MANCHESTERVERMONT
So Close So Vermont

Manchester Land Use & Development Ordinance

CHAPTER 3 OF THE MANCHESTER UNIFIED ORDINANCE

ADOPTED BY THE SELECTBOARD ON DECEMBER 15, 2015, EFFECTIVE JANUARY 5, 2016

MANCHESTER UNIFIED ORDINANCE

CHAPTER 3: MANCHESTER LAND USE & DEVELOPMENT ORDINANCE

Table of Contents

Section 1 Authority & Adoption 1
1.1 Authority 1
1.2 Amendment and Adoption Procedures 2
Section 2 Administrative Mechanisms 5
2.1 Administrative Officer 5
2.2 Issuance of Zoning Permits 5
2.3 Permit Timeframe 6
2.4 Extensions of Permits 6
2.5 Certificates of Occupancy 6
2.6 Violations and Penalties 7
2.7 Appeals 7
2.8 Variances 8
2.9 Waivers 9
Section 3 Review Procedures & Criteria 10
3.1 Administrative Review 10
3.2 Site Plan Review 10
3.3 Conditional Use Review 12
3.4 Major Project Review 12
3.5 Design Review 18
3.6 Consolidated Review 21
Section 4 General Regulations 22
4.1 Compliance 22
4.2 Undevelopable Land 22
4.3 ADA Compliant Structures 22
4.4 Limitations 22
4.5 Nonconforming Structures & Uses 24
4.6 Existing Small Lots 25
4.7 Frontage Requirement 26
4.8 Public Toilet Facilities 26

4.9 Landscaping & Screening 26
4.10 Exterior Lighting 27
4.11 Accessory Apartments 28
4.12 Child Care Facilities 29
4.13 Customary Home Occupation 29
4.14 Earth Products Removal 31
4.15 Land Fill Operations 31
4.16 Water Resources Protection 32
4.17 Relocation of Private Land Uses after Takings by Eminent Domain 32
4.18 Demolition and Modification of Historic Structures 33
4.19 Temporary Structures 33
Section 5 Zoning Districts 34
5.1 Division into Districts 34
5.2 Farming & Rural Residential (FRR) District 35
5.3 Single Residential (SR) District 36
5.4 General Residential (GR) 38
5.5 Mixed Use (MU) District 40
5.6 Commercial-1 (C1) District 41
5.7 Commercial 2 (C2) District 43
5.8 Commercial-3 (C3) District 46
5.9 Industrial Districts 49
5.10 Forestry and Recreation (FR) District 51
5.11 Transient Commercial (TC) Overlay Districts 52
5.12 Recreation Overlay District (RO) 54
5.13 Depot Street Corridor (DSC) 55
5.14 Main Street South Corridor (MSSC) 58
5.15 Manchester Center Corridor (MCC) 60
5.16 Historic Districts 63
5.17 Aquifer Protection Area (APA) 64
Section 6 Parking 67
6.1 Effective Parking 67
6.2 Payment in Lieu of Parking 68
6.3 Shared Parking 68

6.4 Parking Waivers 69
6.5 Incentives 69
6.6 General Parking Regulations 69
6.7 Design Standards 72
Section 7 Housing Development 75
7.1 Mobile Homes 75
7.2 Mobile Home Parks 75
7.3 Affordable Housing Regulations 76
7.4 Planned Residential Development 79
Section 8 Subdivision Regulations 82
8.1 Applicability 82
8.2 Purpose 82
8.3 Boundary Line Adjustment 82
8.4 Application & Review Procedures 82
8.5 Design Standards 83
8.6 Density 84
8.7 Waivers 85
8.8 Approved Plats 85
Section 9 Sign Regulations 86
9.1 Purpose 86
9.2 Administration and Interpretation 86
9.3 Free-Standing Signs 87
9.4 Flush-Mounted Signs 88
9.5 Projecting Signs 89
9.6 Soffit Signs 89
9.7 Lighting 89
9.8 Special Categories of Signs 90
9.9 Exempt Signs 93
9.10 Prohibited Signs 94
9.11 Non-Operational Businesses 94
9.12 Projection of Sound 95
Section 10 Wireless Telecommunications Facilities 96
10.1 Purpose 96

10.2 Review Procedure....96
10.3 Application Requirements....97
10.4 Location....97
10.5 Height....98
10.6 Lighting....98
10.7 Visual Impact....98
10.8 Noise....98
10.9 Site Screening....98
10.10 Access Roads and Above Ground Utilities....99
10.11 Monitoring, Maintenance & Compliance....99
10.12 Abandonment or Discontinuation....99
Section 11 Flood Hazard Regulations....100
11.1 Authority & Purpose....100
11.2 Lands to Which These Regulations Apply....100
11.3 Land Uses in Flood Hazard Areas....101
11.4 Development Standards....103
11.5 Administration....105
11.6 Flood Hazard Area Definitions....107
Section 12 Definitions....109
12.1 Rules of Construction, Intent and Usage....109
12.2 A....110
12.14 M....122
12.27 Z....134

Note: Defined terms are indicated in **boldface** throughout the text of this ordinance and defined in Section 12. Terms used with specific meaning under the flood hazard area regulations are indicated in ***bold italics*** and are separately defined within Section 11.

Section 1 Authority & Adoption

1.1 Authority

1.1.1 Title

This chapter of the Manchester Unified Ordinance shall be known, and may be cited, as the Manchester Land Use and Development Ordinance, and is herein referred to as this ordinance. The Manchester Land Use and Development Ordinance replaces all zoning, sign, and subdivision regulations previously adopted by the Town of Manchester. It is meant to be a stand-alone document printed and available to the public at the Manchester Planning and Zoning Office, and published as a searchable digital document on the town website.

1.1.2 Authority

This ordinance is adopted pursuant to the authority contained Title 24, Vermont Statutes Annotated (VSA), Chapter 61, Section 2291, and in the Vermont Municipal and Regional Planning and Development Act, also designated as Title 24, VSA Chapter 117, herein referred to as the Act. Whenever any provision of this ordinance refers to or cites a section of the Act, and that section is later amended or superseded, this ordinance shall be deemed to refer to the amended section or the section that most nearly corresponds to the superseded section.

1.1.3 Purpose

The purpose of this ordinance is:

(1) to encourage the appropriate **development** of all lands within the Town of Manchester in a manner that will promote public health, safety, prosperity, comfort, convenience, efficiency, economy and general welfare;
(2) to implement the goals of the Manchester Town Plan;
(3) to prevent and minimize future **development** problems;
(4) to provide sufficient space in appropriate locations for forests and **agriculture**, for residential, recreational, commercial, and industrial **development**, and for public facilities, in light of their respective environmental needs and in light of the needs of the residents of Manchester;
(5) to encourage the healthful and convenient distribution of population, employment opportunities, and land uses; and
(6) to encourage the most desirable and appropriate use of land and to minimize the adverse impact of one land use upon another.

1.1.4 Jurisdiction

This ordinance shall be effective for all land within the Town of Manchester except for that land within the Village of Manchester, a separate municipality with its own zoning regulations.

1.1.5 Relationship to Previously Adopted Regulations

To the extent that the provisions of this ordinance are the same in substance as the previously adopted provisions that they replace in the town's zoning, subdivision and sign regulations, they shall be considered as continuations thereof and not as new enactments unless otherwise specifically provided. In particular, a situation that did not constitute a lawful, **nonconformity** under the previously adopted zoning ordinance does not achieve lawful nonconforming status under this ordinance merely by the replacement of the zoning ordinance or other applicable regulations. Likewise, any land use or **development** for which

a lawful zoning permit was not obtained under the previously adopted zoning ordinance shall be deemed to be in violation of this ordinance.

1.1.6 Relationship to the Manchester Town Plan

This ordinance implements the planning policies adopted in the Manchester Town Plan, as the same may be amended from time to time, as well as other planning documents adopted by the town. This ordinance and any amendment to it shall be deemed in conformity with town planning policies, and neither this ordinance nor any amendment to it may be challenged on the basis of any alleged nonconformity with any municipal planning document.

1.1.7 Severability

If any part, section, paragraph, sentence, clause or phrase of this ordinance is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, such unconstitutionality or invalidity shall not affect any of the remaining parts, sections, paragraphs, sentences, clauses or phrases of this ordinance.

1.1.8 Disclaimer of Liability

This ordinance shall not create any liability on the part of the town, its officials, agents, employees, or representatives including but not limited to any liability for any damages or other legal remedy or any equitable remedy claimed to have accrued as a result of reliance on this ordinance or any determination or decision lawfully made there under.

1.2 Amendment and Adoption Procedures

1.2.1 Amendment Preparation

Any amendment to this ordinance, including any proposed provision or **bylaw**, amended provision, proposed district boundary, or repeal of any provision, shall be prepared by or at the direction of the **planning commission** and shall have the purpose of implementing the Manchester Town Plan as the same may be amended from time to time or as otherwise authorized by statute. An amendment of this ordinance may be prepared by the commission, or any other person or body pursuant to §1.2.2 below.

1.2.2 Amendment by Others

Proposed amendments prepared by a person or body other than the **planning commission** shall be submitted in writing along with any supporting documents to the **planning commission**. The **planning commission** may then proceed under this section as if the amendment had been prepared by the commission.

1.2.3 Amendment by Petition

If a proposed amendment is supported by a petition signed by not less than 5% of Manchester voters, the commission shall correct any technical deficiency and shall, without otherwise substantively changing the meaning or intent of the amendment, promptly proceed in accordance with this section as if it had been prepared by the commission.

1.2.4 Planning Commission Report

When considering an amendment to this ordinance, the **planning commission** shall prepare and approve a written report on the proposal. The report shall provide a brief explanation of the proposed amendment and shall include a statement of purpose as required for notice under 24 VSA §4444, and shall include findings regarding how the proposal:

(1) conforms with or furthers the goals and policies contained in the town plan, including the effect of the proposal on the availability of safe and **affordable housing**;
(2) is compatible with the proposed future land uses and densities of the town plan; and
(3) carries out, as applicable, any specific proposals for any planned community facilities.

1.2.5 Public Hearing by Planning Commission

The **planning commission** shall hold at least one public hearing within the municipality after public notice on any amendment proposed by the **planning commission** or by petition.

1.2.6 Notice to Municipalities and Agencies

At least 15 days prior to the first public hearing, a copy of the proposed amendment and any written report shall be delivered with proof of receipt, or mailed by certified mail, return receipt requested, to each of the following:

(1) the chairpersons of the **planning commission**s of Dorset, Winhall, Sunderland, Arlington, Sandgate, Rupert, and the Village of Manchester, or in the absence of any **planning commission** in a municipality, the clerk of the abutting municipality;
(2) the executive director of the Bennington County Regional Planning Commission; and
(3) the Department of Housing and Community Affairs within the Vermont Agency of Development and Community Affairs.

Any of these bodies may submit comments on the proposed **bylaw** or amendment to the commission, or may be heard in any proceeding with respect to the adoption of the proposed amendment.

1.2.7 Public Hearing Notice

Where a public hearing is called concerning an amendment to this ordinance, the **planning commission** shall publish and post either the full text of the proposed material or a notice including:

(1) a statement of purpose;
(2) the geographic areas affected;
(3) a table of contents or list of section headings; and
(4) a description of a place within the municipality where the full text may be examined.

No defect in the form or substance of any public hearing notice shall invalidate an amendment to this ordinance. However, the action shall be invalidated if the notice is materially misleading in content or fails to include one of the elements required by this section or if the defect was the result of a deliberate or intentional act.

1.2.8 Submission to the Selectboard

The **planning commission** may then make revisions before submitting the proposed amendment and the written report to the selectboard. If a proposed amendment is supported by a petition as outlined in §1.2.3 above, the **planning commission** shall promptly submit the amendment, with changes only to correct technical deficiencies, to the selectboard, together with any recommendation or opinion it considers appropriate. Simultaneously with the submission, the **planning commission** shall file with the town clerk a copy of the proposed **bylaw** or amendment and the written report for public review.

1.2.9 Public Hearing by Selectboard

Not less than 15 nor more than 120 days after a proposed amendment or **bylaw** is submitted to the selectboard, the selectboard shall hold the first of one or more public hearings, after public notice, on the proposed amendment and shall make copies of the proposal and any written report of the **planning**

commission available to the public upon request. Notwithstanding the above, failure to hold a public hearing within 120 days shall not invalidate the adoption of the amendment or the validity of any repeal.

1.2.10 Changes by Selectboard

The selectboard may change the proposed amendment, but shall not do so less than 14 days prior to the final public hearing. If the selectboard at any time makes substantial changes in the concept, meaning, or extent of the proposed amendment, it shall warn a new public hearing or hearings under §1.2.10. If any part of the proposal is changed, the selectboard, at least ten days prior to the hearing, shall file a copy of the changed proposal with the town clerk and with the **planning commission**. The **planning commission** shall amend the report pursuant to §1.2.5 to reflect the changes made by the selectboard and shall submit that amended report at or prior to the public hearing.

1.2.11 Routine Adoption

Except as provided in §§1.2.12 and 1.2.13 below, an amendment shall be adopted by a majority of the members of the selectboard at a meeting that is held after the final public hearing, and shall be effective 21 days after the vote.

1.2.12 Popular Vote

Notwithstanding §1.2.12 above, a vote by the selectboard on an amendment shall not take effect if 5% of Manchester voters petition for a meeting of the municipality to consider the amendment, and the petition is filed within 20 days of the selectboard vote. In that case, a meeting of the municipality shall be duly warned for the purpose of acting upon the amendment by Australian ballot. The majority of votes for or against the amendment shall prevail.

1.2.13 Time Limit for Adoption

If the proposed amendment is not approved or rejected within one year of the date of the final public hearing of the **planning commission**, it shall be considered disapproved unless 5% of Manchester voters petition for a meeting of the municipality to consider the amendment and the petition is filed within 60 days of the end of that year. In that case, a meeting of the municipality shall be duly warned for the purpose of acting upon the amendment by Australian ballot. A majority of votes for or against the amendment shall prevail.

Section 2 Administrative Mechanisms

2.1 Administrative Officer

2.1.1 Appointment

The provisions of this **bylaw** shall be administered and enforced by the **administrative officer**. The **administrative officer** shall be nominated by the **planning commission** and appointed by the selectboard for a term of three years. The **administrative officer** is also referred to as the **zoning administrator**, or ZA, and an acting or **assistant zoning administrator** may also be appointed by the selectboard to act under the supervision of the ZA, or in the absence of the ZA.

2.1.2 Powers and Duties

The **administrative officer** shall administer this ordinance strictly and shall not have the power to permit any land use or **development** that is not in conformance with this ordinance.

2.2 Issuance of Zoning Permits

2.2.1 Permit Required

Before any land use or **development** - including the division of a **parcel** into two or more **parcel**s; the construction, structural alteration, relocation or enlargement of any **building** or other **structure**; or of any mining, excavation or landfill; or any **change of use** of any **building** or other **structure** or land, or any extension of the use of the land - it is the responsibility of the person performing such land use or **development** to obtain a zoning permit from the **administrative officer**.

2.2.2 Prerequisites

No permit may be issued by the **administrative officer** except in conformance with this ordinance, and until all water supply and **wastewater** disposal permits have been issued and copies received by the **administrative officer**.

2.2.3 Application

An application for a zoning permit may be obtained from the town offices or the town website, and shall be submitted to the **administrative officer** along with any maps, plans, or documents needed to demonstrate conformance with this ordinance. Once an application is deemed complete by the **administrative officer**, the **administrative officer** shall act upon it within 30 days. Such action shall mean administrative approval or denial, or referral to the **Design Advisory Board (DAB)** or **Development Review Board (DRB)** for review. If the **administrative officer** fails to act with regard to a complete application for a permit within 30 days, whether by issuing a decision or by making a referral the **DAB** or **DRB**, a permit shall be deemed issued on the 31st day.

2.2.4 Referral to State

The **administrative officer** should inform any person applying for municipal permits or authorizations that the person should contact the Vermont Agency of Natural Resources Permit Assistance Specialist in order to assure timely action on any related state permits; nevertheless, the applicant shall retain the obligation to identify, apply for, and obtain any relevant state permits.

2.3 Permit Timeframe

If the land **development** permitted by any zoning permit has not been completed, or if the land use permitted has not been commenced, within three years of the date of issuance, or by a date set by decision of the **Development Review Board** or **administrative officer** that may differ from that three year timeframe for site- or project-specific reasons, then the permit shall expire without further action by the town. For projects that also require Act 250 review, and where an applicant either demonstrates good faith efforts to acquire that permit in a timely manner, or, where an applicant ends up in extended or contested proceedings through no cause or fault of their own, then the timeframe for the local permit will be deemed to run concurrently with the three year life of the Act 250 permit, or in the case of contested proceedings, the three-year timeframe shall commence at the conclusion of such proceedings. It is not the intent of this section to allow a permitee to have an indefinite or infinite amount of time to proceed with the approved use or **development** where neither of these conditions apply.

2.4 Extensions of Permits

Upon request by a permitee and payment of any required recording fees, the **administrative officer** may grant a three-year extension for any permit where neither this ordinance nor external circumstances have changed in ways that would have caused a material change in the outcome of the original application. For permits issued in conformance with **Development Review Board** approvals, any further extensions shall require application to the **DRB** with payment of the required basic hearing fee for review of the project for conformance with the regulations in effect at that time and other relevant, external circumstances. Unless otherwise limited by the **DRB** for good cause, any extensions granted by the **DRB** will then start the extension process anew.

2.5 Certificates of Occupancy

2.5.1 New Structures

No **structure**, hereafter erected pursuant to a zoning permit, shall be occupied or used, in whole or in part, for any purposes beyond construction, until a **certificate of occupancy** is issued by the **administrative officer**, certifying that such **structure** conforms to the approved plans and specifications and the requirements of this ordinance.

2.5.2 Changes of Use

In the case of a **change of use**, prior to commencement of the new use, the **administrative officer** shall issue a **certificate of occupancy** certifying that such use conforms to the approved plans and specifications and the requirements of this ordinance.

2.5.3 Alterations to Existing Structures or Sites

In the case of any permit allowing alterations to an existing **structure** or site, prior to use of the altered **structure** or site, the **administrative officer** shall issue a **certificate of occupancy**, certifying that such use or **structure** conforms to the approved plans and specifications and the requirements of this ordinance.

2.5.4 Temporary Certificate of Occupancy

Temporary certificates of occupancy may be granted by the **administrative officer** when it can reasonably be demonstrated that it is impractical for reasons beyond the control of the permittee to complete all necessary site work immediately (*e.g.*, landscaping in winter), or when a minor delay in some

aspect of site work will not result in significant non-compliance with approved plans. Temporary certificates of occupancy shall include an expiration date and a firm deadline for full compliance with approved plans.

2.6 Violations and Penalties

A violation of this ordinance shall constitute a civil offense enforced in accordance with the provisions of 24 VSA §1974(a) or 24 VSA §4451. If a violation is alleged to exist, a formal notification shall be issued in the form of a municipal civil complaint ticket or a notice of violation as described below. Issuing officials authorized to enforce this ordinance include the **administrative officer**, also known as the **zoning administrator**, and any **assistant zoning administrator**.

2.6.1 Municipal Civil Complaint Ticket

The **administrative officer** may issue a municipal complaint ticket for violations of provisions of this ordinance. Two copies of said ticket shall be served either in person or by first class mail to the defendant. One copy shall be retained by the issuing officer and the original shall be filed with the Vermont Judicial Bureau. Upon the fourth offense, the town may request that the case be transferred from the Judicial Bureau to the Vermont Environmental Court, or any other court of competent jurisdiction.

Fines associated with municipal complaint tickets shall be imposed in accordance with Chapter 1 Sections 16 and 17 of the Manchester Unified Ordinance. As per statute, in cases where a violation is not contested, a waiver fee shall be paid in accordance with the schedule established in Chapter 1 Section 18 of the Manchester Unified Ordinance. Each day that a violation continues shall constitute a separate violation of this ordinance. A violation shall be considered a third degree offense, unless it is committed deliberately or poses an imminent threat to public safety and welfare, in which case it shall be considered a second degree offense. If a violation is committed deliberately and poses an imminent threat to public safety and welfare, it shall be considered a first degree offense.

2.6.2 Notice of Violation

The **administrative officer** may pursue an enforcement action for any violation of this ordinance by issuing a notice of violation. No such action may be brought unless the alleged offender has had at least seven days' warning notice by certified mail. After that seven day notice, each day that the violation continues shall be considered a separate violation of this ordinance. An action may be brought without the seven day notice and opportunity to correct if the alleged offender repeats the violation of the ordinance after the seven day notice period and within the next succeeding 12 months.

The seven day notice shall state that a violation exists, that the alleged offender has an opportunity to correct the violation within the seven days, and that the alleged offender will not be entitled to an additional warning notice for a violation occurring after the seven days. The notice of violation shall also state the regulation or permit condition alleged to have been violated, the facts giving rise to said violation, that appeal to the **DRB** may be made within 15 days of the date of the notice, and that failure to appeal within 15 days will render the notice of violation the final decision on the violation addressed in the notice.

2.7 Appeals

2.7.1 Appeals of Decisions of the Administrative Officer

An **interested person** (as defined in 24 VSA §4465) may appeal any act or decision of the **administrative officer** by filing a notice of appeal with the Manchester Town Clerk. A written notice of

appeal must be filed, with fees, within 15 days of the date of that act or decision, and must give the name and address of appellant(s), offer a full explanation of the act or decision, the relevant regulation(s) in question, the reasons why it is alleged that the act or decision being appealed is wrongful, and the relief sought. If an appeal is filed as a petition by a group of **interested person**s, then the petition must designate one person to serve as representative of the group regarding all matters related to the appeal. A copy of the notice of appeal shall be submitted to the **administrative officer**. A **DRB** hearing shall then be warned and held, with a written decision to follow, as per applicable law.

2.7.2 Appeals of Development Review Board Decisions

Appeals of decisions of the **Development Review Board** shall be filed with the Vermont Environmental Court in accordance with 24 VSA §4471 and any other applicable rules of civil procedure or laws. A written notice of appeal shall be filed by certified mail, with fees, to the Environmental Court. A complete copy shall be filed with the **administrative officer**, who shall supply a list of **interested person**s to the appellant within five working days. Upon receipt of the list of **interested person**s, the appellant shall, by certified mail, send a copy of the notice of appeal to every **interested person**.

2.8 Variances

Except as specifically provided elsewhere in this ordinance, a **variance** is required where land **development** is proposed that does not meet applicable regulatory requirements of the corresponding zoning district.

Pursuant to 24 VSA §4469, for **development** that does not specifically involve a renewable energy resource **structure**, the **Development Review Board** shall grant a **variance** if all of the following facts are found and specified in its decision:

(1) There are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of **lot** size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to these conditions, and not the circumstances or conditions generally created by the provisions of the **bylaw** in the neighborhood or district in which the property is located.
(2) Because of these physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of this ordinance, and therefore a **variance** is needed to enable reasonable use of the property.
(3) The unnecessary hardship has not been created by the applicant.
(4) If granted, the **variance** will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or **development** of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare.
(5) If granted, the **variance** will represent the minimum needed to grant relief, and will be the least deviation possible from this ordinance and from the town plan.

Pursuant to 24 VSA §4469, for **development** that specifically involves a renewable energy resource **structure**, the **Development Review Board** shall grant a **variance** if all of the following facts are found and specified in its decision:

(1) It is unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource **structure** in conformance with the **bylaw**s.
(2) The hardship was not created by the applicant.

(3) If granted, the **variance** will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or **development** of adjacent property, reduce access to renewable energy resources, or be detrimental to the public welfare.
(4) If granted, the **variance** will represent the minimum needed to grant relief, and will be the least deviation possible from the **bylaw** and from the plan.
(5) The **Development Review Board** may attach conditions to any **variance** approved as are necessary and appropriate to implement the purposes of this **bylaw** and the town plan.

2.9 Waivers

Pursuant to 24 VSA §4414, the **Development Review Board** may grant waivers to reduce dimensional requirements for land use and **development** proposals provided there is mitigation of the dimensional encroachment through design, screening, or other remedy, or the **structure** causing the dimensional encroachment is necessary to provide energy conservation or renewable energy use on the site. Applications for waivers from the dimensional requirements shall be submitted to the **administrative officer** and shall include a **site plan** and narrative describing how the proposal meets the mitigation or energy measures indicated in this section. The **site plan** submission shall meet the requirements of §3.2 of this ordinance.

Section 3 Review Procedures & Criteria

The **administrative officer** shall review all applications for completeness. No action shall be taken until the application is deemed complete and until all relevant permit fees are paid to the Town of Manchester. Once an application is deemed complete, the **administrative officer** will either act on the application or refer it to the **Development Review Board** or **Design Advisory Board**. For the purposes of this section and pursuant to 24 VSA 117 §4448(d), referral of an application to the **Development Review Board** or **Design Advisory Board** shall be deemed as action by the **administrative officer**.

3.1 Administrative Review

The **administrative officer** may render an administrative decision on applications for single- and two-family dwellings and **accessory structure**s; for design changes as outlined in §3.5.3.1; for small residential fill operations as outlined in Section 4.15; for **sign**s as outlined in Section 9; **changes of use** in existing **building**s where no new impacts as compared with existing uses may reasonably be anticipated; and amendments to administrative permits where conformance with this ordinance is found. Applications for single- and two-family **structure**s or for **sign**s falling in design review districts shall require review by the **Design Advisory Board** prior to the rendering of an administrative decision. The **administrative officer** may also render an administrative decision on minor amendments to approvals issued by the **Development Review Board** (or **planning commission** or zoning board of adjustment if a project predates the **Development Review Board**), where no material changes or impacts are expected, and where conformance with this ordinance is found.

However, the authority to render an administrative decision does not mean that the **administrative officer** is required to do so. The **administrative officer** reserves the right to refer any application to the **Development Review Board** where it is deemed that board review or interpretation is appropriate or necessary. In such cases, the applicant shall be responsible for any additional fees or submittals needed for board review.

3.2 Site Plan Review

Applications for land use and **development** for anything other than a single-family residence or allowable uses therein shall be accompanied by a site development plan (**site plan**) conforming to the requirements of this section. No permits shall be issued until approval has been granted by the **administrative officer** or the **Development Review Board**, as herein provided.

New commercial, professional, or industrial **development** shall require review by the **Development Review Board**. General and site specific conditions shall be attached to all **Development Review Board** approvals as appropriate and necessary to implement relevant provisions of this ordinance.

3.2.1 Site Plan Review Criteria

Before approving any **site plan**, the **Development Review Board** shall find, and before issuing any permit, the **administrative officer** shall find that the application satisfies the following criteria:

(1) Conformance with the dimensional requirements of the corresponding zoning district, (except existing, **nonconforming structure**s as provided for in §4.5).
(2) Safe and adequate access, circulation, and turning radii for all vehicles and pedestrians that can be expected to serve, use, and access the site. Where they do not already exist, the applicant shall construct and maintain sidewalks fronting on the subject **parcel**(s) to town specifications;

create inter-parking lot connections to enhance pedestrian and vehicular circulation; and perform all work within the town **right-of-way** in accordance with Chapter 8 of the town ordinances.

(3) Sufficient parking as required by section 6 of this ordinance, except existing, **nonconforming use**s as provided for in §4.5.
(4) Exterior lighting, including existing lighting, which shall be controlled carefully so as to illuminate desired areas while preventing glare upon public roadways and adjoining lands and uses.
(5) Landscaping, which shall be sufficient to beautify the subject land, areas visible to the public, and public rights of way.
(6) **Stormwater** drainage, which shall be treated on-site where practical, and shall not cause adverse impacts upon the municipality or neighboring properties or uses.

The **Development Review Board** or **administrative officer** shall deny any application that does not comply with these standards. The **Development Review Board** or **administrative officer** may impose reasonable conditions, to assure compliance with this ordinance.

3.2.2 Site Development Plan

3.2.2.1 Scale

All commercial and multiunit residential **site plan**s shall be at a scale of 1" = 20', with contours shown at two foot intervals; except that **parcel**s of two to 10 acres shall be at a scale of 1" = 50', and **parcel**s of more than 10 acres shall be at a scale of 1" = 100'. In addition, where less than two acres of a larger **parcel** is under active consideration, an additional **site plan** shall be submitted showing only the area of proposed **development** at a scale of 1" = 20', with contours shown at two-foot intervals.

3.2.2.2 Required Elements

The Site Development Plan shall show:

(1) Boundaries, dimensions, and total area of the **lot**;
(2) Existing and proposed **building**s on the **lot** and on adjacent **lot**s within a distance of 50 feet from the subject **lot**;
(3) Existing and proposed **street**s and driveways adjacent to and within a distance of 50 feet from the subject **lot**;
(4) Proposed pedestrian and vehicular circulation, including parking areas, service areas, loading zones, and points of access to public rights of way;
(5) Existing and proposed landscaping, trees, shrubs, hedges, greenspace, benches and other pedestrian amenities, open space, open space linkages, park and playground facilities, and bodies of water;
(6) Existing and proposed easements, rights-of-way, and other encumbrances upon the land;
(7) Tables or charts describing relevant site statistics, including but not limited to total project acreage, **undevelopable land** calculations, total greenspace, required and proposed parking, **building** coverage percentage, **building height**s, and gross square footage and **active floor area**;
(8) Existing and proposed exterior lighting;
(9) Existing and proposed grading, with contours at an interval appropriate for the site and sufficient to demonstrate the nature of the proposal and its potential impacts;
(10) Location of dumpsters or other exterior recycling/waste disposal facilities;
(11) **Stormwater** treatment plans; and
(12) Any other information as may be required to adequately assess the proposed project.

3.2.3 Time Period for Review

Upon receiving a complete application for **site plan** review, the **administrative officer** shall schedule it for a public hearing before the **Development Review Board**. Pursuant to 24 VSA 4464(b), the **Development Review Board** shall act to approve or disapprove any such **site plan** within 45 days after the public hearing is adjourned, and failure to so act within such period shall be deemed approval.

3.3 Conditional Use Review

3.3.1 Criteria for Review

A **conditional use** may be approved by the **Development Review Board** only after a public hearing and upon a finding by the board that the use shall not cause an undue adverse effect upon:

(1) The capacity of existing or planned community facilities;
(2) The character of the area affected;
(3) Traffic on roads and highways in the vicinity;
(4) Other provisions of ordinances, regulations, and **bylaw**s of the town applicable thereto; or
(5) The utilization of renewable energy resources.

Each use, so approved, shall meet any standards applicable to the specific use as to **lot** and **building** dimensional requirements, landscaping, design, and locations of service areas, and other standards that may be imposed by the **Development Review Board**.

3.3.2 Elements of the Application

Approval shall be based on a site development plan, prepared in conformance to the requirement of §3.2, and failure of the use or **development** to conform to such approved **site plan** shall constitute a violation of this ordinance.

3.3.3 Time Period for Review

The **Development Review Board** shall act to approve or disapprove any such requested **conditional use** within 45 days after the date of the close of the public hearing, and failure to so act within such period shall be deemed approval.

3.4 Major Project Review

3.4.1 Purpose

The purpose of this section is to accommodate growth in an orderly and deliberate pace without undue burden on the community, private property, and the natural or built environment. Accordingly, the procedures and standards established herein are intended to protect the general welfare and safety of the permanent as well as transient population of the town.

3.4.2 Relationship to Other Provisions

Where the provisions of this section impose a greater limitation, restriction, or requirement than other sections of this ordinance, or other land use controls, the provisions of this section shall control. Where the provisions of this section are in conflict with other sections of the ordinance, the provisions of this section shall control. The only exceptions to this shall be as described in §4.4 (Limitations), §5.13 (Depot Street Corridor), §5.14 (Main Street South Corridor), and §5.15 (Manchester Center Corridor), and for any **affordable housing project** as defined in §7.3, (Affordable Housing Regulations). All **affordable housing project**s are exempt from the requirements of this section due to the overriding local concern for

the creation of homes that are affordable to local residents. Major Development Project Review shall still apply to projects within the Depot Street Corridor (DSC), Main Street South Corridor (MSSC) and Manchester Center Corridor (MCC); the intent is to clarify that where there are regulatory conflicts between major development project review provisions and DSC, MSSC, or MCC provisions, the DSC, MSSC, or MCC provisions control.

3.4.3 Major Project Classification

If a **development** project is not clearly related to the list below, the **administrative officer** shall determine which category is most similar and process the application accordingly. Such determination may be appealed to the **Development Review Board** when considering these points of definition and procedure. Major development projects shall be considered a special class of use subject to the provisions of this section and are defined in the following list.

3.4.3.1 Residential
Major Residential Development Projects shall include: (1) new residential **development**s of 10 or more **lot**s, or 10 or more units; and (2) expansion of existing residential **development**s of five or more new **lot**s, or five or more new units.

3.4.3.2 Commercial
Major Commercial Development Projects shall include: (1) new **development** of 3,000 square feet or more that will be used for **retail**, **restaurant**, **professional office** or mixed uses; and (2) expansion of an existing **development** consisting of 2,000 square feet or more of new space to be used for **retail**, **restaurant**, **professional office** or mixed uses.

3.4.3.3 Lodging
Major Lodging Development Projects shall include: (1) new **hotel** or **motel development** of 15 or more rooms or units; and (2) expansion of an existing **hotel** or **motel** consisting of 10 or more new rooms or units.

3.4.3.4 Industrial
Major Industrial Development Projects shall include: (1) new industrial **development** of 5,000 square feet or more; and (2) expansion of existing industrial **development** of consisting of 2,000 square feet or more of new industrial space.

3.4.3.5 Public
Major Public Development Projects shall include: (1) new **development** of 5,000 square feet or more to be used for places of public assembly; and (2) expansion of existing **development** consisting of 2,500 square feet or more of new space to be used for public assembly.

Square footage applies to gross floor area of **building**, including primary and any accessory **building**s, excluding only unusable floor area, as determined by the **administrative officer** or **Development Review Board**. The classification of a project as a major development project includes **land development** on a **lot** or contiguous **lot**s, owned or controlled by a **person**.

3.4.4 Burden of Proof

In evaluating a major development project as defined herein, the burden of proof shall lie with the applicant. In reaching its conclusions, the **Development Review Board** may request the applicant to prepare additional environmental and/or traffic assessments.

3.4.5 Review Procedures

All major development projects are classified as **conditional use**s subject to the review procedures and the performance standards provided herein.

3.4.5.1 Classification

The **administrative officer** may refer an application that fits the classification of a major development project, to the **Development Review Board** for a recommendation as to whether such project should be treated as a major development project. The **administrative officer** and **Development Review Board** shall consider the potential for significant impacts on the capacity of existing or planned community facilities, character of the area affected, traffic on roads and highways in the vicinity, and utilization of renewable energy resources in making such a decision. Based upon this review, the **Development Review Board** shall recommend to the **administrative officer** either the application be treated as a major development project subject to all of the provisions of this section, or the application be treated as a regular permitted or conditionally permitted use subject to review under all other applicable sections of this ordinance. However, it is the **administrative officer**'s responsibility to decide how to process zoning applications. Thus, a decision made by the **administrative officer** to consider a project a major development project may be appealed to the **Development Review Board**.

3.4.5.2 Preliminary Review

Prior to a hearing before the **Development Review Board**, major development projects shall be reviewed by the **Administrative Advisory Group** composed of the town manager and representatives from the Police, Fire, Public Works, and Planning and Zoning departments. This **Administrative Advisory Group** shall advise the **Development Review Board** regarding anticipated impacts the project may have on municipal services and how those impacts should be addressed. Consideration may be given to the standards in this section and other requirements or information which may have bearing on the project.

3.4.6 Project Phasing

A major development project shall not cause undue impacts on the community with respect to the performance standards provided below. Accordingly, the **Development Review Board** may impose conditions to limit the impact of projects and/or require the time phasing of projects in total or in part, to mitigate undue impact as determined by the board.

3.4.7 Performance Standards

Before granting an approval the **Development Review Board** shall find that a major development project does not cause undue adverse effects with respect to the performance standards provided herein.

3.4.7.1 Water Supply

The project shall have sufficient water available for the short and long term needs of the project, and will not cause an undue impact on an existing water supply. If connection is to a **public water** supply, a letter granting connection and demonstrating adequacy of supply may satisfy this standard.

3.4.7.2 Wastewater

The project shall comply with sanitary waste disposal regulations of the town, and shall not cause an undue impact on the municipal sewer system if it is to be utilized. If connection to the municipal system is proposed, a letter indicating that sufficient capacity exists to serve the project may satisfy this standard.

3.4.7.3 Educational Services

The project shall not cause an undue impact on the ability to provide educational services. Consideration shall be given to the capacity and policies of Manchester Elementary and Middle School and Burr and

Burton Academy, or other **school**s affected. The applicant shall identify the number of students the project will generate. A letter of service from the affected school systems may satisfy this requirement.

3.4.7.4 Municipal Services

The project shall not cause an undue impact on the municipality to provide service or facilities including quasi-public and private providers. Consideration shall be given to police and fire protection, parks and recreation, emergency rescue services, hospitals, utilities and solid waste generation, collection, and disposal.

3.4.7.5 Water & Air Quality

The project shall not result in water pollution or cause an undue impact on air quality. Consideration of potential for water pollution shall include the nature of soils and subsoils, slope, proximity to **stream**s, aquifer recharge areas and groundwater, **floodplain**s, storm water runoff, and drainage. Consideration shall also be given to protection of the natural terrain, **shoreline** protection, retention of vegetation, and erosion control. Consideration of air quality shall include types and quantity of air emissions, odors or hazardous substances, and dust control. Consideration may be given to SO_2 and suspended particulate matter.

3.4.7.6 Scenic & Natural Beauty

The project shall not have an undue adverse effect on the scenic or natural beauty of the area, natural landscape, or rare and irreplaceable natural areas. Consideration shall be given to the retention of significant topographic features of the site, and the relationship to surrounding properties. **Building**s and **structure**s shall be sited below ridgelines; certainly, below any primary sight lines to the ridgeline, so that **building**s do not intrude upon the skyline, consistent with the goals and policies for subdivision design as described in the town plan.

3.4.7.7 Historic Sites

The project shall not have an undue adverse effect on historic sites. The applicant may be required to retain the services of a professional with expertise in historic preservation to satisfy this standard. If available, existing studies and/or documentation may be used. **Building**s shall be sited in an orderly, non-random fashion. Consideration shall be given to external design of **building**s and related site improvements, as well as **sign**s, exterior lighting, overall site design, and historic features. Materials and design details shall take into account harmony and proportion and adjacent land use. **Building**s which are included in the Vermont Historic Sites and Structures Survey shall be retained for their historic contribution. It is the intent of this standard to avoid destruction of historic properties or **building**s unless it is clearly demonstrated by the applicant that there can be no reasonable use of the property without destruction of the **building**.

3.4.7.8 Open Space

The **site plan** shall incorporate an open space and landscape plan. Consideration shall be given to natural terrain and mature trees, new landscaping, screening, edges or perimeter of the **parcel**, and linkages to adjacent **parcel**s. Any municipal open space plan or policies shall be considered if applicable to the project area. Applications for subdivisions shall demonstrate conformance with the goals and policies described in Part II, Section 7 of the town plan.

3.4.7.9 Residential Buffer

For any residential **development** considered a major development project, a 100 foot **front**, **side**, and **rear yard** shall be required between the **street** line and side and rear property lines of the **development** and any of the following **building**s: any multi-unit **building** or any **building** located in a **residential cluster**. These are baseline standards, which are generally intended to be met. However, the **DRB** may

allow lesser **setback**s, where it is clearly demonstrated that site specific circumstances do not require such wide **setback**s, and where it is demonstrated that the planning goals and policies for subdivision design described in the town plan and this ordinance are better satisfied if lesser **setback**s are permitted.

3.4.7.10 Building Buffer
The minimum **setback** between any two adjacent residential **building**s within a **development** shall be at least 20 feet.

3.4.7.11 Transportation Safety
The project shall not cause unreasonable congestion or unsafe conditions with respect to the use of transportation facilities existing or proposed. Consideration shall be given to vehicular and pedestrian movement, parking, design and layout of **street**s and driveways, intersections, grades and profiles, adjoining land uses, sight distances, trip generation and road capacity, turning movements, peak traffic flows, and surface treatment. In connection with any application to change an existing use, consideration shall only be given to impacts of the proposed new use that differ from the impacts associated with the existing use. Additional traffic studies may be requested of the applicant if necessary to satisfy the above considerations.

3.4.7.12 Energy Conservation
The project shall reflect principles of energy conservation and incorporate the best available technology that is economically justified. Consideration may be given to location and orientation of **structure**s and other project infrastructure, surrounding land uses, energy and utility sources, the length and placement of utility lines or other utility infrastructure, heating, cooling and lighting technologies employed, landscape design and features, or any other project features that the **DRB** finds appropriate to energy conservation.

3.4.8 Additional Standards for the Town Core

3.4.8.1 Goals
This section provides additional standards for major development projects in the C1, C2, and C3 zoning districts. These areas are of special public interest due to the economic, physical, and social services they provide to the town.

The goals of this section are to:

(1) encourage smaller scale projects that provide for retention of historically significant **building**s and increased open space;
(2) avoid uses with high traffic generation and turning movements, especially near intersections or with direct access to Main Street, Depot Street, and Bonnet Street;
(3) encourage combined access and/or shared parking allowing for greater efficiency of land use, integration of open space, and provision for pedestrian walkways;
(4) encourage coordinated **building** design and site **development** that takes into account adjacent land **development** and the surrounding area; and
(5) prevent undue, adverse impacts to neighboring properties.

3.4.8.2 Performance Standards
To achieve these goals, the following performance standards shall apply to major development projects in the commercial core. Exceptions to these requirements shall be made only in the case of **essential services** to provide appropriate, separation or screening for these larger **building**s or uses, but not to require so much separation or screening as to effectively preclude a use that is otherwise permissible.

Where undue adverse impacts may reasonably be anticipated, either of the following shall be the 'base level' requirement, whichever is greater:

(1) An additional 5' of **setback** shall be provided between **building**s and adjoining residential property lines, above the minimum **setback** otherwise required in the district, for each 5,000 square feet of **building footprint** above that otherwise permitted in the district or corridor;
(2) No part of a **building** may break the plane drawn at a 45 degree angle sloping inward and upward from any shared property line on the ground that adjoins residential lands or uses (see illustration).

Once that **setback** point or line is established, further consideration shall be given to site-specific mitigation, needs, or circumstances that may prevent adverse impacts with less **setback**. The final determination of required **setback** made by the **DRB** shall thus include both the quantitative element of distance, as well as qualitative circumstances such as slope, natural and built topography, density and intensity of plantings, fencing, and other mitigating factors.

(1) The maximum **building coverage** to land area is 15%.
(2) No one **building** shall have a **footprint** greater than 3,000 square feet.
(3) Commercial **building**s on the same **lot** shall be separated by at least 20 feet.
(4) An open space plan shall be provided which includes green space of not less than 30% of the **lot** area. A green belt of at least 20 feet wide shall be provided along any **street** line. Open space areas shall not be unduly isolated from one another by unrelated physical obstructions such as **building**s and paved vehicular areas. Open space corridor linkages to adjacent property shall also be considered.
(5) Paved areas shall be only as large as necessary to serve parking, circulation, and improved open space needs, and their appearance will be enhanced by landscaping. No parking area shall run continuously for more than 80 feet along a front **street** line, or for more than 150 feet along any **street** line. A pedestrian walkway shall be provided within each parking area to connect such area with **building**s, public sidewalks, and adjoining land **development**. Parking areas shall be set back at least 10 feet from side and rear **lot** lines except for allowances for shared parking and access.
(6) All areas not otherwise occupied by **structure**s or paved areas shall be suitably landscaped. Any required **front yard** shall, at a minimum, include: one tree, a minimum of two inches in diameter at the time of planting, to be provided for each 50 feet, or fraction thereof, of frontage.

3.4.9 Application Requirements

A complete Major Development Project application shall include: application form; application fee; a statement describing the **development** and the reasons for the particular approach proposed; a narrative addressing each of the performance standards of §3.4.7, and §3.4.8, if applicable; and two full and twelve reduced (11" x 17") sets of site development plans stamped and certified by a Vermont licensed engineer or surveyor, and which meet the requirements of §3.2.2.; and written commitments for all required town services, including where applicable:

(1) Water service;
(2) **Sewer** service;
(3) Educational service;
(4) Police service;
(5) Fire service; and
(6) Rescue Squad service.

3.5 Design Review

3.5.1 Classification for Design Review

Districts requiring design review include the commercial and transient commercial zoning districts, the mixed use zoning district, the industrial zoning districts, and the four historic districts identified in the Manchester Town Plan. Except as hereinafter provided, no person shall do or cause to be done any of the following acts with respect to any **building**, **structure**, or exterior property feature located within a design review district without first obtaining design plan approval:

(1) Construction of a **building**.
(2) Addition to or alteration of the exterior of a **building** which increases or decreases the square footage of the **building**, whether enclosed or not.
(3) Alteration of the exterior wall of a **building** by tearing down or removing any portion thereof, or, by filling in, sealing, boarding up, closing or enclosing any portion of an existing window, door space, porch, or breezeway thereon.
(4) Alteration of the roofline to a **building**, but specifically excluding any alterations to chimneys.
(5) Addition or removal of materials to or from the exterior walls of a **building** where the materials so added or exposed are of a kind or type different from those existing, including differences in color.
(6) Installation of, or modification to, any **sign**.
(7) Installation of, or modification to, any **fence** or **wall**.

Any interior alterations or changes that do not affect, change or add to the exterior of the **structure** will not be subject to design plan approval. Except as otherwise provided in these regulations, a change in use or type of occupancy shall not require design plan approval.

3.5.2 Application Requirements

Two sets of full-sized plans and two reduced (11” x 17”) shall be submitted to the **administrative officer**. The application shall include the name and address of the applicant, a statement of the proposed construction or alteration for which design plan approval is sought, a drawing in sufficient detail to illustrate clearly the proposed construction or alteration as stated, a description of the location of the proposed construction or the **building** proposed to be altered, a drawing showing existing conditions of any **building** proposed to be altered, including structural features and materials, a site development plan as required pursuant to §3.2, and such other information as is relevant and necessary for proper consideration of the application.

Upon the filing of an application for design plan approval, the **administrative officer** shall schedule the application for the next available joint meeting of the **Design Advisory Board** and **Development Review Board**.

3.5.3 Review Procedures

The **Design Advisory Board** shall review the proposed **development** according to relevant goals and policies of the town plan, any adopted design guidelines, and according to the architectural and site criteria listed in §3.5.6. The **Design Advisory Board** shall make a recommendation to the **Development Review Board** or the **administrative officer** based on this review. The **Development Review Board** and **administrative officer** also shall review the proposed **development** according to relevant goals and policies of the town plan, any adopted design guidelines, and according to the architectural and site criteria listed in §3.5.6.

3.5.3.1 Administrative Review

Proposals for the following **development** activities shall be eligible for administrative approval after review by the **Design Advisory Board**.

(1) installation of individual **sign**s on existing **structure**s;
(2) installation of lighting for an existing **sign**;
(3) replacement of roofing sheathing (shingles, membrane, metal sheets) with the same material of a different color;
(4) repainting an existing **structure**, partially or fully, in a new color; and
(5) replacement of windows and doors with no change in size or number.

The permit issued by the **administrative officer** shall adopt by reference the recommendations of the **Design Advisory Board**. Failure of the **administrative officer** to issue a permit within 45 days of the **Design Advisory Board** review shall constitute an automatic granting of the permit for design plan approval.

3.5.3.2 Board Review

For all other applications, the **Development Review Board**, shall issue a written decision granting or denying the application for design plan approval. This decision shall be made within 45 days from the date of the close of the public hearing. The decision issued by the **Development Review Board** may adopt by reference the recommendations of the **Design Advisory Board**. Failure of the **Development Review Board** to issue its decision within the time and in the manner so specified shall constitute an automatic granting of the permit for design plan approval.

3.5.4 Design Criteria

Before granting design plan approval, the **Development Review Board** or **administrative officer** shall find that the proposed **development** conforms substantially to the relevant goals and policies described in the town plan, in any adopted design guidelines, and the following design criteria:

3.5.4.1 Architectural Design Criteria

Height: the height of **building**s shall be considered in relation to the average height of existing adjacent **building**s, and the **building** being constructed or altered.

Proportion: the relationship between the width and height of the front elevations of adjacent **building**s shall be considered in the construction or alteration of a **building**; the relationship of width to height of windows and doors of adjacent **building**s shall be considered in the construction or alteration of a **building**.

Roof shape, pitch, and direction: the similarity or compatibility of the shape, pitch, and direction of roofs in the immediate area shall be considered in the construction or alteration of a **building**.

Pattern: alternating solids and openings (wall to windows and doors) in the front facade and sides and rear of a **building** create a rhythm observable to viewers. This pattern of solids and openings shall be considered in the construction or alteration of a **building**.

Materials and texture: the similarity or compatibility of existing materials and textures on the exterior walls and roofs of **building**s in the immediate area shall be considered in the construction or alteration of a **building**. A **building** or alteration shall be considered compatible if the materials and texture used are appropriate in the context of other **building**s in the immediate area.

Color: the similarity or compatibility of existing colors of exterior walls and roofs of **building**s in the area shall be considered in the construction or alteration of a **building**.

Architectural Features: architectural features, including but not limited to, cornices, entablatures, doors, windows, shutters, and fanlights, prevailing in the immediate area, shall be considered in the construction or alteration of a **building**. It is not intended that the details of existing **building**s be duplicated precisely, but those features should be regarded as suggestive of the extent, nature, and scale of details that would be appropriate on new **building**s or alterations.

3.5.4.2 Site Design Criteria

Location of **building**s: the **setback** of **building**s from the **street**, spacing between **building**s, and alignment of **building**s shall be considered in relation to the prevailing **development** in the area.

Site Organization: the organization of **building**s, drives, parking areas, walks, **sign**s, lights, **fence**s, and other **structure**s should achieve a functional, safe, and harmonious site relationship. At the same time, site organization should be compatible with existing positive characteristics of the area.

Landscape and Plantings: the landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas. Plant species and planting composition should be complementary to the scale and style of **building**.

Views: important views within the immediate area and more distant scenic vistas shall be protected from **development** which would obscure those views or vistas from passersby on **street**s or walkways.

Drives, Parking, and Circulation: with respect to vehicular and pedestrian circulation, including walkways, interior drives and parking, special attention shall be given to limiting the number of access points and their location, general interior circulation, separation of pedestrian and vehicular traffic, and arrangement of parking areas that are safe and convenient and, insofar as practicable, do not detract from the design of **building**s and **structure**s and neighboring properties. Parking areas shall be screened by berms, plantings, or other screening methods to minimize their visual impact. Parking facilities shall conform to all applicable zoning requirements.

Utility Service: the installation of underground electric, telephone, and other utility lines is encouraged whenever feasible. Any utility lines remaining above ground shall be located so as to have a harmonious relation to neighboring properties and the site.

Site Structures: the materials, scale, design, and placement of **accessory structure**s on the site shall be complementary to the **building** and surrounding area.

Signs and Lighting: the size, location, design, color, texture, lighting, and materials of all exterior **sign**s shall be complementary to **building**s and **structure**s on the site and surrounding properties, and shall conform in all respects to Section 9 of this ordinance. Excessively bright lighting within a **building** or excessive illumination of **sign**s, **building**s, **structure**s, parking areas, or other features shall be prohibited.

Other Requirements: exposed storage areas, machinery installations, service areas, utility and **accessory structure**s and areas, where permitted, shall be subject to such **setback**s, screen plantings or other screening methods as shall reasonably be required to prevent their being incongruous with the existing or contemplated environment and surrounding properties.

3.6 Consolidated Review

Pursuant to 24 VSA §4462, for a project requiring more than on type of review, the reviews, to the extent feasible shall be conducted concurrently. Design review shall be conducted concurrently with **site plan**, **conditional use**, major project development, and subdivision review, with the **Design Advisory Board** making its recommendation to the **Development Review Board** at a joint meeting. Furthermore, major project development review shall be understood to include **conditional use** review. When a full application is received for a project requiring multiple review procedures, the **administrative officer** shall schedule concurrent review, unless the applicant requests in writing that separate reviews be conducted.

Section 4 General Regulations

4.1 Compliance

All land **development**, as defined in this ordinance, requires a zoning permit, except as noted in §4.4.3. No **lot** shall have an area, width, or a **front**, **side**, or **rear yard** less than that required for its district, except as otherwise specifically provided in this ordinance. Specified height limits apply to all **building**s and **structure**s; however, spires, cupolas, chimneys, ventilators, tanks, **farm** silos, utility poles, or similar parts of a **building** are exempt from height limits, so long as they occupy no more than 10% of the **building**'s area, and they are not used for human occupancy. The total number of dwelling units or **building**s on any **parcel** shall not exceed the number allowable in that zone, as determined by dividing the area of developable land within the **parcel** by the minimum per unit area required for the zoning district in which the **parcel** is located.

4.2 Undevelopable Land

Except as noted in Section 11 (Flood Hazard Regulations) for transportation or **stormwater** related infrastructure, **undevelopable land** shall not be developed in any way, and shall not be considered in making density determinations. **Undevelopable land** includes:

(1) land with a natural slope greater than 20%, unless such land comprises less than 15% of the total **lot** area, in which case it may be counted for density;
(2) **wetland**s, as defined in this ordinance, unless such land comprises less than 15% of the total **lot** area, in which case it may be counted for density;
(3) land within the regulatory **floodway**;
(4) land within the Forest and Recreation zoning district; and
(5) public and private vehicular roads and rights-of-way.

4.3 ADA Compliant Structures

Structures such as access ramps, which may be needed on private homes or which may be required on public **building**s for compliance with the Americans with Disabilities Act, on **building**s existing as of the date of adoption of this amendment (June 21, 1994), should meet required **setback**s. However, if safe and suitable access cannot be provided in this manner, access **structure**s may be located within required **setback**s if the **administrative officer** or **Development Review Board** finds that such **structure** and location:

(1) is reasonably necessary to provide access in a safe and suitable manner;
(2) is reasonably necessary in order to meet applicable guidelines and codes; and
(3) does not encroach any more than necessary within otherwise required **setback**s.

4.4 Limitations

4.4.1 Uses with Limited Regulation

Pursuant to 24 VSA §4413, provisions are made in this ordinance for the appropriate location of the following uses. These uses may otherwise be regulated only with respect to size, height, **building** mass, **yard**s, courts, **setback**s, density of **building**s, off-street parking, loading facilities, traffic, noise, lighting,

landscaping, and screening requirements, and only to the extent that the regulations do not have the effect of interfering with the intended functional use.

(1) State- or community-owned and operated institutions and facilities.
(2) Public and private **school**s and other educational institutions certified by the Vermont Agency of Education.
(3) **Place of worship**, including convent, monastery or parish house.
(4) Public and private hospitals.
(5) Regional solid waste management facilities certified under 10 VSA chapter 159.
(6) Hazardous waste management facilities for which a notice of intent to construct has been received under 10 VSA §6606(a).

4.4.2 Flood Hazard Area Compliance

Except for state-owned and -operated institutions and facilities, the town may regulate each of the uses listed in §4.4.1 for compliance with flood hazard area regulations enumerated in Section 11 of this ordinance, provided the regulations shall not have the effect of interfering with the intended functional use.

4.4.3 No Zoning Permit Required

Pursuant to 24 VSA §4413, no zoning permit shall be required for the following:

(1) public utility power generating plants and transmission facilities, as these are regulated under 30 VSA §248;
(2) accepted **agricultural practices**, including the construction of **farm structure**s, as those practices are defined by the Vermont Secretary of Agriculture, Food and Markets, although a person shall notify the **administrative officer** of the intent to build a **farm structure**, and shall abide by minimum **setback**s for the relevant zoning district unless otherwise approved by the Secretary of Agriculture; and
(3) accepted **silvicultural practices**, as those practices are defined by the Commissioner of Forests, Parks and Recreation under Vermont statutes.

4.4.4 Group Homes

Further, pursuant to 24 VSA §4412, a residential care home or group home to be operated under state licensing or registration, serving not more than eight persons who have a disability as defined in 9 VSA §4501, shall be considered by right to constitute a permitted single family residential use of property, except that no such home shall be so considered if it is located within 1000 feet of another existing or permitted such home.

4.4.5 Residential Structures

No zoning permit shall be required for repainting or replacement of roofing, clapboards, shingles, or windows of like size on an existing residential **structure** unless the **structure** falls within a designated design review district. If the work within a design review district involves no change in color, materials, or form, the work shall not require a permit. However, any repainting or replacement of roofing, clapboards, shingles, or windows involving changes in color, material, or form on a residential **structure** falling in a design review district shall require a permit and design review as set forth in §3.5.

In addition, no zoning permit shall be required for an **accessory structure** of no more than 120 square feet that is not placed on permanent footings or **permanent foundation** and which is to be used for residential purposes only but not for human habitation, unless such **structure** falls within a designated

design review district or regulated flood hazard area, in which case it shall require a permit. Such **structure** shall meet the **setback** requirements for the zoning district in which it is located.

4.4.6 Fences and Walls

No zoning permit, or **site plan** review, shall be required to erect, enlarge, alter, or remove any **fence** that is 8 feet in height or less in all zoning districts except the duly established design review districts of the municipality. **Fence**s that exceed 8 feet in height or fall in a design review district shall require a permit.

A **fence** shall not be required to meet the **setback** requirements for the district in which it is located provided the following requirements are satisfied:

(1) the **fence** shall not exceed 8 feet in height as measured from grade at any point along the **fence**;
(2) the **fence** shall not completely screen the enclosed or demarcated area from view;
(3) the **fence** shall not be constructed of corrugated metal, metal plates, plastic panels, fiberglass plates, or Plexiglas materials; and
(4) the finished, good or attractive side of the **fence** shall face adjoining properties, **street**, or water body if the appearance of the **structure** is not the same on both sides.

A **fence** not maintaining these restrictions shall meet required **setback**s or shall require a zoning permit.

Fences that enclose tennis courts shall require a zoning permit and shall comply with all **setback** requirements for the district in which they are located.

A retaining **wall** or stone **wall** under 42” in height shall not require a permit or **site plan** review unless it falls in a design review district. Retaining **wall**s and stone **wall**s over 42" in height, or retaining **wall**s and stone **wall**s falling in a design review district, shall require a zoning permit and shall comply with all **setback** requirements for the district in which they are located.

4.5 Nonconforming Structures & Uses

4.5.1 Continuation of Nonconforming Uses or Structures

Any **nonconforming use** of a **structure** or premise that was lawfully existing at the time of adoption of this ordinance, or any pertinent amendment thereto, may be continued; and any **structure** so existing, designed, arranged, intended for, or devoted to a **nonconforming use**, may be continued.

4.5.2 Changes to Nonconforming Uses or Structures

Any **nonconforming structure** may be reconstructed and structurally altered, and the **nonconforming use** therein changed, subject to the following regulations:

(1) A **nonconforming use** may not be changed, except to a conforming use, or with the approval of the **Development Review Board**, to another **nonconforming use** not more objectionable in character.
(2) If a **nonconforming use** is changed into a conforming use, it shall not be changed back into a **nonconforming use**.
(3) No **nonconforming use** shall be extended or expanded, except with the approval of the **Development Review Board**, provided that the Board shall have found that such extension or expansion will have no adverse effect upon the public health, safety, convenience, and upon property values in the vicinity; and, in judging the application, the Board should consider the criteria that would apply to the use if it were in a zone in which the use is permitted.

4.5.3 Discontinuation of Nonconforming Use

A **nonconforming use**, which has been discontinued for a continuous period of 18 months, shall not be resumed thereafter.

4.5.4 Enlargement of Nonconforming Structures

Any **structure** that does not comply with **building height** limit or required **setback**s, or is on a **lot** that does not meet the minimum **lot** area or width, or maximum coverage, shall not be enlarged or substantially altered, unless such enlargement or alteration conforms to the district in which it is located, and is approved by the **Development Review Board**.

The **administrative officer** may grant a permit for the enlargement of a **nonconforming structure** used solely for residential purposes, provided that the proposed enlargement meets all of the requirements for the district in which it is located, and provided the **structure** does not fall in a design review district. In all other cases **Development Review Board** approval is required.

Where **renovation** or expansion is proposed for a residential **nonconforming structure**, a waiver of **setback** or other dimensional requirements may be approved by the **Development Review Board** if the following standards are satisfied:

(1) The new or renovated part of the **building** does not extend beyond the existing **nonconforming structure**, unless needed to accomplish the intended goal (*e.g.*, an expanded, improved entry deck).
(2) The result will improve the property and the neighborhood.
(3) The result will not alter the character of the neighborhood, impair reasonable or appropriate use of adjoining properties, nor cause harm to the public welfare.
(4) The **renovation** or expansion is helpful or necessary to allow for continued reasonable use of the property.
(5) The proposed work or construction does not encroach any more than necessary to accomplish the desired results.

4.5.5 Reconstruction after Damage

Except in the regulated flood hazard area, no other provision of this ordinance shall prevent the restoration or reconstruction of an existing, **nonconforming structure** within 18 months of being damaged or destroyed by fire, explosion, accident, or by a public enemy, to its condition prior to such damage, destruction, nor prevent the restoration of an unsafe wall or structural member.

This 18-month time period is calculated from the date of damage. To gain the rights described in this paragraph, it is the landowner's responsibility to take timely action to ensure that all needed local permits are granted within 18 months of the date of damage. One extension of up to 12 months may be granted by the **Development Review Board** where hardship or extraordinary circumstances are demonstrated. In addition, where litigation has created unanticipated delay, the **Development Review Board** may grant an extension which is no longer than that time lost to litigation.

4.6 Existing Small Lots

Any **lot** in individual and separate and non-affiliated ownership from surrounding properties which was not created in violation of any previous zoning regulation and was in existence on the effective date of this zoning **bylaw**, may be developed for the purposes permitted or conditionally permitted in the district in

which it is located, even though not conforming to minimum **lot** size requirements, if such **lot** is at least one-eighth acre in size, and has a minimum width or depth of 40 feet.

4.7 Frontage Requirement

No land use or **development** shall be permitted on **lot**s with less than 50 feet of frontage on a public **street** or private way, unless the provisions of §4.7.1 or §4.7.2 are meet.

4.7.1 Three or More Lots

The **Development Review Board** or **administrative officer** may approve land use or **development** three or more **lot**s which do not front on a public **street**, provided that the following criteria are satisfied:

(1) A permanent and legally deeded **right-of-way** not less than 50 feet in width serves each **lot**;
(2) no such **right-of-way** shall be created or transferred if such action will reduce any lot to a size smaller than required in that district; and
(3) the road serving the **lot**s through this **right-of-way** shall meet town road standards as established in Chapter 7 of the town ordinances.

4.7.2 Less Than Three Lots

Where one or two **lot**s are located to the rear of another **lot** and cannot meet the frontage requirement, the **Development Review Board** or **administrative officer** may approve land use or **development** provided that:

(1) a permanent and legally deeded **right-of-way** at least 20 feet in width serves each **lot**; and
(2) the area of the **lot**s and the **front**, **side** and **rear yard**s for each **lot**, meet the minimum requirements for that district.

4.8 Public Toilet Facilities

All new construction, major development projects, or **changes of use** of commercial **building**s shall provide internal, sanitary and secure toilet facilities for the public which they serve. Such facilities shall be clearly identified for the patrons and maintained in working order. For all new **building**s or uses, and **changes of use** totaling less than 2,000 square feet in floor area, the **administrative officer** and **Development Review Board** may waive the requirements of this section due to cost, practical difficulties, unnecessary hardships, or low intensity use.

4.9 Landscaping & Screening

Commercial and major residential developments shall meet the minimum greenspace requirements for the zoning districts in which they are located. Unsightly elements (such as dumpsters, HVAC elements, equipment storage, or paved areas) associated with all commercial and major residential developments shall be adequately screened by stockade fencing or latticework, and wherever possible, appropriate evergreen landscaping.

4.9.1 Landscaping and Greenspace

Greenspace shall consist primarily of live, growing vegetation (*i.e.*, trees, shrubbery, and flowers - not just grass). Expanses of mulch, wood chips, or chip bark, punctuated minimally by plant materials, are not acceptable. Appropriate species of trees shall be planted liberally, along with street trees that will grow to significant stature. A mix of softwoods (for year-round screening) and hardwoods (for summer shade)

shall also be used. Softwoods shall be used to help screen parking areas from the **traveled way**. Landscape plantings shall be maintained as approved. It is the landowner's responsibility to ensure the health and vigor of all vegetation and replacement of any dead or diseased specimens. Landscaping shall be a truly integral element in project design, especially as related to parking lot screening, the fit of the **building** within the natural and built environments (both on-site and as related to adjoining sites), and pedestrian access and circulation, (both within the site and as connected to adjoining sites or other paths or sidewalks).

(1) Minimum required size of plantings for commercial and major residential developments are: deciduous trees, three-inch caliper; coniferous trees, six to eight feet tall; and shrubs, two feet tall.
(2) Only **nursery**-grown plant materials are acceptable, for reasons of health, vigor, and longevity. All plantings shall be planted according to accepted horticultural standards.
(3) Species chosen should be appropriate to their specific planting location. For example, trees or shrubs planted close to a road or parking area should be salt-tolerant.
(4) Clustered plantings of substantial trees shall be provided in order to enhance the aesthetic appearance of a site. Individual trees or planters shall not appear at rigid intervals.
(5) Substantial trees with wide canopies, providing significant shade, screening, and aesthetic improvement, mixed with conifers for year-round screening, shall be provided. Purely vertical plantings (such as arbor vitae) shall be used for accent only, and not as primary landscaping elements.
(6) Densely-planted, well-maintained flower beds are strongly encouraged as an aesthetic enhancement to landscaping plans.
(7) Where pedestrian paths are provided, landscaping such as raised planters, trees, or other features shall be used to reinforce the identification and use of these paths.
(8) Earthen berms and/or solid screens of primarily coniferous plantings may be required where screening must provide an opaque visual barrier or sound attenuation. Screening shall satisfy site-specific needs with regard to visual buffering (*e.g.*, line of sight, headlights, and glare), noise and sound attenuation, and odor control where needed or appropriate, such as for **restaurant**s.

4.9.2 Commercial Developments Abutting Residential Zoning Districts

For commercial **development**s that abut residential zoning districts, greenspace shall be designed and installed to diminish commercial impacts upon the residential zone. This greenspace shall define, soften, and screen the commercial use. Existing mature trees (deciduous trees of 6" diameter or greater at breast height; conifers 12' tall or greater) shall be preserved in place, relocated on-site, or replaced with trees of equivalent size and species.

4.9.3 Greenspace Reductions

Greenspace reductions may be granted by the **Development Review Board** when a **development** project provides exceptional landscape enhancements as described in this section.

4.10 Exterior Lighting

The purpose of this subsection is to prevent glare, light trespass and skyglow and promote energy efficiency. All outdoor lighting shall be designed to provide no more than the minimum lighting necessary Exterior lighting shall be placed in a manner that will not create a nuisance on other properties or off site. Exterior lighting shall not be permitted to create a hazard upon a public **street**, nor interfere with pedestrian or motorist vision. To ensure adequate vision and safety for the intended task to be performed in the lighted area, these provisions shall apply to all exterior lighting, except for lighting of permitted **sign**s, which shall meet the provisions of §9.7:

(1) All exterior lighting fixtures shall be shielded, “cut-off” and downcasting to ensure that glare is minimized, that lighting is directed only to the area to be illuminated, that illumination is directed below a horizontal plane, and that illumination does not cast direct light beyond the boundaries of the property on which it is located.
(2) All illumination shall be of a white light, such as LED, fluorescent (CFL), metal halide, or incandescent. Sodium lighting shall be prohibited.
(3) Exterior lighting shall not be colored or neon, and shall shine in a steady, non-fluctuating or non-undulating manner.
(4) Pole mounted lighting shall consist of carriage style lamps with a maximum 200 Watts incandescent illumination, 40 Watts LED, or 60 Watts CFL or the equivalent. Well-shielded downcast lamps may be up to 150 Watts metal halide. No light poles shall exceed 16' in height.
(5) Security lights shall be off within one hour after closing. If further lighting is desired, these lights may be activated for short periods by motion detectors.

4.11 Accessory Apartments

Pursuant to 24 VSA §4412, an **accessory apartment** or dwelling unit shall constitute a permitted use concurrent with the single-family residential use of a **lot**.

4.11.1 As Permitted Use

One accessory dwelling unit within or appurtenant to an owner-occupied single-family dwelling shall be approved provided there is compliance with all of the following:

(1) the property has sufficient water and **wastewater** capacity, as demonstrated by any required, relevant permits (*i.e*., municipal water and **sewer** allocations, or a state water and wastewater permit);
(2) the unit does not exceed 30% of the total habitable floor area of the single-family dwelling; and
(3) applicable **setback**, coverage, and parking requirements are met.

4.11.2 As Conditional Use

Where an existing single-family dwelling is proposed to be expanded, or where a new **accessory structure** is proposed in order to accommodate or create a new accessory dwelling unit, then **conditional use** review shall be required. In these cases, the general **conditional use** performance standards of §3.3, along with the specific standards described in §4.4.1, all apply.

4.11.3 As Temporary Use

The placement of a temporary shelter accessory to a primary single-family residence located in a district in which single-family residences are a permitted or **conditional use**, may be approved provided that the following criteria are met:

(1) the primary single-family residence is occupied by the landowner;
(2) that each occupant be a member of the landowner’s immediate family (child, sibling, parent) or related by blood or marriage;
(3) that the occupants display a case of physical disability or financial hardship worthy of consideration under this section;
(4) that the **temporary structure** meet all **setback** requirements for the district in which it is located;
(5) that upon the demise or relocation of the occupants of the temporary shelter, or sale of the property to a non-family member, that the shelter be removed and the **lot** be brought into

conformance within 6 months (such order shall be duly recorded in the land records for the Town of Manchester);

(6) the **Development Review Board** find the **conditional use** criteria of §3.3 satisfied;
(7) all required state and local permits shall be secured; and
(8) the permit is renewed on an annual basis by the **administrative officer**.

4.12 Child Care Facilities

4.12.1 Purpose

This section recognizes community needs for appropriate **child care** facilities in a variety of settings, by making provision for such facilities throughout the town, pursuant to 24 VSA §4412. These regulations are not intended to replace or supersede any applicable state regulations or licensing requirements.

4.12.2 Small Home Child Care

A **small home child care** refers to a state registered small home-based **daycare** serving six or fewer children. A **small home child care**, shall be considered by right to constitute a single-family residential use of property. Unregistered or unlicensed **child care** facilities serving six or fewer children shall also be considered by right as a single-family residential use of property. Therefore, these facilities shall not require a permit and may be located in any zoning in which single-family residential use is allowed.

4.12.3 Family Child Care Home

A **family child care home** refers to a state licensed home-based **daycare** for up to 12 children in the residence of the licensee where the licensee is one of the primary caregivers. A **family child care home** serving up to 12 children shall require a permit issued by the **administrative officer**. The **administrative officer** may require a **site plan** for a **family child care home**. These facilities may be located in any zoning district in which single-family residential use is allowed.

4.12.4 Early Childhood Facility

An **early childhood facility** refers to a state licensed **daycare** not based in a home. Such a facility shall be a permitted use in the commercial districts (C1, C2, C3), mixed use (MU) and industrial districts requiring **site plan** review. Such a facility shall require **conditional use** review in the FRR, SR, and GR districts. These facilities may be located in any zone except the Forest and Recreation (FR) district.

4.12.5 Child Care Facility on an Existing Small Lot

A **child care** facility may be established as an **accessory use** to a residential use on an **existing small lot**, provided the **structure** in which the facility will operate meets the **setback** requirements for the district and all applicable provisions of §4.5.2.

4.13 Customary Home Occupation

Pursuant to 24 VSA §4412(4), a **customary home occupation**, shall be considered by right to constitute a permitted residential use of property. To qualify as a **customary home occupation** the business activity must meet the following criteria:

(1) It is carried on by a member of the family who is a *de facto* resident in the dwelling unit;
(2) It is clearly incidental and secondary to the primary use of the dwelling unit for residential purposes by occupying or using less than 50% of the livable floor space within the home~~)~~.
(3) Not more than one person outside the family is employed on the premises in the home occupation at any point in time;

(4) There is no exterior display or exterior **sign**, except one lightless identification **sign**, not more than two square feet in size;
(5) No offensive noise, vibrations, smoke, dust, odors, heat, light, or glare are produced;
(6) There are no **retail** sales unless the items sold are the product of the business owner's own labor, or are **antique**s; and
(7) The customary home business does not affect the residential character of the neighborhood.

However, a customary home business shall not be interpreted to include the following: commercial stables and kennels, **restaurant**s and tea rooms, garages or shops for repair of motor vehicles, and other trades and businesses of a similar nature.

4.13.1 Tier 1 Customary Home Occupation

A Tier 1 **customary home occupation** shall conform to the definition above, as well as the following conditions, and may be reviewed and approved by the **administrative officer**.

(1) The business is carried on wholly within the dwelling or **accessory structure**; and
(2) There is no exterior storage of materials, and no other exterior indication of a home business or variation from the residential character of the principal **building** the property or the neighborhood.

A Tier 1 home business includes, but is not limited to the following: **antique** shops, dressmaking, home cooking, teaching, and the skilled practice of an accountant, architect, artist, dentist, photographer, doctor, engineer, insurance agent, lawyer, musician, realtor, barber or beautician, or any other similar profession or skilled practice carried on within the dwelling occupied by the practitioner.

4.13.2 Tier 2 Customary Home Occupation

A Tier 2 **customary home occupation** is a business, where the following conditions may exist:

(1) The business is not carried on wholly within the dwelling or **accessory structure** in that it involves exterior storage of materials, or other exterior indication of a home business;
(2) On site outdoor parking of large vehicles or equipment regularly used in the ordinary course of the business;
(3) The use of equipment on site that creates potential for adverse impacts upon neighbors (including but not limited to noise and/or smell); or
(4) Multiple employees who come and go from the site, even if they do not work on site.

These Tier 2 businesses shall require both **site plan** review (including but not limited to review for the orderly parking or storage of all vehicles, whether outdoors or within **building**s), and **conditional use** review (including potential for noise and/or odor impacts) by the **Development Review Board**.

4.13.3 Exceptions Require Conditional Use Review

The **Development Review Board** may approve, as a **conditional use** in conformance with §3.3 of this ordinance, an increase in the number of employees otherwise allowed who may work on site. This exception is limited to the Commercial, Transient Commercial, and General Residential Districts, where such expansions may best fit with the many commercial uses already permitted.

The **Development Review Board** may approve, as a **conditional use** in conformance with §3.3 of this ordinance, a **sign** for a **customary home occupation** to be larger than two square feet, where it is determined that the size and placement of the **sign** is consistent with and no larger than other existing, conforming commercial **sign**s in the vicinity; where it is determined that a larger **sign** will create no

adverse effects upon the residential character of the neighborhood; and where the size, placement, and design are recommended for approval by the **Design Advisory Board**.

4.14 Earth Products Removal

4.14.1 New Operations

No topsoil, rock, sand, gravel, or other earth product materials may be removed from any **parcel** for commercial purposes without **site plan** and **conditional use** approval from the **Development Review Board**. The Board may approve such earth products removal, provided it finds that the following requirements are met:

(1) The applicant shall submit a plan showing existing grades in the area from which the above material is to be removed, together with finished grades at the conclusion of the operation.
(2) The applicant shall provide for proper drainage of the area during and after completion of the operation.
(3) No finished grade shall exceed a slope of one foot of vertical rise in two feet of horizontal distance, except in ledge rock, at the completion of the operation.
(4) No removal shall take place within 20 feet of a property line, except that where the grade from a property line rises toward the lot where removal is to take place, material lying above the grade at the property line may be removed.
(5) At the conclusion of the operation, or any substantial portion thereof, the whole area where removal has taken place shall be covered with not less than four inches of topsoil, and seeded with a suitable cover crop.

4.14.2 Existing Operations

Existing sand and gravel, or other extractive operations, must conform to this subsection with respect to any enlargement of the area on which such operations are conducted.

4.14.3 Surety Bond

In accordance with the provisions of §4407(8) of the Act, and before a permit is granted under this section for the removal of soil, sand, or gravel, the applicant shall post a surety bond with the town in an amount and form to guarantee conformity with the provisions of the permit issued hereunder.

4.14.4 Streambed Restrictions

Pursuant to 10 VSA §1021(c), no person shall remove gravel from any watercourse primarily for construction or for sale. A landowner may remove up to 50 cubic yards of material per year for noncommercial private use after securing a permit from the **administrative officer**. However, only up to 10 cubic yards per year may be removed from the Batten Kill or West Branch of the Batten Kill, which were designated as Outstanding Resource Waters by the Vermont Water Resources Board in 1991.

4.15 Land Fill Operations

In any district, dumping of refuse and waste material for fill is prohibited, except in a state approved sanitary landfill. No **land fill** activity shall occur on any **parcel** that does not comply with the provisions of this section. Residential **land fill** activity involving less than 50 cubic yards of natural materials that meets **setback**s for the district and that will not cause changes in runoff to adjacent property shall not require a permit. Residential **land fill** involving more than 50 cubic yards of material is eligible for administrative review and permitting by the **administrative officer**. **Land fill** activity by commercial operators shall require **site plan** and **conditional use** approval from the **Development Review Board** prior to the

issuance of a permit by the **administrative officer**. Prior to the commencement of **land fill** activity involving the deposition of clean waste materials, the applicant shall submit to the **administrative officer** evidence of state approval for the activity by the hauler.

All permitted **land fill** activity shall meet the following requirements:

(1) A **site plan** shall be submitted to the **administrative officer** showing existing grades in the area to which fill will be deposited, together with finished grades at the conclusion of the operation.
(2) The applicant shall provide for proper drainage of the area during and after completion of the operation.
(3) No finished grade shall exceed a slope of one foot of vertical rise in two feet of horizontal at the completion of the operation.
(4) No deposition shall take place within 20 feet of a property line, except that where the grade from a property line declines toward the area where deposition is to take place.
(5) At the conclusion of the operation, or any substantial portion thereof, the area where fill has been deposited shall be covered with not less than four inches of topsoil, and seeded with a suitable cover crop.

4.16 Water Resources Protection

No **structure** shall be placed, no on-site **sewage** disposal system shall be installed, and no land shall be excavated, filled, or graded in any zoning district within a horizontal distance of 50 feet from the **top of bank** of any permanent **stream** or **river**, the **shoreline** of any natural **pond** or **lake**, or the edge of a **wetland**. For areas where the average slope is in excess of 20% within the first 50', a 100' horizontal **setback** shall be maintained. Cultivation for **agriculture** and ground cover shall not be subject to the provisions of this subsection.

The **Development Review Board** may approve land use or **development** within this **setback** as a **conditional use**. Prior to granting such approval, the **DRB** shall find the proposed land use or **development** will not substantially cause or contribute to impeded drainage, increased **flood** hazard, erosion, silting or other adverse effect on natural conditions, fish and wildlife habitat, public access, recreation, archaeological sites, or aesthetics, nor interfere with the present or planned **stormwater** drainage system of the town. In addition, the **DRB** shall condition its approval to ensure that any construction, excavation or grading shall be done during periods of low water flow or drought conditions, and that all disturbed areas shall be sufficiently stabilized in an expeditious manner to minimize any potential for erosion, siltation or other pollution.

4.17 Relocation of Private Land Uses after Takings by Eminent Domain

When private lands are taken by eminent domain, affected land uses or **building**s may be relocated to adjacent lands owned or leased by affected parties where the uses are not permitted or conditionally permitted within the adjacent zoning district provided the **Development Review Board** finds the following:

(1) the relocated uses shall be in reasonable proximity to the unaffected **building**s or uses served;
(2) the relocated uses shall meet the **conditional use** criteria of §3.3; and
(3) the relocated uses shall conform to all other general provisions of this ordinance, including provisions for buffers between commercial and residential uses or screening of commercial uses from adjacent residential areas.

4.18 Demolition and Modification of Historic Structures

If **demolition**, or exterior modification involving the removal and replacement of historic materials, of a **historic structure** is proposed, the applicant shall provide written notice to adjoining landowners and the Manchester Historical Society via U.S. Postal Service at least seven days prior to the **Design Advisory Board** review of the application. In addition, a 14-day waiting period shall be imposed between the date of the first review and subsequent final review by the **Development Review Board**. This will allow time for parties to explore other alternatives, and ensure that **demolition** or replacement of historic materials is a reasonable solution given the circumstances. In order to approve the **demolition** or replacement of historic materials, the **DRB** must find that the **structure** cannot be practically or economically (relative to replacement costs) restored.

4.19 Temporary Structures

Erection or placement of a **temporary structure** shall require a permit, except for a tent **structure** that is removed within one week of erection, or a **temporary structure** used for private residential purposes on a **parcel** with single-family use and which is fully screened from view from any **public right-of-way**. **Temporary structure**s include tents, portable garages, storage containers, contractors' trailers, or any other **structure** of a nonpermanent nature.

4.19.1 Storage Containers

A permit may be issued by the **administrative officer** to allow a registered or unregistered storage container, truck box, or trailer to be used temporarily for storage in connection with a permitted use. This permit shall be limited to no more than 6 months duration, shall not be renewable, and shall require conformance with the **setback** requirements of the district in which the container is located.

4.19.2 Contractor's Trailers

A permit may be issued by the **administrative officer** to allow contractors' trailers on active construction sites for the duration of active, bona fide construction.

4.19.3 Other Temporary Structures

Other **temporary structure**s shall be limited to one per **lot**, for a time period not to exceed 12 months. A permit for more than one of these **structure**s on a **lot**, or for a timeframe greater than 12 months but not to exceed 36 months, may only be granted upon the following conditions: either the **administrative officer** determines that these **structure**s are not plainly visible from a public road, nor from nearby or adjoining homes; or upon approval by the **Development Review Board** as a **conditional use**, including review of screening where necessary.

As a **conditional use**, the **Development Review Board** may approve one extension of such a permit for up to an additional 36 months, taking into account the extent of screening that may be appropriate or necessary; the condition of the existing **temporary structure** and the degree of maintenance applied to the **structure** and the site; whether any exterior lighting, existing or proposed, is minimized in type, intensity, and glare only to accomplish the need; whether the **temporary structure** can reasonably be expected to maintain its structural and aesthetic integrity for the requested timeframe; and upon a determination that there is no adverse impact or effect upon the character of the neighborhood.

Section 5 Zoning Districts

5.1 Division into Districts

For the purpose of this **bylaw**, the town is divided into the following districts and areas to be designated by the abbreviations set forth below:

Primary Districts

(1) Farming and Rural Residential, FRR
(2) Single Residential-1, SR1
Single Residential-2, SR2
Single Residential-3, SR3
(3) General Residential-1, GR1
General Residential-2, GR2
General Residential-3, GR3
(4) Mixed Use District, MU
(5) Commercial-1, C1
(6) Commercial-2, C2
(7) Commercial-3, C3
(8) Industrial-1, I1
Industrial-2, I2
Industrial-3, I3
Industrial-4, I4
Industrial-5, I5
(9) Forest and Recreation District, FR

Overlay Districts

(1) Transient Commercial-2, TC2
(2) Transient Commercial-3, TC3
(3) Transient Commercial-4, TC4
(4) Recreational Overlay District, RO
(5) Depot Street Corridor, DSC
(6) Main Street South Corridor, MSSC
(7) Manchester Center Corridor, MCC
(8) Manchester Center Historic, MCH
(9) Bonnet Street Historic, BSH
(10) Manchester Depot Historic, MDH
(11) North Main Street Historic, NMSH

Special Areas

(1) Flood Hazard Area, FH
(2) Aquifer Protection Area, APA
(3) Sewer Service Area SSA

5.1.1 Zoning Maps

The boundaries of these districts and overlays are established as shown on the zoning map of the town, and amendments thereto, which map and amendments, are hereby declared to be a part of this

ordinance. In addition, individual zoning districts are depicted on separate maps, which maps are hereby declared to be a part of this ordinance. The boundaries of the Flood Hazard Area are hereby established as shown on the Flood Insurance Rate Map (FIRM), effective December 2, 2015, which map and amendments are hereby declared to be a part of this ordinance. The zoning map is on file with the office of the town clerk and the district boundaries are available from a link on the town website.

5.1.2 Land Under Water

Zoning districts shall include any land under **river**s, **stream**s, **lake**s or **pond**s lying within them. Where opposite sides of a **river** or **stream** lie in different districts, the boundary shall be the thread of the **river** or **stream**. Where opposite sides of a **lake**, **pond**, swamp, or water body lie in different districts, the boundary shall be deemed to be the center thereof.

5.1.3 Interpretation of Map

Any uncertainty as to the location of a district, area, or flood hazard area boundary line on the zoning map and flood hazard area boundary map shall be determined by the **administrative officer** with rights of appeal as stipulated in §2.2.8.

5.2 Farming & Rural Residential (FRR) District

The purposes of the FRR district are to encourage and preserve **agriculture**, promote low density residential **development** that is compatible with the existing rural atmosphere and land capability, and promote an overall **development** pattern that discourages sprawl, maximizes the preservation of open space, and encourages efficiency in the provision of public services.

Table 5.2. FRR Dimensional Requirements

	Minimum Lot Area	Required Front Setback	Required Side Setback	Required Rear Setback	Maximum Building Height
Farm Structure	-	-	25’	25’	30’
Single-family Dwelling	2 acres	15’	25’	25’	30’
Multi-family Dwelling	2 acres per unit	15’	25’	25’	30’
Accessory Structure	-	15’	5’	5’	30’

5.2.1 FRR Permitted Uses

Land may be used and **building**s may be erected for the following uses:

(1) Uses enumerated in §4.4.1.
(2) Residential uses.
(3) **Agriculture**. The sale of **farm** and nursery produce is permitted in season as an **accessory use** to the principal **agricultural use**. On **lot**s less than five acres, the following commercial **agricultural uses** are permitted: **farm café**, field crop **farming**, flower growing, fruit growing, tree shrub and plant **nursery**, truck gardening, and apiary. All other commercial **agriculture** shall be carried on in an area of more than five acres.
(4) **Silviculture** or **forestry,** including minimal processing of forest products. **Silvicultural activities** shall conform to Accepted Management Practices (AMP's) as defined by the Vermont Department of Forests, Parks, and Recreation.

(5) **Daycare**, up to six children.

5.2.2 FRR Conditional Uses

The following may be permitted as **conditional use**s in the FRR District, in conformance with the provisions of §3.3:

(1) **Daycare**, six or more children.
(2) **Golf course**.
(3) **Campground**.
(4) **Bed and Breakfast**.
(5) Children's **seasonal camp**s with minimum **lot** area of not less than 50 acres 15,000 square feet for each child accommodated. All newly constructed athletic and **camping** facilities will be located not less than 200 feet from any **street** or **lot** line.
(6) Instruction in outdoor recreational pursuits, including cross country skiing, fishing, backpacking, horseback riding, and hunting, providing that there shall be no **retail** or wholesale sales of merchandise, food or beverages.
(7) **Nursing home**, provided that the **lot** area contains at least 4,000 square feet for each bed, and that no **building** is located less than 100 feet from the **street** line or less than 50 feet from the side or rear **lot** lines.
(8) Private non-profit corporate use for the public welfare. These uses may only be approved in this district where there is a demonstrated necessity for, or a logical and rational connection between, the location and the proposed use. For example, a wetlands education center might best be located near an actual **wetland**; a historical center might wish to locate in a **historic structure** (one which is either eligible for or is already listed on a state or federal historic register); an **agricultural center** might best be located on an existing or proposed farmstead where the soils support that use. **Conditional use** review of such uses shall include architectural design and fit upon the land as a part of the character of the area review.

5.2.3 FRR Accessory Uses

Accessory uses customarily incidental to a permitted use on the same **lot** are granted as a result of the zoning permit for the permitted use. **Accessory structure**s shall not be used for dwelling purposes. **Accessory use**s to a **conditional use** are permitted only when applied for, and are granted as a result of **conditional use** approval.

5.3 Single Residential (SR) District

There are three noncontiguous sections of the SR district indicated as SR1, SR2, and SR3 in §5.1.1 and as shown on the zoning maps as indicated in §5.1.5. The purpose of the SR district is to encourage a rational and efficient residential **development** pattern that protects Manchester residents from excessively dense **development**, while efficiently utilizing existing and planned community facilities. Thus the aim of the SR district is to minimize traffic congestion and inadequate parking and to prevent the loss of the peace, quiet, and privacy essential to an optimum residential environment.

5.3.1 SR Permitted Uses

Land may be used and **building**s may be erected for the following uses:

(1) Uses enumerated in §4.4.1.
(2) Residential uses.
(3) **Daycare**, up to six children.

Table 5.3. SR Dimensional Requirements					
	Minimum Lot Area	Required Front Setback	Required Side Setback	Required Rear Setback	Maximum Building Height
Single-family with sewer	14,000 SF	15’	15’	15’	30’
Single-family without sewer	1 acre	15’	15’	15’	30’
Multi-family with sewer	14,000 SF per unit	15’	15’	15’	30’
Single- to Multi-family w/ sewer	5,000 SF per unit	15’	15’	15’	30’
Multi-family without sewer	1 acre per unit	15’	15’	15’	30’
Accessory Structure	-	15’	5’	5’	30’

5.3.2 SR Conditional Uses

The following may be permitted as **conditional use**s in the SR District in conformance with the provisions of §3.3:

(1) **Daycare**, six or more children.
(2) Private non-profit corporate use for the public welfare, not indicated in §4.4.1.
(3) Conversion of an existing single-family dwelling built prior to 1947 with any additions thereto not less than 10 years old at the date of the application into a multifamily dwelling, provided that the **building** contains at least 3,000 square feet of livable floor area, (not including **basement**, unenclosed porches, or unfinished attics) and further provided that the following criteria are met:
    (a) There shall be no exterior expansion or addition to the existing **structure**;
    (b) The average size of the dwelling units shall be not less than 600 square feet of livable floor area;
    (c) Parking must conform to the requirements set forth in Section 6 and parking shall not occur in the **front yard**;
    (d) All land not occupied for vehicular use or **building** shall be adequately landscaped;
    (e) Adequate provisions for ingress and egress of vehicular movement shall be provided;
    (f) The **building** shall be connected to **public water** and **sewer**;
    (g) A landscaping plan adequate to screen the use from neighboring properties is submitted to and approved by the **Development Review Board**;
    (h) All **accessory structure**s and utility fixtures shall be adequately screened to minimize adverse visual impacts and to maximize safety; and
    (i) If exterior lighting is proposed, an exterior lighting plan shall be submitted to and approved by the **Development Review Board**.

5.3.3 SR Accessory Uses

Accessory uses customarily incidental to a permitted use on the same **lot** are granted as a result of the zoning permit for the permitted use. **Accessory structure**s shall not be used for dwelling purposes. Uses accessory to a **conditional use** are permitted only when applied for, and are granted as a result of **conditional use** approval.

5.4 General Residential (GR)

There are three noncontiguous sections of the GR district indicated as GR1, GR2, and GR3 in §5.1.1 and as shown on the zoning maps as indicated in §5.1.5. The purpose of the GR District is to encourage the use of land for intensive residential use, and other uses that will not conflict with the essential residential nature of the neighborhood.

Table 5.4. GR Dimensional Requirements

	Minimum Lot Area	Required Front Setback	Required Side Setback	Required Rear Setback	Maximum Building Height	Maximum Building Coverage	Minimum Greenspace
Single-family with sewer	8,000 SF	15’	15’	15’	30’	-	30%
Single-family without sewer	1 acre	15’	15’	15’	30’	-	30%
Multi-family with sewer	8,000 SF per unit	15’	15’	15’	30’	-	30%
Single- to Multi-family with sewer	5,000 SF per unit	15’	15’	15’	30’	-	30%
Multi-family without sewer	1 acre per unit	15’	15’	15’	30’	-	30%
Professional Building	10,000 SF per unit	15’	15’	15’	30’	25%	30%
Indoor Recreation Facility	1 acre	15’	15’	15’	30’	25%	30%
Accessory Structure	-	15’	5’	5’	30’	-	30%

5.4.1 GR Permitted Uses

Land may be used and **building**s may be erected for the following uses:

(1) Uses enumerated in 4.4.1.
(2) Residential uses.
(3) **Daycare**, up to six children.
(4) Bed & breakfast.
(5) **Lodging house**.

5.4.2 GR Conditional Uses

The following may be permitted as **conditional use**s in the GR District in conformance with the provisions of §3.3. **Conditional use** review under §3.3.2 of the **bylaw** shall include consideration of architectural and site design to ensure reasonable compatibility with the neighborhood. The intent is to maintain and enhance the built and natural environments in these districts, and to avoid adverse impacts upon neighboring properties or uses, especially residences.

(1) **Daycare**, six or more children.
(2) **Nursing home**.
(3) **Funeral home**.
(4) **Hotel**.
(5) **Motel**.

(6) **Inn**.
(7) **Light food processing operation**.
(8) **Restaurant,** however **fast food restaurant** shall be prohibited.
(9) Conversion of an existing residential or **accessory structure**, built prior to the date of adoption of this provision (June 11, 1991), into a **professional building**, provided that the following criteria are met:
    (a) The **lot** has at least 50 feet of frontage;
    (b) Maximum **building coverage** shall be 25%;
    (c) There shall be no modifications which would alter the residential appearance of the **building**;
    (d) Parking must conform to the requirements of Section 6, and shall not be placed in the **front yard**;
    (e) All land not occupied for vehicular use or **building**s shall be adequately landscaped in order to screen the use from neighboring properties; and
    (f) All **accessory structure**s and utility fixtures shall be adequately screened to minimize adverse visual impacts and to maximize safety.
(10) Conversion of an existing single-family dwelling built prior to 1947 with any additions thereto not less than 10 years old at the date of the application into a multifamily dwelling, provided that the **building** contains at least 3,000 square feet of livable floor area, not including **basement**, open porches, or unfinished attics, and further provided that the following criteria are met:
    (a) There shall be no exterior expansion or addition to the existing **structure**;
    (b) The average size of the dwelling units shall be no less than 600 square feet of livable floor area;
    (c) Adequate provisions for ingress and egress of vehicular movement shall be provided;
    (d) The **building** shall be connected to **public water** and **sewer**;
    (e) A landscaping plan adequate to screen the use from neighboring properties shall be submitted to and approved by the **Development Review Board**;
    (f) All **accessory structure**s and utility fixtures shall be adequately screened to minimize adverse visual impacts and to maximize safety;
    (g) Parking must conform to the requirements of §6, and shall not be placed in the **front yard**; and
    (h) If exterior lighting is proposed, an exterior lighting plan shall be submitted to and approved by the **Development Review Board**.
(11) Indoor recreational facility, provided and that the following criteria are met:
    (a) The amount of traffic generated from said use shall not detract from the residential character of the neighborhood;
    (b) Parking shall be provided off-street and shall conform with the requirements of Section 6;
    (c) The facility does not create objectionable noise, vibrations, or unsightly conditions noticeable off premises;
    (d) All land not occupied for vehicular use or **building coverage** shall be adequately landscaped;
    (e) The **building**s shall be connected to **public water** and **sewer**; and
    (f) The area employed for the serving and consumption of beverages, food, and other refreshments served on the premises shall be secondary to the recreational use and limited to 5% of the floor area.

5.4.3 GR Accessory Uses

Accessory uses customarily incidental to a permitted use on the same **lot** are granted as a result of the zoning permit for the permitted use. **Accessory structure**s shall not be used for dwelling purposes. Uses

accessory to a **conditional use** are permitted only when applied for, and are granted as a result of **conditional use** approval.

5.5 Mixed Use (MU) District

The purpose of the MU district is to encourage the use of land for a mix of residential, professional and light industrial land uses close to the center of town where infrastructure exists to serve those uses.

Table 5.5. MU Dimensional Requirements

	Minimum Lot Area	Required Front Setback	Required Side Setback	Required Rear Setback	Maximum Building Height	Maximum Building Coverage	Minimum Greenspace
Single-family with sewer	8,000 SF	15’	15’	15’	30’	-	30%
Single-family without sewer	1 acre	15’	15’	15’	30’	-	30%
Multi-family with sewer	8,000 SF per unit	15’	15’	15’	30’	-	30%
Multi-family without sewer	1 acre per unit	15’	15’	15’	30’	-	30%
Professional Building	10,000 SF per unit	15’	15’	15’	30’	25%	30%
Other Commercial	8,000 SF	15’	15’	15’	30’	25%	30%
Public/Private Institutional	8,000 SF	15’	15’	15’	30’	25%	30%
Light Industrial/ Manufacturing	8,000 SF	15’	15’	15’	30’	25%	30%
Accessory Structure	-	15’	5’	5’	30’	-	30%

5.5.1 MU Permitted Uses

(1) Uses enumerated in 4.1.1.
(2) Residential uses.
(3) **Daycare**, up to six children.
(4) **Lodging house**.
(5) **Bed & breakfast**.
(6) Post Office.
(7) **Professional services**.
(8) **Personal services**.
(9) Financial services.

5.5.2 MU Conditional Uses

The following may be permitted as **conditional use**s in the Mixed Use District, in conformance with the provisions of §3.3:

(1) **Daycare**, six or more children.
(2) **Light industry**.
(3) **Light food processing operation**.
(4) **Technical service business**.
(5) **Microbrewery**.

(6) **Restaurant**, however **fast food restaurant** shall be prohibited.

Conditional use review under §3.3.1 shall include consideration of architectural and site design, as well as **setback**s for **building**s, parking lots, and **accessory structure**s as related to the size and height of **building**s, and the nature and intensity of land use and impacts thereof, to ensure reasonable compatibility with the neighborhood. The intent is to maintain and enhance the built and natural environment, and to avoid adverse impacts upon neighboring properties or uses, especially residences.

5.5.3 MU Accessory Uses

Accessory uses customarily incidental to a permitted use on the same **lot** are granted as a result of the zoning permit for the permitted use. **Accessory structure**s shall not be used for dwelling purposes. Uses accessory to a **conditional use** are permitted only when applied for, and are granted as a result of **conditional use** approval.

5.5.4 MU Performance Standards

All uses in the MU district shall conform to the following performance standards:

(1) **Building**s on the same **lot** shall be separated by at least 20 feet.
(2) Open space areas shall not be unduly isolated from one another by unrelated physical obstructions such as **building**s and paved vehicular areas. Open space linkages to adjacent properties shall also be considered in the open space plan.
(3) **Building**s shall be sited in an orderly, non-random fashion, and consideration shall be given to external design of **building**s and related site improvements. Materials and design details shall take into account harmony and proportion and adjacent land uses. **Building**s which are included in the Vermont Historic Sites and Structures Survey shall be retained for their historic contribution.
(4) Other than **structure**s, impervious areas shall be only as large as necessary to serve parking, circulation, and improved open space needs; their appearance shall be enhanced by landscaping. No parking area shall run continuously for more than 80 feet along a front **street** line, or more than 150 feet along any **street** line. A pedestrian walkway shall be provided within each parking area to connect such area with **building**s, public sidewalks, and adjoining land **development**. A planted, green belt at least 20 feet wide shall be provided along any **street** line. Parking areas shall be set back at least 10 feet from side and rear **lot** lines, except where shared parking or access is provided.
(5) All areas not occupied by **structure**s or driveways, parking areas, and sidewalks shall be suitably landscaped. Required **front yard**s shall include at least one tree of minimum 2" caliper for each 50 feet of **frontage**.
(6) Open air (outside) storage of materials, merchandise, products, and equipment is prohibited. The outside use of transport vehicles in connection with the manufacturing process may be approved by the **Development Review Board**.

5.6 Commercial-1 (C1) District

The purpose of the C1 district is to promote the general welfare and the sound economic development of the town, and to encourage the best use of land in areas most appropriate for the location of suitable commercial establishments.

Table 5.6. C1 Dimensional Requirements							
	Minimum Lot Area	Required Front Setback	Required Side Setback	Required Rear Setback	Maximum Building Height	Maximum Building Coverage	Minimum Greenspace
Commercial w/ water/sewer	none	15’	10’	10’	35’	-	10%
Commercial w/o water/sewer	1 acre	15’	10’	10’	35’	-	10%
Residential w/ water/sewer	8,000 SF per unit	15’	10’	10’	35’	-	10%
Residential w/o water/sewer	1 acre per unit	15’	10’	10’	35’	-	10%
Accessory Structures	-	20’	5’	5’	35’	-	10%

A vegetated strip of land within the **front yard** shall be maintained together with other vegetated portions of the property to make up in aggregate a minimum of 10% of the total land area. Whenever possible, the minimum width of the vegetated strip within the **front yard** shall be six feet. No parking shall be permitted within these vegetated areas.

Any existing **structure** bisected by a C1 boundary shall be deemed for use purposes to be in the C1 district. On **lot**s in the C1 district that abut other districts, the **setback** requirements for that abutting district shall be applied to the C1 district, along the common boundary line.

5.6.1 C1 Permitted Uses

Land may be used and **building**s may be erected for the following uses:

(1) **Daycare**, up to six children.
(2) **Bank**.
(3) **Restaurant**.
(4) **Retail**.
(5) **Farmers Market**
(6) **Professional building**.
(7) **Club**.
(8) Places of amusement or assembly.
(9) Brewpub.
(10)Microbrewery.
(11)Light food processing operation.
(12)**Light industry**.

5.6.2 C1 Conditional Uses

The following may be permitted as a **conditional use** in the C1 District in conformance with the provisions of §3.3:

(1) **Daycare**, six or more children
(2) Used car sales provided that such used car lots are not detrimental to the general neighborhood and are maintained so as not to create a nuisance. The number of used cars stored on the **lot** may be specifically limited by the **Development Review Board**.

5.6.3 C1 Accessory Uses

Accessory uses customarily incidental to a permitted use, on the same **lot**. **Accessory structure**s shall not be used for dwelling purposes. Uses accessory to a **conditional use** are permitted only when applied for and are granted as part of the **conditional use**.

5.7 Commercial 2 (C2) District

The purpose of the C2 district is to promote the general welfare and the sound economic development of the town by encouraging suitable commercial uses which preserve and enhance a major visual approach to Manchester by avoiding the hazards which would be caused by major traffic generators and by guaranteeing the continued vitality of the commercial core through the prevention of strip-type **development**.

In order to encourage a mixed-use environment in the C2 district, the land density (**lot** area) requirements shall be waived for second-floor apartments or dwelling units which are created in conjunction with a primary commercial use. Where appropriate, parking requirements for these residential units may also be adjusted or waived.

Any **structure** existing on the date of adoption of the greenspace performance standards amendment (June 3, 1996) which is bisected by a C2 boundary shall be deemed for use purposes to be in the C2 district. On **lot**s in the C2 district that abut other districts, the **setback** requirements for that abutting district shall be applied to the C2 district along the common boundary line.

Table 5.7. C2 Dimensional Requirements

	Minimum Lot Area	Required Front Setback	Required Side Setback	Required Rear Setback	Maximum Building Height	Maximum Building Coverage	Minimum Greenspace
Commercial w/ water/sewer	14,000 SF	15’	10’	10’	30’	-	50%
Commercial w/o water/sewer	1 acre	15’	10’	10’	30’	-	50%
Residential w/ water/sewer	8,000 SF per unit	15’	10’	10’	30’	-	50%
Residential w/o water/sewer	1 acre per unit	15’	10’	10’	30’	-	50%
Accessory Structures	-	20’	10’	10’	30’	-	50%

5.7.1 C2 Permitted Uses

Land may be used and **building**s be erected for the following uses:

(1) Uses enumerated in 4.4.1.
(2) Residential uses.
(3) **Daycare**, up to six children.
(4) Professional building.
(5) **Bank**, without drive through service.
(6) **Bed & breakfast**.
(7) **Inn**.
(8) **Restaurant**, however **fast food restaurant** shall be prohibited.
(9) **Microbrewery**.

(10) **Light food processing operation**.
(11) **Light industry**.
(12) Low-intensity **retail**, such as shops selling **antique**s, gifts, flowers, clothing, sporting goods, crafts, and other similar products or commodities. Specifically prohibited are **convenience store**s, **gas station**s, and other such high traffic generators.

5.7.2 C2 Conditional Uses

The following may be permitted as **conditional use**s in the C2 district, in conformance with the provisions of §3.3:

(1) **Daycare**, six or more children
(2) Car sales provided that such establishments meet the standards set forth in §5.7.4 below. The number of cars stored on the **lot** may be specifically limited by the **Development Review Board**.

5.7.3 C2 Accessory Uses

Accessory uses customarily incidental to a permitted use on the same **lot**. **Accessory structure**s shall not be used for dwelling purposes. Uses accessory to a **conditional use** are permitted only when applied for and are granted as part of the **conditional use**.

5.7.4 C2 Site Design Requirements

The purpose of the C2 site design requirements are to:

(1) establish base level standards for landscaping, aesthetics, and screening that apply to all projects in the C2 district;
(2) provide incentives for more desirable landscaping and aesthetic outcomes;
(3) seek an optimal fit between the natural and built environments; and
(4) achieve qualitative enhancement of greenspace, landscaping, and overall site design.

5.7.4.1 C2 Greenspace Requirements

Greenspace design must meet the requirements of §4.9, Landscaping & Screening. It is possible that a project with 35% greenspace that is well designed, highly visible, and intensively landscaped may better satisfy the intent of this **bylaw** than a project that meets the 50% greenspace requirement but places little qualitative emphasis on creative landscape and site design. Greenspace reductions must be earned through the provision of significant site enhancements as described below and as approved by the **Development Review Board**.

Where the base level standards are exceeded, and where the spirit and intent of these qualitative, standards are met well beyond a minimal level (whether existing or proposed on a site), the **Development Review Board** may reduce the quantitative greenspace requirement in an amount commensurate to the extra efforts being made. In no case may the greenspace requirement be reduced below 35%.

A vegetated strip of land within the **front yard** shall be maintained together with other vegetated portions of the property to make up in aggregate a minimum of 10% of the total land area. Whenever possible, the minimum width of the vegetated strip within the **front yard** shall be 6 feet. No parking shall be permitted within such strip, and a variety of shade trees shall be planted every 30 feet.

Provision may be made for a transitional buffer zone, where land outside the C2 district may be legally deeded as a greenspace buffer for a commercial project within the C2 district. This creates the

opportunity for a small de facto expansion of the zoning district boundary which must be justified on a site-specific basis.

Table 5.7.4. Greenspace Reductions		
Project Enhancement	**Benefit Provided**	**Greenspace Reduction**
Landscape design meeting the spirit and intent of stated standards. Example: Deciduous Trees > 4" caliper and Conifers > 10' tall.	Quicker, more effective screening and beautification.	up to 5%
Architectural design meeting the spirit and intent of stated streetscape standards. Example: Unique, historical architectural features (covered porches, gables, dormers, ells, trim details and the like).	Streetscape enhancement	up to 5%
Site design meeting the spirit and intent of the pedestrian amenities and siting standards. Example: Shared access drive, hidden parking, maximal pedestrian access within the **lot** and with adjoining **lot**s.	Effective, efficient pedestrian and vehicular circulation	up to 5%

5.7.4.2 Parking Lot Design Requirements

(1) Parking lots shall be well-screened from roadways and from adjoining residential uses. A mix of deciduous and coniferous plantings shall be used to provide an appropriate mix of summer shade and year-round screening. Minimum tree sizes: deciduous trees of 3" caliper; coniferous trees of 6-8' tall.

(2) Parking lots shall incorporate landscaped islands separating rows of parking spaces from each other and from driveways, so that no parking area is wider than 66 feet. Landscaped islands shall be wide enough to provide functional aesthetic improvement (including sufficient space for tree growth), snow storage, space for light poles, separation of traffic movements, and other site-specific needs.

(3) Continuous rows of more than 15 parking spaces shall not be allowed. Landscaped islands, at least 10' x 18' in size, shall be provided to interrupt such extensive rows of spaces. These islands may also incorporate walkways or paths for pedestrian circulation.

(4) At least one significant shade tree shall be planted on each side of the entrance drive, (at the project entrance), in conformance with any tree line requirements or guidelines in effect.

(5) At least one tree shall be planted for every five parking spaces, although not necessarily in precise, rigid patterns. Trees planted on or along the perimeter of a parking lot do not count toward this requirement. The intent is to provide visual relief, beauty, shading, and screening for a project and its parking area. These ideals should guide choices of tree species and planting locations.

(6) Defined pedestrian access and circulation shall be integral to the design of parking lots and landscaped islands. Where properly designed, pedestrian access will be continuous through a parking lot, and will not conflict with parking spaces or other obstructions. Paths may cross through landscaped islands to accomplish these goals. For safety and visual clarity, paths shall be defined by painted stripes, plantings, and/or the use of materials which provide contrasting colors and textures.

(7) Vehicular conflicts and turning movements on main roadways should be minimized, and the efficiency and aesthetics of parking facilities should be maximized. Therefore, strong

consideration shall be given to the use of shared curbcuts and merged parking facilities for adjoining **parcel**s and/or land uses.

5.7.4.3 Building Siting and Design Requirements

(1) **Building**s shall be sited sensitively, so that they fit into the landscape, rather than being forced onto a site. Site design should enhance the rhythm, fabric, and form of the streetscape and landscape for pedestrians and motorists alike.
(2) Within the context of current regulations, the size and scale of new **structure**s shall be consistent with the existing commercial **structure**s in this zone. Strong consideration shall be given to the massing of **building**s (that is, the perception of size) vis-a-vis proximity and orientation to the road, and architectural design (including overall size, height, rooflines, and facades, as well as a **building**'s topographic elevation and setting).
(3) Architectural design shall follow historical New England traditions, and shall contribute positively to the streetscape.
(4) To help achieve these goals, landowners are strongly encouraged to retain existing, mature vegetation and topographic features. Extensive regrading or reshaping of the land should be avoided; however, regrading of the land may be allowed where it will minimize the visual effect of the **building** mass, fit harmoniously, and achieve a natural blend with the adjacent landscape and surrounding land uses. Any topographic disturbance shall be done in a manner that blends harmoniously with the adjacent landscape and surrounding land uses.
(5) **Building**s shall complement landscape design to hide parking wherever possible.
(6) The reviewing board(s) may consider flexibility with regard to **setback** requirements in order to accomplish these goals, where the result is a **site plan** that satisfies the stated objectives without harming the values sought to be protected in this **bylaw**. An example that may be allowed would be a transitional greenspace buffer, located outside of the C2 district that meets the spirit and letter of this **bylaw** regarding protection of residential lands and uses from impacts of adjoining commercial uses. Where it can be demonstrated that a better **site plan** may result, construction may be allowed up to the **rear yard** boundary, if a greenspace buffer at least 20 feet deep is provided and legally deeded as such.

5.7.4.4 Pedestrian Amenities

Where appropriate, clearly designated walkways shall provide safe and comfortable internal pedestrian circulation. Sidewalks which connect with adjoining land uses and public sidewalk systems (planned or existing) may be required, especially where a master plan exists for a public sidewalk system.

Where public sidewalks along a **street** or road are provided on private property, they shall be counted as greenspace for purposes of density calculations. Appropriate landscaping, lighting, pavement materials, and amenities such as benches all contribute positively in this regard, as do accesses to natural features such as **river** overlooks, scenic views, or picnic groves.

5.8 Commercial-3 (C3) District

The purpose of the C3 district is to preserve the character of very important residential areas of historical significance, while providing opportunities for limited commercial uses and relatively intensive residential uses. Its purpose is also to enhance and promote the existing streetscape, maintain aesthetic attributes and retain residential uses, while affording property owners reasonable use of their property.

Table 5.8. C3 Dimensional Requirements							
	Minimum Lot Area	Required Front Setback	Required Side Setback	Required Rear Setback	Maximum Building Height	Maximum Building Coverage	Minimum Greenspace
Single-family with sewer	8,000 SF	15’	15’	15’	30’	-	30%
Single-family without sewer	1 acre	15’	15’	15’	30’	-	30%
Multi-family with sewer	5,000 SF per unit	15’	15’	15’	30’	-	30%
Multi-family without sewer	1 acre per unit	15’	15’	15’	30’	-	30%
Professional Building	10,000 SF per unit	15’	15’	15’	30’	25%	30%
Other Commercial	8,000 SF	15’	15’	15’	30’	25%	30%
Public/Private Institutional	8,000 SF	15’	15’	15’	30’	25%	30%
Light Industrial/ Manufacturing	8,000 SF	15’	15’	15’	30’	25%	30%
Accessory Structure	-	15’	5’	5’	30’	-	30%

5.8.1 C3 Permitted Uses

Land may be used and **building**s may be erected for the following uses:

(1) Uses enumerated in §4.4.1.
(2) Residential uses.
(3) **Daycare**, up to six children
(4) **Lodging house**.
(5) **Bed & breakfast**.

5.8.2 C3 Conditional Uses

The following may be permitted as **conditional use**s in conformance with the provisions of §3.3:

(1) **Daycare**, six or more children
(2) **Light food processing operation.**
(3) Conversion of an existing residential, principal, or **accessory structure**, with any additions thereto, in place at the time of adoption of this amendment to the ordinance (August 1992), into a **professional building**, **retail** store, **restaurant**, or other commercial use deemed appropriate for the area and approved by the **Development Review Board** provided that the following criteria are met:
    (a) There shall be no exterior expansion or addition to an existing **structure**, except as specifically provided for in this section;
    (b) No one **building** shall exceed 3,000 square feet in total footprint, and total **building coverage** to land coverage shall not exceed 13%;
    (c) There shall be no modifications which would alter the essential residential appearance of the **building**;
    (d) All green spaces shall be properly planned and integrated into the **site plan** to serve an aesthetic, functional and practical purpose. Green spaces which are unreasonably isolated for the purposes of aesthetics, and the environment, and the practical convenience and

benefit of the users in part and the public as a whole, shall not be considered as satisfying this criterion. Green space shall include not less than 10% of the total **lot** area;

(e) All land not occupied for vehicular use or **building**s shall be adequately landscaped;

(f) A landscaping plan adequate to screen the use from neighboring properties shall be submitted to and approved by the **Development Review Board**;

(g) All **accessory structure**s and utility fixtures shall be adequately screened to minimize adverse visual impacts and to maximize safety;

(h) Adequate provisions for ingress and egress of vehicular movement shall be provided;

(i) In addition to the parking requirements of Section 6, parking areas shall not be placed in the **front yard**;

(j) An exterior lighting plan shall be submitted to and approved by the **Development Review Board**;

(k) All **retail** stores, **restaurant**, and other commercial uses, and uses accessory to those commercial uses (*i.e.*, accessory offices, storage areas, restrooms) shall be restricted to the total square footage available on the first floor of the **building**; however, within this restriction, these uses may be located on any floor of the **building**;

(l) **Professional offices** and uses accessory to those offices may be located on any floor of the **building**;

(m) For the purpose of this use the **lot** area shall contain a minimum of 5,000 square feet for each commercial or **professional office** unit (minimum overall **lot** area shall be 8,000 square feet);

(n) The **building** shall be connected to the municipal water and **sewer** systems.

(4) Conversion of an existing principal **building** in place at the time of adoption of this amendment to the ordinance (August 1992) into a multifamily dwelling, provided that the **building** contains at least 3,000 square feet of livable floor area, not including **basement**, open porches, or unfinished attics, and further provided that the following criteria are met:

(a) There shall be no exterior expansion or addition to the existing **structure**;

(b) The average size of the dwelling units shall be no less than 600 square feet of livable floor area;

(c) For the purpose of this use, the **lot** area shall contain a minimum of 5,000 square feet for each dwelling unit;

(d) All **accessory structure**s and utility fixtures shall be adequately screened to minimize adverse visual impacts and to maximize safety;

(e) All land not occupied for vehicular use or **building**s shall be adequately landscaped;

(f) A landscaping plan adequate to screen the use from neighboring properties shall be submitted to and approved by the **Development Review Board**;

(g) Adequate provisions for ingress and egress of vehicular movement shall be provided;

(h) In addition to the parking requirements of Section 6, parking areas shall not be placed in the **front yard**;

(i) An exterior lighting plan shall be submitted to and approved by the **Development Review Board**;

(j) The **building** shall be connected to **public water** and **sewer**.

5.8.3 C3 Accessory Uses

Accessory uses customarily incidental to a permitted use on the same **lot**; **accessory structure**s shall not be used for dwelling purposes. Uses accessory to a **conditional use** are permitted only when applied for, and are granted as part of a **conditional use**.

5.9 Industrial Districts

There are five noncontiguous sections of the industrial districts indicated as I1, I2, I3, I4, and I5 in §5.1 and as shown on the zoning maps referenced in §5.2.

The purpose of the industrial districts is to foster employment opportunities for the residents of Manchester, while locating **professional service** and industrial **development** in the most appropriate locations, and to encourage site design which minimizes adverse impacts on neighboring properties and enhances visual approaches into the town.

5.9.1 Industrial District Dimensional Requirements

Table 5.9.1. Industrial District Dimensional Requirements

Minimum Lot Area	Minimum Front Setback	Minimum Side Setback	Minimum Rear Setback	Maximum Building Height	Maximum Building Coverage	Minimum Greenspace
1 acre	40’	20’	20’	30’	40%	35%

Setback requirements may be modified to use an active rail service. **Setback**s and buffering shall be considered carefully, and may be increased, or required to be enhanced, along boundaries with residential lands or uses. The purpose is to minimize or prevent adverse impacts upon adjoining residential lands or uses, including but not limited to traffic, noise, light or visual intrusion, smoke, fumes, smells, or other disturbances.

5.9.2 General Requirements

Changes **of use** within existing industrial **development**s in which no exterior changes to **building footprint**s or approved **site plan**s are proposed shall be eligible for administrative approval. No new industrial **development** shall be permitted unless its design is consistent with the town plan and any general and specific standards in this **bylaw**. In addition to fulfilling the requirements of §3.2 the industrial **development** shall:

(1) Demonstrate sensitivity of site design to existing natural characteristics of the area including but not limited to topography, drainage, soil, vegetation, hydrology, open space, and existing vegetation; and demonstrates sensitivity of site design to adjoining residential lands or uses, including but not limited to placement, type, intensity, timing, and use of exterior lighting, and the placement, type, timing, and use of exterior noise producing infrastructure such as HVAC units, ventilation fans, and the like.
(2) Protect open land and visual approaches to the town, including those areas along or below U.S. Route 7 and its interchange;
(3) Provide efficient **street** access and use single access concepts;
(4) Consist of an architectural style that complements the surrounding neighborhood and environment;
(5) Assure the availability of sufficient water for the foreseeable needs of the **development**.

5.9.3 Master Plan

A master plan for **development** is required for all new proposed industrial **development**. An accompanying narrative shall describe the nature of the proposed project, and a rationale as to conformance with the purpose and intent of the applicable sections of the ordinance.

Projects anticipated to be accomplished over a multiyear time span may be phased; however, a conceptual master plan for the entire project shall be approved before (or at the same time that) any **site plan** for a portion of the project may be approved. Unless the entire master plan is applied for and presented for final approval, each subsequent phase shall be applied for and reviewed separately. No construction may begin until both the conceptual master plan and detailed **site plan** are approved. Where appropriate, the narrative and **site plan** shall describe and show the initial and final intended build-out of the project. The **front yard** greenbelt shall be completed as part of the first phase of construction activity.

Review of the master plan shall include site design elements and infrastructure, as well as architectural elements (**building** design, placement, and interaction), and other essential matters including construction timing, location, and sequence. While not seeking to encourage premature land **development**, the **DRB** shall ensure that construction sequencing is designed and managed effectively and efficiently, and that impacts of ongoing construction are minimized over time.

5.9.4 Conditional Uses in Industrial Districts

All allowed uses in the Industrial districts shall be **conditional use**s requiring approval by the **Development Review Board** in conformance with the provisions of §3.3, except that **changes of use** in existing industrial **building**s may occur with approval by the **administrative officer** where no exterior changes to **building footprint**s or approved **site plan**s are proposed. The following uses may be permitted in conformance with the provisions of §3.3 of this ordinance and any additional conditions as specified below.

(1) **Light industry**.
(2) **Microbrewery**.
(3) **Food processing operation**.
(4) **Heavy industry**.
(5) Offices and wholesale salesrooms directly related to the manufacturing or marketing of products manufactured or warehoused on the premises. **Retail** sales of seconds, warehouse samples, and discontinued items can be held on an occasional basis (no more than 24 days a year);
(6) Housing for caretaker or night security personnel.
(7) **Airport** (I4).
(8) **Retail** sales of bulk **building** materials which are typically warehoused, such as lumber, dimension stock, sheetrock and associated supplies, roofing materials and associated supplies, insulation, and other large items; this does not include hardware, hand tools, and other smaller items typically found on display or for sale in **retail** stores (I1 only).
(9) **Service business** such as auto and truck repair, small engine repair, construction equipment repair or storage, or any other **service business** deemed appropriate by the **Development Review Board**, provided the following criteria are met:
    (a) No offensive smoke, noise, vibrations, dust, odors, heat, light, or glare shall be produced which may affect adjacent residential properties;
    (b) The **service business** creates no other undue adverse impacts upon residential properties;
    (c) **Retail** sales are limited to those parts installed in connection with the service rendered.
(10)Technical service businesses.
(11)Railway station, and support facilities for railroad operations.

5.9.5 Accessory Uses in Industrial Districts

(1) Limited **retail** sales associated with light manufacturing.
(2) Food service for employees.

(3) **Daycare** for children of employees.
(4) Automated banking facility for employees.
(5) **Convenience store** for employees.

5.9.6 Prohibited Uses in Industrial Districts

(1) Drive-through operations of any type.
(2) Residential uses except for housing for an on-site caretaker or security personnel.

5.9.7 Additional Standards for Industrial Districts

Noise: The maximum sound pressure level radiated by any use or facility (other than transportation facilities) at the property line shall not exceed the values in the designated octave bands given in the following table:

Octave Band Range (Cycles per second)	Sound Pressure Level (Decibels re: 0.0002 dyne/cm^2)
30-300	65
300-2400	50
Above 2400	35

Traffic: Traffic routes and access drives shall be planned so as to afford the maximum protection possible to any adjacent residential areas.

Riparian **Buffer**: Notwithstanding the general **stream buffer** requirements of §4.15, a minimum 80' **buffer** shall be maintained on the southerly side of Bourn Brook. The same **conditional use** review process described in §4.15 applies to allow **development** within that **buffer** if demonstrated that no adverse impacts will result.

5.10 Forestry and Recreation (FR) District

5.10. FR Dimensional Requirements				
	Minimum Lot Area	Required Front Setback	Required Side Setback	Required Rear Setback
Silviculture or Agriculture	10 acres	-	-	-
Recreation Area	10 acres	-	-	-
Summer Camp	20 acres or 8,000 SF/person	200’	200’	200’
Hunting/Fishing Camp*	10 acres	200’	200’	200’
Spring Houses	10 acres	-	-	-
Riding Stable	25 acres	-	-	-

*Must be 400 feet from any other such **camp** structure.

5.10.1 Purpose

The purpose of the FR district is to delineate those areas where substantial **development** of the land in terms of **building**s, **structure**s, or other intensive uses are prohibited because:

(1) topography, soil depth, drainage, slope, or other natural conditions present environmental limitations to **development**;

(2) such **development** would involve the inefficient development of community facilities and infrastructure; and lands in the FR district include vital watershed areas that require protection in order to maintain and reserve a safe, healthful, and reliable water supply for the present and future residents of the Town of Manchester.

5.10.2 FR Permitted Uses

(1) **Silviculture** and commercial **forestry** and related uses, including **accessory structure**s other than dwellings. All such activities shall conform to Accepted Management Practices (AMPs) as defined by the Vermont Department of Forests, Parks, and Recreation.
(2) **Silviculture** and **forestry** for research, demonstration, education, and related purposes. All such activities shall conform to Accepted Management Practices (AMPs) as defined by the Vermont Department of Forests, Parks, and Recreation.
(3) Private recreation area, not operated for profit, which is suitable to a forest environment;
(4) **Summer camp** for adults, families, or children, whether operated for profit or not, provided that the **lot** area is not less than 20 acres and not less than 8,000 square feet for each person accommodated and that all athletic and other **camp** facilities are located not less than 200 feet from any **street** line or **lot** line;
(5) Private hunting or fishing **camp**, consisting of a tent, hut, or similar seasonal **building** not suitable for use as a primary dwelling, but suitable for use only occasionally or seasonally for temporary shelter, provided that such **camp** is located no closer than 400 feet to any other such **camp**, and that no **building** or tent site is situated within 200 feet from any **street** or **lot** line;
(6) Spring houses and **accessory structure**s necessary to capture, divert, and conduct waters from springs upon approval of a site development plan in accordance with §3.2 and with particular attention to provisions for controlling soil erosion and minimizing scenic impact;
(7) Riding stable, provided that the **lot** area is not less than 25 acres in area;
(8) Bridle trails, cross country ski trails, hiking trails, and snowmobile trails; and
(9) **Agricultural use**s, including maple sugaring, pasturage of livestock, crop raising, and **farm structure**s that are accessory to and necessary for such uses.

5.11 Transient Commercial (TC) Overlay Districts

The purpose of the TC overlays is to provide appropriate locations for limited types of businesses primarily intended to provide hospitality services. To this end, the following shall be required of uses falling within in the TC overlays:

(1) Uses shall be designed to take advantage of the natural terrain, and to protect natural vegetation, soil and water tables. Significant natural or topographic features of the land shall be retained. Unique natural features shall be preserved.
(2) Open land and scenic approaches to the town shall be protected. **Development** shall minimize obstruction of scenic views from publicly accessible locations, and shall maximize retention of open space.
(3) The number of curbcuts shall be minimized. To the extent feasible, access to businesses shall be provided via one of the following:
    (a) access via a common driveway serving adjacent commercial **lot**s or premises;
    (b) access via a cul-de-sac or loop road shared by adjacent commercial **lot**s or premises; or
    (c) where a **parcel** of land is subdivided after the adoption of this ordinance, access to the entire subdivision shall be provided and shared via a single curbcut, common driveway or loop road.

(4) All driveways shall be designed to afford entering and exiting motorists the safest possible access and maximum possible sight distances.
(5) A timetable shall be provided detailing the sequence of any construction activity.
(6) Proposed projects or uses must comply with all parking and off-street loading requirements in Section 6, and parking area(s) shall be located to the rear of the **structure** whenever possible. No parking shall be permitted within the required **front yard** greenspace.
(7) An architectural style that contributes favorably to the visual approaches to Manchester shall be employed. Materials and design details shall be harmonious and proportionate with adjacent land uses. **Building**s, roadways, access drives and utilities shall be appropriately integrated into the existing landscape. **Building**s shall be of an architectural style and design which is in harmony with the prevailing character of the neighborhood and the town.
(8) All land not occupied for vehicular use or **building** shall be adequately landscaped.
(9) Objectionable features shall be screened from neighboring properties and roads.
(10) **Historic structure**s of local, state or national significance shall be preserved.
(11) Adverse impacts to **floodplain**s, **wetland**s or other sensitive areas shall be minimized.
(12) Landscape design is an essential element for site planning along these highway corridors; the intent being qualitative enhancement of properties. Key factors include number, location, and types of plantings, contribution to streetscape beautification, natural resource protection, year-round shading or screening where appropriate (parking lots, for example), and protection for adjoining residential properties or uses. Additional landscaping and greenspace guidelines as described in §4.9 apply in the TC overlays.

Table 5.11 TC Dimensional Requirements

	Minimum Lot Area	Minimum Frontage	Minimum Front Setback*	Minimum Side Setback	Minimum Rear Setback	Maximum Building Coverage	Minimum Greenspace	Maximum Building Height
Hotel or Motel	8,000 SF per unit	300’	100’	50’	50’	7.5%		30’
Restaurant	2 acres	300’	100’	50’	50’	5%	50’ in front yard	30’
Technical Service Business	2 acres	200’	100’	50’	50’	-	40%	30’
Place of Worship	2 acres	300’	100’	50’	50’	-	-	30’
Professional Building	2 acres	300’	100’	50’	50’	5% (2.5 each)	50’ in front yard	30’
Golf Practice Facility	5 acres	300’	100’	50’	50’	2.5%	-	30’
Fitness Facility	5 acres	300’	100’	50’	50’	7.5%	-	30”

*Parking shall not be allowed within the front setback.

5.11.1 TC Permitted Uses

(1) Uses permitted in the underlying district (TC2, TC3, TC4).
(2) **Hotel** and **motel**, (TC2, TC3, TC4). A **motel** or **hotel** may include, as an **accessory use**, a facility for serving food, provided that said facility is located within the same **structure** as the **motel** or **hotel** and that the number of seats in said facility shall not exceed two seats per unit in the **motel** or **hotel**.
(3) **Bed & breakfast** (TC2, TC3, TC4).
(4) Lodging house (TC2, TC3, TC4).

(5) **Restaurant**, however **fast food restaurant** shall be prohibited (TC2, TC3).
(6) **Professional building** (TC2)
(7) **Bank** (TC2).

5.11.2 TC Conditional Uses

(1) Golf practice facility (TC2), provided that the following criteria are satisfied:
   (a) Facility may be for daytime use only and exterior lighting shall be limited to that approved for security or safety reasons;
   (b) Facility shall be for the practice of skills relevant to the game of regulation golf;
   (c) Miniature golf shall not be allowed; and
   (d) Any area used for serving and consuming beverages, food, and other refreshments on the premises shall be clearly incidental to the golf facility, not advertised by signage, and limited to 5% of the **building coverage**.
(2) **Technical service business** (TC2).
(3) Commercial indoor/outdoor tennis, racquetball and squash courts, paddle tennis courts, indoor/outdoor ice skating and hockey rinks, indoor/outdoor swimming facilities, and fitness centers, health clubs, or other indoor recreational facilities provided any such facility is appropriate to a particular site and that the area dedicated for the serving and consumption of beverages, food, and other refreshments shall be clearly incidental to the recreational use, not advertised by signage, and limited to 5% of the **building coverage** (TC2, TC3).
(4) Conversion of an existing principal or **accessory structure** with any additions thereto, built prior to the date of adoption of this amendment, on a **lot** existing at the date of adoption of this amendment, into a **professional building** (TC2, TC3, TC4), provided that the following criteria are met:
   (a) There shall be no exterior expansion or addition to the existing **structure**;
   (b) There shall be no exterior modification which would alter the essential appearance of the **building**;
   (c) **Professional offices** and uses accessory to these offices may be located on any floor of the **building**;
   (d) Parking must conform to the requirements set forth in Section 6 and shall not be placed in the **front yard**;
   (e) All lands not occupied for vehicular use or **building**s shall be adequately landscaped.
   (f) Adequate provisions for vehicular ingress and egress shall be provided;
   (g) The **lot** area shall contain a minimum of 5,000 square feet for each **professional office** (minimum overall **lot** area shall be 14,000 square feet);
   (h) A landscaping plan adequate to screen the use from neighboring properties shall be submitted and approved by the **Development Review Board**; and
   (i) An exterior lighting plan shall be submitted to and approved by the **Development Review Board**.

5.11.3 TC Prohibited Uses

Drive-through operations are prohibited in the TC overlay districts.

5.12 Recreation Overlay District (RO)

The purpose of the RO is to make lands available for recreational uses requiring larger tracts of land, while minimizing adverse impacts upon adjoining landowners.

5.12.1 RO Permitted Uses

Permitted uses in the RO include only those uses permitted in the underlying zoning districts.

5.12.2 RO Conditional Uses

(1) Places of public assembly.
(2) Indoor/Outdoor Recreation Facilities

These uses must comply with the **conditional use** criteria of §3.3, including noise impacts and any area used for the serving and consumption of beverages, food, and other refreshments served on the premises shall be clearly incidental to the recreational use, not advertised by signage, and limited to 5% of the subject **building coverage**, unless the permitted use itself involves food and beverages (*i.e.*, banquet hall, dinner theater, or similar uses).

5.12.3 RO Accessory Uses

Accessory uses to otherwise permitted primary uses may also include the following: indoor exhibitions, trade shows, meetings and conventions, dances, banquet hall, and other similar uses found appropriate for a site and approved by the **Development Review Board**. Event sales may also be permitted as an **accessory use**, if held not more than six times per calendar year, not to exceed four days per event, and where demonstrated that there is a true benefit to a local non-profit charitable organization. Event sales must be specified as an **accessory use** in a permit for the subject land, and the town shall then be notified in writing of each sales event at least 14 days in advance.

5.12.4 RO Prohibited Uses

Notwithstanding the land uses permitted above, the following land uses are expressly prohibited:

(1) Motorized sports.
(2) Amusement park or theme park.
(3) Outdoor use of firearms.

5.13 Depot Street Corridor (DSC)

The purpose of the Depot Street Corridor (DSC) is to help provide opportunity, incentive, and encouragement to redefine and redevelop this corridor in ways that better achieve community goals for land use design, transportation management, economic diversity, energy efficiency, and local food production and processing. While seeking a more downtown-like development pattern on the ground, the town also seeks to maintain and enhance a dense, thriving mix of residential, professional, and commercial services and land uses, **building**s of varying designs and sizes placed in a more consistent pattern closer to the street, greater social and economic vitality, public gathering spaces, a more pedestrian friendly streetscape, fewer curbcuts, calmer traffic, and more effective parking as defined in §6.1 of this ordinance. The aim of the DSC is to create opportunities that do not currently exist, so that there are incentives and options for improvements that benefit both landowners and the community.

5.13.1 DSC Permitted Uses

The land uses permitted or conditionally permitted are as described in the underlying C1 zoning district.

5.13.2 Relationship to Other Provisions

This section of the ordinance shall be used and interpreted primarily on its own. The general regulatory mechanisms in the ordinance remain intact, and all other relevant sections of the **bylaw** still apply in this

district; however, where there are conflicts between this and other sections of this ordinance, then this section shall control.

5.13.3 Dimensional Requirements:

The starting point, or base level dimensional requirements, related to **building** size, **development** density, and site design for any land use are as described in the underlying C1 zoning. However, as an incentive to help implement the goals stated in the town plan, design guidelines, and purpose statement of this section, many of these dimensional standards may be modified where it is demonstrated that significant progress is made in achieving these goals. The base **building** size for purposes of calculating the incentives is a 3,000 square foot footprint, the maximum presently permitted for new retail **building**s.

Table 5.13.3. DSC Incentives

Goal: Improved streetscape design	Incentives Offered
Consolidate curbcuts	2,000 SF of additional **building coverage**
Move buildings closer to the **street**, **Front yard** setback shall fall within the range of 15 to 25 feet	8 SF of additional **building coverage** for every 10 SF moved; or 5 SF of additional **building coverage** for every 10 SF removed and replaced
Convert **front yard** asphalt to **front yard** greenspace	1 SF of additional **building coverage** for every 1 SF of asphalt-greenspace conversion
Inboard sidewalks	4 SF additional **building coverage** for every linear foot of inboard sidewalk created
Mixed use project (non-retail uses on second floors, especially residential; or at least 40% of a total project dedicated to non-retail uses)	2 SF of additional **building coverage** for every 3 SF dedicated to non-retail uses. No additional parking is required for upper floor residences. Where functional parking adequacy is demonstrated, upper floor professional uses may share parking with other uses.
High performance energy efficiency (defined here as LEED certified, or including alternative energy production, cogeneration, geothermal, microgrid installation, or other similar approaches	1,000 SF additional **building footprint**
Strong emphasis on architectural design demonstrating careful thought, and creative use of design, materials, and textures, in conformance with the town's design guidelines, and considering fit within and enhancement of our historic downtown.	1,000 SF additional **building coverage** or **active floor area**
Outdoor dining as part of a mixed use project	No additional parking required.

Available incentives offered for improved streetscape design goals are detailed in Table 5.13.3 above. Under these incentives, the maximum **building coverage** shall be 35%, with a limit of 15,000 square feet per building. Building design and **building coverage** shall be examined closely for conformance with the stated goals of this section as well as the town's design guidelines. Where they are demonstrated to have practical, architectural, and functional importance for aesthetic design and pedestrian amenity; covered entries, porches and walkways may be excluded from **building coverage** calculations. Incentives may be approved at the discretion of the **Development Review Board**. Landowners are encouraged to collaborate with adjoiners to accomplish multiple goals. Any building approved under these incentives shall have at least two floors or stories above grade, for proper harmony and fit into the streetscape, and to maximize the usefulness and adaptability of the building for current and future uses.

5.13.4 Parking Areas

Wherever possible, all parking areas shall be in the **rear yard** of any **lot**. Where it is demonstrated that appropriate design and screening is achieved, then parking may be considered in a **side yard**. No new parking shall be allowed in a **front yard**, unless as part of reconfiguration of existing parking that demonstrates improvement or progress toward the goals of this section.

Effective parking is the goal. Safe, comfortable, and well-marked pedestrian and vehicular linkages with adjoining properties and public sidewalks will help satisfy the goals of this section, as will the demonstrated ability to share parking between uses and properties so that multiple uses can coexist without more parking or pavement. Parking shall be designed for the minimum needed to accommodate the regular demand that can reasonably be anticipated, not peak demand.

As part of redevelopment plans proposed in accordance with the goals described in Table 5.13.3, parking may be permitted in the transitional parking area in accordance with the general **conditional use** criteria and these specific conditions:

(1) Parking areas shall be set back at least ten feet from side **lot** lines, except for allowances for shared parking and access. For screening purposes, a landscaped buffer at least 20 feet deep shall be provided along all **lot** lines of adjoining residential properties or uses (or, if more appropriate, along the boundary of the parking area). Berms may be required for additional screening;
(2) **Stormwater** discharge, cut and fill, any other site work, and the parking area itself will not cause undue adverse impacts upon neighboring residential properties or uses.
(3) Each parking space provided in the **rear yard** or transitional parking area that satisfies the goals of this section shall count as 1.5 spaces toward the calculated parking requirements for land uses served by that parking. For projects or land uses utilizing the incentives described in this section, the 'base level' parking requirement shall be calculated for the project as a whole using current standards. Any bonuses or waivers shall then be deducted or recalculated based on that new total requirement. The parking area shall otherwise conform to design criteria of Section 6.
(4) Parking for any land use may be provided by the owner of the subject land, provided in the transitional parking area described herein, shared as described in §6.3, or leased or purchased under the same terms as provided for shared parking in §6.3.
(5) Unless specifically approved as part of a **site plan**, pedestrian or vehicular access to adjoining residential properties or uses shall be prohibited. This may be accomplished by fencing placed within the required screened buffers, or by other appropriate means as approved by the **Development Review Board**.
(6) Parking areas must be developed to function effectively with existing parking areas and access drives in both the C1 district and the adjacent transitional parking area. Parking area design shall demonstrate consideration of and provision for future opportunities for improvement or expansion of pedestrian and vehicular access, circulation, and parking.
(7) Clearly defined, attractive, and safe pedestrian connections to C1 district properties and the public sidewalk system shall be provided.
(8) Existing residential units shall either be retained or replaced in kind with no net loss in the number of dwelling units.

5.13.5 Architectural Design

Architectural design shall be of a form, style, and scale that maintains and enhances those qualities and historical traditions described in the town plan. More specific, detailed guidance may be found in the *Design Guidelines for Manchester's Commercial and Historic Districts* (dated March, 2001, and

incorporated herein by reference). In any permit proceeding, consideration shall be given to how a project maintains or enhances a village type development pattern and the town's historic character, in a manner consistent with the town plan and adopted design guidelines.

Applications shall demonstrate that proposed **renovation**s, additions, or **structure**s will be compatible with, and will enhance, the streetscape and character of this corridor. Since this area is also a design district, a permit issued through the design review process will demonstrate that municipal goals and intent have been satisfied with regard to architectural design.

5.13.6 Streetscape Design & Pedestrian Amenities

In any permit proceeding, consideration shall be given to possibilities for enhancement of and improvements to streetscape design and pedestrian amenities, consistent with the town plan and the adopted design guidelines. At a minimum, the applicant/landowner shall propose alternative proposals that may include, but are not limited to: planting of street trees; greenspace and landscaped areas; park benches, inboard sidewalks; other pedestrian paths; doorways, porches, and entries that provide transition for and bridge the gap between public and private space; and carriage-type street or **building** lighting that is appropriate in style and design for this corridor.

Existing **front yard** greenspaces shall be maintained, enhanced, and expanded wherever possible. Applicants shall propose alternatives that protect or enhance greenspace areas and tree plantings.3

Consideration shall be given to the location, installation, and design of utility poles, power lines, and all associated infrastructure. Wherever feasible, power poles, lines, and related infrastructure shall be consolidated, buried, screened, or moved behind **building**s.

As sites are proposed for redevelopment, plans shall also include elements that may provide for or promote a more lively street life; especially seating areas for outdoor dining. Consideration shall also be given to predefined sites for vendors.

5.14 Main Street South Corridor (MSSC)

The purpose of the Main Street South Corridor is to help provide opportunity, incentive, and encouragement to redefine and redevelop this corridor in ways that better achieve community goals for land use design, transportation management, and economic diversity. Specifically, the town seeks a more village-like development pattern, with a mix of residential, professional, and commercial land uses, **building**s of varying designs and sizes placed in a more consistent pattern closer to the **street**, a more pedestrian friendly streetscape, fewer curbcuts, and more effective parking, with parking lots connected and consolidated, and better screened and hidden from the **street**. The aim of the MSSC is to create opportunities that do not currently exist, so that there are incentives and options for improvements that benefit both landowners and the community. The intent of the MSSC is to create a context within which improvements can be made, consistent with community values, to the overall design, character, and function of this corridor.

5.14.1 MSSC Permitted Uses

The land uses permitted or conditionally permitted are as described in the underlying C1 zoning district.

5.14.2 Relationship to Other Applicable Bylaws

This section of the ordinance shall be used and interpreted primarily on its own. The general regulatory mechanisms in the ordinance remain intact, and all other relevant sections of the **bylaw** still apply in this

district; however, where there are conflicts between this and other sections of this ordinance, this section shall control.

5.14.3 Dimensional Requirements

The starting point, or base level dimensional requirements, related to **building** size, **development** density, and site design for any land use are as described in the underlying C1 zoning district and any major **development** limitations that may apply. However, as an incentive to help implement the goals stated in the town plan, design guidelines, and purpose statement of this section, many of these dimensional standards may be modified where it is demonstrated that significant progress is made in achieving these goals. The base **building** size for purposes of calculating the incentives is a 3,000 square foot **building footprint**, the maximum presently permitted for new **retail buildings**.

Table 5.14.3 MSSC Incentives	
Goal: Improved Streetscape Design	**Incentives Offered**
Consolidate curbcuts	1,000 SF of additional **building coverage**
Move buildings closer to the **street**. **Front yard** setback shall fall within the range of 15 to 25 feet.	4 SF of additional **building coverage** for every 10 SF of moved; or 2.5 SF of additional **building coverage** for every 10 SF removed and replaced
Convert **front yard** asphalt to **front yard** greenspace	1 SF of additional **building coverage** for every 2 SF of asphalt to greenspace conversion
Inboard sidewalks	2 SF additional **building coverage** for every linear foot of inboard sidewalk created
Mixed use project (non-retail uses on second floors, esp. residential; or at least 40% of a total project dedicated to non-retail uses)	1 SF of additional **building coverage** for every 2 SF dedicated to non-retail uses. No additional parking is required for upper floor residences. Where functional parking adequacy is demonstrated, upper floor professional uses may share parking with other uses.
High performance energy efficiency (defined here as LEED certified, and/or including alternative energy production, cogeneration, geothermal, microgrid installation, or other similar approaches	1,000 SF additional **building coverage**
Strong emphasis on architectural design demonstrating careful thought, and creative use of design, materials, and textures, in conformance with the town's design guidelines, and considering fit within and enhancement of our historic downtown.	500 SF additional **building coverage** or **active floor area**
Outdoor dining as part of a mixed use project	No additional parking required

Available incentives offered for improved streetscape design goals are detailed in Table 5.14.3 above. Under these incentives, the maximum **building coverage** shall be 35%, with a limit of 7,000 square feet per building. Building design and **building coverage** shall be examined closely for conformance with the stated goals of this section as well as the town's design guidelines. Where they are demonstrated to have practical, architectural, and functional importance for aesthetic design and pedestrian amenity; covered entries, porches and walkways may be excluded from **building coverage** calculations. Incentives may be approved at the discretion of the **Development Review Board**. Landowners are encouraged to collaborate with adjoiners to accomplish multiple goals. Any building approved under these incentives shall have at least two floors or stories above grade, for proper harmony and fit into the streetscape, and to maximize the usefulness and adaptability of the building for current and future uses.

5.14.4 Parking Areas

Wherever possible, all parking areas shall be in the **rear yard** of any **lot**. Where it is demonstrated that appropriate design and screening is achieved, then parking may be considered in the **side yard**. No new parking shall be allowed in a **front yard**, unless as part of reconfiguration of existing parking that demonstrates improvement or progress toward the goals of this section.

Effective parking is the goal. Safe, comfortable, and well-marked pedestrian and vehicular linkages with adjoining properties and public sidewalks will help satisfy the goals of this section, as will the demonstrated ability to share parking between uses and properties so that multiple uses can coexist without more parking or pavement. Parking shall be designed for the minimum needed to accommodate the regular demand that can reasonably be anticipated, not peak demand.

5.14.5 Architectural Design

Architectural design shall be of a form, style, and scale that maintains and enhances those qualities and historical traditions described in the town plan. More specific, detailed guidance may be found in the *Design Guidelines for Manchester's Commercial and Historic Districts* (dated March, 2001, and incorporated herein by reference). In any permit proceeding, consideration shall be given to how a project maintains or enhances a village type development pattern and the town's historic character, in a manner consistent with the town plan and adopted design guidelines.

Applications shall demonstrate that proposed **renovation**s, additions, or **structure**s will be compatible with, and will enhance, the streetscape and character of this corridor. Since this area is also a design district, a permit issued through the design review process will demonstrate that municipal goals and intent have been satisfied with regard to architectural design.

5.14.6 Streetscape Design & Pedestrian Amenities

In any permit proceeding, consideration shall be given to possibilities for enhancement of and improvements to streetscape design and pedestrian amenities, consistent with the town plan and the adopted design guidelines. At a minimum, the applicant/landowner shall propose alternative proposals that may include, but are not limited to: planting of street trees; greenspace and landscaped areas; park benches, inboard sidewalks; other pedestrian paths; doorways, porches, and entries that provide transition for and bridge the gap between public and private space; and carriage-type street or **building** lighting that is appropriate in style and design for this corridor.

Existing **front yard** greenspaces shall be maintained, enhanced, and expanded wherever possible. Applicants shall propose alternatives that protect or enhance greenspace areas and tree plantings. Consideration shall be given to the location, installation, and design of utility poles, power lines, and all associated infrastructure. Wherever feasible, power poles, lines, and related infrastructure shall be consolidated, buried, screened, or moved behind **building**s. As sites are proposed for redevelopment, plans shall also include elements that may provide for or promote a more lively street life; especially seating areas for outdoor dining. Consideration shall also be given to pre-defined sites for vendors.

5.15 Manchester Center Corridor (MCC)

In a manner consistent with the town plan, the purpose of the Manchester Center Corridor is to maintain and enhance the historic look and character, economic vitality, and community-oriented, mixed-use environment of the corridor. The Manchester Center Corridor has served as the core of the business community since the town's early days. In many ways, it has retained many of the essential elements of traditional New England village character: historic architectural styles, **building**s close to the **street**, on-

street parking, an attractive streetscape, an intimate pedestrian atmosphere, and a true mixed-use environment. It remains a place where people can comfortably grab a bite to eat, make a variety of stops for business and pleasure, and converse with friends and acquaintances. Although the built environment in the immediate of the corridor was constructed during the horse-and-buggy days, it has survived remarkably intact into these automobile-oriented times. Notably, it is that part of the corridor's streetscape, which was created before the automobile's powerful influence on the built environment that is most desirable today.

5.15.1 Relationship to Other Bylaws

Due to the critical importance of this district to the health and vitality of the community, this section of this ordinance shall be used and interpreted primarily on its own. The general regulatory mechanisms in the ordinance remain intact, and all other relevant sections of the **bylaw** will still apply to this district; however, where there are conflicts between this and other sections of the ordinance, this section shall control.

5.15.2 MCC Dimensional Requirements

Side and **rear setbacks** may be modified by the **Development Review Board** where appropriate, based on site-specific conditions; for example, to accommodate more effective or efficient shared access or parking, or to maximize available greenspace in visible, 'useful' areas. Where **lot**s in this district abut other zoning districts, the **setback**s for that abutting district shall be applied to this district along the common boundary. As an incentive to maintain or provide housing in this district, no land density, minimum **lot** area, nor parking shall be required for upper floor residences which are part of a mixed use **building** or project.

Table 5.15.2. MCC Dimensional Requirements

	Minimum Lot Area	Required Front Setback	Required Side Setback	Required Rear Setback	Maximum Building Height
Commercial Structure	N/A	20'	10'	10'	35'
Residential Structure	8,000 SF per dwelling unit	20'	10'	10'	35'
Accessory Structure	N/A	20'	5'	5'	35'

5.15.3 MCC Permitted Uses

(1) The uses enumerated in §4.4.1.
(2) **Bank**.
(3) **Funeral home**.
(4) **Hotel**.
(5) **Restaurant**, except **fast food restaurant**.
(6) **Brewpub**.
(7) Conversion of an existing residential or **accessory structure** into a **professional building**, as described in §5.4.2(9)
(8) Post office.
(9) **Retail**.
(10) **Club**.
(11) **Business services**.

(12)**Personal services**.
(13)**Light industry**.

5.15.4 MCC Conditional Uses

The following may be permitted as a **conditional use** in the MCC district in conformance with the provisions of §3.3:

(1) Indoor private recreational facility, as described in §5.4.2(11)
(2) Places of amusement or assembly

5.15.5 MCC Accessory Uses

Accessory uses customarily incidental to a permitted use, on the same **lot**. The **Development Review Board** may permit the use of **accessory structure**s for dwelling purposes as part of a mixed use project. Uses accessory to a **conditional use** are permitted only when applied for and are granted as part of the **conditional use**.

5.15.6 Use of Existing Buildings

Full use of **building**s existing on the date of adoption of this section of the **bylaw** (May 9, 2000) may be permitted by the **Development Review Board**, where it is demonstrated that the purposes and standards of this section are satisfied, and where it is demonstrated that the goals and policies of the town plan are satisfied.

Full use of **street** level stories may be permitted on an unrestricted basis for all uses permitted in the district. Full use of upper floors may be permitted on an unrestricted basis for non-retail uses. **Retail** uses may be permitted on floors above **street** level only if all **bylaw** requirements are fully satisfied and physically provided (for example, parking spaces must be provided; a fee cannot be paid in lieu of parking in this circumstance).

5.15.7 Changes to Nonconforming Structures

Consistent with the town plan, this section of the ordinance, and Section 3.5 (Design Review), the **Development Review Board** may consider permitting substantial alteration to, or **demolition** and reconstruction of **nonconforming structures**. This may be accomplished through a ‘grandfathering’ of **building footprint** or floor area, or other appropriate means. In any such approval, significant achievement of the goals in this section, the town plan, and in any adopted design guidelines must be demonstrated, and must be approved by the **Development Review Board**.

5.15.8 Streetscape Design & Pedestrian Amenities

In any permit proceeding, consideration shall be given to possibilities for enhancement of and improvements to streetscape design and pedestrian amenities, consistent with the town plan and any adopted design guidelines. At a minimum, the applicant shall propose alternatives that may include, but are not limited to: planting of street trees; greenspace and landscaped areas; park benches, sidewalks or other pedestrian paths; doorways, porches, and entries that provide transition for and bridge the gap between public and private space; and carriage-type street or **building** lighting that is appropriate in style and design to the 19th-century historic architecture and character of the MCC district.

Existing **front yard** greenspaces shall be maintained and enhanced wherever possible. Applicants shall propose alternatives that would protect or enhance greenspace areas and tree plantings. Consistent with the town plan and any adopted design guidelines, architectural and streetscape elements that maintain and enhance the District’s historic character shall be maintained and enhanced wherever possible.

Consideration shall be given to the location, installation, and design of utility poles, power lines, and all associated infrastructure. Wherever feasible, power lines shall be buried, or moved behind **building**s. Consideration shall be given to replacing streetlights with carriage lamp-style fixtures of a style more appropriate for the historic character of the district.

5.15.9 Architectural Design

In any permit proceeding, consideration shall be given to how a project maintains or enhances the historic character of this district, in a manner consistent with the town plan and any adopted design guidelines. This is not intended to mean that this district should be treated as a museum, nor that each and every existing architectural element or **structure** must be retained as-is. Rather, it requires a demonstration that proposed **renovation**s, additions, or **structure**s will be compatible with, and will enhance, the flavor and character of this historic district. Since this area is also a design district, a permit issued through the design review process shall serve as demonstration that municipal goals and intent have been satisfied with regard to architectural design.

5.15.10 Parking & Circulation

In general, landowners and the town should seek to preserve and expand the supply of parking spaces. However, in certain cases, it may be preferable to shift around, consolidate, or delete parking spaces to help achieve other goals related to streetscape design, greenspace/landscape design, or public safety.

Parking requirements may be satisfied on-site as per Table 6.6.3. Alternatively, where good cause is demonstrated, and where the **Development Review Board** determines on a site-specific basis that on-site parking is neither feasible nor desirable, then appropriate mitigation shall be provided (for example, a contribution to a municipal parking fund in lieu of providing on-site parking).

In any permit proceeding, it must be demonstrated that relevant goals in the town plan and any adopted design guidelines are satisfied. Toward that end, consideration shall be given to possibilities for improvements to pedestrian and vehicular circulation. At a minimum, the applicant shall propose alternatives for closing, sharing, or consolidating curbcuts, creating easements and links with adjoining uses or properties, moving parking areas to **rear yard**s, merging parking areas to create more effective and efficient use of land, and upgraded sidewalks, paths, and crosswalks.

5.16 Historic Districts

Manchester's historic districts include the Bonnet Street Historic (BSH), Manchester Center Historic (MCH), Manchester Depot Historic (MDH), and North Main Street Historic (NMSH) districts as listed in §5.1 and depicted on maps at the end of this ordinance. The purpose of this section is to help preserve, maintain, and enhance the physical qualities of Manchester's historic districts that the community finds are worth keeping: the residential feel of historic neighborhoods along Bonnet Street, North Main Street and Elm Street, including large **front yard** greenspace areas in the BSH, MDH and NMSH, and **rear yard** parking; consistent size and scale of **building**s; relatively consistent **setback**s; and varied forms of historical architecture. All of these work synergistically to create a quiet integrity, character, and pedestrian friendly environment throughout the historic districts.

5.16.1 Permitted Land Uses

The land uses permitted or conditionally permitted are as described in the underlying zoning districts.

5.16.2 Dimensional Requirements

The dimensional requirements related to density or minimum **lot** size for a particular land use are as described in the underlying zoning districts. However, to help implement the purpose statement, **front setback** shall be governed by this section. **Front setback** shall be within a range that is consistent with neighboring properties, typically between 20 to 40 feet from the inner edge of the public sidewalk for the BSH, MDH and NMSH districts and little to no front setback for the MCH district.

5.16.3 Parking Areas

Wherever possible, all parking areas shall be in the **rear yard** of any **lot**. However, if it is demonstrated that this is not possible or feasible, then parking may be considered in a **side yard**. In no case shall parking be allowed in a **front yard**.

5.16.4 Architectural Design

Architectural design shall be of a form, style, and scale that maintains and enhances those qualities noted in the purpose section, and the historical traditions described in the town plan. More specific, detailed guidance may be found in *Design Guidelines for Manchester's Commercial and Historic Districts* (dated March, 2001, and incorporated herein by reference). In any permit proceeding, consideration shall be given to how a project maintains or enhances the historic character of the district, in a manner consistent with the town plan and any adopted design guidelines. This is not intended to mean that historic districts should be treated as museums, nor that each and every existing architectural element or **structure** must be retained as-is. Rather, it requires a demonstration that proposed **renovation**s, additions, or **structure**s will be compatible with, and will enhance, the streetscape and character of the historic district. Since historic districts are design review districts, a permit issued through the design review process shall serve as demonstration that municipal goals and intent have been satisfied with regard to architectural design.

5.16.5 Streetscape Design & Pedestrian Amenities

In any permit proceeding, consideration shall be given to possibilities for enhancement of and improvements to streetscape design and pedestrian amenities, consistent with the town plan and any adopted design guidelines. At a minimum, applicants for commercial uses and major development projects shall propose alternatives that may include, but are not limited to, planting of street trees; greenspace and landscaped areas; park benches, sidewalks or other pedestrian paths; doorways, porches, and entries that provide transition for and bridge the gap between public and private space; and carriage-type street or **building** lighting that is appropriate in style and design to the 19th- and early 20th-century historic architecture and character of the historic districts.

In the BSH, MDH, and NMSH districts, existing **front yard** greenspaces shall be maintained and enhanced wherever possible. For all historic districts, applicants shall propose alternatives that would protect or enhance greenspace areas and tree plantings. Consistent with the town plan and any adopted design guidelines, architectural and streetscape elements that maintain and enhance historic character shall be maintained and enhanced wherever possible within the historic districts. Consideration shall be given to the location, installation, and design of utility poles, power lines, and all associated infrastructure. Wherever feasible, power lines shall be consolidated, buried, or moved behind **building**s.

5.17 Aquifer Protection Area (APA)

The purpose of the APA is to protect public health and safety by preserving and protecting the community ground water source from incompatible **development**.

5.17.1 Permitted Uses in the APA

All uses permitted within the underlying zoning districts shall continue to be permitted within the APA and all uses conditionally permitted in the underlying zoning district shall continue to be conditionally permitted within the APA, with the following exceptions:

(1) All new commercial, industrial, and residential **development**, including new single or multi-family dwellings, must be connected to the municipal **sewer** system; new on-site **wastewater** disposal systems are not permitted within the APA.
(2) Uses listed as prohibited in §5.17.2, which would otherwise be permitted in the underlying district, shall be prohibited in the APA.

5.17.2 Prohibited Uses in the APA

The following uses are prohibited in the APA even though they may be permitted in the underlying zone. Any existing use in the APA which is identified herein as a prohibited use may continue. Such use may be extended or expanded provided that an application is submitted and approved pursuant to the requirements of §5.17.3:

(1) Any use not permitted in the underlying zoning district;
(2) On-site **wastewater** disposal systems;
(3) **Wastewater** treatment facilities;
(4) Sanitary landfills or other solid waste disposal facilities;
(5) **Salvage yard**s;
(6) Underground fuel storage tanks;
(7) Storage for resale of fossil fuels, including but not limited to, oil, coal, and gas;
(8) Mining of land, removal of sand and gravel, and quarrying of raw materials;
(9) Open storage of road salt or other de-icing chemicals;
(10) Disposal of snow which has been brought in from outside the district;
(11) Gasoline stations, car washes, auto repair or auto body shops;
(12) Commercial metal plating, finishing, and polishing;
(13) Chemical, medical, and bacteriological laboratories or manufacturing facilities;
(14) **Dry cleaning plant**s and **laundromat**s;
(15) Manufacturing facilities which produce electrical equipment, pharmaceuticals, plastic, fiberglass, rubber goods, or textiles;
(16) **Heavy food processing**, photographic processing, or wood processing facilities;
(17) Printing establishments;
(18) Concrete plants;
(19) Furniture stripping establishments;
(20) Machine shops;
(21) Commercial feeding of livestock;
(22) Any other use which involves as a principal activity the generation, storage, use, treatment, transportation, or disposal of hazardous materials;
(23) Pesticide, herbicide and fungicide applications, with the exception of those reviewed and approved by the Vermont Department of Health.

5.17.3 Continuation of Prohibited Uses in the APA

The **Development Review Board** shall approve the extension or expansion of an existing prohibited use within the APA provided the following conditions are satisfied:

(1) The requirements of §4.5, Nonconforming Structures & Uses, are satisfied;

(2) The applicant for said extension or expansion demonstrates that all hazardous waste generated on the site is contained and transported from the site in a manner approved by the State of Vermont for the containment and transportation of such waste; and
(3) **Wastewater** disposal is accomplished via connection to the municipal **sewer** system, or the extension or expansion does not result in the generation of any additional **wastewater**.

5.17.4 Special Requirements in the APA

(1) All **sewer** lines must comply with the Town of Manchester Standard Sewage System Specifications.
(2) Floor drains may only be allowed if they drain into approved **sewer** systems. On-site discharge from floor drains is prohibited.
(3) All necessary precautions shall be taken during the application of pesticides, herbicides, or fungicides to prevent the accumulation of hazardous concentrations of these materials in the water or on the land within the APA.
(4) Special care shall be taken during construction and maintenance to avoid spills of oil, grease, fuel, solvents, or other hazardous materials.
(5) For any proposed activity, with the exception of a one or two family dwelling on an individual **lot**, which will render more than 20% of the total **lot** area impervious, the application shall be accompanied by drainage calculations utilizing U.S. Soil Conservation Service methodology, demonstrating that any increase in the volume of runoff shall be recharged on-site and diverted toward areas with vegetation for surface infiltration to the maximum extent possible. No more than 50% of the total **lot** area shall be made impervious.
(6) For any use, with the exception of a one or two family dwelling on an individual **lot**, retaining less than 30% of the total **lot** area in its natural vegetative state, the application shall be accompanied by evidence to demonstrate that such removal of vegetative cover shall not result in decreased recharge of the ground water deposit, or increased sedimentation of surface waters. The application shall indicate any restoration and erosion control measures proposed for the site.

Section 6 Parking

This parking **bylaw** applies generally to land uses throughout the town. However, where a particular zoning district has more specific or flexible rules for parking (including, but not limited to the Manchester Center Corridor or the Main Street South Corridor), then the rules for that zoning district shall take precedence.

6.1 Effective Parking

The purpose of this section is to provide a reasonable balance between the supply and demand for parking; minimize the consumption of land for parking; ensure the efficient use of land; and minimize impervious surfaces; all to enhance the qualitative aspects of parking lot design, off-street linkages, pedestrian paths, walkways, and pedestrian amenities. The emphasis is on creating effective parking, as defined below.

Effective Parking includes some or all of the following key elements:

- easy to find
- easy to use
- promotes **street** safety and reduces pedestrian conflict
- is located within reasonable proximity of the needs it serves
- feels safe and comfortable
- has safe and comfortable internal pedestrian pathways, and linkages with a variety of nearby commercial uses and the public sidewalk system
- is attractively landscaped and shaded
- balances short and long term needs
- offers wayfinding guidance and information within the parking environment

Incorporation of these elements into a synergistic design encourages park and walk activity in the downtown. Providing reasonable and adequate parking is not simply a formula based approach, but includes strong consideration of these qualitative design principles that play an important role in the usability of parking.

Effective parking must also consider location. A standalone land use on the outskirts of town will very likely have to provide parking, as travel to these sites is primarily dependent on motor vehicles. Land uses located downtown, especially those including a mix of uses, may not need as much parking because there is greater opportunity for sharing between uses (both on site and between sites), and for pedestrian travel throughout the core. In some cases, it may be better to have little or no onsite parking. In such cases, payment in lieu of parking, or other appropriate strategy, may address equity concerns while allowing important design principles to govern. In summary, the intent of effective parking is to allow, encourage, and require the consideration of qualitative design aspects of parking rather than a purely quantitative, formula based calculation.

A variety of design characteristics and strategies shall be considered and employed during development review to help achieve these goals, including but not limited to:

(1) Provide safe, convenient pedestrian links within and between **building**s and sites, between parking lots and from these lots to the **street**, adding amenities such as benches, trees, and comfortable lighting.
(2) Minimize the number and size of curbcuts serving any property.

(3) Create off-street vehicular links between parking lots.
(4) Improve and expand the public sidewalk system to newer design standards (inboard sidewalks wherever possible, street trees...).
(5) Encourage services for other modes of transport. Examples include providing bike racks or bus stops on site.
(6) Plan ahead for possible **changes of use** at renovated or newly developed sites, so that where appropriate, an area may be reserved for additional parking even if not wanted or needed today.
(7) Wherever possible, build all new parking in **rear yard**s. Encourage existing **front** or **side yard** parking to be reconfigured in **rear yard**s, and where appropriate, linked with adjoining parking lots to ensure efficient use of land, lessen the number of vehicle trips or movements into public **street**s, and maximize sidewalk and greenspace areas along the **street**.

6.2 Payment in Lieu of Parking

Where the **Development Review Board** determines that it is undesirable to build new or additional parking spaces, then a payment in lieu of parking shall be paid to the town. The fee shall be proportional to the number of parking spaces that would otherwise be required, and shall be based upon reasonable cost estimates for the provision of that parking. Full payment shall be required prior to issuing any **certificate of occupancy** for the subject use. Any permit issued under this approach shall clarify the amount of parking credited as part of the rights attached to the subject property for current and future uses.

The **Development Review Board** may require that additional, proportional fees be paid for any subsequent use that requires yet more parking. No refund shall be made for any subsequent use that requires less parking; however, a landowner shall not be charged again for spaces required in the future for which payment may have already been made. Once a **certificate of occupancy** has been issued for a use approved under this section, then no refund shall be made.

The town may use these accumulated fees for any reasonable purpose related to the design principles of effective parking as described in this section, including but not limited to acquisition of land or easements, construction of parking, engineering and design activities, or provision for sidewalks, pathways, or other pedestrian or bike amenities.

The purpose of this subsection is to offer flexibility in limited, appropriate circumstances, consistent with the town plan, and to avoid undesirable consequences (such as removal of important or **historic structure**s) in the quest to provide required parking. Decision making criteria include:

(1) Impact on historic resources;
(2) Conformance with or impact upon relevant goals and policies of the town plan; and
(3) Potential impacts on adjoining properties, uses, or parking facilities.

6.3 Shared Parking

The **Development Review Board** may approve shared parking, whether within a site or between separate sites, where it is demonstrated that the goals and policies described in the purpose section (§6.1) are satisfied.

Shared parking agreements shall be legally binding upon affected properties and property owners. Applicants shall record these agreements with the town clerk. A copy of the agreement, and proof of

recording, shall be given to the **administrative officer** prior to the granting of any **certificate of occupancy** for the subject use. Decision making criteria include:

(1) Impact on historic resources;
(2) Conformance with or impact upon relevant goals and policies expressed in the town plan; and
(3) Potential impacts on adjoining properties, uses, or parking facilities.

6.4 Parking Waivers

The **Development Review Board** may grant a parking waiver where it is demonstrated that the goals and policies described in §6.1 are satisfied. For example, where it is demonstrated that all required parking is not actually needed for the use it serves; where certain areas are better kept as or replaced with greenspace; where clear and sufficient provision is made for parking and walking; or where it is otherwise reasonably demonstrated that the principles of effective parking are satisfied. A decision to waive parking may be made based on related amenities or infrastructure provided they advance the principles of effective parking. For example, it may be determined that a site or area would be better served with improved pedestrian pathways, benches, trees, and lights than with more vehicular parking. Decision making criteria include:

(1) Impact on historic resources;
(2) Conformance with or impact upon relevant goals and policies expressed in the town plan; and
(3) Potential impacts on adjoining properties, uses, or parking facilities.

6.5 Incentives

In order to encourage landowners to share resources, pool investments, and make improvements that benefit themselves and the community, the **Development Review Board** may also grant bonuses (for example, in the form of additional **retail** or professional space or number of seats permitted) where clear benefits to the provision of effective parking are provided. An example might be a downtown **bank**, which is open primarily during the week that agrees to allow its parking lot to serve as public parking on weekends. Similar circumstances might apply for a **professional building** located downtown, or where adjoining landowners work together to consolidate access, parking, and greenspace.

6.6 General Parking Regulations

Unless otherwise approved, conforming parking shall be provided for new **structure**s, increases in **active floor area** in existing **building**s, or any enlargement or addition to existing **building**s.

Pre-existing land uses, and land uses operating under valid zoning permits on the date of adoption of these revised parking regulations (December 15, 2015), may continue operation without providing additional off-street parking. However, as described below, certain **changes of use** may be required to provide additional parking.

6.6.1 Changes of Use

In the case of a **change of use** with no increase in **active floor area**, additional parking shall be required based on the difference between the spaces required for the proposed use and those required for the previous use.

In the case of a **change of use** with an increase in commercial space or dwelling units, additional parking shall be provided proportional to the enlargement, addition, new **structure**s, or increase in commercial space or dwelling units.

6.6.2 Existing Spaces

Unless otherwise approved, no required or existing spaces shall be decreased in size or removed while the use requiring those spaces remains in operation.

6.6.3 Computing the Basis for Required Parking

Table 6.6.3. Off-street Parking Requirements		
Residential Uses		
Housing Type	**General**	**Core**
Single Family Residential	2	1
Two-family Residential (Duplex)	4	2
Three-family Residential (Triplex)	6	3
Multifamily Residential	2 per unit	1 per unit
Senior Housing	0.5 per unit	0.25 per unit
Commercial Uses		
Use	**Base**	**Additional**
Lodging House	2	1 per unit
Nursing Home	1 per 2 beds	-
Place of Public Assembly	1 per 4 seats	-
Library	1 per 500 SF	-
Museum	1 per 500 SF	-
Automobile Retail & Service	1 per 1,250 SF floor area	1 per 1,250 SF lot area
Furniture Store	1 per 1,250 SF floor area	-
Appliance Store	1 per 1,250 SF floor area	-
Art Gallery	1 per 1,250 SF floor area	-
Retail Store, 0-800 SF	1 per 250 SF	1
801-1200 SF	1 per 250 SF	2
1201-1600 SF	1 per 250 SF	3
1601-2000 SF	1 per 250 SF	5
2001-2500 SF	1 per 250 SF	6
Over 2500 SF	1 per 250 SF	1 per 2500 SF
Personal Services, 0-800 SF	1 per 250 SF	1
801-1200 SF	1 per 250 SF	2
1201-1600 SF	1 per 250 SF	3
1601-2000 SF	1 per 250 SF	5
2001-2500 SF	1 per 250 SF	6
Fitness Center, Gym, Spa	1 per 250 SF	
Building Supply	1 per 500 SF building coverage	-
Bed & Breakfast	2	1 per unit
Hotel	1 per room	1 per 500 SF public meeting area
Motel	1 per room	1 per FTE*
Restaurant, Fast Food	1 per 40 SF	
Restaurant	1 per 2.5 seats	1 per 10 seats
Bar	1 per 2.5 seats	1 per 10 seats
Brewpub	1 per 2.5 seats	1 per 10 seats
Microbrewery	1 per 2 FTE*	1 per 2.5 seats
Bank or Financial Service Office	1 per 250 SF lobby	1 per 400 SF office
Professional Buildings	1 per 400 SF	-
Public Works Yard/Garage	1 per FTE	
Health Clinic	2 per FTE* Clinician	
Veterinary Clinic	2 per FTE* Clinician	
Daycare	1 per 8 child	1 per FTE*
School, Pre-K-8	1 per 50 student	1 per FTE*
9-12	1 per 10 student	1 per FTE*
Vocational/Other	1 per 3 student	1 per FTE*
Warehousing/Storage	1 per 2 FTE*	-
Light industry	1 per 2 FTE*	-
Mail Order/Wholesale	1 per 2 FTE*	-
Automobile Service	3	3 per bay

*FTE refers to full-time equivalent employees

All uses shall provide parking according to the off-street parking requirements table and the principles of effective parking as described above. A fractional amount of one-half or more counts as a full parking space. The core includes all town **parcel**s within the commercial zoning districts and within 2,500 feet of the center of roundabout at the intersection of Main Street and Depot Street.

6.6.4 Location of Parking Spaces

Unless otherwise approved, required parking shall be on the same **lot** as the **building** or use it serves, and shall be behind the **structure**s served.

6.6.5 Lots Split by Commercial/Residential Boundaries

The purposes of this subsection are: to allow some reasonable use of residentially-zoned land on **lot**s split by the commercial/residential (C/R) zoning boundary; to alleviate any existing parking problems and deficits in these areas; and to create a transitional zone between the commercial and residential zones. It is not the purpose of this section to allow any expansion of **building**s or uses due to increased parking provided herein.

For **lot**s split by the C/R zoning boundary the **Development Review Board** may, as a **conditional use**, permit parking for commercial uses to occur on the portion of the **lot** outside of the commercial zone, provided that the **conditional use** criteria of §3.3, and all of the following conditions, are satisfied:

(1) No parking area, except land used for screening and landscaping, may extend more than 66 feet beyond the C/R boundary;
(2) Parking areas shall be set back at least ten feet from side **lot** lines, except for allowances for shared parking and access. A landscaped buffer at least 20 feet deep shall be provided along all **lot** lines adjoining residential properties or uses. Berms may be required for additional screening;
(3) The parking area will not adversely impact neighboring residential properties or uses;
(4) Landscaping shall be designed and installed to define, soften, and screen the appearance of the parking area from adjacent residential properties and uses. Specifically:
    (a) Clustered plantings of substantial trees shall be provided. It is not the intent of this section that one tree or planter appear at intervals between parking spaces.
    (b) Substantial trees with wide canopies, providing significant shade and visual relief, shall be provided. The use of vertical plantings shall be for accent only, and not as primary landscaping elements.
    (c) Where pedestrian pathways are provided, landscaping such as raised planters, trees, or other features shall be provided to reinforce the identification and use of these pathways.
    (d) Berms may be required for additional screening. A solid screen of plantings, consisting primarily of coniferous vegetation, may be required in order to provide appropriate screening.
(5) Existing mature trees (hardwoods of six-inch diameter at breast height or larger, or softwoods twelve feet tall or larger) shall be preserved as existing, relocated to another location on the site, or replaced with trees of equivalent size and species. Any cut and fill will not adversely impact neighboring residential properties or uses, and not create adverse impacts upon aesthetics or existing natural conditions.
(6) A landscaped green belt of at least 20 feet deep shall be provided along any **street** line. This greenbelt may be interrupted only by approved access drives, walkways, and existing **building**s.
(7) Lighting within the residential zone shall be directed downward and well-shielded, and glare shall not be cast onto neighboring properties. Maximum height of poles and fixtures shall be five feet,

and maximum illumination shall be 26 watts of compact fluorescent light, or equivalent, per fixture.

(8) Residentially zoned land area, used for parking as provided for herein, shall not be incorporated when determining permitted **building coverage** or **building** density in the commercial district; nor shall it be used to provide for increases in floor area, nor increases in intensity of use, which place greater demands on parking facilities; nor shall it be used to decrease the amount of greenspace on any **parcel** below the required minimum percentage of land area.

(9) Pedestrian or vehicular access to adjoining residential properties or uses shall be strictly prohibited. This may be accomplished by fencing placed within the required screened buffers, or by other appropriate means.

6.6.6 Bicycle Facilities

The **Development Review Board** shall consider requiring provision of safe, effective parking facilities for bicycles in locations that are visible, lockable, and which avoid conflicts with pedestrians and motor vehicles.

6.6.7 Truck Loading Zones & Bus/RV Parking Spaces

Consideration shall be given as to whether truck loading zone is needed for **retail**, wholesale and industrial **building**s. If so, the **Development Review Board** may require one usable and accessible truck loading zone(s) of at least 720 square feet in area (at least 12' x 60' dimensions) for each 15,000 square feet of floor area or fraction thereof.

Consideration shall be given as to whether bus or recreational vehicle parking space is needed for **retail** uses. If so, the **Development Review Board** may require one usable and accessible such space of at least 480 square feet in area (at least 12' x 40' dimensions) for **retail** space greater than 4,000 gross square feet in size.

These required loading zones and bus or recreational vehicle parking spaces shall be located in sensible, appropriate locations that serve the intended purpose, and that also minimize impacts upon adjoining residential properties and uses.

6.7 Design Standards

6.7.1 Parking Lots

All parking lots having more than five spaces, shall be contained within **structure**s or subject to the following:

(1) The area shall be screened effectively with suitable plantings or fencing on each side.

(2) All access points or aprons shall be paved for vehicular and pedestrian safety, drainage, and ease of access.

(3) All parking surfaces shall be constructed so as to eliminate standing water and the discharge of **stormwater** onto adjacent properties, or onto public sidewalks or **street**s.

(4) Parking spaces shall be suitably marked and maintained by painted lines, concrete bumpers, or other appropriate markings.

(5) Sufficient space shall be provided for the storage of plowed snow, unless removal by other means is provided. Parking spaces and access aisles shall be usable throughout the entire year.

(6) All lighting fixtures shall be installed so that neither glare nor illumination shall be cast into drivers' eyes, the travelled way, or onto any other **parcel**s of land.

(7) Unless otherwise approved, there shall be no storage of materials or equipment, nor display of merchandise, within required parking areas.
(8) Where a public sidewalk exists, there shall be a six foot deep greenbelt between the sidewalk and any parking spaces. Where no public sidewalk exists, there shall be an 11 foot deep greenbelt between the **traveled way** and any parking spaces.
(9) Wherever possible, parking and loading spaces (except for those serving single and two family dwellings) shall be designed so that vehicles need not back out onto any **street**.
(10) Unless otherwise approved, driveways shall be at least 50 feet from the curb line of an intersecting **street**.
(11) Any two driveways leading to or from the same **street** and from the same **lot** shall be at least 30 feet apart for a non-corner **lot**, and 40 feet for a corner **lot**.
(12) Curbcuts shall be kept to a functional minimum width. Clear provision shall be made for pedestrian passage (recessed concrete sidewalk, painted crosswalk, etc...)
(13) For commercial or industrial parking lots with more than 30 parking spaces, the parking lot shall be divided by curbed, landscaped islands to separate rows of parking spaces from each other and from driveways so that no paved parking surfaces extend more than 66 feet in width. These landscaped islands shall be sizable enough to provide aesthetic improvement, room for trees or shrubs, **stormwater** drainage, snow storage, space for light poles, and separation of traffic movements. If an existing parking lot is modified, causing it to exceed the 30 car threshold, landscaped islands shall be required in the entire parking lot. At least one tree (minimum 3" caliper) shall be provided for every 30 parking spaces, over and above any other landscaping requirements.
(14) Wherever possible, reasonable provision shall be made for emergency vehicle access.
(15) Parking areas shall be set back at least ten feet from side and rear **lot** lines, except for allowances for shared parking and access.
(16) All sidewalks and curbs within the **public right-of-way** shall be constructed to town specifications (including granite curbs and concrete sidewalks). All sidewalks and curbs within a project shall be constructed of concrete or granite. However, on a site-specific basis, other materials may be approved where it is demonstrated that durability, safety, aesthetic, and maintenance considerations are satisfied.

6.7.2 Dimensional Standards

The following minimum dimensions for off-street parking spaces and aisle widths shall apply:

	Parking Spaces Angled at			
	30 degrees	45 degrees	60 degrees	90 degrees
Aisle Width	11'	13'	18'	26'
Stall Length	18'	20'	21'	20'
Stall Width	10'	10'	10'	10'

6.7.3 Handicapped Parking Spaces

Handicapped, or accessible, parking spaces shall be 13 feet wide and shall be provided according to the following table:

Spaces in Lot	Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8

6.17.4 Flexibility of Dimensional Rules

Should parking spaces be at different angles than those above, or where one-way aisles are used, the **DRB** shall prescribe appropriate dimensions. The general intent is that projects should provide required parking. However, Flexibility may be considered where it can be clearly demonstrated that this will result in improved greenspace, landscaping, effective parking, or aesthetics.

Section 7 Housing Development

7.1 Mobile Homes

Mobile homes shall be permitted in any zoning district that permits single-family residences provided that any such mobile home meets the requirements for a single-family residence of the district in which it is located. Mobile homes are not prohibited by this **bylaw** except to the same extent as conventional housing is restricted or regulated, and under the provisions of §7.2 and Section 11.

7.2 Mobile Home Parks

7.2.1 Location

A **mobile home park** may be permitted as a **conditional use**, subject to the provisions of §3.3, within any district in which multifamily dwellings are allowed.

7.2.2 Minimum Lot Size

A mobile home park shall be located on a **lot** containing not less than 5 acres, and all mobile homes thereon shall be connected to an approved water supply and a **public sewer** or approved **wastewater** treatment system.

7.2.3 Site Development Plan

No mobile home park shall be developed, and no mobile home shall be placed thereon, until a site development plan meeting the requirements of §3.2.2 has been approved by the **Development Review Board**.

7.2.4 Design Standards

(1) The maximum number of mobile homes in a mobile home park shall not exceed six mobile homes per gross acre of the park.
(2) Each individual mobile home shall be located on a **lot** containing not less than 5,400 square feet and not less than 45 feet wide. No mobile home shall be located within 15 feet from the boundary of its individual **lot**, and no mobile home shall be located within 50 feet from any boundary of the mobile home park **lot**.
(3) Each mobile home space shall abut a shared access drive not less than 22 feet in width. Such driveway shall have at least two connections for vehicular travel to and from a public **street**, located so as to minimize traffic hazards and congestion.
(4) Parking of any motor vehicle in any part of the 22-foot width of an access drive shall be prohibited, and enforced by the park operator. Parking spaces shall be provided for all vehicles customarily or occasionally in the park, but in no case shall less than three car spaces for each two mobile home sites be required. Such car spaces shall average 10 feet wide and 20 feet long with free access to the access drive. Such car spaces shall be on the mobile home **lot**, in a parking lot, or may be in parking bays contiguous to an access drive, in which case the width of the drive and parking space combined shall be not less than 45 feet.
(5) All driveways shall be adequately illuminated.
(6) A landscaped buffer strip shall be provided along all property and **street** lines of the mobile home park, not less than 15 feet in width, suitably screened with evergreen plantings, as approved by the **Development Review Board**.
(7) Open Space for recreation and playground purposes shall be provided, occupying not less than 10% of the gross mobile home park area, conveniently located to all individual mobile home park

sites. Such open space shall be suitably landscaped with a protective screen separating such space from driveways, parking areas, and service areas, and should be suitably equipped and furnished, in the judgment of the **Development Review Board**, for recreation and play purpose.

7.2.5 Minimum Service Standards

Waste collection stations shall be provided, as approved by the **Development Review Board**, located not more than 150 feet from each mobile home site. Waste collection stations shall consist of masonry enclosures for rubbish and garbage containers, and shall be suitably landscaped.

All driveway and parking areas, storm drainage, water supply and sanitary **sewer** connections to each mobile home site, all electric services, and all required landscaping shall be completed before any mobile home is placed in the mobile home park, except that where landscaping is not completed, the **administrative officer** may approve occupancy if the owner of a mobile home park shall have filed with the selectboard a surety bond in form and amount approved by the **Development Review Board** to guarantee completion of the work.

7.2.6 Operation

The operator of the mobile park shall maintain all parts of the mobile home park in good condition and shall provide for collection and removal of waste and garbage at least twice every week. The operator shall remove snow from all driveways, and shall maintain safe conditions on all driveways at all times.

The sale of mobile homes or other vehicles in connection with the operation of a mobile home park is prohibited. No sale of merchandise and no service business shall be carried on within the **lot** occupied by a mobile home park, except that the **Development Review Board** may approve the establishment of a self-service laundry or similar service, or the sale of food or household articles to occupants of the mobile home park only, provided that any such use is otherwise permitted in the district in which the mobile home park is located.

7.3 Affordable Housing Regulations

7.3.1 Purpose

This **affordable housing** provision is intended to achieve the following:

(1) Fulfillment of **affordable housing** goals as established in the town plan;
(2) Conservation of land and the creation of usable open space and recreation areas;
(3) Efficient use of town infrastructure and roads; and
(4) **Development** that is consistent with the density and character of Manchester while meeting the town's **affordable housing** goals.

These provisions provide an option for property owners to work in partnership with the town to produce **affordable housing**. They provide for a degree of flexibility in the design and density of **affordable housing project**s and financial incentive, through density increases, to projects that meet **affordable housing** needs.

If application is made under this section of the ordinance, the standards and requirements of this section shall supersede those of the underlying district. Only the uses and standards defined in this section, and regulations governing **floodplain**s, groundwater, water supplies, protection of **stream**s, **pond**s, and **wetland**s, and **wastewater** disposal, shall apply to the **affordable housing project**.

7.3.2 Review Process

An **affordable housing project** may be permitted as a **conditional use**, subject to the provisions of Section 3.3 (Conditional Use Review) within any district in which multifamily dwellings are allowed. **Affordable housing project** applications shall comply with the requirements of Section 3.2 (Site Plan Review). **Affordable housing project**s are exempt from the requirements of Section 3.4 (Major Development Project Review), due to the overriding concern for the creation of homes that are affordable to local residents. In making a decision, the **Development Review Board** shall consider comments and input from town staff, the **Design Advisory Board**, and Conservation Commission, or any other municipal board, committee, or commission as may be relevant to the proposed project.

7.3.3 Design Standards

The following standards shall guide the **Development Review Board** in its review of an **affordable housing project**. If any of these standards are not met, and the **Development Review Board** grants approval of the project, the board shall issue written justification of the rationale for approval despite the failure of the project to meet said standards.

7.3.3.1 Within the Sewer Service Area

If the project falls in the sewer service area the following standards must be met:

(1) A minimum of one acre is required.
(2) A minimum frontage of 50 feet along a town road, or a legally-deeded **right-of-way** of 50 feet in width, is required.
(3) Base level density shall be up to six units per acre and the maximum density shall be 10 units per acre.
(4) Maximum **building** coverage shall be 50%.
(5) Maximum number of units per **structure** shall be 10.
(6) The project shall consist of a minimum of five units.
(7) Maximum **building height** is 35 feet.
(8) At least one parking space per dwelling is required. All parking shall be located to the side, rear, or **basement** of **building**s. No **front yard** parking shall be allowed.

7.3.4.2 Outside the Sewer Service Area

If the project does not fall within the sewer service area, the following standards must be met:

(1) A minimum of five acres is required to.
(2) A minimum frontage of 50 feet along a town road, or a legally-deeded **right-of-way** of 50 feet in width, is required.
(3) The project shall consist of a minimum of five units.
(4) The project shall consist of single, two, three, and/or four family units. Projects involving 10 or more acres may have any mixture of these housing types; however, the following mixture is suggested: at least 25% of the **building**s as two-family **structure**s, and at least 25% of the **building**s as three- to four-family **structure**s. The types of **building**s shall be mixed throughout the **development**. No such limits apply to **parcel**s smaller than 10 acres in size.
(5) The maximum density of an **affordable housing project** shall be 10 units per acre.
(6) The maximum number of units per **building** is four.
(7) Maximum **building height** is 30 feet.
(8) At least 30% of the **parcel** shall be retained as open space, and shall be managed by the residents it serves. The intent is to help a project fit into its environment, and to provide a reasonable amount of land for open space and passive or active recreation. While steep slopes

or **wetland**s may serve part of this purpose, all of the open space should not be on such **undevelopable land**.

(9) The visibility of dwelling units shall be minimized from public ways or other residential premises through the use of creative **building** location, grading, screening or planting. Visibility of unsightly abutting land uses from the **affordable housing project** shall be controlled in the same manner.

(10) **Building**s shall be located at least 50 feet from land used for **agriculture** in order to minimize the effects of agricultural operations and residential uses upon each other. Natural vegetation shall be maintained within this 50 foot buffer, where possible, to promote these purposes. **Fence**s shall be erected along such agricultural land to prevent interference with **farming** practices by children, pets, or any residential activities or uses.

(11) At least one parking space per dwelling is required. All parking shall be located to the side or rear of the **building**s, unless abutting residential properties are characterized by **front yard** parking, and the **Development Review Board** determines that **front yard** parking will be in character with the neighborhood.

7.3.3.3 All Projects

The following standards apply to all **affordable housing project**s:

(1) The site shall be surrounded by a no-build buffer area (10 feet in depth for projects within the sewer service area, and 25 feet in depth for all other projects) along all property lines. Such buffer areas shall be designed so as to minimize visual and noise intrusion from the project on abutters and public ways, and the intrusion of abutters on the residents of the project. The use of earthen berms, stone or wooden **fence**s, and dense vegetation is encouraged, and these should comply with accepted landscape architectural standards for sight and noise mitigation. All public ways abutting the property should be buffered with vegetation. Parking is allowed in the no-build buffer area in cases where a **fence** or earthen berm is used that will prevent noise and light from intruding on the abutting properties.

(2) No **building**, **accessory structure**, recreational facility or like improvement, other than roads or related **structure**s, shall be erected closer to public highways than the **front setback** of the underlying zoning district, or the **front setback**s of existing abutting **structure**s, whichever is less.

(3) **Building**s shall be oriented with respect to scenic vistas, natural landscape features, topography, and natural drainage areas.

(4) Roads shall be built to town specifications, unless otherwise approved by the **Development Review Board** upon demonstration of good cause.

(5) All units may be located on individual **lot**s, on homeowner association owned land, on land owned by organizations whose purposes include the creation and preservation of **affordable housing** (*i.e.*, community land trusts), or a combination thereof.

(6) **Building**s shall be sited in an orderly, non-random fashion, and consideration shall be given to external design of **building**s and related site improvements. Materials and design details shall take into account harmony, proportion, and adjacent land uses. Bland uniformity of design shall be avoided. Site designs shall provide for private yard space for each housing unit. Consideration shall be given to retaining significant topographic features, to the natural terrain and existing vegetation, and to the project site's relationship with surrounding properties and uses.

7.3.4 Conditions of Approval

No **lot** shown on a plan for which a permit is granted under this section may be further subdivided, and a notation to this effect shall be shown on the **site plan** and on the deeds to any such **lot**s.

Subsequent to initial approval of an **affordable housing project**, the **Development Review Board** may approve relocation of **lot** lines within the project. However, any change in overall density, number of **affordable housing** units, **street** layout, or open space layout will require further hearings and approval by the **Development Review Board**.

Prior to issuance of a permit for an **affordable housing project**, the applicant shall submit to the **administrative officer** a complete description of the legal and financial mechanisms that will assure perpetual affordability of any **affordable housing** units. Said legal and financial mechanisms shall be approved by town counsel, and shall become a condition of any permit which is granted by the **Development Review Board** for the project.

The **Development Review Board** shall submit a statement for the public record that describes the manner in which the proposed project does or does not meet the **affordable housing** needs of the town. This statement shall include a finding of the degree to which application of standard zoning requirements would or would not meet such housing needs.

7.3.5 Determination of Density

The final project density shall be determined by the **Development Review Board**. The determination shall take into account, and shall strike a balance between the base density permitted and the maximum permitted density. The **DRB** may seek and incorporate the recommendations of town staff, the **Design Advisory Board**, and Conservation Commission concerning site planning and open space amenities.

7.4 Planned Residential Development

7.4.1 Purpose

The purpose of **Planned Residential Development (PRD)** is to enable and encourage increased residential density, flexibility of design, and **development** of tracts of land for single- and multi-family dwellings in clustered groups, to promote the most appropriate use of land, facilitate the economical provision of **street**s and utilities, and ~~to~~ enhance the environmental quality of the area through preservation of open space.

7.4.2 Location

A **PRD** is permitted in any zoning district in which single-family dwellings are permitted

7.4.3 Application Requirements

PRDs shall comply with the requirements of §3.2, Site Plan Review and Section 8 (Subdivision Regulations). **PRD**s are exempt from the requirements of §3.4, Major Development Project Review, due to the protection of open space and natural resources that they afford and the specific requirements of this section.

The **Development Review Board** may waive the requirement for a metes and bounds survey, prepared by a certified land surveyor, if the **Planned Residential Development** does not involve the subdivision of land. However, if a metes and bounds survey is necessary for an accurate location and description of the **building envelope**s or easements then the survey shall be required.

The site development plan must identify those lands that are clearly undevelopable due to environmental limitations, such as but not limited to, designated **wetland**s and **wetland buffer**s as defined in the Vermont Wetland Rules, slopes in excess of 15%, **stream**s and watercourses, rock formations, prime agricultural soils, and **flood** and earth movement hazard areas. All **building envelope**s must occur

outside of these features. The site development plan must also identify open fields, wooded areas, and lands used for **agriculture**.

The site development plan shall include all proposed **lot** lines, **building envelope**s, the location, height and footprints of all existing and proposed **building**s, open space, landscaping, **street**s, driveways, off-street parking spaces and all other physical features. Elevations prepared by an architect or landscape architect shall depict the relationship of **building**s, landscaping, and parking areas.

The application submission shall include a narrative plan of **development** that addresses the following:

(1) How the design provides for the purposes of the **Planned Residential Development**;
(2) The proposed number of units and how the design preserves the natural features of the land and site characteristics as identified above;
(3) Identification of benefits to the town of the **planned residential development** over a conventional development;
(4) The proposed use of the open space lands and proposed mechanisms for its preservation; and
(5) Requested waivers and bonus densities and justification for granting them.

7.4.4 Review Process

After submission of an application for a **Planned Residential Development**, the applicant shall have temporary markers placed on the lands in order to enable the **Development Review Board** to locate readily and appraise the basic layout of the proposed **PRD** in the field during the site visit. The applicant shall schedule a site visit with the **Development Review Board**. The purpose of this site visit shall be to confirm the locations of natural features, **agricultural use**s, and existing **structure**s relative to proposed **lot** lines, **building envelope**s, and infrastructure.

Once a site visit has been conducted, the **Development Review Board** shall hold a preliminary hearing on the proposed **PRD**. The **DRB** shall provide a preliminary decision indicating whether the project should move forward for final approval. A final hearing shall be held once the applicant has addressed any concerns enumerated by the **Development Review Board** in its preliminary decision.

7.4.5 Density

In a **Planned Residential Development**, the total number of dwelling units shall not exceed the number which could be permitted if the tract were subdivided into **lot**s conforming to the provisions of the district in which such tract is situated, except that the **Development Review Board** may grant a density bonus, of up to 25% total, if any of the following are provided:

(1) Preservation of Agricultural Use – A density bonus may be awarded to a **PRD** that results in the preservation of an active **farm** or **agricultural use**. Appropriate legal restrictions for the perpetual preservation of the **agricultural use** must be provided.
(2) Provision of Public Access or Dedication – A density bonus may be awarded to a **PRD** that results in the dedication of open space, municipal utility, or municipal infrastructure improvements (such as road or recreational path rights-of-way, parkland, utility rights-of-way, and other public improvements to the town). A legally binding agreement between the developer and the town must be made contingent upon the finalization of the subdivision in the form of an offer of dedication. Such offers, in draft form, must be submitted with the preliminary application. Such offers of dedication must include provisions for improvements to the site made by the developer which will enhance public use of the property if in the opinion of the Development Review Board the nature of the dedication would warrant such improvements; such improvements include but are not limited to the following: parking areas, playgrounds, and nature trails; or the applicant

must provide public access easements and infrastructure necessary to facilitate public enjoyment of the open space for the project if such open space is to remain in private ownership.

(3) Construction of Green **Building**s – A density bonus may be granted for a **PRD** that results in **structure**s meeting LEED silver certification or higher.

(4) Utilization of Under-Building Parking – A density bonus may be granted for a **PRD** with underground or under-building parking.

The density bonus awarded shall be determined by the **Development Review Board** based on the number, size and relative importance of the eligible criteria provided by the **PRD**. The number of bonus units granted shall be rounded up to the nearest whole number.

7.4.6 Open Space Requirements

The land area not included in **building lot**s, **street**s, or parking areas shall be permanently preserved as open space for recreation, conservation, and the enhancement of the natural environment. Such open space shall contain not less than 50% of the gross area of the **Planned Residential Development**. The design of **street**, **lot** layout, and locations of open space, shall implement the stated objectives of the plan of development as described in §7.4.3 and shall be subject to the approval of the **Development Review Board**.

7.4.6.1 Dedication of Open Space

Land to be preserved as open space in **Planned Residential Development**s may be offered for dedication to the town for park and conservation purposes. If such land is not so offered, or if the town declines to accept the offer, it shall be dedicated to a community association or other entity, as herein provided.

7.4.6.2 Community Association Required

The applicant shall organize under the laws of the State of Vermont a non-profit community association, corporation, or cooperative, to be composed of all present and future owners of **lot**s within the **PRD**. Such non-profit community association, corporation, or cooperative shall be responsible for maintenance of all common open space or other common elements of the **development**. The applicant shall submit a set of deed restrictions or covenants that run with the land and shall record the same in the Manchester land records.

7.4.6.3 No Community Association Required

In the case of **Planned Residential Development**s in which all land designated as open space on the **site plan** is dedicated to, and accepted by, the town, and there are not common water, **sewer**, or other commonly owned elements, the organization of a community association shall not be required.

Section 8 Subdivision Regulations

8.1 Applicability

These subdivision regulations shall apply to all subdivisions of land, as defined herein, located within the Town of Manchester. No land shall be subdivided within the Town of Manchester until the subdivider shall obtain final approval of the proposed subdivision from the **Development Review Board (DRB)**, or the **administrative officer** in the case of a **boundary line adjustment**, and the final approved subdivision plat is recorded in the Manchester land records.

8.2 Purpose

The purpose of~~,~~ these subdivision regulations is to ensure that where subdivision of land is proposed, it is done in an ecologically effective and efficient manner and in a manner that conforms to this Manchester Land Use and Development Ordinance.

8.3 Boundary Line Adjustment

A **boundary line adjustment**, or minor **lot** line adjustment, that does not result in the creation of a new **lot**, or a **nonconforming lot**, shall require only review and approval by the **administrative officer** upon finding that the performance standards of this section are met.

8.4 Application & Review Procedures

8.4.1 Application Requirements

Applicants shall submit a completed application for a zoning permit, a narrative describing all aspects of the proposal, and two full-sized and two reduced (11” x17”) copies of a stamped survey prepared by a licensed surveyor or engineer in accordance with §3.2 showing the proposed **lot** lines, existing and proposed infrastructure, natural features of the land, and proposed **building** sites. Major development applications (as defined in §3.4) shall also include a more detailed narrative and plans in accordance with §3.4.9. All applications shall include supporting documentation demonstrating conformance with the goals and policies for subdivision design as described in Part II, Section 10 of the town plan. Detailed engineering drawings may be required to satisfy the design standards enumerated in §8.5. Proposed **lot** lines shall be shown on plans; however, internal metes and bounds need not be shown or described until preliminary review is concluded.

8.4.2 Preliminary Review

Within 30 days of receipt of a complete application, subdivisions involving four or fewer **lot**s shall receive preliminary review by the **administrative officer** for conformance with the town plan and this Land Use and Development Ordinance. Within 30 days of a complete application, subdivisions involving five or more **lot**s shall receive preliminary review by the **Development Review Board** for conformance with the town plan, and this Land Use and Development Ordinance.

8.4.3 Final Plat Review

Once preliminary review has been conducted and the applicant has addressed any concerns raised by the review, an application for final plat approval from the **Development Review Board** may be made. A complete application shall include two full-sized and two reduced (11” x 17”) copies of the plans, the narrative demonstrating conformance with the town plan and this Land Use and Development Ordinance,

and any additional supporting documentation demonstrating conformance with the design standards enumerated in §10.6.

The final plat application shall be accompanied by a certificate of title showing the ownership of all property and easements to be dedicated to the town. All proposed deeds conveying property or easements to the town shall also accompany the final application. In addition, the final plat application shall include a draft of all restrictions or covenants of all types which will run with the land. The **DRB** may require the submission of such other legal data as it deems necessary in the enforcement of these regulations.

When the final plat application is deemed complete by the **administrative officer**, a public hearing shall be held by the **Development Review Board**. At least 15 days prior to the public hearing, notice shall be published in a local newspaper, notice shall be provided to abutting landowners, and a copy of the notice shall be sent to the clerk of an adjacent municipality in the case of a plat located within 500 feet of a municipal boundary.

At the close of the hearing the **Development Review Board** shall act to approve, approve with conditions, or reject the subdivision proposal, within 45 days of the close of the hearing. Failure to act with the 45 day period shall be deemed approval and shall be effective on the 46th day. The **DRB** decision shall be submitted in writing and include the factual bases for its conclusions and a statement of those conclusions. The decision shall be sent to the applicant and any interested parties that testified at the hearing, per 24 VSA §4464.

8.5 Design Standards

The applicant shall demonstrate that the goals and policies for subdivision design described and illustrated in the town plan are satisfied, including but not limited to: protection of natural resources and ridgelines; protection of open space in larger, contiguous blocks rather than in smaller, fragmented, disconnected pieces; and demonstration of creative project design in terms of **lot** layout, **lot** sizing, road placement, among other design characteristics.

In addition, and where applicable or necessary, the applicant shall demonstrate satisfaction of the following physical elements of subdivision design:

(1) Roads and driveways shall be designed to accommodate the traffic loads and volumes that can reasonably be anticipated. For example, a driveway serving one or two **lot**s can generally be narrower and of different construction than a **street** serving multiple **lot**s or uses. Applicants shall demonstrate strict adherence to access management principles. Unless otherwise demonstrated with regard to safety and circulation, these principles include, but are not limited to: only a single curbcut onto a public road to serve an individual house or **lot**; only a single curbcut or road to access a public road from any subdivision; pedestrian and vehicular interconnections are encouraged between projects or neighborhoods.

(2) Roads serving major developments shall be built to town specifications, and shall include paving at least from the edge of any paved public road back to the property line or edge of **right-of-way**. Based upon site specific circumstances (for example, in higher density subdivisions), the **Development Review Board** may require additional paving beyond that point or other improvements as deemed appropriate by the board, or as may be recommended by the Director of Public Works.

(3) Best practices shall be employed to handle **stormwater** drainage in effective, ecologically sound ways to minimize or prevent **stormwater**, sediment, and other materials or pollutants from flowing onto adjacent properties and town roads, and into **stream**s, **lake**s, **pond**s, and **wetland**s.
(4) Curbs and gutters shall be required where necessary or appropriate.
(5) In order to help maintain the town's rural character, and to preserve the night sky, street lights are not encouraged. However, where it is demonstrated that street lights are necessary, only downcast, cutoff types of fixtures will be approved.
(6) Fire hydrants, holding tanks, or other firefighting infrastructure deemed appropriate or necessary by the Fire Chief and required by the **Development Review Board** shall be installed prior to the granting of any certificates of occupancy for any **building**s or uses, and shall be maintained by the applicant/landowner(s) for the life of the project.
(7) Subdivision design shall demonstrate that minimum disruption is planned to the land, natural slopes, and existing lines or stands of trees. It is especially important to retain significant, mature trees that provide shade, beauty, habitat, and/or a backdrop to the landscape, and to retain vegetated buffer zones along or around **stream**s and **wetland**s. In general, this would also apply to **lake**s and **pond**s, but reasonable access for recreation may preclude a buffer in these cases.
(8) At least one deciduous shade tree of at least 3-3½" caliper shall be planted at least every 60 feet along both sides of a major development subdivision access road, unless it is demonstrated that similar, substantial tree cover already exists and will remain after construction is complete.
(9) The proposed subdivision shall use design and management practices for energy conservation as recommended by Efficiency Vermont or the American Society of Heating, Refrigeration, and Air Conditioning Engineers. The applicant shall also demonstrate plans and practices for the use of renewable energy resources, and ecologically sound site planning and construction techniques.

The **Development Review Board** may impose reasonable conditions to assure compliance with the design standards described above.

8.6 Density

The total number of dwelling units or **lot**s in any subdivision shall not exceed the number determined by dividing the acreage of developable land within the **parcel** by the minimum **lot** area requirement of the zoning district in which the tract of land to be subdivided is located. **Undevelopable land** shall include all land as defined in §4.2 of the this ordinance and any other land determined by the **Development Review Board** to be unsuitable for **development** based on limitations associated with the ability of soils to support **building**s, roadways, or on-site **wastewater** disposal~~,~~ or the need to retain the land in its natural state to protect a critical environmental resource or unique natural feature.

Undevelopable land shall not be modified in any way to achieve increased densities. That is, filling or draining of **wetland**s, reducing natural slopes, or filling within the regulatory **floodway** shall not be conducted to eliminate undevelopable features. The applicant must submit a **site plan** identifying all **undevelopable land** on the site, and the number of developable and undevelopable acres, with the zoning permit application. Moreover, the burden of proof in determining the allowable number of **lot**s or dwelling units shall be upon the applicant; the number calculated by the applicant being subject to final approval by the **Development Review Board**.

The intent of this provision is to ensure that density is based on only developable lands, each **lot** has an appropriate amount of usable, developable land, and to avoid creating **lot**s with byzantine shapes that simply satisfy mathematical density requirements.

8.7 Waivers

The **Development Review Board** may waive, subject to appropriate conditions, the provisions of any or all improvements as in its judgment of special circumstances of a particular plat or plats are not requisite in the interest of the public health, safety and general welfare, or which in its judgment are inappropriate because of an inadequacy or lack of connecting facilities adjacent to or in proximity to the subdivision. In granting waivers the **DRB** shall require such conditions as will, in its judgment, secure substantially the objectives of the requirements so waived. No such waiver may be granted if it would have the effect of nullifying the intent and purpose of the town plan or this Land Use and Development Ordinance.

8.8 Approved Plats

8.8.1 Recording of Plats

Pursuant to 24 VSA §4463, an approved, signed plat must be filed or recorded with the town clerk within 180 days of approval, or approval expires without further action by the town. Upon written request, the **administrative officer** may grant an extension up to an additional 90 days, if other final local or state permits are still pending. Prior to the submission of the final plat to the town clerk, the subdivider shall obtain the endorsement of the chair of the **Development Review Board**, or of the **administrative officer** in the case of a **boundary line adjustment**, on the Mylar and one paper copy of the final plat shall be submitted to the **administrative officer**. Once a plat is properly filed or recorded, the subdivision approval does not expire.

8.8.2 Revisions

No changes, erasures, modifications, or revisions shall be made on any subdivision plat after the final approval, unless said plat is first resubmitted to the **Development Review Board** and the board approves the modifications. In the event a subdivision plat is recorded without complying with this requirement, the plat shall be considered null and void.

8.8.3 Public Acceptance

Final approval by the **Development Review Board** shall not be deemed to constitute or be evidence of an acceptance by the town of any **street**, easement, utility, park, recreational area or open space shown on the final plat. Such acceptance may only be accomplished by formal resolution of the selectboard.

Section 9 Sign Regulations

9.1 Purpose

The economy of the Town of Manchester historically has been tourist oriented. The central business district has prospered because it offers shopping opportunities that are unique or otherwise attractive. The multiplicity of small specialty shops providing a wide array of merchandise in a physically attractive business district has developed an ever increasing and devoted clientele.

This section recognizes the necessity of **sign**s to inform the travelling public and as an aid to local **business**es in attracting customers. It also recognizes that neither the travelling public nor local **business**es are well served by unlimited signage. The purpose of this section is to help preserve and improve the existing attractive aspects of the Manchester environment, to promote the welfare, convenience and safety of its inhabitants and visitors, to conserve the value of property, and to encourage a style and scale of outdoor advertising that is compatible with a tourist-oriented economy and the more attractive features of the Manchester townscape.

9.2 Administration and Interpretation

Before the alteration, construction, or installation of any **sign**, a zoning permit shall be secured from the **administrative officer**, except as otherwise provided in this ordinance. Applications for **sign** permits shall be made on a form prescribed by the selectboard, and a standard fee, as determined by the selectboard, shall be charged for processing the application. Charitable organizations are exempt from the payment of **sign** permitting fees. Action on the application shall be taken by the **administrative officer** within 30 days of filing.

9.2.1 Development Review Board Review Required

All new free-standing **sign**s on multitenant commercial properties, **drive thru menu board**s, **exterior ATM**s, gasoline price **sign**s, and **vending kiosk**s, shall require review and approval by the **Development Review Board** as part of the **site plan** and design review process as set forth in this ordinance.

9.2.2 Design Advisory Board Review Required

Before the alteration, construction, enlargement or installation of any other **sign** within a duly established design review district, approval through the following design review process shall be secured prior to the issuance of a permit by the **administrative officer**. Review of such **sign**s shall consist of review by the Manchester **Design Advisory Board**, which shall make a recommendation to the **administrative officer**. Through the design review process, the **Design Advisory Board**, **Development Review Board**, and **administrative officer** shall consider size, location, design, color, texture, lighting, and materials of all exterior **sign**s within their purview.

9.2.3 Administrative Review

Temporary signs and **sign**s not falling in a design review district, shall be subject to administrative review only. The **administrative officer** may act on an application for a minor modification to an already approved **sign** within a design review district without consultation from the **Design Advisory Board**. A minor modification shall include only: (1) a change in **business** name or logo on the **sign** retaining the same font style, size, material and color; or (2) a change in location of the **sign**.

9.2.4 No Permit required

The replacement, repair, or repainting of a damaged or worn **sign** with one of the same construction, size, color, material and design shall not require a permit.

9.3 Free-Standing Signs

9.3.1 Number

One **free-standing sign**, pedestal, or post-supported, is allowed per **lot**. The only exceptions are **temporary sign**s as allowed by provisions in §9.8; where a lot has at least 650 feet of frontage on a town or state road, an additional **free-standing sign** is allowed provided the two **sign**s will be at least 350 feet apart; or where the **lot** is located within the Commercial-1 zoning district, and has at least 300' of frontage along a single major **street** from which vehicular access is gained. In the third case, an **additional free-standing sign** may be permitted for each additional 300' of road frontage or partial increment thereof on that single major **street**, under the following conditions:

(1) additional **sign**s must be placed at separate, existing driveways accessing the **lot** from that single major **street**;
(2) no **business** name, nor aspect of any **business** or establishment, may be listed or advertised on more than one **free-standing sign** on a **lot**;
(3) each additional **free-standing sign** as described herein, shall be limited to 16 square feet.

9.3.1.1 Businesses without Frontage on a Public Road

In the rare case where a **business** is located on a **parcel** which does not have frontage on a public road, and is served by a legally deeded **right-of-way** through a **parcel** which does have such frontage, said **right-of-way** shall be considered as a part of the **business lot** for purposes of an allowable **free-standing sign**. However, any such **sign** must be shared with the front **parcel**. This section shall not be interpreted to increase the number or size of **free-standing sign**s allowed on any **parcel** or **lot**.

9.3.1.2 Shared Signs in the RO

Many of the lands within the Recreation Overlay district have no frontage on public roads, and are accessed via shared private roads or **rights-of-way** off of public roads. Given the nature of land uses permitted within this district, and shared access into these uses, a shared roadside information **sign** is appropriate and necessary to inform the public of the location of these uses. Therefore, in addition to any **free-standing sign** that may be permitted for a recreational use on any **parcel** within this district, there may also be permitted a single **free-standing sign** that shall be shared by all land uses which share a single access road or **right-of-way** off of a major public road.

This **sign** shall be subject to all other provisions of the ordinance (for example, design review...), and shall be no larger than the largest **sign** otherwise allowed in that particular location in town. To maximize the effectiveness of this **sign**, consideration should be given to a single place name rather than simply a list of land uses.

This provision is limited to those **lot**s which do not have frontage on a public road; *i.e.*, those uses on rear **lot**s where the otherwise allowed **sign** would not be visible to the traveling public. This provision shall not be interpreted to interfere with the rights of the underlying landowners (over whose land the **right-of-way** traverses) to have their own separate **sign** under this ordinance.

9.3.2 Dimensions and Location

Free-standing signs shall only have two sides, which are parallel to each other, and no more than six inches apart. The maximum allowable size of **free-standing sign**s in the Commercial-1, Commercial-2, Commercial-3, Industrial, and Recreation Overlay districts is sixteen square feet. In the Transient Commercial Overlay districts, the maximum allowable size of a **free-standing sign** shall be 32 square feet. Unless otherwise regulated in this ordinance, **free-standing sign**s in the General Residential, Mixed Use, Single Residential, and Farming and Rural Residential districts shall be no larger than eight square feet. The size shall be determined by the extreme limits of the writing, representation, emblems, or physical **structure** of the **sign**, whichever is largest.

The calculated area of a **free-standing sign** does not include its posts and cornices. However, the size of posts and cornices shall be proportional with the size of the **sign**. As provided elsewhere in this ordinance, single family residential **free-standing sign**s may be up to one and one-half square feet in size, and **customary home occupation**s are limited to two square feet in size, unless the home occupation has received **conditional use** approval by the **Development Review Board** for a larger **sign**. **Free-standing sign**s identifying residential subdivisions and housing **development**s are limited to eight square feet.

Where two or more zoning districts co-exist, such as with overlay districts, the underlying district determines the allowable size of **sign**s, except that a 32 square foot **free-standing sign** is allowed in the Transient Commercial Overlay districts. In other districts, where there are more than eight tenants in separate and unaffiliated ownership on a single **lot**, up to two square feet of additional **sign** is permitted for each tenant in excess of eight, up to an absolute maximum size of 24 square feet (this does not apply if there is more than one **free-standing sign** as allowed in §9.3.1). Such additional **free-standing sign** in excess of 16 square feet shall be designed so that it is easily removed, and the size of the **sign** thus decreased, should any or all of the additional tenants cease to exist on the **lot**.

The bottom of a **free-standing sign** shall not restrict the visibility of vehicles entering or leaving any intersection or driveway, town or state highway, or private road. Maximum allowable height is ten feet, measured from grade level to the top of the **sign** or any part of its **structure**.

Free-standing signs and their associated support **structure**s shall be set back at least three feet from the inner edge of sidewalks; where sidewalks do not exist, the **setback** shall be at least seven feet from the **traveled way** or edge of pavement of the **street** or highway.

9.4 Flush-Mounted Signs

9.4.1 Number

If there is no **free-standing sign** on the **lot**, then two **flush-mounted sign**s per establishment are allowed on the **building** where the advertised activity exists. If there is a **free-standing sign** on the **lot**, then each establishment is allowed one **flush-mounted sign** on the **building** where the advertised activity exists.

In addition, one three square foot **flush-mounted sign** may be permitted at the rear entrance of each establishment on a **lot**, provided that:

(1) this rear entrance is a direct access from a rear parking lot which is located in the **rear yard** as defined in this ordinance;
(2) this rear entrance is in addition to a front or side entrance;

(3) the **sign** is not illuminated in any manner; and
(4) the **sign** is mounted directly above, on, or beside the rear door to the establishment which it advertises.

9.4.2 Dimensions and Location

The maximum allowable size of **flush-mounted sign**s in the Commercial-1, Commercial-2, Commercial-3, Industrial, Recreation Overlay, and Transient Commercial Overlay districts is sixteen square feet. Unless otherwise regulated in this ordinance, **flush-mounted sign**s in the General Residential, Mixed Use, Single Residential, and Farming and Rural Residential districts shall be no larger than eight square feet. The size shall be determined by the extreme limits of the writing, representation, emblems, or physical **structure** of the **sign**, whichever is largest. Where mounted on a wall, these **sign**s shall protrude no more than six inches from the wall.

As provided elsewhere in this ordinance, single-family residential **flush-mounted sign**s may be up to one and one-half square feet in size, and **customary home occupation**s are limited to two square feet in size, unless the home occupation has received conditional use approval by the **Development Review Board** for a larger **sign**. **Flush-mounted sign**s identifying residential subdivisions and housing **development**s are limited to eight square feet. Where two or more zoning districts co-exist, such as with overlay districts, the underlying district determines the allowable size of residential **flush-mounted sign**s.

Flush-mounted signs shall be mounted in traditional locations that fit with the architectural design of **building**s, such as over entrance doors.

9.5 Projecting Signs

Projecting signs may be substituted for allowable **flush-mounted sign**s on a one-for-one basis. These **sign**s shall not exceed eight square feet in size, and shall not extend further than three feet away from the **building**. For safety reasons, the lowest part of the **sign** or its support **structure**s shall be at least eight feet above the sidewalk or grade directly beneath the **sign**.

9.6 Soffit Signs

Where a covered walkway exists on a **building** with more than four tenants in separate and unaffiliated ownership, each tenant may have one **sign** which is hung from the soffit not to exceed two square feet. This **sign** shall not be illuminated, shall be hung in front of the entrance to the **business** which it advertises, and hung in a direction perpendicular to the walkway so that it is legible to pedestrians on the walkway. For safety reasons, the lowest part of the **sign** or its support **structure**s shall be at least eight feet above the sidewalk or grade directly beneath it. **Soffit sign**s are permitted in addition to any other **sign** allowed by this ordinance.

9.7 Lighting

Lighting on any **sign** shall be directed and shielded so that the light shines only on the subject **sign**, and to prevent glare offsite, into the sky, or onto adjoining properties or roads and highways. All bulbs shall be shielded or hooded. All ground-mounted fixtures shall be screened by bushes or other appropriate means. All fixtures mounted on the **sign** itself shall blend in with its background color or its surroundings, as deemed appropriate for the site. Lighting on any **sign** shall be limited to a total of 150 watts of incandescent light, 25 watts LED, or the equivalent, unless otherwise authorized for unique site- or sign-specific reasons. No **sign** may be internally illuminated, except in the case of an **exterior ATM** or external

vending kiosk, if such illumination is specifically approved as part of the **site plan** and design review process. Where a **sign** or its lighting fixtures are being replaced or substantially altered, lighting shall be brought up to these standards. Applicants must demonstrate that lighting fixtures will satisfy these standards, and are appropriate for site-specific needs and circumstances.

Internally-illuminated **sign**s existing on the date of adoption of this ordinance (January 6, 1997) may remain as-is, even if minor changes to such **sign**s (such as changing **business** names or **sign** faceplates) are proposed. However, more significant changes to these **sign**s (such as changes in location, or to the physical size or **structure**) will require complete compliance with the ordinance in effect at the time of the application for change.

The **administrative officer** may require the adjustment or relocation of any **sign** lighting in order to prevent glare and to ensure vehicular and pedestrian safety.

9.8 Special Categories of Signs

9.8.1 Residential Signs

Residential subdivisions or housing projects are permitted one **free-standing sign** for identification purposes, not exceeding eight square feet. These **sign**s generally shall not be illuminated. However, illumination may be permitted (at less intensity than normally allowed) in certain limited circumstances, where clear safety concerns are demonstrated that warrant illumination.

A **residential sign** identifying the address and name or owner of a **parcel** containing a single residential use shall not require a permit, except in a design review district. Such **residential sign** shall not exceed one and one-half square feet.

9.8.2 Gasoline Price Signs

Either of two options may be permitted for gasoline price **sign**s:

(1) Gasoline price **sign**s shall be confined to the pump island and shall be limited to one square foot in area and one per pump; or
(2) Gasoline prices may be incorporated into the single **free-standing sign** allowed on the **lot**, provided that this **free-standing sign** is located in the pump island, and that no pump top or other pricing **sign**s are displayed.

9.8.3 Window Signs

Window signs may be displayed, and may cover up to 25% of the total window area per **business** establishment on the side of the **building** where such **sign**s are located. Indoor nonpermanent **window sign**s shall not require a permit. Permanent **window sign**s, including permanent stenciling or lettering, are allowed as a part of an establishment's total window coverage, but shall require a permit. **Window sign**s composed of stenciling or lettering shall be measured by drawing an imaginary polygon around the outside edge of all letters or emblems as if they were a single **sign**, and measuring the area of that polygon. **Window sign**s shall not be internally illuminated or require power.

9.8.4 "OPEN" Signs

A **business** may display two "OPEN" **sign**s, each measuring no more than two square feet in area, on the **building**, in a window, or attached to an approved **free-standing sign**.

"OPEN" **sign**s may only contain the text "OPEN" and may identify business hours. No other lettering is allowed, except that a **restaurant** may have one rigid **sign** reading "NOW SERVING" in place of one of the allowable two "OPEN" **sign**s.

"OPEN" **sign**s of any type that are exposed to the weather must be made of weather-resistant material. "OPEN" **sign**s may not be internally illuminated.

9.8.5 Signs Announcing Specials or Sales

One free-standing, two-sided, portable **sign** made of weather-resistant material, measuring up to six square feet in size, for the purpose of advertising a **restaurant** menu special or **retail** sale, may be displayed during normal business hours on the day of the special or sale, during the time period from May 1 through November 1 and must be stored indoors at all other times.

Display of such **sign**s announcing non-food sales events shall be limited as follows:

(1) one day per week for single-day sales, once per week;
(2) one week per month for week-long sales, once per month; and
(3) one month per year for month-long sales, once per year.

Restaurants and food stores may display such **sign**s daily to announce daily specials.

Such **sign**s shall require a seasonal **temporary sign** permit, and must meet all other applicable standards of this ordinance. These **sign**s are not allowed to be internally or externally illuminated except as incidentally, externally illuminated by existing, approved site lighting.

9.8.6 Signs for Public Events

The **administrative officer** shall have the authority to issue a permit for the display of **sign**s on a temporary basis for up to four times per year, announcing a public event or sale. The permit fee shall be waived for civic, religious, fraternal, political, non-profit, or charitable groups. Proof of such status shall be required. These **sign**s shall:

(1) not exceed six square feet in area;
(2) not be displayed for more than seven consecutive days; and
(3) be removed promptly at the conclusion of the event.

Applications and permits shall specify the dimensions and design of the **sign**s, locations of such **sign**s, include the signed permission of land owners for locations not owned by the permitee, the starting and end dates of the event, and indicate the individual responsible for removal of the **sign**s.

9.8.7 Signs for Civic Groups at Town Entry Points

Bona fide civic organizations may each be permitted a single **sign** up to three square feet in size at the town line at each entrance to town along state highways (Routes 7A, 30, & 11/30), signifying the existence of a local chapter of that organization and its regular meeting time and place. These **sign**s shall be placed on a single signboard, no more than 32 square feet in size, and shall require approval by the **Development Review Board** through the design review process outlined in §3.5 of this ordinance.

9.8.8 Temporary Signs in lieu of Permanent Signs

One **temporary sign**, made of rigid material and up to eight square feet in size, may be permitted by the **administrative officer**, and may be displayed until a permit for a **permanent sign** is issued, under the following circumstances:

(1) a permit has been issued for the land use or **business** establishment requesting the **sign**;
(2) a **certificate of occupancy** has been issued for that land use or **business**;
(3) a complete **sign** application has been submitted for a **permanent sign** for that land use or **business**; and
(4) the **administrative officer** finds that the **temporary sign** conforms to this ordinance and any adopted design guidelines.

A **temporary sign** in lieu of a **permanent sign** not meeting these criteria shall require approval by the **Development Review Board** through the design review process outlined in §3.5 of this ordinance. A **temporary sign** in lieu of a **permanent sign** shall not take the place of a **permanent sign** for more than 120 days past the issuance of a permit for a **permanent sign**.

9.8.9 Contractor's, Real Estate & Project Signs

One **contractor's sign**, or **sign** advertising the sale or lease of real estate, may be displayed on a premises without a permit, subject to the following:

(1) The physical **structure** of such **sign** shall not exceed three square feet, not including support posts, which shall be proportional with the size of the **sign**;
(2) The **sign** is constructed of rigid material;
(3) The **sign** is removed immediately upon completion of construction, or the sale or lease of the advertised real estate; and

Such **sign** shall only be:

(1) placed in a window and together with any other **window sign**s on the same side of the **building** not exceed 25% coverage of total window area of that facade;
(2) installed as a single, separate, **free-standing sign** in addition to any other permitted **free-standing sign**; or
(3) installed as a **sign** panel on an existing permitted **free-standing sign**.

In place of a **contractor's sign**, a **project sign** may be displayed after securing a permit. A **project sign** may be up to 20 square feet in a commercial or industrial district, or on a project site of more than 10 acres. On all other project sites, a **project sign** shall not exceed 12 square feet. A **project sign** must be removed immediately upon project completion.

9.8.10 Menu Boards

In addition to the allotted free-standing, flush-mounted, projecting, soffit, or window **sign**s on premises, a **restaurant** may install a **menu board** at or near the main entrance to the **restaurant**. The **menu board** may be externally illuminated but shall not be internally illuminated. Any external illumination shall not cause glare onto adjoining properties or rights-of-way. The **menu board** shall require approval by the **Development Review Board** as part of the overall **site plan** review of the **restaurant**.

In addition to the allotted free-standing, flush-mounted, projecting, soffit, or window **sign**s on premises, a drive through **restaurant** may install **menu board**s along the approved drive thru lane. The message face of any **drive thru menu board** shall be fully screened from view from any **public right-of-way**. Drive thru **menu board**s may be externally illuminated if it is demonstrated that the illuminated features do not cause glare onto adjoining properties or rights-of-way. **Drive thru menu board**s shall require approval by the **Development Review Board** as part of its **site plan** review of the **restaurant**.

9.8.11 Exterior ATM

In addition to the allotted free-standing, flush-mounted, projecting, soffit, or window **sign**s on premises, a commercial **development** may install an **exterior ATM**. The **exterior ATM** shall be screened from view from any **public right-of-way**. The **exterior ATM** may contain internally illuminated or audible features if it is demonstrated that the illuminated features will not cause glare onto adjoining properties and rights-of-way and audible features will not disturb uses on adjoining properties and rights-of-way. The **exterior ATM** shall require approval by the **Development Review Board** as part of its **site plan** review of the property.

9.8.12 Exterior Vending Kiosks

In addition to the allotted free-standing, flush-mounted, projecting, soffit, or window **sign**s on premises, a commercial **development** may install an exterior **vending kiosk** for an approved commercial use. The **vending kiosk** shall be fully screened from view from any **public right-of-way**. The **vending kiosk** may contain internally illuminated or audible features if it is demonstrated that the illuminated features will not cause glare onto adjoining properties and rights-of-way and audible features will not disturb uses on adjoining properties and rights-of-way. The **vending kiosk** shall require approval by the **Development Review Board** as part of its **site plan** review of the property.

9.8.13 Vending Machines

Vending machines which are traditionally located outside of commercial **building**s, such as those which house or dispense soda, ice, windshield wipers, propane gas cylinders and the like, may incorporate non-illuminated signage advertising the product being sold. No vending machine may be internally illuminated. All vending machines shall comply with this requirement; vending machines existing on the date of adoption of this ordinance (January 6, 1997) shall comply within 90 days of that date.

9.9 Exempt Signs

The following **sign**s are generally exempt from the provisions of this section except those provisions in 9.10, Prohibited Signs:

(1) **Sign**s located on or in a rolling stock of common carriers, provided that such rolling stock is not regularly parked near a **public right-of-way** in such a way that the rolling stock becomes the functional equivalent of a **permanent sign**.
(2) **Sign**s on registered and inspected motor vehicles except those which are determined by the **administrative officer** to be circumventing the intent of this ordinance.
(3) **Sign**s with an area not more than 260 square inches, identifying stops or fare zone limits of common carriers by motor bus.
(4) Posters as defined in this ordinance. Any person erecting a poster is responsible for its removal immediately upon the conclusion of the advertised event, or after four days, whichever is sooner.
(5) Political **sign**s provided they are erected no more than three weeks before an election and are removed the day after the election. Any person erecting a political **sign** is responsible for its removal.
(6) **Sign**s erected by the Town of Manchester or its school district.
(7) **Sign**s erected by the State of Vermont or any of its boards, agencies or departments.
(8) Small on-premises **sign**s, no more than two square feet in size, which are necessary for and displayed for the direction, instruction, or convenience of the public, including **sign**s which identify rest rooms, freight entrances, designated accessible parking spaces, posted areas, or the like. Up to four such **sign**s per **lot** are exempt under this provision; the **administrative officer** may issue permits for additional **sign**s, upon filing of an application and a demonstration of the necessity for

those **sign**s. Lettering shall be generic and advertising or logos (including **business** names) are prohibited on directional **sign**s. These **sign**s shall not be illuminated. Where free-standing, these **sign**s shall not be more than three feet high, and shall not obstruct pedestrian or vehicular safety or circulation. Where building-mounted, these **sign**s shall be placed in appropriate locations related to safety issues and architectural design.

(9) Informational **sign**s up to 16 square feet in size, on lands which have been conserved by easement or other permanent, protective measures.

9.10 Prohibited Signs

No **sign** may be installed or maintained along and visible from a **street** or highway which:

(1) Interferes with, imitates, or resembles any official traffic control **sign**, signal or device, or attempts or appears to attempt to direct the movement of traffic.
(2) Prevents the driver of a motor vehicle from having clear and unobstructed view of official traffic control **sign**s and approaching or merging traffic.
(3) Contains, includes or is illuminated by any flashing, intermittent or moving lights, or contains or consists of pennants, decorative or open flags, ribbons, balloons, streamers or spinners, or other moving devices, or has any animated or moving parts, except traffic control **sign**s. Commercial holiday decorations or displays are specifically excluded from this restriction from one week before Thanksgiving until January 31. Seasonal lights employing customary strings of white lights are specifically excluded from this restriction during the dark season as defined by Eastern Standard Time (from the last Sunday in October to the first Sunday in April).
(4) Has any lighting that is not shielded to prevent light from being directed off-site, or at any portion of the traveled highway or **street**, or is of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or otherwise to interfere with the operation thereof.
(5) Is fraudulent or misleading, or is in violation of, or at variance with any federal law or regulation, including one containing or providing for conditions to or affecting the allocation of federal highway or other funds to the benefit of the state or any subdivision thereof.
(6) Advertises or promotes activities which are illegal under state or federal law.
(7) Is not clean and in good repair.
(8) Is not securely affixed to a substantial **structure**.
(9) Contains any fluorescent paint or material or which is lit by neon.
(10) Is an off-premises **sign**, except as allowed for permitted temporary event **sign**s or posters as defined in this ordinance.
(11) Is affixed to a utility pole, tree, rock or other natural feature.
(12) Any other **sign** that is not otherwise permitted or allowed under this ordinance.
(13) Encroaches on a **public right-of-way**, path of pedestrian or vehicular travel, parking space, **building** entry or exit, or causes an unsafe condition.

9.11 Non-Operational Businesses

No **sign** or advertising shall remain on a non-operational **business** premise more than 30 days after the **business** has closed. A 30-day extension may be granted by the **administrative officer**. The **administrative officer** may allow **sign structure**s without advertising messages to remain in place where appropriate and usable by a subsequent **business**.

9.12 Projection of Sound

No premises shall incorporate a public address system or other audible system in such a manner that sound is audible on adjacent property or on any **street** or highway.

Section 10 Wireless Telecommunications Facilities

10.1 Purpose

The purpose of this section is to ensure appropriate review and oversight of wireless telecommunications towers and associated infrastructure, to protect the scenic, historic, environmental, and residential resources and qualities of the community, and to minimize the visual and environmental impacts of these facilities, all within the confines dictated by federal law.

The provisions of this section shall not prohibit a property owner's ability to place or allow placement of **antenna**e used to transmit, receive, or transmit and receive communications signals on the property owner's premises if the aggregate area of the largest face of the **antenna**e is not more than eight square feet, and if the **antenna**e and mast to which they are attached do not extend more than 12 feet above the roof of that portion of the **building** to which they are attached.

These regulations are consistent with the Telecommunications Act of 1996, in that they do not prohibit the provision of wireless telecommunications services, do not discriminate among service providers, and do not pre-empt **FCC** regulations governing radio frequency emissions.

10.2 Review Procedure

Conditional use approval is required for any **wireless telecommunications facility** that is licensed and regulated by the Federal Communications Commission, along with any associated equipment, **building**s, and infrastructure. However, in accordance with 24 VSA §4412(9), the **Development Review Board** shall issue a permit for a **wireless telecommunications facility** that is determined to create either no impact or only *de minimus* impact upon any criteria in this section of the ordinance. The **Development Review Board**'s decision shall be in writing, and may be appealed as with any other decision. No permit shall be required for a **wireless telecommunication facility** that is subject to or has received a Certificate of Public Good under 30 VSA §248(a).

Prior to granting any approval, the **Development Review Board** shall make affirmative findings upon all of the general **conditional use** criteria described in §3.3 of the ordinance, the criteria described below, any other applicable provisions of this ordinance, and the goals and policies in the town plan.

10.2.1 Independent Review

If needed or requested, the **Development Review Board** may engage independent consulting assistance to review the application for conformance with this ordinance and the town plan. Consistent with federal law, the applicant will be required to pay any costs associated with that review. Payment shall be received before the **Development Review Board** may issue its decision.

10.2.2 Design Review Districts

If it falls in a designated **design review district**, a **telecommunications facility** is also subject to design review.

10.2.3 Modifications to Permits

Any change in the number or size of facilities or equipment, or change in technology from the original permit, shall require an amendment to that permit. For minor changes involving replacement of facilities or equipment of equivalent size, material, and construction, administrative review may occur. However, any addition of equipment or facilities, or change in size or materials of equipment or facilities, shall require **conditional use** approval by the **Development Review Board**.

10.3 Application Requirements

A complete application form shall be submitted, along with a **site plan** showing compliance with §3.2, and any other information required by this section. Applications shall also include a report, plans, and elevations stamped by a qualified engineer that:

(1) Describe the height, design, and elevation of all proposed infrastructure;
(2) Document the height of all proposed **antenna** mounting positions on a tower;
(3) Describe the tower's proposed capacity, including number, height, and type(s) of **antenna**e that the tower is expected to accommodate; and
(4) Document the need for the proposed site and **structure**s, and demonstrate why no other alternative or site will provide adequate coverage or capacity.

Applicants shall also submit photographs of existing conditions at the proposed site, and accurate photo simulations showing post-construction conditions at the site. Additional information may be required by the **Development Review Board**.

An applicant must be a **wireless service provider** or **FCC** licensee, or landowner with an executed contract to provide land or facilities to one of those entities. A permit shall not be granted for facilities to be built on speculation.

10.4 Location

Telecommunications towers and associated equipment, **building**s, and infrastructure shall not be located:

(1) on **undevelopable land**;
(2) in historic zoning districts as defined in this ordinance;
(3) in residential zoning districts as defined in this ordinance;
(4) within 300 feet of any residence, residential zoning district or **school**; or
(5) within the approach or departure routes or patterns of an approved **airstrip**.

10.4.1 Use of Existing Structures

Applicants are encouraged to locate **antenna**e within existing tall **structure**s such as church steeples or barn silos; in these instances, the standards of this section may be modified or waived by the **Development Review Board**.

10.4.2 Co-location

The principle of **co-location** shall be employed to the greatest extent possible. The applicant shall demonstrate that there are no other existing tower sites that can accommodate the proposed use(s). If other sites do exist, then the applicant must demonstrate that they are technically inadequate, and/or that bona fide, good faith negotiations with that landowner have failed. The duration and terms of any offer shall be disclosed to the **Development Review Board**.

Any permit granted shall include a condition requiring that other **wireless service provider**s shall be allowed to co-locate on any new or existing tower. The applicant shall provide written evidence as to how it will comply with this condition, and under what terms **co-location** will be allowed.

The minimum **setback** requirement for any telecommunications tower or associated **structure** shall be as required in the applicable zoning district, plus an additional **setback** equal to the height of the tower (the **fall zone**). The minimum **setback** for any tower taller than 100' shall be 300' from a dwelling and

residential zoning district boundary. Where a tower is mounted on an existing **structure** such as a barn silo, church steeple, or utility pole, and the tower does not increase the height of the **structure** more than ten feet, then the additional **fall zone setback** is not required.

10.4.3 Environmentally Sensitive Areas

The town plan and this ordinance describe environmentally sensitive areas including steep slopes, **wetland**s, **floodway**s, unique natural features, wildlife habitat, historic sites, high elevations, ridgelines, and scenic resources. A **telecommunications facility** and associated infrastructure shall avoid undue adverse impacts on these areas to the greatest extent possible. Where there may be adverse impacts, the project shall be designed to mitigate these impacts to the greatest extent possible.

10.5 Height

In addition to other standards herein, no tower or **structure** shall exceed 130 feet in height. No tower or **structure** may be higher than 10 feet above the average height of **building**s within 300 feet of the proposed facility. If there are no nearby **building**s, then no tower or **structure** shall be higher than 10 feet above the average tree canopy height measured in the area of the proposed facility.

10.6 Lighting

Towers requiring lighting shall not be permitted, unless the **Development Review Board** finds it the only viable alternative to meet reasonable facility requirements of a communications service provider. The only tower lighting that may be permitted is that required by **FAA** regulation. All lighting shall be shielded to minimize or prevent glare onto adjoining properties or into the night sky.

10.7 Visual Impact

All towers and related infrastructure shall be designed to minimize the visual impact of height and mass. Materials shall be of a type, style, color, and location so as to blend into the site, minimize glare, and not result in undue adverse visual impacts to the natural landscape or the built environment.

10.8 Noise

The **Development Review Board** may require the applicant provide a study from a qualified engineer as to the maximum projected noise from the proposed facility, measured in dB Ldn (decibels, logarithmic scale, and accounting for greater sensitivity at night). This study shall include existing or ambient measurements, plus noise that may be created or caused by the proposed facility. Noise measurements and projections shall be provided for the location of the tower facility itself and at the property line.

10.9 Site Screening

Screening shall be required at the perimeter of the site, unless it is demonstrated that existing natural foliage is sufficient. Required screening shall be at least ten feet in depth, and at least ten feet tall, with the potential to grow to significant size at maturity. Disturbance to existing topography or vegetation shall be minimized, unless found necessary to mitigate visual or aesthetic impacts. The location and type of security fencing shall be shown and described on the **site plan**.

10.10 Access Roads and Above Ground Utilities

Any roads or above ground utilities shall follow the contour of the land, and be sited and constructed to minimize visual impacts to the greatest extent possible.

10.11 Monitoring, Maintenance & Compliance

At the request of the **administrative officer** or **Development Review Board**, the owner/operator shall provide a report on the status of the facility, including adherence to permit conditions, operations, appearance, structural integrity, safety, noise, screening/landscaping, service roads, utility connections, and compliance with all applicable federal regulations or permit/license conditions.

10.12 Abandonment or Discontinuation

At least 30 days prior to abandonment or discontinuation of use, the owner/operator shall provide written notice to the town by certified mail of any intent to abandon or discontinue the use of the facility or site. Upon abandonment or discontinuation of use, the **Development Review Board** may require the owner/operator to promptly remove all **structure**s and facilities and return the site to an acceptable condition as determined by staff, unless it is demonstrated that good cause exists (for example, time of year or anticipated reuse by another party) to allow these **structure**s and facilities to remain. In either case, a clear and definitive time frame shall be specified for removal.

As a condition of permit approval and in the case of abandonment or discontinuation of use, the **Development Review Board** may require a bond or other means of security approved by town counsel to ensure that sufficient funds will be available to remove all **structure**s and restore a site should the owner/operator be unwilling or unable to do so.

Section 11 Flood Hazard Regulations

11.1 Authority & Purpose

11.1.1 Authority

In accordance with 10 VSA Chapter 32, 24 VSA Chapter 59, and 24 VSA Chapter 117 §4424, §4411 and §4414, this section of the ordinance is hereby established for areas at risk of **flood** damage. Except as additionally described below, all administrative procedures follow municipal procedures under 24 VSA Chapter 117. This section of the ordinance shall be known and referred to herein as these flood hazard regulations.

11.1.2 Purpose

The purpose of these flood hazard regulations is to:

(1) avoid and minimize the loss of life and property, the disruption of commerce, the impairment of the tax base, and the extraordinary public expenditures and demands on public services that result from flooding related inundation and erosion;
(2) ensure that the selection, design, creation, and use of ***development*** in flood hazard areas is reasonably safe and accomplished in a manner that is consistent with public wellbeing, does not impair **stream** equilibrium, **floodplain** services, or the **stream** corridor;
(3) manage all flood hazard areas designated pursuant to 10 VSA Chapter 32 §753; and
(4) make the Town of Manchester, its citizens, and **business**es eligible for federal flood insurance, federal disaster recovery funds, and hazard mitigation funds as may be available.

11.1.3 Precedence

The provisions of these flood hazard regulations shall not in any way impair or remove the necessity of compliance with any other local, state, or federal laws or regulations. Where this flood hazard regulation imposes a greater restriction, the provisions here shall take precedence.

11.1.4 Disclaimer of Liability

These flood hazard regulations do not imply that land outside of the areas covered by this section will be free from **flood** or erosion damages. These regulations shall not create liability on the part of the Town of Manchester, or any municipal official or employee thereof, for any **flood** or erosion damages that result from reliance on these regulations, or any administrative decision lawfully made hereunder.

11.2 Lands to Which These Regulations Apply

These regulations shall apply to ***development*** in all areas in the Town of Manchester identified in the **FEMA** Flood Insurance Study of 2015 for Bennington County, Vermont, as well as areas of special flood hazard on the **National Flood Insurance Program** maps, dated 2015 or as may be superseded when updated by the state or federal government and received for use by the Town of Manchester, which are hereby adopted by reference and declared to be a part of this zoning **bylaw**.

11.2.1 Regulated Flood Hazard Areas

These regulations shall apply to the r**iver corridors** and s**pecial flood hazard area**s (hereafter called "flood hazard areas") in the Town of Manchester as described below. These flood hazard areas overlay any other existing zoning districts and the regulations herein are the minimum standards that must be met

before meeting the additional standards applicable in the underlying district. These flood hazard areas include:

(1) The r**iver corridor**s as published by the Vermont Agency of Natural Resources including mapped Statewide River Corridors and refinements to that data based on field-based assessments which are hereby adopted by reference. Where **river corridor**s are not mapped, the standards in §11.4.3 shall apply to the area measured as 50 feet from the **top of bank** or slope.
(2) The **special flood hazard area** in and on the most current **flood insurance study** and maps published by the Department of Homeland Security, Federal Emergency Management Agency, **National Flood Insurance Program**, as provided by the Secretary of the Vermont Agency of Natural Resources pursuant to 10 VSA Chapter 32 §753, which are hereby adopted by reference and declared to be part of these regulations.

11.2.2 Base Flood Elevations and Floodway Limits in Special Flood Hazard Areas

Where available, **base flood elevation**s and **floodway** limits provided by the **National Flood Insurance Program** and in the **flood insurance study** and accompanying maps shall be used to administer and enforce these regulations. In **special flood hazard area**s where **base flood elevation**s or **floodway** limits have not been provided by the **National Flood Insurance Program** in the **flood insurance study** and accompanying maps, it is the applicant's responsibility to develop the necessary data. Where available, the applicant shall use data provided by **FEMA**, state, or other federal agencies.

11.2.3 Interpretation

The information presented on any maps, or contained in any studies, adopted by reference, is presumed accurate.

(1) If uncertainty exists with respect to the boundaries of the **special flood hazard area** or the floodway, the location of the boundary shall be determined by the **administrative officer**. If the applicant disagrees with such a determination, a **letter of map amendment** from **FEMA** shall constitute proof of boundary.
(2) If uncertainty exists with respect to the boundaries of the **river corridor**, the location of the boundary shall be determined by the **administrative officer**. If the applicant disagrees with such determination, a letter of determination from the Vermont Agency of Natural Resources shall constitute proof of boundary.

11.3 Land Uses in Flood Hazard Areas

11.3.1 Prohibited Development

The following ***development*** activities or uses are prohibited in flood hazard areas:

(1) New primary ***structure***s, including the placement of **manufactured home**s or **mobile home**s, within the **floodway**;
(2) Storage yards or **junk yard**s;
(3) New fill except as necessary to elevate ***structure***s above the **base flood elevation**;
(4) **Accessory structure**s in the **floodway**;
(5) Critical facilities; and
(6) All ***development*** not exempted, permitted, or conditionally permitted.

11.3.2 Permitted Development

The following uses or ***development*** activities are permitted in flood hazard areas:

(1) Recreational uses;
(2) Non-**substantial improvement**s to existing ***structure***s;
(3) Construction of **accessory structure**s;
(4) ***Development*** related to on-site **wastewater** or water supply systems;
(5) Utilities for existing **building**s;
(6) At-grade parking for existing **building**s and uses; and
(7) Storage or parking of recreational vehicles.

11.3.3 Conditional Uses

Conditional use review and approval by the **Development Review Board** is required prior to the issuance of a permit for the following proposed uses or ***development*** activities:

(1) New construction outside of the **floodway**;
(2) **Substantial improvement**, elevation, relocation, or **flood proofing** of existing ***structure***s;
(3) New or replacement storage tanks for existing ***structure***s;
(4) Improvements to existing ***structure***s in the **floodway**;
(5) Grading, excavation; or the creation of a **pond**;
(6) Improvements to existing roads;
(7) Bridges, culverts, **channel** management activities, or public projects that are functionally dependent on **stream** access or **stream** crossing;
(8) Public utilities;
(9) Improvements to existing primary ***structure***s in the **river corridor** that do not expand the footprint of the existing ***structure*** more than 500 square feet;
(10) **Accessory structure**s in the **river corridor**, of 500 square feet or less, that represent a minimal investment;
(11) **Building** utilities in the **river corridor**; and
(12) At-grade parking for existing **building**s in the **river corridor**.

11.3.4 Exempted Development

The following uses or activities are exempt from regulation under these flood hazard regulations:

(1) The removal of a **building** or ***structure*** in whole or in part;
(2) Maintenance of roads and **stormwater** facilities;
(3) **Agricultural activities** conducted in accordance with the Vermont Department of Agriculture's Accepted Agricultural Practices (AAP); and
(4) **Silvicultural activities** conducted in accordance with the Vermont Department of Forests, Parks and Recreation's Acceptable Management Practices (AMP).

11.3.5 Variances

Variances may be granted by the **Development Review Board** only in accordance with all the criteria in 24 VSA §4469, and Title 44 of the Code of Federal Regulations (CFR) Section 60.6.

(1) A **variance** for ***development*** within the **river corridor** may be allowed if, based on a review by the Vermont Agency of Natural Resources, it is determined that the proposed ***development*** will not obstruct the establishment and maintenance of fluvial geomorphic equilibrium for the watercourse.
(2) Any **variance** issued in the **special flood hazard area** will not increase **flood** heights, and will inform the applicant in writing over the signature of a community official that the issuance of a **variance** to construct a ***structure*** below the **base flood elevation** increases risk to life and

property and will result in increased **flood** insurance premiums up to amounts as high as $25 for $100 of coverage. Such notification shall be maintained with a record of all **variance** actions.

11.3.6 Nonconforming Structures and Uses

The **Development Review Board** may approve the repair, relocation, replacement, or enlargement of a **nonconforming structure** within a flood hazard area provided that:

(1) The proposed ***development*** is in compliance with all the standards in §10.4 of this ordinance;
(2) A **nonconforming structure** that is substantially damaged or destroyed may be reconstructed only in circumstances when the ***structure*** cannot be relocated to a less hazardous location on the **parcel**. The lowest floor of the reconstructed ***structure*** must be rebuilt to one foot or more above the **base flood elevation**, and the ***structure*** must otherwise comply with all requirements of the **National Flood Insurance Program**;
(3) **Nonconforming structure**s or uses shall be considered abandoned where such ***structure***s or uses are discontinued for more than 12 months; and
(4) An individual **manufactured** or **mobile home lot** in an existing **manufactured** or **mobile home park** that is vacated shall not be considered a discontinuance or abandonment of **nonconformity**. Replacement **manufactured** or **mobile home**s must be placed so as to meet the development standards in §11.4 of this ordinance.

11.4 Development Standards

11.4.1 Special Flood Hazard Area

Development within the **Special Flood Hazard Area** shall meet the following standards based on type of ***development*** and the location of that ***development*** within the **Special Flood Hazard Area**:

(1) All ***development*** within the **Special Flood Hazard Area** shall be:
   (a) Reasonably safe from flooding;
   (b) Designed, operated, maintained, modified, and adequately anchored to prevent flotation, collapse, release, or lateral movement of the ***structure***;
   (c) Constructed with materials resistant to **flood** damage;
   (d) Constructed by methods and practices that minimize **flood** damage;
   (e) Constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
   (f) Adequately drained to reduce exposure to **flood** hazards;
   (g) Located so as to minimize conflict with changes in **channel** location over time and the need to intervene with such changes; and,
   (h) Required to locate any fuel storage tanks (as needed to serve an existing **building** in the **Special Flood Hazard Area**) a minimum of one foot above the **base flood elevation** and be securely anchored to prevent flotation; or storage tanks may be placed underground, if securely anchored as certified by a qualified professional.
(2) In Zones AE, AH, and A1 through A30 where **base flood elevation**s or **floodway** limits have not been determined, ***development*** shall not be permitted unless it is demonstrated that the cumulative effect of the proposed ***development***, when combined with all other existing and anticipated encroachment, will not increase the **base flood elevation** more than one foot at any point within the community. The demonstration must be supported by technical data that conforms to standard hydraulic engineering principles and certified by a licensed professional engineer.

(3) ***Structure***s to be substantially improved in Zones A, A1-30, AE, and AH shall be located such that the lowest floor is at least one foot above **base flood elevation**, this must be documented, in as-built condition, with a **FEMA** Elevation Certificate;

(4) ***Structure***s to be substantially improved for **non-residential use** shall:

(a) Meet the standards in §10.4.1.3; or,

(b) Have the lowest floor, including **basement**, together with attendant utility and sanitary facilities be designed so that up to two feet above the **base flood elevation** the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy. (A permit for **flood proofing** shall not be issued until a licensed professional engineer or architect has reviewed the structural design, specifications and plans, and has certified that the design and proposed methods of construction are in accordance with accepted standards of practice for meeting the provisions of this subsection.)

(5) Fully enclosed areas below grade on all sides (including below grade crawlspaces and **basement**s) are prohibited;

(6) Fully enclosed areas that are above grade, below the lowest floor, below **BFE** and subject to flooding, shall:

(a) Be solely used for parking of vehicles, storage, or **building** access, and such a condition shall clearly be stated on any permits; and,

(b) Be designed to automatically equalize hydrostatic **flood** forces on exterior walls by allowing for the entry and exit of floodwaters. Such designs must be certified by a licensed professional engineer or architect, or meet or exceed the following minimum criteria: A minimum of two openings on two walls having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

(7) Recreational vehicles must be fully licensed and ready for highway use;

(8) A small **accessory structure** of 500 square feet or less that represents a minimal investment need not be elevated to the **base flood elevation** in this area, provided the ***structure*** is placed on the **building** site so as to offer the minimum resistance to the flow of floodwaters and shall meet the criteria in §10.4.1.6.

(9) Water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems.

(10) Sanitary **sewage** systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters.

(11) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(12) The **flood** carrying and sediment transport capacity within the altered or relocated portion of any watercourse shall be maintained, and any alteration or relocation shall not result in any decrease of **stream** stability;

(13) Bridges and culverts, which by their nature must be placed in or over the **stream**, must have a stream alteration permit from the Vermont Agency of Natural Resources where applicable.

(14) Subdivisions and Planned Unit Developments must be accessible by dry land access outside the **special flood hazard area**.

(15) Existing **building**s, including **manufactured** or **mobile home**s, to be substantially improved in Zone AO shall have the lowest floor, including **basement**, elevated above the highest adjacent grade, at least as high as the depth number specified on the community's FIRM, or at least two feet if no depth number is specified.

11.4.2 Floodway Areas

Within designated **floodway** areas, ***development*** shall conform to the following standards:

(1) Encroachments or ***development*** above grade and less than one foot above the **base flood elevation**, are prohibited unless hydrologic and hydraulic analyses are performed in accordance with standard engineering practice, by a licensed professional engineer, certifying that the proposed ***development*** will:
   (a) Not result in any increase in **flood** levels (0.00 feet) during the occurrence of the **base flood**;
   (b) Not increase any risk to surrounding properties, facilities, or ***structure***s from erosion or flooding.
(2) Public utilities may be placed underground, and the analyses may be waived, where a licensed professional engineer certifies that there will be no change in grade and the utilities will be adequately protected from scour.

11.4.3 River Corridors

Within designated **river corridor**s ***development*** shall conform to the following standards:

(1) **Accessory structure**s may be located within 50 feet of the existing primary **building** provided that the location does not decrease the distance between the existing primary ***structure*** and the **top of bank**.
(2) ***Development*** shall not increase the susceptibility of the subject property or other properties to fluvial erosion damage;
(3) ***Development*** shall not increase the potential of materials being swept onto other lands or into the **stream** and causing damage to other properties from fluvial erosion;
(4) ***Development*** shall not cause an undue burden on public services and facilities including roads, bridges, culverts, and emergency service providers during and after fluvial erosion events.
(5) Bridge and culvert projects must have a stream alteration permit; and
(6) **Channel** management activities must be authorized by the Vermont Agency of Natural Resources.

11.5 Administration

11.5.1 Application Submission Requirements

Applications for land use or ***development*** within the regulated flood hazard area shall include a **site plan** that includes the following:

(1) depiction of the proposed land use or ***development***;
(2) all water bodies on the subject property;
(3) boundaries of **special flood hazard area**s, **floodway**s, and **river corridor**s on the subject property;
(4) the shortest horizontal distance from the proposed land use or ***development*** to the **top of bank** of any **stream**;
(5) any existing and proposed drainage;
(6) any proposed fill, and pre and post ***development*** grades; and
(7) the elevation of the proposed lowest floor, as referenced to the same vertical datum as the elevation on the current Flood Insurance Rate Maps.

Applications for land use or ***development*** within the regulated flood hazard area shall also include a Vermont Agency of Natural Resources Project Review Sheet for the proposal. The Project Review Sheet

shall identify all state and federal agencies from which permit approval is required for the proposal, and shall be submitted as a required attachment to the municipal permit application. All required state and federal permits, or letters indicating that such permits are not required, shall be submitted to the **administrative officer** before work can begin.

11.5.2 Referral

Upon receipt of a complete application for **substantial improvement** or ***new construction*** within the regulated flood hazard area, the **administrative officer** shall submit a copy of the application and supporting information to the **National Flood Insurance Program** (**NFIP**) **Coordinator** at the Vermont Agency of Natural Resources (ANR) in accordance with 24 VSA §4424. A permit may be issued only following receipt of comments from the ANR **NFIP Coordinator**, or the expiration of 30 days from the date the application was mailed to the ANR, whichever is sooner.

If the applicant is seeking a permit for the alteration or relocation of a watercourse, the **administrative officer** shall provide copies of the application to the town clerk of any abutting municipality downstream from the proposed alteration or relocation, the ANR Stream Alteration Engineer, and the Army Corps of Engineers. The **administrative officer** shall also provide a copy of the application for alteration or relocation of a watercourse to the ANR **NFIP Coordinator**. A permit may be issued only following receipt of comments from the ANR **NFIP Coordinator**, or the expiration of 30 days from the date the application was mailed to the Vermont Agency of Natural Resources, whichever is sooner.

11.5.3 Decision

The **administrative officer** and **Development Review Board** shall consider comments from the ANR **NFIP Coordinator** prior to deciding on an application for land use or ***development*** within the regulated flood hazard area. The **DRB** may recess the proceedings on any application pending submission of additional information.

11.5.4 Records

The **administrative officer** shall properly file and maintain a record of:

(1) All permits issued for ***development*** in the regulated flood hazard area;
(2) An elevation certificate with the as-built elevation (consistent with the datum of the elevation on the current Flood Insurance Rate Maps for the community) of the lowest floor, including **basement**, of all new, substantially improved, or **flood** proofed **building**s (not including **accessory structure**s) in the **Special Flood Hazard Area**;
(3) All **flood proofing** and other certifications required under this regulation; and
(4) All decisions of the **Development Review Board** (including regarding **variance**s and ***violation***s) and all supporting findings of fact, conclusions of law, decision and order with any conditions.

11.5.5 Certificate of Occupancy

In accordance with 24 VSA §4449, it shall be unlawful to use or occupy, or permit the use or occupancy of any land or ***structure***, or part thereof, created, erected, changed, converted, or wholly or partly altered or enlarged in its use or ***structure*** within the regulated flood hazard area until a **certificate of occupancy** is issued by the **administrative officer**, certifying that the proposed use of the ***structure*** or land conforms to the requirements of this ordinance.

A **certificate of occupancy** is not required for ***structure***s that were built in compliance with the ordinance at the time of construction and have not been improved since the adoption of this **bylaw**. Within 14 days of the receipt of the application for a **certificate of occupancy**, the **administrative officer**

shall inspect the premises to ensure that all permits identified on the Project Review Sheet have been acquired and all that all work has been completed in conformance with the zoning permit and associated approvals. If the **administrative officer** fails to grant or deny the **certificate of occupancy** within 14 days of the submission of the application, the certificate shall be deemed issued on the 15th day. If a **certificate of occupancy** cannot be issued, notice will be sent to the owner and copied to any lender of record.

11.5.6 Enforcement and Penalties

These flood hazard area regulations shall be enforced under this ordinance in accordance with 24 VSA Chapter 117 §4451, §4452 and 24 VSA Chapter 59 §1974(a). The **administrative officer** shall provide a copy of any notice of ***violation*** involving lands falling within the flood hazard areas to the ANR **NFIP Coordinator**.

If any appeals have been resolved, but a ***violation*** remains, the **administrative officer** shall submit a declaration to the administrator of the **National Flood Insurance Program** requesting a denial of flood insurance to the violator. The declaration shall consist of:

(1) the name of the property owner and address or legal description of the property sufficient to confirm its identity or location;
(2) a clear and unequivocal declaration that the property is in ***violation*** of a cited state or local law, regulation, or ordinance;
(3) a clear statement that the **administrative officer** making the declaration has authority to do so and a citation of that authority;
(4) evidence that the property owner has been provided notice of the ***violation*** and the prospective denial of insurance; and
(5) a clear statement that the declaration is being submitted pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended.

To assure that **agriculture** minimizes adverse impacts on water quality, ***violation***s of required agricultural practices pursuant to 6 VSA §4810(a) shall be considered ***violation***s of these flood hazard regulations. Upon learning of such ***violation***s, the **administrative officer** shall immediately report them to the Vermont Secretary of Agriculture, Food and Markets for enforcement.

11.6 Flood Hazard Area Definitions

The definitions provided in Section 12 apply throughout this ordinance, including to these flood hazard regulations. The definitions provided in this section are specific to these flood hazard regulations.

Development means any human-made change to improved or unimproved real estate, including but not limited to **building**s or other ***structure***s, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Existing manufactured home park or ***subdivision*** means a manufactured home park or subdivision for which the construction of facilities for servicing the **lot**s on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of **street**s, and either final site grading or the pouring of concrete pads) is completed before the effective date of the initial **floodplain** management regulations adopted by a community.

Functionally dependent use means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water.

New construction under the flood hazard regulations, means ***structure***s for which the **start of construction** commenced on or after the effective date of the **floodplain** management regulation adopted by the community and includes any subsequent improvements to such ***structure***s.

Structure means, for regulatory purposes under this **bylaw**, a walled and roofed **building**, as well as a **manufactured home**, and any related built systems, including gas or liquid storage tanks.

Violation means the failure of a ***structure*** or other ***development*** to be fully compliant with these flood hazard regulations. A ***structure*** or other ***development*** without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR 60.3 is presumed to be in violation until such time as that documentation is provided. **Agriculture** within flood hazard areas not conducted according to required agricultural practices shall constitute a violation of these flood hazard regulations.

Section 12 Definitions

Defined terms are indicated in **boldface** throughout the text of this ordinance. Terms used with specific meaning under the Flood Hazard Area regulations are indicated in ***bold italics*** and are separately defined within Section 11.

12.1 Rules of Construction, Intent and Usage

(1) In the construction of these regulations, the following provisions and rules shall be applied, except when the context clearly requires otherwise:
   (a) The "town" is the Town of Manchester, Vermont.
   (b) Words used in the present tense shall include the future and words used in the future tense shall include the present.
   (c) Words in the singular number shall include the plural and words in the plural number shall include the singular number.
   (d) The words "shall" and "must" are mandatory and not optional or merely directory.
   (e) The words "may" and "should" are permissive.
   (f) The word "person" includes an individual, firm, association, corporation, partnership, trust, company or other organization, governmental body or agency, and any other legal entity.
   (g) The word "**lot**" includes the words parcel, plot, tract of land, or piece of land.
   (h) The words "used" or "occupied" include the words intended, designed or arranged to be used or occupied, employed for, constructed for, altered for, converted for, rented for, leased for, maintained for, utilized for, or occupied for.
   (i) The word "includes" shall not limit a term to the specified examples, but is intended to extend its meaning to all other instances or circumstances of like kind or character.
   (j) The terms “such as” and “for example” shall be considered as introducing typical or illustrative, rather than an entirely exclusive or inclusive designation of, permitted or prohibited uses, activities, conditions, establishments or **structure**s.
   (k) The word "built" includes "erected," "constructed," "reconstructed," "altered," "enlarged," or "moved."
   (l) The word "premises" shall include land and **structure**s thereon.
   (m) The words "adjacent" and "next to" shall have the same meaning as "abut."
   (n) The words "original" and “existing” mean the conditions existing on the effective date of these regulations.
   (o) The word "land" includes the words "marsh", "**wetland**" and "water".
(2) Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction "and," "or," or "either...or," the conjunction shall be interpreted as follows:
   (a) "and" indicates that all the connected items, conditions, provisions, or events shall apply.
   (b) "or" indicates that the connected items, conditions, provisions, or events may apply singly or in any combination.
   (c) "either...or" indicates that the connected item, conditions, provisions, or events shall apply singly but not in combination.
(3) References made to officials and official bodies shall mean officials and official bodies of the Town of Manchester, unless the natural construction of the wording indicates otherwise.

(4) The words "regulation," "these regulations," "these land development regulations," "this ordinance," or "this **bylaw**" means the "Manchester Land Use and Development Ordinance" or provisions therein.
(5) Any word or phrase which is defined in this section, or elsewhere in these regulations, shall have the meaning as so defined whenever the word or phrase is used in these regulations, unless such definition is expressly limited in its meaning or scope.
(6) Any word or phrase that is not defined in this section, or elsewhere in these regulations, shall have its plain and commonly accepted meaning.
(7) Definitions contained in Title 24, Chapter 117, Vermont Statutes Annotated, shall be applicable throughout these regulations.

12.2 A

Accessory Apartment: An efficiency or one-bedroom apartment that is clearly subordinate to a single-family dwelling, and has facilities and provisions for independent living, including sleeping, food preparation, sanitation, and a separate entrance**.**

Accessory Dwelling Unit (ADU): See **Accessory Apartment**.

Accessory Structure: A **structure** which is: (1) detached from and clearly incidental and subordinate to the principal use of or **structure** on a **lot**, (2) located on the same **lot** as the principal **structure** or use, and (3) clearly and customarily related to the principal **structure** or use. For residential uses these include, but may not be limited to garages, garden and tool sheds, and playhouses.

Accessory Use: A use subordinate to and incidental to the principal use of a **building** or property.

Active Floor Area: That part of a **building** which is used for the conduct of business, defined as gross square footage, less storage spaces, airlock entries, stairways, bathrooms, attics and **basement**s (unless used for the conduct of business as defined herein). Active floor area does include (but is not limited to) office space, kitchen space, areas where customers may browse or be served, interior and exterior display areas, dressing rooms, and areas where sales clerks or other customer service personnel serve the public.

Administrative Advisory Group: A group composed of the town manager, and representatives from the public works, police, fire, and planning and zoning departments that reviews major development projects prior to the **Development Review Board** hearing.

Administrative Officer. Any person duly appointed pursuant to 24 VSA §4448 with the authority to administer the provisions of this ordinance by the issuance of zoning permits, certificates of occupancy, administrative opinions, notices or citations of violation, or any other actions necessary to administer the provisions of the ordinance. The administrative officer shall include any **zoning administrator** or **assistant zoning administrator**.

Affordable Housing: Affordable housing shall include either of the following:

(1) Housing that is owned by inhabitants whose gross annual household income does not exceed 80% of the county median income, as defined by the United States Department of Housing and Urban Development, and the total annual cost of the housing, including principal, interest, taxes and insurance, is not more than 30% of the household's gross annual income; or
(2) Housing that is rented by inhabitants whose gross annual household income does not exceed 65% of the county median income, as defined by the United States Department of Housing and

Urban Development, and the total annual cost of the housing, including rent, utilities, and **condominium** association fees, is not more than 30% of the household's gross annual income.

Affordable Housing Project: A housing **development** project in which at least 60% of the dwelling units shall be legally defined and protected as **affordable housing**.

Agriculture (Also **agricultural activities, practices** or **use,** see also **Farm, Farming**)**:** For the purposes of this ordinance, agriculture shall mean:

(1) the cultivation or other use of land for growing food, fiber, trees, or horticultural and orchard crops; or
(2) the raising, feeding or management of livestock, poultry, equines, fish or bees; or
(3) the operation of greenhouses; or
(4) the production of maple syrup; or
(5) the onsite storage, preparation and sale of agricultural products principally produced onsite; or
(6) the onsite production of fuel or power from agricultural products or wastes produced onsite.

Agricultural Center: A facility serving as an example of farmstead activities that is open to the public and operated by a private non-profit entity.

Airport: A facility intended and used as the place where one or more fixed-wing or rotary-wing aircraft is regularly stored, maintained, or repaired while not in flight, and including an area that the aircraft may use to take off and land.

Airstrip: An area used for the take-off and landing of fixed-wing or rotary-wing aircraft.

Antenna: A device attached to a tower or other **structure** for transmitting or receiving wireless signals.

Antique: An object of art, piece of furniture, household accessory, hand tool, or other similar item of at least 50 years of age which represents the tastes and styles of an earlier period and the present cash value of which reflects the scarcity of similar such items.

Assistant Zoning Administrator: See **Administrative Officer.**

Automatic Teller Machine (ATM), Exterior: An exterior **structure** with **sign** elements installed as part of an approved commercial **site plan** that allows automated **bank** transactions.

Automobile Body Shop: A type of **service business** dealing in the repair or restoration of non-mechanical elements of automobiles damaged in collisions or by deterioration over time.

Automobile Parts Store: A **retail** establishment selling automotive products.

12.3 B

Bank (Commercial/Retail): A financial institution licensed as a receiver of deposits and concerned with the managing of withdrawals and deposits for consumer savings and checking accounts, and supplying consumer loans. This includes credit unions.

Bank (Riverbank/Streambank): The land area immediately adjacent to the **stream** or **river** which is essential in maintaining the integrity thereof.

Barber Shop: A **personal service** establishment that provides hair cutting, beard and mustache trimming, and shaving services.

Base Flood: the **flood** having a one percent chance of being equaled or exceeded in any given year (commonly referred to as the "100-year flood").

Base Flood Elevation (BFE): The elevation of the water surface resulting from a **flood** that has a one percent chance of equaling or exceeding that level in any given year. On the Flood Insurance Rate Map the elevation is usually in feet (above mean sea level), in relation to the National Geodetic Vertical Datum of 1929, the North American Vertical Datum of 1988, or other datum referenced in the **flood insurance study** report, or the average depth of the **base flood**, usually in feet, above the ground surface.

Basement: That portion of a **building** that is partly or completely below the average preconstruction level of the adjoining ground. A basement shall be considered as a story where the finished surface of the floor above the basement is: (1) More than four feet above the average pre-construction level of the adjoining ground, or (2) More than 12 feet above the preconstruction ground level at any point. See also **Cellar**.

Beauty Shop: see **Salon**.

Bed and Breakfast: A residential **structure** with ten or fewer rooms for rent, accommodating a maximum of 20 guests, for short-term overnight lodging by the day or by the week. The **structure** must be the primary residence of the owner or operator of the bed and breakfast. Employment shall not exceed three (3) full-time employees in addition to the owner. Meals may be provided to guests only. Bed and breakfasts are also known as **tourist home**s.

Bicycle Shop: A **retail** establishment for the sale, repair, or rental of bicycles, tricycles or unicycles.

Boarding House: See **Lodging House**.

Boundary Line Adjustment: The relocation of a common property boundary where an additional **lot** is not created and where an existing **lot** reduced in size by the adjustment complies with the dimensional requirements of this ordinance.

Brewpub: A **restaurant** that brews its own beer for sale on the premises.

Buffer: An undisturbed area consisting of trees, shrubs, ground cover plants, duff layer, and generally uneven ground surface that extends a specified distance horizontally across the surface of the land from the mean water level of an adjacent **lake** or from the **top of bank** of an adjacent **river** or **stream**.

Building: Any **structure** having a roof and intended for the housing or enclosure of persons, animals, or materials. Also any **structure** more than eight feet high; excluding an electric light, utility pole, highway or railroad bridge, or flagpole. A building also means a walled and roofed **structure**, including a gas or liquid storage tank that is principally above ground.

Building, Accessory: Any **building** which is subordinate to and use of which is incidental and accessory to the use of the principal **building** on the same **lot**, or an adjoining **lot** under the same ownership. An accessory building shall be one not attached to the principal **building** by any covered porch, breezeway or other roofed **structure**.

Building Coverage: The ground area enclosed by the walls of a **building**, together with the area of all covered porches and other roofed portions, excluding eaves.

Building Envelope: Defined areas in which clearing for construction and **development** can occur.

Building Footprint: See **Building Coverage.**

Building Height: The vertical distance of a **building** or **structure** as measured from the average of the highest and lowest elevations of the finished grade at the foundation or base to the highest point of the roof surface for flat roofs, or to the average height between eaves and the highest point for gable, hip, mansard and gambrel roofs.

Business: A legally-permitted occupant of land or premises engaged in commercial, industrial or professional activities. A business can be a for-profit entity, a non-profit organization, such as a charity, a not-for-profit organization, such as a **credit union**, or a social purpose business in which profits are invested into the community or to alleviate a social problem.

Business Services: Establishments primarily engaged in rendering services to **business** establishments on a fee or contract basis, such as advertising, building maintenance, management & consulting, equipment rental, and other similar services as approved by the **Development Review Board** or administrative officer.

Bylaw: A provision of this ordinance, a regulation.

12.4 C

Café: See **Restaurant**.

Camp: A seasonal fixed **structure** used on a transient basis for recreational purposes; a facility used for accommodating groups of people overnight on a temporary basis in a natural setting for recreation or instruction usually during the summer season. See also **Summer Camp**.

Campground: A facility, area or place that is used for **camping**; a place where people can put up a tent or park a **camper** and that often has toilets, sinks, and showers.

Camping: Overnight transient lodging within or under temporary or mobile **structure**s such and tents, tarps, lean-tos, **camper**s or **recreational vehicle**s.

Canopy: A **structure** the purpose of which is to shelter an activity performed outside of a building, such as over a building entrance, loading area, bus stop, or gas pumps.

Cellar: A space partially or fully below ground level and with a floor-to-ceiling height of less than 6.5 feet. Cellars shall not be counted as a story in the computation of the intensity of land use **development** or of gross floor area. See also **Basement**.

Cemetery: Land used for the burial or internment of the remains of deceased people and open to use by a community of people or the general public. Conversely, a family burying ground is one in which no lots are sold to the public and in which interments are restricted to a group of persons related to each other by blood or marriage.

Certificate of Occupancy: A certificate issued by the **administrative officer** allowing occupancy or use of a **building**, **structure**, or premises after it has been determined that all requirements of applicable permits and ordinances have been met.

Change of use: The modification of a use of an existing **building** or **parcel** of land, or the replacement of a use of a **building** or land with another use or uses, or the addition of a use or uses to a **building** or land, or the cessation of a use or uses of a **building** or land.

Channel: An area that contains continuously or periodic flowing water that is confined by **bank**s and a streambed.

Child Care: Developmentally appropriate care, protection, and supervision designed to ensure wholesome growth and educational experiences for children outside of their homes for periods of less than 24 hours per day in a **daycare** facility. See also **Daycare** and **Early Childhood Facility**.

Club: Building or use catering exclusively to the members of an organization and their guests for recreational purposes and not operated primarily for profit.

Co-location: The use of a single mount or tower for more than one **antenna** for one or more telecommunications providers.

Commercial Use: Nonresidential use of property for commerce or for the activity of buying and selling.

Common Plan of Development: The scheduled plan for refurbishing a **structure**. Such work might be planned unit by unit.

Community Center: A facility or portion thereof which provides recreational, educational or cultural activities for the residents of the community.

Community Garden: A private not for profit or public common area used for gardening by a group of households.

Composting Facility: A facility used for the controlled biological decomposition of organic matter through active management to produce, use, or sell a stable humus-rich material. **Composting facility** shall not include the management of **sewage** or **septage** or materials derived from **sewage** or **septage**.

Conditional Use: Certain uses that may be allowed only by approval of the **Development Review Board** subject to affirmative findings under general and specific standards, as outlined in §3.3 of this ordinance.

Condominium: Privately owned units as defined in the condominium ownership act of the State of Vermont.

Contractor's Sign: A **sign** advertising the name of a construction contractor that may be displayed on a temporary basis on site during a permitted construction project.

Convalescent Home: see **Nursing Home**.

Convenience Store: A **retail** store no larger than 3,000 gross square feet that is typically open for extended hours and that typically sells limited lines of groceries, household items, snacks and may include the sale of gasoline or other motor fuel, and is intended for the convenience of the surrounding neighborhood or passers-by.

Credit Union: A type of not-for-profit **bank** that is owned by and operated for its consumer members.

Crematory: A building containing a properly installed, certified apparatus, typically a furnace, intended for use in the act of cremation (burning a cadaver to ashes). May be contained in a **funeral home**.

Critical Facilities: (see also **essential services**) include police stations, fire and rescue facilities, hospitals, shelters, **school**s, nursing homes, water supply and waste treatment facilities, and other **structure**s the community identifies as essential to the health and welfare of the population and that are especially important following a disaster. For example, the type and location of a business may raise its status to a Critical Facility, such as a grocery or gas station.

Customary Home Occupation (CHO): A business that is customary in residential areas practiced within a dwelling unit. A customary home occupation requires a zoning permit in conformance with §4.13 of this ordinance.

12.5 D

Daycare: A facility, operated as a business or service on a regular or continuous basis that provides **child care**. See also **Child Care** and **Early Childhood Facility**.

Demolition: The destruction and physical removal of any **structure** or portion of a **structure**.

Design Advisory Board: A panel of Manchester citizens created pursuant to 24 VSA Chapter 117 § 4407(6) and appointed by the selectboard to give guidance to the **Development Review Board** or **administrative officer** in the areas of landscaping, architecture, engineering and other pertinent site and architectural design criteria as described in this ordinance.

Design Review District: A zoning district in which proposed **development** is subject to the design review procedures outlined in §3.5 of this ordinance.

Development: Development shall include the following: the division of a **parcel** into two or more **parcel**s; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any **building** or other **structure**; any mining, excavation or **land fill**; or any **change of use** of any building or other **structure**, or land, or extension of use of land. Note that this definition of development applies throughout this ordinance. The definition of ***development*** in §11.6 additionally applies to Section 11 only.

Development Review Board: A quasi-judicial decision-making board created pursuant to 24 VSA Chapter 117 §4460 comprised of seven Manchester citizen volunteers appointed by the selectboard to review and issue decisions on development proposals or to hear appeals to decisions of the **administrative officer** pursuant to this ordinance. Appeals of decisions made by the Development Review Board are heard by the Vermont Superior Court Environmental Division.

Disc Golf Course: A standard 18- or nine-hole (or basket) course on natural turf, over which the game of disc (or Frisbee) golf is played.

Distribution Center: A facility where goods are received and stored for delivery to remote locations.

Dog Kennel: An establishment housing or maintaining 5 or more dogs over the age of 6 months.

Dormitory: A building operated by a **school** that contains semiprivate or private rooms along with bathroom facilities for students. Kitchen and recreation facilities may also be included.

Dry Cleaning: The cleaning of fabrics with nonaqueous organic solvents, either petroleum solvents or synthetic solvents.

Dry Cleaning Plant: A facility where **dry cleaning** occurs. Operations using petroleum solvents are known as petroleum plants and historically pose significant fire hazards. Synthetic **dry cleaning** solvents

presently in use include perchloroethylene and trichlorotrifluoroethane. Operations using these synthetic solvents are respectively called perc plants and fluorocarbon plants. Perc plants are falling out of favor due to the toxic nature of perchloroethylene.

Dry Cleaning Service: A type of **personal service business** that accepts and returns clothing or other textiles for **dry cleaning**. A dry cleaning service does not necessarily occur on the site of a **dry cleaning plant**.

Duplex: A single **structure** containing two separate dwelling units, regardless of the type of construction. For purposes of this ordinance a single-family detached **structure** with an **accessory apartment** shall not be considered a duplex.

Dwelling, One-family (or Single-family): A building designed for, or occupied, or customarily intended to be occupied solely as a residence by one family, except other uses that shall be considered single-family uses of homes as defined throughout this ordinance.

Dwelling, Multi-family: A building containing separate residential units for three or more families.

Dwelling, Two-family: A building designed for, or occupied, or customarily intended to be occupied as a residence by two families. Also, **Duplex**.

Dwelling Unit: A **structure** or part of a **structure** occupied or intended to be occupied by one family for residential purposes, containing full housekeeping facilities for the exclusive use of the occupants.

12.6 E

Early Childhood Facility: Any place, operated as a business or service on a regular or continuous basis whether for compensation or not, which provides early care and education to children.

Easement: An acquired right of or upon the property of another for a specified purpose.

Education Center: A facility offering educational activities or programming that is open to the public and operated by a private non-profit entity.

Essential Services: Services, whether rendered by government or private entities, the interruption of which would endanger the life, health or personal safety of the whole or part of the population. Essential services include full service groceries, pharmacies, government buildings, hospitals and multiunit residential buildings.

Establishment: A legally-permitted occupant of land or premises, (see also **business**).

Exterior ATM or Automatic Teller Machine: See **Automatic Teller Machine (ATM), Exterior**.

Exterior Vending Kiosk: See **Vending Kiosk, Exterior**.

Existing Small Lot: An existing small lot as referred to in §4.6 of this ordinance, is hereby further defined as a **lot** in separate and non-affiliated ownership from any adjoining **lot**, the owner of which therefore has no land available for enlarging the **lot** in order to conform with, or achieve closer conformance with the limitations of this **bylaw**. This definition is not intended to limit the provisions of 24 VSA §4412.

12.7 F

FAA: Federal Aviation Administration.

Fall Zone: The additional **setback**, equal to the height of the tower, required for wireless telecommunications towers.

Family: Any number of individuals related by blood, marriage or adoption, living together as a single housekeeping unit, provided that a group of not more than five persons keeping house together, but not necessarily related by blood or marriage, may be considered a family.

Family Child Care Home: A state licensed home-based **daycare** for up to 12 children in the residence of the licensee where the licensee is one of the primary caregivers.

Farm: Any tract of land used for dairying or for the raising of agricultural products, horticultural or agronomic products, forest or silvicultural products, livestock, poultry, or carrying out other practices associated with accepted **silvicultural practices** or **agricultural practices**, and which may include **accessory structure**s for the sale of such products from the premises where produced, and which may include **farm structure**s.

Farm Café: A **restaurant** with indoor seating for no more than 40 people, and no more than 1,000 square feet of outdoor seating that meets the following criteria: (1) is subordinate to the commercial **agricultural use** that is the primary use of the land on which the café is locate; (2) uses products produced on the **farm** (3) is located on a **farm** of at least 10 total acres; and (4) is located in proximity to the **farm** operation, and is on a **parcel** used for the **farm** operation.

Farm Stand: A temporary or seasonally used **structure** for the display and sale of locally grown agricultural products. May also include the accessory sales of other unprocessed foodstuffs, homemade crafts, and home processed food products (*e.g.*, jams, jellies, pickles, sauces, baked goods).

Farm Structure: A **building**, enclosure, or **fence** for housing livestock, raising horticultural or agronomic plants, or carrying out other practices associated with accepted **agricultural practices**, including a silo, but excluding a dwelling for human habitation.

Farmers Market: An event occurring in a pre-designated site for selling or offering for sale at **retail** of locally-grown vegetables or produce, where there is a collection of individual vendors who have raised the vegetables or produce or have taken the same on consignment for **retail** sale. Also includes the incidental sale at **retail** of artisan-produced handicrafts, artwork, and baked goods.

Farming: The use of land or **structure**s for **agriculture**.

Fast Food Restaurant: See **Restaurant, Fast food**.

FCC: Federal Communications Commission.

FEMA: Federal Emergency Management Agency.

Fence: Any material or combination of materials erected to enclose, screen, separate, or demarcate areas of land. Fences may be of an open (*e.g.,* picket), semi-open, or closed (*e.g.,* brick or stone) style. Closed **fence**s may also be known as **wall**s.

Fitness Center: An establishment with equipment and facilities for exercising and maintaining or improving physical fitness.

Fill: Any placed material that changes the natural grade, increases the elevation, or diminishes the **flood** storage capacity at the site. See also **Land Fill**.

FIRM: see **Flood Insurance Rate Map**.

Flood: Flood can mean either of two possibilities:

(1) A general and temporary condition of partial or complete inundation of normally dry land areas from: the overflow of inland or tidal waters; the unusual and rapid accumulation or runoff of surface waters from any source; and mudslides which are proximately caused by flooding and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(2) The collapse or subsidence of land along the shore of a **lake** or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding.

Flood Insurance Rate Map (FIRM): An official map of a community, on which the Federal Insurance Administrator has delineated both the **special flood hazard area**s and the risk premium zones applicable to the community. In some communities the hazard boundaries are available in paper, pdf, or Geographic Information System formats as a Digital Flood Insurance Rate Map (DFIRM).

Flood Insurance Study: An examination, evaluation and determination of flood hazards and, if appropriate, the corresponding water surface elevations or an examination, evaluation and determination of mudslide (*i.e.*, mudflow) and /or **flood** related erosion hazards.

Floodplain: Any land area susceptible to being inundated by water from any source (see **flood**). Also referred to as flood-prone area.

Flood Proofing: Any combination of structural and non-structural additions, changes, or adjustments to **structure**s which reduce or eliminate **flood** damage to real estate or improved real property, water and sanitary facilities, **structure**s and their contents.

Floodway, *regulatory in the Town of Manchester***:** 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 more than one foot at any point.

Fluvial Erosion: Erosion caused by **stream**s and **river**s. Fluvial erosion can be catastrophic when a **flood** event causes a rapid adjustment of the **stream** channel size and/or location.

Food Processing Operation: Industry that uses food as a raw material and changes it in some way to make a food product.

Food Processing Operation, Light: Food processing that does not cause noxious fumes, smoke, or offensive levels of noise or odor, and which has few, if any, impacts related to the manufacturing process itself or affiliated aspects of the process such as large or frequent truck deliveries. Includes small commercial kitchen and small bakery or confectioner,

Food Processing Operation, Heavy: Food processing that causes significant noise, noxious fumes, smoke, dust, significant amounts of waste products, or heavy truck traffic that are incompatible with various other land uses.

Footcandle: A unit of measure for illuminance. A unit of illuminance on a surface that is within a one foot radius from a uniform point source of light of one candlepower and equal to one lumen per square foot.

Forestry: The science and craft of creating, managing, using, conserving, and repairing forests, forest ecosystems, or forest products such as timber. Any processing beyond cutting, splitting and drying of timber shall not be considered forestry.

Frontage: A width of a **lot** along its front bordering on and parallel to a **public right-of-way**.

Funeral Home: An establishment with facilities for the preparation of the dead for burial or cremation, for the viewing of the body, and for funeral services (also referred to as funeral parlor or mortuary).

12.8 G

Gas Station: A **retail** establishment at which gasoline powered motor vehicles are refueled.

Golf Course: A standard 18- or nine-hole course on natural turf, over which the game of golf is played.

Greenspace: That portion of a **lot** which does not include **building**s, **structure**s, driveways, parking facilities or other paved areas and which is vegetated and landscaped. The word greenbelt shall be synonymous with the term green space. Pedestrian paths or walkways, and normal, approved provision for vehicular ingress/egress from a public highway, may be allowed in green space areas. Pedestrian walkways, and outdoor furniture areas designed as part of the landscaping and not serving a direct commercial purpose, shall be counted in calculations of required greenspace area.

Grocery Store: A **retail** establishment that primarily sells food, including fresh, packaged, and prepared food, as well as household goods.

Gross Square Footage: The total square footage of a **building** or of a use within a **building** housing multiple tenants, including storage spaces, airlock entries, stairways, bathrooms, hallways, and other spaces within the **building**, as measured from the outside wall faces. Gross square footage does not include **basement**s nor attic space, unless such space is used as storage or other active support (except furnaces, etc.) for the subject use.

Group Home: A place providing room, board and personal care to three or more residents unrelated to the homeowner or caregiver. Group homes are also referred to as residential care homes and must be licensed by the Vermont Department of Aging and Disabilities.

Group Service: A service which is customarily performed or provided for a number of persons at the same time or which customarily involves the participation or presence of a number of persons (as opposed, for example, to the customary services provided or performed on an individual basis by a doctor or repair person).

12.9 H

Hazardous Material: Any substance or combination of substances which, because of quantity, concentration, or physical, chemical, or infectious characteristics, pose a present or potential hazard to

ground or surface water or human health if disposed into or on any land or water in the Town of Manchester.

Health Club: See **Fitness Center**.

Heavy Industry: See **Industry, Heavy**.

Historic Center: A facility that operated by a private non-profit entity that serves to present **historic structure**s or programming to the general public.

Historic Structure: Any **structure** that is: (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either: (i) by an approved state program as determined by the Secretary of the Interior or (ii) directly by the Secretary of the Interior in states without approved programs.

Hotel: A **building** or part of a **building** in which (a) living or sleeping accommodations are used primarily for transient occupancy on a daily basis, (b) one or more common entrances serve all such living or sleeping units, and (c) 24-hour desk service is provided, in addition to one or more of the following services: housekeeping, telephone, bellhop service, or laundry or **dry cleaning service**. Allowable **accessory use**s are **restaurant**s or other public dining facilities, bars or lounges, public banquet halls, ballrooms, meeting rooms swimming pools, and spa and fitness centers.

12.10 I

Industry: The processing of raw materials and the manufacture of marketable goods.

Industry, Light: Industry of an inoffensive nature that does not cause noxious fumes, smoke, dust, or offensive levels of noise, and which has few, if any, impacts related to the manufacturing process itself or affiliated aspects of the process such as large or frequent truck deliveries.

Industry, Heavy: Industry that causes significant noise, noxious fumes, smoke, dust, significant amounts of waste products, heavy truck traffic or other impacts that are incompatible with various other land uses.

Inn: An owner-occupied **building** or group of **building**s used to provide overnight accommodations, and one or more meals, to guests for short periods of stay (*e.g.*, tourists). Inns may incorporate the primary **structure** on the **lot** as well as **accessory structure**s, but shall not exceed 25 guest rooms.

Interested Person: An interested person is either (1) a person having status to appeal a decision of the **administrative officer** as defined in 24 VSA §4465(b) or (2) a person who has participated in a municipal regulatory proceeding who may appeal a decision rendered in that proceeding by an appropriate municipal panel to the environmental court pursuant to 24 VSA §4471. Participation in a local regulatory proceeding shall consist of offering, through oral or written testimony, evidence or a statement of concern related to the subject of the proceeding.

12.11 J

Junk Yard: See **salvage yard**.

12.12 K

Kiosk: A small **structure** used for providing information or displaying advertisements, often incorporating an interactive display screen or screens.

12.13 L

Lake: A body of water that exists in a declivity that is the result of glaciation or created by dam, dike, barrier or other artificial impoundment, or resulting from excavation, which retains water year-round. See also **Pond**.

Land Development: See **Development**.

Land Fill: The act of depositing materials on a site to change the grade.

Laundromat: An establishment equipped with washing machines and dryers for self-service use by the general public.

Letter of Map Amendment (LOMA): A letter issued by the Federal Emergency Management Agency officially removing a **structure** or **lot** from the flood hazard zone based on information provided by a licensed engineer or surveyor. This is used where **structure**s or **lot**s are located above the **base flood elevation** and have been inadvertently included in the mapped **special flood hazard area**.

Library: A facility that maintains collections of books and other written, printed or recorded materials for public use, provides for the public use of computer and other technology to facilitate access to information, and functions as a community gathering place for the exchange of information and ideas.

Light Industry: See **Industry, Light**.

Lodging House: A **building** in which rooms are rented with or without meals to three or more, but not exceeding, 20 persons. A lodging house shall have no more than one kitchen facility whether shared or not. Also referred to as **Boarding House** or **Rooming House**.

Logging: The work or business of felling and trimming trees and transporting logs.

Lot: A plot or parcel of land under singular ownership occupied or may become occupied by one principal **building** and the accessory **building**s or uses customarily incidental to it, including such open spaces as required by this ordinance. In the case of multiple dwellings and public, institutional, commercial, industrial, or agricultural **building**s, a group of **building**s on the same or contiguous premises, all under the same ownership, may be considered as occupying the same lot. For purposes of this ordinance, the term does not include any portion of a dedicated **right-of-way**.

Lot Line Adjustment: See **Boundary Line Adjustment**.

Lowest floor: The lowest floor of the lowest enclosed area, including **basement**, except an unfinished or **flood** resistant enclosure, usable solely for parking of vehicles, **building** access or storage in an area other than a **basement** area is not considered a **building**'s lowest floor provided that such enclosure is

not built so as to render the **structure** in violation of the applicable non-elevation design requirements of 44 CFR 60.3.

Lumberyard: A facility where **building** materials such as lumber, plywood, drywall, paneling, cement blocks and other cement products, and other **building** products are stored and sold. Lumberyards may also process lumber performing millwork, planing, cutting, and other customizing processes. Lumberyards may provide for the sale of associated products including tools and fasteners.

Lumen: A unit of measure of the quantity of light that falls on an area of one square foot every point of which is one foot from the source of one candela. A light source of one candela emits a total of 12.57 lumens.

Luminaire: A complete lighting system, including all necessary mechanical, electrical, and decorative parts.

12.14 M

Manufactured home: a **structure**, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a **permanent foundation** when attached to the required utilities. The term manufactured home does not include a **recreational vehicle**. (See also **Mobile Home**)

Manufacturing: Shall include fabricating, assembling, treating, processing, and similar operations performed on any materials permitted to be worked upon by the terms of this **bylaw**.

Menu Board: A **sign structure** for an approved **restaurant** that displays menu items.

Menu Board, Drive Thru: A **sign structure** installed as part of an approved drive thru **restaurant** that displays menu items and ordering information.

Microbrewery: A facility for the production and packaging of beer or similar fermented malt beverages containing not less than one percent nor more than eight percent of alcohol by volume at 60 degrees Fahrenheit (if such a beverage has an alcohol content of more than six percent and not more than eight percent and has a terminal specific gravity of less than 1.009, it shall be deemed a spirit and not a malt beverage), for distribution, **retail**, or wholesale, on or off premise, with a capacity of not more than 15,000 barrels per year.

Mixed Use: A **structure** or **development** that is occupied by a nonresidential use and a residential use, or by a mix of **non-residential use**s such as office, manufacturing, **retail**, public, or entertainment uses.

Mobile Home: A **structure** or type of **manufactured home**, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a **permanent foundation** when connected to the required utilities. For **floodplain** management purposes, the term **manufactured home** also includes park trailers, **travel trailer**s, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term **manufactured home** does not include park trailers, **travel trailer**s, and other similar vehicles.

Mobile Home Park(or **Manufactured Home Park**)**:** Any **parcel** or contiguous **lot**s of land under common ownership or control on which are sited, or which is designed, laid out or adapted to accommodate, more than two manufactured or mobile homes. A **parcel** or contiguous **lot**s owned by agricultural employers providing up to four mobile homes for use by employees, and a **parcel** or contiguous **lot**s used solely on a seasonal basis for vacation or recreational mobile homes shall not be considered a mobile home park.

Motel: A facility designed or used primarily to provide transient lodging accommodations for automobile travelers in which each sleeping room customarily has an exterior entrance next to a parking space.

Museum: an institution devoted to the procurement, care, study, and display of objects of lasting interest or value, or a place where objects are exhibited for public viewing.

12.15 N

National Flood Insurance Program (NFIP): A program created by the Congress of the United States through the National Flood Insurance Act of 1968. The program enables property owners in participating municipalities to purchase insurance protection from the government against losses from flooding. Participation in the NFIP is based on an agreement between a municipality and the federal government whereby if the municipality adopts and enforces a **floodplain** management ordinance to reduce future **flood** risks in **Special Flood Hazard Area**s **(SFHA)**, the federal government will make flood insurance available within the community as a financial protection against **flood** losses.

Nature Center: A facility operated by a private non-profit entity that serves to offer educational and recreational programming concerning the natural environment to the general public.

NFIP Coordinator: The individual employed within the Vermont Agency of Natural Resources, Department of Environmental Conservation responsible for state-level review, permitting, records maintenance, and dissemination of information concerning the **National Flood Insurance Program** for Southwestern Vermont, including the Town of Manchester.

Nonconforming Lot or **Parcel:** a **lot** or **parcel** that does not conform to the present **bylaw**s covering dimensional requirements, but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present **bylaw**s, including a **lot** or **parcel** improperly authorized as a result of error by the **administrative officer** or **Development Review Board**.

Nonconforming Structure: a **structure** or part of a **structure** that does not conform to the present **bylaw**s but was in conformance with all applicable laws, ordinances, and regulations prior to the enactment of the present **bylaw**s, including a **structure** improperly authorized as a result of error by the **administrative officer** or **Development Review Board**. **Structure**s that were in violation of the flood hazard regulations at the time of their creation, and remain so, remain ***violation***s and are not nonconforming structures.

Nonconforming Use: the use of land or of a **structure** that does not conform to the present **bylaw**s but did conform to all applicable laws, ordinances, and regulations prior to the enactment of the present **bylaw**s, including a use improperly authorized as a result of error by the **administrative officer** or **Development Review Board**.

Nonconformity: a nonconforming use, structure, lot, or parcel.

Non-residential Use: Use of a **structure** or land that is not residential in nature including, but not limited to, agricultural, commercial, educational, governmental, health care, industrial, recreational, religious, silvicultural, or social services use.

Nursing Home: A facility in which highly skilled nursing and residential care is provided to people with chronic physical or mental impairments.

Nursery: An establishment in which plants are propagated and grown to usable size and sold to consumers or landscape contractors.

12.16 O

On-premises Sign: A **sign** that directs attention to a business, commodity, service, event or entertainment carried on, sold, or offered on the same premises on which the **sign** is displayed.

Off-premises Sign: A **sign** that directs attention to a business, commodity, service, event or entertainment that is not carried on, sold, or offered on the same premises on which the **sign** is displayed.

12.17 P

Parcel: See **Lot**.

Park: Any land owned by the public or open for use by the general public for active or passive recreational purposes or as a refuge for wildlife.

Parking, Tandem: The parking of up to two cars, one behind the other.

Parking, Underground: Parking spaces within a covered **structure** where either 50% of the volume of the parking space is below the finished surface of the ground adjacent to the exterior walls of the **building**, or the floor of the parking space is four feet below the finished surface of the ground adjacent to the exterior walls of the **building**, whichever is greater.

Parking Garage: A **structure** built to accommodate the parking of vehicles.

Parking Lot: An area with space to accommodate the parking of more than two vehicles on a commercial, industrial, or institutional **lot**.

Performing Arts Center: An establishment primarily used for arts performances which may include permanent seating.

Performing Arts Studio: An establishment primarily used for acting, music, dance classes, rehearsal, or other instruction in the performing arts. Such an establishment has no permanent seating for performances.

Permanent Foundation: A foundation of poured concrete footings, or slab.

Permanent Sign: Any **sign** erected or displayed consistently for the duration of any permitted use on a premises or any **sign** the display of which exceeds the specific time limits prescribed for special categories of **temporary sign**s in Section 9 of this ordinance.

Person: an individual, partnership, corporation, association, unincorporated organization, trust or any other legal or commercial entity, including a joint venture or affiliated ownership. The word person also means a municipality or state agency.

Personal Service: An establishment primarily engaged in providing services involving the care of persons or their personal goods, such as a laundry cleaning and pressing service, **barber shop**, **beauty shop**, hair and nail **salon**, shoe repair shop, **seamstress shop** or **tailor shop**.

Pharmacy. A **retail** establishment that sells prescription and over-the-counter medication and personal care products. Pharmacies may sell additional **retail** products such as food, beverages, office supplies, greeting cards, gifts and other goods.

Place of Worship: A church, mosque, synagogue, temple, convent, monastery, parish house, or other religious gathering place.

Planned Unit Development (PUD): A **development** of land as a single entity, whereby the **building**s or **lot**s are grouped closely together such that they may not conform with minimum **lot** size or **yard** requirements, but do conform with the overall density or **lot** coverage for the district, considering only developable land on the site. A PUD can offer a degree of flexibility that allows creativity in land planning, site design, and the protection of environmentally sensitive lands not possible with conventional subdivision and land **development** practices. PUD may have a mix of residential and nonresidential land uses, providing broader housing choices, allowing more compact **development**, permanently preserving common open space, reducing vehicle trips, and providing pedestrian and bicycle facilities. In exchange for design flexibility, developers are better able to provide amenities and infrastructure improvements, and find it easier to accommodate environmental and scenic attributes.

Planned Residential Development (PRD): A type of **Planned Unit Development** consisting of residential **lot**s or uses.

Planning Commission: The planning commission is comprised of five citizen volunteers appointed by the selectboard and created under the authority enabled under 24 VSA Chapter 117 §4325. This commission has the responsibility of developing overall land use and **development** policy for the Town of Manchester. This involves the development of land use plans and land use regulations. Adoption of any plans, policies, and regulations developed by the planning commission occurs by vote of the selectboard. Since the creation of the **Development Review Board** in 2003, the planning commission has no direct regulatory authority and does not review **development** proposals.

Plat: The final map, drawing or chart, prepared by a licensed surveyor, indicating the manner in which property is to be subdivided, or in which a **lot** line is to be adjusted, or in which **lot**s are shown as merged.

Pond: A relatively small body of water that exists in a declivity that is the result of glaciation or created by dam, dike, barrier or other artificial impoundment, or resulting from excavation, which retains water year-round. See also **Lake**.

Poster: A temporary, off-premises **sign**, not erected or displayed for commercial purposes, and not exceeding three square feet in area, printed, lettered, or drawn on cardboard or paper, advertising a specific event or occurrence at a particular time and place.

Project Sign: A free-standing or flush-mounted **sign** identifying or describing a **development** project, erected on a temporary basis while a **development** project is underway. The **sign** may include a depiction of the project, developer information, architect information, contractor information, and identification of other involved entities, as well as project milestone dates or fundraising goals.

Premises: The piece of land or real estate, **lot**, **building**, or set of related **building**s comprising the location of one or more businesses or other ventures.

Professional Building: A **building** partially or primarily used for offices in which **professional service**s or **personal services** are offered or performed. Also included are administrative offices for **school**s or

other public or non-profit organizations. **Business**es which are essentially **retail** operations, such as catalog sales, or tile or carpet shops where the service performed is essentially the showing of sample merchandise for sale, are not included under this definition. The sale of tangible property, wholesale or **retail**, is prohibited, except the clearly incidental sale of property accessory to the service rendered. For example: an optometrist may sell eyeglass frames as an adjunct to the primary service of prescribing and fitting corrective lenses, or a hair stylist may sell shampoo as an adjunct to the primary service of hairstyling.

Professional Office: A premises used as an office space for a **professional service**.

Professional Services: Such services include, but are not limited to: doctor, dentist, lawyer, accountant, architect, therapist, realtor, photographer, or other professions where service is provided to clients primarily on an individual basis.

Public Right-of-Way: A type of easement granted or reserved over land for (1) public transportation purposes, such as for a highway, railroad, canal, or recreation path, or (2) for public infrastructure such as for electrical transmission lines, or oil and gas pipelines. See also **Street**.

Public Sewer: A sewer system owned or operated by a municipality or other governmental unit.

Public Water: A water supply system owned or operated by a municipality or other governmental unit, or by an entity authorized and regulated by the State of Vermont for purposes of public water supply.

12.18 Q

Quasi-judicial: Having a partly but essentially judicial character by possession of the right to hold hearings on and conduct investigations into items dealing with rules and regulations and to make decisions in the general manner of courts.

12.19 R

Recreation Facility: A place designed and equipped for the conduct of active and passive sports, participatory athletic activities, leisure time activities, and other customary and usual recreational activities. Excluded are facilities intended for spectator activities such as stadiums and arenas.

Recreation Facility, Indoor: A facility designed and equipped for the conduct of sports, leisure activities, and other recreational activities wholly within an enclosed **building**. Activities are available on a fee or membership basis primarily for the benefit of persons not residing on the **lot** on which the facility is located. Indoor recreation **structure**s may have **accessory use**s or **structure**s such as snack bars, locker rooms, and pro shops that are designed and intended for use by the patrons of the primary use. Examples of such use include but are not limited to public or private health **club**s, tennis or other racquet courts, swimming pools, YMCAs and YWCAs, **health club**, **fitness center**s, indoor play areas, training studios for group recreation activities such as martial arts, gymnastics, and dance, **bowling alleys**, shooting ranges, roller rinks, rock climbing walls, and other similar uses.

Recreation Facility, Outdoor: A facility designed and equipped for the organized or unorganized conduct of sports, leisure activities, and other recreational activities wholly or partially outside of any **building** or **structure**. Fields, trails, bodies of water, or other land may be used for recreational purposes. Where permitted, **structure**s may include swimming pools, tennis courts, skating rinks, playground equipment, storage and **accessory building**s, similar facilities, and **accessory use**s such as snack bars, pro shops and locker rooms. Examples of outdoor recreation include but are not limited to public and

private **golf course**s, **club**s, swimming pools, tennis courts, ball fields, ball courts, driving ranges, miniature golf courses, skateboard parks, and other similar unenclosed recreation activities.

Recreation Path: A public path, any portion thereof, either existing or planned, that is used or intended to be used by the general public for recreation.

Recreational Vehicle: A vehicle which is built on a single chassis; 400 square feet or less when measured at the largest horizontal projection; designed to be self-propelled or permanently towable by a light duty truck; and designed primarily not for use as a permanent dwelling but as a temporary living quarters for recreational, **camping**, travel, or seasonal use.

Regulatory Floodway: See **Floodway**.

Renovation: Any exterior structural change, rearrangement, change of location, or addition to a **building**, **structure**, or **sign**, other than repairs to **building** equipment and general maintenance. Any interior alteration when new **conditional use**, or expansion of usable floor area of a permitted use, is involved.

Residential Cluster: A grouping of single and/or multifamily dwellings on a single **lot** within any residential **development** satisfying the criteria of a major development project as defined in §3.4.

Residential Sign: A **sign** identifying a residence or residential subdivision or housing **development**.

Residential Zoning District: a zoning district in which the primary permitted land use is residential, which includes the Farming and Rural Residential (FRR), Single Residential (SR) and General Residential (GR) zoning districts.

Restaurant: Any food service establishment subject to Vermont Health Regulations where food and beverages are prepared and served for consumption primarily on premises; and where the service of alcoholic beverages is incidental to the consumption of food (less than 50% of the gross sales receipts from the business). (Also see **Café** and **Restaurant, Fast Food**)

Restaurant, Fast Food: Any **restaurant** that dispenses food or beverages, for consumption on or off premises, and has the following characteristics: a limited menu; items prepared in advance or prepared or heated quickly, no table orders, food served in disposable wrapping or containers; or any **restaurant** with drive through service.

Restaurant, Formula: Any **restaurant** that has standardized services, décor, methods of operation and other features that make it virtually identical to **restaurant**s of the same name elsewhere.

Retail: A **building**, property, or activity where the principle use or purpose of which is the sale of goods, products, wares, or merchandise directly to the consumer.

Right-of-Way: A legal right of passage over another's ground or property. See also **Street** and **Public Right-of-Way**.

River: Any continually flowing body of water or a section, portion, or tributary thereof, including rivers, **stream**s, creeks, runs, kills, and rills.

River Corridor: The land area adjacent to a **river** that is required to accommodate the dimensions, slope, planform, and **buffer** of the naturally stable channel and that is necessary for the natural maintenance or natural restoration of a dynamic equilibrium condition, as that term is defined in 10 VSA

§1422, and for minimization of fluvial erosion hazards, as delineated by the Vermont Agency of Natural Resources (ANR) in accordance with the ANR River Corridor Protection Guide.

Rooming House: see **Lodging House**.

12.20 S

Salon: An **personal service** establishment where hair styling or other cosmetic treatments are performed.

Salvage Yard: Any place of outdoor storage or deposit for storing, keeping, processing, buying, or selling junk or as a scrap metal processing facility. Salvage yard also means any outdoor area used for operation of an automobile graveyard. It does not mean a garage where wrecked or disabled motor vehicles are stored for less than 90 days for inspection or repairs.

School: The academic space and **accessory use**s for the teaching of children or adults.

(1) Primary: elementary school, inclusive of grades kindergarten through eight (K-8).
(2) Secondary: a high school and/or vocational center for attendance after elementary/primary school, granting a high school diploma for levels of education inclusive of grades 9-12.
(3) Post-Secondary: after high school, including colleges, community colleges, universities, or continuing education.
(4) Trade or Professional: a school that offers instruction in skilled trades.
(5) Preschool: a school providing educational services for children from 3 years of age until admission to primary school and that may include kindergarten.

Seamstress Shop: An establishment for the repair, alteration, or custom making of clothes, curtains, or other items constructed of fabrics. See also **Tailor Shop**.

Seasonal Camp: See **Camp**.

Self Storage Facility: A **building** or **building**s containing separate, individual and private storage spaces of varying sizes leased or rented on individual leases for varying periods of time.

Septage: The contents of septic tanks, including the liquids, solids (sludge), fats, oils and grease (scum) that accumulate in septic tanks over time. Partially treated sludge stored in a septic tank. Septage is a by-product from the pretreatment of **wastewater** in a septic tank where it accumulates over time.

Septic System: An underground **wastewater** treatment system.

Service Business: A **business** for which the primary source of income is derived from repairs and maintenance of machinery, equipment, and household furnishings and appliances.

Service Station: An establishment that repairs automobiles, trucks, motorcycles or other vehicles.

Setback: The distance between a **building** or **structure** and any **lot** line, measured from the furthest projection of that **building** or **structure** on each side. Setbacks are also referred to as the **yard** or open space required between a **building** or **structure** and the front, side, and rear property lines.

Sewage: Water-carried waste that is intended to be removed from a community. Also known as **wastewater**, it is mostly water and is characterized by volume or rate of flow, physical condition, chemical and toxic constituents, and its bacteriologic status (which organisms it contains and in what quantities). It

consists mostly of greywater (from sinks, tubs, showers, dishwashers, and clothes washers), blackwater (the water used to flush toilets, combined with the human waste that it flushes away); soaps and detergents; and toilet paper.

Sewer: A conduit, usually underground, for carrying waste matter and used water from sinks and toilets away from a building to a treatment facility.

Shoreline: A line that constitutes the **top of bank** of a watercourse or other body of water.

Sign: Any **structure**, wall display, device or representation designed or used to advertise or call attention to or direct a person to a business, association, profession, commodity product, institution, service, entertainment, person, place or thing, or activity of any kind, and is visible or audible to the public. It does not include the flag of any nation or state on a single pole.

Sign, flush-mounted: A **sign** attached to and mounted parallel to the face of a **building** or **structure**, or where architectural features (covered entryways, awnings, or other **building** elements except where otherwise prohibited) are clearly designed to accommodate a **sign** mounted parallel to the **building** face.

Sign, free-standing: A **sign** supported by one or more poles, columns, or supports placed in or on the ground and not attached to any **building** or **structure**.

Sign, off-premises: A **sign** that directs attention to a business, profession, commodity, service or entertainment that is not carried on, sold or offered on the same premises.

Sign, on-premises: A **sign** that directs attention to a business, profession, commodity, service or entertainment carried on, sold or offered on the same premises.

Sign, projecting: A **sign** attached to and projecting away from the face of a **building** or **structure**.

Sign, residential: A **sign** identifying a residence or residential subdivision.

Sign, soffit: A **sign** hung from and within an overhang, which is attached to a **building** or **structure** and covers a walkway serving that **building** or **structure**.

Sign, temporary: A **sign** displayed for a temporary period of time as allowed by provisions of Section 9 of this ordinance.

Sign, window: A **sign** affixed to a window or door, or a **sign** placed within a **building** so as to be plainly visible and legible through a window or door. Small **sign**s incorporated into a window display of merchandise and measuring no more than 100 square inches shall not be considered window signs.

Silviculture (also **silvicultural activities, practices** or **use,** see also **Forestry**)**:** The practice of controlling the establishment, growth, composition, health, and quality of forests to meet diverse needs and values.

Site Plan: A scaled map of a **lot** or site that indicates all significant features including, but not limited to, site improvements, **structure**s, boundaries, parking, drives, walkways, and landscaping, in accordance with §3.2 of this ordinance.

Small Home Child Care: A state registered small home-based **daycare** serving six or fewer children.

Special Flood Hazard Area (SFHA): The **floodplain** within a community subject to a 1% or greater chance of flooding in any given year. This area is usually labeled Zone A, AE, AO, AH, or A1-30 in the most current **flood insurance study** and on the maps published by the Federal Emergency Management Agency. Maps of this area are available for viewing in the municipal office or online from the **FEMA** Map Service Center: msc.fema.gov. **Base flood elevation**s have not been determined in Zone A where the **flood** risk has been mapped by approximate methods. **Base flood elevation**s are shown at selected intervals on maps of Special Flood Hazard Areas that are determined by detailed methods. Please note, where **floodways** have been determined they may be shown on separate map panels from the Flood Insurance Rate Maps.

Start of Construction: for purposes of **floodplain** management, start of construction determines the effective map or **bylaw** that regulated **development** in the **special flood hazard area**. Start of construction includes **substantial improvement**, and means the date the **building** permit was issued provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a **structure** on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a **manufactured home** on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of **street**s or walkways; nor does it include excavation for a **basement**, footing, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory **building**s, such as garages or sheds not occupied as dwelling units or not part of the main **structure**. For a **substantial improvement**, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a **building**, regardless whether that alteration affects the external dimensions of the **building**.

Street: A public roadway or a private roadway devoted to public use. The word street shall include the entire width between property lines of every **right-of-way** used for vehicular and pedestrian travel which has become public by authority of the law, and such ways on public places other than highways as the public is permitted to use for vehicular and pedestrian traffic. Streets shall be further classified as follows: (a) Arterials (such as Vermont Route 7) - limited access highways moving large volumes of traffic between major points within or outside of the town. (b) Major Collectors (Class 1 Roadways such as Main Street and Bonnet Street) interconnect the neighborhoods of the town, other adjacent communities and the downtown to the neighborhoods. (c) Minor Collectors (Class 2 Roadways such as Barnumville Road and Richville Road) gather traffic from local streets and feed it to major collectors. (d) Local Streets (Class 3 Roadways such as Hillvale Road or Green Mountain Road) are streets used primarily for direct access to individual properties. (e) Alleys are ways that provide access to the back or side of properties abutting on a street and are used primarily for providing services to such properties. (f) Cul-de-sac is the turn-around at the dead end of a local street. Street shall not refer to a way, or driving aisle, used to access parking spaces within a parking lot, whether public or private, nor to a driveway used to access a private residence or commercial property.

Stormwater: The portion of rainfall, melted snow, or irrigation water that flows across ground surfaces and is eventually returned to a waterbody such as a **river**, **stream**, **pond**, or reservoir.

Story: That part of a **building** above ground level between a floor and the floor next above. If there is no floor above it, then the space between the floor and the roof or ceiling next above it. Story shall include **basement**s and not **cellar**s. An intermediate floor between the floor and ceiling of any story shall be deemed a mezzanine and shall not be counted as a story unless the total of all mezzanine areas exceeds 5,000 square feet or one-third of the area of the floor immediately below it, whichever is less. A **basement** shall be considered as a story where the finished surface of the floor above the **basement** is:

(1) More than four feet above the average pre-construction level of the adjoining ground, or (2) More than 12 feet above the pre-construction ground level at any point.

Stream: See **River**.

Structure: An assembly of materials for occupancy or use, including, but not limited to, a **building**, **mobile home** or **manufactured home**, driveway, trailer, storage container or tank, **sign**, **wall**, or **fence**.

Structural Alteration: See **Renovation**.

Subdivision: A division of a **parcel** of land into two or more **lot**s, or other divisions.

Substantial Damage: Damage of any origin sustained by a **structure** whereby the cost of restoring the **structure** to its before-damaged conditions would equal or exceed 50% of the market value of the **structure** before the damage occurred.

Substantial Improvement: Any reconstruction, rehabilitation, addition, or other improvement of a **structure** after the date of adoption of this **bylaw**, the cost of which, over three years, or over the period of a **common plan of development**, cumulatively equals or exceeds 50% of the market value of the **structure** before the **start of construction** of the improvement. This term includes **structure**s which have incurred **substantial damage**, regardless of the actual repair work performed. The term does not, however, include either: (a) any project for improvement of a **structure** to correct existing violations of state or local health, sanitary, or safety code specification which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (b) any alteration of a **historic structure**, provided that the alteration will not preclude the **structure**'s continued designation as a **historic structure**.

Summer Camp: A facility that includes overnight accommodations and is used for recreation or outdoor instruction often during the summer.

12.21 T

Tailor Shop: An establishment for the repair, alteration, or custom making of clothes such as suits, coats, and dresses. See also **Seamstress Shop**.

Technical Service Business: Information-based or technology-based businesses requiring relatively large **building**s in which to operate such as publishing houses, internet order businesses, telephone call centers, and research, clinical or forensic laboratories. Ancillary accessory uses may include **daycare**, food service, fitness facilities, automated banking, and convenience **retail** for employees of the technical service business.

Telecommunications Facility (See also **Wireless Telecommunications Facility**)**:** A tower, pole, **antenna**, or other **structure** intended for receipt or transmission of radio, telephone, or television signals or other electromagnetic signals by a **telecommunications** or **wireless service provider**. This includes all appurtenant equipment and infrastructure, including but not limited to access trails or roads, guy wires, **building**s, or other equipment or **structure**s.

Telecommunications Provider (See also **Wireless Service Provider**)**:** an entity licensed by the **FCC** to provide telecommunications services to individuals or institutions.

Temporary Structure: Any **structure** designed or used for purposes that are relatively impermanent in nature, and not attached to a **permanent foundation**. These include, but are not limited to, box trailers, storage pods, Quonset huts, tents, tipis, yurts, and hoop houses.

Tenant: A legally-permitted occupant of land or premises, which is found or located within its own separate, physical space and with its own separate entrance.

Top of Bank: That vertical point along a **stream bank** where an abrupt change in slope is evident. For **stream**s in wider valleys it is the point where the **stream** is generally able to overflow the **bank**s and enter the **floodplain**. For steep and narrow valleys, it will generally be the same as the top of slope.

Top of Slope: See **Top of Bank**.

Tourist Home: See **Bed and Breakfast**.

Tower: A **structure** more than 20 feet in height above the ground elevation built for the purpose of support, elevation, or placement of **antenna**e for broadcast services or wireless services.

Travel Trailer: See **Recreational Vehicle**.

Traveled Way: The portion of the **right-of-way** which is paved or which lies between the curbs, if any. In the case of unpaved roads, the traveled way shall be deemed to be within 12 feet of either side of the center line of the road.

12.22 U

Undevelopable Land: Land which is not suitable for **development**, including lands with greater than 20% slope, **wetlands**, lands within the **floodway**, lands within the Forest & Recreation Zoning District, and lands within public and private **rights-of-way**.

12.23 V

Variance: The relaxation or deviation of the terms of this ordinance in compliance with §4469 of the Act, whereby, owing to conditions peculiar to the property and not the result of the action of the applicant, a literal enforcement of the regulation would result in unnecessary and undue hardship.

Vending Kiosk, Exterior: An exterior **structure** with **sign** elements installed as part of an approved commercial **site plan** that allows automated commercial transactions.

Veterinary Clinic/Veterinarian Office: The clinic or office of one who practices medicine dealing with the prevention and treatment of diseases and injuries in animals.

12.24 W

Wall: see **Fence**

Warehouse

Wastewater: Any water that has been adversely affected in quality by human activities. Wastewater can originate from a combination of residential, industrial, commercial, **agriculture** or **forestry** activities, surface runoff or **stormwater**, and from **sewer** inflow or infiltration.

Wetland: An area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions. Such areas include, but are not limited to, bogs, fens, marshes, **pond**s, potholes, sloughs, swamps, and vernal pools, but excluding such areas as grow food or crops in connection with **farming** activities. The methodology for delineating wetlands shall be those as established for the State of Vermont under the Vermont Wetland Rules, which focus on soil type, hydrology, and vegetation. Class 1 and 2 wetlands tend to be larger, more significant wetlands and are regulated by the State of Vermont. Class 3 wetlands are smaller wetlands that may or may not be regulated by the state depending on their significance and proximity to other wetlands. Regulated Class 3 wetlands are functionally intact enough to provide for wildlife habitat, water quality, or **flood** prevention. Vernal pools fall into this category. Unregulated Class 3 wetlands do not serve these functions in a meaningful way, typically due to: small size, isolation from other wetlands and hydrological features, or past land use practices that have altered the hydrology of the area (*e.g.*, agricultural drainage ditches, tiles).

Wholesale: The sale or distribution of merchandise to retailers; to industrial, commercial, institutional, or professional business users; or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

Windmill: Any mechanism including blades, rotors, and other moving surfaces and supporting **structure**s designed for the purpose of converting wind into mechanical or electrical power.

Winery: A processing plant used for the commercial purpose of processing grapes, other fruit products, or vegetables to produce wine or similar non-distilled spirits. Such commercial use includes wholesale sales, crushing, fermenting, blending, aging, storage, bottling, administrative office functions for the winery and warehousing. **Retail** sales and tasting facilities of wine and related promotional items may be permitted as part of the winery operations.

Wireless Telecommunications Facility (See also **Telecommunications Facility**)**:** A tower, pole, **antenna**, or other **structure** intended for receipt or transmission of radio, telephone, or television signals or other electromagnetic signals by a **telecommunications** or **wireless service provider**. This includes all appurtenant equipment and infrastructure, including but not limited to access trails or roads, guy wires, **building**s, or other equipment or **structure**s.

Wireless Service Provider (See also **Telecommunications Provider**)**:** an entity licensed by the **FCC** to provide telecommunications services to individuals or institutions.

Worship, Place of: See **Place of Worship**.

12.25 X

12.26 Y

Yard, Depth of: The depth of the front and rear yards as measured perpendicularly to the respective **lot** lines.

Yard, Front: An open space between a primary **structure** and the front **lot** line, extending the full width of the **lot**, or in the case of a corner **lot**, extending along all **street**s.

Yard, Rear: An open space between a primary **structure** and the rear **lot** line, extending the full width of the **lot**.

Yard, Side: An open space between a primary **structure** and a side **lot** line, extending the full length of the **lot**.

Yard, Width of: The width of the side yards as measured perpendicularly to the respective **lot** lines.

12.27 Z

Zoning Permit: A document signed and issued by the **administrative officer** authorizing land use or **development** pursuant to the requirements of this ordinance.

Zoning Administrator: see **Administrative Officer**