for the purpose of enclosing farmland, horses, and/or livestock shall not exceed eight feet in height in any yard area.
- 4) Fencing used to enclose a tennis court or other recreational court may be permitted up to 10 feet in height, provided that such fencing is not less than 10 feet from the side and rear property lines.

E. Special Considerations. A fence that has barbed wire tipped, razor wire or edge, or an electric shock fence which would not be detrimental to health, safety or welfare of any person coming into contact with it, may be permitted provided it receives site plan approval and the said fence meets one of the following requirements:

- 1) The fence is needed to prevent entry into an area which could be hazardous to the health, safety or welfare of a person or persons.
- 2) The fence is needed to secure an area where materials and/or equipment is stored.
- 3) Where the general community interests or interests of national safety justify the need for such a fence.

325-40.19 GRADING, EXCAVATING, CLEARING, FILLING & MINING

All grading, excavation, clearing, filling and mining operations and activities in the Town of Manchester, outside the Villages of Manchester, Shortsville and Clifton Springs, shall comply with the provisions of Chapter 196, Grading, Excavating, Clearing, Filling and Mining, of the Code of the Town of Manchester.

A. Special Use Permits.

- 1) An applicant, property owner, person or persons stripping, excavating, mining or otherwise removing topsoil, subsoil, gravel, stone or sand shall be required to obtain a special use permit prior to removal or excavation.
- 2) Each contractor, person or persons stripping, excavating, mining or otherwise removing topsoil, subsoil, gravel, or sand from the property of another shall be required to obtain a special use permit prior to any removal or excavation.
- 3) All special use permits shall denote the amount in yards of soil topsoil, subsoil, gravel, sand or stone to be removed and all dates, work hours, and duration of the removal operation.
- 4) No applicant, contractor, owner or person may exceed the removal amount specified in the original permit. The permit holder shall notify the Code Enforcement Officer each time the permitted removal limit is reached. The Code Enforcement Officer or permit holder may request the Planning Board to review and amend the application and permit and may require a current site plan. The Planning Board may approve with conditions or deny the amendment.

- 5) No soil is to be removed prior to the permit being amended. All amendments may be reviewed by the Planning Board or Town Engineer upon the request of the Code Enforcement Officer.
- 6) The applicant, upon receiving a special use permit from the Town of Manchester, grants to the Town of Manchester, its designees and/or Code Enforcement Officers, the right to enter upon properties for the purpose of site review in determining special use permit compliance and compliance with health, safety and welfare concerns, standards and/or requirements.
- 7) The Planning Board shall consider the following criteria in its review of the special use permit request:
 - i. The current use of the property proposed to be excavated, as well as the proposed use of the area subsequent to completion of the excavation and restoration thereof.
 - ii. The potential short-term and long-term effects of the proposal on the aesthetics and environment of the area or of surrounding areas.
 - iii. The effect on the property of the proposal that may change the productivity or suitability of the land for agricultural purposes and/or the desirability or feasibility
 - iv. The amount of time, as estimated by the applicant, which will be required for the completion of the proposed excavation and the restoration of the property.
 - v. Noise and/or vibrations that may be created by the proposed operation.
 - vi. Additional traffic that may be created by the proposed operation.
 - vii. Dust that may be created by the proposed operation.
 - viii. Deleterious effects, if any, on the property in the general area of the proposed operation.
 - ix. All other criteria which from time to time may be relevant to a proposed operation.
- 8) Stripping, excavating or mining, or otherwise removing topsoil, subsoil, gravel, or sand for sale, shall be subject to a one-year special permit renewable upon review.
- 9) No special use permit for excavation operations shall be granted for a period of more than two years; but such permits may be renewable upon reapplication.

B. General Requirements.

- 1) No person, firm or corporation shall strip, excavate, mine or otherwise remove topsoil or subsoil, gravel, sand or stone for sale or other use, other than on the premises from which taken, except in connection with the construction or alteration of a building on such premises and excavating or grading incidental thereto.
- 2) Mining and/or excavation operations from which topsoil, subsoil, gravel, stone or sand are sold will require a site plan. The site plan shall include an

engineer's land area drawing and calculation for the measurement of the soil or substance to be removed. A survey shall be provided for the land area from which the removal shall occur. A special use permit may be granted by the Planning Board upon approval of site plans, calculations, restoration and berming plan.

- 3) The Code Enforcement Officer shall review site for noncompliance. The Code Enforcement Officer may issue a stop-work order for such noncompliance and may require review of the site by the Planning Board, Town Engineer and/or the New York State Environmental Conservation Department and all reasonable costs of such review shall be reimbursable to the Town of Manchester.

C. Safety Berms.

- 1) A special use permit shall be required for the development of a safety berm. A safety berm site plan shall be filed with and approved by the Planning Board prior to construction of any berm, except for a berm developed in accordance with an approved site plan.
- 2) A special use permit is required for removal of any berm or portion of a berm, except for approved site plan reclamation.
- 3) The safety berm shall be not less than 10 feet in height. The berm shall be maintained at the 10 foot height. The berm shall not be less than 100 feet from the public right-of-way or a property line for excavations or mining areas with a slope depth exceeding 10 feet. Side and rear setback from residential property shall be not less than 1,500 feet. The Planning Board may require in the case of health, safety and welfare issues a berm for less than ten-foot slope depth. The Code Enforcement Officer may order a temporary berm for emergencies, public protection or health, safety and welfare considerations pending review by the Planning Board which may approve the temporary berm or order removal. The berm shall be planted in total with vegetation to prevent soil erosion prior to the issuance of a special use permit.
- 4) The Code Enforcement Officer for the protection of environmental standards, general safety or site plan compliance shall be notified prior to the removal of any berm or reclamation. The Code Enforcement Officer may request a review by the Planning Board or Town Engineer prior to permitting or denying authorization to remove any portion of a berm or reclamation.

D. Excavation Operations.

- 1) Excavation operations may be permitted as noted in the district use requirements of this Chapter.
- 2) No site preparation or construction shall commence, nor shall existing structures be occupied, until final site plan approval has been granted by the Planning Board and permits have been issued by all governmental agencies involved.

- 3) The applicant shall furnish evidence of a valid permit from the New York State Department of Environmental Conservation pursuant to Title 27 of Article 23 of the Environmental Conservation Law, when applicable.
- 4) The minimum lot size for any such use shall be 10 acres.
- 5) All buildings and excavation operations shall be located or shall occur not less than 100 feet from any street or property line.
- 6) All equipment used for excavations and processing shall be constructed, maintained and operated in such a manner as to eliminate, as far as is practicable, noises, vibrations and dust conditions which are injurious or a nuisance to persons living in the vicinity.
- 7) All operations shall be conducted between the hours of 7:00 a.m. and 6:00 p.m., with no Sunday or holiday (New Year's Day, Fourth of July, Memorial Day, Labor Day, Thanksgiving Day and Christmas Day) operations and except in the case of public or private emergency or whenever any reasonable or necessary repairs to equipment are required to be made.
- 8) All land which has been excavated must be rehabilitated in accordance with reclamation plans approved by the Planning Board as part of the site development plan review and approval process within one year after the termination of operations, at the expense of the operator.
- 9) A performance bond or some other financial guaranty shall be required to assure that the conditions stipulated in the approval of the special use permit are carried out.

325-40.20 HOME OCCUPATIONS

- A. Residential Home Occupations.** A residential home occupation may be allowed in a principal or accessory residential structure in accordance with the following provisions:

- 1) Permitted residential home occupations include but shall not be limited to the following uses: lawyer, accountant, author, doctor, engineer, dentist, architect, consultant, realtor, insurance agent/broker, counselor, artist, photographer, teacher, tutor, beautician, barber, tailor, dressmaker, and repairperson.
- 2) Prohibited home occupations include those that would generate adverse impacts to or are incompatible with the existing character of a residential district. These uses include but are not limited to the following: Ambulance services, animal care services, and motorized vehicle sales or repair.
- 3) The home occupation shall be owned and operated by the full-time resident(s) of the dwelling and shall operate wholly within the principal building or accessory structure.
- 4) Not more than two persons not residing in the household shall be employed in the home occupation. Additional individuals may be employed by or associated with the home occupation in so far as they do not report to work at the home occupation site.

- 5) The operation of a home occupation shall in no way change or alter the residential appearance or character of the premise or neighborhood in which it is located.
- 6) There shall be no exterior display or storage of materials, good, supplies, or equipment related to the operation of the home occupation.
- 7) No home occupation shall be conducted in such a manner as to produce noise, dust, vibration, glare, smoke, or smell, electrical, magnetic or other interference, fire hazard, or any other nuisance not typically found in a residential neighborhood.
- 8) Activity involving on-site retail sales is prohibited, except the sale of items that are incidental to a permitted home occupation.
- 9) Deliveries on streets within residential districts shall be permitted by two-axle vehicles only.
- 10) The quantity and type of solid waste and its disposal shall be the same as that of any other permitted residential use.

B. Agricultural Home Occupations. An agricultural home occupation may be allowed in any structure associated with an agricultural use, in accordance with the following provisions:

- 1) Permitted agricultural home occupations include, but shall not be limited to, the following uses: carpenter, electrician, welder, machine shop, equipment repairperson, or small engine repairperson. This may also include the storage of recreational, commercial, and other vehicles or property otherwise not owned by the home occupation operator.
- 2) The use shall be conducted on a lot with a minimum area of two acres.
- 3) The home occupation shall be owned and operated by the property owner and shall operate wholly within the structure.
- 4) The use shall be clearly secondary to the main agricultural use and shall not change the agricultural character of the farm.
- 5) There shall be no open storage of materials, goods, supplies, or equipment which are used for, or result from, the agricultural home occupation.
- 6) No use shall be noxious or offensive by reason of the hours of operation or the emission of; noise, electrical interference, vibration, smoke, dust or other particulate matter, odorous matter, heat, humidity, glare, refuse or other objectionable emission.
- 7) Activity involving on-site retail sales is prohibited, except the sale of items that are incidental to a permitted home occupation.
- 8) No use shall create a safety hazard for the existing residential and agricultural activities on or adjacent to the property.

325-40.21 KEEPING OF FARM ANIMALS, POULTRY, OR BEES

- A. Stabling of livestock or storage of manure or other material creating dust or odors shall not be permitted within 500 feet of any other residential structure or property line.
- B. The housing and fencing of any animal(s) shall be located in the rear yard of the property.
- C. Storage and disposal of waste shall be provided so the same shall not constitute a nuisance or potential health hazard to the public.
- D. Appropriate shelter shall be provided for large and small animals.
- E. The lot on which said animal(s) are kept shall have a minimum area of one acre for the principal building and an additional 32,000 square feet for each large animal and an additional 10,000 square feet for small animals.
- F. The Planning Board may also require screening and/or fencing for any buildings or structures located on the premises or for any corrals, runs, tracks or other open areas used by horses so that there is minimal impact on adjacent property owners. All such buildings, structures, corrals, runs, tracks, or other areas shall be maintained in a neat and clean manner.
- G. Commercial stables or riding academies shall have a minimum lot size of 10 acres.
 - 1) Suitable and adequate off-street parking shall be provided in accordance with the requirements established by the Town Planning Board.
 - 2) Exterior lighting shall be permitted only to the extent necessary to prevent injury to the public and shall be so installed and arranged as to reflect light away from the adjoining streets and prevent any nuisance to adjoining property.
 - 3) Exterior loudspeakers shall be prohibited on the premises so as to minimize potential nuisances to adjacent properties.

325-40.22 KENNEL

- A. Landscaping or fencing shall be required so as to create a visual, sound, and odor buffer between such facility and adjacent properties.
- B. All animals will be confined to the property and housed in an enclosed structure in humane conditions (i.e. protected from weather, clean, sanitary, adequate space, non-porous surfaces, well-ventilated, etc.) All animals shall be kept within a totally enclosed building between 8:00 PM and 6:00 AM.
- C. Adequate methods for sanitation and sewage disposal, which may require a waste disposal plan, are required. The disposal plan, at a minimum, should outline the approximate amount of sewage expected, methods to properly dispose of the sewage, and methods for sanitation of the kennel.

- D. All kennel operations must apply for and secure proper licensing and registration as required by state and local law.

325-40.23 MANUFACTURED HOMES OUTSIDE M-H DISTRICT

The standards and requirements of Article V of Chapter 217, Manufactured Homes, of the Code of the Town of Manchester shall control.

325-40.24 MULTI-FAMILY DWELLINGS

- A. **Multi-Family Dwellings, New Construction.** Development applications for newly constructed multi-family dwelling units shall be subject to Site Plan Review by the Planning Board in accordance with Article 62 of this Chapter. In addition to the landscaping (Article 54), signage (Article 52), lighting (Article 55), and parking (Article 51) regulations of this Chapter, newly constructed multi-family dwellings are subject to the following specified use requirements:

- 1) All dwelling units and structures shall comply with the standards set forth in the NYS Uniform Code. Said standards shall take precedence to this Chapter should there be a conflict.
- 2) Driveways for ingress and egress shall be as required by the Planning Board.
- 3) There may be no less than two and no more than eight units in a single-, two-, or multi-family attached dwelling group. The maximum length of attached structures shall not exceed 320 feet.
- 4) Distance Between Buildings.
 - i. The front or rear of any building shall be no closer to the front or rear of any other building than 40 feet.
 - ii. The side of any building shall be no closer to the side, front or rear of any other building than 30 feet.
- 5) Buildings shall not have large or long continuous wall or roof planes. Varied roof heights, projecting bays, gables, recesses, and porches shall be used to visually divide larger buildings to produce a scale that is visually compatible with the Town’s distinctive aesthetic character. To prevent an out-of-scale, monolithic appearance, larger buildings shall be visually divided into smaller sections no longer than 50 feet in length by gaps, recesses, or other architectural devices in such a way that adjacent buildings and facades define a continuous street wall and the public realm of the street.
- 6) Multi-family buildings shall be laid out so that entrances face the street. Garage entrance/exit doors are prohibited on the front façade of buildings.
- 7) Parking areas may be located in any yard other than the front yard, but no closer than 15 feet from any property line and shall comply with all other regulations of the district in which the use is located.

- 8) Multifamily dwelling developments of ten units or more shall provide a shared recreational area(s) at a standard of 500 square feet per unit. Each such recreation area shall be developed with recreation facilities, including the installation of appropriate playground or leisure equipment.
- 9) Stairways to upper floors shall be located inside the building.

B. Multi-Family Dwellings, By Conversion. The conversion of an existing single-family residential building to a multi-family dwelling is subject to Site Plan Review by the Planning Board in accordance with Article 62 of this Chapter. Any such conversion shall be required to comply with the following regulations:

- 1) All dwelling units and structures resulting from conversion shall comply with the standards set forth in the NYS Uniform Code. Said standards shall take precedence to this Chapter should there be a conflict.
- 2) No dwelling unit conversion shall be permitted in a structure with less than 2,400 square feet of gross floor area.
- 3) No conversion shall be permitted which results in more than four dwelling units.
- 4) Any alterations made to the exterior of the building due to the unit conversion shall be completed in such a way to preserve the single-family residential character of said building.
- 5) No dwelling unit conversion shall be permitted unless the dwelling, following such conversion, comply with all off-street parking and loading regulations required by Article 51 of this Chapter.
- 6) Conversion of existing buildings to decrease the number of dwelling units requires alterations or modifications to ensure the discontinued dwelling unit is permanently and fully integrated into a legal dwelling unit with unimpeded access throughout the legal unit.
- 7) The integration of a discontinued dwelling unit shall be further evidenced by the removal of those appurtenances that previously supported the discontinued dwelling unit and may include the removal of the kitchen (including appliances, cupboards, plumbing, utility connections, etc.) and utility meters, in excess of one meter per dwelling unit, except in the case of two or more dwelling units where an additional house meter may be permitted.

325-40.25 OUTDOOR RECREATION FACILITIES

A. General Requirements.

- 1) The sale or use of alcoholic beverages shall be prohibited.
- 2) Adequate toilet facilities for employees and customers shall be provided on site.

- 3) Operating hours shall be limited to the hours between 10:00 a.m. though 10:00 p.m. Sunday through Thursday and 10:00 a.m. through 11:00 p.m. on Friday and Saturday.

B. Go-Carts and Similar Vehicular Tracks.

- 1) No person shall cause or permit the establishment of a go-cart track or similar vehicular track within 500 feet of any residentially zoned district or within 500 feet of any religious institution, educational institution, park, playground or existing go-cart track, similar vehicular track or miniature golf course. For the purposes of this section, measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest portion of the property used as a part of the premises for the track and/or course to the nearest property line of a residentially zoned district, religious institution or educational institution or to the nearest boundary of a park or playground;
- 2) A solid wall having a minimum height of six feet, incorporating noise-absorbing material on the inside, shall be placed on all sides of the facility that abut residentially occupied property. Noise levels shall be limited to 65 dB as measured 75 feet outside the wall. The remaining sides of the property shall be fenced in with a fence having a minimum height of four feet; and
- 3) Only operator-owned go-carts or other vehicles shall be allowed. No individually owned go-carts or other vehicles shall be allowed.

C. Miniature Golf Courses. A miniature golf course shall be fenced with a fence having a minimum height of four feet.

D. Outdoor Commercial Pools, Spas and Hot Tubs. See Section 40.29 (B), (C), and (D).

325-40.26 OUTDOOR SALES OR DISPLAY

- A.** The following requirements shall apply to all commercial operations regardless of the district in which they are located.
- 1) The display area shall not exceed ten percent (10%) of the gross floor area of the principal structure;
 - 2) The display area shall not block automobile traffic, private sidewalks, fire lanes, or other travel lanes;
 - 3) Such displays shall be allowed adjacent to a principal building wall and extending to a distance no greater than 10 feet from the wall;
 - 4) Such displays shall not be permitted to block windows, entrances or exits and shall not impair the ability of pedestrians to use the building; and
 - 5) The items for display are for sale and said area is not used for storage purposes.

- B. Personal garage, lawn, yard, or rummage sales shall be allowed without zoning permits provided that no more than two such sales are held on a single property in any 12-month period for a maximum duration of no more than five days, with a minimum of five days between the ending of a sale and the beginning of a new sale. At the end of a sale, all items that are for sale shall be moved so as not to be visible from the public right-of-way.

325-40.27 OUTDOOR STORAGE

Outdoor storage shall be allowed only in nonresidential districts and shall be subject to the following requirements. This section shall not apply to outdoor storage associated with a residential use.

A. Hamlet Commercial.

- 1) Outdoor storage shall not be allowed in the front yard.
- 2) Outdoor storage shall not occupy more than 10% of the entire lot size.
- 3) All outdoor storage shall be fully screened to ensure the area is not visible from the public right-of-way or adjacent residential districts or uses.
- 4) Screening shall be of sufficient height and density to completely hide storage from public view, including from streets and other public accessways.
- 5) All screening shall be maintained in such a manner as to present a neat and orderly appearance at all times.

B. General Commercial, Industrial, and Agricultural Districts.

- 1) Outdoor storage shall not be allowed in the front yard.
- 2) All outdoor storage shall be fully screened to ensure the area is not visible from the public right-of-way or adjacent residential districts or uses.
- 3) Screening shall be of sufficient height and density to completely hide storage from public view, including from streets and other public accessways.
- 4) All screening shall be maintained in such a manner as to present a neat and orderly appearance at all times.
- 5) Contractor material and equipment storage must be a minimum of 200 feet from a residential or open space district.

325-40.28 PONDS

- A. **Purpose.** It is the purpose of this section to define and regulate all open water ponds in the Town in order to protect the environment, protect the rights of others to natural water flows and to prevent health and safety hazards that may occur by reason of the existence of ponds.
- B. **Applicability.** This section shall apply to all open water ponds within the Town of Manchester. An open water pond shall include any man-made body of water, water area,

retention basin, stone quarry, dammed area or agricultural liquid waste holding pond over 30 inches deep.

C. Exemptions.

- 1) Ponds constructed as part of active agricultural operations are exempt from this section, provided such ponds are in compliance with the Soil Conservation Service of the United States Department of Agriculture, NYS Department of Agriculture and Markets, and the Department of Environmental Conservation, including obtaining any and all required permits.
- 2) Retention and detention ponds mandated and/or owned by the Town are exempt from this section.
- 3) Natural ponds left in their natural state are exempt from this section.
- 4) Decorative ponds on any residential property provided such pond meets all required setbacks for the district in which it is located.

D. Regulations.

- 1) Open water ponds shall be subject to site plan review and approval by the Planning Board.
- 2) Complete compliance with the Soil Conservation Service of the United States Department of Agriculture and the Department of Environmental Conservation and all required permits shall be received prior to site plan approval.
- 3) All ponds must be maintained so as to assure that they do not become offensive to neighboring properties by reason of stagnation, algae, mosquito-breeding and similar conditions.
- 4) No pond can interfere with or impede the natural flow of water nor adversely impact any floodplain or wetland area.
- 5) Open water ponds shall be not less than 50 feet from all property boundaries and not less than 150 feet from any public right-of-way.
- 6) To protect adjacent properties the Planning Board may require a stormwater plan in accordance with Chapter 269, Stormwater Management; Erosion and Sediment Control, of the Code of the Town of Manchester.
- 7) Landscape buffering with plantings or fencing may be required.
- 8) Retention basins designed to allow runoff shall comply with the Town's site design and development criteria (Chapter 275, Subdivision of Land and Town Road Specifications).

325-40.29 SWIMMING POOLS, SPAS & HOT TUBS**A. Private Swimming Pools, Spas and Hot Tubs.**

- 1) General Regulations.
 - i. No swimming pools shall be permitted to be located in the front yard.
 - ii. All swimming pools shall meet the minimum side and rear yard requirements of the district in which they are located.
 - iii. Electrical equipment and service to any pool, spa, or hot tub shall be installed in compliance with the National Electrical Code.
 - iv. Upon completion of the electrical equipment and service installation an approval certification shall be presented to the CEO. The inspection shall be done by an agency approved by the Town of Manchester.
 - v. All pools, spas and hot tubs shall be installed in compliance with the New York State Residential Code Chapter 41 and Appendix G.
 - vi. The water of such pools, spas and hot tubs shall be maintained at all times in a sanitary condition in accordance with the bacterial standards of the Sanitary Code of the State of New York.
 - vii. Any pool, spa and hot tub that has been damaged and made unusable shall be dismantled and properly disposed of to prevent the pooling of stagnant water.
 - viii. No swimming pool, spa or hot tub shall be used until a certificate of occupancy is issued by the CEO.
- 2) A plot plan indicating elevations with dimensions drawn to scale shall be submitted for approval. The plot plan shall also show:
 - i. Pool dimensions, depth, and volume in gallons.
 - ii. Type and size of filtering system.
 - iii. Location of filtering system and motor.

B. Commercial Pools, Spas and Hot Tubs.

- 1) Commercial pools, spas and hot tubs may be allowed in any district upon approval for a special use permit by the Planning Board.
- 2) General Regulations.
 - i. Outdoor pools, spas and hot tubs shall be located in the rear yard not closer than 50 feet to the side or rear property lines.
 - ii. Additional regulations or conditions may be required by the Planning Board such as plantings, fencing and limiting hours or days of operation.
 - iii. The owner shall obtain all applicable permits required by the New York State Board of Health and maintain the operation in compliance with all state and Town regulations.

C. Aboveground Pool Safeguards.

- 1) Any artificial pool or structure intended for wading, bathing or swimming purposes that is so constructed as to be above grade and which has a ladder or steps in order to obtain access to said pool shall be subject to the requirements that whenever said pool is not attended by a person of suitable age, that the said steps or ladder to obtain access to said pool shall be removed, raised or screened so that a person may not gain access to said pool.
- 2) Any aboveground swimming pool whose structure is less than four feet in height must be safeguarded with a permanent protective fence, said fence to be installed so as to encompass the entire perimeter of the swimming pool. Said fence shall be structurally sound, durable and must be maintained in such condition. Said fence shall be a minimum of four feet but no more than six feet in height. All openings in said fence shall be so constructed as to prohibit the passage of a four-inch diameter sphere. The entrance gate or gates shall have a self-closing and self-latching device placed at a minimum of three feet six inches above the base of the fence.

D. In-Ground Pool Safeguards. No person or persons, association or corporation shall maintain an in-ground swimming pool, as defined herein, without first safeguarding such swimming pool with a permanent protective fence, said fence to be installed so as to encompass the entire perimeter of the swimming pool. Said fence shall be structurally sound, durable and must be maintained in such condition. Said fence shall be a minimum of four feet but no more than six feet in height. All openings in said fence shall be so constructed as to prohibit the passage of a four-inch diameter sphere. The entrance gate or gates shall have a self-closing and self-latching device placed at a minimum of three feet six inches above the base of the fence.

325-40.30 TEMPORARY STORAGE UNITS

- A. Purpose.** The following regulation has been adopted to ensure that placement of enclosed temporary storage units does not negatively impact the residential character of the neighborhoods in which they are placed, as well as to promote the health, safety, and welfare of the Town of Manchester.
- B. Registration Required.** It shall be unlawful for any person or entity to place or permit the placement of an enclosed temporary storage unit on property located within any residential zoning district without registering such unit with the Code Enforcement Officer.
- C. Eligible Registrants.** Only the property owner may register a unit. A renter, lessee, or other legal resident may register a unit if they have the written permission of the property owner.
- D. Placement of Units.**
 - 1) Units shall only be placed in the driveway, or if access exists, at the side or rear of the lot. The unit may not be placed in the front yard.

- 2) Units may not be placed on lots with no principal building or residential unit.
 - 3) Units shall be set back at least five feet from any lot line and five feet from any structure.
 - 4) Approval from the Code Enforcement Office shall be required if the location of a unit meets either of these conditions:
 - i. There is no driveway; or
 - ii. The location is on a corner lot.
 - 5) Placement may not limit visibility of vehicles or pedestrians and must be in accordance with Section 53.8, Visibility at Intersections.
- E. Allowable Number of Units.** Only one enclosed temporary storage unit may be placed upon any residential lot at one time.
- F. Unit Size.** Units shall not have a footprint exceeding 130 square feet or a height of more than eight feet.
- G. Duration.** The enclosed temporary storage unit shall be located at such address for a maximum of 30 consecutive days, including the days of delivery and removal. The registration may be extended an additional 15 days upon request to and approval by the Code Enforcement Officer.
- H. Maximum Number of Registrations.** Each lot is limited to a maximum of four registrations per calendar year, and a minimum of 15 days shall elapse between the end of one registration and the beginning of another.
- I. Maintenance.** The registrant shall be responsible for ensuring that the enclosed temporary storage unit is maintained in good condition, free from evidence of deterioration, weathering, discoloration, graffiti, rust, ripping, tearing, or other holes or breaks at all times.
- J. Prohibited Materials and Uses.** Solid waste, construction debris, demolition debris, recyclable materials, business inventory, commercial goods, goods for property other than that at the residential property where the enclosed temporary storage unit is located or any other illegal or hazardous material or use is prohibited.
- K. Inspection.** Upon reasonable notice to the registrant, the Code Enforcement Officer may inspect the contents of any enclosed temporary storage unit at any reasonable time to ensure that it is not being used in a manner prohibited by the aforementioned Subsections I and J.
- L. Registration Requirements.** Prior to the initial delivery of the enclosed temporary storage unit, the owner shall register said unit with the Code Enforcement Officer. The registration form shall contain:
- 1) The name of the registrant to whom the enclosed temporary storage unit is supplied;

- 2) The registrant’s property status: owner, renter, lessee, etc.;
- 3) The address at which the enclosed temporary storage unit will be placed;
- 4) The delivery date and removal date;
- 5) The active Building Permit number, if applicable;
- 6) A sketch depicting the location and the placement of the enclosed temporary storage unit on the lot; and
- 7) Signature of the parcel owner or other legal occupant with the written permission of the parcel owner.

325-40.31 TELECOMMUNICATIONS FACILITIES

A. Towers and Satellite Dishes.

- 1) Intent. The purpose of this section is to establish proper criteria for design, construction, screening and placement of wireless facilities, personal wireless services antennas, telecommunications towers, communication dishes, installation of communication devices, and towers while providing for the health, safety and welfare of residents and for the aesthetic character, Comprehensive Plan of the Town, with particular regard to scenic vista protection. The Town of Manchester recognizes wireless communications transmitting facilities and their intrusion of large or high structures of unusual shape or size, monolithically towering above standard-appearing homes and structures that can be aesthetically objectionable and disturbing to visual sensitivities, and that the usual impact of such installations create aesthetic problems making it appropriate to require special limitations as to the size, placement, design, color palette and structure.
- 2) Applicability of this Section. Towers and telecommunications facilities shall hereafter be used, erected, moved, reconstructed, changed or altered only after the granting of a special use permit by the Town of Manchester Planning Board and in conformity with the provisions of this section. No existing structure shall be modified to serve as a telecommunications tower unless in conformity with this section.
- 3) Tower Placement.
 - i. Towers may be erected only in the AG District.
 - ii. A radius and/or distance of 8,000 feet shall be maintained between any new tower and any preexisting tower in the Town of Manchester or its adjoining municipalities.
- 4) Exemptions. The following are exempted from the provisions of this section:
 - i. Lawful or approved uses existing prior to the effective date of these regulations, including the repair and maintenance of existing communications towers and antennas.

- ii. Amateur radio communications antennas or tower.
- 5) General requirements.
- i. Additional setback or buffering may be required.
 - ii. All applications shall be placed behind the front line of the main structure or structure to which it is attached.
 - iii. No freestanding antenna shall be constructed, erected or maintained except as an accessory structure to an existing residential dwelling.

B. General Requirements Applicable to Tower Facilities.

- 1) The minimum lot size shall be two acres.
- 2) Building permit for permitted use. Prior to the construction of any facility the applicant must make application for a building permit on forms prescribed by the CEO.
- 3) Applicants shall maintain said communications tower facilities in accordance with applicable federal, state and local fire and building, Federal Aviation Administration (FAA), and Federal Communications Commission (FCC) codes and requirements [e.g., Structural Standards for Steel Antenna Towers and Antenna Supporting Structures (ANSI/TIA/EIA-222-F) or equivalent].
- 4) No certificate of occupancy shall be issued until landscaping is planted as approved or until a satisfactory landscape bond is posted.
- 5) No additions or modifications shall be permitted when landscaping is not maintained, absent, or planted in accordance with original landscaping plan.
- 6) Essential emergency and fire services will be given access to obtain necessary space or service on the tower at no cost (other than installation and maintenance).
- 7) The point of illumination of any additional lighting shall not be visible off the premises. Towers shall not be artificially lighted unless required by the Federal Aviation Administration (FAA).
- 8) A communications tower, antennas, or accessory facilities shall not contain any signage except that identifying a health safety or general welfare message intended solely for the protection of the general public. The use of any portion of a telecommunication facility for signs for promotional or advertising purposes, including but not limited to company name, phone numbers, banners, streamers and balloons, is prohibited. The Planning Board may require installation of signage with safety information.
- 9) Accessory facilities shall maximize use of location, building materials, colors and textures designed to blend with the natural surroundings as approved by the Planning Board.
- 10) Towers shall be non-reflective a galvanized finish or painted gray above the surrounding tree line and painted gray, green or black below the surrounding tree lines, unless other standards are required by the FAA.

11) No installations shall be allowed on, over or upon an easement.

C. Co-location and Use of Preexisting Structures. Applicants are encouraged to provide their towers for use by other carriers at a reasonable fair market value. Additionally, where such co-location is unavailable, location of antenna on preexisting structures shall be considered by the applicant. An applicant shall be required to present an adequate report inventorying existing towers within a reasonable distance of the proposed site and outlining opportunities for co-location with existing facilities and the use of other preexisting structures as an alternative to a new construction.

1) An applicant intending to collocate with an existing tower shall be required to document intent from an existing tower owner to collocate.

2) In the case of new towers, the applicant shall be required to submit a report demonstrating good faith efforts to secure co-location with existing towers as well as documenting capacity for future co-location for the proposed tower. Written request and responses for co-location shall be provided of all towers within the radius of 8,000 feet. Subsection A(3)(ii) shall apply.

3) The applicant must examine the feasibility of designing a proposed telecommunications tower to accommodate future demand for additional facilities. This requirement may be waived by the Planning Board, provided that the applicant demonstrates that future shared usage of the proposed facility is not feasible and an unnecessary burden based upon:

- i. The number of existing and potential licenses without tower spaces/sites.
- ii. The number of Federal Communications Commission (FCC) licenses foreseeably available for the area.
- iii. Available spaces on existing and approved towers.
- iv. Potential adverse visual impact by tower designed for co-location.

D. Site Data. Specific site data placed on a map, acceptable in form and content, shall be provided to the CEO for review by the Planning Board, which shall be prepared to a scale of not smaller than one inch to 50 feet, and in sufficient detail and accuracy so as to accurately depict the placement of all component parts of the tower or antenna (including guyed wires or enclosures) in relation to:

- 1) The location of property lines and easements.
- 2) The location of all structures on the site and all structures on any adjacent property within 100 feet of the property lines, including highways.
- 3) The location of all utility poles, above- and below-ground utility lines, trees or other natural or artificial structures.
- 4) The location, nature and extent of any proposed fencing, buffering, plantings or other screening measures.
- 5) Visual environmental assessment form ("visual EAF"), including a simulated photographic visualization of the site with particular attention to visibility from key viewpoints identified on the visual EAF. The Planning Board may

require submittal of a more detailed visual analysis based on the results of the visual EAF.

- 6) Buildout Plan.
 - i. The applicant shall submit to the Planning Board a buildout plan setting forth the applicant's current facilities within the Town, together with the applicant's intentions for additional facilities within the Town for the ensuing 36 months, and shall also certify whether any and all existing facilities of the applicant are in active use and are necessary for its telecommunications operations.
 - ii. The buildout plan shall include a statement as to how the proposed facility will supplement, detract from, or coordinate with existing telecommunication towers in the Town and contiguous jurisdiction and any changes proposed within the following 36 month period, including a buildout plan for new locations and the discontinuance or relocation of existing facilities.
 - iii. A similar buildout plan and certification of use of existing facilities shall be thereafter submitted by such applicant on or before January 31 of each year, as well as upon any further application for any additional facilities.
 - iv. The buildout plan shall show that the proposed facility is located within the geographic area permitted under this section.
- 7) Nonionizing Electromagnetic Radiation (NEMR). The applicant shall submit certification that NEMR emitted from the facility does not result in a ground level exposure at any point outside said facility which exceeds the lowest applicable exposure standards established by any regulatory institute (e.g., ANSI). The applicant shall submit certification of approval from the Federal Communications Commission to the Planning Board that the proposed facility meets with its approval.
- 8) All information prepared by the manufacturer of the antenna or tower including but not limited to the following:
 - i. The make and model of the tower or antenna to be erected.
 - ii. The manufacturer's design data for installation instructions and construction plans.
 - iii. The applicant's proposed tower maintenance and inspection procedures and records system.
 - iv. The identification of any anticlimb device to be installed.
 - v. FCC approval including identification of the levels of radiation to be emitted by or from the communications tower.
 - vi. The identification of the effects such communication tower's operation will have on other existing communication towers or antenna within 2,500 feet of the proposed structure.
- 9) A landscaping plan shall be provided to the Planning Board, which may make further recommendations or may not approve the landscaping plan.

E. Notice by Certified Mail. The applicant shall give notice by certified mail, return receipt requested, to all property owners within 1,500 feet of the parcel upon which the proposed facility is to be constructed or maintained. Such notice must contain the following information: the street address of the property in question, a scale sketch of the location of the facility on the property and highways, the date, time and place of the public hearing or hearings on said application. A change in the hearing date or time shall require that the applicant notify the property owners of the changed date and time of the hearing. A list of all property owners notified and copies of return receipts shall be provided to the CEO and Planning Board for verification of notice.

F. Additional Review Criteria.

- 1) That the proposed addition or modification is necessary and appropriate or the full implementation and usage of the tower.
- 2) That the tower can structurally accommodate the additions or modifications.
- 3) That any additions or modifications will not interfere with existing or proposed telecommunication, radio or microwave signals.
- 4) That the visual effects of any additional equipment will not unduly or unreasonably interfere with or restrict the visual aesthetics of the surrounding neighborhood.
- 5) The applicant must demonstrate that the existing or approved towers cannot accommodate the telecommunications equipment planned for the proposed tower or location.
- 6) That the health, safety or general welfare of the public will not be otherwise impaired.

G. Avian and Biological Effects. An applicant shall provide surveys of the biological resources, migration patterns and determination of their protection status in an area where turbines are being considered. Data shall be commensurate with the size of the proposed project and reflect loss of habitat and vegetation including potential bird and bat collisions with towers, telecommunication towers, or facilities. Surveys and plans shall be provided to the New York State Department of Environmental Conservation and applicable federal migratory bird protection agency for their recommendations and approval and which shall be submitted to Planning Board, which may require additional requirements prior to approval or issuance of any special use permit.

H. Dimensional Requirements.

- 1) **Area.** No more than one tower shall be located on any lot for each permit applied for and granted. The tower is to be located on the lot no closer than 1.25 times the maximum potential designed height plus any extensions from any boundary line or structure. For the purposes of this section the term "lot" shall be the required area to be leased, rented or contracted, and/or owned from the property owner by the tower applicant for the installation of a tower. The term "lot" shall not mean the property owner's plat as a whole.

- 2) Height.
 - i. The Planning Board shall approve, subject to the limitations set forth in this subsection below, the height of each proposed telecommunications tower. In reviewing such issue, the Planning Board shall consider the minimum height necessary for the applicant's needs and may also take into consideration the potential for co-location in approving or requiring additional height above the minimum necessary for the applicant's needs.
 - ii. The maximum height for telecommunications towers permitted under this section, including any antennas, extensions or other devices extending above the tower, measured from the ground surface immediately surrounding the site, shall be 200 feet.

- 3) Setbacks.
 - i. Telecommunications towers, towers, and antennas shall comply with all existing setback requirements within the affected zone. The distance from any boundary line shall be not less than 1.25 times its height plus any extensions; the more restrictive shall apply. Additional setbacks may be required by this section and/or the Planning Board to contain on site all icefall, falling or thrown debris. Minimum setbacks for guyed-wire, anchors, etc.
 - ii. Front line setback. Telecommunications towers, towers, and antennas shall be placed to the rear of the front line of the principal structure. Roof-mounted and wall-mounted satellite or dish antennas shall not exceed 36 inches or extend more than 36 inches from the structure.
 - iii. Minimum radius. Radius of 8,000 feet must be maintained between any proposed tower and any preexisting tower, addition or modification, whether located in the Town of Manchester or in any adjoining municipalities.

I. Landscaping.

- 1) Visual effects of towers will be minimized through careful design, siting and vegetative screening and/or buffering. At least one row of deciduous trees not less than three inches in diameter measured, not less than six feet above grade, and spaced not more than 20 feet apart and within 25 feet of the site boundary shall be provided. Said deciduous trees shall be of the silver maple, red maple, thornless honey locust, linden, and green ash type. Within 40 feet of the boundary, at least one row of evergreen trees at least five feet in height above grade and spaced not more than 15 feet apart shall be provided. Evergreen trees shall be of the arborvitae type, i.e., American arborvitae (*Thuja occidentalis*), Green Giant (*Thuja plicata*). All trees shall be perpetually maintained in a healthy growing condition. Trees not maintaining a healthy growing condition shall be replaced with not less than a biannual transplanting or prior to renewal of special use permit. In case of poor soil conditions, planting may be required on soil berms to assure

plant survival, with the plant height being in addition to the height of the berm. This subsection shall apply to all applications.

- 2) Trees and grasses shall be maintained. The CEO shall review the planting of or replacement planting of vegetation, trees and other plants or bushes that have ceased to live or grow to determine replacement and/or status of plantings for towers as set down by site plan review.
- 3) The CEO may require a review of plantings by a professional landscaper, arborist, or engineer to determine status of plantings. All reasonable costs for review and determination shall be the expense of the property owner/applicant.
- 4) Landscaping of all fences is required.

J. Access. Access shall be required for towers to assure adequate emergency and service access. Maximum use of existing roads, public or private, shall be made. Road construction shall be sufficient to accommodate emergency vehicles and the intended use. Said road sufficiency shall be certified by a New York State licensed engineer. The construction of pervious roadways (crushed stone, gravel, etc.) is permitted. At all times road construction shall minimize ground disturbance and vegetation-cutting to within the bottom of fill, the top of cut, or no more than 10 feet beyond the edge of any pavement. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential. Public road standards must be waived in meeting the objectives of this subsection.

- 1) Development of access or roadway shall not interfere with natural drainage. A drainage management plan shall be provided. The plan shall be certified by a New York State licensed engineer.
- 2) All telecommunications towers, accessory facilities and guy anchors, if applicable, shall be enclosed by a fence (i.e., chain link) not less than eight feet in height above ground level or otherwise sufficiently protected from trespassing and vandalism. Said fence shall be subject to final approval by the Planning Board.

K. Removal of Facilities; Bond.

- 1) The holder of the special use permit shall have delivered to the CEO a written estimate, from a company engaged in the installation and removal of communications towers, or of the cost of dismantling and removing the communications tower, and any attached structures or facilities, together with a letter of credit or other security in form acceptable to the Town Attorney in the amount not less than 125% of said estimated cost, which letter of credit or other security shall provide that said funds shall be made available to the Town for the removal of such tower and any attached structures or facilities upon the failure of the holder of the special use permit to comply with the provisions of this section.
- 2) Any applicant installing a telecommunications tower, antennas, and/or accessory facility within the Town of Manchester shall comply with the following: upon discontinuance of use for the purposed specified in the

application or if the communication facility ceases operations for a period of 90 days, such tower, structures, or facilities shall be dismantled and removed from the site, and the applicant shall restore the site and shall incur all expenses therefor within 30 days of receipt of written notice from the Town Board and based upon the Town Board's declaration to the effect specified herein.

- 3) In the event of default the bond or undertaking shall be forfeited to the Town of Manchester, which will be entitled to maintain an action thereon. This section shall apply to the applicant, corporations, ownership, lease, application, and/or special use permits and/or any change of ownership, applicant, corporations, lease, application, and/or special use permit. The bond or undertaking shall be approved by the Town Board resolution, conditioned upon the recommendation of the CEO, Planning Board and Town Engineer. Exception: preexisting farm or residential windmills and/or farm applications.

325-40.32 TRUCK & MULTIMODAL TRANSPORT TERMINALS

A. Minimum Area.

- 1) Minimum of 10 contiguous acres shall be required. Additional land area or acreage may be required to meet the dimensional standards listed in this section and all applicable development standards, including the parking of and the operation of vehicles, including each tractor and/or trailer, or tractor trailer on site as set forth in site plan approval. A minimum of not less than 10 contiguous acres shall be required for site approval. All structures, expansions, increase in use, multiuse or development of previously or preexisting truck and multimodal transport terminals will require approval and recalculation of site dimension requirements.
- 2) A minimum area of 650 square feet of storage (or maneuvering).
 - i. Space and not less than 30% turning reserve shall be required for each tractor trailer on the site. A minimum of 400 square feet of storage (or maneuvering) space shall be required for each truck/tractor on the site.
 - ii. Docking shall require a throat of 120 feet with spacing on a eleven-foot-six-inch center to accommodate a thirty-foot exit and entrance turn.
- 3) "Multiuse" in a truck and multimodal transport terminal is defined as more than one use other than that proposed on original site plan. 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.

B. Required Minimum Buffering and Setback.

- 1) There shall be a setback of 300 feet from the highway property line.

- 2) There shall be a required minimum setback of 1,500 feet from all residential hospital, school, recreational and, senior citizen housing or multiple-dwelling property lines. Where a truck and multimodal transport terminal abuts a travel center, a commercial, light industrial or industrial property, the setback shall be 300 feet from all property lines.
- 3) Open space required. There shall be no less than 35% of the total project site reserved as open space. These areas shall consist of seeding, planting, retention of tree cover or other landscaping and/or berming. The open space calculation shall include the retention pond or facility.
 - i. Green space shall be limited to building front landscaping, front highway line, and all property boundaries and pedestrian walkway areas and visitor and employee parking areas.
 - ii. A buffer of 300 feet starting at the property line shall be landscaped with a densely planted mixture of shrubs and trees.
 - iii. A berm shall be no closer than 100 feet to any adjacent property line.
 - iv. All trees and shrubs shall be no less than eight feet in height, to create an opaque screen.
 - v. Buffer plantings shall be upon and surrounding a berm of no less than 12 feet in height.
 - vi. Buffer areas shall consist of seeding, planting, with retention of tree cover maintained in a neat healthy condition.
 - vii. No planting shall cause a hazardous condition by interfering with the highway line of sight (600 feet in either direction) needed for safe entering and exiting maneuvers by motor vehicles.

C. Vehicle Traffic Pedestrian Flow Design.

- 1) There shall be a single curb cut design with a ingress and egress as one entrance/exit throat. Stacking space on entrance/exit throats shall be not less than 150 feet.
 - i. Exit width shall be not be less than 40 feet to allow turning radius of 30 feet to insure turning upon public highway in a safe manner without crossing center line.
 - ii. Entrance shall be sufficient as to not interfere with forty-foot throat reserve of exiting vehicles.
- 2) Required exit sight distance shall be of 600 feet all directions along public highway.
- 3) Curb cuts and landscaped areas shall be designed to be easily maintained and protected by at least a six-inch nonmountable concrete or granite curbing.

- D. Pavement.** Vehicle travel areas, parking areas, loading and unloading areas and docks shall be covered and paved with a hard surface of asphalt or concrete.

- 1) Access roads, parking areas and travel areas shall be hard-surfaced and maintained, and all internal areas on which vehicles operate must be constructed and maintained free of holes and broken surface and shall prevent dust from being generated.
- 2) Access roads and vehicle travel surfaces shall be hard-surfaced or paved so as to prevent dust and blowing dirt and to prevent dirt, mud and debris from entering upon or into the public right-of-way.
- 3) The owner of property, or preexisting uses, parking lots, storage areas, access roads or properties in use shall be responsible for the maintenance of the premises in a manner not to create or maintain a hazardous condition and shall prevent dust, debris, fumes, or exhaust or other particles of dirt or ash from being blown or carried from the property creating a public nuisance. Said owner shall take all necessary and reasonable steps to protect the health, safety and welfare, to ensure and prevent that adjacent properties, or properties across highways and streets, or adjacent neighborhood properties, are protected from such nuisance.
- 4) The applicant shall be responsible for any engineering and/or attorney fees.

E. Vehicle Service and Related Storage.

- 1) There shall be no on-site open storage of damaged or inoperable vehicles, trucks, tractor or trailers for more than 48 hours.
- 2) There shall be no outside storage of pallets or shipping products.
- 3) There shall be no outside storage of shipping goods, including goods to be shipped or picked up.
- 4) Docking and loading areas shall require a throat of 120 feet with a spacing on an eleven-foot-six-inch center, sufficient to accommodate a thirty-foot exit and entrance turn from dock or parking area.
- 5) Enclosed vehicle servicing or storage.
 - i. All vehicles awaiting repair shall be stored inside of a building or within an area which is entirely screened from public view.
 - ii. No vehicle may be displayed for sale to the public at any time.
- 6) Motor vehicle and/or truck (tractor) and/or trailer repair or service (including equipment washing), storage of self propelled motor vehicle to include tractor (truck) or tractor (trailer) unit or units shall be conducted within an enclosed building. No repair work may be performed out of doors, except for gasoline dispensing units. Adding oil to motor vehicles, changing windshield wipers or other similar simple repairs normally performed in conjunction with the sale of gasoline is permitted.

F. Storage and Waste Management.

- 1) Rubbish, tires, discarded motor vehicle parts and components and other waste materials may be temporarily stored in a completely fenced-in opaque

enclosure adjacent to the service/repair garage. The area of such enclosure shall not exceed 200 square feet. There shall be no storage at any time of any of the above-mentioned items outside of such enclosure.

- 2) The storage facilities for tanks and/or drums, containers of new or waste oil, solvents, or chemicals, or oil products require coated concrete floors and dikes to retain accidental spills or leaks. A permanent roof to protect tanks or drums and to protect precipitation from entering dikes is required. Drums shall be sealed, and tanks or drums must be located away from floor drains and/or protected from entering parking lot drains or stormwater or sewage facilities.
- 3) The truck and multimodal transport terminal shall comply with all applicable rules and regulations concerning use, storage and disposal of petroleum products.
- 4) Floor drains must be connected to a holding tank or sanitary sewer equipped with an oil and grit separating tank.
- 5) Wastes collected in a holding tank must be disposed of through a licensed waste hauler.
- 6) Waste degreasing solvents must be stored in drums or holding tanks and disposed through a licensed waste hauler.
- 7) Waste oil must be stored in drums or tanks for disposal by a licensed waste hauler.
- 8) Property and its boundaries shall be maintained, free of trash, paper, plastic items, trash and debris.
- 9) Property site owner and/or his designee shall be responsible for maintaining a trash-free environment for the entire property, including the prevention of trash trespass upon the property of another.

325-40.33 SOLAR ENERGY SYSTEMS

A. Purpose. Because it is in the public interest to provide for and encourage renewable energy systems and a sustainable quality of life, the purpose of this section is to facilitate the development and operation of renewable energy systems based on sunlight. Tier One and Tier Two Solar energy collection systems are appropriate in all zoning districts when measures are taken, as provided in this section, to minimize adverse effects on neighboring properties within the zoning districts and our Agricultural community. Tier three solar energy collection systems balance solar energy needs while protecting/maintaining prime soils for farming and encouraging developing outside prime farmland.

B. Definitions. As used in this section, the following terms shall have the meanings indicated:

- 1) Tier one solar energy collection system:
 - i. Roof mounted solar energy collection system or building integrated solar energy collection system.

- ii. Up to 10 KW rated capacity.

2) Tier two solar energy collection system:

- i. Ground mounted solar energy collection systems that generate up to 110% of the electricity consumed on the lot over the previous 12 months or 110% of the electricity demanded by the lot, and all structures thereon, as determined by current industry standards as approved by the Code Enforcement Officer.
- ii. Not to exceed the greater of 4,000 square feet of solar energy collection area or 25 KW rated capacity.

3) Tier three solar energy collection system:

- i. These are solar energy collection systems that are not included in the definition of Tier one or tier two solar energy collections systems
- ii. An area of land or other area used for a solar energy collection system, other than a Tier One or Tier Two solar energy collection system, principally used to capture solar energy and convert it to electrical energy to transfer to the public electric grid in order to sell electricity to or receive a credit from a public utility entity, but also may be for on-site use. Tier three solar energy collection systems consist of one or more freestanding ground- or roof-mounted solar collector devices, solar-related equipment and other accessory structures and buildings, including light reflectors, concentrators, and heat exchangers, substations, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

C. Tier one solar energy collection system. Rooftop- and building-mounted solar collectors that meet the definition of a Tier one solar energy collection system are permitted as accessory structures in all zoning districts in the Town. Building permits shall be required for installation of rooftop- and building-mounted solar collectors.

- 1) Tier one solar energy collection systems shall be NEC, IEC, UL and NYS building code compliant.
- 2) A single lot may have on it both a tier one solar energy collection system and a tier two solar energy collection system provided that both systems combined do not generate more electricity than a tier two solar energy collection alone is permitted to generate.

D. Tier two solar energy collection system. Ground-mounted and freestanding solar collectors that meet the definition of a Tier two solar energy collection system are permitted as accessory structures in all zoning districts of the Town, subject to the following requirements:

- 1) The location of the solar energy collection system meets all applicable setback requirements of the zone in which they are located.

- 2) The height of the solar energy collection system and any mounts shall not exceed the height restrictions of the zone when oriented at maximum tilt.
 - 3) The total surface area of all components of the solar energy collection system on the lot shall not exceed 4,000 square feet and, when combined with all other buildings and structures on the lot, shall not exceed fifty-percent lot coverage.
 - 4) A building permit has been obtained for the solar collectors.
 - 5) The solar collectors are located in a side or rear yard.
 - 6) Solar energy collection systems and other facilities shall be designed and located in order to prevent reflective glare toward any inhabited buildings on adjacent properties and roads.
 - 7) Where site plan approval is required elsewhere in the regulations of the Town for a development or activity, the site plan review shall include review of the adequacy, location, arrangement, size, design, and general site compatibility of proposed solar collectors.
 - 8) All solar energy collection installations must be performed in accordance with applicable electrical and building codes, the manufacturer's installation instructions, and industry standards, and prior to operation the electrical connections must be inspected and pass inspection by an appropriate electrical inspection person or agency, as determined by the Town. In addition, any connection to the public utility grid must be inspected and approved by the appropriate public utility.
 - 9) When solar storage batteries are included as part of the solar collector system, they must be placed in a secure container or enclosure meeting the requirements of the New York State Building Code when in use and when no longer used shall be disposed of in accordance with the laws and regulations of Ontario County and other applicable laws and regulations.
 - 10) If a solar collector ceases to perform its originally intended function for more than 12 consecutive months, the property owner shall remove the collector, mount and associated equipment and facilities no later than 90 days after the end of the twelve-month period.
 - 11) Tier two solar projects shall be NEC, IEC, UL and NYS building code compliant.
 - 12) A single lot may have on it both a tier one solar energy collection system and a tier two solar energy collection system provided that both systems combined do not generate more electricity than a tier two solar energy collection alone is permitted to generate.
- E. Tier three solar energy collection systems.** Solar energy collection systems that exceed either 4,000 square feet of solar energy collection area or 25 KW rated capacity or otherwise meet the definition of a Tier three solar energy collection system are specially permitted in the A, GC, GI, LI, REI, OS, COD and HC zoning districts of the Town, subject to the following requirements, unless more restrictive regulations also apply:
- 1) NYS regulations govern who reviews and approves of these installations as follows:

- i. Projects under 20 MW: Local review.
 - ii. Projects between 20 MW to 24.9 MW: May opt in to § 94-c or Local review.
 - iii. New Projects 25 MW or more: §94-c of the New York Public Service Law: Local review.
 - iv. Article 10 Projects of the New York Public Service Law: Local review.
- 2) A Tier Three solar energy collection system shall be constructed pursuant to a site plan permit from the Town Planning Board and must meet the criteria set forth below and obtain all other necessary approvals.
- 3) Areas of potential sensitivity:
 - i. One-hundred-year flood hazard zones considered a V or AE Zone on the FEMA Flood Maps.
 - ii. Historic and/or culturally significant resources in an historic district or historic district transition zone.
 - iii. Within 100 feet landward of a freshwater wetland.
- 4) A special use permit may be granted for a Tier Three solar energy collection system only if the Planning Board has granted final site plan approval for such system, subject to the following terms and conditions:
 - i. The total coverage of all buildings and structures on a lot, including freestanding solar panels, shall not exceed 50%.
 - ii. For Tier three solar energy collection systems that consist of ground mounted solar energy systems that are to be developed upon land identified as soil class 1 through 4 as documented upon the soil group work sheet prepared by the Ontario County Soil and Water Conservation District and used by the Town of Manchester Assessor in calculation of the agricultural use exemption values, a part of the New York State Dept of Ag and Markets district laws, the applicant shall provide an Agricultural Conservation Easement (ACE) to the Town that meets the following criteria:
 - a. The ACE shall grant such easement on another lot or parcel owned by applicant, in the Town of Manchester.
 - b. The easement area of the ACE must contain the same soil class 1 through 4 that are proposed to be part of the ground-mounted tier three solar energy collection system.
 - c. The amount of acreage in said ACE is to be in the total amount of acreage equal to total site plan acreage of the project's class 1 through 4 soils that are proposed.
 - d. The ACE shall remain in effect for the same period associated with the proposed Tier three solar energy collection system.
 - e. The ACE shall be terminated once the proposed Tier three solar energy collection systems has been decommissioned.

- iii. **Exception to ACE.** If the applicant can prove that the proposed land has not been actively farmed for 5 years or more then no agricultural conservation easement shall be required.
- iv. The applicant shall be responsible for administering all phases of the Agricultural Conservation Easement (ACE).
- v. All calculations will receive professional review during site plan review and the Town of Manchester shall be reimbursed per section 325-75-D of the Town of Manchester code.
- vi. The planning board may consider adjustments to the (ACE) if an accepted Agri-Voltaic Plan for the proposed project is adopted.

5) Height and setback restrictions.

- i. The maximum height for freestanding solar panels located on the ground or attached to a framework located on the ground shall not exceed 15 feet in height above the ground.
 - ii. The minimum setback from road side shall be 100 feet, side and rear property lines shall be 25 feet except where the property abuts a residential property. The minimum side setback from any residential property line shall be 50 feet.
- 6)** Removal of trees and other existing vegetation should be minimized or offset with planting elsewhere on the property.
- 7)** Roadways within the site shall not be constructed of impervious materials and shall be designed to minimize the extent of roadways constructed and soil compaction.
- 8)** All on-site utility and transmission lines shall, to the extent feasible, be placed underground.
- 9)** Solar collectors and other facilities shall be designed and located in order to prevent reflective glare toward any inhabited buildings on adjacent properties and roads.
- 10)** All mechanical equipment, including any structure for batteries or storage cells and all fencing shall comply to NEC Code at a minimum, or additional requirements according to the Planning Board and shall be maintained for the life of the project. Note- Chapter 325-46 fences does not apply.
- 11)** A Tier three solar energy collection system to be connected to the utility grid shall provide a "proof of concept" letter from the utility company acknowledging the Tier three solar energy collection system will be connected to the utility grid in order to sell electricity to the public utility.
- 12)** Projects must be NEC, UL and NYS building code compliant approved.
- 13)** All drawings and site plans must be stamped by NYS Licensed Professional Engineer.
- 14)** The Applicant for a tier three solar energy collection system shall provide as part of any site plan application a site operations and maintenance plan that

ensures continued adequacy of landscaping, erosion control and other conditions of approval.

- 15) A landscaped buffer shall be provided around all equipment and solar collectors to provide screening from adjacent residential properties and roads and shall be maintained for the life of the project.

16) **Signs.**

- i. A sign not to exceed eight square feet shall be displayed on or near the main access point and shall list the facility name, owner and phone number.
- ii. A clearly visible warning sign concerning voltage must be placed at the base of all pad-mounted transformers and substations.

17) **Abandonment.**

- i. All applications for a Tier three solar energy collection system shall be accompanied by a decommissioning plan to be implemented upon abandonment, cessation of activity or in conjunction with removal of the facility, prior to issuance of a building permit.
- ii. If the applicant begins but does not complete construction of the project within 18 months after receiving final site plan approval, this may be deemed abandonment of the project and require implementation of the decommissioning plan to the extent applicable.
- iii. The decommissioning plan must ensure the site will be restored to a useful, nonhazardous condition without delay, including, but not limited to, the following:
 - a. Removal of aboveground and below-ground equipment, structures and foundations.
 - b. Restoration of the surface grade and soil after removal of equipment.
 - c. Revegetation of restored soil areas with native seed mixes, excluding any invasive species.
 - d. The plan shall include a time frame for the completion of site restoration work.
- iv. In the event the facility is not completed and functioning within 18 months of the issuance of the final site plan approval, the Town may notify the operator and/or the owner to complete construction and installation of the facility within 180 days. If the owner and/or operator fails to perform, the Town may notify the owner and/or operator to implement the decommissioning plan. The decommissioning plan must be completed within 180 days of notification by the Town.
- v. Upon cessation of 80% of activity of a constructed facility for a period of one year, the Town may notify the owner and/or operator of the facility to implement the decommissioning plan.

- vi. Within 180 days of notice being served, the owner and/or operator can either restore operation equal to 80% or greater of approved capacity or implement the decommissioning plan.
- vii. If the owner and/or operator fails to fully implement the decommissioning plan within the one-hundred-eighty-day time period, the Town may, at its discretion, provide for the restoration of the site in accordance with the decommissioning plan and may recover all expenses incurred for such activities from the defaulted owner and/or operator. The cost incurred by the Town shall be assessed against the property, shall become a lien and tax upon the property, and shall be enforced and collected with interest by the same officer and in the same manner as other taxes.

18) Decommissioning Plan and Surety.

- i. The Applicant for a Tier three solar energy collection system shall provide as part of any site plan application, a decommissioning plan that is to be accompanied by a proposed form of surety.
- ii. **Acceptance of Decommissioning Plan.** The applicant's Decommissioning Plan shall be submitted by the Planning Board, after its initial review, to the Town Engineer for his/her review and recommendation. In addition, the applicant's surety shall also be reviewed by the Town Attorney for his/her recommendation and report to the Planning Board. The Planning Board, as part of Final Site Plan Approval shall recommend to the Town Board, whether to accept the decommissioning plan and surety instrument. The Town Board, based upon its review shall either accept, modify, or deny the form of surety and decommissioning plan being offered. Upon acceptance from the Town Board of the Decommissioning Plan and Surety the Planning Board may continue with site plan application process.
- iii. **Filing of surety.** The surety, once approved by the Town Board, is to remain on file in the Town Clerk's office and shall be available to the Town for the entire existence of the tier three solar energy collection system, including the decommissioning and restoration of the site, after the solar system has ceased operating.
- iv. **Surety.** The Tier three solar energy collection system owner and/or landowner shall keep on file with the Town Clerk's Office, an approved surety that is to remain in effect throughout the life of the system and shall be in the form of an irrevocable acceptable form of surety or other form of surety acceptable to the Planning Board and approved by the Town Board. The irrevocable acceptable form of surety or other form of surety shall include an auto-extension provision to be issued by at least an A-rated institution solely for the benefit of the Town. Upon completion of decommissioning or restoration of the site, the system owner or operator or landowner may petition the Town Board to reduce or terminate the acceptable form of surety. In the event ownership of the system is transferred to another party, the new owner (transferee) shall file evidence of

an acceptable financial surety with the Town Board at the time of transfer.

- v. **Surety failure.** In the event the surety fails for any reason, it shall be promptly replaced, within thirty (30) days of the lapse of the surety or else such failure may be found to constitute evidence of abandonment and noncompliance with site plan conditions, warranting the commencement of enforcement procedures for abandonment of the Tier three solar energy collection system.
- vi. **Town Board review and acceptance of the decommissioning plan and form of surety.** The Town Board, upon its receipt of the above referenced Planning Board report and recommendation, shall consider any action(s) prior to taking formal action to adopt a decommissioning plan and accept a form of surety for the proposed Tier three solar energy collection system. Once accepted, the decommissioning plan and surety shall be filed with the Town Clerk's Office within thirty (30) days of the date of the Town Board Resolution.

TOWN OF MANCHESTER

CHAPTER 325. ZONING CODE

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ARTICLE 50 | PERFORMANCE STANDARDS

325-50.1 PURPOSE & INTENT

The intent of this Article is to articulate a set of performance standards to prevent unreasonable, disturbing, and unnecessary nuisances and reduce potential negative impacts related to sound, vibration, odor, toxic matter, heat, dust, and smoke or other potentially offensive elements within the Town in an effort to preserve the public health, safety, and welfare of the community while fostering a high quality of life for Town residents.

325-50.2 NOISE ASSOCIATED WITH A USE

- A. **Sound Levels.** The maximum permissible sound pressure levels of any permitted or specially permitted use shall be as herein established for the district listed in Table 50-1 of this Article. This includes, but is not limited to, sound from such activities as productions, processing, cleaning, servicing, testing, operating, or repairing either vehicles, materials, good, products or devices. Sound pressure levels in excess of those established for the districts of the Town shall constitute prima facie evidence that such sound is an unnecessary noise.
- B. **Residential Districts.** Where any use is adjacent to a residential or mixed-use district at any point at the district boundary, the most restrictive district level limit shall apply.
- C. **Measurement of Sound.** Sound pressure levels shall be measured at the approximate location of the property line or at the boundary of the public right-of-way, at a height of at least four feet above the immediate surrounding surface. Such measurements should be made on a sound level meter of standard design and operated on the "A" weighting network designed for the level limits listed in Table 50-1.

TABLE 50-1: SOUND LEVELS

DISTRICT	LEVEL LIMIT DB(A)	11PM – 7AM LEVEL LIMIT DB(A)
A. Residential	60	55
B. Commercial	70	65
C. Industrial	80	75

- D. **Exemptions.** The following sounds shall not be deemed to be a violation of this chapter:
 - 1) Sounds created by religious institution bells or chimes.
 - 2) Sounds created by any government agency by the use of public warning devices.
 - 3) Sounds created by public utilities in carrying out the operation of their franchises.

- 4) Sounds connected with events of any public or private educational institution, or a Town authorized event, concert, carnival, fair, exhibition, or parade.
- 5) Sounds created by funeral processions, the use of amplifiers for political or athletic events, or other official law enforcement activities.
- 6) Sounds connected with permitted agricultural uses.
- 7) Sounds created by the proper use of domestic power equipment rated five horsepower or less when used within the least restrictive time period of 7AM to 11PM.
- 8) Sounds created by the discharge of firearms for the purposes of hunting during the hours permitted by state and local law.

325-50.3 VIBRATION

Any operation which creates intense earthshaking vibration, e.g., heavy drop forges and heavy hydraulic surges, shall not be discernible beyond the property lines of the industry.

325-50.4 ODOR

No emission of odorous gas or other odorous matter in such quantity as to be readily detectable at any point along lot lines without use of instruments shall be permitted. Agricultural uses protected under the New York State Agriculture and Markets Law shall be exempt from this provision.

325-50.5 TOXIC MATTER

No discharge beyond lot lines of any toxic or noxious matter in such quantity as to be detrimental to or endanger the public health, safety, comfort, or welfare or cause injury or damage to property or business shall be permitted.

325-50.6 HEAT

No direct or reflected heat shall be detectable from any residential or commercial district boundaries.

325-50.7 DUST & ASH

No solid or liquid particles shall be emitted in such quantity as to be readily detectable at any point along lot lines or as to produce a public nuisance or hazard beyond lot lines.

325-50.8 SMOKE

No smoke shall be emitted in such quantity as to become a nuisance.

ARTICLE 51 | OFF-STREET PARKING, LOADING & ACCESS REGULATIONS

325-51.1 PURPOSE & INTENT

The purpose and intent of the requirements in this Article is to:

- A. Ensure that any parking lot or area is designed to provide proper circulation, reduce hazards to pedestrians, and protect the users of adjacent properties from nuisances caused by the noise, fumes, and glare of headlights which may result from the operation of vehicles;
- B. Ensure there are adequate amounts of parking and loading spaces to serve the use(s) and users of the property; and
- C. Encourage alternative parking designs and modes of transportation to reduce dependence on single-occupancy vehicular trips and improve efficiency during travel.
- D. Ensure safe, well-planned multi-modal access can be made to all commercial and residential properties within the Town while minimizing potential vehicular and pedestrian conflicts.
- E. Reduce storm water run-off and its negative impacts to the environment through implementation of appropriate drainage structures and use of impervious surfaces
- F. Improve the Town's resiliency to significant weather events caused by climate change through the implementation of green infrastructure and adherence to sustainable design principles.

325-51.2 APPLICABILITY

- A. **Vehicle Reference.** The term "vehicle," as used in this section, shall include, but not be limited to automobiles, motorcycles, trucks, recreational vehicles, campers and trailers, including recreational and boat trailers.
- B. **New or Moved Buildings and Uses.** Parking and loading spaces as required, shall be provided for all buildings and uses constructed, established or moved to new sites.
- C. **Increase in Intensity of Use.** An increase in the intensity of use of a building or premises shall mean the addition of dwelling units, gross floor area, occupancy or any other unit of measurement used as a basis for determining required parking and loading areas. Additional parking and loading spaces, as required, shall be provided for any such increases in an existing use.
- D. **Change in Use.** When the use of any building or premises is changed to a different use; parking and loading spaces, as required, shall be provided for the different use.

- E. Existing Parking and Loading Areas.** Off-street parking and loading areas in existence on the effective date of this article shall not be reduced below the requirements for an equivalent new building or use. In no case shall it be necessary to continue parking and loading spaces in excess of those required by this article.
- F. Nonconforming Parking and Loading Areas.** A building, use or occupancy lawfully existing at the time this article or any amendment thereto becomes effective, but which does not conform with the off-street parking and loading requirements, may be occupied or continued without such spaces being provided. Any such spaces that may be provided thereafter shall comply with the requirements of this article. If an existing building, use or occupancy is altered so that there is an increase in the number of dwelling units, seating capacity, employees or floor area, or if the use is changed to one requiring more off-street parking and loading spaces, the number of such spaces shall be provided at least equal to the number required for the increased area of the building or use in accordance with all provisions of this Article.
- G. Provision and Maintenance.** The provision and maintenance of private off-street parking and loading spaces is a continuing obligation of the property owner.

325-51.3 GENERAL REQUIREMENTS

Off-street parking and loading areas required by this Article shall conform to the following requirements:

A. Areas Computed.

- 1)** Areas that may be considered as off-street parking space include any private garage, carport or other area available for parking other than a street, entrance and exit lanes, or driveway. A driveway may only be used to meet the requirements of this Article where it adequately serves a single-, two-, or multi-family dwelling up to four units.
- 2)** No vehicle shall be parked or stored in any required fire lane.
- 3)** For single-family, two-family, and mobile homes, no more than 50% of the lot width for lots less than 60 feet in width or 30% for lots equal or greater than 60 feet may be used for parking.
- 4)** Loading and unloading space as required under this Article shall be provided in addition to off-street parking space and shall not be considered as supplying off-street parking space.

B. Location of Spaces.

- 1)** All parking spaces and loading spaces shall be on the same lot as the use they are intended to serve unless otherwise specified in this Chapter.
- 2)** Parking areas shall not be located within 15 feet of a residential district.
- 3)** Loading areas shall not be located within 30 feet of a residential district.

- 4) Parking and loading areas may not be located within 10 feet of street frontage unless proper screening or decorative fencing is installed.
- 5) Off-street parking and loading spaces in the GC and HC Districts shall be prohibited in the front yard area, with the exception of a single bay of convenience parking approved as part of site plan review. Spaces located within other commercial or industrial districts may be located in any yard area.
- 6) Off-street parking spaces in residential districts may be provided in any yard except the front yard. However, parking in the front yard shall only be allowed on single-family and two-family lots on an approved, hard-surfaced driveway compliant with this Article.
- 7) Loading spaces and delivery areas, such as loading docks, shall be located so as not to be visible from the street or public right-of-way. If not practical, landscaping and buffering to screen such areas shall be provided to the extent required in site plan review.

C. Paving, Grading & Marking.

- 1) All parking and loading areas, except those located in industrial districts, shall be hard-surfaced concrete or asphalt paved and maintained in good condition. Such surface shall be permanent and capable of being kept free of snow, dust, and dirt and must be permanently marked.
- 2) The use of permeable paving materials is strongly encouraged to reduce impacts of stormwater runoff and help facilitate proper drainage.
- 3) All spaces shall be clearly marked with a minimum painted strip of four inches in width.
- 4) All parking and loading areas and their access driveways shall be graded so as to provide for the proper mitigation of storm water and runoff.
- 5) All landscaped areas shall include concrete, masonry or other permanent barriers to contain and protect landscaping.
- 6) In locations where curbing is not required or feasible, wheel stops shall be used. Wheel stops shall be provided adjacent to any building, wall, fence, walkway, landscaped area or property line to protect people, property and other vehicles.
- 7) Fire Lanes. All parking and loading areas shall be constructed in such a way to accommodate emergency vehicle access as required by the Manchester Fire Department.

D. Americans with Disabilities Act (ADA) Compliance.

- 1) All new or upgraded parking and loading areas must meet the requirements of the ADA. Upgrading shall include reconstruction or repaving, but not resealing an existing surface.

- 2) All parking lots shall provide the minimum number of handicap spaces in accordance with ADA requirements. Each such space may be included in the computation of required number of spaces by use.
- E. Landscaping, Screening, and Buffer Regulations.** All parking and loading areas shall be in accordance with the regulations specified in Article 54 of this Chapter.
- F. Lighting.** All parking and loading areas and their appurtenant passageways and driveways shall be illuminated in conformance with the standards in Article 55. Adequate shielding shall be provided by uses to protect adjacent residential zones from the glare of such illumination and from that of automobile headlights.
- G. Snow Removal.** For off-street parking and loading areas greater than 20 spaces, a dedicated area independent of required parking and loading spaces for the placing and storage of snow shall be required.

325-51.4 JOINT AND SHARED PARKING LOTS

- A. Benefit.** Joint and shared off-street parking areas that extend across property lines are encouraged as parking can be more efficiently organized in larger areas than in smaller areas, resulting in more parking capacity with less land devoted to parking.
- B. Joint Parking.** Joint off-street parking areas by two or more buildings or uses located on the same lot or adjacent lots is permitted, provided that the total of such spaces shall not be less than the sum required of the various buildings or uses computed separately. The land upon which the joint parking spaces are located shall be owned or leased by one or more of the collective users.
- C. Shared Parking.** Shared off-street parking areas for two or more uses that are located on the same lot or adjacent lots is permitted, provided they have differing peak parking demands or operating hours. Shared parking areas shall conform to the following:
- 1) The minimum number of spaces provided is at least that of the use with the greatest parking requirement.
 - 2) The parking area is located within 1,000 feet of the building(s) or use(s) it is intended to serve.
 - 3) The applicant demonstrates that the uses have different peak hour parking demands or that the total parking demand at one time would be adequately served by the total number of parking spaces proposed.
 - 4) A Shared Parking Agreement is executed documenting the shared uses and property owners and must be reflected in a deed, lease, contract, easement or other appropriate legal document.
 - 5) A Maintenance Agreement is executed documenting the responsibility of each user in the maintenance and upkeep of said shared parking lots.

325-51.5 ACCESS MANAGEMENT

The purpose of this section is to assure proper and well-planned access roads and driveways that provide safe travelling conditions for both vehicles and pedestrians to surrounding businesses and residential neighborhoods. It is the intent of the Town of Manchester to make sure that safe access can be made to all commercial and residential properties while minimizing potential traffic and pedestrian conflicts. All parcels that fall within the Route 96 Overlay District must also comply with the access management requirements as identified in Article 31.

A. Access Roads and Driveways. Access road development shall apply to all districts with adjoining property boundaries where points of ingress or egress are separated by a distance of less than 500 feet and shall conform to the following standards:

- 1) The Town Engineer or their designee shall review all access roads and driveways to insure the safety and welfare of the public. The Town may engage the services of other engineers, planners, or other professionals to assist in such review all costs at the expense of the applicant.
- 2) Shared access agreements will be required by the first developer and/or owner of a site and shall be established in a continuum to adjoining properties as a contingency of site plan approval.
- 3) All direct access driveways to public highways shall be minimized and meet or exceed the minimum spacing requirements, excluding single-family residences, listed in the table below. Minimum driveway spacing is to be measured from the closest edge of the driveway to the closest edge of the nearest driveway.

TABLE 51-1: MINIMUM DRIVEWAY SPACING

SPEED LIMIT	MINIMUM SPACING (FEET)
1. 35 MPH or less	125
2. 36 to 44 MPH	250
3. 45 MPH or greater	500

- 4) Each site shall have an access driveway into the parking area that complies with the dimensions of the table below:

TABLE 51-2: ACCESS DRIVEWAY DIMENSIONS BY USE

USE	REQUIRED WIDTH (FEET)	
1. Single-family	10 MIN	25 MAX
2. Multi-family	16 MIN	30 MAX
3. Other, One-Way Access	12 MIN	25 MAX
4. Other, Two-Way Access	20 MIN	30 MAX

- 5) All parking spaces, except those required for single- or two-family dwellings, shall have access to a public street or alley in such a manner that any vehicle leaving or entering the parking area from or into a public street or alley shall be traveling in a forward motion.

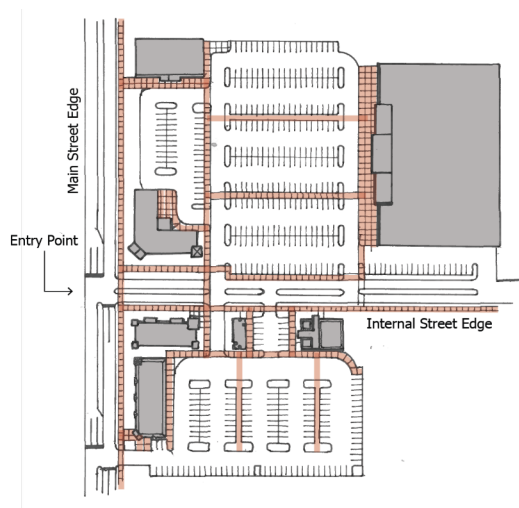
- 6) No driveway providing access to an off-street parking area shall be located closer than 60 feet to the intersection of public streets.

B. Driveway Permit Required.

- 1) The paving of new driveways or driveway expansions in any residential district shall require the issuance of a driveway permit by the CEO, unless otherwise approved by the Planning Board as part of the site plan review process.
- 2) Driveway permit applications shall consist of a to-scale drawing of the parcel indicating the location and dimensions of the proposed driveway. Said driveway application shall be submitted to the CEO on forms provided by the Town Clerk and shall be accompanied by a current survey map completed by a professional land surveyor depicting the proposed location and dimensions of the driveway.
- 3) Proposed driveways or driveway expansions must meet the following requirements in order to be considered for approval:
 - i. The driveway shall be at least one foot away from side and rear property lines;
 - ii. The driveway shall not cause the parcel's total lot coverage to exceed the maximum amount permitted as stated in Article 20 (Residential Districts);
 - iii. The driveway width must be in conformance with this Article; and
 - iv. The paving of said driveway shall not obscure or in any way alter existing public sidewalks.

C. Bicycle and Pedestrian Accommodations.

- 1) All parking areas which contain more than 20 spaces must include clearly identified pedestrian route from the parking area to the main building entrance and to the public sidewalk along the street, where applicable. See figure below.



- 2) All pedestrian walkways shall be clearly marked through the combination of paint, signage, and/or change in paving materials.
- 3) Bicycle parking shall be provided with all multi-family and nonresidential development at a rate of at least 10% of off-street parking requirements. However, in no case shall a single use provide less than two spaces, nor be required to provide more than 10 spaces.

325-51.6 MINIMUM PARKING SPACE REQUIREMENTS

- A. The minimum number of parking spaces for all uses and structures shall be provided in accordance with the table below.

TABLE 51-3: MINIMUM PARKING SPACE REQUIREMENTS BY USE

LAND USE	MINIMUM SPACES
RESIDENTIAL	
Single- or Two-Family Dwelling	2 per dwelling unit
Multi-Family Dwelling	1.5 per dwelling unit
Upper Floor Dwelling Unit	1 per dwelling unit
Bed & Breakfast	1 per room
Home Occupation, Residential	1 per nonresident employee, in addition to residential use requirement
Home Occupation, Agricultural	1 per 1,000 sf ¹
Nursing Home or Adult Care Facility	0.50 per room + 0.50 per employee ²
COMMERCIAL	
Retail or Entertainment Use	3 per 1,000 square feet ¹
Service or Office Use	2 per 1,000 square feet ¹
Lodging	1 per guest room + 0.50 per employee ²
Daycare Facility	1 per employee ²
Vehicle Sales ³	2 per employee ²
INDUSTRIAL / AGRICULTURAL	
All Uses	1 per employee ²
OTHER	
Hospital	1 per bed + 1 per employee ²
Recreational Use	3 per 1,000 square feet ¹
Religious Institution	3 per 1,000 square feet ¹
Educational Institution	1 per 3 students + 1 per employee ²

NOTES:

- (1) As measured by the gross floor area dedicated to the proposed use.
- (2) "Per employee" requirements shall be based on the maximum shift.
- (3) Minimum parking requirement does not include the spaces devoted to storage of vehicles to be sold.

- B. Should the minimum parking space requirement result in a fractional number of spaces based on the previous calculations, the requirement shall be rounded to the next highest whole number.

- C. The maximum number of parking spaces allowable is not to exceed 125% of the requirement as outlined in this Article, unless otherwise approved via special permit by the Planning Board.
- D. Where no requirement is designated, and the use is not comparable to any of the listed uses, parking requirements shall be determined by the CEO based upon the capacity of the facility and its associated uses. The CEO may consult with any Town board, commission, department, agency, and/or official it deems advisable. The CEO may also engage the services of engineers, planners, or other professionals to aid in their determination. The applicant shall reimburse all costs incurred by the CEO for such professional services to the Town.
- E. The Planning Board may require additional off-street parking spaces in excess of those required by this Article as part of site plan review if such additional spaces are deemed necessary to protect the health, safety, and general welfare of the public.

325-51.7 PARKING LOT DESIGN STANDARDS

- A. **Aisle Widths.** Aisle widths shall follow the minimum dimensions of the table below:

TABLE 51-4: MINIMUM AISLE WIDTHS

ANGLE OF PARKING	MINIMUM AISLE WIDTH	
	TWO-WAY TRAFFIC	ONE-WAY TRAFFIC
1. Ninety-degree parking	24 Feet	22 Feet
2. Sixty-degree parking	23 Feet	18 Feet
3. Forty-five degree parking	21 Feet	13 Feet
4. Parallel parking	19 Feet	13 Feet

- B. **Size of Parking Spaces.** The size of the parking spaces shall follow the minimum dimensions of the table below, and each space shall be separated by four inches from an adjoining space.

TABLE 51-5: MINIMUM SIZE OF PARKING SPACES

ANGLE OF PARKING	MINIMUM WIDTH	MINIMUM LENGTH
1. Ninety-degree parking	9 Feet	18 Feet
2. Sixty-degree parking	9 Feet	18 Feet
3. Forty-five degree parking	9 Feet	18 Feet
4. Parallel parking	8 Feet	22 Feet

325-51.8 LOADING SPACE REQUIREMENTS

Whenever the normal operation of any development requires that good, merchandise, or equipment be routinely delivered to or shipped from that development, a sufficient off-street loading and unloading area must be provided in accordance with this section to accommodate the delivery or shipment operations in order to avoid undue interference with the public use of streets or alleys.

- A. **Access.** Access to a loading space shall be provided directly from a public street or alley or from any right-of-way in such a way that it will not interfere with public convenience and will permit orderly and safe movement of delivery vehicles.
- B. **Maneuvering.** Loading and unloading areas shall be so located and designed that the vehicles intended to use them can maneuver safely and conveniently to and from a public right-of-way and complete the loading and unloading operations without obstructing or interfering with any public right-of-way.
- C. **Shared Loading Spaces.** Off-street loading spaces for separate uses within the same building may be provided jointly if the total number of spaces so provided is not less than the sum of the separate requirements for each use and provided, that the use complies with all regulations governing the location of accessory spaces in relation to the use served are adhered to.
- D. **Minimum Space Dimensions.** Loading spaces shall conform to the minimum dimensions of the table below:

TABLE 51-6: MINIMUM SPACE DIMENSIONS

CLASS OF LOADING SPACE	MINIMUM WIDTH (FEET)	MINIMUM LENGTH (FEET)	MINIMUM HEIGHT (FEET)
1. A (for semi-truck vehicles)	14	50	15
2. B (for other vehicles)	12	25	14

- E. **Minimum Number of Spaces.** The minimum required number and class of loading spaces shall be determined by the gross floor area of the use that it will serve as listed in the table below:

TABLE 51-7: NUMBER OF LOADING SPACES REQUIRED

GROSS FLOOR AREA (SQUARE FEET)	MINIMUM
1. Less than 4,000	-
2. 4,000 to 15,000	1 – Class B
3. 15,000 to 30,000	1 – Class A OR 2 – Class B
4. 30,000 or greater	1 – Class A AND 1 – Class B
5. Each additional 50,000; or fraction thereof	+ 1 – Class A

ARTICLE 52 | SIGN REGULATIONS

325-52.1 PURPOSE & INTENT

- A. Purpose.** The purpose of this ordinance is to establish standards for the fabrication, erection, and use of signs, symbols, markings, and advertising devices within the Town. These standards are designed to protect and promote the public welfare, health and safety of persons within the community and to aid in the development and promotion of business and industry by providing sign regulations which encourage aesthetic creativity, effectiveness and flexibility in the design and use of such devices without creating detriment to the general public.
- B. Objectives.** It is further the intent of this Chapter to achieve the following objectives:
- 1) Ensure right to free speech as protected under the Constitution;
 - 2) Establish a clear and impartial process for those seeking to install signs;
 - 3) Protect property values, create a more attractive economic and business climate, protect traditional Town character, and maintain a desirable appearance of the community;
 - 4) Provide structures and uses with effective means of identification while reducing visual clutter through the prevention of excessive and confusing sign displays;
 - 5) Reduce traffic conflicts or hazards by minimizing visual distractions or obstacles in or visible from the public rights-of-way;
 - 6) Reduce the adverse effects of signage on the desirable aesthetic of the Town and on the general environment of the community; and
 - 7) Enforce and encourage the objectives and goals of the Town's Comprehensive Plan.

325-52.2 APPLICABILITY

- A. Signs Regulated.** The regulations of this Chapter shall govern and control the erection, enlargement, expansion, renovation, operation, maintenance, relocation and removal of all signs within the Town visible from any street, sidewalk, public right-of-way, or public space.
- B. Exemptions.** The provisions of this Chapter shall not apply to or be construed to prohibit the following:
- 1) Safety signs, road signs, historical markers, or highway directional signs erected by municipal or governmental agencies.
 - 2) Temporary decoration of premises during customary religious, patriotic or holiday seasons.

- 3) Signs within a building not legible from the public right-of-way or adjacent lots, or any sign within an enclosed outdoor space, such as an athletic field, where such sign is intended only to be seen from within the enclosed space and is so oriented.
 - 4) Any official sign, public notice, or warning sign supported by federal, state or local law, including but not limited to signs erected and maintained pursuant to and in discharge of any government functions (examples include, NYS inspection station or authorized repair shop identification and posted notices).
- C. **Conflict of Provisions.** If any portion of this Chapter is found to be in conflict with any other provision of any zoning, building, fire safety or health code of the Town or other local or state agency, the provision which establishes the higher standard shall prevail.

325-52.3 PERMITS REQUIRED

- A. **Sign Permits.** Except as hereinafter provided, no person shall erect, alter, construct, relocate or cause to be erected, altered, constructed or relocated any sign without first having obtained a sign permit from the Town of Manchester Code Enforcement Officer, as required by this Chapter.

TABLE 52-1. SIGNS REQUIRING PERMITS

SIGN TYPE	PERMIT REQUIRED	SIGN REGULATIONS
A-Frame	NO ¹	§ 52.14 (A)
Awning	YES	§ 52.16 (A)
Directional	NO ¹	§ 52.14 (B)
Governmental	NO ¹	§ 52.14 (C)
Ground	YES	§ 52.16 (B)
Incidental	NO ¹	§ 52.14 (D)
Lawn	NO ¹	§ 52.14 (E)
Neon	NO ¹	§ 52.14 (F)
Noncommercial	NO ¹	§ 52.14 (G)
Pole	YES	§ 52.16 (C)
Projecting	YES	§ 52.16 (D)
Suspended	YES	§ 52.16 (E)
Temporary	YES	§ 52.16 (F)
Wall	YES	§ 52.16 (G)
Window	NO ¹	§ 52.16 (H)

NOTE: (1) Signs not requiring a sign permit must still conform to all applicable regulations of this Article.

- B. **Permit Exceptions.** The following actions shall not require the issuance of a sign permit provided such maintenance, changes, or alterations do not alter the physical size, design, structure, or nature of the sign.

- 1) Normal maintenance and repair of a sign not involving structural changes, including, but not limited to, repainting, repairing, changing of parts, or cleaning.
 - 2) Changes to the content, graphics, or messaging of a sign.
 - 3) Changes in the sign user, owner, or owner of the property upon which the sign is located.
- C. Alteration.** Any sign for which a permit has been issued shall not be modified, relocated, altered, or replaced, unless an amended or new sign permit is obtained from the Code Enforcement Officer.
- D. Expiration.** A sign permit shall expire if the sign for which the permit has been issued is not fully constructed within 180 days from the date of issuance of the sign permit. The Code Enforcement Officer may grant an extension of up to an additional 45 days provided the applicant submits a written request with sufficient reason for the delay in construction.
- E. Revocation.** The Code Enforcement Officer, at any time for a violation of this Chapter, may issue a notice of violation. A written notice of the violation including all reasons for the violation shall be mailed to the property, building, and/or sign owner. Said violation must be corrected within 30 days of the date of notice, otherwise the sign permit shall be revoked and the sign in question shall be required to be removed.

325-52.4 SIGN PERMIT APPLICATIONS

A. Application Submittal.

- 1) Sign permit applications shall be submitted to the Code Enforcement Officer on the appropriate forms provided by the Town of Manchester.
- 2) Incomplete applications will not be processed. The Code Enforcement Officer shall provide written or electronic notice of application deficiencies to applicants. If such deficiencies are not corrected within 30 days of notice, the application will be considered withdrawn.

B. Application Requirements. All sign applications shall require the submittal of the following information. The Code Enforcement Officer may require application materials to be prepared by a licensed engineer or sign professional if deemed necessary for adequate review of the proposed sign.

- 1) Name, address, contact information, and signature of the applicant.
- 2) Name, address, and signature of the building and/or property owner (if not the applicant), and a statement of consent for the applicant to seek such sign permit.
- 3) Name and information of the sign constructor and/or erector (if not the applicant), including a cost estimate for construction.
- 4) All applicable permit fee(s).

- 5) Plans, dimensions, and/or drawings indicating the size, shape, construct, materials, design, and layout of the proposed sign(s).
 - 6) Site plan and elevations indicating the proposed location, size, and design of the sign(s) drawn to scale.
 - 7) Color illustrations and/or photographs of the proposed sign and sign area.
 - 8) Plans indicating the proposed illumination system and/or structure, if any, and the type of lighting to be used.
 - 9) Any additional site and/or sign information deemed necessary by the Code Enforcement Officer for the proper review of such application.
- C. **Signs in Public Right-of-Way.** Applicants seeking approval for the placement of a sign or signs in the public right-of-way shall provide the Town with a certificate of insurance issued by a qualified and licensed insurance company naming the Town as an additional insured against all claims in the face amount of \$250,000 for property damage and personal injury connected with said sign. The amount of the deductible pertaining to the Town shall not exceed \$500. Applications for signs located within the public right-of-way shall be reviewed in accordance with Section 325-52.5 (C).

325-52.5 REVIEW PROCEDURES

A. Review by Sign Type.

- 1) Sign permit applications shall require review by the Code Enforcement Officer, Planning Board, or Town Board, as provided in this Chapter.
- 2) Applications for signs that are consistent with a sign plan or program previously approved for a project or building may be administratively reviewed, regardless of the sign type.

B. Administrative Review Procedures.

- 1) The Code Enforcement Officer may approve, approve with modifications, or deny a sign application as part of administrative review.
- 2) The Code Enforcement Officer shall render their decision within 30 days of receipt of a complete application. A sign permit shall only be issued when it is determined that the sign complies with the requirements of this Chapter and all other applicable local, state, and federal laws and ordinances.
- 3) The CEO may refer any sign application to the Planning Board for review and issuance of a decision, if it is determined by the CEO that the nature of the application requires a more substantial, discretionary review. Such review may occur at any regularly or specially scheduled Planning Board meeting.
- 4) Upon referral by the CEO, the Planning Board assumes final decision authority and may approve, approve with modifications, or deny the sign application.

- 5) Any person aggrieved by a decision for a sign permit by the Code Enforcement Officer may submit an appeal to the Town of Manchester Zoning Board of Appeals. Such appeal must be made within 30 days of the date of decision.

C. Town Board Review Procedures. Applications for signs that encroach upon public property, with the exception of a-frame signs, shall be subject to review and approval by the Town Board under the following procedures.

- 1) Sign permit applications shall be submitted to the Code Enforcement Officer at least 10 business days prior to the Town Board meeting at which such application is to be considered. Upon receipt of all required information, the Code Enforcement Officer will submit all materials to the Town Board for their review.
- 2) The Town Board shall review and decide upon all sign applications received from the Code Enforcement Officer. Such review may occur at any regularly or specially scheduled Board meeting.
- 3) The Town Board may approve, approve with modifications, or deny a sign permit application upon consideration of the application's conformance to the applicable requirements contained in this Chapter, consistency with the architectural style of the building or structure with which the proposed sign or signs is associated, and all other applicable laws and ordinances.

D. Site Plan or Special Permit Review Coordination. Developments subject to review and approval under this zoning law may have proposed signage reviewed and approved as part of the special permit or site plan review process. In the event of such review, all required sign permit application materials shall be provided as part of the special permit or site plan application.

325-52.6 MEASUREMENT

A. Sign Area.

- 1) Single Sign Face. The area of a sign shall be computed by means of the smallest square, circle, rectangle, triangle, or geometric combination thereof that will encompass the extreme limits of the writing, representation, emblem, graphic, and/or other display, together with any material, backdrop, or structure on which it is placed. See Figures 1 and 2.

FIGURE 1



FIGURE 2



- 2) Multi-Faced Signs. In the case of a multi-faced sign only one side of the sign is considered in determining sign area if the sides of the sign are back-to-back or diverge at an angle of 45 degrees or less.
- 3) Structural Support Not Included. The supporting structure or bracing of a sign shall not be computed as part of the sign area unless such supporting structure or bracing is made a part of the message with the inclusion of any text or graphics. If such is the case, a combination of regular geometric shapes which can encompass the area of said text or graphics shall be included as part of the total sign area computation.

B. Sign Height.

- 1) Freestanding Sign. The height of a freestanding sign shall be calculated by measuring the vertical distance between the top part of such sign or its structure, whichever is highest, to the elevation of the ground directly beneath the center of the sign. See Figure 3.

FIGURE 3



- 2) Other Signs. The height of an awning, projecting, suspended, wall, or window sign shall be determined by measuring the vertical distance between the top part of the sign face or structure, whichever is highest, to the bottommost edge of the sign face. See Figures 1 and 2.

325-52.7 SAFETY PROVISIONS

All signs shall be designed, constructed, and located in accordance with the following criteria to protect the general health, safety, and welfare of the public.

- A. No sign shall be erected, constructed, or maintained so as to obstruct free egress from a window, door or fire escape, to interfere with any opening required for ventilation, or to become a menace to life, health or property.
- B. No sign shall be erected at or near any intersection of streets, alleys, or railways in a manner that obstructs free and clear vision for pedestrians, bicyclists, and motorists.
- C. No sign shall be of a shape, color, or design that may be confused with any authorized traffic control device.
- D. No rotating beam, beacon, or flashing illumination resembling an emergency light shall be used with any sign display.
- E. Signs shall maintain clearance from high voltage power lines.
- F. The erection of any sign and its supports, including any wiring and/or electrical components utilized therein, shall be consistent with the requirements of the NYS Uniform Code and National Electrical Code, as applicable.
- G. The erection of any sign, its supports, wiring, or other structural and/or electrical elements may be subject to inspection and approval by the Code Enforcement Officer.

325-52.8 DESIGN & CONSTRUCTION

- A.** All signs shall be constructed of permanent, weather resistant, and durable materials, except for banners, flags, temporary signs, and window signs otherwise in conformance with this Chapter.
- B.** Where applicable, signs shall be supported by sign structures that are designed to resist wind pressures, dead loads, and lateral loads in accordance with the appropriate provisions of the NYS Uniform Code. All sign supports may be reviewed as part of the sign design.
- C.** All sign lettering shall be permanently affixed to the sign. Ground signs utilizing manual changeable copy shall be enclosed and locked.
- D.** No sign may be constructed of untreated, unfinished, or unpainted wood, or sandblasted metal. All wood components of signs must be sealed and protected from the elements.
- E.** No sign shall use neon, fluorescent, or day-glow colors.

325-52.9 LOCATION

- A.** No sign may be posted on public property or within a public right-of-way, unless otherwise approved by Town Board. Signs encroaching upon or projecting over the public right-of-way shall also require Town Board approval.
- B.** All signs must comply with the dimensional and setback requirements of this Article.
- C.** No sign shall obscure, alter, or cover the architectural features of any building.
- D.** All signs shall be located on the site being promoted, identified, or advertised.
- E.** All signs shall maintain at least a 10-foot setback from all property lines, unless otherwise noted within this Chapter.

325-52.10 ILLUMINATION

- A.** Intermittent illumination or illumination which involves movement or causes the illusion of movement resulting from the arrangement of lighting, is prohibited.
- B.** In no event shall any illuminated sign or lighting device be placed so as to permit the beams and illumination therefrom to be directed upon a public street, highway, sidewalk or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or nuisance.
- C.** Overhead wires or exposed wires on a sign or its supporting members are prohibited.
- D.** While internally illuminated signs are prohibited, reverse channel illumination (backlighting) may be utilized in districts where illumination is permitted.
- E.** Fixtures shall be fully shielded, pointing downward, to minimize skyglow, glare, and light

trespass. The use of lighting fixtures compliant with International Dark Sky Association standards is required.

- F. Spotlights or other types of artificial lighting used to illuminate signs or building faces shall be top mounted fixtures which project downward only onto the surface itself.

325-52.11 MAINTENANCE & REPAIR

- A. All signs shall be maintained in safe and good structural condition, in compliance with all applicable building and electrical codes, and in conformance with this Chapter at all times.
- B. Such maintenance includes replacement of all defective bulbs, parts, materials, painting, repainting, cleaning, replacement of copy, and other acts required for maintenance of such sign. If any sign does not comply with these standards, the Code Enforcement Officer may require its removal.

325-52.12 REMOVAL OF SIGNS

- A. Any sign that becomes obsolete, meaning the business, product, service, event, or other such topic to which it relates ceases operation or is no longer applicable, must be removed within 60 days of such termination. An extension may be granted by the Code Enforcement Officer upon written request by the sign owner.
- B. The removal of signs shall be the sole responsibility of the sign owner and/or sign permit holder. If said sign is not removed within 30 days of the date of written notice by the Code Enforcement Officer, the Code Enforcement Officer is authorized to effect its removal.
- C. The removal of signs shall include the removal of all sign elements and related structural supports, returning the building, site, or structure to its original state.
- D. The Code Enforcement Officer may remove any sign that is found to be in violation of this Chapter. The property and/or sign owner shall subsequently be given written notice of such sign removal. If the sign is not claimed within 10 days of the written notice, the Code Enforcement Officer may dispose of said sign.
- E. Any costs incurred for the removal of a sign shall be fully reimbursed to the Town of Manchester by the sign permit holder. Such costs may be assessed to the property for collection by the Town.

325-52.13 PROHIBITED SIGNS

The following signs are prohibited within the Town:

- A. Any sign for which no sign permit was issued, for which a sign permit was revoked, or any other sign not explicitly authorized herein.
- B. Any sign that is not properly maintained, considered structurally unsound, hazardous, or otherwise unsafe.

- C. Any sign placed on a curb, sidewalk, hydrant, utility pole, tree or other object located on, over, or within the public right-of-way, unless otherwise permitted by this Article.
- D. Any sign that advertises an activity, business, product or service no longer conducted or available on the premises on which the sign is located.
- E. Any sign that is located off-premise from the use and/or structure to which it serves.
- F. Any sign that contains words or pictures of an obscene or pornographic nature.
- G. Any sign that emits audible sounds, odor, or visible matter.
- H. Any sign that may be confused with a traffic control sign, signal or device or the light of an emergency or road equipment vehicle or any sign which hides from public view any traffic or street sign, signal, or device.
- I. Any sign that flashes, blinks, rotates, or revolves, or utilizes unshielded lighting devices, mirrors, or reflective material.
- J. Any permanent sign that is mounted on wheels or mounted on any structure on wheels, not including registered commercial vehicles upon which a commercial message is displayed.
- K. Any sign erected on the roof of a structure or attached in any manner that would extend beyond the roofline of the structure upon which it is located.
- L. Any banner, poster, pennant, ribbon, streamer, spinner, or balloon, unless such material is utilized as temporary signage subject to the regulations of this Article.

325-52.14 SIGNS AUTHORIZED WITHOUT A PERMIT

The following types of signs may be erected in the Town without obtaining a sign permit. Although permits are not required for these signs, they shall conform to all other applicable requirements of this Chapter or may be subject to removal by the Code Enforcement Officer in accordance with this Article.

- A. **A-Frame Signs.** A-frame signs shall not require a permit provided the following conditions are met:
 - 1) The sign is located in a nonresidential district and does not interfere with vehicular, pedestrian, or bicycle access or visibility.
 - 2) There is no more than one sign per use and the sign does not exceed three feet in height, three feet in width, and nine square feet in area.
 - 3) The sign is not illuminated.
 - 4) The sign is not located in the public right-of-way (permit required to be located in the public right-of-way).
 - 5) The sign is brought inside when operation is not in use.

- B. Directional Signs.** Non-illuminated direction signs do not require a permit provided the following conditions are met:
- 1) Directional signs shall be located entirely on the property to which they pertain and shall not contain a commercial message (e.g. business name).
 - 2) The total of directional signs on any one property shall not exceed an area of six square feet in a residential district, or 16 square feet in a nonresidential district.
 - 3) Directional signs shall not exceed three feet in height.
 - 4) Directional signs may not extend above the first floor of any given structure or project beyond property lines.
- C. Governmental Signs.** Any official sign, public notice, or warning sign authorized by federal, state or local law, including but not limited to signs erected and maintained pursuant to and in discharge of any government functions. (Example: NYS inspection station or authorized repair shop identification).
- D. Incidental Signs.** Signs of a public or noncommercial nature displayed for the direction, safety or convenience of the public, including, but not limited to, signs which identify rest rooms, hours of operation, or warnings, provided they conform to the following:
- 1) No sign may be illuminated.
 - 2) No sign may exceed three feet in area.
 - 3) The cumulative area of all signs for any one use or property shall not exceed 12 square feet.
- E. Lawn Signs.** Lawn signs shall be in conformance with the regulations below.
- 1) No sign exceeds three feet in height and six square feet in area, and the cumulative area of all signs on the lot does not exceed 12 square feet.
 - 2) No sign is displayed for more than 60 days in a 120-day period.
 - 3) No sign is illuminated.
- F. Neon or LED Signs.** Neon or LED signs shall not require a sign permit provided the following conditions are met:
- 1) The sign is mounted inside a building and the building is located within a nonresidential district.
 - 2) There is no more than one sign per use.
 - 3) The sign covers no more than 10% of the window area.
- G. Noncommercial Signs.** Any use is permitted one sign that does not contain a commercial message, provided such sign is in conformance with the following:

- 1) No sign exceeds three feet in height and six square feet in area, and the cumulative area of all signs on the lot does not exceed 12 square feet.
- 2) The sign is not illuminated.
- 3) The sign is not located above the first-floor of any structure.

325-52.15 PERMITTED SIGNS BY ZONING DISTRICT

A. **Sign Types.** The following table indicates the sign types permitted within the Town’s zoning districts.

- 1) A "●" indicates that the sign type is permitted and may be illuminated.
- 2) A "○" indicates that the sign type is permitted but shall not be illuminated.
- 3) A "-" indicates that the sign type is not permitted.

TABLE 52-1. SIGN TYPES PERMITTED BY ZONING DISTRICT

ZONING DISTRICT	RR, HR, M-H	HC	GC	GI, LI, REI	OS	AG
MAX #	1 type per use	2 types per use	2 types per use	2 types per use	2 types per use	2 types per use
AWNING	-	●	●	●	-	-
GROUND	○	●	●	●	●	●
POLE	-	-	●	●	-	-
PROJECTING	-	●	●	●	-	-
SUSPENDED	-	●	●	●	-	-
TEMPORARY ¹	○	○	○	○	○	○
WALL	○	●	●	●	○	○
WINDOW ¹	○	○	○	○	○	○

NOTE: (1) Window and temporary signs shall not count towards the maximum number of signs for any use.

B. **Additional Signage for Developments.** There are certain building and development configurations that warrant the permission of additional signage to provide adequate visibility and identification for motorists, pedestrians, and bicyclists. The following table indicates the permitted number of signs and sign types for such certain building and development configurations. Unless noted as additional signage, these regulations shall supersede those of Subsection A above.

TABLE 52-2. ADDITIONAL DEVELOPMENT SIGNAGE

DEVELOPMENT CONFIGURATION		PERMITTED SIGN TYPE & STANDARDS
SINGLE- OR MULTI-FAMILY RESIDENTIAL DEVELOPMENT		
Per Entrance ¹	One additional ground sign, in conformance with §52.16 (B)	
CAMPUS STYLE DEVELOPMENT		
Per Entrance ¹	One additional ground sign, no more than 32 sf in area and 6 ft in height	
MIXED-USE OR MULTI-TENANT COMMERCIAL DEVELOPMENT		
Per Use or Tenant	Up to 2 sign types in conformance with §52.16, except ground and pole signs	
Per Lot	One ground or pole sign in conformance with §52.16 (B) or (C)	
MULTI-STORY, MIXED-USE OR MULTI-TENANT COMMERCIAL BUILDING		
Per First-Floor Use	Up to 2 different sign types in conformance with §52.16	
All Upper Floor Uses	One shared wall, projecting, or suspended sign, in conformance with §52.16	

NOTE: (1) The additional signage shall be permitted only to entrance points from public streets and/or streets designated as primary entrances.

325-52.16 REGULATION BY SIGN TYPE

- A. **Awning Sign.** A sign that is part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor area.

ZONING DISTRICT	RR, HR, M-H	HC	GC	GI, LI, REI	OS	AG
MAX #	-	1 per awning	1 per awning	1 per awning	-	-
MAX AREA	-	12 sf	16 sf	16 sf	-	-
MIN CLEARANCE ¹	-	9 ft	9 ft	9 ft	-	-
ILLUMINATION	-	Internal/ External	Internal/ External	Internal/ External	-	-

NOTE: (1) Measured from the elevation of the ground directly beneath the center of the awning to the bottommost edge of the awning.

1) Additional Regulations.

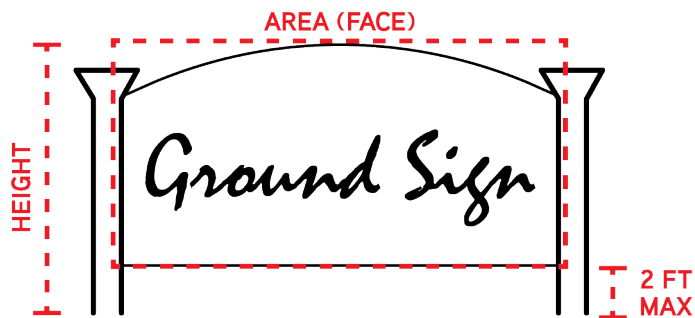
- i. No sign shall project from an awning.
- ii. Awnings upon which a sign is to be placed shall be comprised of high-quality, weather-resistant materials designed for exterior use.
- iii. Unfinished or unpainted wood or metal awnings and internally illuminated translucent awnings are prohibited.

- B. **Ground Sign.** A type of freestanding sign that is mounted on a base flush with the ground or supported by one or two columns or posts provided the distance between the ground and bottommost edge of the sign is no greater than two feet.

ZONING DISTRICT	RR, HR, M-H	HC	GC	GI, LI, REI	OS	AG
MAX #	1 per lot	1 per lot	1 per lot	1 per lot	1 per lot	1 per lot
MAX AREA	6 sf	12 sf	48 sf	48 sf	12 sf	12 sf
MAX HEIGHT	3 ft	3 ft	6 ft	6 ft	3 ft	3 ft
MIN SETBACK	15 ft	15 ft	15 ft	15 ft	15 ft	15 ft
ILLUMINATION	None	External	External	External	External	External

1) **Additional Regulations.**

- i. All ground signs shall have a landscaped area at the base of the sign. The landscaping shall fully surround the sign and utilize appropriate plantings so as not to obscure the visibility of the sign.
- ii. All plantings shall be properly manicured and maintained as the season may require. Dead or decaying plant material shall be replaced by the sign owner within 30 days of written notice by the Code Enforcement Officer.
- iii. External lighting fixtures may be mounted on the ground or on the sign. Lighting fixtures mounted on the ground shall be shielded and directed so as to illuminate only the sign face.

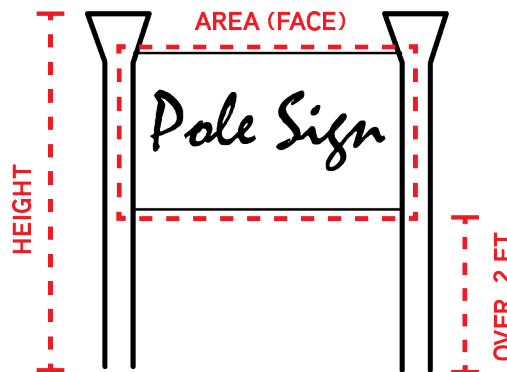


- C. **Pole Sign.** A type of freestanding sign that is supported by two columns or posts with a distance exceeding two feet between the ground and the bottommost edge of the sign.

ZONING DISTRICT	RR, HR, M-H	HC	GC	GI, LI, REI	OS	AG
MAX #	-	-	1 per lot	1 per lot	-	-
MAX AREA	-	-	32 sf	32 sf	-	-
MAX HEIGHT	-	-	20 ft	20 ft	-	-
MIN SETBACK	-	-	15 ft	15 ft	-	-
ILLUMINATION	-	-	Internal/ External	Internal/ External	-	-

1) **Additional Regulations.**

- i. All pole signs shall have a landscaped area at the base of the sign. The landscaping shall fully surround the sign and utilize appropriate plantings so as not to obscure the visibility of the sign.
- ii. All plantings shall be properly manicured and maintained as the season may require. Dead or decaying plant material shall be replaced by the sign owner within 30 days of written notice by the Code Enforcement Officer.



D. Projecting Sign. A sign which is wholly dependent upon a building for support and which projects more than 12 inches from such building.

ZONING DISTRICT	RR, HR, M-H	HC	GC	GI, LI, REI	OS	AG
MAX #	-	1 per use	1 per use	1 per use	-	-
MAX AREA	-	6 sf	8 sf	8 sf	-	-
MAX WIDTH ¹	-	3 ft	4 ft	4 ft	-	-
MAX PROJECTION ²	-	4 ft	5 ft	5 ft	-	-
MIN CLEARANCE ³	-	9 ft	9 ft	9 ft	-	-
ILLUMINATION	-	External	External	External	-	-

NOTES:

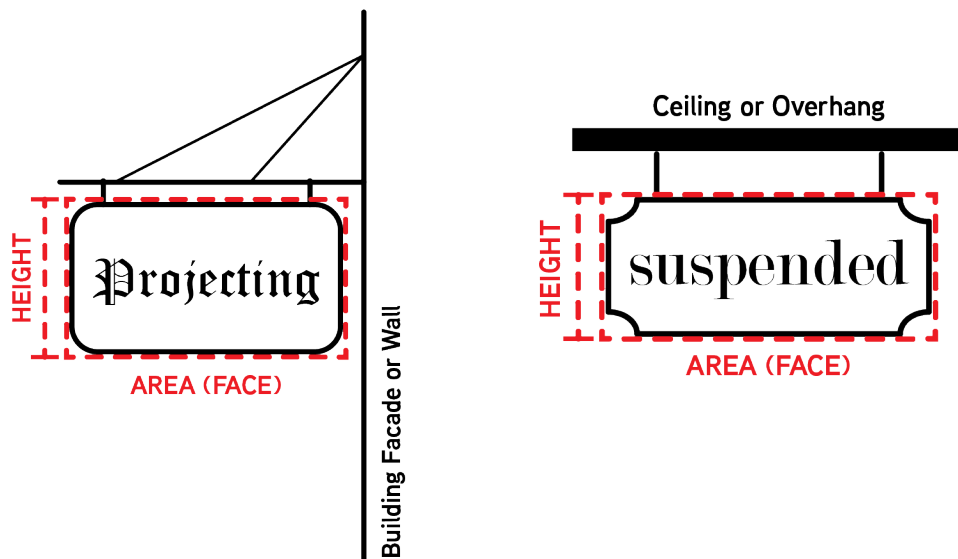
- (1) Measured at the widest point of the sign face.
- (2) Measured perpendicularly from the building face to the furthest point of the sign edge.
- (3) Measured from the elevation of the ground directly beneath the center of the sign to the bottommost edge of the sign.

E. Suspended Sign. A sign attached to and supported by the underside of a horizontal plane.

ZONING DISTRICT	RR, HR, M-H	HC	GC	GI, LI, REI	OS	AG
MAX #	-	1 per use	1 per use	1 per use	-	-
MAX AREA	-	6 sf	8 sf	8 sf	-	-
MAX WIDTH ¹	-	3 ft	4 ft	4 ft	-	-
MIN CLEARANCE ²	-	9 ft	9 ft	9 ft	-	-
ILLUMINATION	-	External	External	External	-	-

NOTES:

- (1) Measured at the widest point of the sign face.
- (2) Measured from the elevation of the ground directly beneath the center of the sign to the bottommost edge of the sign.



- F. **Temporary Sign.** A sign which is not intended to be used for a period over 60 days and is not attached to a building, structure, or ground in a permanent manner.

ZONING DISTRICT	RR, HR, M-H	HC	GC	GI, LI, REI	OS	AG
MAX #	n/a	n/a	n/a	n/a	n/a	n/a
SIZE / LOCATION REQUIREMENTS	See restrictions of sign type most closely aligned with style of the temporary sign.					
ILLUMINATION	-	-	-	-	-	-

1) **Additional Regulations.**

- i. No sign shall be displayed for more than 60 days in a 120-day time period. This may be extended for up to two additional 60-day periods upon written request to the CEO setting forth the special circumstances requiring such extension.
- ii. Banners, posters, pennants, ribbons, streamers, spinners, or balloons may be permitted as temporary signage, provided they are in conformance with this Section.

- G. **Wall Sign.** A sign located on the wall of a building or structure in such a manner that the wall becomes the supporting structure for or forms the background surface of the sign and which does not project outward more than 12 inches from such building or structure.

ZONING DISTRICT	RR, HR, M-H	HC	GC	GI, LI, REI	OS	AG
MAX #	1 per use	1 per facade	-	-	1 per use	1 per use
MAX AREA	6 sf	12 sf	32/60 sf ¹	32/60 sf ¹	12 sf	12 sf
MAX HEIGHT	3 ft	3 ft	6 ft	6 ft	3 ft	3 ft
ILLUMINATION	-	External	External	External	-	-

NOTE: (1) The first number is the maximum area per individual sign. The second number is the maximum cumulative area for all wall signs on a single facade.

- H. **Window Sign.** A sign which is applied or attached to the exterior or interior of a window or is installed inside of a window within 12 inches of the window through which it can be seen. This shall not include graphics in connection with a customary window display of products.

ZONING DISTRICT	RR, HR, M-H	HC	GC	GI, LI, REI	OS	AG
MAX #	n/a	n/a	n/a	n/a	n/a	n/a
MAX AREA ¹	25%	25%	50%	50%	25%	50%
ILLUMINATION	-	-	-	-	-	-

NOTE: (1) Measured by the cumulative area of coverage by signs located within the transparent window area.

325-52.17 DIGITAL SIGNS

The following requirements shall apply to any sign utilizing digital technology.

- A. The use of digital sign technology shall be limited to districts where illumination is permitted.
- B. The extent of sign face area utilizing digital sign technology, including any screens or other display area, shall not exceed 75%.
- C. Digital technology shall not be utilized in any wall sign, projecting sign, suspended sign, awning sign, or window sign.
- D. Digital signs shall display static messages with no animation, no effects simulating animation, and no video.
- E. Changes in copy, message, or graphics shall occur no more than once every 30 seconds.
- F. Each transition shall be accomplished immediately with no fade, scroll, flash, spin, revolve, shake or include any other type of movement or motion.
- G. Digital signs shall be equipped with photosensitive equipment that is programmed to automatically adjust the brightness and contrast of the sign in direct relation to the ambient outdoor illumination.
- H. The illuminance of a digital sign shall be measured with an illuminance meter set to measure footcandles accurate to at least two decimals. Illuminance shall be measured with the digital sign off, and again with the digital sign displaying a white image for a full color-capable sign, or a solid message for a single-color sign. All measurements shall be taken at a height of at least five feet and a distance determined by the following calculation. All fractions shall round up to the nearest foot.

$$\text{Measurement Distance} = \sqrt{\text{Area of Sign in Square Feet} \times 100}$$

- I. The difference between the digital sign measurements when off and when displaying a solid-message (using the digital sign measurement criteria) shall not exceed 0.3 footcandles, regardless of ambient lighting conditions.
- J. All digital signs shall be equipped with a sensor or other device that automatically determines the ambient illumination and programmed to automatically dim according to ambient light conditions, or that can be adjusted to comply with the 0.3 footcandle measurements.
- K. Digital signs shall be programmed or set in such a manner that the display will turn dark and emit no light in case of malfunction.
- L. No digital sign shall be located within 50 feet of a residential district or use as measured in a straight line from the location of the sign to the nearest residential property line.

325-52.18 NONCONFORMING SIGNS

- A.** Any sign that does not comply with this Chapter is eligible for characterization as a legal nonconforming sign if the sign complied with all requirements in effect at the time it was erected.
- B.** Nonconforming signs must be brought into compliance with this Chapter under the following conditions:

 - 1)** The sign is altered in any way, such as size, design, structure, or type of illumination (except for normal maintenance).
 - 2)** The sign is relocated or replaced.
 - 3)** The property or business to which the sign relates changes ownership or principal use.
- C.** Any nonconforming sign that is removed from its position or siting and not replaced in-kind within 60 days shall be presumed to be abandoned and discontinued, and therefore may not be restored or re-erected except in compliance with this Chapter.
- D.** No nonconforming sign may be altered in any way that would increase its nonconformity with the regulations of this Chapter, including but not limited to area, height, setback, and illumination.
- E.** A nonconforming sign shall not be repaired, reconstructed or replaced, except in conformity with all the provisions of this Chapter if it is damaged to an extent that the cost of repairing the sign to its former condition or replacing it with an equivalent sign equals or exceeds 50% of the replacement value of the sign so damaged, including labor.
- F.** Nothing in this Section shall relieve the owner or user of a nonconforming sign or owner of the property on which the nonconforming sign is located from complying with the provisions of this Chapter regarding safety, maintenance and repair of signs. Any repainting, cleaning, or routine maintenance or repair of the sign or sign structure shall not be deemed to modify the sign in any way.

ARTICLE 53 | SUPPLEMENTARY LOT, HEIGHT & YARD REGULATIONS

325-53.1 LOT REGULATIONS

- A. Existing Lots of Record.** A single-family structure may be constructed on any lot in any residential district if said lot is less than the minimum area required for building lots in the residential district in which it is located, provided that the following conditions exist or are met:
- 1)** No structure shall be erected on any nonconforming lot if the owner of said lot owns any adjoining vacant land which would create a conforming lot if said vacant land were combined with the lot deficient in area.
 - 2)** No structure shall be constructed on a nonconforming lot unless it shall have a minimum side yard of three feet, or a minimum side yard of 10 feet where adjacent to any street.
 - 3)** No structure shall be constructed on a nonconforming lot unless it shall have front and rear yards conforming to the minimums required for the residential district in which said lot is located.
- B. Lot Width.** The minimum lot width of any lot shall be measured along the minimum building setback line as required for the district in which it is located.
- C. Required Area or Space Cannot be Reduced.** The area or dimension of any lot, yard, parking area or other space shall not be reduced to less than the minimum required by this chapter, except as provided in this chapter; and, if already less than the minimum required by this chapter, said area or dimension may be continued but shall not be further reduced.
- D. Corner Lots.** For the purposes of this Chapter, corner lots shall be considered to have two front property lines, where abutting the street, and two side property lines.
- E. Flag Lots.** Flag lots shall be prohibited.

325-53.2 VISIBILITY AT INTERSECTIONS

At all street intersections no obstruction to vision (other than an existing building, post, column or tree) exceeding 30 inches in height above the established grade of the street at the property line shall be erected or maintained on any lot within the triangle formed by the street lot lines of such lot and a line drawn between the points along such street lot lines 30 feet distant from their point of intersection.

325-53.3 HEIGHT REGULATIONS

- A. General Application.** No building or structure shall have a greater number of stories, nor have an aggregate height of a greater number of feet than is permitted in the district in which such building or structure is located, except as noted in Subsection B.
- B. Height Exceptions.** The limitations affecting the height of structures shall not apply to the appurtenant appendages and structures, such as those listed below, provided that such appendages and structures comply with all the other provisions of this chapter or any other applicable local law.
- 1) Parapet walls not exceeding three feet in height;
 - 2) Chimneys, smokestacks, church spires, flagpoles, television antennas or penthouses for mechanical equipment no exceeding 10 feet in height; or
 - 3) Barns, pole barns, silos and other common farm-related structures and water tanks associated with a permitted agricultural use.

325-53.4 YARD REGULATIONS

- A. Yard Obstructions.** Every part of a required yard must be open to the sky unobstructed except for accessory buildings in a rear or side yard, and except for the ordinary projection of open porches, balconies, steps, sills, belt courses, cornices and for ornamental features projecting not more than five feet.
- B. Varied Side Yards.** Where the side wall of a building is not parallel with the side lot line or is broken or otherwise irregular, the side yard may be varied. In such case, the average width of the side yard shall not be less than the otherwise required minimum width; provided, however, that such side yard shall not be narrower at any one point than 1/2 the otherwise required minimum width.
- C. Transitional Yard Requirements.**
- 1) Abutting on street line. Where a residence district abuts a nonresidence district on a street line, there shall be provided in the nonresidence district for a distance of 50 feet from the district boundary line a front yard at least equal in depth to that required in the residence district.
 - 2) Abutting on side or rear yard. Where the side or rear yard in a residence district abuts a side or rear yard in a nonresidence district, there shall be provided along such abutting line or lines a side or rear yard at least equal in depth to that required in the residence district. In no case, however, shall the abutting side yard be less than 20 feet and the abutting rear yard be less than 20 feet.

ARTICLE 54 | LANDSCAPING, SCREENING & BUFFERING REGULATIONS

325-54.1 PURPOSE & INTENT

- A. Purpose.** The Town of Manchester recognizes the value of trees and landscaping and that the preservation and enhancement of these resources is necessary to protect the health, safety and welfare of residents. Landscaping is considered an integral part of site design, offering shade and habitat, impeding soil erosion, providing water absorption and retention to inhibit excess runoff and flooding, enhancing air quality, offering a natural barrier to noise and enhancing property values and providing scenic beauty. Landscaping emphasis shall be placed on providing features that enhance the overall aesthetics of development and the character of the Town.
- B. Intent.** The following standards are intended to assure an acceptable degree of landscaping, screening, and buffering between land uses, particularly between residential and nonresidential uses, providing a balance between developed uses and open space, enhancing the visual and aesthetic appearance of the community, and encouraging preservation of existing natural features. Specifically, these regulations are intended to:
- 1) Encourage the landscaping of developments and to dissuade the unnecessary clearing and disturbing of land so as to preserve the natural and existing growth of flora and to replace removed flora or plan new flora indigenous to the region.
 - 2) Provide natural visual screening of parking areas and along property boundaries to protect the existing visual quality of adjacent lands.
 - 3) Reduce surface runoff and minimize soil erosion through the natural filtering capability of landscaped areas.
 - 4) Provide natural buffers that reduce glare and noise, and protect wetlands, stream corridors and other significant environmental features.
 - 5) Moderate the microclimate of parking areas by providing shade, absorbing reflected heat from paved surfaces and creating natural wind breaks.
 - 6) Enhance the overall environmental and aesthetic quality of the community in order to provide a healthful and pleasant atmosphere for Town residents and visitors.

325-54.2 APPLICABILITY

All nonresidential and multi-family development that is otherwise subject to site plan review shall meet the requirements of this Article.

325-54.3 LANDSCAPING PLAN

- A.** The Planning Board may determine that the landscaping plan must be prepared by a licensed landscape architect, landscape designer or other professional. All landscaping plans shall contain the following information:
- 1)** A title block with the name of the project, the name of the person preparing the plan, a scale, North arrow and date.
 - 2)** All existing, significant plant materials on the site.
 - 3)** Existing and proposed structures.
 - 4)** Topographical contours at two-foot intervals.
 - 5)** Drainage patterns.
 - 6)** Location, size and description of all landscape materials existing and proposed, including all trees and shrubs, and shall identify those existing plant materials that are to be protected or removed.
 - 7)** Landscaping of parking areas, access aisles, entrances, common open areas, recreation areas, and perimeter buffer areas.
 - 8)** Other information as may be required by the Code Enforcement Officer and/or the Planning Board.
- B.** Relief from any landscape plan requirements that are deemed unnecessary may be granted by the Planning Board.

325-54.4 GENERAL REQUIREMENTS

- A. Existing Site Features.** Existing unique, cultural, or natural site features, such as stonewalls, shall be incorporated into landscaping plans to the maximum extent feasible. Sites that possess significant ecological properties such as aquifers, public water supply watersheds, wetlands, and streams whose degradation would negatively affect other properties should be developed in a manner that will effectively prevent the possibility of such degradation.
- B. Completion of Work.** The issuance of a Certificate of Occupancy shall require completion of lot grading, seeding and required landscaping, or posting of a performance guaranty acceptable to the Code Enforcement Officer. If the applicant cannot perform the work due to seasonable impracticalities, all landscaping work shall be completed by June 30th of the year following the issuance of the Certificate of Occupancy.
- C. Pedestrian Access.** Pedestrian access to sidewalks or buildings shall be considered in the design of all landscaped areas.
- D. Existing Trees.** Existing healthy trees with a minimum 12-inch caliper should be identified on site plans and preserved. Said preserved trees shall be credited against the requirements of these regulations in accordance with their size and location.

325-54.5 PLANT SPECIFICATIONS

A. Appropriate Species.

- 1) Plant and landscape materials shall be compatible with soil conditions on-site and the regional climate. Native plant species are encouraged.
- 2) All grasses, trees, and plant material shall be in accordance with those appropriate for the Town of Manchester’s Plant Hardiness Zone as defined by the United States Department of Agriculture.
- 3) Under no circumstance shall any site include plant material that is considered by the NYSDEC to be a prohibited and regulated invasive species per NYS Law 6 CRR-NY V C 575.

B. Minimum Plant Size. Unless otherwise specifically stated elsewhere in this section, all plant materials shall meet the minimum size standards set forth in Table 54-1 below.

TABLE 54-1: MINIMUM PLANT SIZE IN BUFFER

PLANT MATERIAL	SIDE OR REAR YARDS	ALL OTHER AREAS
TREES		
Deciduous	1 ½ inch caliper	2 ½ inch caliper
Evergreen	4 feet (height)	5 feet (height)
SHRUBS		
Deciduous	15 inches (height)	24 inches (height)
Evergreen	12 inches (height)	18 inches (height)

325-54.6 LANDSCAPING STANDARDS

All landscaped areas are subject to the following standards:

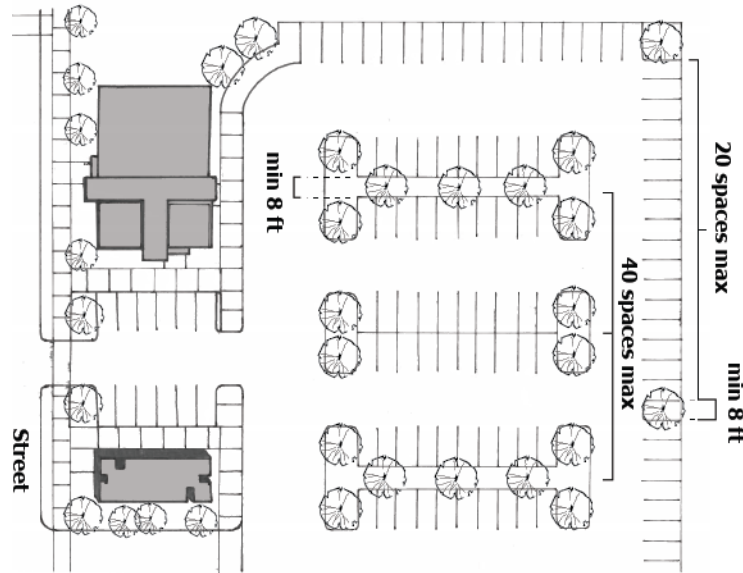
A. Lawn Area.

- 1) Grass areas shall be planted in a species well adapted to localized growing conditions in Ontario County, New York. Grass areas may be sodded, plugged, sprigged, hydro-mulched, or seeded except that solid sod shall be used in swales or other areas subject to erosion.
- 2) In areas where other than solid sod or grass seed is used, over-seeding shall be sown for immediate effect and protection until coverage is otherwise achieved.
- 3) Replacement or over-seeding mixes shall match or compliment the original installation.

B. Perimeter landscaping. Landscaping shall be required along the perimeter of projects, or within the required setbacks, and shall be provided except where driveways or other openings may be required. The Planning Board may consider alternatives to the location of landscaping materials, based on the existing character of the neighborhood. For large

development projects such as shopping centers, perimeter landscaping shall apply to the full perimeter of the project, and not to internal property lines. The linear feet guidelines below are to be used to calculate the number of required plantings; they do not require that plantings be uniformly spaced. Rather, grouping of plants consistent with accepted landscape practice is encouraged. Specific requirements are as follows:

- 1) At least one tree for each 40 linear feet of the perimeter of the lot; and
 - 2) At least one shrub for each 10 linear feet of the perimeter of the lot.
- C. Building Foundations.** Building foundations shall be planted with ornamental plant material, such as ornamental trees, flowering shrubs, perennials, and ground covers. The arrangement of said landscaping shall be arranged along the front façade as well as any facades visible from the public right-of-way. Trees and shrubs shall be provided according to the following requirements:
- 1) At least one tree for each 30 linear feet of the perimeter of the building; and
 - 2) At least one shrub for each five linear feet of the perimeter of the building.
- D. Parking Areas.** Parking lots containing 10 or more spaces shall be internally landscaped and provide the following:
- 1) A landscaped buffer at least 10 feet in width provided between a parking lot and the public rights of way;
 - 2) A landscaped island or median for every 10 spaces, planted with at least one tree no smaller than two inch caliper (trunk diameter at four foot height). Large and medium shade trees (no less than eight feet in height at maturity) are recommended. Due to heat and drought stress and vision clearances, ornamental and evergreen trees are not recommended in parking areas;
 - 3) Islands and medians a minimum of eight feet wide at the shortest side to protect plant materials and ensure proper growth (see figure below);
 - 4) Islands utilized to separate parking stalls into groupings of not more than 20 spaces between islands (see figure below); and
 - 5) Parking lots broken up into "rooms" of no more than 40 spaces, separated by landscaped islands or pedestrian accessways or sidewalks (see figure below).



E. Screening Requirements.

- 1) A fence without landscaping shall not be considered a buffer.
- 2) A landscaped barrier at least 10 feet in width shall be provided to screen vehicular activity from adjacent properties. If there is insufficient space to accommodate a 10-foot landscaped area, the Planning Board may allow screening to consist of a wall, fence, berm, hedge, or other plant materials or combinations thereof no less than five feet in height.

325-54.7 LANDSCAPING MAINTENANCE

It shall be the responsibility of the property owner and/or lessee to maintain the quality of all plant material, non-plant landscaping, and irrigation systems used in conjunction with the landscaping.

- A. Maintenance shall include, but not be limited to; watering, weeding, mowing (including trimming at the base of fencing), fertilizing, mulching, proper pruning, and removal and replacement of dead or diseased trees and shrubs on a regular basis.
- B. All landscaping and plant material that is missing, dead, decaying, or injured as of September 30th shall be replaced by June 30th of the following year at the owner’s expense. The replacement shall be of the same species and size unless otherwise approved by the Code Enforcement Officer.
- C. Irrigation systems shall be designed to minimize spray on buildings, neighboring properties, roads or sidewalks; maintained in proper operating condition and conserve water to the greatest extent feasible through proper watering techniques.

- D. Improper maintenance shall be determined through periodic inspection by the Code Enforcement Officer. The Code Enforcement Officer may require a review and status report of plantings by a professional landscaper, arborist, or engineer. All reasonable costs for review and determination shall be at the expense of the property owner.

325-54.8 SCREENING OF DUMPSTERS, SERVICE AREAS & MECHANICALS

In any district, all dumpsters, service areas or mechanical units used or intended to be used for any building or land use other than one-family and two-family dwelling units, shall be subject to the following:

- A. All dumpsters, service areas and mechanicals must be located behind the front building line; and
- B. All dumpsters, service areas and mechanicals shall be screened from view with either a wall, a solid fence or a combination of fencing and evergreens creating a solid visual barrier from adjacent properties and the public right-of-way. Said barrier shall be a height of at least five feet above grade level on all sides where the adjacent land is in a residential district or a residential use.

325-54.9 BUFFERING OF NONRESIDENTIAL USES

Where any nonresidential use abuts a residential use or district, including off-street parking areas, a landscaped buffer of at least five feet in width shall be provided. Such buffer shall include one or any combination of the following screening as approved in site plan review. The requirements may be modified by the Planning Board if deemed necessary to fulfil the purpose and intent of these regulations.

- A. A landscaped earthen berm a minimum of two feet high plus plantings a minimum of two feet high (a total of four feet high).
- B. A decorative concrete or masonry wall.
- C. A wood, vinyl, tubular steel, or similar fence compatible with the character of the area in which the fence is to be placed. Fences or walls used to meet screening requirements shall display a finished face toward adjacent streets and properties.
- D. A compact hedge or other live vegetative barrier.

ARTICLE 55 | OUTDOOR LIGHTING REGULATIONS

325-55.1 INTENT & PURPOSE

- A. The Town Board of Manchester finds that proper outdoor lighting is necessary for the safety of motorists and pedestrians as well as aiding in police functions and reducing crime. The Board also finds that the proper design and use of outdoor lighting will insure a nighttime appearance consistent with overall community goals of enhancing the attractiveness of businesses, industry, streets and other portions of the environment.
- B. The purpose of this section is to establish regulations to allow for outdoor illumination levels which are appropriate for the use, while promoting safety and security, and minimizing the undesirable side effects of excessive illumination such as glare, light trespass, and light pollution. Over time, it is the intent that this section will allow for reasonably uniform illumination levels in the community.
- C. It is also declared to be the purpose of these regulations to provide more specific guidelines for site plan applications and standards in regard to lighting, in order to maximize the effectiveness of site lighting as required to be reviewed by the Planning Board

325.55.2 AUTHORITY

The Town of Manchester Planning Board is hereby empowered to review illumination design plans for site plan development within the Town of Manchester, to ensure adherence to the New York State Uniform Fire Prevention and Building Code, International Building Code, this Article, and all other applicable, local, state, and federal laws.

325-55.3 APPLICABILITY

This regulation shall apply to all new outdoor lighting fixtures, the expansion and alteration of existing fixtures, as well as the replacement of lighting fixtures except any repair or maintenance.

325-55.4 APPROVALS REQUIRED

For uses which require a site plan review, the Planning Board may require a lighting site plan to be submitted showing the location, number, type/style, mounting height, and lighting levels produced on the ground (i.e. photometric report). All other uses shall conform to the general requirements contained herein.

325-55.5 GENERAL REQUIREMENTS/STANDARDS

- A. All outdoor lighting shall be shielded or otherwise contained so as not to exceed 0.5 foot-candle from the property line on which the light originates.
- B. Average levels of illumination for all building, landscaping, and parking shall not exceed

the levels set forth and shall not encroach or trespass upon adjacent properties and shall be so arranged as to prevent direct glare onto any adjacent property or highway. Illumination design should establish a hierarchy of lighting to insure a smooth transition from bright areas to those with subdued lighting.

- C. Exterior lighting fixtures on commercial, industrial, institutional, and multi-family properties shall conform to the Illuminating Engineer Society of North America (IESNA) criteria for full cutoff fixtures. In addition, the lighting levels shall be designed to meet the minimum requirements of the latest recommended levels set forth by IESNA. Where no standard from IESNA exists, the Planning Board shall determine the appropriate level, taking into account levels for the closest IESNA activity.
- D. Lighting, except as required for security, shall be extinguished during non-operating hours in order to minimize the indiscriminate use of illumination. Where practicable, lighting installations are encouraged to include timers, sensors, and dimmers to reduce energy consumption and unnecessary lighting.

325-55.6 SPECIFIC REQUIREMENTS/STANDARDS

- A. **Lighting Fixtures.** All light fixtures are subject to the following standards:
 - 1) All exterior lighting fixtures shall be dark sky compliant.
 - 2) Street and commercial lighting fixtures throughout residential districts should be distinctive and pedestrian-scaled at a minimum of 10 feet but no more than 15 feet in height). Parking lots light fixtures should not exceed 15 to 20 feet in height.
 - 3) Lighting fixtures should be compatible with the architectural style and other features of adjacent buildings.
 - 4) Lighting fixtures should be of a consistent architectural style and utilize a design that allows light trespass to be fully shielded or fully cutoff.
 - 5) Lighting plans, ISO footcandle levels, and light planes including the height and placement of all lights.
- B. **Parking Lots.** Parking lots shall not exceed light levels necessary for safety and for locating vehicles at night. The lighting plan shall be designed so that the parking lot is lit from the outside perimeter inward and/or incorporate design features with the intent of eliminating offsite light spillage. Parking and circulation lighting fixtures are required to have ninety-degree cutoff type luminaire(s) to prevent light above the fixture. Site plan shall be required for all lighting with parking of over five vehicles or site application greater than 20,000 square feet.
- C. **Wall Pack Units.** Wall-pack units are required to be opaque shielded or have optics that provide a cutoff angle of 70° or less.
- D. **Spot or Flood Type Lighting.** Spot or flood type lighting attached to a structure shall not exceed 20 feet in height and have cutoff angle shields of 70° or more.

- E. Canopy and Roof Overhang.** Lights installed on canopies or roof overhangs shall be recessed so that the lens cover is flush with the bottom surface of the canopy or overhang. Lights shall not be mounted on the sides or top of the canopy or overhang.
- F. Outdoor Signs.** Lighting fixtures used to illuminate an outdoor sign shall be mounted on the top of the sign and shall be shielded or directed in such a way that the light illuminates the sign only. Internal illumination of a sign shall be concealed behind opaque, translucent, or other similar types of glass or plastic. Signs may be externally illuminated using incandescent or florescent sources and/or metal halide sources. Such sources not exceeding 150 watts may be used for exterior sign illumination by a special permit. Self-illuminated exterior signs shall not be permitted.
- G. Bottom-Mounted or Up-lighting.** To minimize unnecessary lighting, up-lighting shall be allowed for approved flagpoles and signage only (See Article 52, Sign Regulations). Illumination shall be directed solely onto the object for which it is intended.
- H. Security Cameras.** Facilities which employ security cameras may employ appropriate lighting to ensure proper function during all times when such cameras are in use.

325-55.7 COLOR RENDITION

- A.** Color rendition shall be considered in approving lighting designs. The following lamps are listed in order of preference.
 - 1)** Light Emitting Diode (LED).
 - 2)** Metal halide.
 - 3)** High pressure sodium.
 - 4)** Low pressure sodium.
- B.** A preference will also be shown for the use of similar lamp types on a site. The use of different lamps with wide separations in color rendition will require appropriate documentation.
- C.** Lighting shall be white or amber in color. No lighting shall have a color temperature exceeding 4,000 Kelvins.

325-55.8 LIGHT TRESPASS

- A.** Light trespass shall be limited to the following:
 - 1)** In all zoning districts, at the pavement edge of adjoining public roads: a maximum of 0.5 footcandle, except for site access points where a maximum of one footcandle at the pavement edge is permitted.
 - 2)** Residential districts and where an adjacent property is in a residential district: a maximum of 0.2 footcandle 25 feet beyond the property line or at the dwelling unit, whichever is less.

- 3)** Nonresidential districts. Light trespass shall be based upon adjoining uses and light levels to insure that IESNA standards are not exceeded.
- B.** In all zoning districts illumination shall not trespass upon the public right-of-way, highway or neighboring roadways or night sky.

325-55.9 EXEMPTIONS

The following types of outdoor lighting are exempt from this regulation unless otherwise specified:

- A.** Street lighting installed by the Town, Ontario County Highway Department, or the NYS Department of Transportation.
- B.** Low-voltage lighting as defined by the National Electric Code (NEC).
- C.** Holiday lighting.
- D.** Temporary construction and emergency lighting needed by police, emergency or highway crews, provided the light is extinguished upon completion of the work.
- E.** Hazard warning lights required by a federal or state regulatory agency, except that all fixtures used must be as close as possible to the federally required minimum output.
- F.** Lighting associated with farm or agricultural operations. However, farm or agricultural operations within 100 feet of an adjacent residential dwelling shall be shielded to prevent light trespass onto the adjoining property.

325-55.10 NONCONFORMING LIGHTING

All outdoor lighting lawfully existing prior to the effective date of this chapter shall be deemed conforming to this section except that:

- A.** No installation of new luminaries (e.g., fixture and bulbs) shall be permitted unless in conformance to this section.
- B.** All outdoor lighting that, in the opinion of the Code Enforcement Officer (CEO), is causing a glare on adjoining roadways or properties shall be required to submit lighting details to the CEO showing that the existing lighting meets the requirements of this section or how such lighting will be brought into conformance. Any outdoor lighting fixture, with the exception of incandescent fixtures up to one-hundred-fifty-watt intensity per light source, shall be shielded from above in such a manner that:
 - 1)** The edge of the shield is below the light source.
 - 2)** Direct rays of the light source are confined to the property boundaries.
 - 3)** Direct rays are prevented from escaping toward the sky.
- C.** For the purpose of these provisions, "light source" includes any refractor, reflector or globe.

- D. To address safety issues and/or complaints a review and report by the New York State Department of Transportation Utilities company study and report or engineering plan or study may be required of all lighting for all sites by the Planning Board as part of site plan review or by the Code Enforcement Officer for enforcement.

325-55.11 PROHIBITED LIGHTING

The following types of outdoor lighting shall be prohibited within the Town, unless otherwise specified:

- A. Blinking, flashing, strobe or search lights.
- B. Exposed strip lighting used to illuminate building facades or signs.
- C. Any light that may be confused with or construed as a traffic control device.
- D. Roof-mounted lighting.
- E. Mercury vapor lighting.

325-55.12 TEMPORARY LIGHTING

- A. Temporary lighting shall be for a period of less than seven days for the following:
 - 1) Civic uses.
 - 2) Carnival, fair, circus.
 - 3) Construction or emergency. Such lighting shall be discontinued immediately upon completion of construction work or abatement of the emergency necessitating lighting.
- B. Lighting associated with agricultural operations within an established New York State Agricultural District shall be exempt from these provisions.

325-55.13 LIGHTING PLAN SUBMITTAL REQUIREMENTS

- A. All development applications subject to the site plan review with outdoor lighting components shall include a lighting plan in accordance with this section.
- B. A lighting plan shall be provided showing conformity with standards contained in this section. Such plan shall indicate the location, type of lamp, luminaire, mounting height, source lumens, illuminance, and glare control options, if any, for each light source and area. Illuminance may be plotted by using manufacturer's photometric charts or the Planning Board may require ISO footcandle drawings to examine the interaction of all lighting on the site. Any additional documentation necessary to show conformance to the standards set forth in this section.
- C. Additions or changes to an approved lighting plan shall be considered under site plan review and a public hearing may be held at the option of the Planning Board.

- D.** All other uses documentation as required and determined by the Code or Zoning Enforcement Officer to show conformance with the standards set forth in this section.

325-55.14 EXPIRATION OF APPROVAL

- A.** Lighting site plan application shall expire if development and/or continuous activity is not commenced within one year or of the date of approval. Extensions are subject to approval process by the Planning Board only after a review for a material change to the original proposal or surrounding land uses which may introduce new information.
- B.** Approval of any final illumination site plan or lighting portion thereof shall expire unless a building permit or certificate of occupancy or certificate of compliance is applied for within a period of one year from the date of the signing of the final site plan by the Planning Board, except where staging of development over a longer period has been specifically provided for at the time of site plan approval. The Planning Board may extend the site plan approval for not more than two six-month periods.

ARTICLE 56 | NONRESIDENTIAL DESIGN STANDARDS

325-56.1 APPLICABILITY

The following standards and guidelines shall apply to all nonresidential, multi-family (over 4 units), and mixed-use development within the Town.

325-56.2 PURPOSE & INTENT

The purpose of these design guidelines and standards is to describe the desired future development pattern, form, massing, site layout and architectural detailing for nonresidential development within the Town of Manchester. It is important for the Town to have established design standards that guide development and ensure safe and efficient circulation in both its rural and small-town development contexts, from the vast expanse of agricultural lands to denser activity areas in Port Gibson and near to the Villages of Manchester, Shortsville, and Clifton Springs. Given the varied character of the Town, there is a need for clear standards that meet the goals and objectives of the community while still allowing for flexibility and creativity. These standards will provide the necessary regulatory guidance and framework for high-quality development while still allowing flexible design alternatives.

325-56.3 OBJECTIVES

The purpose of these design guidelines and standards is to preserve and promote the unique character of the Town by ensuring future development is consistent with the following objectives:

- A. Create inviting, attractive buildings, sites, open spaces, and streetscapes.
- B. Develop office and industrial parks to resemble a campus-like environment that incorporates open space and pedestrian amenities where appropriate.
- C. Require that future private development positively contribute to the public realm and ensure compatibility with surrounding developments so as not to detract from the overall streetscape and character of the area.
- D. Utilize good site planning techniques that provide visual interest and accommodate multimodal travel such as varying building massing, emphasizing street corners, highlighting points of entry, and integrating site circulation and access between uses.
- E. Encourage the development of buildings consistent with the goals of the Leadership in Energy and Environmental Design (LEED) program.
- F. Ensure that new development building and site design does not negatively impact adjacent residential uses, respecting their existing scale and character.

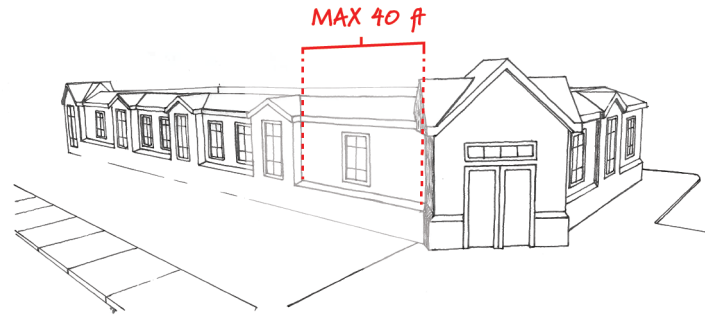
325-56.4 SITE PLANNING STANDARDS

Site planning standards primarily address the organization of a project's components. They are intended to address the location of buildings and site features such as parking lots, open space, and service areas, as well as the organization of circulation patterns for vehicles and pedestrians.

- A. Site Layout.** The layout of all improvements must be designed to generally follow the existing topography of the site. The layout of roads, walkways and building footprints must be aligned with existing contours where practical, with limited connecting streets or walkways aligned perpendicular to existing slopes.
- B. Sense of Entry.** Intersections create natural opportunities for gateways, which can be enhanced through a combination of landscaping, welcome/identity signage, framed views, and focal points. Signage and focal points, if included, must be used in ways that complement rather than obstruct or detract from important views.
- C. Views.** The Town's rural viewsheds play an especially large role in shaping the character of the community. Existing view corridors should be respected and protected. New construction and landscaping must take into account how views may be affected. Protecting views experienced from points of entry to the Town and along major roadways is important. The Planning Board shall help determine the significance of a view corridor or viewshed as part of site plan review.
- D. Projects with Multiple Buildings.**
 - 1)** Projects with multiple buildings, such as plazas with out-lot or outparcel development, shall be sited with pedestrian connections between structures, parking areas, and adjacent uses.
 - 2)** Multiple structures shall be placed in a fashion that creates a well-organized, accessible, and functional site. The Town encourages site layouts that create a unique sense of place and do not result in large parking lots lacking landscaping or pedestrian accommodations.

325.56.5 ARCHITECTURAL STANDARDS

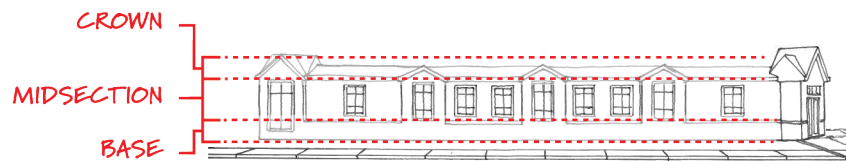
- A. Building Form and Massing.**
 - 1)** A single, large, dominant building mass shall be avoided.
 - 2)** No façade shall have a blank, uninterrupted length exceeding 40 feet without including architectural features such as columns, pilasters, piers, or changes in plane, in texture or masonry pattern, storefronts and entry treatments, or equivalent design element that subdivides the wall into visually interesting proportions (see below).



- 3) Buildings situated at street corners should "wrap" the corner by continuing facade design elements on all street elevations (see above).

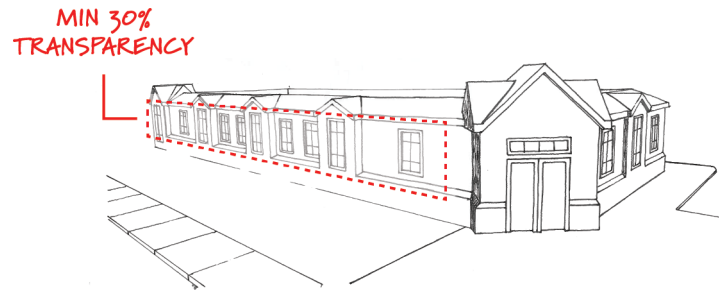
B. Architectural Design.

- 1) All structures shall have a visible roofline. Elements that define the roof and the upper quartile of the façade shall incorporate design details that provide an added level of articulation to the architectural expression of the building.
- 2) The choice of design elements and their scale, height, proportion, and mass should draw from design cues provided by the rural character of the Town.
- 3) Buildings designed to advertise or promote a uniform corporate image in a manner that may render the building undesirable or unable to reasonably accommodate future uses shall be prohibited.
- 4) All buildings shall exhibit a clearly defined base, mid-section, and crown. This can be accomplished using a combination of architectural details, materials, textures, and colors (see graphics below).



C. Windows.

- 1) Windows shall be of a scale, proportion, and coverage appropriate to the overall style of architecture of the building.
- 2) Window openings should be trimmed with an appropriate material (brick, stone, wood, wood-like, cementitious board, vinyl) to provide added definition and interest to the overall façade.
- 3) All primary facades, or those fronting public streets and rights-of-way, shall observe a minimum transparency requirement of 30% in the area between two and eight feet above ground level (see below).

**D. Doors and Entryways.**

- 1) Doors and entryways shall be of a scale, proportion, and coverage appropriate to the overall style of architecture of the building.
- 2) Commercial and mixed-use buildings shall have a transparent primary entryway that will be considered as part of the overall transparency requirement for the building frontage.
- 3) Entryways shall be detailed and identifiable by the general public through the use of decorative trim, moldings, overhangs, and other defining architectural features such that its purpose as the primary entrance is evident from the street. The same treatment is encouraged for all secondary entryways near parking locations.

E. High Quality Materials.

- 1) Along street frontages, all exterior building walls and structures shall be constructed with durable materials such as masonry, stone, brick, finishing wood, stucco (EIFS) and glass.
- 2) Finishes that are intended or designed to reflect light and glare, as well as vertical aluminum or metal siding shall not be permitted.
- 3) No more than three exterior wall materials should be used on any one side of a building.
- 4) Material changes at the outside corners or in a plane should be avoided.

- 5) Concrete finishes or pre-cast concrete panels that are not exposed aggregate, hammered, embossed, imprinted, sandblasted, or covered with a cement-based acrylic coating shall not be used as exterior building materials and shall be prohibited on all exterior walls.
- 6) Standard masonry block walls shall be prohibited on exterior walls containing primary entryways and walls facing a street or drive.
- 7) Decorative masonry materials such as split face and textured finished blocks shall be considered an acceptable alternative to stone, brick, finishing wood, stucco (EIFS) or glass.

F. Green Infrastructure and Building Design.

- 1) Alternative energy sources, such as rooftop solar panels or shingles, are encouraged and should be incorporated into the design of the building so as not to detract from the overall design.
- 2) Developers and builders are encouraged to utilize roofing materials that reflect sunlight (e.g. lighter colors) or incorporate vegetated roofing on at least 50% of the roof area. Methods such as these decrease heating and cooling needs on a building by reflecting sunlight rather than absorbing it.
- 3) The Planning Board may approve an increase in the share of lot coverage for developments that incorporate green roofing materials to their satisfaction.

325-56.6 TRANSITIONS BETWEEN NONRESIDENTIAL & RESIDENTIAL USES

- A. Applicability.** All nonresidential uses and multi-family dwellings shall employ similar building and site design standards to ensure compatibility with adjacent residential development. These requirements shall be in addition to the design standards and guidelines of this Article and requirements set forth by this Chapter for landscaping, screening, and buffering of uses.
- B. Requirements.** To the maximum extent practicable, nonresidential and multi-family development shall incorporate at least two of the following techniques when developed adjacent to an existing residential use:
- 1) Similar building setback;
 - 2) Similar building height;
 - 3) Similar roof form; or
 - 4) Similar exterior materials.
- C. Waiver of Requirements.** During site plan review, the Planning Board may waive the requirements of this section if it is determined that the application of such criteria is not necessary to protect the character and quality of life of the neighborhood as well as public health, safety, and welfare.

TOWN OF MANCHESTER

CHAPTER 325. ZONING CODE

PART 6 | REVIEW AND APPROVAL PROCEDURES

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ARTICLE 60 | GENERAL AND COMMON PROVISIONS

325-60.1 PURPOSE AND APPLICABILITY

- A. **Purpose.** This Article is intended to provide the general procedures, requirements, and review criteria for all development and permit applications submitted to the Town.
- B. **Applicability.** The provisions of this Section apply to all the articles in this Part (Part 6) unless otherwise stated.
- C. **Review Body.** For the purposes of this Chapter the terms “reviewing body,” “review body,” or “decision-making body” shall refer to any Town board, commission, committee, or agent with review and/or approval authority as enacted under this Chapter.
- D. **Unresolved Violations.**
 - 1) Applications shall not be accepted for review that include a parcel(s) for which there is an outstanding, unresolved written violation from the CEO that is not the subject of said application.
 - 2) Applications which address such outstanding, unresolved violation may be accepted provided the application includes actions to rectify the violation.

325-60.2 PRE-APPLICATION CONFERENCE

- A. **Purpose.** The purpose of the pre-application conference is to provide the applicant with the opportunity to seek nonbinding, advisory direction from the Town in order to better prepare the applicant and project application for the site plan review process.
- B. **Conference Recommended.** It is recommended that applicants request a pre-application conference prior to entering the formal application review process to discuss the nature of the proposed application and to determine the best course of action for submittal.
- C. **Conference Representatives.** By request of the applicant, pre-application conferences may be held with the CEO and/or the appropriate application review body. A conference with the reviewing body may be held during a scheduled public meeting.
- D. **Advisory Opinion.** In no way shall any comments or feedback provided by the Town during a pre-application conference be construed as an indication of decision or be legally binding in any way.
- E. **Application Material.** Materials presented during the pre-application conference may be incomplete and/or conceptual in design. A formal, complete application is required to be considered for approval prior to action.

325-60.3 APPLICATION SUBMITTAL**A. Form of Application.**

- 1) Applications required under this Chapter must be submitted to the CEO in a form and in such numbers as required herein.
- 2) Applications must be filed and accepted at least two weeks (14 days) prior to the date of the scheduled meeting of the applicable review body.
- 3) The following number of copies shall be required for application submittal:
 - i. All Applications – One (1) electronic copy in PDF or other acceptable form.
 - ii. Administrative Applications – At least two (2) hard copies.
 - iii. Planning Board Applications – At least eight (8) hard copies.
 - iv. Zoning Board Applications – At least seven (7) hard copies.
 - v. Applications Requiring County Referral – At least one (1) additional hard copy.
- 4) The Town may provide checklists of application submittal requirements and make those checklists available to the public. Application forms and checklists of required submittal information may be made available in the Town Office.

B. Application Acceptance.

- 1) The CEO shall indicate that an application is considered accepted and ready for processing only if it is submitted in the required number and form, includes all required information, and is accompanied by the required filing fee.
- 2) The acceptance of an application by the CEO shall in no way shall be interpreted as a determination of the completeness, adequacy, or accuracy of application materials, but rather serves as an acknowledgement to the receipt of required application materials.
- 3) If an application is determined to be inadequate, the CEO must provide paper or electronic written notice to the applicant along with an explanation of all known deficiencies that will prevent competent review of the application.
- 4) No further processing of the application will occur until the deficiencies are corrected. When the deficiencies are corrected, the application will be placed in the next available processing cycle. If the deficiencies are not corrected within 62 days, the application will be considered withdrawn.
- 5) The CEO may require that applications or plans be revised before being placed on the agenda of the reviewing body if the CEO or reviewing body determines that:

- i. The application or plan contains one or more significant inaccuracies or omissions that hinder timely or competent evaluation of the plan's/application's compliance with zoning law standards; or
- ii. The application contains multiple minor inaccuracies or omissions that hinder timely or competent evaluation of the plan's/application's compliance with zoning law standards.
- iii. Additional application materials are necessary for an adequate, informed review.

C. Application Filing Fees.

- 1) Application filing fees are required for processing permits and applications to the CEO, Town Board, Planning Board, and Zoning Board of Appeals.
- 2) Fees shall be determined and set by the Town Board. A fee schedule shall be kept on file at the Town Office.
- 3) The payment of fees is not required with applications initiated by the Town Board or other authorized review body of the Town.
- 4) Application fees are nonrefundable.

D. Waiving Application Requirements. The Planning Board is authorized to waive or modify, in whole or in part, required application material in the event any such requirements are found not to be requisite in the interest of the public health, safety or general welfare or inappropriate to a particular application.

E. Additional Application Requirements. The reviewing body may require the applicant to provide additional material necessary for a complete, adequate, and informed review. Such additional material shall be deemed necessary by a majority vote of the reviewing body.

325-60.4 REIMBURSEMENTS

Fee reimbursement as set forth in Chapter 175 of the Code of the Town of Manchester, but not limited thereto, shall be applicable to all reasonable administrative costs, expenses, and disbursements incurred by the Town of Manchester in reviewing and processing applications, which may or may not be approved. The assessment of such fees shall be subject to the audit of the Town Board. Reasonable costs may include, but are not limited to, the following:

- A. Professional Review.** Any engineering, architectural, historical, planning, technical, environmental, attorney, or other expert or professional consultant fees obtained to aid in the review of an application.
- B. Noticing Fees.** Any costs for the mailing, posting, or otherwise distributing public hearing notices as required for the application under consideration.

325-60.5 ACTION BY REVIEW AND DECISION-MAKING BODIES

- A. Public Hearing.** Where required by NYS Law and regulations of the Chapter, the reviewing body shall hold at least one public hearing prior to the issuance of a decision on an application.
- B. SEQR.** Where required by NYS Law, the review body shall complete all required documentation and procedures in accordance with the State Environmental Quality Review Act (SEQRA).
- C. Issuance of Decision.**
 - 1)** Within 62 days following the close of the public hearing, where required, the reviewing body shall issue a decision to approve, approve with conditions or modifications, or deny the proposed application.
 - 2)** No decision may be made by the reviewing body until referral to and receipt of response by the Ontario County Planning Board is completed, where required.
 - 3)** Prior to issuing a decision on an accepted application, the reviewing body shall determine by resolution the application to be complete, noting any waived or additional application requirements.
- D. Conditions of Approval.** In issuing a decision, review bodies are authorized by NYS Town Law to impose such reasonable conditions, restrictions, and/or modifications as are directly related to the proposal in order to protect the health, safety, and general welfare of the public to the greatest extent practicable.
- E. Deferring Action.** Review and decision-making bodies are authorized to defer action or continue a public hearing in order to receive additional information or further deliberate.
- F. Written Decisions.** A written decision of the review body shall be promptly filed in the Town Clerk's Office and provided to the applicant.

325-60.6 REFERRALS

- A. Internal Referral.** The reviewing body may refer any application to another Town board, committee, department, or official for review, comment, and advisement. Within 30 days of referral the receiving body shall submit its recommendation in writing with a summary of findings to the reviewing body.
- B. Professional Referral.** The reviewing body may seek the opinion of any engineering, architectural, historical, planning, technical, environmental, legal consultant or attorney, or other expert or professional to aid in the review of an application. Reimbursement of any costs incurred by the Town may be required in accordance with Section 325-60.4.
- C. County Referral.** Applications shall be referred to the Ontario County Planning Board pursuant to NYS GML 239-m and NYS GML 239-n; and in accordance with any planning referral agreements between the Town and County.

325-60.7 REVIEW & DECISION-MAKING CRITERIA; BURDEN OF PROOF OR PERSUASION

In all cases, the burden is on the applicant to show that an application complies with all applicable review or approval criteria. Applications must address relevant review and decision-making criteria.

325-60.8 PUBLIC HEARING PROCESS**A. Conducting Public Hearings.**

- 1) The reviewing body shall schedule, notice, and conduct a public hearing for applications as required by this Chapter and NYS Law.
- 2) The reviewing body may review multiple applications (e.g. special use permit and site plan review) for a single property, use, or development concurrently and may conduct concurrent or joint public hearings, if desired.
- 3) A public hearing for which proper notice was given may be continued to a later date without providing additional notice as long as the continuance is set for specified date and time and that date and time is announced during the public hearing.
- 4) If a public hearing is tabled, deferred or postponed for an indefinite period of time from the date of the originally scheduled public hearing, new public notice must be given before the rescheduled public hearing.
- 5) If the applicant requests a postponement, the applicant must pay all costs of re-notification.

B. Public Hearing Notices.

- 1) Newspaper. Whenever the provisions of this Chapter require, notice must be published at least 10 days in advance of such hearing in a newspaper of general circulation within the Town.
- 2) Mail. Whenever the provisions of this Chapter require, notice must be sent by mail at least 10 days in advance of such hearing. Such notice shall:
 - i. Be based on the latest property ownership information available from the Real Property Assessment Records. When required notices have been properly addressed and deposited in the U.S. mail, failure of a party to receive such notice will not be grounds to invalidate any action taken.
 - ii. Follow the minimum distance requirement for mailed notices to nearby property owners as set by NYS Law. Where the provisions of this Chapter may be in conflict, the greater requirement shall apply.
- 3) Posted Notice. When the provisions of this Chapter require, the following notice shall be made:
 - i. Posted notice plainly visible within Town Hall.

- ii. Posted notice placed on the property in question at least 10 days prior to the date of the public hearing. The applicant shall obtain a public notice sign from the Town and ensure its placement in a manner that is plainly visible. Upon close of the public hearing, the sign shall be returned.
 - 4) Online Notice. Notice may also be posted to the official website and/or social media accounts of the Town.
- C. Re-hearings.** A motion to hold a re-hearing to review any order, decision or determination of the reviewing body not previously reheard may be made by any member of the board. A unanimous vote of all members of the board then present is required for such re-hearing to occur. Such re-hearing is subject to the same notice provisions as an original hearing. Upon such re-hearing the board may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members then present, provided the board finds that the rights vested in persons acting in good faith in reliance upon the reheard order, decision or determination will not be prejudiced thereby.

325-60.9 BUILDING PERMIT REQUIRED

A. Actions Requiring Permit.

- 1) All persons desiring to undertake any new construction, structural alteration or change to the use of a building or lot shall apply with the CEO for a building permit. No building or structure shall be erected, added to or structurally altered until a permit has been issued by the CEO.
- 2) No such building permit or certificate of occupancy shall be issued for any building where said construction, addition, alteration or use thereof would be in violation of any provision of this Chapter, except upon written order of the Zoning Board of Appeals.
- 3) All applications for such permits shall be in accordance with the requirements of this Chapter and New York State Uniform Fire Prevention and Building Code.
- 4) Agricultural structures not for public use and located in a County Agricultural District shall not require the issuance of a building permit in accordance with NYS Agriculture and Markets Law.

B. Application for a Building Permit. There shall be submitted with all applications for building permits two copies of the layout or plot plan, drawn to scale and showing the actual dimensions of the lot to be built upon, the exact size and location on the lot of the building and accessory buildings to be erected and such other information as may be necessary to determine and provide for the proper enforcement of this Chapter. All applications shall be upon forms provided by the CEO.

C. Public Records. One copy of such layout or plot plan shall be returned when approved by the CEO, together with such permit, to the applicant upon the payment of a fee as indicated in this Article. The second copy, with a copy of each application with

accompanying plan, shall become a public record after a permit is issued or denied.

- D. Water Supply and Sewage Disposal.** All water supply and sewage disposal installations shall conform to the New York State Department of Health regulations. No plot plan shall be approved by the CEO in any zone unless such conformity is certified on the plan. Drainage affecting adjacent properties shall be considered by the CEO before issuing a building permit, including possible runoff to said properties.
- E. Issuance of Building Permits.**
- 1) It shall be the duty of the CEO to issue a building permit, provided that he or she is satisfied that the proposed structure, premises, and use thereof conform to all requirements of this Chapter and that all other reviews and actions, if any, called for in this Chapter have been complied with and all necessary approvals have been secured therefore.
 - 2) All building permits shall be issued in duplicate and one copy shall be kept conspicuously on the premises affected and protected from the weather whenever construction work is being performed thereon. No owner, contractor, workman or other person shall perform any building operations of any kind unless a building permit covering such operation has been displayed as required by this chapter, nor shall they perform building operations of any kind after notification of the revocation of said building permit.
- F. Denial of Permits.** When the CEO is not satisfied that the applicant's proposed development or use will meet the requirements of this Chapter, he shall refuse to issue a building permit, and the applicant may appeal to the Zoning Board of Appeals for a reversal of the CEO's decision.
- G. Revocation, Expiration, Suspension.** The revocation, expiration, or suspension of a building permit shall follow the regulation and procedure of Town Code Chapter 123.

325-60.10 CERTIFICATES OF OCCUPANCY

- A. General.** No land shall be occupied or used and no building hereafter erected, altered or extended shall be used or changed in use until a certificate of occupancy shall have been issued by the CEO stating that the building or proposed use thereof complies with the provisions of this chapter.
- B. Application for Certificate of Occupancy.** All certificates of occupancy shall be applied for coincident with the application for a building permit. Said certificate shall be issued within 10 days after the erection or alteration shall have been approved as complying with the provisions of this chapter and all other applicable provisions of the Town Code.
- C. Change or Extension of Nonconforming Use.** No nonconforming use shall be changed or extended without a certificate of occupancy (certificate of existing use therefor) having first been issued by the CEO.

- D. **Application Mandatory.** No permit for excavation for or the erection or alteration of any building shall be issued until an application has been made for a certificate of occupancy.
- E. **Record.** The CEO shall maintain a record of all certificates, and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building affected.
- F. **Procedure.** The application and record of a certificate of occupancy shall follow that of Town Code Chapter 123.

325-60.11 PENALTIES

- A. **Complaints of Violations.** Whenever a violation of this chapter occurs, any person may file a complaint in regard thereto. All such complaints must be in writing and shall be filed with the CEO, who shall properly record such complaint and investigate.
- B. **Penalties.** A violation of this chapter is hereby declared to be a criminal offense, punishable by a fine not exceeding \$250 or imprisonment for a period not to exceed 15 days, or both, for conviction of each offense. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Penalties may be compounding in the case of multiple offenses. Each week's continued violation shall constitute a separate additional violation, carrying with it a fine of \$50 for each additional day the violation continues.
- C. **Procedure for Abatement of Violations.** In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, maintained, or demolished or any building, structure or land is used in violation of this chapter or of any law or regulation made under authority conferred hereby, the governing body or, with its approval, the CEO or other proper official, in addition to other remedies, may institute any appropriate action of proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate such violation; to prevent the occupancy of said building, structure or land; or to prevent any illegal act, conduct, business or use in or about such premises.

ARTICLE 61 | ZONING LAW TEXT OR MAP AMENDMENTS

325-61.1 AUTHORITY TO FILE

Amendments to the text or map of this zoning law may be initiated by the Town Board, Planning Board, and Zoning Board of Appeals, or by a petition requesting the amendment presented to the Town Board.

325-61.2 PUBLIC HEARING

- A. **Hearing Required.** The Town Board shall hold a public hearing for all zoning law amendments prior to issuing their decision.
- B. **Notice.** Public notice of hearing shall be provided in newspaper, mail, and posted form in accordance with Section 60.8 of this Chapter. Mailed notice shall be made to owners of all property within 500 feet of the property in question.

325-61.3 PLANNING BOARD REVIEW

The Planning Board shall review all proposed zoning law amendments and provide a report to the Town Board recommending approval, approval with conditions or modifications, or denial.

325-61.4 REFERRALS

- A. **County Referral.** Referral shall be made to the Ontario County Planning Board in accordance with NYS General Municipal Law §239-m.
- B. **Additional Referrals.** Referral shall also be made as noted herein where the property subject to a zoning amendment is located within 500 feet of:
 - 1) The boundary of a city, village or town; upon the clerk thereof;
 - 2) The boundary of a county; upon the clerk of the board of supervisors or other official performing like duties;
 - 3) The boundary of a state park or parkway; upon the regional state park commission having jurisdiction over such state park or parkway; and
 - 4) The property of the housing authority erecting or owning a housing project authorized under the public housing law; upon the executive director of such housing authority and the chief executive officer of the municipality providing financial assistance thereto (See NYS Town Law Section 16-264 for further information).

325-61.5 TOWN BOARD ACTION

- A. After receiving the report of the Planning Board, the Town Board must convene a public hearing on the proposed amendment.
- B. The Town Board may act by a simple majority vote, except when a valid protest petition has been submitted in accordance with Section 61.7. In the case of a valid protest petition, approval or approval with modifications requires a three-fourths vote of the members of the Town Board.
- C. If the Town Board approves the amendment, supplement, change or modification to the zoning law, the Zoning Code and Map, as applicable, shall be amended after publication as required by NYS Law.

325-61.6 REVIEW CRITERIA

In reviewing and making decisions on zoning law amendments, the reviewing body shall consider the following criteria, as applicable:

- A. Whether the proposed amendment corrects an error or inconsistency in the zoning law or meets the challenge of a changing condition;
- B. Whether the proposed amendment is in substantial conformance with the adopted plans and policies of the municipality;
- C. Whether the proposed amendment is in the best interests of the municipality as a whole;
- D. Whether public facilities (infrastructure) and services will be adequate to serve development allowed by any requested re-zoning;
- E. Whether any re-zoning will substantially harm the public health, safety or general welfare or the value of nearby properties;
- F. Whether any re-zoning is compatible with the zoning and use of adjacent property;
- G. Whether the property in question is suitable for the uses and development to which it has been restricted under the existing zoning regulations; and
- H. Whether the gain, if any, to the public health, safety and general welfare due to denial of the application outweighs that of the hardship imposed upon the landowner, if any, as a result of denial of the application.

325-61.7 PROTEST PETITIONS

In the case of a protest against any amendment, such amendment shall not become effective except in accordance with the provisions of NYS Town Law §265, which requires the approval of at least three-fourths of the members of the Town Board.

ARTICLE 62 | SITE PLAN REVIEW

325-62.1 INTENT

The intent of the site plan review process is to preserve and enhance the character of a neighborhood, achieve compatibility with adjacent development, mitigate potentially negative impacts on traffic, parking, drainage and similar environmental concerns, improve the overall visual and aesthetic quality of the Town, and increase the capability of the Zoning Code to adapt to a variety of unique circumstances.

325-62.2 APPLICABILITY

- A. **Review Required.** No construction or site improvement work may commence until site plan approval, where required by this Chapter, has been granted.
- B. **Review Actions.** Development actions shall be subject to site plan review as noted in the following table and as otherwise noted in this Chapter.

ACTION	EXEMPT	SPR
CONSTRUCTION / ESTABLISHMENT OF NEW USE OR STRUCTURE		
Single-Family Residential	•	
Two-Family and Multi-Family Residential		•
Nonresidential		•
Agricultural	•	
Accessory, Residential	•	
Accessory, Nonresidential		•
EXPANSION / ALTERATION OF EXISTING USE OR STRUCTURE		
Single- or Two-Family Residential	•	
Multi-Family Residential		•
Nonresidential		•
Agricultural	•	
Accessory (under 20% of gross floor area)	•	
Accessory (over 20% of gross floor area)		•
INSTALLATION / ALTERATION OF LANDSCAPING, FENCING, OUTDOOR LIGHTING, OR MECHANICAL EQUIPMENT		
Single- and Two-Family Residential	•	
Multi-Family Residential		•
Nonresidential		•
Agricultural	•	

CONTINUED ON NEXT PAGE

ACTION	EXEMPT	SPR
INSTALLATION / ALTERATION OF STORMWATER DRAINAGE SYSTEM OR POND		
Residential		•
Nonresidential		•
Agricultural	•	
INSTALLATION / ALTERATION OF DRIVEWAY		
Approved Residential Driveway	•	
Nonresidential, Existing Curbcut	•	
Nonresidential, New or Altered Curbcut		•
INSTALLATION / ALTERATION OF OFF-STREET PARKING AREA		
Approved Residential Driveway	•	
Nonresidential		•
INSTALLATION / ALTERATION OF OTHER USES OR STRUCTURES		
Agricultural Waste Management Facility/Manure Storage		•
Drive Through Facility		•
Farm Stand		•
Park or Playground Equipment		•
Ponds		•
Solar Energy System		•
Telecommunications Tower or Facility		•
Walk up Service Windows		•
OTHER ACTIONS		
Ordinary Repair or Maintenance of Use or Structure	•	
Interior Alterations	•	
Subdivisions (Chapter 275 of Town Code)		•
Planned Development Districts (Article 68)		•
Amendment to or Deviation from Approved Site Plan		•
Actions Involving Utility Structure(s)		•

325-62.3 REVIEW PROCEDURE

- A. Application Processing.** All applications shall be submitted, processed, and reviewed in accordance with Article 60 of this Chapter.
- B. Authorized Review Body.** Site plan applications shall be reviewed and decided upon by the Planning Board.
- C. Public Hearings.**
 - 1) A public hearing shall be required for all site plan applications.

- 2) All public hearings shall be duly noticed in accordance with Section 60.8, including newspaper, mail, and posted notices. Mailed notice shall be made to owners of all property within 300 feet of the property in question.
- D. Coordinated Reviews.** The following reviews may be conducted concurrently as provided herein. Where applicable, duplicate application materials may be combined to satisfy submittal requirements.
- 1) Special Use Permit. Where a special use permit is also required, the application requirements of Article 64 shall also apply. In the event that the special use permit is denied, the site plan decision shall be null and void.
 - 2) Subdivision. Where subdivision review and approval is also required, the requirements of Chapter 275 of the Town Code shall also apply.
 - 3) Variance. Where a variance is required, a referral should be made to the ZBA for an advisory opinion on the appropriateness of such variance and potential amendments to the site plan. Should the applicant fail to secure variance approval, the site plan shall be amended accordingly.
- E. County Referral.** County referral shall be required for site plan review applications in accordance with Section 60.6.
- F. Approvals.** Upon approval, the Planning Board Chair shall endorse its approval via signature on a copy of the site plan. For conditionally approved plans, the Planning Board Chair shall endorse its approval only after demonstration that the site plan has been amended to reflect such conditions or modifications.

325-62.4 SITE PLAN MATERIALS

All applications for site plan review shall be made by the owner or the owner's agent and filed in accordance with this Chapter. The application shall include, as applicable, the following information. The Planning Board may require the following be prepared by a licensed engineer, architect, landscape architect or surveyor, where deemed necessary for an informed, adequate review.

- A.** Application form, including the name, address, and signature of the applicant, property owner, and developer.
- B.** Present zoning district in which the site is located.
- C.** A copy of the Tax Map.
- D.** Description or narrative of all existing and proposed uses and structures, including but not limited to hours of operation, peak number of employees, maximum seat capacity, and proposed number of off-street vehicle and bicycle parking spaces.
- E.** Identification of historic resources and environmental issues, where applicable.
- F.** A site plan drawn at a scale of one-quarter inch equals 1 foot or such other scale as the Planning Board may deem appropriate, on standard 24 inch by 36 inch sheets, with

continuation on 8 ½ inch by 11 inch sheets as necessary for written information. Such site plan include the following:

- 1) Scale, north arrow, and date.
- 2) The location of all properties and property lines, their ownership, uses thereon, subdivisions, rights-of-way, easements, and adjacent buildings within 100 feet of the property in question.
- 3) The location and use of all existing and proposed structures on the property in question, including all dimensions of height and floor area, exterior entrances, outdoor storage, and anticipated future additions and alterations.
- 4) The location of all existing and proposed topography features, including but not limited to, site grading, open spaces, woodlands, watercourses, steep slopes (exceeding 15%), wetlands and/or floodable areas within the one hundred year floodplain, and watersheds.
- 5) The location of existing and proposed landscaping, screening, walls, and fences, including information regarding the size and type of plants and building materials proposed, subject to the requirements of Article 54 of this Chapter.
- 6) The location, height, intensity, cutsheets, bulb type, and light color of all exterior lighting fixtures, subject to the requirements of Article 55 of this Chapter.
- 7) The location of existing and proposed public and private streets, off-street parking areas, loading areas, driveways, sidewalks, ramps, curbs, and paths. Such plans shall include considerations for vehicular, pedestrian, and bicycle traffic circulation, parking, and access, subject to the requirements of Article 51 of this Chapter.
- 8) The location of all access connections on both sides of the road within 500 feet of the subject property.
- 9) Drawings or sketches that illustrate the height, bulk, and design characteristics of the proposed building, and indicate major materials to be used.
- 10) A waste and trash management plan including the proposed location, appearance, and operation of dumpsters or other trash receptacles.
- 11) The location, height, size, material, and design of all existing and proposed signs, subject to the requirements of Article 52 of this Chapter.
- 12) A storm drainage and grading plan showing new and/or modified downspouts and plan or system for the collection and disposal of stormwater, or, if applicable, a stormwater pollution prevention plan. Such practices and systems shall also be subject to the requirements of Chapter 269 of the Town of Manchester Code.

- 13) Plans to prevent the pollution of surface or ground water, erosion of soil both during and after construction, excessive runoff, excessive raising or lowering of the water table, and flooding of other properties, as applicable.
- 14) The location of existing and proposed utility systems, and if required, easements. This shall include sewage or septic, water supply, telephone, cable, and/or electric. If a private sewerage system is used, plans for the system shall bear the stamped approval of a professional licensed engineer.
- 15) A certified topographic survey extending 50 feet beyond the property line at no more than five-foot contour intervals. If the site has susceptibility to erosion, flooding or ponding, contour intervals of not more than two feet of elevation should also be provided.
- 16) A map showing that the proposed site can possess at least 35% green space including any space occupied by water retention facilities; recreation.
- 17) The design of all fire protection design elements, including, but not limited to, the location of fire hydrants, other emergency zones, and exits.
- 18) A natural resource inventory and/or tree survey.
- 19) An estimated project construction schedule.
- 20) Plans for disposal of construction and demolition waste, either on-site or at an approved disposal facility.
- 21) All NYS SEQR documentation as required by law.
- 22) The application fee.
- 23) Developer’s Clause:

On behalf of _____ (Developer-Applicant), we hereby certify and agree that the submitted plans meet all the requirements and specifications described in Article 62 (Site Plan), and any other applicable sections of the Town of Manchester Code. Notwithstanding any notes, provisions or specifications in the plans, we agree on behalf of the Developer-Applicant that Town of Manchester Code specifications shall take precedence over any such notes, provisions or specifications which may be inconsistent with and/or not in conformance with the Town of Manchester Code specifications. We further agree that in the event of any inconsistency or ambiguity between the notes, provisions or specifications on the final plans and the Town of Manchester Code, that in all cases the Town of Manchester Code specifications shall be controlling with respect to the work, materials or other requirements.

Signature of Developer

Signature of Developer’s Engineer or Design Professional

- G. Elevations at a scale of one-quarter inch equals one foot for all exterior facades of the

proposed structure(s) and/or alterations to or expansions of existing facades, showing design features and indicating the type and color or materials to be used.

- H. Soil logs, test well, percolation test results, and/or stormwater runoff calculations.
- I. A detailed traffic study, upon request of the Planning Board, to include:
 - 1) The projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak hour traffic levels;
 - 2) The projected traffic flow pattern including vehicular movements at all major intersections likely to be affected by the proposed use of the site;
 - 3) The impact of this traffic upon existing abutting public and private ways in relation to existing road capacities. Existing and proposed daily and peak hour traffic levels and road capacity levels shall also be given.
- J. A schedule for completion of each construction phase for buildings, parking, and landscaped areas.
- K. Identification of any state or county permits required for the project and record of application for and approval status of such permits.

325-62.5 REVIEW CRITERIA

- A. **Standard Criteria.** The reviewing body shall consider the following, as applicable, when reviewing a site plan application.
 - 1) Conformance with this Chapter and the Town's Comprehensive Plan.
 - 2) Conformance with the Town of Manchester Site Design and Development Criteria.
 - 3) Adequacy and arrangement of vehicular traffic and circulation, including intersections, road widths, channelization structures and traffic controls.
 - 4) Adequacy and arrangement of pedestrian and bicyclist traffic access and circulation, including separation of pedestrians and bicyclists from vehicular traffic, walkway structures, control of intersections with vehicular traffic and pedestrian and bicyclist convenience.
 - 5) Relationship of proposed uses to existing adjacent uses, including but not limited to landscape transitions, buffering, and harmony of uses.
 - 6) Adequacy of landscaping and site treatment, including but not limited to plant types and sizes, hardscape elements, lighting, setbacks, protection of adjacent residential uses.
 - 7) Relationship of proposed buildings to the site, including but not limited to building placement, access, pedestrian movement, parking, and building scale.

- 8) Appropriateness of building design, including but not limited to design quality and relationship to surrounding building scale, style, materials, and sightlines.
 - 9) Location, arrangement, size, design and general site compatibility of all off-street parking areas, outdoor lighting, landscaping, and signs.
 - 10) Adequacy of interior circulation for emergency vehicle access.
 - 11) Adequacy of water supply, stormwater, and sanitary waste disposal facilities.
- B. Performance Standards.** In all districts, uses are not permitted which violate applicable county, state and/or federal codes and regulations pertaining to environmental issues as well as the performance standards of this Chapter (§325-50). The Planning Board, under its powers of site plan review and approval, shall decide whether uses meet these standards.

325-62.6 MODIFICATIONS TO SITE PLANS

- A. Required Changes.** The Planning Board may require changes or additions in relation to yards, driveways, landscaping, buffer zones, etc., to ensure safety, to minimize traffic difficulties and to safeguard adjacent properties. Modifications requiring a variance shall not be permitted without approval by the Zoning Board of Appeals. Should the Planning Board require changes or additional facilities, final approval of site plan shall be conditional upon satisfactory compliance by applicant in making the changes or additions.
- B. Applicant Proposed Changes.** Any applicant wishing to make changes in an approved site plan shall submit a revised site plan to the Planning Board for review and approval.

325-62.7 SITE PLAN TERMINATION

- A. Validity.** Site plan approval shall be valid for a period of one year from the date thereof for the purpose of obtaining building permits. Failure to secure, without subsequent revocation or termination, a building permit during this period, or revocation or termination of a building permit subsequent to this period, shall cause the Site Plan Approval to become null and void.
- B. Extension.** Upon application, the Planning Board may extend this period to not more than seven years from the date of final site plan approval.
- C. New Application.** Nothing herein shall prohibit a new application for site plan approval following such termination in accordance with the requirements of this Chapter.

ARTICLE 63 | NONCONFORMING USES

325-63.1 PURPOSE

This Article regulates and limits the continued existence of uses, structures, lots, and all accessory uses and structures established prior to the effective date of this Chapter that do not conform to the regulations set forth by this Chapter in the applicable zoning districts in which such nonconformities are located. Such nonconforming uses, buildings, or lots are subject with the regulations set forth in this Article for the purposes of the following:

- A. To permit these nonconformities to continue, but to minimize any adverse effect on adjoining properties and development.
- B. To regulate their maintenance and repair.
- C. To restrict their rebuilding if substantially destroyed.
- D. To require their permanent discontinuance if not operated for certain periods.
- E. To require the conformity if they are discontinued, and to bring about the eventual compliance with the objectives of the Comprehensive Plan and this Chapter.

325-63.2 GENERAL PROVISIONS

- A. **Determination of Nonconforming Status.** The determination of any nonconforming use shall be made by the CEO.
- B. **Repair and Alteration.** Normal maintenance and repair of, and incidental alteration to a building occupied by a nonconforming use are permitted if they do not extend or expand the nonconforming use. No structural alteration or enlargement shall be made in a building occupied by a nonconforming use, except where required by law, i.e., court ordered, or to adapt a building to a conforming use or to any other use permitted under Subsection C or in a building occupied by a nonconforming use permitted to extend under Subsection D.
- C. **Change of Use.** A nonconforming use may not be changed to a more intensive nonconforming use nor shall a conforming use be changed to a nonconforming use. Any nonconforming use when changed to a conforming use shall not thereafter be changed back to a nonconforming use. A nonconforming use, building, or structure shall not be enlarged except upon the issuance of a variance from the Zoning Board of Appeals.
- D. **Extension or Enlargement of Nonconforming Use.** Extension or enlargement shall mean:
 - 1) The enlargement of such building so as to create additional floor space or an increase in height.
 - 2) The extension within any existing building to any portion of the floor area not formerly used for such nonconforming use, except where such

additional floor area was manifestly designed for such use at the time such use became nonconforming.

- 3) The extension of the use to any area outside of the building.
- 4) In the case of a nonconforming, non-building land use, the use of any additional land on which no substantial operations were previously conducted, provided that any such extension or enlargement is on the same lot occupied by the nonconforming use on the effective date of this chapter.

E. Damage and Destruction. If a building occupied by a nonconforming use is damaged to the extent of fifty percent (50%) or less than its assessed valuation, excluding the full value of the land, as determined by the Town Assessor, such building may be repaired, provided that substantial work is undertaken within one year after such damage; otherwise, such building shall thereafter be occupied only by a conforming use and structure. This provision shall not prevent the repair of a nonconforming building damaged to the extent of more than 50% of its assessed valuation, provided that substantial work is undertaken within one year after such damage; otherwise, such building shall thereafter be occupied only by a conforming use and structure.

F. Discontinuance or Abandoning of Use.

- 1) A nonconforming use that has been discontinued for 12 consecutive months shall not be reestablished and any future use shall be in conformance with the provisions of this Chapter.
- 2) Where multiple uses exist, partial abandonment shall take place for those specific uses that meet the criteria of this section.
- 3) A use shall be considered discontinued or abandoned if one or more of the following apply:
 - i. Failure to occupy the property or continue the operation of the use;
 - ii. Failure to maintain any equipment, supplies, stock, or utilities that would be used for the active operation of the use; or
 - iii. Failure to maintain, or renew when expired, any valid federal, state, or local permit or license that is required for the active operation of the use.

G. Nonconforming Parking and Loading Facilities.

- 1) A building, use or occupancy lawfully existing at the time this chapter or any amendment thereto becomes effective, but which does not conform to the off-street parking and loading requirements, may be occupied or continued without such facilities being provided.
- 2) Any such spaces that may be provided thereafter shall comply with the requirements of Article 51 of this Chapter.
- 3) If an existing building, use or occupancy is altered so that there is an increase in the number of dwelling units, seating capacity, employees or floor area, or if the use is changed to one requiring more off-street parking

and loading spaces, the number of such spaces shall be provided at least equal to the number required for the increased area of the building or use in accordance with all provisions of Article 51 of this Chapter.

- H. **Nonconforming Lots.** No parcel or lot, after the adoption of this chapter or amendment thereto, shall be used or divided in a manner which prevents or diminishes compliance with the requirements established by this chapter or amendments thereto. Lots subdivided prior to the adoption of this chapter or any amendment and not meeting the minimum lot size requirements may be built upon, provided that the bulk requirements for any use within the district are met except as provided in Section 53.1.
- I. **Nonconforming Signs.** Nonconforming signs must comply with the requirements set forth in Section 52.18.

ARTICLE 64 | SPECIAL USE PERMITS

325-64.1 PURPOSE

The purpose of this section is regulate those uses that have some particular impact or unique characteristics which require a case-by-case review of their location design, configuration and impacts on the surrounding area. By requiring the individual review of special use permit applications, the reviewing body helps to determine the level of compatibility and desirability of a use in its proposed location.

325-64.2 APPLICABILITY

- A. **Permit Required.** A special use permit shall be required in accordance with the district use tables in Parts 2 and 3 of this Chapter, and as noted in Part 4.
- B. **Additional Use Regulations.** In addition to the general district and development requirements, specially permitted uses shall also conform to the requirements of Article 40, where applicable.
- C. **Preexisting Special Uses.**
 - 1) Any preexisting special use which was established prior to the enactment of this section, and which is permissible as a special use in the district where it is located, shall be considered a conforming use unless discontinued for one year or more. Special uses discontinued for one year or more require a special use permit approval, in accord with the provisions of this section.
 - 2) Preexisting special uses shall not be enlarged, relocated, extended or increased in intensity without a special use permit approval in accord with the provisions of this chapter. Any special use permits approved in accord with this subsection shall apply only to the additional activity of the preexisting special use.

325-64.3 REVIEW PROCEDURE

- A. **Application Processing.** All applications shall be processed, reviewed, and decided upon in accordance with Article 60 of this Chapter.
- B. **Authorized Review Body.** The Planning Board shall review and decide upon all special use permit applications.
- C. **Public Hearings.**
 - 1) A public hearing shall be required for all special use permit applications.
 - 2) All public hearings shall be duly noticed in accordance with Section 60.8, including newspaper, mail, and posted notices. Mailed notice shall be made to owners of all property within 500 feet of the property in question.

- D. **Coordinated Reviews.** Where site plan review is also required, the requirements of Article 62 shall also apply. Where applicable, duplicate application materials may be combined to satisfy submittal requirements. In the event that the special use permit is denied, the site plan decision shall be null and void.
- E. **County Referral.** County referral shall be required in accordance with Section 60.6.

325-64.4 APPLICATION REQUIREMENTS

The property or building owner, their agent, or lessee, purchaser or tenant with permission of the owner, may file special use permit applications. The special use permit application shall include:

- A. An application form, including the name, address, and signature of the applicant, property owner, and developer.
- B. A site plan denoting the location of the subject property and all structures thereon, as well as all property, uses, and structures within 300 feet of the proposed use.
- C. A description of the proposed use and nature of its operation, including:
 - 1) A business plan, vision, or model, and/or summary of products, goods, and services to be sold or provided;
 - 2) The proposed hours of operation;
 - 3) The number of employees at maximum shift;
 - 4) The maximum seat capacity;
 - 5) The timing and manner of any and all anticipated deliveries;
 - 6) A recycling and waste management plan; and
 - 7) The nature and type of all mechanical equipment provided and/or required.
- D. An interior floor plan, including, but not limited to, the arrangement of seats, kitchen and/or bar size and location, storage areas, and location of machines or other mechanical equipment.
- E. A profile of utilities and demand of services such as fire, police, water, sewer, roads, highway, and associated departments.
- F. A narrative describing how the proposed use will satisfy the special use permit review criteria.
- G. All SEQR Documentation as required by NYS Law.

325-64.5 REVIEW CRITERIA

In rendering a decision, the Planning Board shall consider and make findings that the proposed use:

- A. Will be generally consistent with the goals of the Comprehensive Plan;
- B. Meets any specific criteria set forth in this Chapter;
- C. Will be compatible with existing uses adjacent to and near the property;
- D. Will be in harmony with the general purpose of this Chapter;
- E. Will not tend to depreciate the value of the property or any adjacent property;
- F. Will not create a hazard to health, safety or the general welfare of the public;
- G. Will not alter the essential character of the district nor be detrimental to the neighborhood residents; and
- H. Will not otherwise be detrimental to the public convenience and welfare.

325-64.6 CONDITIONS ON SPECIAL USE PERMITS

The Planning Board may impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed special use permit and as may be necessary to prevent or minimize adverse effects upon other property in the neighborhood, including limitations on the time period for which the permit is granted.

325-64.7 RENEWAL OF SPECIAL USE PERMITS WITH SPECIFIC TIME PERIODS

- A. **Review Required.** Special use permits that have been issued for specific time periods are subject to review for compliance with all of the conditions imposed at the time of approval of the initial permit.
- B. **Denial.** Following a public hearing on the matter, the Planning Board may deny a renewal of a special use permit when any of the following apply:
 - 1) The petitioner has failed to comply with one or more of the conditions of the prior approval;
 - 2) Substantial new issues regarding the permit conditions during the operation of the use have arisen;
 - 3) The general requirements of this Chapter have not been met; or
 - 4) There are changes in the area or neighborhood that would be incompatible with the special use.

325-64.8 AUTHORIZATION, AMENDMENTS, AND EXPIRATION

A. Authorization.

- 1) A special use permit shall authorize only one particular special use as defined by the Planning Board upon approval, including any such conditions that may be imposed at the time of approval.
- 2) Special use permit approvals granted pursuant to this section shall run with the use and when the title is transferred unless such use is discontinued for a period of one year.

B. Amendments. Amendments or revisions to an approved special use permit shall require review and approval of a new special use permit in accordance with this Article.

C. Expiration of Special Use Permit. A special use permit shall expire if the special use permit activity is not commenced within one year of the date of approval. Extensions are subject to approval by the Planning Board only.

ARTICLE 65 | VARIANCES

325-65.1 APPLICABILITY

- A. **Authorized Review Body.** The Zoning Board of Appeals (ZBA) shall review and decide upon all variance applications.
- B. **Unauthorized Variances.** The variance procedures may not be used to:
 - 1) Waive, modify or otherwise vary any of the review and approval procedures of this article; or
 - 2) Waive, vary, modify or otherwise override a condition of approval or requirement imposed by another authorized board or commission.

325-65.2 REVIEW PROCESS

- A. **Application.** Applications shall be processed, reviewed, and decided upon in accordance with Article 60 of this Chapter.
- B. **Public Hearings.**
 - 1) A public hearing shall be required for all variance applications.
 - 2) All public hearings shall be duly noticed in accordance with Section 60.8, including newspaper, mail, and posted notices. Mailed notice shall be made to owners of all property within 500 feet of the property in question.
- C. **County Referral.** County referral shall be required in accordance with Section 60.6.

325-65.3 USE VARIANCES

A use variance authorizes the use of land for a purpose that is otherwise not allowed or prohibited by this Chapter.

- A. **Criteria for Use Variance.** No such use variance shall be granted by the ZBA without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, per NYS Town Law, the applicant shall demonstrate to the ZBA that for each and every permitted use under the zoning regulations for the particular district where the property is located the following conditions exist:
 - 1) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;
 - 2) The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
 - 3) The requested use variance, if granted, will not alter the essential character of the neighborhood; and

4) That the alleged hardship has not been self-created.

B. Minimum Relief Necessary. The ZBA, in the granting of use variances, shall grant the minimum variance that it shall deem necessary and adequate to address the unnecessary hardship proved 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.

325-65.4 AREA VARIANCES

An area variance authorizes the use of land that is not allowed by the dimensional or physical requirements set forth in this Chapter.

A. Criteria for Area Variance. In making its determination, the ZBA 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 the following as required by NYS Town Law:

- 1) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
- 2) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
- 3) Whether the requested area variance is substantial;
- 4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
- 5) 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.

B. Minimum Relief Necessary. The ZBA, in the 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.

325-65.5 IMPOSITION OF CONDITIONS

The ZBA shall, in the granting of both use variances and area variances, 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 conditions shall be consistent with the spirit and intent of the Town Code and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

325-65.6 TRANSFERABILITY

Zoning variance approval runs with the land and is not affected by changes of tenancy, ownership, or management.

325-65.7 AMENDMENTS

A request for changes in an approved variance must be processed as a new variance application, including the requirements for fees, notices, and hearings.

ARTICLE 66 | APPEALS OF ADMINISTRATIVE DECISIONS

325-66.1 RIGHT TO APPEAL

Appeals of administrative decisions may be filed by any person aggrieved by the CEO or other administrative official's decision or action. The ZBA is authorized to make determinations about whether individuals filing appeals are "aggrieved by the decision or action."

325-66.2 REVIEW PROCESS

- A. **Application Processing.** All applications shall be processed, reviewed, and decided upon in accordance with Article 60 of this Chapter.
- B. **Authorized Review Body.** The Zoning Board of Appeals (ZBA) is authorized to hear and decide appeals filed by any person aggrieved, or by an officer, department, board or bureau of the Town.
- C. **Public Hearings.**
 - 1) A public hearing shall be required for all appeals.
 - 2) All public hearings shall be duly noticed in accordance with Section 60.8, including newspaper, mail, and posted notices. Mailed notice shall be made to owners of all property within 500 feet of the property in question.
- D. **County Referral.** County referral shall be required in accordance with Section 60.6.
- A. **Issuance of Decision.**
 - 1) The ZBA may reverse or affirm, wholly or partly, or may modify the order, requirement, decision, interpretation or determination appealed from and shall make such order, requirement, decision, interpretation or determination as in its opinion ought to have been made in the matter by the administrative official charged with the enforcement of this Chapter.
 - 2) The ZBA shall have all the powers of the administrative official from whose order, requirement, decision, interpretation or determination the appeal is taken.

325-66.3 EFFECT OF FILING

The filing of an approved appeal stays all proceedings in furtherance of the action appealed, unless the CEO certifies to the ZBA, after the appeal is filed, that, because of facts stated in the certification, a stay would cause immediate peril to life or property.

ARTICLE 67 | REVIEW AND DECISION-MAKING BODIES

325-67.1 TOWN BOARD

- A. Establishment.** For the purpose of promoting the health, safety, morals, or the general welfare of the community, the Town Board is hereby empowered under NYS Town Law to regulate and administer the provisions of this Chapter.
- B. Powers and Duties.** The Town Board shall have all the powers and duties prescribed by NYS Town Law and this Chapter. The Town Board shall be responsible for final action regarding the following:
- 1) Amendments to the Zoning Map (re-zoning);
 - 2) Amendments to the text of this Chapter; and
 - 3) Planned Development Districts.

325-67.2 PLANNING BOARD

- A. Establishment.** The Planning Board is established under the provisions of NYS Town Law, and by this Article.
- B. Membership and Appropriations.**
- 1) The Planning Board shall consist of seven members appointed by the Supervisor subject to the approval of the Town Board of Trustees.
 - 2) The members of the Planning Board as now constituted shall continue in office until the expiration of their present terms. The terms of the appointees shall be seven years.
 - 3) Removal of members, alternates, and vacancies shall be addressed as provided for in the NYS Town Law.
 - 4) The Planning Board may employ clerks, experts, and secretaries as necessary, subject to appropriations made by the Town Board.
- C. Board Member Training.** Members of the board shall receive training each year to satisfy the requirements set forth in NYS Town Law.
- D. Meetings.**
- 1) The Planning Board shall adopt rules for the conduct of its business consistent with statute and this Chapter.
 - 2) The Chair of the Planning Board, or in the Chair's absence the Acting Chair, may administer oaths and compel the attendance of witnesses in the

manner and to the extent permitted by NYS Town Law and the Civil Practice Law and Rules.

- 3) The Planning Board may seek recommendations from other boards, commissions, or agencies as it deems appropriate.
 - 4) Hearings and meetings shall be public, and decisions shall be voted upon at public sessions. The Planning Board may otherwise hold executive sessions in accordance with the NYS Open Meeting Law.
- E. Minutes.** The duly designated secretary or clerk shall keep minutes of all proceedings before the Planning Board.
- F. Power and Duties.** The Planning Board shall have all the powers and duties prescribed by NYS Town Law, and by this Article.
- 1) Review Authority. The Planning Board shall be responsible for reviewing and making recommendations regarding the following:
 - i. Amendments to the Zoning Map (re-zoning);
 - ii. Amendments to the text of this Chapter; and
 - iii. Planned Development Districts.
 - 2) Final Authority. The Planning Board shall be responsible for final action regarding applications for the following:
 - i. Site Plan Review;
 - ii. Special Use Permits;
 - iii. Subdivisions, pursuant to Chapter 275 of Town Code.
 - 3) General Authority. The Planning Board may exercise additional powers as directed by the Town Board and as may be described elsewhere in this Chapter and as permitted by NYS Town Law.

325-67.3 ZONING BOARD OF APPEALS

- A. Establishment.** The Zoning Board of Appeals (ZBA) is established under the provisions of NYS Town Law, and by this Article.
- B. Membership and Appointments.**
- 1) The ZBA shall consist of five members to be appointed by the Supervisor subject to the approval of the Town Board of Trustees.
 - 2) The members of the ZBA as now constituted shall continue in office until the expiration of their present terms. Each successor shall be appointed for the term of five years.
 - 3) Removal of members, alternates, and vacancies shall be addressed as provided for in the NYS Town Law.

- 4) Town Board may appoint clerks, secretaries, or other employees serving at its pleasure to assist the ZBA.
- C. Board Member Training.** Members of the board shall receive training each year to satisfy the requirements set forth in NYS Town Law.
- D. Meetings.**
- 1) The ZBA shall adopt rules for the conduct of its business consistent with statute and this Chapter.
 - 2) The Chair of the ZBA, or in the Chair's absence the Acting Chair, may administer oaths and compel the attendance of witnesses in the manner and to the extent permitted by NYS Town Law and the Civil Practice Law and Rules.
 - 3) The ZBA may seek recommendations from the Planning Board and other agencies as it deems appropriate.
 - 4) Hearings shall be public, and decisions shall be voted upon at public sessions. The ZBA may otherwise hold executive sessions in accordance with the NYS Open Meeting Law.
 - 5) Every decision of the Board shall be by resolution, each of which shall contain a full record of the findings of the Board in the particular case.
- E. Minutes.** The duly designated secretary or clerk shall keep minutes of all proceedings before the ZBA.
- F. Voting.** The concurring vote of a majority of the members of the Board shall be necessary to reverse any order, requirement, decision or determination of the CEO or to decide in favor of the appellant on any matter upon which it is required to pass under the terms of this Chapter or to affect any variation of this Chapter, except in the case of re-hearing as authorized by the NYS Town Law Section 16-267-A.
- G. Powers and Duties.** The ZBA shall have all the powers and duties prescribed by NYS Town Law, and by this Article.
- 1) Final Authority. The ZBA shall be responsible for final action regarding the following:
 - i. Variances;
 - ii. Administrative appeals; and
 - iii. Interpretation of any provision of this Chapter.
 - 2) General Authority. The ZBA may exercise additional powers as directed by the Town Board and as may be described elsewhere in this Chapter and as permitted by NYS Law.

325-67.4 CODE ENFORCEMENT OFFICER (CEO)

- A. Administration.** The duty of administering and enforcing the provisions of this Chapter is hereby conferred upon the CEO, who shall have such powers as are conferred upon him/her by this Chapter and as reasonably may be implied therefrom. The CEO shall have such other and further duties as may be assigned by the Town Board pursuant to this Chapter or otherwise.
- B. Violations and Written Orders.** Where the CEO, in the course of his/her duties, determines that any plans, buildings or premises are in violation of the provisions of this Chapter, he/she shall order the responsible party in writing to remedy such conditions. Said written order shall comply with the provisions of this Chapter.
- C. Revocation of Permits.** On the serving of notice and failure to comply with the time limits specified in such notice by the CEO to the owner in any violation of any of the provisions of this Chapter, any permit(s) previously issued for such buildings or use shall be held null and void. A new permit(s) shall be required for any further use of such building or premises.
- D. Inspection and Review.** It shall be the duty of the CEO, or his/her duly authorized assistants, to cause any plans, buildings or premises to be examined or inspected to determine that they are not in violation of the provisions of this Chapter.
- E. Building Permits.** The CEO is hereby empowered to issue a building permit for any plans regarding the construction or alteration of any building or structures or part of any building, or the change in the use of any land or building or part thereof, where he/she shall determine that such plans are not in violation of the provisions of this Chapter and all other zoning approvals required by the Chapter have been obtained.
- F. Special Use Permits.** Upon written direction of the Planning Board, the CEO is hereby empowered to issue any special use permit provided for by this Chapter.
- G. Records.** The CEO shall maintain a permanent record of all matters considered and all action taken by him/her. Such records shall form a part of the records of his/her office and shall be compatible with Town Office records and available for the use of the Town Board and other officials of the Town. The records to be maintained shall include an individual permanent file for each application for a permit provided for by this Chapter, established at the time the application is made. Said file shall contain one copy of the application and all supporting documents, maps, and plans; notations regarding pertinent dates and fees, and the like; one copy of the decision of the reviewing board in acting on the application, as applicable; and the date the permit applied for was issued or denied by the Code Enforcement Officer.
- H. Stop Work Orders.**
 - 1)** Whenever the CEO has reasonable grounds to believe that work on any building, structure, or premises, irrespective of the zoning area, is being prosecuted in violation of the provisions of the Town Code, building codes, ordinances, rules or regulations, or not in conformity with the provisions of

an application, plans, or specifications on the basis of which a building permit was issued or in an unsafe and dangerous manner, notification shall be given to the owner of the property or the owner's agent to suspend all work. The CEO, Town Clerk, and Supervisor are authorized to provide such notification.

- 2) Any person, corporation, or agency issued a stop work order shall forthwith stop such work and suspend all building activities until the stop order has been rescinded.
- 3) The order and notice shall be in writing and shall state the conditions under which the work may be resumed.
- 4) The order and notice may be served upon a person or corporation to which it is directed whether by delivering it personally or by posting the same upon a conspicuous portion of the building under construction and sending a copy of the same by registered mail to the permittee or their designee.

I. Right of Entry.

- 1) The CEO and all his/her duly authorized assistants shall be entitled to enter any building or premises (which includes the internal premises such as basement, etc.) for the purpose of inspection, observation, measurement, testing and records examination in performing his/her duties set forth in this Chapter, and for the further purpose of ascertaining whether the provisions of this Chapter are being met and all requirements are being complied with.
- 2) Persons or occupants of premises to be entered shall allow the CEO and/or his/her assistants ready access at all reasonable times to all parts of the premises to carry out the actions specified herein.
- 3) The CEO or any of his/her duly authorized assistants seeking to enter private property pursuant to the provisions of this Chapter may enter such property on the consent of the owner or occupant. In the event such consent is denied or if said CEO or assistant determines that it is preferable to obtain a search warrant without first seeking such consent, said CEO or assistant shall be entitled to obtain a search warrant pursuant to the applicable provisions of law from a court of competent jurisdiction to compel the owner or occupant to permit immediate entry and inspection.
- 4) Notwithstanding the provisions contained in the immediately preceding paragraph, in the event an emergency situation exists, said CEO and/or assistants shall be entitled to immediately enter upon any private property for the purposes set forth in this Chapter either with or without a search warrant.

ARTICLE 68 | PLANNED DEVELOPMENT DISTRICTS

325-68.1 PURPOSE

- A. **Purpose.** The preservation of the distinctive environmental, and aesthetic character of the Town of Manchester is directly related to its economic vitality, stability of property values, and quality of life for residents. Occasionally on larger projects, conventional use, space, dimensional, and bulk requirements contained in the underlying zoning may not be the best standards to ensure new development achieves the goals states above. It is the purpose of this Article to provide flexible performance standards for zoning districts identified as having the potential for redevelopment and new development, and which are identified in this Article.
- B. **Intent.** The application of the planned development district review process is intended to achieve more creative land use and a higher quality of planning and a higher quality of site planning and design than can be accomplished through conventional zoning regulations.

325-68.2 APPLICABILITY

- A. **Approval Required.** Whenever any planned development district is proposed, before any building permits are granted and before any subdivision plat or any part thereof may be filed, the developer or their authorized agent shall apply for and secure approval of such planned development in accordance with this Article.
- B. **Eligibility.** To be eligible for the establishment of a planned development district under this Article, applicants must demonstrate the proposed project meets or exceeds two or more of the following criteria:
 - 1) The area of the proposed planned development district is no less than 60 contiguous acres.
 - 2) The project proposes an overall density and/or intensity of use which would not be permitted or required by the underlying zoning while also preserving more open land or providing more amenities to the community.
 - 3) The project proposes a use that is compatible with the surrounding context but is otherwise not permitted by the underlying zoning.
- C. **Relief from Conventional Zoning.**
 - 1) For projects deemed eligible, the reviewing body may waive zoning regulations that would ordinarily apply to a property where the applicant demonstrates relief from said regulations is necessary to meet the purposes described herein.

- 2) This Article is not intended to arbitrarily dispense with underlying zoning regulations, rather grant the minimum relief necessary to achieve the objectives of this Article.

325-68.3 REVIEW PROCEDURE

- A. Application Processing.** All applications shall be submitted, processed, and reviewed in accordance with Article 60 of this Chapter.
- B. Public Hearings.**
 - 1) A public hearing shall be required for all planned development applications.
 - 2) All public hearings shall be duly noticed in accordance with Section 60.8, including newspaper, mail, and posted notices. Mailed notice shall be made to owners of all property within 500 feet of the property in question.
- C. Coordinated Reviews.** The following reviews shall be conducted concurrently as provided herein. Where applicable, duplicate application materials may be combined to satisfy submittal requirements.
 - 1) Subdivision. Subdivision review is required of all planned developments in accordance with Chapter 275 of the Town Code. In the event that the planned development application is denied, the subdivision plat shall be null and void.
 - 2) Site Plan Review. Planned development applications shall also include site plan review in accordance with Article 62. In the event that the planned development application is denied, the site plan shall be null and void.
 - 3) Zoning Law Amendment. Planned development applications shall also be considered zoning law amendments subject to the requirements of Article 61.
- D. County Referral.** County referral shall be required in accordance with Section 60.6.
- E. Planning Board Review and Recommendation.** The Planning Board shall conduct a review of the planned development application and provide a recommendation of decision to the Town Board.
- F. Town Board Review and Decision.**
 - 1) Upon receipt of a recommendation from the Planning Board, the Town Board shall consider such planned development application as an amendment provided by Article 61 of this Chapter.
 - 2) If the Town Board approves the planned development application, the zoning map and text shall so be amended and filed in accordance with Article 61 of this Chapter. The approved subdivision and site plan shall also be filed with the Ontario County Clerk.

325-68.4 APPLICATION REQUIREMENTS

- A. Site Plan.** All planned development applications shall include the required site plan review application materials as noted in Article 62.
- B. Subdivision.** All planned development applications shall include the required subdivision application materials as noted in Chapter 275 of the Town Code.
- C. Additional.** Planned development applications shall also include:
 - 1) Documentation that the applicant's particular mix of land uses meets current community demands and the Town's Comprehensive Plan.
 - 2) Description of the manner in which any areas that are not to become publicly owned are to be maintained, including open space, streets, lighting and others, according to the proposals.
 - 3) A description of any covenants, grants of easements or other restrictions proposed to be imposed upon the use of the land, buildings or structures, including proposed easements for public utilities.
 - 4) Profiles of proposed streets at suitable vertical scale showing finished grades in relation to existing ground elevation.

325-68.5 REVIEW CRITERIA

- A. Site Plan.** All site plan elements of a planned development application shall be considered under the review criteria of Article 62.
- B. Subdivision.** The associated subdivision plat of a planned development application shall be considered under the criteria of Chapter 275 of the Town Code.
- C. Zoning Amendment.** All planned development applications shall also be subject to the review criteria of Article 61.

325-68.6 PLANNED DEVELOPMENT STANDARDS

- A.** The standards for planned development districts are to provide the reviewing body with a means to evaluate applications for these districts consistent with the provisions and general intent of this chapter and the Town of Manchester Comprehensive Plan.
- B.** All planned developments shall be in conformance with the Town of Manchester Site Design and Development Criteria.
- C.** Where applicable, the practice of clustering is encouraged for planned development districts. Clustered projects shall be in conformance with the provisions of Chapter 275 (Subdivision of Land) of the Town of Manchester Code.
- D.** The use, building, and lot requirements of this Chapter (Parts 2, 3, and 4) shall apply to planned development districts, unless otherwise recommended by the Planning Board in

their advisory review and ultimately approved by the Town Board in their final decision.

- E.** The development standards of this Chapter (Part 5) shall apply to all planned development districts, unless otherwise recommended by the Planning Board in their advisory review and ultimately approved by the Town Board in their final decision.

325-68.7 LETTER OF CREDIT

- A.** The applicant and the owner of record of the premises may be required to execute and file with the Town Clerk of the Town of Manchester a letter of credit acceptable to the Town Attorney as to form and manner of execution in an amount sufficient for the faithful performance of the terms and conditions of this Section, the conditions of the permit or approval issued hereunder, for the observation of all Town local laws or ordinances to cover the maintenance of the equipment during its lifetime, and provide for its removal and restoration of the site to its original condition.
- B.** The amount required shall be determined by the Town Engineer and shall be not less than 150% of the cost of improvements, and shall be reviewed and adjusted at five-year intervals.
- C.** In the event of default upon the performance of any such conditions, the letter of credit or security shall be forfeited to the Town of Manchester, which shall be entitled to maintain an action thereon.
- D.** The letter of credit or security shall remain in full force and effect until the completion of all construction, development, and site improvements as approved.

325-68.8 APPROVAL NOT GUARANTEED

The fact that an application complies with all of the specific requirements set forth herein shall not be deemed to indicate the proposed development would result in a more efficient and desirable development than could be accomplished by the use of conventional zoning categories or than would result in compatibility with the surrounding development; nor shall such compliance, by itself, be sufficient to require the approval of the site plan or the granting of the zoning amendment to create a planned development district.

TOWN OF MANCHESTER

CHAPTER 325. ZONING CODE

PART 7 | TERMINOLOGY

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ARTICLE 70 | GENERAL TERMS

325-70.1 WORD USAGE AND INTERPRETATION

Except where specifically defined herein, all words used in this chapter shall carry their customary meanings. Words used in the present tense shall include the future tense, and the plural includes the singular, unless the natural construction of the term indicates otherwise.

- A. The term "person" includes a firm, association, organization, partnership, trust, company, corporation, individual, or any other legally established entity.
- B. The term "shall" is mandatory and directory.
- C. The term "may" is permissive.
- D. The term "used" includes the terms "designated, intended or arranged to be used or occupied."
- E. The term "lot" includes the words "plot," "parcel," "tract," or "site."
- F. The term "buildings" includes the word "structure."
- G. The word "premises" includes a lot and all buildings or structures thereon.
- H. The phrases "to erect," "to construct" and "to build" a building or structure each have the same meaning and also include "to excavate" for a building and "to relocate" a building by moving it from one location to another.
- I. Unless otherwise specified, all distances shall be measured horizontally along the ground.

325-70.2 DEFINITIONS

For the purpose of this chapter, the following words and terms shall be defined as follows. Other terms and phrases not specifically defined in this section but defined in the New York State Uniform Fire Prevention and Building Code applicable to general building construction shall have the meanings ascribed therein. All other words not specifically defined and used in this chapter shall carry their customary meanings.

Aa

ABANDONMENT — To stop the use of property. When the use of a property has ceased and the property has been vacant for 12 months, abandonment of use will be presumed unless the owner can show that a diligent effort has been made to sell, rent, or use the property for a legally permissible use.

ACCESSORY USES OR STRUCTURES — Those uses or structures which are clearly subordinate to the principal use of a building located on the same lot and which serve a purpose customarily incidental to the use in conformance with the style, type, and finish of the principal structure.

ACTION — Any project or physical activity, such as construction or other activity that may affect the environment by changing the use, appearance or condition of any natural resource or structure, that requires a permit or approval from any board or official of the Town of Manchester.

ADDITION — An extension or increase in area or height of a building.

ADJACENT — Having a common boundary or edge; abutting; touching.

ADULT CARE FACILITY — An adult care facility is a building established and operated for the purpose of providing long-term, supportive residential care, room, board, housekeeping, personal care and supervision to three or more elderly people and non-elderly adults with disabilities that are unrelated to the operator. The term shall not be applied to owner-occupied premises with one or two roomers.

ADULT USE AND ENTERTAINMENT — The term “adult use and entertainment” and related terms shall be as defined and regulated in Chapter 101 (Adult Entertainment) of the Town of Manchester Code.

AGRI-BUSINESS — Any business catering exclusively to agricultural production, which may include, but is not limited to, supplying services or goods (such as feed or supplies) to producers of marketable agricultural products like greenhouses, nurseries, and farm cooperatives.

AGRI-TOURISM — An agriculturally based operation or activity that brings public to a working farm for the purpose of enjoyment, education, or active involvement in the farm operation.

AGRICULTURAL OPERATION OR USE — The use of land, buildings, structures, 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 or a hobby, and including greenhouse, nursery, timber operations, compost, mulch, or other organic biomass crops, beekeeping, commercial horse boarding/equine operations, and other agricultural uses as defined in NYS Agriculture and Markets Law Article 25-AA, Section 301.

AGRICULTURAL AND FOOD PROCESSING OR PACKAGING PLANTS — Facilities which transform and process livestock and agricultural products into products for eventual consumption and package the processed goods for distribution to wholesalers or retailers.

AGRICULTURAL WASTE MANAGEMENT FACILITY — A facility constructed as an accessory use to an agricultural operation, riding stable, or kennel, intended to collect, hold, process, store, treat, or distribute solid and liquid waste from mature animals. Included within this definition are storage tanks, lagoons, seepage pits, drains, and collection systems intended to handle animal waste solids and food processing of 10,000 gallons or more. Not included within this definition are systems designed and constructed to handle human waste.

AIRPORT — An area of land or water which is used or intended to be used for the landing and takeoff of aircraft; any appurtenant areas used or intended to be used for airport buildings or other airport facilities or rights-of-way; and all other airport buildings and facilities located thereon.

ALLEY — A thoroughfare not more than 20 feet wide which affords only a secondary means of access to abutting property.

ALTERATION — Any change, rearrangement or addition to or removal from a building or facade other than repairs and modification in building equipment systems (i.e. heating, cooling, electrical, etc.).

ALTERATION, STRUCTURAL — Any change in the supporting members of a building or structure, such as bearing walls, columns, beams, or girders; provided, however, that the application of any exterior siding to an existing building for the purpose of beautifying and modernizing shall not be considered a structural alteration.

ANIMAL — Any vertebrate member of the animal kingdom, excluding man.

ANIMALS, DOMESTICATED — Animals accustomed to living in or about the habitation of man, including, but not limited to, cats and dogs.

ANIMALS, LARGE — Any animal that customarily is raised for profit on farms such as cattle, horses, ponies, sheep, goats, pigs, llamas, alpacas, mules and other mammals customarily kept in pastures, corrals or stables.

ANIMALS, SMALL — Any animal weighing 20 pounds or less except domesticated animals as defined herein. It shall include rabbits, poultry, pigeons or any fur-bearing animals such as fox and mink.

ANIMAL HOSPITAL — An establishment operated by a licensed veterinarian solely for the practice of veterinary medicine.

ANTENNA — Any device or equipment of any nature or kind, the primary purpose of which is used to transmit and/or receive radio or electromagnetic waves, including but not limited to directional antennas, such as panels and microwave dishes and omnidirectional antennas, such as whip antennas. Such waves shall include cellular, paging and personal communication services (PCS).

APARTMENT — A dwelling unit in a multiple-family dwelling or mixed occupancy building.

APPEAL — A request by an interested party for reconsideration of a decision.

APPLICANT — A person filing an application in accordance with this Zoning Code who is:

- A. The owner or lessee of property;
- B. A party who has contracted to purchase property contingent upon that party's ability to acquire the necessary approvals required for that action in accordance with this Zoning Code, and who presents written authorization from the property owner to file an application with the Town; or
- C. The agent of either of the above who presents written authorization from the property owner to file an application with the Town.

APPROVAL — Favorable decision to an application that indicates acceptance and the terms of the application are satisfactory. Includes both approval and approval with conditions.

ARCHITECTURAL FEATURE — Any portion of the outer surface of a structure, including the kind, color and texture of the building material, the type and style of all windows, doors, lights, walls, fences, awnings, canopies, screens, sculptures, decoration, roof shape and materials, and other fixtures appurtenant to a structure. Also referred to as, "architectural detail."

AUTOMOTIVE SALES — The sales or leasing of new or used automobiles, motorcycles, trucks, and recreational vehicles, which includes storage and any incidental maintenance.

AUTOMOTIVE SERVICE OR REPAIR SHOP — Establishments used or intended for use of one or any combination of the following activities. Vehicle dismantling for the resale of salvaged parts, including tires, is not included in this definition (see Junkyard).

- A. Retail selling and installing of liquids, coolants, or lubricants where substantial disassembly is not required.
- B. Engine tune-ups, body work, frame straightening, painting, electrical work, transmission repair, or any other repair services not specifically listed.

AWNING — A permanent or retractable overhanging shelter which projects from the face of, and is completely supported by, a building.

Bb

BANDSHELL OR OUTDOOR THEATER — An open-air venue used for entertainment and performances typically in the shape of a semicircular plan.

BASE FLOOD — The flood having a one-percent chance of being equaled or exceeded in any one given year. For purposes of this Chapter, "base flood" shall have the same meaning as the one-hundred-year flood.

BASEMENT — That space of a building that is below grade that has more than half of its height, measured from floor to ceiling, below the average established curb level or finished grade of the ground adjoining the building.

BED AND BREAKFAST — An owner-occupied residence wherein lodging and meals are provided to transient guests for compensation.

BEDROOM OR SLEEPING ROOM — A fully enclosed portion of a building designed or intended to be used for sleeping purposes, excluding bathroom, closets, hallways, and service porches.

BERM — A person-made earthen mound (usually from two to six feet in height) designed to provide visual interest on a site, screen undesirable views, reduce noise, or fulfill other such purposes.

BLOCK — The length of a street between two intersections or to the termination of the street in the event that there is only one intersection along such street segment.

BOTANICAL GARDEN, ARBORETUM, OR CONSERVATORY — A place, generally open to the public for a fee, where a wide variety of plants are cultivated for scientific, educational, or ornamental purposes.

BREWERY — An enclosed building for the manufacture, processing, bottling, and packaging of malt liquors, such as beer, ale, or ciders, but not to include distilled liquors, and duly licensed by the NYS Liquor Authority. For the purposes of this Chapter, this shall include operations which include tasting rooms.

BUFFER — A unit of land, together with a specified type and amount of planting thereon, which may be required to eliminate or minimize conflicts between land uses.

BUILDING — A structure wholly or partially enclosed within exterior walls, or within exterior and party walls, and a roof, affording shelter to persons, animals or property.

BUILDING CODE — The New York State Uniform Fire Prevention and Building Code.

BUILDING HEIGHT — The vertical distance measured from the average elevation of the existing grade at the front of the building to the highest point of the roof for flat or mansard roofs and to the average height of pitched, gable, hip and gambrel roofs.

BUILDING LINE, FRONT — The line of that face of the building nearest the street line. This face includes covered porches, whether enclosed or unenclosed, but does not include steps. If there are street lines on two or more sides of the building (e.g. corner lots), the building shall be considered to have two front building lines.

BUILDING PERMIT — A permit issued by the Code Enforcement Officer or other Building Official to enable the construction or alteration of a building to begin. The permit shall only be issued after the proper documentation and information have been submitted and necessary approvals have been granted.

BULK — The size and scale of buildings and non-building uses and the physical relationship of their size and scale in relation to the lot on which they are located. Bulk requirements include building height, building footprint, and lot coverage.

Cc

CALIPER — A horticultural method of measuring the diameter of nursery stock for trees less than four inches in diameter, the measurement should be taken at six inches above ground level. For trees greater than four inches in diameter up to and including 12 inches, the caliper measurement must be taken at 12 inches above the ground level. For trees greater than 12 inches in diameter, the trunk is measured at breast height (diameter at breast height or DBH), which is 4.5 feet above the ground.

CAMOUFLAGE — The construction of facilities to house or support a telecommunications tower or tower colored in such a way that readily blends with the landscape, sky and neighborhood and adjacent architectural features. Examples of camouflaging are silo and barn or simulated tree.

CAMPGROUND — A parcel of land used or intended to be used, let or rented for transient, vacation, and recreational occupancy by travel trailers, campers, tents, recreational vehicles, motor homes and the motor vehicles propelling or carrying the same, but excluding mobile homes designed for year-round occupancy or as a place of residence.

CANOPY — Any permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of a building, generally designed and constructed to provide protection from the weather. The term "canopy" shall not include the term "marquee."

CAR WASH — Any building or premises, or portion thereof, where the use of which is devoted to the business of washing automobiles for a fee, whether by automated cleaning devices or otherwise.

CARPORT — An open-sided roofed automobile shelter, either freestanding or formed by extension of a roof from the side of a building, in which case it shall be deemed part of the structure to which it is attached. In either case, a carport shall not be deemed a garage.

CEMETERY — Land used or intended to be used for the burial of the animal or human dead and dedicated for cemetery purposes, including crematories, mausoleums, and columbaria.

CERTIFICATE OF COMPLIANCE — A certificate issued by the Code Enforcement Officer upon completion of the change in use of an existing building or of a parcel of land with no buildings. Said certificate shall acknowledge compliance with all requirements of this chapter.

CERTIFICATE OF OCCUPANCY — A certificate issued by the Building Inspector upon completion of construction or alteration of a building. Said certificate shall acknowledge compliance with all of the requirements of the Uniform Code.

CODE ENFORCEMENT OFFICER OR "CEO" — The administrative officer appointed from time to time as provided under the Civil Service Law of the State of New York, currently classified as Building Inspector III, charged with the responsibility of this chapter as well as other provisions of the Manchester Town Code.

CO-LOCATION — The use of a telecommunication tower by more than one carrier.

COMMERCIAL USE — The purchase, sale, or transaction involving the disposition of any article, substance, commodity, or service; the maintenance or conduct of offices, professions, or recreational or amusement enterprises conducted for profit and also including renting of rooms, business offices, and sales display rooms and premises.

COMMUNITY CENTER — A meeting hall or place of assembly intended for use for recreational programming and a gathering place for residents of the Town.

COMPATIBLE —

- A. Having a pleasing or congruent arrangement of elements in the design and/or appearance between two or more attributes of a structure;
- B. Having a pleasing or congruent arrangement of elements in the design and/or appearance between two or more structures;
- C. Having a pleasing or congruent arrangement of elements in the use or function between two or more attributes of a neighborhood or area.

CONIFEROUS — A plant with foliage that persists and remains green year-round. Also known as “evergreen.”

CONTRACTOR OR BUILDING MATERIAL STORAGE YARD — Any parcel of land used for storage, maintenance or processing incidental to a construction or building business, hauling, excavation, demolition or similar activity and including any parcel of land used for the incidental repair of machinery used for any of the above listed activities.

CORNICE — Any horizontal decorative molding that crowns a building, such as the top edge of a façade or over an external door or window.

CORRAL — The primary enclosure for confining livestock.

COUNTY PLANNING BOARD — The Planning Board of the County of Ontario.

CULTURAL FACILITY — A use that is open to the public and provides cultural services and facilities including, but not limited to, libraries, museums, aquariums, zoos, botanical gardens, and historical societies.

CURB — A stone or concrete boundary usually marking the edge of a roadway or paved area.

Dd

DANCE, ART, PHOTO, OR MUSIC STUDIO — Establishments or work space dedicated to artists, artisans, musicians, dancers, or other individuals practicing or teaching one of the fine or performing arts or skilled in an applied art or craft. Incidental retail sales of work produced on the premises or related to the studio may be included in the business's permitted function. This definition excludes all adult oriented uses.

DAY CARE, ADULT — The provision of care to individuals over the age of 18 for periods less than twenty-four (24) consecutive hours, but not including educational institutions, provided that such day care conforms to all applicable licensing and/or registration requirements of New York State.

DAY CARE, YOUTH — Any program or facility caring for children for more than three hours per day per child in which child day care is provided by a licensed child day care provider except those programs operating as a school-age child care program as defined by §390 of the Social Services Law of the State of New York. (Ref: NYS Social Services Law)

DECIBEL (DB) — A unit of measurement of the intensity (loudness) of sound. Sound level meters which are employed to measure intensity of sound are calibrated in decibels.

DECIDUOUS — A plant with foliage that is shed annually.

DENSITY — A unit of measurement; "density" means the number of dwelling units per acre of land.

DEPARTMENT OF HEALTH — The New York State Department of Health and any other health board or department established pursuant to the laws of the State of New York and having authority for the regulation of matters pertaining to the public health of the Town.

DETENTION POND — An area designed by a licensed professional and approved by the Town that is designed to capture specific quantities of stormwater, to gradually release the stormwater at a sufficiently slow rate to avert flooding, and to improve local water quality.

DEVELOPMENT — Any person-made changes to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, excluding normal maintenance of farm roads and agricultural practices.

DIGITAL SIGN — Any computer-programmable sign capable of displaying words, symbols, figures or graphic images that can be altered or rearranged by remote or automatic means without altering the face or surface of the sign. Typically, these signs utilize LEDs (or light-emitting diodes) or plasma or LCD technology to produce the character and graphics of the display.

DISTILLERY — An enclosed building for the manufacture, processing, bottling, and packaging of distilled liquors, such as vodka, gin, whiskey, or tequila, duly licensed by the NYS Liquor Authority. For the purposes of this Chapter, that shall include operations that may include tasting rooms.

DISTRICT — A portion of the incorporated area of the municipality within which certain regulations and requirements or various combinations thereof apply under the provisions of this chapter.

DRAINAGE SYSTEM — A system for the removal of water from land by drains, grading or other appropriate means. These techniques may include runoff controls to minimize erosion and sedimentation during and after construction or development, the means for preserving surface and groundwaters, and the prevention and/or alleviation of flooding.

DRINKING ESTABLISHMENT — An establishment serving alcoholic beverages for on-site consumption as the principal use, including bars, cocktail lounges, pubs, saloons, and taverns.

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

DRIVEWAY — A roadway providing a means of access from a street to a property or off-street parking area. An accessway may also be deemed a "driveway."

DRY CLEANING OUTLETS — Facilities that provide drop-off and pickup of garments and other textile items for dry cleaning services off-site. (Actual dry-cleaning services are not performed on site.) Dry cleaning outlets do not include any coin-operated facilities.

DRY CLEANING PLANT — Facilities which provide on-site specialty cleaning services for specific garments and textile items.

DUST — Fine, dry, pulverized particles of any material or a fine powder of any kind.

DWELLING — A detached building designed or used exclusively as living quarters for one or more persons or families; the term shall not be deemed to include motel, hotel, boarding or rooming house, recreation vehicle, tourist home or tent.

DWELLING, MULTI-FAMILY — A building designed or used as living quarters by three or more families living independently of each other within the same lot. May include apartment buildings, townhouses, or row houses.

DWELLING, MULTI-FAMILY DEVELOPMENT — A series of multiple-family dwellings designed and built as an integrated development with a common architectural style. Also referred to as a "multi-family complex."

DWELLING, SINGLE-FAMILY — A building designed or used as living quarters by one family. A manufactured home that is affixed to a permanent foundation and conforms with the development specifications and standards applicable to conventional, site-built single-family dwellings in the district in which the manufactured home is to be sited, shall be deemed to be a conforming single-family dwelling for purposes of this Chapter.

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

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

DWELLING, SINGLE-FAMILY SEMI-DETACHED — A single-family house having one party wall and one side yard and located on a separate lot from the dwelling to which it is attached.

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

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

DWELLING UNIT, UPPER FLOOR — A dwelling unit located within a mixed-use or multi-story building on any floor other than the ground floor.

Ee

EASEMENT — Any authorization by a property owner for the permanent use by another, for a specified purpose, of any designated portion of a lot.

EATING ESTABLISHMENT — See "restaurant."

EAVE — The projecting lower edges of a roof overhanging the wall of a building.

EDUCATIONAL INSTITUTION — Parochial, nursery, private and public school, college, university and accessory uses operated under the Education Law of the State of New York and governed by the NYS Department of Education and shall exclude commercially operated schools of beauty, culture, business, dancing, driving, music and similar establishments which are not so governed.

ESSENTIAL SERVICES — The erection, construction, alteration or maintenance by public utilities or Town or other governmental agencies of underground or overhead gas, electrical or water transmission or distribution systems, including poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith reasonably necessary for the furnishing of adequate service by such public utilities or Town or other governmental agencies or for the public health or safety or general welfare, but not including buildings.

ESTABLISHMENT — An economic unit where business is conducted or services or industrial operations are performed.

EXCAVATION — The process of the removal of sand, gravel, stone, soil (including topsoil) or other natural deposits by stripping, digging or other means.

EXTERIOR FURNACE — Any device, contrivance or apparatus or any part thereof which is installed, affixed or situated out-of-doors for the primary purpose of the combustion of fuel from which heat or energy is derived and intended to be directed therefrom by conduit or other mechanism into any interior space for the supply of heat or energy.

Ff

FAMILY — Two or more individuals related by blood, marriage, operation of law, or adoption, or any number of individuals not related by blood, marriage or adoption living, sleeping, cooking and eating on the same premises and maintaining a common household unit.

FARM ANIMAL — Any ungulate, poultry, species of cattle, sheep, swine, goats, llamas, horses or fur-bearing animals, as defined in NYS Environmental Conservation Law which are raised for commercial or subsistence purposes. Fur-bearing animal shall not include dogs or cats.

FARM WORKER HOUSING — A property consisting of a tract of land and all tents, vehicles, buildings, or other structure pertaining thereto, any part of which may be occupied by persons employed as workers in farm activities who are provided with sleeping facilities, in whole or in part, by the owner, lessee, or operator thereof, with or without stipulated agreement as to the duration of their stay, whether or not they are supplied with meals but who are supplied with such services or facilities as are necessary for their use of such property.

FARM STAND — A temporary structure not permanently affixed to the ground and is readily removable in its entirety, which is used solely for the display or sale of farm products produced on the premises upon which such roadside stand is located. A farm stand shall not be enclosed on all four sides.

FENCE — A constructed vertical structure, barrier, or partition of any material or combination of materials permitted herein, including hedges, shrubs, or other natural growth, erected to enclose, screen, or separate outdoor areas, and which has no roof or overhead covering. The provisions of §325-40.18 of this Chapter shall apply to all fences within the Town of Manchester.

FILLING — The depositing of fill on land, whether submerged or not, including nonhazardous earth, clay, sand, or gravel.

FLOOD or FLOODING — A general and temporary condition of partial or complete inundation of normally dry land areas from:

- A. The overflow of inland waters.
- B. The unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM) — An official map published by the Federal Emergency Management Agency as part of a Flood Insurance Study. The "FBFM" delineates a regulatory floodway along watercourses studied in detail in the Flood Insurance Study.

FLOOD HAZARD BOUNDARY MAP (FHBM) — An official map issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined but no water surface elevation is provided.

FLOOD INSURANCE RATE MAP (FIRM) — The official map on which the Federal Insurance Administration has delineated both the areas of special flood hazard and the risk premium zones applicable to the Town.

FLOOD INSURANCE STUDY — The official report in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Hazard Boundary and Floodway Map and the water surface elevation of the base flood.

FLOODPLAIN OR SPECIAL FLOOD HAZARD AREA — The area that will be inundated by the flood event having a 1-percent chance of being equaled or exceeded in any given year. The 1-percent annual chance flood is also referred to as the base flood or 100-year flood.

FLOOD-PROOFING — Any combination of structural and nonstructural additions, changes or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOODWAY — The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation of the base flood.

FLOOR AREA — The sum of the horizontal area of the floors of a building and its accessory buildings on the same lot, excluding unfinished basements or floor areas not devoted to habitable use, but including the area of roofed porches and roofed terraces. All dimensions shall be measured between interior faces of walls.

FLOOR AREA, MINIMUM — That area computed for the floors in the dwelling above the lot grade line. The second floor in each case qualifying for living quarters shall have access thereto by a permanent built-in stairway. "Minimum net floor area for living quarters" excludes rooms for garage purposes, outside vestibules, and open or closed porches or verandas. "Living quarters" means that portion of the building that is constructed with ceilings and walls finished on the inside in accordance with the Building Code.

FLOOR AREA, GROSS — The sum of the gross horizontal areas of several floors of a building or buildings, measured from the inside faces of exterior walls or from the centerline of walls separating two uses. For the purpose of applying the requirements for off-street parking and loading in the case of offices, merchandising or service types of uses, "gross floor area" shall not include areas used principally for nonpublic purposes, such as storage, restroom, fitting or alteration rooms or general maintenance, or enclosed pedestrian malls or corridors.

FLOOR AREA, HABITABLE — The floor area of rooms in a dwelling unit used for bedrooms, living rooms, dining rooms and kitchens.

FOOTCANDLE — A measure of illumination on a surface that is everywhere one foot from a uniform point source of light of one candle and equal to one lumen per square foot.

FRONTAGE — The extent of a building or a lot along one public or private street as defined herein.

FUNERAL HOME — A building used for the preparation of the deceased for cremation or burial and the display of the deceased and ceremonies connected therewith before burial or cremation. This shall not include crematory facilities.

Gg

GARAGE, LAWN, YARD, OR RUMMAGE SALE — A sale of used household or personal articles (as furniture, tools, or clothing) held on the seller's own premises.

GARAGE, ATTACHED — A garage having a common wall or a portion thereof with a principal residential building and used for the storage of motor vehicles, boats or trailers and in which no home occupation, business or service for profit is maintained.

GARAGE, PRIVATE — An enclosed space for the storage of motor vehicles, provided that no business, occupation or service is conducted for profit therein.

GARAGE, DETACHED — A building used as an accessory use to a principal residential building for the storage of motor vehicles, boats or trailers and in which no home occupation, business or service for profit is maintained.

GASOLINE STATION — Any building or land or any part thereof used for sale of motor fuel, oil and motor vehicle accessories and which may include a food store or mart and facilities for fueling, charging, lubricating, washing or servicing vehicles, but not including painting or body repairs. Includes facilities not selling gasoline but specializing in oil and other automobile fluid changes.

GOLF COURSE — A recreation facility consisting of at least nine holes, each with tee, green, and fairway, located on a parcel of land containing at least 25 acres, as distinguished from golf driving ranges and miniature golf.

GRADE — The elevation established for the purposes of regulating the number of stories and the height of buildings. Grade shall be the mean level of the finished surface of the ground adjacent to the exterior walls of the buildings.

GRADE, FINISHED — The elevation of the surface of the ground adjoining the building at the completion of a project regulated by this Zoning Code. Height measurements shall be based from the "finished grade." Where the finished grade is below the level of the existing grade, the existing grade shall be used for this purpose.

GRADE, STREET — The officially established grade of the street upon which a lot fronts. If there is no officially established grade, the existing grade of the street shall be taken as the street grade.

GREEN SPACE — Retained mature vegetation as well as landscaped areas, excluding stormwater management facilities.

GUN RANGE — Any facility used for discharging any firearm at a target, either fixed or moving.

GYM OR HEALTH CLUB — An establishment providing indoor recreation or instruction to patrons for health, exercise, or educational purposes.

Hh

HAMLET — An existing unique settlement area, delineated and zoned as predominately residential that accommodates development in a more compact form.

HAZARDOUS MATERIAL — Any substance that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. The term includes, but is not limited to, hazardous substances and hazardous wastes.

HEDGE — Any group of shrubs planted in line or in groups that forms a compact, dense, living barrier that protects, shields, separates, or demarcates an area from view.

HEIGHT LIMIT — A vertical distance fixed in certain districts contained herein and measured from the average ground level at the base of the structure.

HOME OCCUPATION, RESIDENTIAL — An accessory nonresidential use conducted within or administered from a portion of a permitted dwelling or its accessory building that only includes uses that are clearly secondary to the principal residential use and is otherwise compliant with the applicable regulations of this Chapter (see Section 40.20 for home occupation requirements). Single sales events such as garage sales, yard sales, and other similar sales are not considered a home occupation for the purposes of this Chapter.

HOME OCCUPATION, AGRICULTURAL — A secondary nonresidential use conducted for gain or profit within a structure on an agricultural property and is otherwise compliant with the applicable regulations of this Chapter (see Section 40.20 for home occupation requirements). Single sales events such as garage sales, yard sales, and other similar sales are not considered a home occupation for the purposes of this Chapter.

HOSPITAL — Any facility, structure or place for diagnosis and treatment of human illnesses, injuries, or ailments by a licensed health care professional where inpatient treatment may also be provided.

Ii

IMPERVIOUS SURFACE — A structure or surface with a low capacity for infiltration, including but not limited to buildings and roofed areas, structures, parking areas, loading areas, driveways, roads, sidewalks, and any areas of concrete, asphalt, or significantly compacted material which prevents water from absorption.

IMPROVEMENT — Any building, structure, bridge, work of art, area, parking facility, public facility, utility, fence, gate, wall, landscaping, or other object constituting a physical addition to real property or any part of such addition.

INDUSTRIAL — Activity including resource extraction, manufacturing, processing, packaging, warehousing, storage, distribution, shipping and other related uses.

INDUSTRIAL PARK — A collection of sites under common management with coordinated access, amenities, and connections for the location of various industries, which may or may not be related to one another.

Jj

Kk

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

LI

LANDFILL SITE OR WASTE DISPOSAL FACILITY — A facility or part of a facility at which solid waste is intentionally placed into or on any land or water, and at which waste may remain after closure. This may include plastic, glass, or metal recycling facilities, but shall not include the handling or disposal of hazardous waste or materials.

LANDSCAPING — The use of native plant materials including, but not limited to, ground covers, shrubs, and trees. Landscaping also involves the placement, preservation and maintenance of said plant materials in conjunction with associated improvements such as fences, walls, lighting, earth mounding and structures (principal or accessory).

LANDSCAPING PLAN — A plan, drawn to scale, showing dimensions and details for landscaping or revegetating an area.

LAUNDROMAT — A business premises equipped with individual clothes-washing machines for the use of retail customers, exclusive of laundry facilities provided as an accessory use in an apartment house or an apartment hotel.

LICENSE — Any form of written permission given to any person, organization, or agency to engage in any activity, as required by law or agency rule.

LIGHT INDUSTRIAL USE — Research and development, material handling, processing, the manufacturing, compounding, processing, packaging, storage, service industry business, assembly, and/or treatment of finished or semi-finished products from previously prepared materials, where input, output is wholly conducted within an enclosed building and meet the other performance standards of the district.

LIVE/WORK UNIT: A live/work unit is defined as a single unit (e.g., studio, loft, or one bedroom) consisting of both a commercial/office and a residential component that is occupied by the same resident. The live/work unit shall be the primary dwelling of the occupant.

LOADING AREA — An off-street area containing one or more loading spaces where goods are loaded onto and unloaded from vehicles.

LOADING SPACE — An off-street space exclusive of passageways, driveways, ramps, columns and other areas that is used for the temporary parking of a commercial vehicle while loading or unloading deliveries, merchandise or materials.

LODGING — A single building or group of buildings containing guest rooms primarily designed for the accommodation of transient travelers. Lodging facilities may also provide additional services to guests, such as food and beverages, limited recreational facilities, conference rooms, and laundry. Hotels and motels are considered lodging.

LOT — Land occupied or to be occupied by a building and its accessory buildings, together with such open spaces as are required, having not less than the minimum area, width and depth required for a lot in the district in which such land is situated and having frontage on a street or other means of access as may be

determined by the Planning Board to be adequate as a condition of the issuance of a building permit for a building on such land.

LOT, CORNER — A lot located at the junction of and fronting on two or more intersecting streets. All "corner lots" shall be deemed to have two front yards, two side yards, and no rear yard.

LOT COVERAGE — The percentage of the lot area covered by the combined area of the principal and accessory buildings. This definition includes all impermeable surfaces such as driveways, swimming pools, decks, parking areas and parking lots, excluding patios, terraces and pedestrian walkways.

LOT LINE — The property line bounding a lot.

- A. Front** — In the case of a lot abutting upon only one street, the line separating the lot from the street right-of-way; in the case of a lot abutting more than one street, each street line shall be considered a front lot line.
- B. Rear** — The lot line, which is generally opposite the front lot line. If the rear lot line is less than 10 feet in length, or if the lot comes to a point at the rear, the rear lot line shall be deemed to be a line parallel to the front line, not less than 10 feet long, lying wholly within the lot and farthest from the front lot line.
- C. Street** — A lot line separating the lot from a street.

LOT SIZE — The total area within the property lines, excluding any portion lying within the boundaries of a public street or future street right-of-way.

LOT WIDTH — The mean horizontal distance between the side lot lines, measured at right angles to the lot depth.

LUMBERYARD — A facility or area where building materials such as lumber, plywood, drywall, paneling, cement blocks, bricks, tiles and other building products are stored and sold at retail. Lumber yards may provide for the sale of associated products such as tools and fasteners. The manufacture or fabrication of lumber products, the storage or sale of firewood or a sawmill are not included.

Mm

MANUFACTURED HOME – A factory-manufactured dwelling unit built on or after June 15, 1976, and conforming to the requirements of the Department of Housing and Urban Development (HUD), Manufactured Home Construction and Safety Standards, 24 CFR Part 3208, 4/1/93, transportable in one or more sections, constructed on a permanent chassis, and designed to be used with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning and electrical systems contained therein. The term "manufactured home" shall also include any structure that complies with the standards established under the national Manufactured Housing Construction and Safety Act of 1974, as amended. The term "manufactured home" shall not include any self-propelled recreational vehicle. A manufactured home that is affixed to a permanent foundation and conforms with the development specifications and standards applicable to conventional, site-built single-family dwellings in the district in which the manufactured home is to be sited, shall be deemed to be a conforming single-family dwelling for purposes of this Chapter.

MANUFACTURED HOME PARK — A parcel of land under single ownership on which two or more manufactured homes are occupied as residences or which is planned and improved for the placement of two or more manufactured homes for non-transient residential use.

MANUFACTURED HOME LOT — A parcel of land, within a manufactured home community, reserved for the placement of a manufactured home.

MANUFACTURING — Any factory, shop, yard warehouse, mill or other nonresidential premises utilized in whole or in part for the processing, preparation, production, containerizing, storage or distribution of goods, wares, commodities, parts, materials, electricity and the like. The processing, preparation and production activities customarily deal with person-made or raw materials and other manufactured items which are altered, restored or improved by the utilization of biological, chemical or physical actions, tools, instruments, machines or other such similar natural, scientific or technological means. "Manufacturing" shall not include the handling of any waste products and materials. Manufacturing processes and treatments include but are not limited to such operations as mixing, crushing, cutting, grinding and polishing; casting, molding and stamping; alloying and refining; assaying, cleaning, coating and printing; and assembling and finishing.

MINOR REPAIRS – Repairs that do not require the long-term dismantling and storing of parts; can be reasonably completed within a twenty-four (24) hour period.

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

MONOPOLE — A single pole of variable cross-section onto which telecommunications devices are affixed.

MOTOR VEHICLE — Any device in, upon or by which any person or property is or may be transported except such as is operated exclusively by human power. This includes, but is not limited to, cars, trucks, four-wheelers, dirt bikes, or motorcycles.

Nn

NEIGHBORHOOD CHARACTER – The atmosphere or physical environment which is created by the combination of land use and buildings within an area. "Neighborhood character" is established and influenced by land use types and intensity, traffic generation and also by the location, size and design of structures as well as the interrelationship of all these features.

NONCONFORMING BUILDING OR STRUCTURE — A building or structure that does not conform to the regulations of the district in which it is located upon the effective date of this Chapter.

NONCONFORMING LOT — A lot in any district where the owner or owners of said lot do not own any adjoining property, which together would create one or more conforming lots and which does not conform with the minimum width, depth and area dimensions specified for the district in which said lot is located.

NONCONFORMING USE — An established use of a building or structure or of land existing at the effective date of this chapter which does not conform to the use requirements of the district in which it is located.

NONRESIDENTIAL USE — All uses of land and buildings except single-family dwellings, two-family dwellings, multi-family dwellings, and mobile home parks.

NURSING HOME — A facility regulated by the state, providing therein nursing care to sick, invalid, infirm, disabled or convalescent persons, in addition to lodging.

NYS UNIFORM CODE(S) — The New York State Uniform Fire Prevention and Building Code, which shall include all subunits (Residential Code, Building Code, Plumbing Code, Mechanical Code, Fuel Gas Code, Fire Code, Energy Code, and Property Maintenance Code) as currently in effect and as hereafter amended from time to time. The Uniform Code may also be referred to as the "NYS Building Code."

Oo

ODOR — Stimulus affecting the olfactory nerves. An odor shall be considered offensive, noxious, or a nuisance when foul smelling airborne emissions are sufficiently concentrated to cause physical discomfort to and/or interfere with the comfortable enjoyment of life or property for those inhabiting adjacent areas.

OFFICE, ADMINISTRATIVE OR PROFESSIONAL — The use of a building or structure for the operation of day-to-day activities that are related to record keeping, billing, personnel, and logistics, within an organization. This shall also include financial institutions. This shall not include medical professionals.

OFFICE OR CLINIC, MEDICAL — The use of a building or structure by licensed health care professionals, including but not limited to physicians, dentists, physicians' assistants, radiologists, dermatologists, and nurses, for the treatment of persons on an outpatient basis only.

OUTDOOR INDUSTRIAL OPERATION — Industrial operations including resource extraction, manufacturing, warehousing, storage, distribution, shipping and other related uses; that occur outside of a confined building area.

OUTDOOR SALES OR DISPLAY — The outdoor display of products, vehicles, equipment, and machinery for sale or lease. Exterior display is an outdoor showroom for customers to examine and compare products. It does not include damaged vehicles, vehicles or equipment being serviced, bulk goods and materials, and other similar products.

OUTDOOR SOLID-FUEL HEATING DEVICE — A device, structure or apparatus which supplies direct or indirect heat from the burning of solid fuel, including but not limited to wood, to a building or other structure.

OUTDOOR STORAGE — The storage of items, merchandise, materials, equipment, or vehicles outside of an enclosed structure for more than four consecutive days that are not being displayed for sale.

OWNER — An individual, firm, association, organization, partnership, trust, corporation, or company holding title to the property.

Pp

PARAPET WALL — That portion of a building wall that rises above the level of the roof.

PARKING AREA OR LOT — An off-street area containing one or more parking spaces where motor vehicles are stored for the purpose of temporary, daily or overnight parking, with passageways and driveways appurtenant thereto.

PARKING SPACE — An off-street space used for the temporary location of one licensed motor vehicle, not including access driveway(s).

PAVED SURFACE — Ground surface covered with cobblestones, fired clay bricks, concrete precast paver units, poured concrete with or without decorative surface materials, blacktop, oil and stone, or other asphaltic or rubber mixture which may include sand or gravel as an ingredient and which creates a hard surface. A graded natural surface or one covered with rolled stone or overlaid with loose gravel is not considered a paved surface.

PEDESTRIAN-ORIENTED OR PEDESTRIAN-SCALED — Refers to a pedestrian friendly development approach that seeks to provide the following:

- A. Clear, comfortable pedestrian connections and access to commercial and residential areas as well as sidewalk networks and transit stops;
- B. Combination of land design practices including compact development, mixed use development, traffic calming, designated pedestrian circulation systems and amenities, and a mix of housing types;
- C. Buildings, structures, lighting, and other site features built to a scale that is inviting and comfortable to pedestrians and non-motorists and includes architectural detailing to increase visual interest.

PERFORMANCE BOND — A bond, letter of credit, cash or securities posted by the developer and accepted by the Town Board, to guarantee that the developer will construct or deconstruct, or cause to be constructed or deconstructed, within one year all required improvements set by the Planning Board as conditions under site plan approval.

PERMIT — A document issued by the proper authority authorizing the applicant to undertake certain activities.

PERSON — Any individual, firm, trust, partnership, public or private association or corporation.

PERSONAL SERVICE SHOPS — Places primarily providing services oriented to personal needs, such as barber and beauty shops, shoe repair shops, household appliance repair shops, dry cleaning and laundry pick-ups, shoe shine parlors, and other similar establishments. Retail sales shall be allowed as incidental uses in personal service establishments.

PLANNING BOARD — The officially designated Planning Board for the Town, as established by the Town Board in accordance with NYS Town Law.

PLAYGROUND — A publicly or privately owned area for recreational use primarily by children.

POND — Any open area man-made body of water, water area, detention pond, retention basin, stone quarry, dammed area or agricultural liquid waste holding pond over 30 inches deep.

PORCH — An unenclosed and unscreened roofed permanent projection in which the roof is supported by piers, posts, or columns attached to the entrance of a principal building.

PRINCIPAL BUILDING OR USE — The primary use of the building or land on or a part of a single lot. All buildings that are part of a farm operation shall be considered principal buildings including a residence that is also located on a parcel with farm structures.

PRINTING OR PUBLISHING OPERATION — A commercial printing operation involving a process that is considered printing, imprinting, reproducing, or duplicating images and using printing methods including but not limited to offset printing, lithography, web offset, flexographic, and screen process printing.

PROCESSING FACILITY — A building or an enclosed space used for the collection and processing of materials. "Processing" means the preparation of material for efficient shipment, or to an end-user's

specifications, by such means including but not limited to baling, briquetting, compacting, flattening, grinding, crushing, mechanical sorting, shredding, cleaning, and remanufacturing.

PROFESSIONAL — An individual or agency providing guidance and/or services relating to a discipline that requires special education, training, skill, or licensure, such as an engineer, architect, planner, or attorney.

PROPERTY LINE — A line bounding a lot. Also known as a “lot line.”

PUBLIC PARK OR PLAYGROUND — An area of land, with or without buildings and structures, intended for outdoor active or passive recreational use by the general public.

Qq

Rr

RECREATIONAL FACILITY — A place, area, structure, or other facility used by persons in the community to carry out recreational activities.

RECREATIONAL FACILITY, INDOOR — An establishment providing for recreational or entertainment activities in a completely enclosed structure. Accessory uses may be permitted to include the preparation and serving of food and/or the sale of equipment related to the enclosed recreational uses. Included in this definition shall be indoor arcades, movies, pools, courts, or other facilities where patrons are engaged in and/or spectating sport or game activities.

RECREATIONAL FACILITY, OUTDOOR — An establishment providing for recreational or entertainment activities in an open or partially enclosed structure. Accessory uses may be permitted to include the preparation and serving of food and/or the sale of equipment related to the recreational uses. Included in this definition shall be outdoor pools, fields, courts, or other such facilities where patrons are engaged in and/or spectating sport or game activities.

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

RELIGIOUS INSTITUTION — A place for worship, includes churches, temples, synagogues, mosques, parish houses, convents, seminaries and retreat houses.

RESEARCH AND DEVELOPMENT FACILITY OR LABORATORY — A building or groups of buildings in which are located facilities for scientific research, investigation, materials testing, or experimentation, but not facilities for the manufacture or sale of products.

RESIDENTIAL CONVERSION — The conversion of the use of a building from nonresidential to residential use or the structural alteration of an existing residential structure to increase or decrease the number of residential units in the structure.

RESIDENTIAL USE — Includes single-family dwellings, two-family dwellings, and multi-family dwellings.

RESTAURANT — Any establishment, however designated, at which food is sold for consumption on the premises to patrons and equipped with seating facilities and where the taking of food and drink from said building is incidental. The term "restaurant" shall include bars and taverns licensed to sell alcoholic beverages for on-premises consumption. However, a snack bar refreshment stand at a public, semipublic or community swimming pool, playground, playfield or park operated by the agency or groups or an approved vendor operating the recreational facilities and for the convenience of the patrons of the facility shall not be deemed to be a "restaurant."

RESTAURANT, FAST FOOD — A business for counter service of food in a packaged form where the patron has the option to consume the packaged food on or off the premises.

RETAIL STORE — An establishment for the sale of goods, articles or consumer services individually or in small quantities directly to the consumer. Retail store or service shall not be interpreted to include the following: drive-up service, gasoline station, automotive service or repair shop, new or used automotive sales, and trailer or mobile home sales and service.

RIDING STABLE — Any establishment where horses are kept for riding, driving or stabling for compensation or incidental to the operation of any club, association, ranch or similar establishment. For the purposes of this Chapter, a riding stable shall be considered an agricultural use.

RIGHT-OF-WAY — The boundary of a road, street, highway, or expressway owned and maintained by any federal, state, county, or local municipal entity.

ROOFLINE — In the case of a flat roof, the uppermost line of the roof of a building; in the case of a pitched roof, the lower edge of the eave; or in the case of an extended facade or parapet, the uppermost height of said facade or parapet, provided that the facade or parapet extends around the entire perimeter of the building at the same elevation.

RUBBISH — The miscellaneous waste materials resulting from housekeeping, mercantile enterprises, trades, manufacturing and offices, including other waste matter, such as slag, stone, broken concrete, fly ash, ashes, tin cans, glass, scrap metal, rubber, paper, rags, chemicals or any other similar or related combinations thereof.

Ss

SELF-SERVICE STORAGE FACILITY — A building or group of buildings divided into separate units or compartments used to meet the temporary storage needs of businesses and residential users. The facility shall not be staffed to provide assistance with assembling or loading materials. A warehouse operated for a specific commercial or industrial establishment shall not be considered a self-service storage facility.

SEQRA — New York State Environmental Quality Review Act.

SERVICE AREA — Includes those parts of any lot, which are used primarily to provide access for servicing the use on the lot, including land used for delivery of goods, storage, and collection of wastes and provisions for maintenance.

SETBACK — The least required horizontal distance between property line, and any structure on the lot measured at the shortest point, including terraces, porches, or any covered projection thereof, but excluding steps.

SETBACK, FRONT — A setback between the front lot line and the front line of a building extended to the side lot lines of the lot. The depth of the front setback shall be measured between the front line of the building and the street line.

SETBACK, REAR — A setback between the rear lot line and rear line of a building extended to the side lot lines of the lot. The depth of the rear setback shall be measured between the rear lot line and the rear line of the building.

SETBACK, SIDE — The setback to any property line other than a street or rear lot line.

SETBACK, STREET — The setback to the street or front lot line. On corner lots, both yards bordering the street shall be considered as street setbacks. Such street setback shall be measured from the public right-of-way.

SETBACK REGULATIONS — The requirement that a building be set back a certain distance from the street or lot line.

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

SIGN — A name, identification, description, including non-commercial content, display, illustration, usually including alphabetic or numeric characters, which is affixed to or painted upon or represented directly or indirectly upon a building, structure, or piece of land or affixed to the inside or outside of a door or window so as to be seen from the outside of a building and which directs attention to an object, product, place, activity, person, institution, organization or business.

A. A-Frame Sign. A portable sign with two or more steeply angled sides. Also

known as a "sandwich board sign."

- B. Awning Sign.** A sign that is part of or attached to an awning, canopy, or other fabric, plastic, or structural protective cover over a door, entrance, window, or outdoor area.
- C. Banners.** A sign of lightweight fabric or similar non-ridged material that is mounted with no enclosing framework.
- D. Beacon.** Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same lot as the light source, whether such beams move, rotate, flash or are stationary. The term "beacon" shall not include any kind of lighting device that is required or necessary under the safety regulations of the Federal Aviation Administration or similar agencies.
- E. Building Sign.** A sign that is attached to, mounted on, or painted on a building. This includes awning signs, canopy signs, marquee signs, projecting signs, roof sign, and wall signs.
- F. Changeable Copy Sign (manual).** A sign, or portion thereof, on which characters, letters, or illustrations are changed manually in the field without altering the face or surface of the sign, including without limitation, a readerboard with changeable letters.
- G. Commercial Message.** A sign, wording, logo, or other representation that, directly or indirectly, names, advertises or calls attention to a business, product, service or other commercial activity.
- H. Development Signage.** A sign which, by means of symbol or name, identifies a shopping center, commercial or industrial park, or other development that may contain residential, commercial, and/or industrial uses.
- I. Directional Sign.** A sign directing vehicular and/or pedestrian movement into, within, and/or out of a premise.
- J. Flag.** Any fabric containing distinctive colors, patterns, insignia or other information of a noncommercial nature that is used as symbol of government, political subdivision or other entity.
- K. Flashing Sign.** An illuminated sign on which the lights either blink on and off randomly or in sequence or have intermittent variation in intensity or color.
- L. Freestanding Sign.** A sign independently supported by the ground or mounted on a supporting structure that is placed on or anchored in the ground and is independent from any building.
- M. Ground Sign.** A type of freestanding sign that is mounted on a base flush with the ground or supported by one or two columns or posts provided the distance between the ground and bottommost edge of the sign is no greater than two feet.

- N. Illuminated Sign.** A sign that is lighted by one or more of the following artificial light sources:
- 1) External. A separate light source from the sign face or cabinet directed so as to shine on the sign face or exposed lights, LEDs, or neon tubes on the sign face.
 - 2) Internal. A light source concealed within the sign structure.
- O. Incidental Signs.** Signs of a public or noncommercial nature displayed for the direction, safety or convenience of the public, including, but not limited to, signs which identify rest rooms, hours of operation, or warnings.
- P. Internal Sign.** A sign that is not intended to be viewed from outside the property and located so as not to be legible from any public right-of-way or from any adjacent property, including any signs in interior areas of shopping centers, commercial buildings and structures, stadiums, and similar structures of a recreational nature. Also included in such definition is a sign inside a building more than three feet inside any window or door and any sign not attached to a window or door that is not legible from a distance of more than five feet beyond the lot line of the zoning lot or parcel on which such sign is located.
- Q. LED Sign.** A sign which utilizes LED lights to depict the text, graphics, or message upon the face of the sign.
- R. Neon Sign.** A sign formed from neon lamps containing neon gas.
- S. Nonconforming Sign.** A sign lawfully existing prior to the enactment of the sign provisions of this Chapter, but which could not be erected in accordance with such provisions or amendment.
- T. Obsolete Sign.** A sign that advertises or identifies a business, event, product, service, etc. that is no longer in operation, sold, or offered, or is otherwise irrelevant or outdated.
- U. Off-Premise Sign.** A sign that directs attention to a business, commodity, service, or entertainment conducted, sold, or offered at a location other than where such sign is located.
- V. Pennant.** A string of shaped, brightly colored pieces of fabric, vinyl, plastic or other material, with or without a message or logo, intended to attract attention.
- W. Permanent Sign.** A sign made of materials that are intended to be used for more than 60 days, and such sign is attached to a building, attached to a structure, or is attached to the ground in some manner.
- X. Pole Sign.** A type of freestanding sign that is supported by two columns or posts with a distance exceeding two feet between the ground and the bottommost edge of the sign.

- Y. Projecting Sign.** A sign which is wholly dependent upon a building for support and which projects more than 12 inches from such building.
- Z. Roof Sign.** Any sign erected upon the roof of a building, any portion of which is above the roofline of the building.
- AA. Suspended Sign.** A sign attached to and supported by the underside of a horizontal plane.
- BB. Temporary Sign.** A sign which is not intended to be used for a period over 60 days and is not attached to a building, structure, or ground in a permanent manner. Such signs usually being constructed of poster board, cardboard, masonite, plywood or plastic material and mounted to wood, metal, wire or rope frames or supports.
- CC. Wall Sign.** A sign located on the wall of a building or structure in such a manner that the wall becomes the supporting structure for or forms the background surface of the sign and which does not project outward more than 12 inches from such building or structure.
- DD. Window Sign.** A sign which is applied or attached to the exterior or interior of a window or is installed inside of a window within 12 inches of the window through which it can be seen. This shall not include graphics in connection with a customary window display of products.

SIGN, ALTERATION OF — Any change to a sign, including reduction or enlargement of its size, change to its mounting, height, modification of its structural characteristics or illumination, or change to some or all of its lettering, symbols, coloring or other design features. For the purposes of this chapter, except as indicated above, the term "alteration" shall not include repairs for the purpose of sign maintenance

SIGN AREA — The entire area within a single continuous perimeter enclosing the extreme limits of writing, representation, emblem or any figure of similar character together with any frame or other material or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed; excluding the necessary supports or uprights on which such sign is placed. The area of a sign having more than one display surface shall be computed as the total area of the exposed exterior display surface area.

SIGN FACE — The surface of the sign upon, against or through which the message of the sign is exhibited.

SIGN HEIGHT — The vertical distance from the uppermost point used in measuring the area of the sign to the ground immediately below such point or to the level of the upper surface of the nearest curb or a street or alley (other than a structurally elevated roadway) whichever measurement permits the greatest elevation of the sign.

SIGN PERMIT — A document signed by the Code Enforcement Officer or designated agent of the Town Board, as required by this chapter, as a condition precedent to the commencement of the erection, construction, installation, or display of a sign requiring a permit per Article 52 of this Chapter.

SIGN STRUCTURE — The supports, uprights, bracing and framework for the sign.

SITE — A lot or group of contiguous lots not divided by any alley, street, other right-of-way or the Town limit that is proposed for development in accord with the provisions of this Zoning Code and is in a single ownership or has multiple owners, all of whom join in an application for development.

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

SITE PLAN REVIEW — Authority delegated to the Planning Board by the Town Board, which enables the Planning Board to approve, approve with conditions or disapprove the site plans for all buildings or uses where site plan review is required.

SOLAR ACCESS — The orientation of streets and lots to the sun so as to permit individual properties to use passive and/or active solar energy resources.

SOLAR ENERGY EQUIPMENT — The total of all equipment whose primary purpose is to provide for the collection, conversion, storage, or control of solar energy for electricity generation.

SOLAR ENERGY SYSTEM, MAJOR OR SOLAR FARM — An area of land or other area used for a solar collection system, other than a minor or accessory solar collection system, principally used to capture solar energy and convert it to electrical energy to transfer to the public electric grid in order to sell electricity to or receive a credit from a public utility entity, but also may be for on-site use. Solar farm facilities consist of one or more freestanding ground- or roof-mounted solar collector devices, solar-related equipment and other accessory structures and buildings, including light reflectors, concentrators, and heat exchangers, substations, electrical infrastructure, transmission lines and other appurtenant structures and facilities.

SOLAR ENERGY SYSTEM, MINOR OR ACCESSORY — A solar photovoltaic cell, panel, or array, or solar hot air or water collector device, which relies upon solar radiation as an energy source for collection, inversion, storage, and distribution of solar energy for electricity generation or transfer of stored heat, secondary to the use of the premises for other lawful purposes, with the total surface area of all solar collectors on the lot not to exceed 4,000 square feet.

SOLAR PANEL — A device or combination of devices, structures, or part of a device or structure that transforms direct solar energy into thermal, chemical, or electrical energy.

SOLAR SKY SPACE — The space between a solar collector and the sun, which must be free of obstructions for a solar energy system's effective operation.

SPECIAL USE OR SPECIALLY PERMITTED USE — A specifically designed use that would not be appropriate by-right, but which, if controlled as to number, area, location, character, or relation to the neighborhood, would promote the public health, safety, welfare, morals, order, comfort, convenience, appearance, prosperity or general welfare.

STACKING SPACE — A temporary space to be used by motorists while waiting to use drive-in units, car washes, gas pumps or other similar uses.

STOP-WORK ORDER — A written document issued by an enforcement official, which requires the cessation of an activity, usually construction.

STORMWATER RETENTION AREA — An area designed by a licensed professional and approved by the Town to retain water to control the flow of stormwater.

STORY — Part of a building which is between one floor level and the next higher floor level or, if there is no floor above it, then the ceiling above it.

STREET — A public or private way, which affords the principal means of access to abutting properties.

STREET LINE — The right-of-way line of a street as dedicated by a deed or record. Where the width of the street is not established, the street line shall be considered to be 25 feet from the center of the street. Also referred to as "right-of-way line."

STREET RIGHT-OF-WAY — A strip of land used for public or private passageways and designed for the conveyance of persons and/or vehicles from one point to another.

STRUCTURE — A combination of materials to form a construction for use, occupancy or ornamentation, including but not limited to buildings, mobile homes, towers, flagpoles, swing sets, antennas, satellite dishes, or gas or liquid storage tanks, that are principally above ground.

SUBDIVISION — An area of land divided by owners or agents, either by lots or by metes and bounds, into lots or parcels two or more in number for the purpose of conveyance, transfer, improvement or sale of one or more.

SUBSTANTIAL IMPROVEMENT — Any repair, reconstruction, alteration or modification of a building, the cost of which equals or exceeds fifty percent (50%) of the market value of the building either before the improvement or repair is started or, if the building has been damaged and is being restored before the damage occurred. Using documentation supplied by the applicant, the Building Inspector shall determine the value of the improvements to be made based upon the square footage of building area added or improved. Prior to making a determination of value, the Building Inspector may confer with the Assessor as well as other individuals for their advice. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include either any project for improvement of a building to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions, or any alteration of a building listed on the National Register of Historic Places or a State Inventory of Historic Places.

SWIMMING POOL — Any constructed body of water or structure to contain water and any accessory equipment pertaining thereto, designed to be used or intended to be used for swimming or bathing by any family or persons residing on the premises and their guests. Portable wading pools, two feet or deeper, shall be considered "swimming pools."

Tt

TELECOMMUNICATIONS FACILITIES — Towers and/or antennas and uninhabitable accessory structures used in connection with the provision of cellular telephone service, personal communication services, digital and/or data communication services, paging services, radio and television broadcast services and similar broadcast services (also referred to as "facilities" or "equipment"). Examples of such structures include utility or transmission equipment storage sheds or cabinets. Includes any structure, including dish antennas, whether attached to a building or freestanding and whether guyed or self-supporting, designed to be used as or for the support of devices to be used for the transmission and/or reception of radio frequency signals, such as, but not limited to, broadcast, shortwave, citizens band, FM or television signals, or wind-driven devices, such as energy converters and wind speed and/or direction indicators.

TELECOMMUNICATIONS TOWER — A structure on which transmitting and/or receiving antenna are located. This includes but is not limited to freestanding towers, guyed towers, monopoles and similar structures. It is a structure intended for transmitting and/or receiving telecommunications but excluding those either for fire, police or other dispatch communications or exclusively for private radio and television reception and private citizens' bands, amateur radio and other similar communications.

TEMPORARY STORAGE UNIT — A fully enclosable and transportable unit designed and used primarily for temporary storage of building materials, household goods, personal items and other materials for use on a limited basis on residential property.

TENANT — Any person who occupies or has a leasehold interest in a rental unit under a lawful agreement, whether oral or written, express or implied.

THEATER — A building or part of a building devoted to the performing arts or the viewing of motion pictures.

THEATER, DRIVE-IN — Open land with its appurtenant facilities devoted primarily to the showing of moving pictures or theatrical productions to patrons seated in automobiles or on outdoor seats.

TOPOGRAPHIC MAP — A map showing all principal physical features of an area, including elevations.

TOPSOIL — Soil material which is rich in organic matter and capable of supporting plant life.

TOWN BOARD — The elected legislative body of the Town of Manchester.

TOWN CLERK — The Town Clerk of the Town of Manchester.

TOWN CODE — The local laws, ordinances, rules, certain resolutions, and regulations of the Town that are collectively known as the "Code of the Town of Manchester."

TOWN HALL OR TOWN OFFICE — The building in which the Town Clerk of Manchester is located.

TOWN OF MANCHESTER COMPREHENSIVE PLAN — The most recently adopted Comprehensive Plan by the Town of Manchester Town Board, as provided for by NYS General Municipal Law.

TRAILER — Any vehicle not propelled by its own power drawn on the public highways by a motor vehicle as defined in this section, except motor vehicle side cars, vehicles being towed by a non-rigid support and vehicles designed and primarily used for other purposes and only occasionally drawn by such a motor vehicle.

TRAILER, CAMPING — A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle.

TRAILER, METAL BOX TRAILER, SEMITRAILER OR VAN — A structure with or without wheels, originally designed to be towed or hauled by another vehicle for the carrying of materials, goods or objects.

TRAILER, TRAVEL — A vehicular portable unit, mounted on wheels, of such a size or weight as not to require special highway movement permits when drawn by a motorized vehicle and of a body width of no more than eight feet and a body length of no more than 32 feet when factory-equipped for the road.

TREELINE — The edge of a habitat or wooded area at which trees are capable of growing.

TRUCK OR MULTIMODAL TRANSPORT TERMINAL — A site and structure used for the transfer and storage of goods in transit and storage of all vehicles used in transporting such goods.

TURNAROUND — A space on private property that permits the turning around of any passenger or emergency vehicle without the necessity of using any public right-of-way to turn around.

Uu

USE — The specific purpose for which land, building, or structure is designed, intended, arranged, used or maintained.

USE, CHANGE OF — Any change in the type or nature of occupancy of a building or land, except the following:

- A. A change in the volume of use without any physical extension of sales and/or service area.
- B. An expansion or substitution of accessory or incidental uses in connection with the established principal use, except that in no case shall such an accessory or incidental use dominate in area or purpose the principal lawful use.
- C. A change in ownership.
- D. A change to a generically similar use as determined by the CEO.

USE, PERMITTED — Any use specifically allowed in the district, excluding illegal uses and nonconforming uses.

UTILITIES — All lines and facilities related to the provision, distribution, collection, transmission, or disposal of water, storm and sanitary sewage, oil, gas, power, information, telecommunication and telephone cable, and includes facilities for the generation of electricity.

Vv

VENDING MACHINE — Any unattended self-service device that, upon insertion of a coin, coins, or token or by similar means, dispenses anything of value including food, beverage, goods, wares, merchandise or services.

Ww

WALKWAY OR SIDEWALK — A passage or path designated for pedestrian activity or walking.

WAREHOUSE — A building, typically enclosed, designed or used for the storage of commodities; Includes warehouse, wholesale establishment, discount house, bulk storage and bulk sales outlet.

WETLANDS — Areas designated as freshwater wetlands by the New York State Department of Environmental Conservation or the Army Corps of Engineers, as prescribed by law.

WHEEL STOP — An object, often made of concrete, which is placed at the front of a parking space to prevent vehicles from pulling too far into the space and striking the wall, landscape, or other objects that may be on the other side of the space.

WINERY — An enclosed building for the manufacture, processing, bottling, and packaging of wine as defined by and duly licensed by the NYS Liquor Authority. For the purposes of this Chapter, this shall include operations which include tasting rooms.

Xx

Yy

YARD — An open space on the same lot with a building, unoccupied and unobstructed from the ground upward except as otherwise provided herein.

YARD, FRONT — A yard between the front lot line and the front line of a building extended to the side lot lines of the lot.

YARD, REAR — A yard between the rear lot line and rear line of a building extended to the side lot lines of the lot.

YARD, SIDE — The area between the side building line and the related side lot line and between the front yard and the rear yard.

Zz

ZONING BOARD OF APPEALS — The officially established Zoning Board of Appeals of the Town of Manchester with the duties and responsibilities identified in this Chapter. Also referred to as “Zoning Board” or “Board of Appeals.”

ZONING DISTRICT — A specifically delineated area or district in a municipality within which regulations and requirements uniformly govern the use, placement, spacing, and size of land and buildings.

ZONING PERMIT — A document signed by the Code Enforcement Officer or designated agent of the Town Board, as required by this chapter, as a condition precedent to the commencement of a use or the erection, construction, reconstruction, restoration, alteration, conversation or installation of a structure or building.