MANCHESTERVERMONT
So Close So Vermont

Manchester Land Use & Development Ordinance

CHAPTER 3 OF THE MANCHESTER UNIFIED ORDINANCE

DEVELOPED WITH THE SUPPORT OF THE VERMONT DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT MUNICIPAL PLANNING GRANT PROGRAM (FY 2016)

ADOPTED BY THE SELECTBOARD MAY 29, 2018, EFFECTIVE JUNE 19, 2018.

RECORD OF AMENDMENTS:

- *REVISIONS ADOPTED MAY 5, 2020, EFFECTIVE MAY 26, 2020.*
- *REVISIONS ADOPTED OCTOBER 12, 2021, EFFECTIVE NOVEMBER 2, 2021.*

Contents

Section 1 Authority, Adoption and Applicability 1
1.1 Authority 1
1.2 Amendment and Adoption Procedures 2
1.3 Roles and Responsibilities 4
Section 2 Administrative Mechanisms 6
2.1 Zoning Permits 6
2.2 Exemptions and Limitations 6
2.3 Change of Use 9
2.4 Expansion of Use 9
2.5 Discontinued Uses 10
2.6 Abandoned Land Development 10
2.7 Damaged or Destroyed Structures 10
2.8 Nonconforming Structures, Uses and Lots 11
2.9 Application Procedures 12
2.10 Site Development Plan 16
2.11 Fees and Filing Requirements 17
2.12 Certificates of Compliance 19
2.13 Violations and Penalties 20
Section 3 Review Procedures 22
3.1 Administrative Review 22
3.2 Site Plan Review 22
3.3 Conditional Use Review 23
3.4 Design Review 24
3.5 Subdivision Review 27
3.6 Waivers 29
3.7 Variances 30
3.8 Planned Unit Development 31
3.9 Consolidated Review 33
3.10 Hearing Procedures 33
3.11 Decisions 35
3.12 Appeals 36

Section 4 Zoning Districts 38
4.1 General Provisions 38
4.2 Downtown District (DN) 39
4.3 Town Center District (TC) 40
4.4 Mixed Use 1 District (MU1) 41
4.5 Mixed Use 2 District (MU2) 42
4.6 Mixed Use 3 District (MU3) 43
4.7 Office Industrial District (OI) 44
4.8 Residential 10 District (R10) 45
4.9 Residential 4 District (R4) 46
4.10 Residential 1 District (R1) 46
4.11 Rural Residential District (RR) 47
4.12 Rural Agricultural District (RA) 48
4.13 Forest Conservation District (FC) 48
4.14 Use Standards 49
4.15 Dimensional Standards 50
4.16 Residential Density Standards 53
4.17 Use Table 54
4.18 Dimensional Standards Table 62
Section 5 Overlay Districts 63
5.1 Design Review Overlay District (DRO) 63
5.2 Aquifer Protection Overlay District (APO) 65
5.3 Flood Hazard Overlay District (FHO) 69
Section 6 General Regulations 73
6.0 Applicability 73
6.1 Access 73
6.2 Accessory Dwelling Units 74
6.3 ADA Compliant Structures 75
6.4 Camping and Camping Units 75
6.5 Child Care Facilities 75
6.6 Customary Home Occupation 76
6.7 Demolition 77
6.8 Driveways 78
6.9 Drive-Through Facilities 79
6.10 Erosion Control 79

6.11 Extraction Operations 80
6.12 Fences and Walls 81
6.13 Frontage Requirement 82
6.14 Grading, Excavation or Fill 82
6.15 Outdoor Display of Merchandise 83
6.16 Ponds 83
6.17 Public Toilet Facilities 84
6.18 Stormwater 84
6.19 Swimming Pools 86
6.20 Temporary Construction-Related Structures and Activities 86
6.21 Temporary Structures 87
6.22 Trash Storage and Recycling Areas 87
6.23 Undevelopable Land 88
6.24 Vending Machines or Kiosks 88
6.25 Water Resources Protection 89
6.26 Water Supply and Wastewater Disposal 90
Section 7 Utility Facilities 91
7.1 Wireless Telecommunications Facilities 91
7.2 Utility Facilities 94
7.3 Energy Generation Facilities 94
Section 8 Housing 96
8.1 Adaptive Reuse 96
8.2 Affordable Housing 96
8.3 Dwelling Units 98
8.4 Mobile Homes 99
8.5 Mobile Home Parks 99
8.6 Planned Residential Development 100
8.7 Workforce Housing 102
Section 9 Site Design Standards 103
9.1 Purpose 103
9.2 Applicability 103
9.3 Performance Standards 103
9.4 Landscaping 106
9.5 Outdoor Lighting 109
9.6 Parking and Loading Areas 110

Section 10 Sign Regulations 116
10.1 Purpose 116
10.2 Content Neutrality 116
10.3 Permitting & Review Procedures 117
10.4 Freestanding Signs 118
10.5 Wall Signs 119
10.6 Projecting Signs 119
10.7 Soffit Signs 119
10.8 Awning, Canopy, & Marquee Signs 120
10.9 Window Signs 120
10.10 Additional Permanent Signs 120
10.11 Sign Lighting 120
10.12 Temporary Signs 121
10.13 Exempt Signs 123
10.14 Prohibited Signs 123
Section 11 Subdivision Standards 126
11.1 Applicability 126
11.2 Capacity of Community Facilities and Utilities 126
11.3 Character of the Area or Settlement Pattern 126
11.4 Suitability of the Land 126
11.5 Design and Configuration of Parcel Boundaries 127
11.6 Design and Layout of Necessary Improvements 128
Section 12 Flood Hazard Regulations 132
12.1 Administration 132
12.2 Special Flood Hazard Areas 133
12.3 Floodway Areas 135
12.4 River Corridor Areas 135
12.5 Flood Hazard Area Definitions 136
Section 13 Definitions 137

Section 1 Authority, Adoption and Applicability

1.1 Authority

1.1.1 Title

This chapter of the *Manchester Unified Ordinance* is the *Manchester Land Use and Development Ordinance* and constitutes the town's zoning, sign, and subdivision regulations.

1.1.2 Authority

The Town of Manchester has adopted this ordinance in accordance with and as authorized by the *Vermont Municipal and Regional Planning and Development Act*, 24 VSA Chapter 117.

1.1.3 Purpose

This ordinance implements the goals and policies of the *Manchester Town Plan* and the *Vermont Municipal and Regional Planning and Development Act*. It is intended to:

(1) 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) Prevent and minimize future development problems;
(3) 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;
(4) Encourage the healthful and convenient distribution of population, employment opportunities, and land uses; and
(5) 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 Applicability

Unless specifically exempted in this ordinance (see Section 2.2) all land development within the Town of Manchester requires a zoning permit issued in accordance with this ordinance.

1.1.6 Effective Date

Upon adoption by the Town of Manchester, this ordinance and any subsequent amendments will take effect in accordance with the procedures established in the *Vermont Municipal and Regional Planning and Development Act.*

1.1.7 Relationship to Previously Adopted Regulations

To the extent that the provisions of this ordinance and any subsequent amendments are the same in substance as the previously adopted provisions they replace, they will be considered continuations of the prior ordinance and not as new enactments unless specifically stated otherwise.

1.1.8 Relationship with Other Laws or Regulations

(1) If any provision of this ordinance is more restrictive than any other law or regulation, the provision of this ordinance will apply and take precedence.

(2) If any provision of another law or regulation is more restrictive than this ordinance, the provision of this ordinance will be superseded and the more restrictive provision will apply.
(3) The provisions regulating development within the Flood Hazard Overlay District (See Section 5.3 and Section 12) will take precedence over any other provision of this ordinance.

1.1.9 Severability

If a court of competent jurisdiction invalidates any provision of this ordinance, that decision will not affect the validity, application, or enforcement of the remaining provisions of this ordinance.

1.1.10 Disclaimer of Liability

This ordinance does not create any liability on the part of the town, its officials, agents, employees, or representatives for alleged damages that result from reliance on this ordinance or any lawful administrative action or decision taken under this ordinance.

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 Planning Commission, or any other person or body pursuant to Section 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 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 Planning Commission shall correct any technical deficiency and shall, without otherwise substantively changing the meaning or intent of the amendment, promptly proceed as if it had been prepared by the Planning 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 §4441, and shall explain 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 physically or electronically with proof of receipt, or mailed by certified mail, return receipt requested, to each of the following

(1) The chairpersons of the Planning Commissions 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 Commission; and
(3) The commissioner of the Department of Housing and Community Affairs within the Vermont Agency of Commerce and Community Development.

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 above required elements or if the defect was the result of a deliberate or intentional act.

1.2.8 Submission to the Selectboard

After holding a public hearing, 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 Section 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 Section 1.2.9. 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 Section 1.2.4 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 Sections 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 Section 1.2.11 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.

1.3 Roles and Responsibilities

1.3.1 Zoning Administrator

The provisions of this bylaw shall be administered and enforced by the Zoning Administrator, or ZA. The Zoning Administrator shall be nominated by the Planning Commission and appointed by the Selectboard for a term of three years. The Zoning Administrator is also referred to as the administrative officer. An acting or Assistant Zoning Administrator may also be appointed by the Selectboard to act under the supervision of the Zoning Administrator, or in the absence of the Zoning Administrator. The Zoning Administrator 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.

1.3.2 Planning Commission

The Selectboard appoints members to the Planning Commission in accordance with state statute. The Planning Commission does not perform any development review functions under this ordinance, but may make recommendations on planning and land development issues in the Town of Manchester generally. The Planning Commission may prepare amendments to this ordinance and make recommendations to the Selectboard on the amendment of this ordinance.

1.3.3 Development Review Board

The Selectboard appoints members to the Development Review Board in accordance with state statute. The Development Review Board performs development review functions as specified in this ordinance and in accordance with its adopted rules of procedure, and with 24 VSA Chapter 117 Subchapter 10.

1.3.4 Design Advisory Committee

The Selectboard appoints members to the Design Advisory Committee in accordance with state statute. In accordance with the provisions of Section 3.4, the Design Advisory Committee reviews applications for land development within the Design Review Overlay District as follows:

(1) The Design Advisory Committee will provide written comments and recommendations to the Zoning Administrator or Development Review Board regarding design modifications that would further the purposes of this ordinance.

(2) The Design Advisory Committee's comments and recommendations are intended to provide general direction to the applicant, Zoning Administrator, or Development Review Board, but will not be deemed binding on the applicant unless they are incorporated into the zoning permit or conditions of approval.

1.3.5 Administrative Advisory Group

The Administrative Advisory Group is composed of the Town Manager and representatives from the police, fire, public works, and planning and zoning departments. The Zoning Administrator may request that the Administrative Advisory Group review applications for projects that due to their size, nature or location have the potential to affect provision of municipal services as follows:

(1) The group will provide written comments and recommendations on the anticipated impacts of proposed land development on municipal services and how those impacts should be addressed, which the Zoning Administrator will send to the applicant and Development Review Board, as applicable.
(2) The group's comments and recommendations are intended to provide general direction to the applicant, Zoning Administrator, and Development Review Board, but will not be deemed binding on the applicant unless they are incorporated into the zoning permit or conditions of approval.

Section 2 Administrative Mechanisms

2.1 Zoning Permits

Before any land use or development -- including the division of a parcel into two or more parcels or a boundary line adjustment between parcels; 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 landowner or person performing such land use or development to obtain a zoning permit from the Zoning Administrator. Exemptions from this requirement are listed in Section 2.2.

2.2 Exemptions and Limitations

Except within the Flood Hazard Overlay District (see Section 5.3 and Section 12) or Design Review Overlay District (see Section 5.1), landowners do not need to obtain a zoning permit for:

2.2.1 Emergency Repair. Emergency repair and stabilization of a structure damaged by any cause to the extent necessary to protect public health and safety, and to protect the structure from the elements. Landowners must obtain a zoning permit for repair, reconstruction or demolition beyond the minimum necessary to stabilize and secure the structure.

2.2.2 Property Maintenance. Normal maintenance and repair of an existing structure that does not change the:

(1) Structure's exterior dimensions or use;
(2) Amount of floor area associated with an existing non-residential use; or
(3) The number of bedrooms in the structure; or
(4) Number of tenant spaces or dwelling units in the structure.

2.2.3 Service Maintenance. Normal maintenance and repair of essential services.

2.2.4 Landscape Work. Landscaping, grading and excavating associated with:

(1) Normal maintenance and repair of roads, driveways, parking areas, stormwater facilities or essential services; and
(2) Yard improvements on one- or two-family residential lots that do not result in more than 50 cubic yards of clean material being removed from or brought into the site (typically 3 to 4 dump truck loads) within any calendar year.

2.2.5 Accessory Structure. Not more than 3 accessory structures on any one- or two-family residential lot, each of which:

(1) Has a footprint that does not exceed 120 square feet;
(2) Is not more than 12 feet tall;
(3) Does not have a permanent foundation;
(4) Is located at least 5 feet from any other structure; and
(5) Meets setback requirements for the zoning district as dictated by Section 4.18 (Dimensional Standards).

2.2.6 Fuel Tank. A fuel tank on a one- or two-family residential lot that:

(1) Holds not more than 500 gallons;
(2) Meets applicable setback requirements for the zoning district; and
(3) Is sited, installed and secured in accordance with state and federal regulations.

2.2.7 Mechanical Equipment. Any ground-mounted HVAC system, back-up generator or similar mechanical equipment on a one- or two-family residential lot that:

(1) Has a footprint that does not exceed 30 square feet;
(2) Meets applicable setback requirements for the zoning district; and
(3) Is sited, installed and secured in accordance with state and federal requirements.
(4) Does not cause noise that exceeds 60 dB at the property line.

2.2.8 Above-ground Pool. An above-ground swimming pool on a one- or two-family residential lot that:

(1) Does not exceed a horizontal width of 20 feet in any dimension or a depth of 5 feet;
(2) Does not have a permanent foundation;
(3) Meets applicable setback requirements for the zoning district; and
(4) That is installed and secured to prevent unauthorized access.

2.2.9 Patio or Deck. An at-grade patio or unroofed, detached deck on a one-or two-family residential lot that:

(1) Has a footprint that does not exceed 200 square feet; and
(2) Meets applicable setback and lot coverage requirements for the zoning district.

2.2.10 ADA Compliant Structures. Wheelchair ramps, uncovered entry stairs, or walkways on a one- or two-family residential lot that do not:

(1) Exceed 6 feet in width;
(2) Extend into or obstruct a public right-of-way;
(3) Interfere with corner visibility or sight distance for vehicular traffic; and
(4) Result in flooding or ponding of water on abutting property or public rights-of-way.

2.2.11 Fence or Wall. A fence or wall on a one- or two-family residential lot that:

(1) Is not more than 4 feet tall, if functioning as a retaining wall;
(2) Is not more than 4 feet tall, if located in the front yard;
(3) Is not more than 8 feet tall, if located in the side or rear yard;
(4) Does not extend into or obstruct a public right-of-way;
(5) Does not interfere with corner visibility or sight distance for vehicular traffic;
(6) Does not result in flooding or ponding of water on abutting property or public rights-of-way;
(7) Does not pose a safety hazard or is not designed to inflict physical harm; and
(8) Is installed so that any support posts are to the inside and the “finished” side faces out if the fence falls within the primary setback for the underlying district.

2.2.12 Exterior Lighting. Outdoor light fixtures on a one- or two-family residential lot that:

(1) Have an initial output that does not exceed 3,000 lumens; and
(2) Are downward directed and shielded as necessary to prevent glare or light trespass beyond the property line.

2.2.13 Solar Energy. A solar energy device that:

(1) Will be installed on a sloped roof and project not more than 2 feet above its surface; or
(2) Will be installed on a flat roof (any roof with a slope of 5% or less).

2.2.14 Telecommunications Antenna. A television antenna, radio antenna, satellite dish or similar device used to provide on-site telecommunication service that:

(1) Is not more than 5 square feet in area, if a dish antenna;
(2) Does not extend more than 12 feet above the roofline, if attached to a building;

(3) Does not extend more than 50 feet above the ground, if a freestanding amateur radio antenna (including any support structure);
(4) Meets applicable setback requirements for the zoning district; and
(5) Is installed in the least visible location where it can reasonably function.

2.2.15 Dispatch Antenna. An antenna mounted on an existing structure used for single-use local business radio dispatch purposes or for police, fire, ambulance or similar emergency dispatch purposes.

2.2.16 Telecommunications Development. Telecommunications equipment and related site development that does not exceed a footprint of 300 square feet and a height of 10 feet.

2.2.17 Public Art. Public art that does not:

(1) Extend into or obstruct a public right-of-way unless otherwise approved by the Town of Manchester Department of Public Works or the Vermont Agency of Transportation, as applicable;
(2) Interfere with corner visibility or sight distance for vehicular traffic;
(3) Result in flooding or ponding of water on abutting property or public rights-of-way; and
(4) Pose a safety hazard.

2.2.18 Exempted Sign. Signs listed in Section 10.13.

2.2.19 Short Term Sales Events. Garage sales, yard sales, tent sales, auctions or similar activities that do not occur on the lot for longer than three consecutive days and for more than 15 days in any calendar year.

2.2.20 Sale of Personal Goods. Sales of vehicles, equipment or similar used personal or business goods owned by the landowner or tenant that do not occur on the lot for more than 60 days in any calendar year.

2.2.21 Hunting and Fishing. Use of public or private land for hunting, fishing or trapping in accordance with state regulations (any structures with permanent foundations associated with such use will still require a zoning permit).

2.2.22 Passive Recreation. Use of public or private land for noncommercial passive outdoor recreation or gardening (any structures with permanent foundations associated with such use will still require a zoning permit).

2.2.23 Public Rights of Way. Land development within public road or trail rights-of-way that is governed by Chapter 14 of the Manchester Unified Ordinance or by the State of Vermont Agency of Transportation, including, but not limited to, installation of surfacing, curbing, stormwater drainage features, sidewalks or other pathways, streetlights, bike racks, benches, and waste receptacles.

2.2.24 Certificate of Public Good. Landowners do not need to obtain a zoning permit for land development associated with utility, energy, or telecommunications infrastructure that receives a Certificate of Public Good from the Vermont Public Utilities Commission.

2.2.25 Agriculture and Silviculture.

Landowners do not need to obtain a zoning permit to conduct required agricultural practices or accepted silvicultural practices as defined by the State of Vermont Agency of Agriculture, Food and Markets or Department of Forests, Parks and Recreation. The Zoning Administrator may require a landowner to submit a written determination from the applicable state agency as to whether the subject land use activity is a required agricultural or accepted silvicultural practice.

Landowners do not need to obtain a zoning permit to build a farm structure in accordance with state regulations and the following:

(1) Landowners must complete a zoning permit application demonstrating that the proposed land development qualifies as an exempt farm structure, but they do not have to pay the associated application fee.

(2) The Zoning Administrator may require landowners to provide a written determination from the Vermont Agency of Agriculture, Food and Markets as to whether proposed land development qualifies as an exempt farm structure.

(3) Farm structures, other than walls or fences used for farming purposes, must meet the setback requirements for the district unless the applicant provides the Zoning Administrator with a written waiver from the Vermont Agency of Agriculture, Food and Markets. Farm structures are not required to meet bulk or height requirements for the district.

(4) Upon concluding that the proposed land development qualifies as an exempt farm structure, the Zoning Administrator will issue the landowner written notice informing the landowner that he/she may build and use the structure for farming purposes in accordance with the state's required agricultural practices without a zoning permit, but that he/she must obtain a zoning permit before using the structure for any other purpose.

2.2.26 Group Home.

Landowners do not need to obtain a zoning permit to use a lawful single-family dwelling as a group home that will:

(1) Not serve more than 8 residents who have a disability;
(2) Not be located closer than 1,000 feet from another existing or permitted group home as measured from property line to property line; and
(3) Be operated under state licensing or registration.

Landowners of group homes must obtain a zoning permit for construction or other associated land development to the same extent as would be required if the property was occupied by any household.

2.3 Change of Use

2.3.1 Change from One Use Category to Another. A landowner must obtain a zoning permit, and any development approvals as applicable, for a change of use if the two uses do not fall under the same category as listed in Section 4.17 (Use Table).

2.3.2 Change within a Use Category. A landowner will not need to obtain a zoning permit or development approval for a change of use if both uses fall under the same category as listed in Section 4.17 (Use Table), unless the two uses have different parking requirements as listed in the Minimum Parking Tables (Figure 9-2 and Figure 9-3). If the proposed use requires more parking than the previous approved use, a zoning permit will be required. For example, a retail use like a home furnishings store to a retail use like a clothing store. If no permit is required, other land development associated with the change of use may require a permit (e.g., new or modified signage).

2.4 Expansion of Use

2.4.1 Nonresidential Uses. A landowner must obtain a zoning permit, and any development approvals as applicable, to expand a nonresidential use to occupy additional space in a building or on a lot.

2.4.2 Residential Uses. A landowner will not need to obtain a zoning permit to expand a residential use to occupy existing space in the building provided the number of dwelling units or bedrooms will not change (e.g., converting an unfinished basement or attic to habitable space). The landowner must obtain a zoning permit, and any development approvals as applicable, to change the number of dwelling units or bedrooms.

2.5 Discontinued Uses

2.5.1 Nonresidential Uses. A landowner must obtain a zoning permit, and any development approvals as applicable, to use property previously used for a nonresidential purpose for the same or another nonresidential purpose if the prior nonresidential purpose has been discontinued for more than 18 months except:

(1) If the landowner has had to discontinue a nonresidential use as result of damage to the structure in which it is housed, the owner may re-establish the use once the structure has been repaired or rebuilt.
(2) The Zoning Administrator may extend the period of discontinuance for a conforming use to a total of not more than 2 years if the landowner demonstrates that he/she is actively marketing the property or business for sale or lease. If the use is nonconforming, see Section 2.8.

2.5.2 Residential Uses. A landowner will not need to obtain a zoning permit to resume the use of a vacant residential structure or unit provided there is no change in the total number of dwelling units or bedrooms in the structure or on the lot.

2.6 Abandoned Land Development

2.6.1 If the land development authorized by a zoning permit is abandoned without being completed, a landowner must demolish or secure any partially completed structures, remove all structural materials from the site, restore the site to a natural grade, and re-establish groundcover to prevent erosion prior to or within 6 months after the zoning permit expires.

2.7 Damaged or Destroyed Structures

2.7.1 Action Required Immediately. A landowner must act promptly to stabilize and secure a structure that was damaged or destroyed by any cause as necessary to protect public health and safety.

2.7.2 Action Required within 6 Months. Within 6 months of a structure being damaged or destroyed by any cause, a landowner must either:

(1) Stabilize and secure the structure as necessary to protect the structure from the elements and to protect public health and safety, if the structure will be reconstructed; or
(2) Demolish the structure, remove all structural materials and debris from the site, restore the site to a natural grade, and re-establish groundcover to prevent erosion.

2.7.3 Extension. The Zoning Administrator may grant one or more extensions to the 6-month deadline for a total of not more than 36 months from the date the structure was damaged or destroyed upon the landowner demonstrating that:

(1) The structure does not pose a hazard to public health or safety; and
(2) The landowner has been unable to meet the deadline due to factors beyond his/her control.

2.7.4 Zoning Permit Required. Landowners must obtain a zoning permit to reconstruct a damaged or destroyed structure, but they do not have to pay the associated application fee if a complete application for reconstruction is filed within 12 months of the structure being damaged or destroyed. For nonconforming structures see Section 2.8.1. For structures in the Flood Hazard Overlay District, see Section 5.3 and Section 12.

2.7.5 Redevelopment Projects. As part of any redevelopment project requiring approval from the Development Review Board, a landowner must rehabilitate, stabilize, remove or demolish any damaged or destroyed structures located on the subject property.

2.8 Nonconforming Structures, Uses and Lots

2.8.1 Nonconforming Structures

(1) A nonconforming structure that lawfully existed when the Town of Manchester adopted or amended this ordinance may continue to exist unchanged indefinitely.
(2) A landowner may obtain a zoning permit, and any applicable development approvals, to use a nonconforming structure for any land use allowed in the zoning district.
(3) The Zoning Administrator may issue a zoning permit for land development that would change the exterior dimensions of a nonconforming residential structure provided that the proposed development:
    (a) Will not result in any portion of the nonconforming structure encroaching further beyond the existing nonconforming building line or height;
    (b) Will not convert a nonconforming porch, deck or similar feature to enclosed or conditioned building space;
    (c) Is not subject to conditions from prior approvals or permits that would otherwise restrict the proposed development; and
    (d) Would not otherwise require a development approval from the Development Review Board.
(4) The Development Review Board may approve a waiver to allow a change in the exterior dimensions of a nonconforming nonresidential structure upon the applicant demonstrating that the proposed development:
    (a) Will not result in any portion of the nonconforming structure encroaching further beyond the existing nonconforming building line or height than is necessary to accomplish the intended goal (e.g., an expanded, improved entry deck);
    (b) Will improve the property and will be helpful or necessary to allow for the continued reasonable use of the property; and
    (c) Will not alter the character of the neighborhood, impair reasonable or appropriate use of adjoining properties, nor cause harm to the public welfare.
(5) Except within the special flood hazard area (see Section 5.3), a landowner may obtain a zoning permit to repair or reconstruct a nonconforming structure that has been unintentionally damaged or destroyed by any cause provided that:
    (a) The owner submits a complete zoning permit application or a request for an extension within 12 months of the damage or destruction occurring. The Development Review Board may grant an extension upon the applicant demonstrating that factors beyond his/her control have created an unanticipated delay (e.g., insurance claim or litigation).
    (b) The repair or reconstruction does not change the exterior dimensions of the structure in a manner that would result in the repaired or reconstructed structure or portion of the structure encroaching further beyond the previous nonconforming building line or height.

2.8.2 Nonconforming Uses

(1) A nonconforming use that lawfully existed when the Town of Manchester adopted or amended this ordinance may continue to exist in its current location and configuration unchanged indefinitely.
(2) A landowner must not move a nonconforming use from one location to another where it would also be a nonconforming use.
(3) A landowner must not resume a nonconforming use that he/she abandoned, discontinued or replaced with another use for more than 18 months.
(4) The Zoning Administrator may issue a zoning permit to allow a landowner to extend or expand a nonconforming use to fully occupy space within the associated structure as that structure existed when the use became nonconforming. The Development Review Board may approve a greater extension or expansion of a nonconforming use as a conditional use.
(5) The Development Review Board may approve the change of one nonconforming use to another nonconforming use as a conditional use upon the applicant demonstrating that the proposed nonconforming use will be less intensive in nature and more compatible with the character of the

area than the existing nonconforming use.

2.8.3 Nonconforming Lots

(1) A nonconforming lot may continue to exist unchanged indefinitely. If a nonconforming lot comes into common ownership with one or more contiguous lots, the Town of Manchester will not deem the lot merged with the contiguous lot(s) for the purposes of this ordinance (a property owner may choose to merge contiguous lots in accordance with Section 11).
(2) A landowner may develop a lot that does not meet the minimum lot size for the zoning district in accordance with all other applicable provisions of this ordinance provided that the lot:
    (a) Is legally subdivided and able to be conveyed separate from any other lot;
    (b) Existed as of the effective date of this ordinance;
    (c) Is at least 1⁄8 acre (5,445 square feet) in area; and
    (d) Is not less than 40 feet wide or deep.
(3) A landowner with a lot that does not meet the minimum lot frontage for the zoning district:
    (a) May develop that lot in accordance with all other applicable provisions of this ordinance provided that the lot has access to a road over a permanent easement or right-of-way at least 20 feet in width.
    (b) Must not subdivide that lot unless the lot has access to a road over a permanent easement or right-of-way at least 50 feet in width.

2.8.4 Creation of Nonconformity

(1) The Town of Manchester prohibits any land development that would create a nonconformity except as specifically authorized in this ordinance.
(2) The transfer or taking by eminent domain of land for a public purpose (e.g., road widening) may create nonconformity.
(3) When land is transferred or taken by eminent domain for a public purpose, the Development Review Board may approve as a conditional use the relocation of affected structures or uses on the parcel or to an adjacent parcel in a manner that would create a nonconformity upon the applicant demonstrating that the relocated structures or uses:
    (a) Will be in reasonable proximity to any associated unaffected buildings or uses; and
    (b) Conform to the applicable provisions of this ordinance to the maximum extent feasible given site-specific conditions.

2.9 Application Procedures

2.9.1 Application

An application for a zoning permit may be obtained from the town offices or the town website, and shall be submitted to the Zoning Administrator along with any fees, maps, plans, or other documents needed to demonstrate conformance with this ordinance.

2.9.2 Pre Application Conference.

A prospective applicant may request a pre-application conference with the Zoning Administrator or Design Advisory Committee prior to submitting a complete application. A pre-application conference is an informal meeting that provides the prospective applicant with an opportunity to consult with and receive advice in order to save time and expense in the preparation of the application. Any comments or recommendations made are intended to provide general direction to the prospective applicant, but will not be deemed binding in the preparation or review of any subsequent application for development approval.

2.9.3 Assistance.

The Zoning Administrator will assist prospective applicants by:

(1) Determining whether a project will require one or more types of review under this ordinance.

(2) Providing applicants with any necessary form to apply for the required types of review.
(3) Notifying applicants of the applicable fees or other charges that the town may charge in relation to the application or proposed development.
(4) Providing applicants information about state energy standards for residential or commercial buildings, as applicable.

2.9.4 Determination of Completeness.

The Zoning Administrator will:

(1) Determine whether an application is complete promptly after the applicant submits it.
(2) If the application is incomplete, inform the applicant in person or in writing of what additional information is required.
(3) Take no action until all relevant permit fees are paid to the Town of Manchester and until the application is deemed complete.

2.9.5 Application Requirements.

(1) The Zoning Administrator may waive an application requirement upon concluding the information is not necessary to determine compliance with this ordinance. The Design Advisory Committee or Development Review Board may determine that a waived application requirement is necessary to determine compliance with this ordinance during the development review process and require an applicant to provide the information.
(2) The Zoning Administrator, Design Advisory Committee, or Development Review Board may determine that additional information is necessary to determine compliance with this ordinance during the development review process and require an applicant to provide it.
(3) The Zoning Administrator must keep written documentation of any application requirement waived or additional material requested and submit that information to the Design Advisory Committee or Development Review Board with the application as applicable.

2.9.6 Time to Act.

Once the Zoning Administrator determines that an application for a zoning permit is complete, the Zoning Administrator must act within 30 days to approve, deny, or refer it to the Development Review Board, except that the time period within which the Zoning Administrator must act will not commence for a zoning permit application that requires:

(1) One or more types of review under this ordinance until the reviews are complete for the proposed land use or development.
(2) Notification to a state agency until the agency comments or the comment period elapses, whichever occurs first.

2.9.7 Deemed Approval

If the Zoning Administrator 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 to the Development Review Board, a permit shall be deemed issued on the 31st day.

2.9.8 Referral to State

The Zoning Administrator will inform any person applying for a zoning permit 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. It remains the applicant's obligation to identify, apply for, and obtain any relevant state permits.

2.9.9 Permit Takes Effect

A zoning permit takes effect on the 16th day after the Zoning Administrator issues it, provided that no appeal is filed during the previous 15 days or that the applicant has not requested a delay. If an interested person files an appeal, the zoning permit will not take effect until the appeal is decided.

2.9.10 Delay in Effect

Upon request in writing by the applicant, the Zoning Administrator may delay the effective date of a permit and any associated development approvals for no more than 18 months unless the Development Review Board approves a longer delay due to factors beyond the applicant's control.

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 commence with the issuance of the Act 250 permit, or in the case of contested proceedings, the timeframe shall commence at the conclusion of such proceedings.

It is not the intent of any such delay in effect to allow a permittee to have an indefinite or infinite amount of time to proceed with the approved land use or development.

2.9.11 Permit Expiration

A zoning permit shall expire after two years, except:

(1) A permit issued only for installation of signage or change of use shall expire after one year of the date of issuance.
(2) A permit issued for a boundary line adjustment or subdivision shall expire after 180 days from the date of issuance unless a final plat is recorded in the land records of the town within 180 days. If an applicant lawfully recorded an approved subdivision plat in the Town of Manchester's land records, that plat will remain valid and will not expire irrespective of any change in this ordinance.
(3) The Development Review Board or Zoning Administrator may set a permit expiration date that may differ from the two year timeframe for site- or project-specific reasons.

If the land development permitted by any zoning permit has not been completed, or if the land use permitted has not been commenced by the permit expiration date, then the permit shall expire without further action by the town. If a zoning permit expires before the applicant substantially completes the construction or commences the use authorized by the permit, the applicant must apply for a new zoning permit and any other associated development approvals under this ordinance.

2.9.12 Extensions of Permits

Upon request by a permittee and payment of any required fees, the Zoning Administrator may grant only one extension of up to two years 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 administrative permits, any further extensions will require reapplication with payment of the basic administrative permit fee. For permits issued in conformance with Development Review Board approvals, any further extensions shall require application to the Development Review Board with payment of the required basic hearing fee for review of the project for conformance with the regulations in effect at that time. Unless otherwise limited by the Development Review Board for good cause, any extensions granted by the Development Review Board will then start the extension process anew.

2.9.13 Zoning Permits Issued Prior to Amendment or Adoption of these Regulations.

If the Zoning Administrator lawfully issued a zoning permit before the Town of Manchester adopted or

amended this ordinance, an applicant will not need a new or amended permit for the project. If such an applicant does not substantially complete the land development or receive an extension before that permit expires, the applicant will need to apply for a new zoning permit, including any development approvals as applicable, under the ordinance as in effect at the time of the new application.

2.9.14 Amending Permits or Approvals

(1) An applicant may submit a written request for the Zoning Administrator to amend a zoning permit, and any associated development approval, prior to the permit's expiration. The applicant must demonstrate that the proposed changes to the land development:
   (a) Are minor modifications that conform to all applicable provisions of this ordinance, including the special flood hazard area provisions in Section 5.3 and Section 12;
   (b) Are not material or substantial changes that would have affected the decision on the original application;
   (c) Do not change the type, character or intensity of the approved land development or use to a greater extent than specified below:
      (i) Any proposed modification must not result in an increased requirement for parking or loading spaces.
      (ii) Any proposed increase in building footprint must not exceed 10% or 500 square feet, whichever is less.
      (iii) Any proposed substitution of plant materials must not change the overall landscape design concept.

(2) The scope of the review will be limited to those aspects of the land development affected by the proposed changes.

(3) The Zoning Administrator may decline to amend a permit, and any associated development approval, and refer the request to the Development Review Board.

(4) The approval of an amendment will not affect the expiration date of the original permit and any associated development approvals.

(5) The Development Review Board may determine that the proposed amendment would change the approved development to such an extent that it needs to be reviewed as a new application, and may deny the amendment request and require the applicant to apply for a new zoning permit and any associated requirements.

2.9.15 Revoking Permits or Approvals

The Zoning Administrator may take appropriate action to revoke a zoning permit, and any associated development approvals, in accordance with state law if an applicant omitted or misrepresented a material fact on an application or at a hearing.

2.9.16 Transfer of Permit.

Zoning permits and any associated development approvals remain in effect as specified in this ordinance irrespective of any change in ownership of the subject property. All subsequent landowners are subject to the requirements and conditions of any zoning permit and associated development approvals.

2.9.17 Inspecting Land Development During Construction

The Zoning Administrator and Development Review Board may inspect any land development during construction as necessary to ensure compliance with this ordinance and any permit or approval conditions.

2.10 Site Development Plan

All applicants for a zoning permit must submit a site development plan. The site development plan must conform to the specifications and include all required elements listed below, unless a specific requirement is waived in accordance with Section 2.9.5, or the proposed development is for a single-family or two-family use. For single-family or two-family use, the site plan need only provide dimensions of proposed development and adequately demonstrate compliance with applicable provisions of this ordinance and any previous development approvals or permits for the site, as determined by the Zoning Administrator.

2.10.1 Required Elements

(1) Location Map. The map must clearly identify the location of the proposed land development and be scaled to show the area within 1⁄2 mile of the boundaries of the project site.

(2) Scale and Sheet Size. The applicant must submit an overall site development plan that shows the full extent of the parcel(s) subject to proposed development on a sheet that does not exceed 24 x 36 inches. If the scale of the overall site development plan is greater than 1 inch = 20 feet, the applicant must submit additional detail plans of the portion(s) of the site subject to proposed development at a scale of 1 inch = 20 feet or less.

(3) Copies and Format. The applicant must submit a full-size original and an 11” x 17” copy of the site development plan. Unless it is hand drawn, an electronic copy of the site development plan as Adobe PDF file must be submitted via email to the Zoning Administrator.

(4) Title Block. Each plan sheet must have a title block that at a minimum includes:

(a) Project name;
(b) Plan title and sheet number;
(c) Initial date the plan was prepared and the date of any subsequent revisions;
(d) Project site address and Tax Map IDs;
(e) Name of the landowner and the applicant, if different; and
(f) Name and title of the person who prepared the plan.

(5) North Arrow. Each plan and map must have a north arrow, and should be oriented with north being the top of the page, whenever feasible.

(6) Zoning Information. The plan must include a chart (either as a separate page or included on the same sheet as the overall site plan) identifying the applicable zoning districts and each district’s requirements for:

(a) Lot size, frontage, and coverage;
(b) Front, side, rear and any water resources setbacks;
(c) Residential density and floor area ratio;
(d) Building footprint, coverage and height; and
(e) Number of required parking spaces.

(7) Area and Dimensions. The site development plan must clearly show via tables or charts all relevant site statistics, including but not limited to:

(a) Total project acreage;
(b) Undevelopable land calculations;
(c) Total greenspace;
(d) Required and proposed parking;
(e) Building coverage percentage;
(f) Building heights; and
(g) Gross square footage and active floor area of buildings.

(8) Topography. The site development plan must show existing and proposed contours at a 2-foot interval for those portions of the site subject to proposed development and at not more than a 10-

foot interval for the remainder of the site. For large sites, the two-foot contours may be shown on a detail rather than overall site development plan.

(9) Existing Features. The site development plan must show all existing built and natural components of the site including, but not limited to, streams, wetlands, tree lines and specimen trees, structures, water supply and wastewater infrastructure, walls and fences, utilities, roads and drives, and parking areas.

(10) Proposed Development. The site development plan must show all improvements (both on- and off-site) associated with the proposed development including, but not limited to, structures, roads and drives, parking areas, utilities, landscaping, signs, tanks, water supply and wastewater infrastructure, stormwater facilities and outdoor lighting. To demonstrate conformance with this ordinance, applicants may need to provide the following specialized plans:

(a) Utility Plan that shows the location of water and wastewater improvements, and gas, electric, telephone, cable, and other utilities.
(b) Grading and Erosion Control Plan that shows how runoff will be managed and sediment trapped to avoid off-site impacts (see Section 6.10).
(c) Stormwater Management Plan that provides detail on the collection, retention, infiltration and treatment of stormwater (see Section 6.18).
(d) Road and Utility Profile that depicts existing and proposed grades for the installation of roads, drives, and utilities.
(e) Specifications that show detailed drawings and notes on specific components of the plans.
(f) Landscaping Plan that shows the location of existing and proposed vegetation, including a description that includes the name, size and height at planting and when mature, and quantity of each species to be planted.
(g) Lighting Plan that shows the location of exterior lights including cut sheets for each fixture that includes the initial light output in lumens.
(h) Architectural Elevations that are renderings of the project's physical appearance as seen from specified viewpoints that include information about building massing, fenestration, height, colors, materials and other features.

(11) Development Envelopes and Designated Open Space. The site development plan must show and describe all existing and proposed development envelopes and designated open space.

(12) Rights-of-Way and Easements. The site development plan must show and describe all existing and proposed rights-of-way and easements that traverse or border the proposed development.

2.10.2 Additional Requirements.

An applicant for site plan approval may be required to provide written commitments for any 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.

2.11 Fees and Filing Requirements

2.11.1 Permit Fees

(1) The Selectboard will establish fees for the Zoning Administrator or other town employees to

charge for administering this ordinance. These fees may include the cost of posting and publishing notices, holding public hearings, recording documents, and conducting periodic inspections during construction.

(2) An applicant must pay the applicable fees when submitting an application. The Zoning Administrator must not deem an application complete until the applicable fees are paid in full.

(3) If a completed project reveals aspects of development or use that would have required a higher fee than paid at the time of application, the difference must be paid to the town prior to the issuance of a certificate of compliance per Section 2.12.

2.11.2 Impact Fees

The Town of Manchester may require applicants to pay impact fees in accordance with any duly adopted impact fee ordinance.

2.11.3 Technical or Legal Review Costs

The Zoning Administrator or Development Review Board may hire qualified professionals to provide an independent technical or legal review of an application when deemed necessary to ensure compliance with this ordinance, the cost of which will be paid by the applicant.

2.11.4 Performance Bonds or Sureties

The Zoning Administrator or Development Review Board may require an applicant to provide a performance bond or similar surety as a condition of approval to insure the completion of required improvements.

For performance bonds, the applicant will provide a quote prepared by a qualified professional for the full project cost or for the particular improvements being insured. The Zoning Administrator or Development Review Board will base the amount of any bond or surety on that quote.

The Town of Manchester will only release the bond or surety after certification by the applicant and determination by the Zoning Administrator that the required improvements have been satisfactorily completed.

2.11.5 Monitoring or Inspection Costs

To ensure compliance with this ordinance and when deemed necessary, the Zoning Administrator or Development Review Board may condition approval upon monitoring and inspection by a qualified professional during construction or once the use has commenced, the cost of which will be paid the applicant.

2.11.6 As-Built Drawings

The Zoning Administrator or Development Review Board may require an applicant to submit as-built drawings as a condition of approval.

The Town of Manchester will require as-built drawings for any infrastructure to be built within public rights-of-way or to be turned over to the town.

The Zoning Administrator may require an applicant to submit as-built drawings when approved plans are amended under Section 2.9.14 or when minor adjustments to approved plans are necessary to respond to unforeseen conditions that arise during construction.

2.11.7 Other Permits, Approvals and Certifications

The Zoning Administrator or Development Review Board may condition approval upon the applicant filing other permits, approvals or certifications required by the Town of Manchester or other regulatory entities prior to the issuance of a zoning permit, the start of construction, or the issuance of a certificate of compliance.

2.12 Certificates of Compliance

2.12.1 Required. An applicant must request a certificate of compliance from the Zoning Administrator before occupying or commencing the use of any land development.

2.12.2 Application. The Zoning Administrator will provide applicants with the necessary form to apply for a certificate of compliance.

2.12.3 Time to Act. The Zoning Administrator must act on a complete application for a certificate of compliance within 30 days. The Zoning Administrator may:

(1) Require the applicant to submit documentation from a qualified professional certifying that the land development as constructed conforms to the approved plans;
(2) Inspect the subject property and consult with other town or state personnel as necessary to determine compliance; and
(3) Require the applicant to perform corrective actions to bring the land development into conformance.

2.12.5 Deemed Approval. If the Zoning Administrator does not act on a complete application for a certificate of compliance within 30 days, the applicant may file an appeal to the Development Review Board to allege that the Zoning Administrator's failure to act within the 30-day period resulted in a "deemed approval" of the application.

2.12.6 Criteria. Before receiving a final certificate of compliance, the applicant must demonstrate to the Zoning Administrator that:

(1) The land development is complete and conforms to the requirements of the zoning permit, and any associated development approvals, the filed plans, and the applicable provisions of this ordinance;
(2) All commonly-owned or shared improvements and infrastructure connections are complete and conform to any applicable town specifications, the requirements of the zoning permit, and any associated development approvals, the filed plans, and the applicable provisions of this ordinance;
(3) All enhanced 9-1-1 addresses are prominently posted on the property visible from the road;
(4) The applicant has recorded all required documents with the town including, but not limited to, building energy standards certificate, as-built drawings, floodplain elevation certificate, flood proofing certificate, wastewater and potable water supply permit, access permit, or stormwater permit; and
(5) The applicant has paid all required fees.

2.12.7 Temporary Certificate. The Zoning Administrator may issue a temporary certificate of compliance that conditions use or occupancy on full completion of all required improvements by expiration of the permit as follows:

(1) The Zoning Administrator may require the applicant to submit a performance bond in accordance with Section 2.11.4 to insure full completion of the outstanding work.
(2) The Zoning Administrator will require the applicant to submit a performance bond in accordance with Section 2.11.4 if any commonly-owned or shared improvements or infrastructure

connections remain incomplete.
(3) The applicant must apply for a final certificate of compliance prior to the expiration of the permit.

2.12.8 Decisions. The Zoning Administrator must approve or deny applications for a certificate of compliance in writing. When denying an application, the Zoning Administrator must:

(1) State the reasons for the denial;
(2) Inform the applicant that he/she may appeal the denial to the Development Review Board within 15 days of the date of the decision; and
(3) Refer the applicant to Section 3.11, which explains the appeal process.

2.12.9 Denials. If the Zoning Administrator denies an application for a certificate of compliance:

(1) The Zoning Administrator must commence appropriate enforcement action under Section 2.13 if he/she determines a violation of these regulations exists.
(2) The applicant may reapply after remedying any conditions identified as the reason for the denial.

2.13 Violations and Penalties

2.13.1 Civil Offense. 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.

2.13.2 Municipal Civil Complaint Ticket

The Zoning Administrator 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. The Zoning Administrator shall retain one copy 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.

2.13.3 Notice of Violation

The Zoning Administrator may pursue an enforcement action for any violation of this ordinance by issuing a notice of violation. No enforcement 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 Development Review Board 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.

Section 3 Review Procedures

3.1 Administrative Review

3.1.1 Applicability

The Zoning Administrator may render an administrative decision on applications for:

(1) Single- and two-family uses, including dwellings and accessory structures;
(2) Signs and sign lighting as outlined in Section 10.3.3;
(3) In the Design Review Overlay (DRO), replacement windows and doors or design upgrades where the changes are found to be compatible with existing design features and in keeping with district design standards;
(4) Accessory apartments according to Section 6.2.1;
(5) Up to 3 camping units as an accessory use of residential property according to Section 6.4.2;
(6) Small residential fill operations according to Section 6.14;
(7) Changes of use in existing buildings where no new impacts as compared with existing uses may reasonably be anticipated;
(8) Amendments to administrative permits where conformance with this ordinance is found; and
(9) 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.

3.1.2 Authority for Referral

The authority to render an administrative decision does not mean that the Zoning Administrator is required to do so. The Zoning Administrator may refer any application to the Development Review Board where 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.

3.1.3 Referral to Design Advisory Committee

The Zoning Administrator must refer any application for proposed land development within the Design Review Overlay District that meets the criteria of Section 3.1.1 to the Design Advisory Committee for design review in accordance with Section 3.4 before acting on a complete application.

3.1.4 Referral to Development Review Board

Once the Zoning Administrator determines that an application is complete, and if the application does not meet the criteria for Administrative Review in Section 3.1.1, he/she must warn a public hearing on the application by the Development Review Board at its next available regularly scheduled meeting following the warning period required by statute.

3.2 Site Plan Review

3.2.1 Applicability. All land development other than that listed in Section 3.1.1 above requires site plan approval by the Development Review Board before the Zoning Administrator may issue a zoning permit.

3.2.2 Purpose. The purpose of site plan review is to ensure that:

(1) The physical aspects of proposed land development comply with all applicable provisions of this ordinance and are consistent with the goals of the *Manchester Town Plan*.
(2) Proposed land development is designed to be visually compatible with its setting.

(3) Proposed land development is appropriately sited, and is complimentary to and functionally integrated with surrounding development to the greatest extent feasible.
(4) Streets, access, driveways, parking facilities, utilities and other infrastructure, both on-site and off-site, are adequate and available to support the proposed land development.
(5) Proposed land development is energy efficient.
(6) Proposed land development avoids, mitigates, or minimizes adverse environmental effects to the greatest extent feasible.

3.2.4 Application Requirements

(1) A completed application for a zoning permit,
(2) A digital copy and one full-sized and one reduced (11” x 17”) hardcopy of a site development plan in accordance with Section 2.10, and
(3) A narrative description of the proposed land use and development describing how the project complies with the standards of Section 9 and relevant Section 6 provisions of this ordinance.

3.2.5 Review Procedures

The Development Review Board will review site plans referred to it by the Zoning Administrator as follows:

(1) The Development Review Board must hold a public hearing and issue a decision on a site plan application in accordance with Section 3.10 and Section 3.11.
(2) To approve a site plan application, the Development Review Board must conclude that the proposed land development meets all of the applicable criteria specified in Section 9.
(3) The Development Review Board may approve a site plan application with conditions as necessary to ensure compliance with these regulations.

In the case of administrative review, The Zoning Administrator will review a site plan as follows:

(1) To approve a site plan application, the Zoning Administrator must conclude that the proposed land development meets all of the applicable criteria specified in Section 9.
(2) The Zoning Administrator may approve a site plan application with conditions as necessary to ensure compliance with these regulations.

3.2.6 Project Phasing

A development project shall not cause undue impacts on the community with respect to the performance standards listed in Section 9. Accordingly, the Development Review Board may impose conditions to limit the impact of projects and require the time phasing of projects in total or in part, to mitigate undue impact as determined by the board.

3.3 Conditional Use Review

3.3.1 Applicability

The commencement or expansion of a conditional use as identified in Section 4.17 (Use Table) requires approval from the Development Review Board before the Zoning Administrator may issue a zoning permit.

3.3.2 Application Requirements

Applicants must submit a narrative description of the proposed use that includes expected traffic generation, expected use of town services, and a site development plan if new construction or other exterior alterations are proposed for the site.

3.3.3 Review Criteria

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

(1) The capacity of existing or planned community facilities.
(2) The character of the area affected, as defined by the purpose or purposes of the zoning district within which the project is located, and specifically stated policies and standards of the municipal plan.
(3) Traffic on roads and highways in the vicinity.
(4) Other provisions of ordinances, regulations, and bylaws of the town applicable thereto.
(5) The utilization of renewable energy resources.

The Development Review Board may impose conditions of approval to ensure that the use will not cause undue adverse effects and otherwise conforms to the provisions of this ordinance.

3.4 Design Review

3.4.1 Applicability

Land development within the Design Review Overlay District that involves exterior construction, modification or demolition of a building, sign, fence or wall, or modifications to the landscaping, exterior lighting, or on-site parking requires design review before the Zoning Administrator may issue a zoning permit or the Development Review Board may grant a development approval, as applicable.

3.4.2 Application Requirements

In addition to the Site Development Plan requirements found in Section 2.10, applicants must submit illustrations in sufficient detail to show the proposed construction or alteration, and a clear description of all proposed materials and colors in the form of specifications or material samples. It is the applicant's responsibility to provide the information necessary to demonstrate conformance with the standards of this ordinance.

3.4.3 Review Procedures

The Design Advisory Committee will review applications as follows:

(1) The Design Advisory Committee must review applications at an open meeting. The meeting must comply with Vermont's open meeting law. Accordingly, the meeting agenda must be posted at least 48 hours in advance on the town's website, at the town office, and at least two other designated public places in Manchester. Such a meeting is not a public hearing that must be noticed and conducted in accordance with Section 3.10.
(2) The Design Advisory Committee must allow the applicant and interested parties to comment on the application at the meeting.
(3) The Design Advisory Committee may conduct a site visit to assess whether review criteria are met by the proposal.
(4) The Design Advisory Committee must make any recommendations to the Zoning Administrator or Development Review Board in writing. For land development subject to administrative approval

under this ordinance, the Zoning Administrator must include any recommendations made by the Design Advisory Committee as conditions of approval on the zoning permit.

(5) If the Design Advisory Committee concludes that the application fails to comply with the standards of this ordinance, the committee must provide the applicant with a copy of its written conclusions prior to any subsequent public hearing on the application before the Development Review Board.

3.4.4 Design Criteria

Before granting design plan approval, the Development Review Board or Zoning Administrator, with assistance from the Design Advisory Committee, shall conclude that the proposed development conforms substantially to the relevant goals and policies described in the *Manchester Town Plan*, as illustrated and described in *Design Guidelines for Manchester's Commercial and Historic Districts*, and the following design criteria:

A. Architectural Design Criteria. Architectural design must be of a form, style, and scale that maintains and enhances those qualities noted in the underlying zoning district as outlined in Section 4, and the following:

(1) **Height.** Applicants must demonstrate that the height of a new or renovated building is appropriate in relation to the average height of existing adjacent buildings or is in keeping with the purposes and dimensional requirements of the underlying zoning district as established in this ordinance.

(2) **Proportion.** Applicants must demonstrate that:
   (a) The width and height of the front elevation of a new or renovated building is appropriate in relation to the width and height of the front elevations of existing adjacent buildings or is in keeping with the purposes and dimensional requirements of the underlying zoning district.
   (b) The fenestration pattern (the arrangement of windows and door openings) of the front elevation of a new or renovated building is appropriate in relation to the fenestration pattern of the front elevation of existing adjacent buildings, or is in keeping with the purposes and dimensional requirements of the underlying zoning district, and resulting in a compatible rhythm of alternating solids and openings (wall to windows/doors) along the street.

(3) **Roofs.** Applicants must demonstrate that the shape, pitch, and direction of the roof on a new or renovated building is appropriate in relation to the design of roofs of existing buildings in the immediate area or in keeping with the purposes of the underlying zoning district as established in this ordinance.

(4) **Materials, Textures and Colors.** Applicants must demonstrate that the proposed exterior materials, textures and colors on a new or renovated building are high quality, durable and appropriate in relation to the materials, textures and colors of existing buildings in the area.

(5) **Architectural Features.** Applicants must demonstrate that new or renovated buildings incorporate architectural features such as cornices, entablatures, doors, windows, shutters, and fanlights that are compatible with the architectural features of existing buildings in the area or is in keeping with the purposes and dimensional requirements of the underlying zoning district. It is not intended that the details of existing buildings 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 buildings or alterations.

B. Site Design Criteria. Site design must enhance the streetscape, provide pedestrian amenities, and meet the following standards:

(1) **Location of Buildings.** Applicants must demonstrate that new buildings are sited and designed to be compatible with a pedestrian oriented streetscape.

(2) **Site Organization.** Applicants must demonstrate that the organization of new buildings, drives, parking areas, walkways, signs, lights, fences and other structures on the site are designed to be pedestrian oriented, functional, safe and in keeping with the purposes of the underlying zoning district.

(3) **Landscape and Plantings.** Applicants must demonstrate that:
   (a) The proposed site design preserves the landscape in its natural state to the greatest extent feasible by minimizing tree and soil removal and alteration of existing grades; and
   (b) The proposed plant species and landscaping plan complement the scale and style of the building and are appropriate in relation to the existing landscape and plantings in the area.
   (c) The landscape plan meets the standards of Section 9.4.

(4) **Drives, Parking, and Circulation.** Applicants must demonstrate that the proposed vehicular and pedestrian circulation is designed to:
   (a) Limit the number and minimize the width of access points to the street;
   (b) Separate vehicular, bicycle and pedestrian traffic;
   (c) Minimize the visual impact of parking by avoiding large expanses of pavement, and screening surface parking with berms, fencing or landscaping; and
   (d) Not detract from the design of buildings and neighboring properties.

(5) **Utility Service.** Applicants must demonstrate that electric, telephone and other utility lines will be installed underground whenever feasible given site conditions, and that any above ground utilities have been located and screened to minimize their visual impact on the site and from neighboring properties.

(6) **Site Structures.** Applicants must demonstrate that the materials, scale, design, and placement of accessory structures on the site are complementary to the building and neighboring properties.

(7) **Signs.** Applicants must demonstrate that the size, location, design, color, texture, lighting, and materials of all exterior signs is complementary to buildings and structures on the site and neighboring properties, and that such signage conforms to the standards of Section 10.

(8) **Lighting.** Applicants must demonstrate that:
   (a) The amount, intensity, type, location and design of all exterior lighting is complementary to buildings and structures on the site and neighboring properties;
   (b) Proposed exterior lighting meets standards of Section 9.5.

C. Historic Preservation Standards. Applicants must demonstrate that any proposed land development involving a contributing historic structure will implement the practices recommended by the U.S. Department of Interior's Technical Preservation Services in the *Guidelines for Rehabilitating Historic Buildings*. The Secretary's Standards for Rehabilitation are listed below and detailed recommendations on appropriate rehabilitation practices are available online.

The applicant must:

(1) Make minimal change to a contributing structure's defining characteristics.
(2) Preserve the structure's historic character by avoiding removing historic materials or altering defining historic features.

(3) Recognize the structure as a physical record of its time, place, and use, by not undertaking changes that do not comport with that time period and use.
(4) Recognize changes that may have occurred over time that have acquired historic significance in their own right.
(5) Preserve distinctive features, finishes, and construction techniques.
(6) Repair rather than replace deteriorated historic features whenever feasible. If a feature is deteriorated to an extent that makes repair unfeasible, the replacement should match the original in design, color, texture, and other visual qualities and, where possible, materials.
(7) Not use treatments or techniques that cause damage to historic materials.
(8) Not destroy historic features that characterize the property or building as a result of new additions, exterior alterations, or related new construction. The new work may be differentiated from the old but must be compatible with the massing, size, scale, and architectural features of the historic property or building.
(9) Design and construct any new additions and adjacent or related new construction in such a manner that if removed in the future, the essential form and integrity of the historic property or building would be unimpaired.

3.5 Subdivision Review

3.5.1 Applicability. A landowner:

(1) Must not subdivide land or alter property boundaries without first recording an approved subdivision plat in the town's land records in full conformance with this ordinance.
(2) May file boundary surveys or corrective deeds in the town's land records to repair boundary metes and bounds or to correct technical errors with previously recorded surveys or deeds for existing parcels with known boundaries without obtaining subdivision approval under this ordinance.

3.5.2 Application Requirements. In addition to relevant fees, subdivision applicants shall submit:

(1) A completed application for a zoning permit,
(2) A narrative describing all aspects of the proposal, and
(3) A digital copy and one full-sized and one reduced (11" x 17") hardcopy of a stamped survey prepared by a licensed surveyor or engineer in accordance with Section 2.10 showing the proposed lot lines, existing and proposed infrastructure, natural features of the land, and proposed building sites, except in the case of a proposed lot merger per §3.5.4(2) below.

All applications shall include supporting documentation demonstrating conformance with Section 11 of this ordinance. Detailed engineering drawings may be required to satisfy the design standards enumerated in Section 11. Proposed lot lines shall be shown on plans; however, internal metes and bounds need not be shown or described until preliminary review is concluded.

3.5.3 Classification of Subdivisions. Subdivisions involving four or fewer lots shall be classified as minor subdivisions. Subdivisions involving five or more lots shall be classified as major subdivisions. Planned Residential Developments and Planned Unit Developments shall be classified as major subdivisions. Lot line adjustments between two or more lots that do not result in an increase in the number of lots shall be classified as Boundary Line Adjustments and may receive administrative approval by the Zoning Administrator.

3.5.4 Boundary Line Adjustment

(1) The Zoning Administrator may approve the realignment, relocation or elimination of a boundary line between adjoining lots provided that the proposed change:
   (a) Will not result in an increase in the number of lots.
   (b) Will not create a new nonconforming lot or structure (it may involve a pre-existing nonconformity).
   (c) Will not increase the degree of nonconformity of a pre-existing nonconforming lot or structure.
   (d) Will not violate any conditions of a prior permit or approval.

(2) The Zoning Administrator may waive the requirement for a survey plat if the proposed boundary line adjustment involves only dissolving interior lot lines and a survey plat depicting the exterior boundaries is already recorded in the land records of the town. In such a case, draft deed language describing the lot merger and referencing the recorded plat shall be submitted with the application.

(3) The Zoning Administrator may refer boundary line adjustment applications to the Development Review Board for review as a minor subdivision.

3.5.5 Preliminary Plat Review.

Within 30 days of receipt of a complete application, minor subdivisions shall receive preliminary review by the Zoning Administrator for conformance with the subdivision criteria in Section 11 and other applicable provisions of this ordinance. This review may be in the form of a verbal meeting with the applicant or a written analysis of compliance prepared for the applicant and the Development Review Board prior to a scheduled hearing.

Within 30 days of a complete application, major subdivisions involving five or more lots shall receive preliminary review by the Development Review Board for conformance with the subdivision criteria in Section 11 and other applicable provisions of this ordinance.

3.5.6 Final Plat Submissions. Once preliminary review has been conducted and the applicant has addressed any concerns raised by the review, the applicant shall submit a digital copy and one full-sized and one reduced (11” x 17”) hardcopy of the proposed final plat, the narrative demonstrating conformance with the subdivision standards outlined in this ordinance, and any additional supporting documentation demonstrating conformance with the design standards enumerated in Section 11.

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

3.5.7 Public Hearing. Once the final plat submission is deemed complete by the Zoning Administrator, the Development Review Board must hold a public hearing and act on the subdivision application in accordance with Section 3.10. If the proposed subdivision is within 500 feet of a municipal boundary, notice of the hearing must also be sent to the clerk of the adjacent municipality.

3.5.8 Decision. Upon review of the application for conformance with Section 11, the Development Review Board must issue a decision on the final plat application according to Section 3.11.

3.5.9 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 Zoning Administrator 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 Zoning Administrator in the case of a boundary line adjustment, on the Mylar. One full-sized paper copy of the final plat shall be submitted to the Zoning Administrator. A certificate of compliance, certifying the plat conforms to the approval, must be issued by the Zoning Administrator prior to recording the Mylar plat. Once a plat is properly filed or recorded, the subdivision approval does not expire.

3.5.10 Revisions to Plats. 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. No changes, erasures, modifications, or revisions shall be made on any boundary line adjustment plat after approval, unless said plat is first resubmitted to the Zoning Administrator for approval of the modifications. In the event a final plat is recorded without complying with this requirement, the plat shall be considered null and void.

3.5.11 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.

3.6 Waivers

3.6.1 Waiver Authority. The Development Review Board:

(1) May grant waivers that authorize an adjustment to a dimensional standard of this ordinance. If a waiver of the requirement for a functional second story, Section 4.15.7(7)(d) shall apply.
(2) May grant a waiver to reduce required water resources setback as a conditional use per Section 6.25 of this ordinance.
(3) Must not approve waivers for land development within the Flood Hazard Overlay (FHO) District.
(4) Must not approve a waiver to allow a prohibited use or the subdivision of a lot that does not conform to the applicable provisions of this ordinance.
(5) Must not approve a waiver allowing an increase in residential density of greater than 10% except as otherwise allowed by this ordinance.

3.6.2 Application Requirements. The applicant must submit a complete zoning permit application and a written request for a waiver to the Zoning Administrator that includes all of the following:

(1) A brief description of the subject property and proposed land development.
(2) A reference to the dimensional standard of these regulations from which the applicant is requesting a waiver.
(3) The specific modification that the applicant is requesting.
(4) A response to each of the criteria that the Development Review Board will use to decide whether to approve the waiver (see Figure 3-1).

3.6.3 Public Hearing. The Development Review Board must hold a public hearing and act on the waiver request in accordance with Section 3.10. If the applicant is requesting a waiver from the required setback from a state highway, notice of the hearing must also be sent to the Vermont Secretary of Transportation.

3.6.4 Review Criteria. To approve a waiver, the Development Review Board must conclude that all of

the applicable criteria specified in Figure 3-1 have been met.

Figure 3-1. Waiver and Variance Review Criteria

CRITERIA	WAIVER	GENERAL VARIANCE	RENEWABLE ENERGY VARIANCE	FLOOD HAZARD VARIANCE
1. The proposed land development will not alter the essential character of the area or district in which the property is located.	X	X	X	X
2. The proposed land development will not substantially or permanently impair the lawful use or development of adjacent property.	X	-	-	-
3. The proposed land development will not be detrimental to public health, safety or welfare.	X	-	-	-
4. The proposed land development is beneficial or necessary for the continued reasonable use of the property.	X	-	-	-
5. The applicant is proposing adequate mitigation of any dimensional encroachment through design, screening or other remedy.	X	-	-	-
6. The applicant has not created the unnecessary hardship.	-	X	X	X
7. The applicant is proposing the least deviation possible from these regulations that will afford relief.	X	X	X	X
8. 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. These conditions, and not the circumstances or conditions generally created by the provisions of these regulations in the district in which the property is located, have created an unnecessary hardship for the applicant. These physical circumstances or conditions prevent the property from possibly being developed in strict conformity with these regulations and a variance is necessary to enable reasonable use of the property.	-	X	-	X
9. The proposed land development meets all applicable federal and state rules for compliance with the National Flood Insurance Program.	-	-	-	X
10. It would be unusually difficult or unduly expensive for the applicant to build a renewable energy structure in conformance with these regulations.	-	-	X	-
11. The proposed land development will not reduce access to renewable energy resources on adjacent property.	-	-	X	-
KEY: X Applicable - Not Applicable				

3.7 Variances

3.7.1 Variance Authority. The Development Review Board:

(1) May approve variances that authorize more substantial adjustments to the standards of this ordinance under the specific circumstances described in Section 3.7.
(2) Must not approve a variance to allow a prohibited use, an increase in residential density, or the subdivision of a lot that does not conform to the applicable provisions of this ordinance.

3.7.2 Application Requirements. The applicant must submit a complete zoning permit application and a written request for a variance to the Zoning Administrator that includes all of the following:

(1) A brief description of the subject property and proposed land development.
(2) A reference to specific provision(s) of this ordinance from which the applicant is requesting a variance.
(3) The specific modification(s) that the applicant is requesting.
(4) A response to each of the criteria that the Development Review Board will use to decide whether to approve the variance (see Figure 3-1).

3.7.3 Public Hearing. The Development Review Board must hold a public hearing and act on the variance request in accordance with Section 3.10. If the applicant is requesting a variance from the required setback from a state highway, notice of the hearing must also be sent to the Vermont Secretary of Transportation.

3.7.4 Review Criteria. To approve a variance, the Development Review Board must conclude that all of the applicable criteria specified in Figure 3-1 have been meet.

3.7.5 Flood Hazard. Variances for development within the Flood Hazard Overlay (FHO) District may be granted by the Development Review Board only in accordance Section 5.3.12 and the criteria indicated in Figure 3-1.

3.7.6 Renewable Energy Variance. In the case of a renewable energy project that does not receive a certificate of public good from the Vermont Public Utilities Commission, the Development Review Board may approve a variance for a renewable energy structure according to the criteria indicated in Figure 3-1.

3.8 Planned Unit Development

3.8.1 Applicability

Planned Unit Development (PUD) may be permitted in all zoning districts, in accordance with the provisions of this subsection. For a PUD involving only residential use, a Planned Residential Development (PRD), refer to Section 8.6 of this ordinance.

3.8.2 Purpose.

Planned Unit Development (PUD) is for large or complex developments that include two or more principal buildings or uses and is planned as a single continuous project under unified control. PUD allows a developer to meet community land use goals without being strictly bound by requirements of the underlying zoning district. This flexibility permits the creation of a designed grouping of varied and compatible land uses, such as housing, recreation, agriculture, commercial centers, and industrial parks, all within one contained development or subdivision. Individual goals for PUD are as follows:

(1) To allow for a complementary mixture of uses in an integrated and well planned area within a single zoning district.
(2) Encourage and preserve opportunities for the efficient use of public facilities and infrastructure.
(3) To provide a more flexible mechanism for the development of quality site layouts while allowing densities higher than those allowed in the underlying zoning district.

3.8.3 Uses

Proposed uses in the Planned Unit Development shall be as permitted or conditionally allowed in the underlying zoning district.

3.8.4 Allowable Density

In a Planned Unit Development, the Development Review Board may permit densities that exceed those allowed in the underlying district.

3.8.5 Lot Dimension Requirements

The Development Review Board may permit individual lots in a Planned Unit Development to be reduced in required area, and yard dimensions, below the dimensional requirements otherwise prescribed for the particular zoning district in which the PUD is located.

(1) For any lot within a PUD located in the RR or RA zoning districts, the minimum lot size shall be ten times the footprint of any primary structure on the lot.
(2) Approved building envelopes shall be delineated on the subdivision plat for each lot to reflect allowable setbacks and lot coverage for all future structures and other impervious cover.

3.8.6 Street Standards

All streets shall be built to town standards as described in Chapter 13 of the *Manchester Unified Ordinance*. However, design and construction of private streets to those standards does not obligate the Town of Manchester to accept such streets as town roads. The Development Review Board shall require that each deed for a lot in the Planned Unit Development contain a notification that the internal streets in the PUD are private streets and that maintenance and repair are the sole responsibility of the developer or the individual lot owners as described in the covenants of the association unless otherwise agreed to by the Manchester Selectboard.

3.8.7 Open Space

The land area not included in building lots or in streets, rights-of-way, or easements for utilities, shall be permanently preserved as open space for recreation, conservation, productive working lands use, or the enhancement of the natural environment. The location of open space shall meet the stated objectives of the Plan of Development.

3.8.8 Sketch Plan.

The following information shall be submitted by the applicant for sketch plan review:

(1) Location map showing the location of the site and existing land uses within three hundred (300) feet of the site, the existing zoning of the site, and the size of the site in acres;
(2) Sketch plan showing the general location of proposed land use types (single-family, multi-family, common open space, commercial, etc.), general landscaping, parking, pedestrian paths, utilities locations, and other miscellaneous site amenities;
(3) Concept summary sheet containing the following items:
    (a) A description of the type of dwelling units proposed,
    (b) An approximate average square footage of all dwelling units proposed by type of unit,
    (c) The total number of bedrooms in each dwelling unit,
    (d) The anticipated population to be generated by the development,
    (e) The amount and type of commercial space proposed,
    (f) The amount of common or public open space,
    (g) The gross residential density in units per acre,
    (h) The maximum and average height of all buildings.

3.8.9 PUD Site Development Plan.

The applicant for PUD review and approval shall submit the following information:

(1) A site development plan meeting the requirements of Section 2.10.
(2) Architectural elevations, building configurations, proposed materials, indication of building access and openings, architectural floor plans, and other descriptive material or items to provide sufficient detail to illustrate the design philosophy of the project.
(3) Map showing common open space, including acres and size of common open space.
(4) Association and condominium documents, including:
    (a) Articles of incorporation for an owners' association, if any,
    (b) Association by-laws and membership rules and regulations,

(c) The language of covenants, agreements, or easements restricting the use of common open space and providing for the maintenance of such common open space;
(d) The language of covenants, agreements, or easements controlling the use of common roads, drives, rights of way, and for the maintenance of such common open space;

(5) Reports from the Town Manager concerning the adequacy and availability of the wastewater utility system to accommodate the PUD. The board may require supportive documentation to be submitted by a qualified professional engineer;

(6) Reports from the water utility and fire district relative to the ability of the proposed PUD to be serviced by those public services;

(7) Traffic study prepared by qualified traffic engineer for any project containing 50 or more dwelling units, or as otherwise deemed necessary by the development Review Board;

(8) Notification that the internal streets in a Planned Unit Development (PUD) are private streets and that maintenance and repair are the sole responsibility of the developer or the individual lot owners as described in the covenants of the owners association.

(9) Storm Drainage Master Plan. An analysis by a qualified hydrologist or professional engineer of drainage conditions both before and after development of the PUD, quantifying anticipated increases in runoff, peak discharge rates, and including justification for sizing of culverts, storm drainage catch basins, detention ponds, etc.;

(10) Plan and profile maps of public improvements, if applicable;

(11) Public improvement agreement and guarantee, if applicable, in a form acceptable to the town.

(12) Upon issuance of a Planned Unit Development (PUD) permit, or an amendment thereto, the permit or amendment shall be recorded in the land records of the Town of Manchester.

3.9 Consolidated Review

3.9.1 Applicability. When a full application is received for a project requiring multiple review procedures, the Zoning Administrator shall schedule consolidated review, unless the applicant requests in writing that separate reviews be conducted.

3.9.2 Application Requirements. Application requirements for consolidated review shall include all application requirements for each individual type of review relevant to the proposed land use and development.

3.9.3 Review Procedures

(1) Design Review shall be conducted concurrently with Site Plan, Conditional Use, and Subdivision Review, with the Design Advisory Committee making its recommendation in writing to the Development Review Board prior to the hearing. Conditional Use Review shall be understood to include Site Plan Review.
(2) The Development Review Board must hold a public hearing and act on an application for combined review in accordance with Section 3.10. In addition, the hearing notice must:
  (a) Include a statement that the hearing will be a combined review of the proposed land development; and
  (b) List each type of review the Development Review Board will conduct.
(3) All hearing and decision requirements and deadlines applicable to each review process will apply.

3.10 Hearing Procedures

3.10.1 Notice of Hearing

The Zoning Administrator must notify the public at least 15 days before a hearing for all conditional use, variance, appeal, and final subdivision applications. The Zoning Administrator must notify the public at

least 7 days before a hearing for any other Development Review Board actions under this ordinance. The notice of hearing must include all of the following:

(1) Publishing the date, place and purpose of the hearing in a newspaper of general circulation in Manchester.
(2) Posting the date, place and purpose of the hearing at the town offices and at least one other public place within Manchester.
(3) Providing the applicant with a notice of public hearing with the date, place and purpose of the hearing to be posted on the subject property within public view. It will be the applicant's responsibility to ensure that the notice remains posted for the entire warning period and to remove the notice after the close of public hearing.
(4) Notifying the owners of all properties adjoining the subject property (including those across the road) in writing. The notification must include a description of the proposed project and must clearly explain to the recipient where to obtain additional information and that he/she must participate in the hearing in order to have the right to any subsequent appeal.

A defect in the form or substance of the public notice requirements will not invalidate any action or decision under this ordinance when a reasonable effort has been made to provide adequate posting and notice.

3.10.2 Site Visits

The Development Review Board may require an applicant to grant the board access to a site prior to making a decision on an application when deemed necessary to ensure compliance with this ordinance. If a quorum of Development Review Board members will be present, a site visit must be warned in accordance with Vermont's open meeting law - notice must be posted at least 48 hours in advance on the town's website, at the town office, and in at least two other designated public places in town.

3.10.3 Conducting a Hearing and Taking Evidence

(1) The Development Review Board must hold a public hearing within 60 days of the Zoning Administrator determining that an application is complete unless otherwise specified in this ordinance or the applicant agrees to a later hearing date.
(2) The Development Review Board must conduct public hearings, hear testimony, and take evidence according to its adopted rules of procedures.
(3) All hearings must be open to the public as follows:
    (a) Any individual or group may appear and participate in a public hearing in person or by authorized representative or counsel, or may submit written testimony in advance of the hearing.
    (b) The Development Review Board must give all those wishing to participate an opportunity to be heard as is relevant to the proceeding.
(4) The applicant or an authorized representative must be present at any public hearing or meeting when the Development Review Board will be considering his/her application.
    (a) The Development Review Board will continue its consideration of an application to its next regularly scheduled meeting if the applicant or an authorized representative is not present.
    (b) In the case of such a continuation, the intervening days will not be counted as part of any time period within which the Development Review Board is required to act.
(5) Development Review Board members must not communicate directly or indirectly with any applicant, interested person, or their representative regarding a matter that is under consideration except during a properly noticed hearing.

3.10.4 Recessing a Hearing

(1) The Development Review Board may recess a hearing pending submission of additional

information necessary to determine compliance with these regulations or upon the applicant's request.

(2) If the Development Review Board recesses a hearing to a specific date and time, the hearing will not have to be warned again when resumed.

3.11 Decisions

3.11.1 Deliberations. The Development Review Board may deliberate and make a decision on the application either in open public session or in a closed deliberative session.

3.11.2 Time to Act. Within 45 days of closing a hearing, the Development Review Board must issue a written decision to approve, approve with conditions, or deny the application.

3.11.3 Deemed Approval. If the Development Review Board does not issue a decision within 45 days of closing a hearing, the applicant may file an appeal with the Environmental Division of the Vermont Superior Court to recognize the board's failure to act resulted in a "deemed approval" of the application.

3.11.4 Findings and Conclusions. The written decision must include a statement of the facts upon which the Development Review Board is basing its decisions and a statement of conclusions relating to the applicable review criteria and standards of this ordinance.

3.11.5 Conditions of Approval. The Development Review Board:

(1) May attach any conditions it deems necessary to an approval to achieve the purposes of this ordinance including, but not limited to:
   (a) Specific performance standards such as limitations on hours of operation, noise, light or other off-site impacts;
   (b) Required improvements to public facilities or infrastructure to serve the proposed development;
   (c) Schedule or phasing of development;
   (d) Inspection or monitoring; and
   (e) Performance bonds in accordance with Section 2.11.4.

(2) Must specifically describe any conditions or limitations in the written decision. Any conditions attached to the Development Review Board's approval will be considered part of any subsequent zoning permit issued by the Zoning Administrator for the approved land development.

3.11.6 Submittal of Revised Plans. If the Development Review Board attaches conditions on an approval that require amendments to a site or subdivision plan, the applicant must submit an amended site or subdivision plan that satisfies those conditions prior to Zoning Administrator issuing a certificate of compliance. The Development Review Board may require a revised site plan prior to the issuance of a zoning permit for an approved site plan.

3.11.7 Notification and Filing. The Development Review Board must:

(1) Send a copy of the decision to the applicant and any interested party that testified at the hearing by certified mail;
(2) Send a copy of the decision to all others who participated in the hearing; and
(3) File a copy of the decision with the Zoning Administrator.

3.11.8 Effect and Expiration. If the approved land development or use is:

(1) Not substantially completed or commenced before the zoning permit expires as established in Section 2.9.11, the development approval will expire with the zoning permit.
(2) Substantially completed or commenced before the zoning permit expires as established in

Section 2.9.11, the development approval will remain in effect unless the use is abandoned or discontinued as established in Section 2.5. Development Review Board approvals and any related conditions run with the land and remain in effect irrespective of whether the property changes ownership.

3.12 Appeals

3.12.1 Who May Appeal

An interested person may appeal an action taken or decision made, under this ordinance as specified in this subsection. For the purposes of this ordinance, an interested person is:

(1) An applicant who alleges that this ordinance imposes unreasonable or inappropriate restrictions on the existing or future use of his/her property, or that the action taken or decision made is not in accordance with this ordinance.
(2) The Town of Manchester or any adjoining municipality.
(3) A person owning or occupying property in the immediate neighborhood of proposed land development who can demonstrate:
  (a) A physical or environmental impact on his/her interests;
  (b) That the action taken or decision made is not in accord with the policies, purposes, or terms of this ordinance or the *Manchester Town Plan*, as most recently adopted; and
  (c) That he/she participated in any Development Review Board hearing conducted prior to the action or decision made.
(4) Any combination of at least 10 voters or landowners in the Town of Manchester who by signed petition allege that the action taken or decision made is not in accord with the policies, purposes, or terms of this ordinance or the *Manchester Town Plan*, as most recently adopted.
(5) Any department or administrative subdivision of the state that owns property or interest in property in the Town of Manchester, and the Vermont Agency of Commerce and Community Development.

3.12.2 Appeals of Zoning Administrator Decisions

(1) An interested person may appeal any action or decision of the Zoning Administrator to the Development Review Board by submitting a notice of appeal and any applicable fees with the Manchester Town Clerk within 15 days of the date of the Zoning Administrator's action or decision.
(2) The Town Clerk will forward the notice of appeal to the Planning and Zoning Office.
(3) A notice of appeal must be in writing and must include all of the following information:
  (a) The name and address of the appellant (the person filing the appeal).
  (b) A copy of the Zoning Administrator's decision or description of the action (if appealing zoning permit, also include a copy of the permit application);
  (c) A brief description of the subject property;
  (d) A reference to any sections of these regulations that the appellant alleges the Zoning Administrator has not properly followed or applied; and
  (e) A statement of the relief the appellant is requesting and why the appellant believes the requested relief to be appropriate under the circumstances.
(4) If an appeal is filed by a group of persons, then the notice of appeal must designate one person to serve as a representative of the group regarding all matters related to the appeal.
(5) The appellant may request a stay of enforcement as part of the notice of appeal by including a sworn statement that irremediable damage will directly result if the Development Review Board does not grant the stay.
(6) Upon receipt of a complete notice of appeal, the Development Review Board must:
  (a) Hold a public hearing and act on the appeal in accordance with Section 3.10.
  (b) Reject the appeal without a hearing and render a decision within 10 days of the appellant filing the notice, if the Development Review Board determines that it decided the issues in an earlier appeal.

(7) An appeal to the Development Review Board is the exclusive remedy for an interested person with respect to an action or decision of the Zoning Administrator.
(8) If no interested person appeals the Zoning Administrator's action or decision to the Development Review Board within 15 days, the action or decision will not be able to be contested at a later time.

3.12.3 Appeals of Development Review Board Decisions

(1) Any interested person who participated in a hearing on a matter before the Development Review Board may appeal the board's action or decision to the Environmental Division of the Vermont Superior Court within 30 days of the date of the board's action or decision.
(2) The appellant must send a notice of appeal to every interested person who participated in the hearing by certified mail. The Zoning Administrator must provide a prospective appellant with the interested person list upon request.
(3) If the Zoning Administrator has issued a zoning permit based on a Development Review Board approval, the appeal of that approval will be considered an appeal of the zoning permit as well and the applicant must not commence any use or development authorized by the zoning permit until the appeal is resolved.
(4) An appeal to the Environmental Division of the Vermont Superior Court is the exclusive remedy for an interested person with respect to an action or decision of the Development Review Board except as otherwise provided by state statute.
(5) If no interested person appeals a Development Review Board action or decision to the Environmental Division of the Vermont Superior Court within 30 days, all interested persons will be bound by that action or decision and will not be able to contest it at a later time.

Section 4 Zoning Districts

4.1 General Provisions

4.1.1 Establishment of Base Zoning Districts

This ordinance establishes the following basic zoning districts as shown on the Official Zoning Map and described herein:

(1) Downtown (DN)
(2) Town Center (TC)
(3) Mixed Use 1 (MU1)
(4) Mixed Use 2 (MU2)
(5) Mixed Use 3 (MU3)
(6) Office Industrial (OI)
(7) Residential 10 (R10)
(8) Residential 4 (R4)
(9) Residential 1 (R1)
(10) Rural Residential (RR)
(11) Rural Agricultural (RA)
(12) Forest Conservation (FC)

4.1.2 Establishment of Overlay Zoning Districts

This ordinance establishes the following overlay zoning districts as described herein:

(1) Design Review Overlay (DRO)
(2) Aquifer Protection Overlay (APO)
(3) Flood Hazard Overlay (FHO)

4.1.2 Official Zoning Map

Manchester's Official Zoning Map delineates the boundaries of the twelve basic zoning districts. Boundaries of the Flood Hazard Overlay (FHO) are based on FEMA National Flood Hazard Layer map data. Boundaries of the Aquifer Protection Overlay (APO) are based on map data available from the Vermont Agency of Natural Resources (ANR) online Natural Resource Atlas depicting active source protection areas. Maps delineating the boundaries of the various base and overlay zoning districts established in sections 4.1.1 and 4.1.2 are incorporated by reference into this ordinance and adopted as part of this ordinance.

The Official Zoning Map is on file in the town clerk's office. Unofficial versions of the maps included in this ordinance and available from the town website are for convenience only. The Official Zoning Map must be used for all measurements and interpretations of the basic district boundaries. FEMA National Flood Hazard Layer map data and ANR river corridor map data must be used for all measurements and interpretations of the FHO boundaries. Measurements and interpretations of the APO boundaries must use active source protection area data as provided on the ANR Natural Resources Atlas.

If a specific distance or measurement is not shown on the map, the Zoning Administrator will interpret any Official Zoning Map boundaries indicated as approximately following:

(1) Streets, railroad lines, power lines or rights-of-way to follow the centerlines of such streets, railroad lines, power lines or rights-of-way.
(2) Lot lines or municipal boundaries to follow such lines or boundaries.
(3) Rivers, streams or water bodies to follow the centerlines of such rivers, streams or water bodies.

The Zoning Administrator will interpret any of the features listed above to be located where they exist on

the ground or as shown on a survey at the time of the interpretation if they vary from their depiction on the Official Zoning Map except that a boundary line adjustment or subdivision that changes the location of a lot line will not change the location of any zoning district boundary indicated as following that lot line.

4.2 Downtown District (DN)

4.2.1 Purpose. The Town of Manchester intends for the Downtown District to provide concentrated downtown retail, service, office, upper floor housing, and other compatible mixed uses in the town's historic commercial center. Proposed land development must conform to design and historic preservation standards in order to maintain neighborhood commercial scale, pedestrian activity, architectural character and the traditional built pattern. The purpose of this district is to:

(1) Promote of the long-term economic and social vitality of the historic downtown;
(2) Provide for the daily needs and services of the community, as well as contributing to the town's visitor-based economy;
(3) Provide economic development opportunities through service, office, locally-oriented retail, dining and other compatible commercial and light industrial uses;
(4) Provide housing opportunities within walking distance of employment, service and retail opportunities;
(5) Ensure that new buildings and significant renovations are compatible with the historic architectural framework of the historic downtown; and
(6) Promote a quality, urban streetscape and pedestrian-friendly environment.

4.2.2 Uses. Section 4.17 establishes the permitted and conditional uses for this district.

4.2.3 Drive Through Services: Food service drive-throughs are prohibited and all other drive-through service will require conditional use approval.

4.2.4 Dimensional Standards. Section 4.18 establishes the dimensional standards for this district. New principal buildings must be constructed with a functional second story.

4.2.5 Density Standards. Section 4.18 establishes allowed residential density for this district.

4.2.6 Character Examples. The images below are intended to illustrate the form and character of development that is appropriate and desired in this district:

4.3 Town Center District (TC)

4.3.1 Purpose. The Town of Manchester intends for the Town Center District to provide an area for the most intensive commercial activity and mixed-use development in Manchester. Proposed land development must conform to design standards in order to enhance neighborhood commercial scale, pedestrian activity, and architectural character. The purpose of this district is to:

(1) Promote the long-term economic and social vitality of Manchester's town center;
(2) Support the town's visitor-based economy, as well as providing for the daily needs and services of the community;
(3) Provide economic development opportunities through retail, dining, service, office and other compatible commercial and light industrial uses;
(4) Encourage creation of housing within walking distance of employment, service and retail opportunities;
(5) Encourage mixed-use infill and redevelopment that increases the value of buildings and property;
(6) Ensure that new buildings are compatible with the architectural framework of Manchester's town core and preserve a human scale; and
(7) Promote a quality, urban streetscape and pedestrian-friendly environment.

4.3.2 Uses. Section 4.17 establishes the permitted and conditional uses for this district. In addition, industrial uses must include a retail space from which at least 50% of the products manufactured on the premises are sold direct to consumers.

4.3.3 Drive Through Services. All drive-through service will require conditional use approval in the Town Center District.

4.3.4 Dimensional Standards. Section 4.18 establishes the dimensional standards for this district. New principal buildings must be constructed with a functional second story.

4.3.5 Density Standards. Section 4.18 establishes allowed residential density for this district.

4.3.6 Character Examples. The images below are intended to illustrate the form and character of development that is appropriate and desired in this district:

4.4 Mixed Use 1 District (MU1)

4.4.1 Purpose. The Town of Manchester intends for the Mixed Use 1 District to provide a mix of uses within historic neighborhoods in the town core. Proposed land development must conform to design and historic preservation standards in order to maintain neighborhood scale, pedestrian-friendly connectivity, architectural character, and the traditional built pattern. The purpose of this district is to:

(1) Promote the long-term economic and social vitality of Manchester's historic neighborhoods;
(2) Provide for the daily needs and services of the community, as well as contribute to the town's visitor-based economy;
(3) Provide economic development opportunities through small-scale, low-impact retail, service, office, and other business activities that are compatible with nearby residential uses;
(4) Provide a broad range of housing opportunities within walking distance of employment, service, and retail opportunities;
(5) Ensure that new buildings and significant renovations are compatible with the historic architectural framework of Manchester's neighborhoods; and
(6) Promote a quality streetscape and pedestrian-friendly environment.

4.4.2 Uses. Section 4.17 establishes the permitted and conditional uses for this district.

4.4.3 Drive Through Services: Prohibited.

4.4.4 Dimensional Standards. Section 4.18 establishes the dimensional standards for this district. New principal buildings must be constructed with a functional second story.

4.4.5 Density Standards. Section 4.18 establishes allowed residential density for this district.

4.4.6 Character Examples. The images below are intended to illustrate the form and character of development that is appropriate and desired in this district:

4.5 Mixed Use 2 District (MU2)

4.5.1 Purpose. The Town of Manchester intends for the Mixed Use 2 District to provide an opportunity for growth in areas within or adjacent to the town core that are currently served by public infrastructure or where infrastructure could reasonably be provided. The purpose of this district is to:

(1) Provide economic development opportunities through office, service, lodging, and other compatible, primarily non-retail commercial and light industrial uses;
(2) Provide opportunities for new compact residential neighborhoods and a range of housing opportunities in proximity to the town core;
(3) Ensure that proposed land development incorporates access management and avoids congestion; and
(4) Promote a quality streetscape and pedestrian-friendly environment.

4.5.2 Uses. Section 4.17 establishes the permitted and conditional uses for this district.

4.5.3 Drive Thru Services. Food service drive-throughs are prohibited and all other drive-through service requires conditional use approval.

4.5.4 Dimensional Standards. Section 4.18 establishes the dimensional standards for this district.

4.5.5 Density Standards. Section 4.18 establishes allowed residential density for this district.

4.5.6 Character Examples. The images below are intended to illustrate the form and character of development that is appropriate and desired in this district:

4.6 Mixed Use 3 District (MU3)

4.6.1 Purpose. The Town of Manchester intends for the Mixed Use 3 District to provide visitor-serving, primarily non-retail uses such as dining, lodging and recreation, and other compatible uses along the main highways. Proposed land development must conform to design standards in order to maintain and enhance community character. The purpose of this district is to:

(1) Support the town's visitor-based economy, as well as providing amenities that enhance quality of life in the community;
(2) Ensure that proposed land development incorporates access management and avoids congestion; and
(3) Promote quality site and building design to mitigate the effects of linear commercial development, and maintain community character and limit sprawl.

4.6.2 Uses. Section 4.17 establishes the permitted and conditional uses for this district.

4.6.3 Drive Through Services. Require conditional use approval.

4.6.4 Dimensional Standards. Section 4.18 establishes the dimensional standards for this district.

4.6.5 Density Standards. Section 4.18 establishes allowed residential density for this district.

4.6.6 Character Examples. The images below are intended to illustrate the form and character of development that is appropriate and desired in this district:

4.7 Office Industrial District (OI)

4.7.1 Purpose. The Town of Manchester intends for the Office Industrial District to provide opportunities for diversifying the town's economy and accommodating the growth of local businesses. The purpose of this district is to promote Manchester's long-term economic vitality by providing locations for primarily non-retail, non-visitor-based office, service, and light industrial uses.

4.7.2 Uses. Section 4.17 establishes the permitted and conditional uses for this district.

4.7.3 Drive-Through Services. Require conditional use approval.

4.7.4 Dimensional Standards. Section 4.18 establishes dimensional standards for this district.

4.7.5 Character Examples. The images below are intended to illustrate the form and character of development that is appropriate and desired in this district:

4.8 Residential 10 District (R10)

4.8.1 Purpose. The Town of Manchester intends for the Residential 10 District to provide opportunities for high-density and multi-family housing within the town core. Proposed land development must conform to design standards in order to maintain and enhance neighborhood character. The purpose of this district is to:

(1) Provide a broad range of housing opportunities within walking distance of employment, service, and retail opportunities;
(2) Ensure that new buildings are compatible with the architectural framework of Manchester's neighborhoods and preserve a human scale; and
(3) Promote a quality streetscape and pedestrian-friendly environment.

4.8.2 Uses. Section 4.17 establishes the permitted and conditional uses for this district.

4.8.3 Drive-Through Services. Prohibited.

4.8.4 Dimensional Standards. Section 4.18 establishes the dimensional standards for this district.

4.8.5 Character Examples. The images below are intended to illustrate the form and character of development that is appropriate and desired in this district:

4.9 Residential 4 District (R4)

4.9.1 Purpose. The Town of Manchester intends for the Residential 4 District to provide opportunities for medium- to high-density residential neighborhoods within the town core. The purpose of this district is to provide a broad range of housing opportunities in quality neighborhoods.

4.9.2 Uses. Section 4.17 establishes the permitted and conditional uses for this district.

4.9.3 Drive-Through Services. Prohibited.

4.9.4 Dimensional Standards. Section 4.18 establishes the dimensional standards for this district.

4.9.5 Density Standards. Section 4.18 establishes allowed residential density for this district.

4.9.6 Character Examples. The images below are intended to illustrate the form and character of development that is appropriate and desired in this district:

4.10 Residential 1 District (R1)

4.10.1 Purpose. The Town of Manchester intends for the Residential 1 District to provide opportunities for moderate density residential neighborhoods within and adjacent to the town core.

4.10.2 Uses. Section 4.17 establishes the permitted and conditional uses for this district.

4.10.3 Drive-Through Services. Prohibited.

4.10.4 Dimensional Standards. Section 4.18 establishes the dimensional standards for this district.

4.10.5 Density Standards. Section 4.18 establishes allowed residential density for this district.

4.10.6 Character Examples. The images below are intended to illustrate the form and character of development that is appropriate and desired in this district:

4.11 Rural Residential District (RR)

4.11.1 Purpose. The Town of Manchester intends for the Rural Residential District to provide opportunities for low density housing in a rural setting, as well as recreation, natural resource, local food production, or skilled trades oriented commercial activity where impacts to neighboring residential uses are minimal.

4.11.2 Uses. Section 4.17 establishes the permitted and conditional uses for this district. Conditional uses shall be allowed only on parcels of 4 or more acres.

4.11.3 Drive-Through Services. Prohibited.

4.11.4 Dimensional Standards. Section 4.18 establishes the dimensional standards for this district.

4.11.5 Density Standards. Section 4.18 establishes allowed residential density for this district.

4.11.6 Character Examples. The images below are intended to illustrate the form and character of development that is appropriate and desired in this district:

4.12 Rural Agricultural District (RA)

4.12.1 Purpose. The Town of Manchester intends for the Rural Agricultural District to provide opportunities for agriculture and other natural resource based or local food production uses, as well as associated agricultural, recreational, or silvicultural enterprises, low density housing in a rural setting, and housing for people engaged in agriculture.

4.12.2 Uses. Section 4.17 establishes the permitted and conditional uses for this district.

4.12.3 Drive-Through Services. Prohibited.

4.12.4 Dimensional Standards. Section 4.18 establishes the dimensional standards for this district.

4.12.5 Density Standards. Section 4.18 establishes allowed residential density for this district.

4.12.6 Character Examples. The images below are intended to illustrate the form and character of development that is appropriate and desired in this district:

4.13 Forest Conservation District (FC)

4.13.1 Purpose. The Town of Manchester intends for the Forest Conservation District to protect the public and private forested slopes that define the eastern and western sides of town and maintain opportunities for recreation uses and properly managed forestry operations.

4.13.2 Uses. Section 4.17 establishes the permitted and conditional uses for this district.

4.13.3 Dimensional Standards. Section 4.18 establishes the dimensional standards for this district.

4.13.4 Character Examples. The images below are intended to illustrate the form and character of development that is appropriate and desired in this district:

4.14 Use Standards

4.14.1 Uses. A proposed land use must be shown on the use table (Section 4.17) as a permitted or conditional use in the applicable zoning district unless the subject use is a nonconformity and the proposed land development is in conformance with the requirements of Section 2.8.

4.14.2 Prohibited Uses. A use not specifically listed as permitted or conditional in a zoning district on the use table (Section 4.17) is prohibited unless the applicant demonstrates to the Zoning Administrator that the unlisted use:

(1) Is materially similar to a listed use in the same zoning district in accordance with Section 4.17; or
(2) Is required to be permitted in a zoning district by state or federal law.

4.14.3 Materially Similar Uses. The Zoning Administrator may make a written determination that a proposed use not shown on the use table (Section 4.17) is materially similar to a use listed as permitted or conditional in the applicable zoning district and that it should be allowed to the same extent and subject to the same standards as that permitted or conditional use if it has:

(1) Similar impacts on the neighborhood such as traffic, noise, and lighting as that listed use; and
(2) Similar characteristics such as building type, site arrangement, floor area, number of employees, customer traffic, equipment use, hours of operation, parking, vehicle trips, and signage as that permitted or conditional use.

4.14.3 Multiple and Mixed Uses. A landowner may use a lot or structure for any combination of uses allowed as permitted or conditional uses in the applicable zoning district.

4.14.4 Accessory Uses. A landowner must obtain a zoning permit to establish one or more accessory uses on a lot in accordance with the standards below:

(1) The total area occupied by all the accessory uses on the lot must not exceed 40% of the total area occupied by the associated principal use. For principal uses conducted primarily indoors, this calculation will be based on gross floor area occupied within the building(s) by each use. For principal uses conducted primarily outdoors, this calculation will be based on lot area occupied by each use.
(2) An accessory use must be:
    (a) A permitted or conditional use in the applicable zoning district;
    (b) Specifically authorized as an allowed accessory use to the applicable principal use in this ordinance; or
    (c) Approved by the Development Review Board in accordance with the procedures for conditional use review.
(3) Accessory retail sales must occur primarily within an enclosed structure and any outdoor display of goods for sale must conform to the standards of Section 6.15.
(4) For service uses, accessory retail sales must be limited to products associated with the service (for example, sale of hair care products at a salon).
(5) For manufacturing uses, accessory retail sales must be limited to products made or assembled on the premises.
(6) A landowner must also obtain site plan approval for any accessory uses if the principal use of the lot is not a single- or two-family dwelling.
(7) The standards of this subsection do not apply to accessory dwellings, home occupations, home businesses, and family childcare homes.

4.15 Dimensional Standards

4.15.1 Applicability. Land development must conform to the dimensional standards for the applicable zoning district unless:

(1) A subject lot or structure is a nonconformity and the proposed land development is in conformance with the requirements of Section 2.8;
(2) The applicant obtains a waiver (Section 3.6) or variance (Section 3.7) from the Development Review Board; or
(3) The proposed land development will be approved as a planned unit development (which includes planned residential development) in accordance with the provisions of this ordinance.
(4) The proposed land development will be approved as an affordable housing project in accordance with Section 8.2, or a workforce housing project in accordance with Section 8.7.

4.15.2 Principal Buildings. Landowners may locate more than one principal building on a lot in accordance with the following standards:

(1) The total amount of development on the lot must not exceed the maximum density or coverage allowed in the district.
(2) There must not be more than two detached single- or two-family dwellings on any lot unless approved as part of a planned unit development (which includes planned residential development) in accordance with the provisions of this ordinance.
(3) Each principal building must meet the applicable dimensional standards of the zoning district.
(4) The distance between principal buildings must not be less than twice the side setback required in the zoning district, unless they are attached.
(5) Approval of multiple principal buildings on a lot will not constitute a right to separately convey those structures unless:
    (a) The subject lot will be lawfully subdivided in accordance with the provisions of this ordinance.
    (b) The buildings will be lawfully converted to condominium ownership, which may include the subdivision of footprint lots.

4.15.3 Accessory Structures. A landowner must obtain a zoning permit to locate one or more accessory structures on a lot in accordance with the standards below:

(1) Accessory structures must meet the front setback requirements shown in the dimensional requirements table (Section 4.18) for the applicable zoning district.
(2) Accessory structures with a footprint of not more than 200 square feet and a height of not more than 12 feet must be set back at least 5 feet from rear and side property lines, or the minimum setback requirements for the district they are located, whichever is less.
(3) Accessory structures with a footprint in excess of 200 square feet or a height in excess of 12 feet must be set back at least 15 feet from rear and side property lines, or the minimum setback requirements for the district they are located, whichever is less.
(4) Accessory structures must be located at least 5 feet from any other structure unless they are attached to that structure.
(5) Accessory structures must not exceed a maximum height of 25 feet or the height of an associated principal building, whichever is less, except as specifically authorized in this ordinance.

Figure 4-1 Dimensional Standards for Accessory Structures					
	May encroach into District Setback			Minimum Setback*	Maximum Height*
Structure Type	Front	Side	Rear		
Arbors	X	X	X	0 ft	15 ft
Berms	X	X	X	0 ft	10 ft
Detached decks and patios		X	X	10 ft	-
Detached garages and carports		X	X	10 ft	15 ft
Driveways	X	X	X	0 ft	-
Fences and gates	X	X	X	0 ft	See §6.12
Fire escapes, access ramps, and the like	X	X	X	0 ft	-
Flagpoles	X	X	X	5 ft	30 ft
Freestanding signs	X	X		See §10	See §10
Heating, cooling, mechanical equipment		X	X	10 ft	-
Mailboxes	X	X	X	0 ft	5 ft
Parking areas				district min	-
Swimming pools, hot tubs		X	X	10 ft	-
Retaining walls of up to 4 ft	X	X	X	0 ft	4 ft
Sheds, pool houses, saunas, playhouses or treehouses <200sf		X	X	5 ft	12 ft
Sidewalks	X	X	X	0 ft	-
Sports, exercise, or play structures	X	X	X	5 ft	15 ft
Stormwater Structures	X	X	X	5 ft	-
Vending machines, or kiosks				district min	15 ft

* Lesser of the following or district minimum

4.15.4 Lot Size. Lot size will be regulated in accordance with the following:

(1) Any lot created under this ordinance must meet the minimum lot size requirement for the applicable zoning district unless approved as part of a planned unit development or planned residential development in accordance with the provisions of this ordinance.
(2) An existing nonconforming lot may be developed in accordance with Section 2.8.3 irrespective of whether it will comply with the minimum lot size standard for the applicable zoning district.
(3) An existing nonconforming lot must not be reduced in size below the minimum lot size requirement for the applicable zoning district unless the reduction is the result of land being acquired for a public purpose by eminent domain (for example, due to street widening).
(4) A lot that will include land in more than one zoning district must meet the minimum lot size requirement for the zoning district in which the portion of the lot with street frontage is located. If the lot has street frontage in more than one zoning district, the lot must meet the largest minimum lot size requirement for the multiple districts.

4.15.5 Frontage. All lots must front on a public or private road as specified in each zoning district and in accordance with the following:

(1) **Existing Nonconforming Lots.** An existing lot without the minimum required frontage on a maintained public or private street must have access to such a street over a permanent easement or right-of-way not less than 20 feet wide for single-and two-family residential lots and 40 feet wide for all other lots. If the lot has more than 20 feet of frontage for single-and two-family residential use, or more than 40 feet for all other uses, an easement or right-of-way is not necessary.

(2) **Corner Lots.** Lots that front on more than one street will only be required to meet minimum

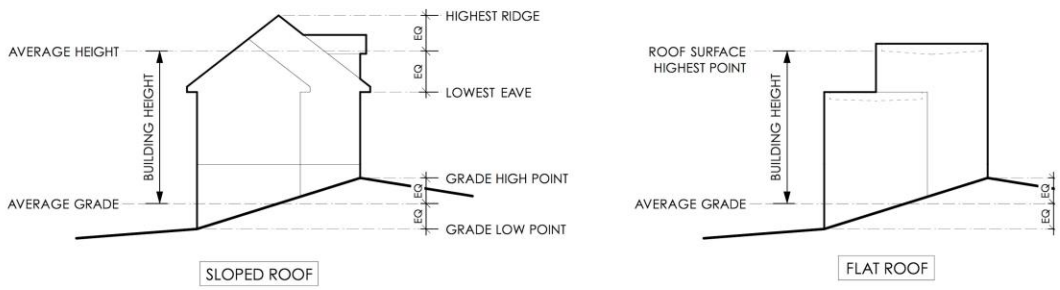
frontage requirements on one street.

(3) **New Lots.** All new lots created under these regulations must have the minimum frontage on a maintained public or private street unless the Development Review Board:
   (a) Approves a lot with less frontage as part of a planned unit development in accordance with the provisions of this ordinance;
   (b) Approves a waiver to reduce the frontage requirement to not less than 20 feet for irregularly shaped lots or lots accessed by a shared driveway; or
   (c) Approves a waiver to reduce or eliminate the frontage requirement for lots restricted to agriculture, forestry or open spaces uses through a legally enforceable and permanent means such as a conservation easement.

4.15.6 Setbacks. All land development and structures subject to this ordinance must be set back from streets and property lines as shown in the dimensional table (Section 4.18) unless otherwise specified in this ordinance. Lots with frontage on more than one street must meet front setback requirements on each street, and must meet side setback requirements on the remaining sides.

4.15.7 Height. No structure subject to these regulations may exceed district height limits as specified below unless otherwise specified in these regulations:

(1) When building height is measured, the measurement will be taken from the average finished grade around the building foundation or base of the structure to the roof deck for buildings with flat roofs, to the average height between the eaves and gable for sloped roofs, and to the highest point for other structures. This measurement will exclude the elements listed in 4.15.7(4) below.



(2) Minimum and maximum height requirements for principal structures are shown in the dimensional table (Section 4.18) for each zoning district.

(3) Accessory structures must not exceed a height of 25 feet or the height of the associated principal structure, whichever is less.

(4) Height limits do not apply to:
   (a) Belfries, spires, steeples, cupolas, domes or similar architectural features not used for human habitation; and
   (b) Skylights, parapet walls, cornices, chimneys, ventilators, bulkheads, or mechanical equipment usually located on the roof level, provided that such features are limited to the height necessary for their proper functioning.
   (c) Flag poles, light poles, antenna support structures and similar freestanding structures not located within public rights-of-way.

(5) For buildings exceeding 35 feet in height, that portion of the building exceeding 30 feet from the average grade along the façade must be setback by at least 10 feet from the façade. This applies to both façades on corner lots.

(6) Where a minimum building height is specified:
   (a) Buildings with a footprint of 6,000 square feet or less must maintain that height along the entire façade and for a depth of at least 30 feet or depth of building, whichever is less.
   (b) Buildings with a footprint of more than 6,000 square feet must maintain that height along at least 30% of the façade and for a depth of at least 30 feet or depth of the building, whichever is less.

(7) Where a functional second story is required, the following shall apply:
   (a) The functional second story must be a minimum of 30% of the first floor area of the primary structure.
   (b) The majority of the functional second story must be along the primary streetside façade.
   (c) The functional second story may be waived by the Development Review Board if one or more of the following conditions exist:
      (i) The footprint of the structure is less than 2,000 square feet.
      (ii) There is a primary structure on the lot that contains a functional second story and the footprint of the proposed structure is at least 50% less than that of the primary structure.
      (iii) The primary first floor use is incompatible with a second story use.
   (d) If the requirement for a functional second story is waived, the building must provide a gable roof, parapet, dormer, or other architectural feature that adds verticality to the structure at the primary streetside façade.

4.16 Residential Density Standards

The number of dwelling units on a lot must not exceed the maximum density specified in Section 4.18 for the applicable zoning district except:

(1) Accessory apartments approved under Section 6.2 will not count as a dwelling unit for the purposes of calculating density.
(2) Any single-family dwelling on a conforming lot in the town core may be converted to a two-family dwelling irrespective of the district density standard provided that all other applicable standards of this ordinance are met.
(3) A pre-existing small lot may be developed in accordance with Section 2.8 irrespective of whether it will comply with the residential density standard for the applicable district.
(4) Adaptive reuse of an existing nonresidential structure approved according to Section 8.1;
(5) Affordable housing development approved according to Section 8.2;
(6) Planned Residential Development approved according to Section 8.6; and
(7) Planned Unit Development approved according to Section 11.8.

4.17 Use Table

USE & DEFINITION *P = Permitted Use C = Conditional Use – = Use Not Allowed*	**DN**	**TC**	**MU1**	**MU2**	**MU3**	**OI**	**R10**	**R4**	**R1**	**RR**	**RA**	**FC**
RESIDENTIAL												
Single-family dwelling A detached, single-unit structure for habitation by one household that provides complete independent living facilities including permanent provisions for living, sleeping, eating, cooking and sanitation.	–	–	P	P	P	–	P	P	P	P	P	–
Two-family dwelling A two-unit structure for habitation by two households each in a unit that provides complete independent living facilities including permanent provisions for living, sleeping, eating, cooking and sanitation, and with each unit having a separate entrance from the outside or through a common vestibule (also known as a duplex).	–	–	P	P	P	–	P	P	P	P	–	–
Attached dwelling A single-unit dwelling for habitation by one household that provides complete independent living facilities including permanent provisions for living, sleeping, eating, cooking and sanitation, which is attached to another single-unit dwelling in a row of at least three such dwellings with one or more common walls and with each dwelling having its own front and rear access to the outside (also known as a townhouse).	–	–	P	P	C	–	P	P	C	C	–	–
Multi-family dwelling Use of a structure or part of a structure for habitation by three or more households each in a unit that provides complete independent living facilities including permanent provisions for living, sleeping, eating, cooking and sanitation, or any dwelling unit in a mixed-use building.	P	P	P	P	–	–	P	–	–	–	–	–
Accessory dwelling Accessory use of single-family residential property for a second dwelling unit that provides complete independent living facilities including permanent provisions for living, sleeping, eating, cooking and sanitation.	–	–	P	P	P	–	P	P	P	P	P	–
Customary Home Occupation (CHO) Accessory use of single-family residential property for a small business that does not alter the residential character of the property.	–	–	P	P	P	–	P	P	P	P	P	–
Family childcare home Accessory use of single-family residential property for a small daycare business operated by a resident of the dwelling under state license or registration.	–	–	P	P	P	–	P	P	P	P	P	–
Retirement housing Use of one or more structures to primarily house people age 55 or older that: (a) contains multiple dwelling units each intended for habitation by one household and providing complete independent living facilities including permanent provisions for living, sleeping, eating, cooking and sanitation; and (b) may offer minimum convenience services to residents as an accessory use.	–	C	P	P	C	–	P	P	P	P	–	–
Assisted living Use of one or more structures to provide housing, board and care to residents who need assistance with daily activities such as dressing, grooming, bathing, etc. and that operates under state license (includes residential care homes).	–	C	C	C	C	–	C	C	–	–	–	–
Skilled nursing service Use of one or more structures to provide housing and 24-hour skilled nursing care to residents and that operates under state license (includes nursing and convalescent homes, and hospice facilities).	–	C	–	C	C	–	–	C	–	–	–	–
Group home Use of single-family residential property to provide housing to people with disabilities that operates under state license or registration.	–	–	P	P	P	–	P	P	P	P	P	–
Residential treatment facility Use of one or more structures to provide housing and 24-hour supervision and care of patients receiving therapy for substance abuse, mental illness or other behavioral problems.	–	–	–	C	C	–	–	–	–	–	–	–
Dormitory Use of one or more structures by an educational institution to provide housing for students of the school.	P	P	C	P	C	–	C	C	–	–	–	–

USE & DEFINITION *P = Permitted Use C = Conditional Use – = Use Not Allowed*	**DN**	**TC**	**MU1**	**MU2**	**MU3**	**OI**	**R10**	**R4**	**R1**	**RR**	**RA**	**FC**
Boarding house A single-family residential property in which rooms are rented to six or more persons to serve as the boarder's principal residence. Meals, housekeeping, or laundry services are commonly provided.	–	–	P	P	P	–	P	P	P	C	C	–
LODGING												
Bed-and-breakfast Accessory use of single-family residential property to provide short-term accommodations for travelers that may have not more than five guestrooms.	–	–	P	P	P	–	P	P	P	C	C	–
Inn Owner occupied use of one or more structures to provide short-term accommodations for travelers. May include a restaurant, bar, event facility, spa or fitness club as an accessory use. Inns must not exceed 25 guest rooms.	–	–	P	P	P	–	C	–	–	C	C	–
Hotel or motel Use of one or more structures to provide short-term accommodations for travelers. It may also include accessory uses such as food services, recreational services, convention hosting, laundry services, etc.	P	P	P	P	P	–	–	–	–	–	–	–
Resort Use of one or more structures to provide short-term accommodations for transient guests where the primary attraction is recreational amenities or activities. It may also include accessory uses such as food services, recreational services, convention hosting, laundry services, etc.	–	P	–	P	P	–	–	–	–	C	C	–
COMMERCIAL												
Retail sales An establishment that sells goods to the general public for personal or household consumption primarily from within an enclosed structure, excluding any use specifically defined in this use table. It may also provide installation, repair or maintenance services as an accessory use.	P	P	C	–	–	–	–	–	–	–	–	–
Fueling station A specialized establishment for selling gasoline or other vehicle fuels. Commonly combined with other retail uses such as a carwash or convenience store, or with an auto repair and service garage. This definition specifically excludes truck or freight transportation.	–	C	–	–	–	–	–	–	–	–	–	–
Carwash A specialized establishment for washing, waxing, polishing and general cleaning of vehicles. This definition specifically excludes truck or freight transportation.	–	C	–	–	–	–	–	–	–	–	–	–
Repair service An establishment that maintains, services, repairs or paints goods such as appliances, vehicles, boats, equipment or machinery. This definition specifically excludes truck or freight transportation.	–	C	C	C	C	C	–	–	–	–	–	–
Open lot sales or rentals An establishment that sells or rents large items such as vehicles, boats, equipment, machinery, manufactured homes or prefabricated buildings primarily from an open lot. It may also provide installation, repair or maintenance services as an accessory use.	–	C	–	C	–	C	–	–	–	–	–	–
Lawn, garden and farm supply sales An establishment that sells goods to the general public for personal or household consumption primarily from outdoor areas or open air structures (excluding any use specifically defined in this use table) that sells specialized products and services for lawn, garden, or farm use. It may: (a) sell farm supplies such as feed and seed; (b) sell nursery and garden products, such as trees, shrubs, plants, seeds, bulbs, soil, compost, mulch, or sod; (c) sell lawn, garden or farm equipment or machinery as an accessory use; and (d) provide installation, repair or maintenance services as an accessory use.	–	P	–	C	C	C	–	–	–	C	C	–
Lumberyard and building supply sales An establishment that sells lumber and heavy building materials, and that typically stores stock outdoors or under open-air structures.	–	P	–	–	–	P	–	–	–	–	–	–
Grocery store An establishment that sells food or beverage items to the general public primarily not for immediate consumption. It may offer prepared foods or drinks for immediate consumption either on-site or for take-out as an accessory use.	P	P	P	–	–	–	–	–	–	–	–	–

USE & DEFINITION *P = Permitted Use C = Conditional Use – = Use Not Allowed*	**DN**	**TC**	**MU1**	**MU2**	**MU3**	**OI**	**R10**	**R4**	**R1**	**RR**	**RA**	**FC**
Convenience store An establishment that sells a limited line of staple food, packaged food, and convenience items primarily for off-site consumption. It may offer prepared foods or drinks for immediate consumption either on-site or for take-out as an accessory use.	P	P	–	–	–	–	–	–	–	–	–	–
Beer, wine or liquor store An establishment that sells packaged alcoholic beverages for off-site consumption.	P	P	C	–	–	–	–	–	–	–	–	–
Specialty food store An establishment that sells a limited line of specialty, locally-produced or gourmet food or beverage items primarily for off-site consumption. It may offer prepared foods or drinks for immediate consumption either on-site or for take-out as an accessory use.	P	P	P	–	C	–	–	–	–	–	–	–
Open market An establishment or site where goods are brought to be immediately sold to the general public for personal or household consumption often from outdoor areas or open air structures, excluding any use specifically defined in this use table.	C	C	–	C	C	–	–	–	–	–	–	–
Pharmacy An establishment that sells prescription and over-the-counter medication and personal care products, Pharmacies may sell additional products such as food, beverages, office supplies, greeting cards, gifts and other goods.	P	P	P	–	–	–	–	–	–	–	–	–
Professional or business office An establishment that: (a) is used to conduct the affairs of a business, organization or profession; or (b) provides services that are reliant on the specialized training, expertise, skills or knowledge of practitioners. This definition specifically excludes services provided by licensed medical or veterinary practitioners.	P	P	P	P	P	P	–	–	–	–	–	–
Personal or business service An establishment that provides: (a) services on or closely related to the physical person including, but not limited to, laundry, tailoring, shoe repair, hair salon, nail salon, tanning salon, spa, massage parlor or tattoo parlor; or (b) support services primarily to other businesses such as billing, collection, advertising, telemarketing, copying, mailing, etc. It may include sales of related products as an accessory use. This definition specifically excludes services provided by licensed medical or veterinary practitioners.	P	P	P	C	C	C	–	–	–	–	–	–
Veterinary office An establishment where licensed practitioners of veterinary medicine, dentistry, or surgery treat animals. It may include grooming, boarding, or other pet services as an accessory use. It may include sales of pet food, medicines, or supplies as an accessory use.	C	C	C	C	C	P	–	–	–	C	C	–
Domestic animal service An establishment that: (a) provides domestic animal and pet care services other than veterinary service such as boarding, grooming, sitting, and training; or (b) breeds, sells, or manages adoption of domestic animals. This includes kennels and may include sales of pet food or supplies as an accessory use.	C	C	C	C	C	C	–	–	–	C	C	–
Bank An establishment that engages in financial transactions that create, liquidate, or change ownership of financial assets such as accepting deposits, making loans, and issuing currency.	P	P	P	–	–	C	–	–	–	–	–	–
Recreation equipment rental An establishment that rents recreational goods such as skis, canoes, kayaks, or bicycles. It may also provide repair or maintenance services as an accessory use.	P	P	C	P	P	P	–	–	–	C	C	C
Restaurant, eat-in An establishment that prepares and serves meals, snacks, and beverages that are primarily served to seated patrons for immediate consumption on the premises. It may prepare and serve meals, snacks and beverages for consumption off the premises (take-out) provided that the area devoted to patron seating (exclusive of any outdoor dining area) is not less than 40% of the gross floor area of the restaurant (exclusive of any outdoor dining area). Any restaurant with drive-through or drive-in service will be considered a take-out restaurant under this ordinance.	P	P	C	–	P	–	–	–	–	–	–	–
Restaurant, take-out An establishment with no or limited seating that prepares and serves meals, snacks and beverages primarily for consumption off the premises. Any restaurant with drive-through or drive-in service will be considered a take-out restaurant under this ordinance. This definition includes a retail bakery that sells 40% or more of its products on the premises.	C	C	C	C	–	–	–	–	–	–	–	–

USE & DEFINITION *P = Permitted Use C = Conditional Use – = Use Not Allowed*	**DN**	**TC**	**MU1**	**MU2**	**MU3**	**OI**	**R10**	**R4**	**R1**	**RR**	**RA**	**FC**
Mobile food unit An establishment that prepares and serves meals, snacks and beverages primarily for immediate consumption from motorized vehicles or non-motorized carts.	C	C	–	–	–	–	–	–	–	–	–	–
Tavern An establishment that primarily prepares and serves alcoholic beverages for immediate consumption. It may include food service as an accessory use. This definition includes a brewpub that produces less than 15,000 barrels of beer per year and sells 25% or more of its beer on the premises.	P	P	C	–	C	–	–	–	–	–	–	–
Nightclub An establishment that operates as a place of entertainment with music, dancing, or similar live or recorded performances, and where food and drink may be served for immediate consumption on the premises.	P	P	–	–	–	–	–	–	–	–	–	–
Catering or commercial kitchen A state-licensed establishment that prepares: (a) meals, snacks and beverages to be served at off-premise events; or (b) food or beverage products for wholesale or retail sale provided that the operator does not require a state food processing establishment license (such uses will be considered food or beverage manufacturing under this ordinance).	C	C	C	C	C	P	–	–	–	C	C	–
Parking lot or structure An establishment that provides short-term storage for registered, operable passenger vehicles as its primary function.	C	C	C	–	–	C	–	–	–	–	–	–
INDUSTRIAL												
Light industry An establishment that produces new products, materials or parts in a facility that generally does not rely on specialized power, water or waste disposal systems for operation. All light industrial operations must occur within an enclosed building, which is typically similar to an office building in its size, appearance and impacts. It may include a retail shop as an accessory use that primarily sells products produced on the premises. This definition excludes any use specifically defined in this use table.	C	C	C	C	C	P	–	–	–	–	–	–
Artisanal or handcrafted manufacturing An establishment that produces artisanal or handcrafted goods from within an enclosed building that are custom-designed and produced in small quantities, which typically is characterized by minimal automation, little division of labor and a small number of skilled craftspeople. It may include a retail shop as an accessory use that primarily sells products produced on the premises. This definition excludes any use specifically defined in this use table.	C	C	C	C	C	P	–	–	–	C	C	–
Food or beverage manufacturing A state licensed establishment that produces food or beverage products that are typically sold to wholesalers or retailers. It may include a retail shop, restaurant or bar as an accessory use that primarily sells products produced on the premises. This definition includes, but is not limited to, microbrewery, distillery, winery, and commercial bakery.	C	C	C	C	C	P	–	–	–	C	C	–
Wood products, cabinet or furniture manufacturing An establishment that produces finished wood products such as cabinets, furniture, decorative items*, or containers, from within an enclosed building. It may include a retail shop as an accessory use that primarily sells products produced on the premises. See also Sawmill under Natural Resource Based uses.*	C	C	C	C	C	P	–	–	–	C	C	–
Warehouse and storage An establishment that stores, but does not sell, goods and may provide a range of services related to the distribution of goods. This definition specifically excludes any use specifically defined in this use table.	–	–	–	C	–	P	–	–	–	–	–	–
Self-storage facility An establishment that provides individual storage spaces for lease to either commercial or wholesale customers for storage of business goods, or to the general public for storage of household goods.	–	–	–	C	–	P	–	–	–	–	–	–
Tank farm or fuel storage and distribution services An establishment with one or more tanks that typically store fuels, oils and similar liquid products. It may include sale and distribution of such products.	–	–	–	–	–	C	–	–	–	–	–	–

USE & DEFINITION *P = Permitted Use C = Conditional Use – = Use Not Allowed*	**DN**	**TC**	**MU1**	**MU2**	**MU3**	**OI**	**R10**	**R4**	**R1**	**RR**	**RA**	**FC**
Wholesale trade An establishment that sells or arranges the purchase of goods primarily to other businesses that is set up as a warehouse or office with little to no display of merchandise and where customers do not have direct access to the primary merchandise being sold.	–	C	–	–	–	P	–	–	–	–	–	–
Contractor's yard An establishment that provides storage for vehicles, machinery, equipment and materials used by a contractor in the construction-related trades, which may include a shop for maintaining or repairing the contractor's vehicles, machinery or equipment or the contractor's business office.	–	–	–	C	C	P	–	–	–	C	C	–
Salvage or Junk Yard A site used for outdoor storage, processing, buying, or selling junk, or as a scrap metal processing facility.	–	–	–	–	–	C	–	–	–	–	–	–
Air transportation services A site or structure intended to accommodate or support air transportation such as a runway, hangar, terminal, control tower or heliport.	–	–	–	–	–	C	–	–	–	–	–	–
Rail transportation services A site or structure intended to accommodate or support rail transportation such as a train station, depot, rail yard, or siding.	–	–	–	–	–	C	–	–	–	–	–	–
Transit or passenger transportation services An establishment that provides public or ground transportation services such as van or bus transportation, and taxi or limousine services.	–	C	C	C	C	C	–	–	–	–	–	–
Truck or freight transportation services An establishment that provides: (a) over-the-road transportation of cargo using trucks and tractor trailers; or (b) services such as storage, maintenance, repair or fuel primarily for heavy vehicles, including trucks, tractor trailers or buses.	–	–	–	–	–	C	–	–	–	–	–	–
Printing or publishing An establishment that issues copies of works that are usually protected by copyright and that may print, reproduce, distribute, or offer direct access to works such as newspapers, magazines, periodicals, books, databases, calendars, greeting cards, maps, posters, software, sound recordings or video recordings. This definition specifically excludes retail copy shops, which will be considered retail sales under this ordinance.	–	–	–	–	–	P	–	–	–	–	–	–
Media recording or broadcasting studio An establishment that is used to produce, distribute or broadcast radio, television, movie, sound, video or similar media products, programs or recordings.	P	P	P	P	–	P	–	–	–	–	–	–
Communications antenna A device used to transmit or receive radio, television or other wireless communications and related structures and equipment. This definition specifically excludes a communication tower.	P	P	P	P	P	P	–	–	–	P	P	C
Communications tower A structure used to support one or more communication antennas and related structures and equipment.	–	–	–	–	–	C	–	–	–	–	C	C
Information services or data center An establishment used to house computer systems and associated components such as telecommunications and storage systems, to provide electronic data processing services, or to supply digital information. It generally includes redundant or back-up power supplies and communications connections, environmental controls and security devices.	–	–	–	–	–	P	–	–	–	–	–	–
Laboratory or research facility An establishment used for research or analysis in the physical, engineering, cognitive or life sciences.	–	C	–	C	–	C	–	–	–	–	–	–
Composting facility An establishment used primarily used for the composting of food and other biodegradable wastes.	–	–	–	–	–	C	–	–	–	–	C	–
ART, ENTERTAINMENT AND RECREATION												
Performance theater An establishment that presents live entertainment by actors, singers, dancers, musicians or other performing artists to an audience.	P	P	C	C	–	–	–	–	–	–	–	–
Movie theater An establishment that shows movies or other recorded entertainment to an audience.	P	P	–	–	–	–	–	–	–	–	–	–

USE & DEFINITION *P = Permitted Use C = Conditional Use – = Use Not Allowed*	**DN**	**TC**	**MU1**	**MU2**	**MU3**	**OI**	**R10**	**R4**	**R1**	**RR**	**RA**	**FC**
Art gallery or studio An establishment used to produce, display, or sell works of art or handcrafted jewelry, pottery, or glassware, or similar decorative objects or handcrafted goods.	P	P	P	P	P	P	–	–	–	–	–	–
Museum An establishment that preserves and exhibits objects, sites and natural wonders of historical, cultural or educational value.	P	P	P	P	P	–	–	–	–	C	C	–
Indoor recreation An establishment that offers physical fitness, sports, games and other leisure-time activities to the general public primarily from within an enclosed building. This definition specifically excludes any use defined in this use table.	P	P	C	P	P	P	–	–	–	–	–	–
Fitness center or health club An establishment that offers fitness or recreational sports facilities and services to members and their guests primarily from within an enclosed building.	C	P	–	P	P	P	–	–	–	–	–	–
Spa An establishment that offers health, beauty, weight loss and relaxation treatments and therapies through means such as massage, facials, steam and sauna facilities, waxing, electrolysis, and exercise facilities and instruction. It may offer food and beverages to clients for immediate consumption on the premises. It may offer personal services such as hair salons, make-up consultations, manicures or pedicures as additional services.	P	P	P	P	P	–	–	–	–	–	–	–
Event facility An establishment used to host conventions, trade shows, corporate meetings, weddings, receptions, reunions and similar special events that typically includes large open spaces such as auditoriums, banquet halls, exhibition halls and meeting rooms	P	P	C	P	P	–	–	–	–	C	C	–
Outdoor recreation An establishment that offers physical fitness, sports, games and other leisure-time activities primarily outside an enclosed building. This definition specifically excludes any use defined in this use table.	–	C	–	P	P	C	–	–	C	C	C	C
Golf course or country club An establishment laid out with at least nine holes for playing the game of golf and improved with trees, greens, fairways and hazards. It may include a clubhouse that offers food and beverages to members and guests, restrooms, driving range and shelters. It may provide additional recreational activities or retail sales of golf-related merchandise as an accessory use.	–	–	–	C	P	–	–	–	–	C	C	–
Campground An establishment designed to accommodate campers and their equipment including tents, tent trailers, and recreational vehicles, or to provide overnight recreation camping or outdoor adventure retreats. It may provide additional facilities and services such as cabins, sanitary facilities, food services, recreational facilities, and organized recreational or educational activities.	–	–	–	–	C	–	–	–	–	C	C	C
Summer camp An establishment that offers accommodations in tents, cabins or similar rustic structures and organized, group recreational or educational activities for specified periods of time typically not less than one week. It may be used on a limited basis to provide meeting, recreation or social facilities for a private association or group as an accessory use.	–	–	–	–	C	–	–	–	–	C	C	C
Primitive camp A seasonal dwelling used for a limited period of time each year that lacks complete kitchen and indoor sanitation facilities.	–	–	–	–	–	–	–	–	–	P	P	P
Recreation path A pathway dedicated to non-motorized recreational use.	P	P	P	P	P	C	C	C	C	C	P	P
Park or nature preserve A site maintained in a primarily unimproved natural state for passive recreation or conservation purposes.	P	P	P	P	P	P	P	P	P	P	P	P
CIVIC AND COMMUNITY												
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.	-	-	-	C	P	-	-	C	C	P	P	P

USE & DEFINITION *P = Permitted Use C = Conditional Use – = Use Not Allowed*	**DN**	**TC**	**MU1**	**MU2**	**MU3**	**OI**	**R10**	**R4**	**R1**	**RR**	**RA**	**FC**
Grade school A state-recognized institution used to educate children from pre-school through grade 12.	P	P	P	P	–	–	P	P	P	–	–	–
College or university An accredited institution of higher learning that grants undergraduate or graduate degrees.	P	P	C	P	–	–	–	–	–	–	–	–
Technical or trade school An establishment that offers vocational and technical training typically required for specific trades or occupations, and often leading to job-specific certification.	C	C	–	C	–	P	–	–	–	–	–	–
Specialty school A commercial establishment that offers instruction, classes or training on a specific topic such as cooking, arts, crafts, dance, music, sports or fitness.	C	C	C	C	C	C	–	–	–	–	–	–
Government office or courthouse An establishment used by federal, state or local government agencies to administer, oversee and manage public programs, and to carry-out government functions. This definition specifically excludes public safety facility and highway maintenance facility	P	P	P	P	–	–	–	–	–	–	–	–
Community center A public or non-profit establishment used as a place of meeting for civic, recreational and social activities that is generally open to the public.	P	P	C	P	C	–	–	–	–	–	–	–
Public safety facility An establishment that provides fire, rescue, police, or emergency response services.	P	P	P	P	–	P	–	–	–	–	–	–
Highway maintenance facility An establishment used to store, maintain and repair the vehicles, machinery, equipment and materials necessary for public highway repair and maintenance, or to provide municipal infrastructure and services such as water or sewer.	–	–	–	C	–	P	–	–	–	–	–	–
Medical clinic or office An establishment from which one or more licensed practitioners provide healthcare services to people primarily as outpatients.	P	P	C	P	–	P	–	–	–	–	–	–
Child day care facility An establishment that cares primarily for infants and preschool-age children, as well as older children when school is not in session.	P	P	P	P	–	C	–	–	–	–	–	–
Social assistance and charitable services An establishment that provides social assistance services directly to individuals, and that does not offer residential or accommodation services.	P	P	C	P	–	P	–	–	–	–	–	–
Religious institution An establishment that is primarily designed for worship and religious congregations. It may also include classrooms, residential quarters, and spaces to accommodate social activities as an accessory use.	P	P	P	P	–	–	–	–	C	C	–	–
Funeral and cremation services An establishment that prepares deceased people for burial or cremation, cremates the remains of deceased people, or holds funeral services.	P	P	C	P	–	P	–	–	–	–	–	–
Cemetery A site designed to inter or otherwise store the remains of deceased people or pets.	–	–	–	C	–	–	–	–	C	P	P	–
Social or membership club A private establishment that is the premises of an organization that meets periodically to promote some social, service, educational, athletic or recreational objectives and that caters exclusively to members and their guests.	P	P	C	P	P	–	–	–	–	–	–	–
NATURAL RESOURCE BASED												
Agriculture or forestry An establishment that grows crops, raises animals, harvests timber, or harvests plants or animals from their natural habitats.	–	–	–	P	P	–	–	–	–	P	P	P
Greenhouse or nursery A commercial establishment that grows nursery products, nursery stock, trees, shrubs or flowers. It may include retail sale of products grown on-site as an accessory use.	–	–	–	P	–	P	–	–	–	C	C	–

USE & DEFINITION *P = Permitted Use C = Conditional Use – = Use Not Allowed*	**DN**	**TC**	**MU1**	**MU2**	**MU3**	**OI**	**R10**	**R4**	**R1**	**RR**	**RA**	**FC**
Agriculture support services An establishment that performs support activities related to raising livestock such as breeding services, livestock sales or auctions, and slaughterhouses or slaughtering services.	–	–	–	–	–	P	–	–	–	C	C	–
Stable or riding facility An establishment intended to house, train or care for horses.	–	–	–	C	C	–	–	–	–	P	P	C
Forestry operations (except sawmill and wood pellet production) An establishment that processes trees and logs or manufactures forest products.	–	–	–	–	–	P	–	–	–	C	C	C
Sawmill or wood pellet production An establishment that processes timber harvested off-site into wood construction and manufacturing materials such as lumber, veneer, stud wood, plywood, poles, pilings, and wood chips, or an establishment that manufactures wood pellets.	–	–	–	–	–	P	–	–	–	–	C	C
Fishing or game preserves An establishment that is used for commercial hunting or trapping, or as a commercial or recreational game or hunting preserve.	–	–	–	–	–	–	–	–	–	P	P	P
Mining or quarrying An establishment that dredges, quarries, mines, or develops mine sites for crushed and broken stones, limestone, sand, gravel, clay, topsoil, or other stones and nonmetallic minerals. It may include on-site processing such as crushing, grinding, washing or screening.	–	–	–	–	–	P	–	–	–	–	C	C
On-farm business An establishment that engages in agri-tourism, agri-education, direct marketing of locally-produced farm or forest products, or that adds value to locally-produced farm or forest products.	–	–	–	C	C	–	–	–	–	C	C	C

4.18 Dimensional Standards Table

	DN	TC	MU1	MU2	MU3	OI	R10	R4	R1	RR	RA	FC
LOTS												
Minimum lot size	3,000 sf	15,000 sf	4,000 sf	12,000 sf	1 acre	20,000 sf	8,000 sf	10,000 sf	1 acre	5 acre	10 acre	25 acre
Minimum lot frontage	50 ft	120 ft	65 ft	90 ft	150 ft	120 ft	65 ft	65 ft	120 ft	300 ft	300 ft	300 ft
Maximum lot coverage	100%	75%	85%	75%	50%	70%	80%	60%	50%	10%	5%	1%
DENSITY												
Maximum residential density (DU = dwelling unit)	no max	no max	1 DU per 4,000 sf of lot area	1 DU per 4,000 sf of lot area	1 DU per 1 acre of lot area	n/a	1 DU per 4,000 sf of lot area	1 DU per 10,000 sf of lot area	1 DU per 1 acre of lot area	1 DU per 5 acres of lot area	1 DU per 10 acres of lot area	n/a
Residential density bonus (in addition to maximum residential density)	n/a	n/a	n/a	50% bonus for 75% under-building parking	50% bonus for 50% protection	n/a	n/a	n/a	n/a	3 DU per 5 acres with 50% protection	3 DU per 10 acres with 70% protection	n/a
Net Zero density bonus	n/a	n/a	no max	no max	no max with 50% protection	n/a	no max	no max	no max	no max with 50% protection	no max with 70% protection	n/a
SETBACKS												
Minimum front setback	0 ft	15 ft	10 ft	15 ft	30 ft	20 ft	15 ft	15 ft	30 ft	30 ft	30 ft	30 ft
Maximum front setback	15 ft	30 ft	30 ft	no max	no max	no max	no max	no max	no max	no max	no max	no max
Minimum side setback	0 ft	10 ft	10 ft	20 ft	20 ft	15 ft	10 ft	10 ft	15 ft	20 ft	20 ft	20 ft
Minimum rear setback	0 ft or 10 ft if abutting residential or mixed use district	10 ft or 20 ft if abutting residential district	10 ft or 20 ft if abutting residential district	10 ft or 20 ft if abutting residential use or district	20 ft	20 ft	20 ft	20 ft	20 ft	20 ft	20 ft	20 ft
Minimum Water Resources setback	10 ft	20 ft	20 ft	50 ft	50 ft	50 ft	30 ft	50 ft	50 ft	50 ft	50 ft	50 ft
BUILDINGS												
Maximum building footprint	no max	no max	6,000 sf	no max	6,000 sf	no max	6,000 sf	no max	no max	no max	no max	no max
Maximum building coverage	no max	40%	no max	40%	no max	no max	no max	no max	15%	no max	no max	no max
Minimum building height	2 stories	2 stories	2 stories	20 ft for nonresidential buildings	no min	no min	no min	no min	no min	no min	no min	no min
Maximum building height Measured as average between eaves and ridge for pitched roofs and to roof deck for flat roofs	40 ft	40 ft	30 ft	30 ft or 40 ft w/ 75% under-building parking	30 ft	30 ft	30 ft	30 ft	30 ft	30 ft	30 ft	30 ft

Section 5 Overlay Districts

5.1 Design Review Overlay District (DRO)

5.1.1 Purpose. The purpose of the Design Review Overlay District is to:

(1) Preserve, maintain, and enhance the architectural integrity, historic character, quality of design and construction, aesthetics of streetscapes and buildings, and walkability that support Manchester's visitor-based economy and the vitality of the town core.
(2) Preserve, maintain, and enhance the physical qualities of Manchester's historic districts by regulating exterior modifications to contributing historic structures and by requiring new structures to be compatible with and respond to their historic setting and context in accordance with the principles summarized below:
    (a) Buildings should function to meet today's needs just as they met certain needs at the time they were built. The changes required to meet new demands should be a compromise between the existing integrity of the structure and new functions. Good preservation seeks both of these goals.
    (b) Every attempt should be made to preserve as much of a historic building's original design, architectural details and building materials as is feasible. When it is necessary to introduce modern elements to a historic building exterior, every effort should be made to maintain the building's overall architectural character.
    (c) New construction should be a product of its own time and not be a copy of an older architectural style with associated details no longer practical. The unity of an existing street or block should be a major consideration in the design of any new construction. Rather than copying a particular style, the new building should relate in materials, form, massing, proportion and rhythm of common elements to those present on the street or block.

5.1.2 Applicability. The Design Review Overlay District includes lands in the Downtown (DN), Town Center (TC), Mixed Use 1 (MU1), Mixed Use 2 (MU2), Mixed Use 3 (MU3), and Residential 10 (R10) zoning districts, as well as all lands falling in the town's four historic districts as defined in the Manchester Town Plan. Except within the four historic districts, single- and two-family residential uses in the DRO are exempt from design review. However, all signage proposed within the DRO, including on single- and two-family residential sites, shall be subject to design review per Section 10.3.2(1).

5.1.3 Uses. Within this Design Review Overlay District, all land development for proposed permitted or conditional land uses listed in the base zoning district in Table 4.17 require design approval from the Development Review Board or Zoning Administrator, after review and comment by the Design Advisory Committee, and must conform to the standards of Section 5.1 except for the following:

(1) Subdivision of land.
(2) Interior alteration or a change in use that will not result in any exterior modifications.
(3) Normal repair and maintenance with materials of similar composition, type and appearance.
    (a) This includes any repainting of previously painted surfaces, irrespective of color, but does not include painting of existing, unpainted surfaces.
    (b) For contributing historic structures, normal repair and maintenance must be undertaken in accordance with the practices recommended in the *Guidelines for Rehabilitating Historic Buildings* developed by the U.S. Department of Interior's Technical Preservation Services.

(4) Exterior modifications to a noncontributing structure within a historic district that will not be visible from the street.
(5) Demolition of a noncontributing structure within a historic district.
(6) The removal of a sign provided that no evidence of the sign's installation remains.
(7) The replacement of a lawful sign with a sign in the same location of the same size and material construction.
(8) Construction of a freestanding accessory structure with a footprint of no more than 200 square feet in area and a height of no more than 15 feet.
(9) Non-substantial alterations as determined by the Zoning Administrator.

5.1.4 Dimensional Standards. The dimensional standards within this overlay district will be as specified for the base zoning district.

5.1.5 Design Review Standards. Design review criteria that must be met by land development in this overlay district are found in Section 3.4. All proposed land development within this overlay district must incorporate frontage and facade elements that will contribute to a pedestrian-oriented streetscape, and must be compatible in form, massing, proportion and rhythm with its historic context. More specific, detailed guidance may be found in the *Design Guidelines for Manchester's Commercial and Historic Districts* (as most recently amended and incorporated into this ordinance by reference).

5.2 Aquifer Protection Overlay District (APO)

5.2.1 Purpose. The purpose of the APO is to protect public health and safety by preventing contamination, promoting recharge and maintaining the supply of community groundwater drinking water sources within the town.

5.2.2 Sub-Zones. The Aquifer Protection Overlay District includes the following sub-zones based on the delineated zones 1, 2, and 3 for active source protection areas as depicted on the Vermont Agency of Natural Resources online Natural Resources Atlas:

(1) **Sub-Zone A. Sub-**Zone A consists of the area within Zones 1 and 2 identified in a water system's Source Protection Plan, as well as the area to the west of Richville Road within Zone 3 of the Town of Manchester Source Protection Area.

(2) **Sub-Zone B.** Sub-Zone B consists of the area within Zone 3 identified in a water system's Source Protection Plan, except that which is described as Sub-Zone A above, or as Sub-Zone C below.

(3) **Sub-Zone C.** Sub-Zone C is that portion of the Town of Manchester Source Protection Area within Zone 3 that is approximately east of Route 7 and corresponds to an area of glacial till soils.

5.2.3 Prohibited Uses. The following uses are expressly prohibited anywhere in the Aquifer Protection Overlay District:

(1) Fueling station.
(2) Carwash.
(3) Landfill or waste management facility.
(4) Printing facility.
(5) Dry cleaning facility.
(6) Bulk storage of flammable, combustible, toxic or hazardous materials, including but not limited to petroleum products, road salt and de-icing chemicals.
(7) Any use which involves as a principal activity the generation, storage, use, treatment, transportation, or disposal of hazardous materials.
(8) Open lagoons or ponds containing materials or wastes that have the potential to contaminate the drinking water supply if released into the environment.

5.2.4 Sub-Zone A Prohibited Uses. In addition to the uses listed in §5.2.3, the following uses, activities, and facilities are prohibited within Sub-Zone A:

(1) Funeral or cremation services.
(2) Cemetery.
(3) Golf course.
(4) Repair service.
(5) Truck or freight transportation services.
(6) Highway maintenance facility.
(7) Laboratory facility.
(8) Any use requiring a new or extension of an on-site wastewater disposal system.
(9) Wastewater treatment facility.
(10) Stormwater management facility.
(11) Composting facility.
(12) Contractor's yard.
(13) Salvage yard.
(14) Extracting, quarrying or stone cutting.
(15) Storage of snow brought in from outside the overlay district.
(16) Tank farm or fuel distribution services.
(17) Underground fuel storage tanks, except for liquid propane.
(18) Any use involving pesticide, herbicide and fungicide applications, with the exception of those reviewed and approved by the Vermont Department of Health.

(19) Extraction or use of more than 10,000 gallons of water per day for purposes other than supplying the water system associated with the protection area.

5.2.5 Sub-Zone A Uses.

(1) All uses within Sub-Zone A, not listed in §5.2.3 or §5.2.4 as prohibited, shall be conditional as allowed as either permitted or conditional uses in the underlying zoning district.
(2) Conditional use review as conducted by the Development Review Board shall include an evaluation of the potential effects on the relevant water supply according to the scale and distance of the proposed land use or development from well heads.

5.2.6 Sub-Zone B Uses.

(1) All uses within Sub-Zone B, not listed in §5.2.3 as prohibited, shall be conditional uses as allowed as either permitted or conditional uses in the underlying zoning district.
(2) Conditional use review as conducted by the Development Review Board shall include an evaluation of the potential effects on the relevant water supply according to the scale and distance of the proposed land use or development from well heads.

5.2.7 Sub-Zone C Uses.

(1) Uses within Sub-Zone C, not listed in §5.2.3 as prohibited, shall be as allowed in the underlying zoning district.
(2) A wastewater disposal system of up to 600 gallons per day (gpd) capacity shall be allowed as a permitted use.
(3) Wastewater disposal systems with larger than 600 gpd capacity shall require conditional use review. Conditional use review as conducted by the Development Review Board shall include an evaluation of the potential effects on the water supply according to the scale and distance of the proposed land use or development from well heads.

5.2.8 Nonconforming Uses. The Development Review Board may approve the extension or expansion of an existing prohibited use within the APO provided the following conditions are satisfied:

(1) The requirements of Section 2.8 are satisfied;
(2) The applicant 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.

5.2.9 Application & Review Procedures

(1) All applications for proposed land use and development within the Town of Manchester's source protection area must be accompanied by an evaluation prepared by a licensed engineer addressing potential impacts of the proposed development on the public water system.
(2) All applications for proposed land use and development within the Town of Manchester's source protection area must be referred to the Administrative Advisory Group for comment prior to the close of a hearing by the Development Review Board or issuance of an administrative zoning permit by the Zoning Administrator, as the case may be.
(3) For all proposed land use and development within the Town of Manchester's source protection area, prior to the issuance of a zoning permit, the Town's chosen engineer, at the applicant's expense, shall determine that the land use and development will not impact the public water supply and is fully compliant with Manchester's Source Protection Plan and any applicable federal or state public water supply license or permit.

5.2.10 Performance Standards. Property owners must undertake land use and development within this overlay district as follows:

(1) All new development within Sub-Zones A and B of the Town of Manchester's source protection area must be connected to the Town of Manchester sewer system.

(2) New development within Sub-Zones A and B of the source protection areas for privately operated water systems, or within Sub-Zone C of the Town of Manchester's source protection area, need not connect to the Town of Manchester sewer system.

(3) All sewer infrastructure within the APO must be constructed in conformance with applicable Town of Manchester and State of Vermont wastewater standards and regulations.

(4) Discharge from a new or expanded wastewater disposal system shall not be hydraulically connected to the relevant drinking water aquifer, or a two-year time of travel to the relevant drinking water aquifer is demonstrated to be met or exceeded by the new wastewater disposal system.

(5) Applicants must locate proposed development outside the overlay district to the maximum extent feasible if the subject lot includes land outside the overlay district.

(6) 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.

(7) 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.

(8) All uses and facilities must adhere to applicable federal and state standards for the storage, handling, use and disposal of materials or wastes that have the potential to contaminate the drinking water supply if released into the environment.

(9) Floor drains may only be allowed if they drain into approved sewer systems. On-site discharge from floor drains is prohibited.

(10) Any above ground facility involving the collection, handling, production, manufacture, use, storage, transfer or disposal of materials or wastes that have the potential to contaminate the drinking water supply if released into the environment must have a secondary containment system that:

(a) Is designed to intercept any leak or spill from the primary containment vessel or structure;
(b) Is provided with an overflow recovery catchment area (sump).
(c) Is easily inspected.
(d) Capable of containing 150% of the largest volume of storage (a larger volume of storage may be necessary if precipitation will be able to collect in the secondary containment system).
(e) Any below ground facility (including storage tanks and pipes) containing or carrying of materials or wastes that have the potential to contaminate the drinking water supply if released into the environment must have double walls and inspectable sumps and include a monitoring system and secondary standpipe for monitoring and recovery.

(11) All uses and facilities involving the collection, handling, production, manufacture, use, storage, transfer or disposal of materials or wastes that have the potential to contaminate the drinking

water supply if released into the environment must maintain an up-to-date contingency plan for preventing contamination of the drinking water supply should floods, fires, other natural catastrophes, equipment failure or other releases occur.

(12) 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 APO.

(13) Special care shall be taken during construction and maintenance to avoid spills of oil, grease, fuel, solvents, or other hazardous materials.

(14) All releases of materials or wastes that have the potential to contaminate the drinking water supply must be reported to the Town of Manchester.

5.2.11 Dimensional Standards. The dimensional standards within this overlay district will be as specified for the base zoning district.

5.3 Flood Hazard Overlay District (FHO)

5.3.1 Authority

In accordance with 10 VSA Chapter 32, 24 VSA Chapter 59, and 24 VSA Chapter 117 §4424, §4411 and §4414, Section 5.3 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. Section 5.3 of the ordinance, together with Section 12, shall be known and referred to herein as the flood hazard regulations.

5.3.2 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 businesses eligible for federal flood insurance, federal disaster recovery funds, and hazard mitigation funds as may be available.

5.3.3 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.

5.3.4 Disclaimer of Liability

These flood hazard regulations do not imply that land outside of the areas covered by Section 5.3 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.

5.3.5 Lands to Which These Regulations Apply - Regulated Flood Hazard Areas

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.

These regulations shall apply to the river corridors and special flood hazard areas (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 river corridors 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 corridors are not mapped, the standards of Section 12.3 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.

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

Where available, base flood elevations 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 areas where base flood elevations 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.

5.3.7 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 Zoning Administrator. 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 Zoning Administrator. If the applicant disagrees with such determination, a letter of determination from the Vermont Agency of Natural Resources shall constitute proof of boundary.

5.3.8 Prohibited Development

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

(1) New primary *structure*s, including the placement of manufactured homes or mobile homes, within the floodway;
(2) Salvage yards;
(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.

5.3.9 Permitted Development

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

(1) Recreational uses;
(2) Non-substantial improvements 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 buildings;
(6) At-grade parking for existing buildings and uses; and

(7) Storage or parking of recreational vehicles.

5.3.10 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) New 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 buildings in the river corridor.

5.3.11 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, bridges, or culverts and other 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).

5.3.12 Variances

Variances for development within the FHO may be granted by the Development Review Board only in accordance with all the criteria in 24 VSA §4469, Title 44 of the Code of Federal Regulations (CFR) Section 60.6, the criteria indicated in Figure 3-1 of this ordinance, and the following:

(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 must not increase flood heights.
(3) Any zoning permit allowing development according to an approved variance must state 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.

5.3.13 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 the standards in Section 12 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 homes must be placed so as to meet the development standards in Section 12 of this ordinance.

5.3.14 Dimensional Standards. The dimensional standards within this overlay district will be as specified for the base zoning district.

5.3.15 Development Standards. Development standards that must be met by land development in this overlay district are found in Section 12.

Section 6 General Regulations

6.0 Applicability

All land use and development within the Town of Manchester must conform to the standards of Section 6.

6.1 Access

6.1.1 Applicability. All land being developed must have access from a maintained public or private road in accordance with the provisions of Section 6.1. For lots without frontage on a maintained road, see Section 2.8.3(3). See Section 6.8 for driveway specifications. See Section 6.1.4 for curb cut specifications.

6.1.2 Access Permit. An applicant for development to be served by a new curb cut on a town road or state highway must provide the Zoning Administrator with a copy of an access permit or letter of intent from the town or state for the curb cut as applicable, before the Zoning Administrator may issue a zoning permit.

6.1.3 Public Works Specifications. If there is a conflict between a provision of Section 6.1 and a provision of the town's Public Works Specifications, the Public Works Specifications will take precedence.

6.1.4 Curb Cuts. New and modified curb cuts must conform to the following:

(1) **Number.** A lot must not be served by more than one curb cut except that:
   (a) The Development Review Board may approve a waiver allowing more than one access on a lot if the applicant can demonstrate that it is necessary to accommodate unique physical conditions on the property, to meet minimum standards for emergency access, or to provide improved traffic circulation within the site.
   (b) The Development Review Board may require a secondary or emergency access for subdivisions or developments when deemed necessary to protect public safety.

(2) **Width.** The width of a curb cut as measured at the edge of the street or highway right-of-way must not exceed the distance specified below, unless otherwise recommended by the Public Works Director (this will include reducing the width of existing nonconforming curb cuts if they are modified):
   (a) 12 feet for curb cuts serving single- and two-family dwellings.
   (b) 16 feet for curb cuts serving multi-family dwellings.
   (c) 20 feet for curb cuts serving non-residential uses not frequently accessed by large trucks.
   (d) 24 feet for curb cuts serving non-residential uses frequently accessed by large trucks.

(3) **Sidewalks.** Where a sidewalk exists or will be constructed along the frontage, it must continue across the curb cut (this will include replacement of missing sidewalks across existing nonconforming curb cuts if they are modified).

(4) **Spacing.** New curb cuts must conform to the standards below unless otherwise recommended by the Public Works Director:
   (a) A new curb cut must be aligned with any existing curb cut on the opposite side of the street whenever feasible, and if not feasible, the centerlines of must be offset by at least 30 feet.
   (b) A new curb cut must be separated from existing curb cuts on the same side of the street by at least 45 feet (as measured from centerline to centerline).

(5) **Cross Access.** Applicants proposing to subdivide or develop commercial or industrial lots must provide a two-way access connection to abutting undeveloped, commercial or industrial lots whenever physically feasible (this will not be interpreted to include abutting lots that are in a

residential zoning district). As a condition of site plan approval, the applicant may be required to:
(a) Fully construct the cross access to the edge of the property;
(b) Partially construct the cross access to the edge of the property (install the base but not the final surface); or provide an easement and legally binding agreement for construction of the access at a later time (when the access would also be constructed on the abutting property).

(6) **Class 4 Roads and Other Unimproved Rights-of-Way**. A Class 4 road or other unimproved right- of-way is not a maintained road and cannot be used to meet the access requirements of this ordinance. No provision of this ordinance will be interpreted to require the town to maintain a Class 4 road or other unimproved right-of way, or to upgrade a Class 4 road or other unimproved right-of-way to a Class 3 road so that it may serve to provide access to adjoining property. Applicants may propose to upgrade a Class 4 road or other unimproved right-of-way to a Class 3 road at their expense and in accordance with town policies and standards so that it may serve to provide access to proposed land development.

6.2 Accessory Dwelling Units

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.

6.2.1 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.

6.2.2 As Temporary Shelter

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 as a conditional use provided that the following criteria are met:

(1) The Development Review Board concludes the conditional use criteria of Section 3.3 satisfied;
(2) The primary single-family residence is occupied by the landowner;
(3) Each occupant of the temporary shelter is a member of the landowner's immediate family (child, sibling, parent) or related by blood or marriage;
(4) The occupants display a case of physical disability or financial hardship worthy of consideration under Section 6.2.2;
(5) The temporary structure meets all setback requirements for the district in which it is located;
(6) Upon the demise or relocation of the occupants of the temporary shelter, or sale of the property to a non-family member, the shelter is removed and the lot is brought into conformance within 6 months (such order shall be duly recorded in the land records for the Town of Manchester);
(7) All required state and local permits shall be secured; and
(8) The permit is renewed on an annual basis.

6.3 ADA Compliant Structures

Structures such as access ramps, which may be needed on private homes or which may be required on public buildings for compliance with the Americans with Disabilities Act, on buildings existing as of the date of adoption of this amendment (June 21, 1994), should meet required setbacks. However, if safe and suitable access cannot be provided in this manner, access structures may be located within required setbacks if the Zoning Administrator or Development Review Board concludes 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 setbacks.

6.4 Camping and Camping Units

6.6.1 Applicability. The provisions of Section 6.4 apply to any parcel of land that is occupied by or designed to accommodate not more than 3 camping units, whether as a principal or accessory use. Any parcel of land that is occupied by or designed to accommodate more than 3 camping units will be considered a campground and subject to all applicable provisions of this ordinance applicable to campgrounds.

6.4.2 Camping as an Accessory Use. A resident may locate up to 3 camping units (campers, travel trailers, RVs, cabins, lean-tos, tents, etc.) on his/her residential property to be used for noncommercial, recreational purposes in accordance with the following:

(1) Such units must not be occupied for more than 21 days total in any calendar year unless the property owner obtains a zoning permit.
(2) The Zoning Administrator may issue a zoning permit to allow up to 3 camping units to be located on a residential lot and occupied for a maximum of 90 days total in any calendar year as an accessory use of residential property.

6.4.3 Camping as a Principal Use. A property owner may apply for a zoning permit to allow the placement of 1 camping unit as the principal use of an otherwise undeveloped lot in accordance with the following:

(1) The proposed development may include the construction of a permanent pad, accessory structures and installation of utilities that conform to the standards of this ordinance for similar structures and uses on single-family residential lots.
(2) The applicant must demonstrate that the camping unit conforms to applicable water supply and wastewater disposal standards.
(3) The camping unit may remain on the lot year-round, but it may only be occupied for a maximum of 180 days total in any calendar year.

6.5 Child Care Facilities

6.5.1 Purpose

Section 6.5 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.

6.5.2 Small Home Child Care

A small home child care refers to a state registered small home-based daycare as defined by the State of Vermont. 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 as defined by the State of Vermont 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 district in which single-family residential use is allowed.

6.5.3 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 Zoning Administrator. The Zoning Administrator may require a site plan for a family childcare home. These facilities may be located in any zoning district in which single-family residential use is allowed.

6.5.4 Child Day Care Facility

An early childhood or child day care facility refers to a state licensed daycare not based in a home and is allowed indicated in Section 4.17 (Use Table).

6.5.5 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 Section 2.8.

6.6 Customary Home Occupation

6.6.1 Constitutes Residential Use.

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 two persons outside the family is employed on the premises in the home occupation at any point in time, except as conditionally allowed per Section 6.6.4;
(4) No offensive noise, vibrations, smoke, dust, odors, heat, light, or glare are produced;
(5) There are no retail sales unless the items sold are the product of the business owner's own labor, or are antiques; and
(6) 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, restaurants and tea rooms, garages or shops for repair of motor vehicles, and other trades and businesses of a similar nature.

6.6.2 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 Zoning Administrator.

(1) The business is carried on wholly within the dwelling or accessory structure;

(2) There is no more than one employee who is not a resident of the house or member of the immediate family; and
(3) 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 or within a structure appurtenant to the dwelling.

6.6.3 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 odor); or
(4) Multiple employees who come and go from the site, even if they do not work on site.

A Tier 2 customary home occupation shall require conditional use approval by the Development Review Board in conformance with Section 3.3 of this ordinance.

6.6.4 Exceptions for Number of Employees

For a Tier 2 customary home occupation, the Development Review Board may approve, as a conditional use in conformance with Section 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 Downtown (DN), Town Center (TC), Mixed Use 1 (MU1), Mixed Use 2 (MU2), and Mixed Use 3 (MU3) zoning districts, where such expansions may fit with the many commercial uses already permitted.

6.7 Demolition

6.7.1 Applicability. Demolition of a structure or part of a structure, not including structures exempted in Section 2.2, will require a zoning permit in accordance with the provisions of Section 6.7.

6.7.2 General Standards. Within 60 days after demolition is complete:

(1) All structural materials and debris must be removed from the site;
(2) The site must be restored to a natural grade; and
(3) Groundcover must be re-established to prevent erosion unless otherwise specified as a condition of approval.

6.7.3 Historic Structures. Demolition of a structure or part of a structure listed individually, or as a contributing structure within a designated historic district, in the National Register of Historic Places or Vermont Register of Historic Places will require approval from the Development Review Board as a conditional use in accordance with Section 3.3 and the following:

(1) The applicant must demonstrate that:

(a) It is not feasible to rehabilitate or re-use the structure in order to earn a reasonable economic return from the property.
(b) It is not feasible to move the structure to a new location on or off the property.
(c) The non-feasibility of rehabilitation, re-use, or relocation is not due to his/her failure to perform normal maintenance and repairs as necessary to prevent structural damage and deterioration.
(d) The non-feasibility of rehabilitation, re-use, or relocation is not due to his/her failure to set reasonable rents or sales price, or diligently solicit and retain tenants, as applicable.
(e) The demolition is not primarily intended to allow development of additional surface parking.
(f) The demolition is necessary to allow reasonable use of the property or demolition is part of a redevelopment plan that will provide a clear and substantial benefit to the community.

(2) As a condition of approval for demolition, the Development Review Board:
(a) May require the applicant to offer the structure for relocation for a period of up to 90 days before the Zoning Administrator may issue a zoning permit for demolition.
(b) May require the applicant to photographically document the structure and provide the photographs to the town before the Zoning Administrator may issue a zoning permit for demolition.

6.8 Driveways

6.8.1 Applicability. New, extended or modified driveways serving proposed development must conform to the standards Section 6.8. A driveway may serve not more than 2 lots.

6.8.2 Public Works Specifications. If there is a conflict between a provision of Section 6.8 and a provision of the town's Public Works Specifications, the Public Works Specifications will take precedence.

6.8.3 Technical Review. The Zoning Administrator will forward all applications for new, extended or modified driveways to the Administrative Advisory Group for review and comment. The Development Review Board or Zoning Administrator may condition or deny any approval or permit based on those comments.

Figure 6-1. Driveway Design Standards

	Minimum Width	Maximum Grade
Serving 1 lot and less than 300 ft long	9 ft	12%
Serving 2 lots and less than 450 ft long	12 ft	10%
Serving 1 lot and more than 300 ft long	10 ft	10%
Serving 2 lots and more than 450 ft long	14 ft	10%

6.8.4 Design Standards. Driveways must conform to the standards of Figure 6-1 and the following:

(1) **Angle.** Driveways must intersect the road at an angle as close to 90 degrees as feasible given site-specific conditions. Driveways must not intersect the road at an angle of less than 75 degrees if designed for two-way traffic or 60 degrees if designed for one-way traffic.
(2) **Drainage.** Driveways must:
(a) Not block the flow of drainage in gutters or drainage ditches or pipes.
(b) Not discharge run-off onto the traveled portion of a road.
(c) Not generate run-off that would unreasonably contribute to an accumulation of stormwater or that would exceed the capacity of downstream facilities or infrastructure.
(d) Be installed with culverts, where necessary, designed to carry run-off under the driveway. Such culverts must be sized to convey anticipated peak stormwater flows and be at least 18

inches in diameter, extend at least 2 feet beyond the driveway edges, and installed to minimize erosion damage at the inlet and outlet. It will be the applicant's responsibility to install and maintain such culverts.

(3) **Pull-Offs.** A driveway longer than 450 feet and with a paved width of less than 20 feet must be constructed with pull-off areas not more than 450 feet apart adequately sized and surfaced to accommodate emergency vehicles.

(4) **Turnarounds.** A driveway longer than 300 feet must terminate with a parking and turnaround area not more than 50 feet from the principal building that is adequately sized and surfaced to accommodate emergency vehicles.

6.9 Drive-Through Facilities

6.9.1 Development Review Board Approval Required. When drive-through facilities are specifically allowed under this ordinance, they must receive approval from the Development Review Board through the site plan and conditional use review processes.

6.9.2 Design Standards. Drive-through facilities must be designed in accordance with the following:

(1) Stacking lanes (where vehicles queue for service) and service areas must be located to the side or rear of the building.
(2) Stacking lanes must be clearly signed, marked and separated from travel lanes.
(3) Stacking lanes must not block access to service drives, parking spaces or loading areas.
(4) Drive-through traffic must not cause congestion or other unsafe conditions within the site or on adjacent roads.
(5) One or more designated pedestrian crossings must be provided across any stacking lane that separates parking from the building.
(6) Stacking lanes and service areas must not be located within minimum required setbacks.
(7) The message face of any drive-through menu board shall be fully screened from view from any public right-of-way. Drive thru menu boards may be externally illuminated if it is demonstrated that the illuminated features do not cause glare onto adjoining properties or rights-of-way.
(8) Drive-through facilities must be located a sufficient distance from property lines and screened to prevent adverse impacts, including but not limited to noise and light trespass, on adjacent properties.

6.10 Erosion Control

6.10.1 Purpose. Section 6.10 is intended to promote construction practices on development and redevelopment sites that limit soil disturbance and compaction, and minimize erosion and sedimentation of downstream surface waters.

6.10.2 Applicability. All construction activities that will disturb soil must implement appropriate measures to prevent erosion and sedimentation from adversely impacting nearby properties, public infrastructure, or downstream surface waters as set forth in the general standards below. Land development that obtains a state construction general or individual permit will be assumed to have met the requirements of Section 6.10. Any zoning permit or approval will be conditional upon the applicant submitting a copy of the state permit to the Zoning Administrator prior to the start of construction.

6.10.3 Erosion Control Plan Required. Applicants must submit and implement a professionally prepared erosion control plan for construction activities that will disturb more than 10,000 square feet of

soil in accordance with the Vermont Standards and Specifications for Erosion Prevention and Sediment Control.

6.10.4 General Standards. All construction activities that will disturb soil must be undertaken in accordance with the following practices (for further guidance see the Vermont Agency of Natural Resource's *Low Risk Site Handbook for Erosion Prevention and Sediment Control*):

(1) Limit the size of the construction area to the minimum necessary to accommodate the proposed development.
(2) Preserve significant existing trees within the construction area where feasible. Trees to be preserved within the construction area should be protected by fencing that at a minimum encloses the area around their drip line.
(3) Mark site boundaries to identify the limits of construction (including storage and access areas) with flags or fencing. No soil disturbance or compaction should occur outside the delineated construction area.
(4) Limit the amount of soil exposed at one time to reduce the potential for erosion by phasing construction.
(5) Stabilize and maintain the construction entrance to prevent mud from being tracked onto streets.
(6) Install silt fences to intercept runoff and allow suspended sediment to settle out on the downslope side of construction activities and between disturbed soil and any drainage feature, stormwater inlet or water body.
(7) Divert any stormwater from upslope areas around the disturbed area with appropriately stabilized berms or ditches to prevent the runoff from picking up sediment. Untreated stormwater and sediment must not be diverted to neighboring properties, public rights-of-way or water bodies.
(8) Treat and filter any water pumped out of the construction area before allowing it to flow off the site or to be discharged to a storm drain or water body.
(9) Slow any concentrated flows of runoff by installing stone check dams in drainage channels.
(10) Stabilize exposed soil with seed and mulch or erosion control matting promptly when work in an area is complete.
(11) Monitor the site to ensure that all sediment and erosion control measures are functioning properly. It is particularly important to check erosion control measures just before and after any significant rainfall.
(12) Periodically clean, replace and maintain all sediment and erosion control measures until vegetation is permanently established on all disturbed areas.
(13) Till any compacted soil prior to the final seeding and mulching; and
(14) Stockpile the topsoil removed during construction and spread it back onto disturbed areas prior to the final seeding and mulching. If the quality of the site's topsoil is inadequate to support appropriate vegetative cover, it does not need to be stockpiled and it may be replaced with better quality soil or, if it is retained, it should be amended as needed.

6.11 Extraction Operations

6.11.1 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 Development Review Board may approve such earth products removal, provided it concludes that the following requirements are met:

(1) A site plan must be submitted showing existing grades in the area from which the 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) Finished grade must not result in a slope steeper than a 2:1 (horizontal-to-vertical) ratio.
(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.

6.11.2 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.

6.11.3 Surety Bond

In accordance with the provisions of 24 VSA §4407(8), and before a permit is granted under Section 6.11 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.

6.11.4 Streambed Restrictions

Pursuant to 10 VSA §1021(c), no person shall remove gravel from any watercourse primarily for construction or for sale.

6.12 Fences and Walls

6.12.1 Applicability. The provisions of Section 6.12 apply to all fences and walls not exempted in Section 2.2**.**

6.12.2 Setbacks. Fences and walls may be located within district setbacks as specified in Figure 4-1 except that fences that enclose tennis courts must comply with all setback requirements for the district in which they are located.

6.12.3 Height. The maximum height of fences and non-retaining walls will be as follows unless otherwise approved by the Development Review Board in order to provide adequate screening or security:

(1) 4 feet if located between the street and the principal building frontline.
(2) 8 feet if located to the rear or side of the principal building.
(3) 10 feet for a fence enclosing a tennis court, in a rear or side yard.
(4) Height restrictions will not apply to fences within the Office Industrial district provided that:
    (a) The fence does not abut land in another zoning district; and
    (b) The fence height and location does not reduce sight distance at intersections.
(5) A fence or wall must not obscure vision above a height of 3 feet at an intersection.

6.12.4 Materials. Unless otherwise approved by the Development Review Board, a fence or wall:

(1) Must be constructed of permanent material such as wood, chain link, stone, rock, concrete, brick, decorative wrought iron or other materials of similar durability;

(2) Must be constructed so that any support posts are to the inside and the “finished” or “good” side faces out; and
(3) Must not be constructed of barbed wire, razor wire or similar materials capable of inflicting significant physical injury except as required to meet state or federal regulations.

6.12.5 Retaining Walls. Retaining walls must be located and designed as follows:

(1) No individual retaining wall may exceed 15 feet in height except that pre-existing retaining walls more than 15 feet in height may be repaired and reconstructed to their pre-existing height.
(2) All retaining walls more than 4 feet in height must be designed by a qualified professional, and must be topped by a fence, hedge or similar barrier. For a system of terraced walls, only the uppermost wall will require a barrier provided that the terraced sections below are not readily accessible from other portions of the property.
(3) The height of a retaining wall will be measured from the grade at the base of the face of the wall to the grade at the back of the wall immediately above at the location along the wall where those two grades are the furthest apart.
(4) Terracing of retaining walls is encouraged. To be considered separate walls, two retaining walls must be separated by a horizontal distance of at least 8 feet.

6.13 Frontage Requirement

No land use or development shall be permitted on lots with less than 50 feet of frontage on a public street or private way, unless the provisions of Section 6.13.1 or Section 6.13.2 are meet.

6.13.1 Three or More Lots

The Development Review Board or Zoning Administrator may approve land use or development of three or more lots 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 lots through this right-of-way shall meet town road standards as established in Chapter 7 of the *Manchester Unified Ordinances*.

6.13.2 Less Than Three Lots

Where one or two lots are located to the rear of another lot and cannot meet the frontage requirement, the Development Review Board or Zoning Administrator 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 lots and the front, side and rear yards for each lot, meet the minimum requirements for that district.

6.14 Grading, Excavation or Fill

6.14.1 Applicability. The provisions of Section 6.14 apply to all grading, excavating or filling of land not exempted in Section 2.2 or associated with an extraction operation as defined under this ordinance and as approved per Section 6.11. A property owner must obtain a zoning permit for such grading, excavating or filling of land in accordance with the provisions of Section 6.14.

6.14.2 Waterways or Wetlands. Excavation and fill is prohibited within surface waters, wetlands and any required setbacks to surface waters or wetlands except:

(1) The proposed activity may proceed under state approval and permitting provided the landowner submits such approval and permit to the Zoning Administrator.
(2) A landowner may remove up to 50 cubic yards of material per year for noncommercial private use after securing a permit from the Zoning Administrator. 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.

6.14.3 Fill Material. The use of any material for fill other than uncontaminated clean fill (may contain soil, stone, gravel, concrete, ceramic, or brick and mortar) is prohibited unless the proposed fill will be subject to state permitting, in which case the conditions of the state permit regarding the fill material will prevail.

6.14.4 General Standards. Grading, excavation and fill operations must conform to the following requirements unless otherwise approved by the Development Review Board as an element of proposed land development subject to a development approval:

(1) A site plan shall be submitted to the Zoning Administrator showing existing grades in the area to which fill will be deposited, together with finished grades at the conclusion of the operation.
(2) Grading, excavation or fill is prohibited within 20 feet of the property line except that deposition of fill may occur below the grade at the property line, or unless the activity includes both properties and the abutting landowner is a co-applicant.
(3) The applicant shall provide for proper drainage of the area during and after completion of the operation.
(4) Grading, excavation or fill must not result in a slope steeper than a 2:1 (horizontal-to-vertical) ratio.
(5) At the conclusion of the operation, or any substantial portion thereof, the area where fill has been deposited, land has been regraded, or extraction has occurred shall be covered with not less than four inches of topsoil, and seeded with a suitable cover crop.

6.15 Outdoor Display of Merchandise

Outdoor display of retail merchandise is prohibited unless:

(1) The activity is exempted under Section 2.2;
(2) The merchandise is produced to be used outdoors and the display area is approved by the Development Review Board as part of site plan review; or
(3) The merchandise is displayed only during business hours and stored indoors at all other times, does not impede vehicle or pedestrian ingress and egress, and is approved by the Development Review Board as part of site plan review.

6.16 Ponds

6.16.1 Applicability. The provisions of Section 6.16 apply to any constructed pond with a surface area of more than 200 square feet or a maximum depth of more than 4 feet. A property owner must obtain a zoning permit to construct, expand or modify such a pond in accordance with the provisions of Section 6.16.

6.16.2 Waterways or Wetlands. Construction of a pond within wetlands and any required buffers to surface waters or wetlands is prohibited unless the applicant demonstrates that he/she has obtained all required state permits.

6.16.3 General Standards. Ponds must conform to the following unless otherwise approved by the Development Review Board as an element of proposed land development subject to a development approval:

(1) Ponds are prohibited within zoning district setbacks.
(2) Ponds must have a grassed spillway system capable of handling stormwater overflow from the pond. Overflow must not be discharged in a manner that would adversely impact downslope properties, public rights-of-way or surface waters.
(3) Property owners must manage and maintain ponds so as to not create a nuisance or hazard.

6.17 Public Toilet Facilities

6.17.1 Nonresidential Buildings. Nonresidential buildings designed or used for retail, dining, lodging, office or service purposes, or otherwise regularly open to the general public must provide internal, sanitary and secure public toilet facilities for patrons that are clearly identified and maintained in working order.

6.17.2 Nonconforming Buildings. Nonconforming pre-existing buildings must meet the requirement of Section 6.17.1 if proposed renovation or modification of the building requires site plan approval except the Development Review Board may waive this requirement upon the applicant demonstrating that providing public toilet facilities is not feasible given the existing configuration and floor plan of the building and any proposed modifications.

6.18 Stormwater

6.18.1 Purpose. Section 6.18 is intended to:

(1) Minimize and control the quantity and quality of stormwater run-off.
(2) Promote stormwater management methods that maintain pre-development hydrology and drainage patterns through project layout, site design, and best management practices that manage stormwater run-off as close to the source as possible.
(3) Limit clearing and grading to the minimum needed for construction and minimize impacts to natural vegetation.
(4) Prevent soil erosion and sedimentation resulting from non-point source pollution generated by land development.
(5) Protect surface waters and other natural resources from degradation as a result of land development.
(6) Minimize hazards from flooding and streambank erosion.
(7) Prevent damage to, and reduce public expenditures associated with, maintaining municipal infrastructure resulting from inadequate stormwater controls.

6.18.2 Applicability. All proposed land development must implement appropriate measures to reduce and manage stormwater to prevent run-off from adversely impacting nearby properties, public infrastructure, or downslope water bodies. The provisions of Section 6.18 apply to any land development except land development that obtains a state stormwater permit. A project with a state stormwater permit will be assumed to have met the requirements of Section 6.18. Any zoning permit or approval will be

conditional upon the applicant submitting a copy of the state permit to the Zoning Administrator prior to the start of construction.

6.18.3 Public Works Specifications. Applicants must construct stormwater infrastructure in accordance with the town's Public Works Specifications. In the case of a conflict between a provision of Section 6.18 and a provision of the Public Works Specifications, the Public Works Specifications will govern.

6.18.4 Design and Engineering Requirements. Applicants must design and engineer proposed land development in accordance with low-impact site design (LID) approaches and green stormwater infrastructure (GSI) best management practices to the maximum extent feasible given the site specific conditions including, but not limited to, soil characteristics and slope. Applicants proposing land development:

(1) That will not increase the amount of impervious cover must demonstrate that the existing stormwater system on site is functional and adequately prevents erosion and stormwater runoff onto adjacent property or public rights of way.
(2) That will increase the amount of impervious surface on a lot by up to 10,000 square feet must demonstrate that appropriate stormwater best management practices will be implemented based on the GSI Simplified Sizing Tool. The GSI Simplified Sizing Tool was developed by the Vermont League of Cities & Towns (VLCT) in collaboration with the Vermont Department of Environmental Conservation (VDEC). The tool, available from the VDEC website, is an Excel spreadsheet allowing applicants to design GSI elements based on site characteristics and development plans.
(3) That will increase the amount of impervious surface on a lot by 10,000 square feet or more must submit and implement a professionally prepared stormwater management plan in accordance with the Vermont Stormwater Management Manual. The Vermont Stormwater Management Manual is available from the VDEC website.

6.18.5 Best Management Practices. Land development that will increase the amount of impervious surface on a lot by 2,500 square feet or more must be designed so that stormwater run-off will be routed through one or more appropriate green stormwater best management practices (BMPs) in accordance with the following:

(1) BMPs must be sized and designed to capture 90% of the annual storm events, or the first inch of rainfall. See the GSI Simplified Sizing Tool for methods and calculations.
(2) Stormwater from on-site impervious roofs, roads, driveways, parking areas, sidewalks and walkways must be guided to vegetated areas, retention areas, or other pervious surfaces in order to promote on-site water retention and filtration.
(3) Applicants must demonstrate that the proposed width of all roads and driveways is the narrowest possible necessary to provide safe access and circulation in accordance with the provisions of this ordinance and the town's Public Works Specifications.
(4) Applicants must demonstrate the proposed amount of on-site parking is the minimum necessary to meet the parking demand in accordance with the provisions of this ordinance and the town's Public Works Specifications.

6.18.6 Post-Construction Soil Depth and Quality. All disturbed areas on a site not covered by impervious surfaces, incorporated into a structural stormwater treatment practice, or engineered as structural fill or slope once development is complete, must conform to the following:

(1) The duff layer and topsoil in areas to be disturbed during construction must be removed and stockpiled on-site in a designated, controlled area that is not adjacent to surface waters,

wetlands, floodplains, or river corridors. The duff layer and topsoil must be re-applied to the disturbed areas once construction activities are complete.

(2) At project completion, the soil in disturbed areas must:
   (a) Have a pH from 6.0 to 8.0 or matching the pH of the undisturbed soil on the site.
   (b) Include a topsoil layer with a minimum organic matter content of 10% dry weight in planting beds and 5% organic matter content in turf areas;
   (c) Include a topsoil layer with a minimum depth of 8 inches except where tree roots limit the depth of incorporation of amendments needed to meet the criteria.
   (d) Have had the subsoils below the topsoil layer scarified at least 4 inches with some incorporation of the upper material to avoid stratified layers, where feasible.

(3) If the stockpiled duff layer and topsoil is not sufficient to amend the graded areas, the applicant must import and establish a minimum 8-inch topsoil layer with subsoils below scarified to at least 4 inches to allow for some incorporation of the topsoil layer.

(4) The resulting soil must be capable of supporting healthy vegetation. If the disturbed areas will be landscaped in accordance with an approved site plan, the resulting soil must be capable of supporting the plants that will be installed.

6.19 Swimming Pools

A landowner may apply for a zoning permit to install a swimming pool (if not exempted in Section 2.2) on his/her property as an accessory structure in accordance with the following:

(1) A swimming pool located on a parcel of less than two acres, or a swimming pool located less than 50 ft. from an adjacent property must be completely enclosed to prevent unauthorized access by a wall, fence or other structure not less than 4 feet in height with a self-closing and self-latching gate.

(2) An above-ground pool will be considered completely enclosed if its exterior walls are smooth and at least 4 feet in height above grade around its entire perimeter, and if either:
   (a) The ladder access will be enclosed by a wall, fence, or other structure not less than 4 feet in height with a self-closing and self-latching gate; or
   (b) Entrance to the pool will be possible only through the use of portable steps or stairs that are removed when the pool is not in use.

(3) Swimming pools may be located within district setbacks in accordance with Figure 4-1. A swimming pool must not be located between the principal building and the street unless the applicant can demonstrate that there is no other feasible location on the lot.

6.20 Temporary Construction-Related Structures and Activities

6.20.1 Applicability. Temporary construction-related structures are permitted in any district on the site of permitted land development or an approved staging area in accordance with the provisions of this subsection. Construction-related structures may include, but are not limited to, construction offices, construction trailers, construction dumpsters, storage buildings, portable toilets, and fences.

6.20.2 Permitting Process. The permit for the land development will include approval of any construction-related structures. Construction-related structures must be removed from the property promptly upon completion of work and before the Zoning Administrator may issue a final certificate of compliance in accordance with Section 2.12.

6.20.3 Off-site Staging Areas. The Zoning Administrator may issue a zoning permit for the temporary use of a property in the Office Industrial District as a staging area for an off-site construction project. The

Development Review Board may allow the temporary use of a property in any other district as a staging area for an off-site construction project as a conditional use.

6.20.4 Dumpsters and Portable Toilets. Construction dumpsters and portable toilets must be located and used in accordance with the following:

(1) Must not impede pedestrian or vehicular access or otherwise create an unsafe condition for pedestrian and vehicular traffic.
(2) Must be labeled with the name and telephone number of the owner, and as being for construction or demolition materials only.
(3) Must be routinely inspected and emptied as needed.

6.21 Temporary Structures

Erection or placement of all temporary structures, not related to construction per Section 6.20, 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 structures include tents, yurts, portable garages, storage containers, contractors' trailers, or any other structure of a nonpermanent nature.

6.21.1 Storage Containers

A permit may be issued by the Zoning Administrator 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.

6.21.2 Other Temporary Structures

Other temporary structures shall be limited to one per lot, for a time period not to exceed 12 months. A permit for more than one of these structures 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 Zoning Administrator determines that these structures 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.

6.22 Trash Storage and Recycling Areas

All proposed land development subject to site plan review must provide suitable facilities for trash storage and recycling areas as follows:

(1) Trash storage and recycling areas must be located within the building or inside an enclosure located to the side or rear of the building and outside required setbacks.

(2) All outdoor trash and recycling storage and containers must be located on a hard surface (i.e., asphalt or concrete).
(3) Trash storage and recycling areas must provide adequate space for the maintenance and servicing of containers.
(4) Enclosures must be at least 5 feet in height and must obscure all materials and containers stored inside.
(5) Enclosures must be constructed of durable materials that are compatible in design with the buildings they are intended to serve.
(6) Any doors or gates to trash storage and recycling areas must remain closed and latched except when being accessed for deposit, maintenance or pick-up.
(7) Trash and recycling areas must be accessible and convenient for building residents/tenants and for collection vehicles.

6.23 Undevelopable Land

6.23.1 Purpose: The purpose of Section 6.23 is to:

(1) Prevent development of lands susceptible to environmental, property, or infrastructure damage.
(2) Prevent development of lands reserved for other purposes.

6.23.2 Development Prohibited on Undevelopable Land. Except as specifically authorized elsewhere in this ordinance, undevelopable land must not be developed.

6.23.3 Definition and Classification. Undevelopable land includes:

(1) Land with a natural slope greater than 20%, as measured over the proposed area of development in horizontal linear feet, **Class A**
(2) Wetlands, as defined in this ordinance, **Class A**
(3) Land within the Flood Hazard Overlay District, **Class A**
(4) Utility rights-of-way, **Class A**
(5) Other public and private rights-of-way and easements, **Class B**; and
(6) Land within the Forest Conservation District, **Class B**.

6.23.4 Calculating Maximum Coverage and Density. Class A undevelopable land will be included as developable land when calculating the maximum residential density, lot coverage or building coverage on a lot, unless excluded elsewhere in this ordinance. Class B undevelopable land will not be included as developable land when calculating a lot's maximum residential density.

6.24 Vending Machines or Kiosks

6.24.1 Vending Machines. Vending machines may be allowed as accessory structures in accordance with the following:

(1) Vending machines must not be internally illuminated.
(2) Vending machines must not be located between the frontline of the building and the street.
(3) Any exterior vending machine must be located as shown on an approved site plan.
(4) Any exterior vending machine within the Design Review Overlay must match the design specifications as approved.

6.24.2 Vending Kiosks. Vending kiosks, including kiosks for ATMs, may be allowed as accessory structures in accordance with the following:

(1) The vending kiosk must be fully screened from view from any public right-of-way.
(2) The vending kiosk may contain internally illuminated or audible features provided that the light and sound produced will not be perceptible from adjoining rights-of-way and properties.
(3) Any vending kiosk must be located as shown on an approved site plan.
(4) Any exterior vending kiosk within the Design Review Overlay must match the design specifications as approved.

6.25 Water Resources Protection

6.25.1 Purpose. Section 6.25 is intended to protect and enhance the overall quality, natural function and ecological health of the town's surface waters and wetlands by mitigating the impact of development on these surface water features.

6.25.2 Applicability. The provisions of Section 6.25 apply to all land within the water resources setback for the applicable district (see Section 4.18) from all rivers, streams, lakes, natural ponds and wetlands as reflected in the online Natural Resources Atlas as maintained by the Vermont Agency of Natural Resources. The water resources setback will be measured as a horizontal distance from the top of bank for rivers or streams, from the mean high water mark for lakes or ponds, and from the delineated extent of wetlands.

6.25.3 Conditional Use Review. All land use and development within the water resources setback shall require conditional use review according to Section 3.3 and shall comply with the standards and criteria of Section 6.25.

6.25.4 General Standards. Land development and soil **d**isturbance is prohibited and natural woody vegetation must be maintained or established within water resources setbacks except that:

(1) Water-dependent structures or uses, public recreation facilities and public trails or walkways will be allowed to the extent allowed in the applicable zoning district.
(2) Up to 20% of the area within the water resources setback or 800 square feet, whichever is greater, may be used for private water access, outdoor recreation, or outdoor seating. That area may be covered with mowed lawn, decks, patios, or walkways.
(3) Landscaping within water resources setbacks may be used in conjunction with green stormwater infrastructure (GSI) practices provided that such landscaping will not significantly compromise the existing functions of natural vegetation within the setbacks.
(4) On previously developed, nonconforming sites, redevelopment may be allowed within the same footprint as a conditional use in accordance with Section 3.3.

6.25.5 Previously Developed Nonconforming Sites. Pre-existing development within water resources setbacks will be regulated in accordance with the following:

(1) The pre-existing development may continue.
(2) A pre-existing building or developed site may be used for any purpose allowed in the zoning district. The requirement for conditional use approval will only be triggered if the applicant is proposing to expand the footprint or impact of development within the setback.
(3) On previously developed single- and two-family residential lots, natural woody vegetation will not have to be re-established on areas within the riparian setback maintained as lawns or gardens.

6.25.6 Development Criteria. In addition to all other applicable criteria of this ordinance, an applicant seeking conditional use approval for land development within the water resources setback must demonstrate that:

(1) The proposed land development cannot reasonably be accommodated on any portion of the lot outside the setback;
(2) The proposed land development will not have new or greater (as compared to existing conditions) adverse impact on:
    (a) The natural functions of the surface water and land within the setback;
    (b) Drainage, erosion, siltation and downstream flooding;
    (c) Fish and wildlife habitat; and
    (d) Public access and recreation.
(3) If the site was previously developed, it will be brought into conformance with the standards of Section 6.25 to the maximum extent feasible.

6.25.7 Timing of Approved Land Development or Soil Disturbance. Applicants must undertake any approved land development or soil disturbance within water resources setbacks during periods of low water.

6.26 Water Supply and Wastewater Disposal

All proposed development requiring a zoning permit under this ordinance must conform to applicable town ordinances and specifications, and state regulations regarding the provision of potable water and disposal of wastewater.

Section 7 Utility Facilities

7.1 Wireless Telecommunications Facilities

7.1.1 Purpose

The purpose of Section 7 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 Section 7 shall not prohibit a property owner's ability to place or allow placement of antennae used to transmit and receive communications signals on the property owner's premises if the aggregate area of the largest face of the antennae is not more than eight square feet, and if the antennae 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.

7.1.2 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, buildings, and infrastructure. However, in accordance with 24 VSA §4412(9), the Development Review Board shall approve a wireless telecommunications facility that is determined to create either no impact or only *de minimus* impact upon any criteria in Section 7 of the ordinance. 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 conclusions upon all of the general conditional use criteria described in Section 3.3 of the ordinance and the criteria described below.

7.1.3 Independent Review

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.

7.1.4 Design Review

If it falls in the Design Review Overlay District, a telecommunications facility is also subject to design review.

7.1.5 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.

7.1.6 Application Requirements

Applications shall include a site plan with elevations and other documents 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 antennae that the tower is expected to accommodate;
(4) Document the need for the proposed site and structures, and demonstrate why no other alternative or site will provide adequate coverage or capacity;
(5) Include photographs of existing conditions at the proposed site, and accurate photo simulations showing post-construction conditions at the site; and
(6) Include a copy of the FCC license or executed contract between the applicant and the FCC licensee for the proposed facility.

The Development Review Board may require additional information prior to issuing a decision.

7.1.7 Location

Telecommunications towers and associated equipment, buildings, and infrastructure shall not be located:

(1) On undevelopable land;
(2) In historic 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.

7.1.8 Use of Existing Structures

Applicants are encouraged to locate antennae within existing tall structures such as church steeples or barn silos; in these instances, the standards of Section 7 may be modified or waived by the Development Review Board.

7.1.9 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 facilities. If other sites do exist, then the applicant must demonstrate that they are technically inadequate, or that bona fide, good faith negotiations with that landowner have failed.

Any permit granted shall include a condition requiring that other wireless service providers 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.

7.1.10 Setback

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.

7.1.11 Environmentally Sensitive Areas

The town plan and this ordinance describe environmentally sensitive areas including steep slopes, wetlands, floodways, 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.

7.1.12 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 buildings within 300 feet of the proposed facility. If there are no nearby buildings, 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.

7.1.13 Lighting

Towers with lighting shall not be permitted, unless the Development Review Board concludes 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 FCC permit.

7.1.14 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. 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.

7.1.15 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.

7.1.16 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.

7.1.17 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.

7.1.18 Monitoring, Maintenance and Compliance

At the request of the Zoning Administrator 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.

7.1.19 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 Zoning Administrator or Development Review Board may require the owner/operator to promptly remove all structures and facilities and return the site to predevelopment condition. If there is anticipated reuse by another provider, removal may not be required. If weather prevents prompt restoration of the site, a delay in removal and restoration may occur. In either case, a clear and definitive time frame shall be specified for removal or reuse.

7.1.20 Bonding

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 structures and restore a site should the owner/operator be unwilling or unable to do so.

7.2 Utility Facilities

7.2.1 Applicability. The standards of Section 7.2 apply to utility facilities other than wireless telecommunication facilities and those not exempted in Section 2.2.

7.2.2 Dimensional Standards. Minimum lot size and frontage requirements will not apply to lots housing utility facilities.

7.2.3 Site Security. Utility facilities must be designed and maintained to prevent unauthorized access and protect public safety.

7.2.4 Screening. The perimeter of a site housing a utility facility must be screened by a buffer that:

(1) Is at least 12 feet wide.
(2) Is maintained as a landscaped or naturally vegetated area.
(3) Has a minimum of 4 trees of at least 30 feet in height at maturity and 12 small trees (less than 30' at maturity) or shrubs per 100 feet.

7.3 Energy Generation Facilities

7.3.1 Applicability. The standards of Section 7.3 apply to energy generation facilities not exempted in Section 2.2.

7.3.2 Setbacks. An energy generation structure must be set back a distance equal to the structure's height or more from all property lines or the district minimum setback requirement, whichever is greater, except if it is building mounted.

7.3.3 Height. The height of an energy generation structure must conform to the following:

(1) The height of a ground-mounted solar energy generating apparatus must not exceed 30 feet.
(2) The height of a ground-mounted wind energy apparatus must not exceed 120 feet.
(3) An energy generating apparatus mounted on a building wall must not extend above the lowest portion of the roof.

(4) An energy generating apparatus mounted on a building roof must not extend more than 10 feet above the roof surface.

7.3.4 Removal. A facility that has been out-of-service for more than 180 days will be considered abandoned and the owner must remove it unless she/he can demonstrate to the Zoning Administrator that energy generation will resume at a specified future date.

7.3.5 Screening. The site housing a ground mounted solar energy generation facility must be screened along any frontage by a buffer that:

(1) Is at least 12 feet wide.
(2) Is maintained as a landscaped or naturally vegetated area.
(3) Has an adequate mix of trees and shrubs, taking account terrain, to screen the proposed facility. The tree requirement may be waived for solar facilities on lots without adequate area to provide such a buffer without shading the solar panels.

Section 8 Housing

8.1 Adaptive Reuse

8.1.1 Applicability. The provisions of Section 8.1 apply to the conversion of an existing non-residential building to housing except within the Office Industrial and Forest Conservation districts where residential development is prohibited.

8.1.2 Site Development Plan. No residential conversion under the provisions of Section 8.1 may be made until a site development plan meeting the requirements of Section 2.10 and Section 3.2 has been approved by the Development Review Board.

8.1.3 Density. The number of dwelling units that may be created within an eligible building may exceed the maximum residential density of the applicable zoning district provided that each dwelling unit meets the requirements of Section 8.3 and the following criteria:

(1) The unit will qualify as affordable, workforce or senior housing, as defined in this ordinance.
(2) The unit will have a total habitable floor area of 1,200 square feet or less.
(3) The unit will have access to dedicated, secured, enclosed storage space equivalent to at least 5% of the floor area of the unit or 60 square feet whichever is less. This storage space does not have to be directly accessible from the unit and shall not include bedroom closets.
(4) The unit will have direct access to at least 60 square feet of private or semi-private outdoor space such as a porch, deck, balcony, yard or patio.
(5) The unit will have access to at least 1⁄2 acre of common open space suitable for passive outdoor recreation or a walking trail at least 1⁄2 mile in length.

8.1.4 Historic Buildings. Adaptive reuse of a building listed individually, or as a contributing structure within a designated historic district, in the National Register of Historic Places or Vermont Register of Historic Places must preserve the historic character of the building with any exterior modifications being undertaken in accordance with the practices recommended by the U.S. Department of Interior's Technical Preservation Services in the *Guidelines for Rehabilitating Historic Buildings*.

8.2 Affordable Housing

8.2.1 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 for a degree of flexibility in the design and density of affordable housing projects and financial incentive, through density bonuses, to projects that meet affordable housing needs.

8.2.2 Review Process

An affordable housing project may be permitted as a conditional use, subject to the provisions of Section 3.3 within any district in which multifamily dwellings are allowed.

8.2.3 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.

(A) Outside the Sewer Service Area: If the project does not fall within the sewer service area, the following standards must be met:

(1) The project shall consist of a minimum of five units.

(2) The project shall consist of single-, two-, three-, 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 buildings as two-family structures, and at least 25% of the buildings as three- to four-family structures. The types of buildings shall be mixed throughout the development. No such limits apply to parcels smaller than 10 acres in size.

(3) 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 wetlands may serve part of this purpose, all of the open space should not be on such undevelopable land.

(4) 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.

(5) Buildings 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. Fences shall be erected along such agricultural land to prevent interference with farming practices by children, pets, or any residential activities or uses.

(B) All Projects: The following standards apply to all affordable housing projects:

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

(2) All units may be located on individual lots, 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.

(3) Site designs shall provide for private outdoor space for each housing unit.

(4) 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.

(5) At least one parking space per dwelling is required. All parking shall be located to the side or rear of, or under the buildings, unless the parking area is not visible from the road.

8.2.4 Further Subdivision

No lot shown on a plan for which a permit is granted under Section 8.2 may be further subdivided, and a notation to this effect shall be shown on the site plan and on the deeds to any such lots.

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 that utilizes dimensional waivers or a density bonus, the applicant shall submit to the Zoning Administrator 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 approval 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 determination of the degree to which application of standard zoning requirements would or would not meet such housing needs.

8.2.5 Determination of Density

The final residential density of the project will be determined by the Development Review Board. The determination will take into account, the base density allowed in the underlying zoning district and the affordable housing needs of the community, as expressed in the *Manchester Town Plan* or studies assessing housing needs in Manchester.

8.2.6 Affordable Housing Height Bonus

(1) Outside of the Downtown (DN) and Town Center (TC) districts, an affordable housing structure may be up to 35 feet in height for up to 50% of the footprint of the building.
(2) Outside of the Downtown (DN) and Town Center (TC) districts, an affordable housing structure may be up to 40 feet in height for provision of at least 50% of the parking under the building.

8.3 Dwelling Units

8.3.1 Applicability. The standards of Section 8.3 apply to any structure or portion of a structure used or intended to be used as a dwelling unit.

8.3.2 Minimum Unit Size. The minimum size of a dwelling unit must not be less than:

(1) 150 square feet for a studio or efficiency unit (one open living area that includes kitchen, living and sleeping quarters with a separate bathroom);
(2) 220 square feet for a one-bedroom unit; or
(3) 220 square feet plus an additional 70 square feet for each additional bedroom.

8.3.3 Cooking and Sanitation Facilities. All dwelling units must have safe, functioning cooking and sanitation facilities in accordance with the following:

(1) A dwelling unit must contain permanent bathroom facilities. A bathroom must be a separate room in which there is a toilet, sink, and a shower or bathtub.
(2) A dwelling unit must contain permanent kitchen facilities. A kitchen must be a room or portion of a room in which there is a sink, refrigerator, and one or more appliances for heating food.
(3) Any dwelling unit containing three or more bedrooms within a multi-family building must have utility connections for a washing machine and clothes dryer in the unit. Any dwelling unit containing less than three bedrooms within a multi-family building must either have utility connections for a washing machine and clothes dryer within the unit or there must be a common laundry room in the building with washing machines and clothes dryers accessible to residents.

8.3.4 Trash Disposal. All multi-family dwelling units must have convenient access to trash and recycling storage areas in accordance with Section 6.22.

8.3.5 Open Space. Except for dwelling units located in the Downtown or Town Center districts, all multi-family dwelling units must be located on a lot that includes at least 1⁄4 acre or 400 square feet per dwelling unit, whichever is greater, of common open space suitable for passive outdoor recreation.

8.4 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 Section 8.5.

8.5 Mobile Home Parks

8.5.1 Location

A mobile home park may be permitted as a conditional use, within any district in which multifamily dwellings are allowed.

8.5.2 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.

8.5.3 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 Section 2.10 and Section 3.2 has been approved by the Development Review Board.

8.5.4 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.
(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.

8.5.5 Minimum Service Standards

Waste collection stations shall be provided, located not more than 150 feet from each mobile home site, and in compliance with Section 6.22. 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 Zoning Administrator 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.

8.5.6 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.

8.5.7 Sales Prohibited

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, provided that any such use is otherwise permitted in the district in which the mobile home park is located.

8.6 Planned Residential Development

8.6.1 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 streets and utilities, and to enhance the environmental quality and rural character of the area through preservation of open space.

8.6.2 Applicability

A PRD is permitted in any zoning district in which residential use is permitted. In the Rural Residential (RR) and Rural Agricultural (RA) districts, nonconforming lots of at least four acres existing at the time of adoption of this ordinance (06/19/2018) are eligible for the residential density bonus with required land protection.

8.6.3 Application Requirements

A PRD shall comply with the requirements of Section 3.2, Site Plan Review, and Section 11, Subdivision Standards.

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 envelopes or easements then the survey shall be required.

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) The proposed use of the open space lands and proposed mechanisms for its preservation; and
(4) Requested waivers and bonus densities and justification for granting them.

8.6.4 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 uses, and existing structures relative to proposed lot lines, building envelopes, and infrastructure.

Once a site visit has been conducted, the Development Review Board shall hold a preliminary hearing on the proposed PRD. The Development Review Board 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.

8.6.5 Dimensional Standards

In a Planned Residential Development, the dimensional standards of the underlying zoning district may be suspended allowing for clustered or compact lots with smaller setbacks and higher lot coverage than otherwise required.

(1) For any lot within a PRD located in the RR or RA zoning districts, the minimum lot size shall be ten times the footprint of any primary structure on the lot.
(2) Approved building envelopes shall be delineated on the subdivision plat for each lot to reflect allowable setbacks and lot coverage for all future structures and other impervious cover.

8.6.6 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 lots conforming to the provisions of the district in which such tract is situated, except that a density bonus may be approved by the Development Review Board according to Section 4.18, Dimensional Standards Table, and the following:

(1) Preservation of Working Lands Use – Within the Rural Agricultural (RA) District, a density bonus of three dwelling units per ten acres may be awarded to a PRD that results in the preservation of an active farm, or protects agricultural or silvicultural use in perpetuity. At least 70% of the total land area of the project site must be preserved for such use. Appropriate legal restrictions for the perpetual preservation of the agricultural or silvicultural use must be provided.
(2) Preservation of Open Space – Within the Rural Residential (RR) District, a density bonus of three dwelling units per five acres may be awarded to a PRD that results in the preservation of open

space. At least 50% of the total land area of the project site must be preserved as open space. Appropriate legal protections, restrictions, and maintenance plans must be provided.

(3) Within the Mixed Use 2 (MU2) or Mixed Use 3 (MU3) districts, a 50% density bonus may be awarded to a PRD that results in the preservation of at least 50% of the total land area of the project site. Appropriate legal protections, restrictions, and maintenance plans must be provided.

(4) Net Zero Density Bonus – In the Mixed Use 1 (MU1), MU2, MU3, Residential 10 (R10),Residential 4 (R4), Residential 1 (R1), RR and RA districts, a density bonus may be granted for a PRD that results in all structures meeting net zero energy building standards as defined in this ordinance. The applicant must provide net zero energy building specifications and demonstrate perpetual function of the energy generation systems prior to the close of the DRB subdivision hearing according to Section 3.5.7 and Section 3.10.

(5) Utilization of Under-Building Parking – A density bonus may be granted for a PRD with underground or under-building parking. Such bonus will be determined by the Development Review Board, based on site constraints and the percentage of underground parking that is proposed.

The number of bonus units granted shall be rounded up to the nearest whole number.

8.6.7 Legal Restrictions and Requirements

(1) **Dedication of Open Space.** Land to be preserved as open space in Planned Residential Developments 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.

(2) **Working Land Restrictions.** Land to be preserved as working lands for agricultural or silvicultural use must be protected for such use by dedication of development rights and protection of these working lands uses in perpetuity.

(3) **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 lots within the PRD. Such non-profit community association, corporation, or cooperative shall be responsible for management and 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.

(4) **No Community Association Required.** In the case of Planned Residential Developments in which all land designated as open space 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.

8.7 Workforce Housing

8.7.1 Purpose. The purpose of Section 8.7 is to encourage the development of housing that meets the needs of the town's workforce.

8.7.2 Workforce Housing Height Bonus

(1) Outside of the Downtown (DN) and Town Center (TC) districts, a workforce housing structure may be up to 35 feet in height for up to 50% of the footprint of the building.

(2) Outside of the Downtown (DN) and Town Center (TC) districts, a workforce housing structure may be up to 40 feet in height for provision of at least 50% of the parking under the building.

Section 9 Site Design Standards

9.1 Purpose

The purpose of Section 9 is to establish site development standards to protect the quality of life by preventing land use and development from creating or contributing to adverse off-site impacts.

9.2 Applicability

Applicants must obtain site plan approval from the Development Review Board before the Zoning Administrator may issue a zoning permit for any land development other than one- or two-family dwellings and accessory uses or structures to one- or two-family dwellings.

9.3 Performance Standards

Applicants seeking site plan approval must demonstrate that proposed land development conforms to the site plan standards put forth in Section 9.

9.3.1 Noise. Unless otherwise approved by the Development Review Board, noise emanating off site must not be distinct from the background sound level beyond the property line, and must not interfere with the reasonable use and enjoyment of other properties. If proposed land use and development is deemed likely to have noise impacts, the Development Review Board may:

(1) Require the applicant to submit an acoustical analysis of sound generation on the site prepared by a qualified professional.
(2) Require acoustical site design strategies, and acoustical architectural design strategies to manage noise generated on the site.

9.3.2 Glare. Lighting must not be used or directed in such a manner that it produces glare on roads, on nearby property, or in the windows of nearby buildings.

(1) All exterior lighting must meet the standards put forth in Section 9.5.
(2) If proposed land use and development is deemed likely to produce glare or excessive skyglow, the Development Review Board may require a photometric analysis plotting the footcandle distribution on the site for all proposed outdoor lighting.

9.3.3 Odors. Emission of odors that are readily detectable without special instruments at any point beyond the property line and that interfere with the reasonable use and enjoyment of other properties is prohibited.

9.3.4 Vibration. Vibration that is easily discernible without special instruments at any point beyond the property line is prohibited except that:

(1) This will not apply to vibration caused by motor vehicle, train, or aircraft traffic.
(2) The Development Review Board may approve greater vibration levels for a specified period, frequency and purpose.

9.3.5 Electrical or Radio Interference. Creating interference with electrical or radio apparatus beyond the property line is prohibited.

9.3.6 Waste Storage. Storage of wastes that attract insects or rodents, or otherwise create a health hazard is prohibited. All waste must be stored in tightly sealed storage containers or within a fully enclosed building unless specifically approved otherwise by the Development Review Board. Solid waste removal must occur on a regular basis to prevent accumulation. Waste receptacles must be appropriate screened from public view per Section 6.22.

9.3.7 Air Quality. The project must not result in undue impacts on air quality. Generation of dust, dirt, fly ash, smoke, particulate matter or other airborne solids that accumulate at any point beyond the property line or that interfere with the reasonable use and enjoyment of other properties is prohibited except when related to approved construction activities. Consideration of air quality shall include types and quantity of air emissions, odors or hazardous substances, and dust control.

9.3.8 Hazardous Substances. Flammable, combustible or explosive materials must be stored and handled in conformance with state and federal regulations. Such materials must be securely stored within a fully enclosed building or tank. Proposed land use and development must not release toxic or hazardous substances or wastes into the environment or cause contamination of any potable water supply, sanitary sewer or septic system, watercourse or water body, soil or air except as specifically permitted by the Vermont Agency of Natural Resources.

9.3.9 Water Quality. The project must not result in water pollution. Consideration shall include the nature of soils and subsoils, slope, proximity to streams, aquifer recharge areas and groundwater, floodplains, stormwater runoff, and drainage. The project should provide for protection of the natural terrain, shoreline protection, retention of vegetation, and erosion control.

9.3.10 Scenic and 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 and the effects on ridgeline resources.

9.3.11 Historic Sites. For land use and development involving 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. Consideration shall be given to external design of buildings and related site improvements, as well as signs, exterior lighting, overall site design, and historic features. Materials and design details shall take into account harmony and proportion and adjacent land use. Buildings 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 buildings unless it is clearly demonstrated by the applicant that there can be no reasonable use of the property without destruction of the building.

9.3.12 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 streets 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.

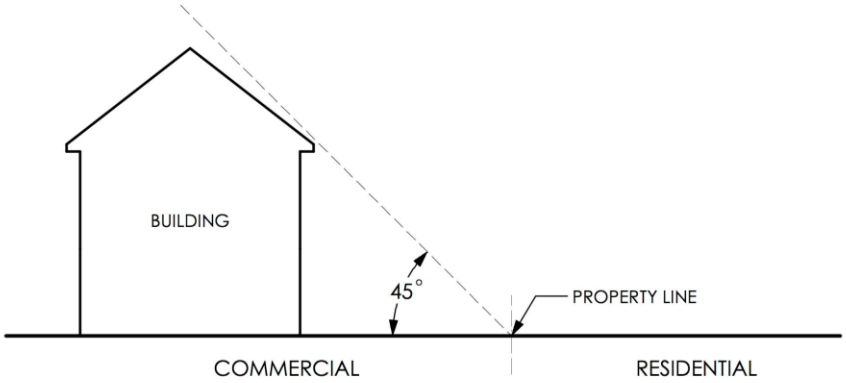
9.3.13 Energy Conservation. The project shall reflect principles of energy conservation and incorporate the best available technology that is economically justified. Consideration may be given to location and

orientation of structures 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 Development Review Board concludes appropriate to energy conservation.

9.3.14 Impervious Cover. 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 buildings, 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.

9.3.15 Residential Buffers.

(1) To protect existing abutting one- and two-family uses from proposed commercial and multifamily development, and where undue adverse impacts may reasonably be anticipated, either of the following shall be the base level' requirement, whichever is greater:
   (a) An additional 5 feet of setback shall be provided between commercial and multifamily residential buildings and adjoining single-family 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;
   (b) 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 below).



(2) Once the 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 Development Review Board shall thus include both the quantitative element of distance, as well as circumstances such as slope, natural and built topography, density and intensity of plantings, fencing, and other mitigating factors.
(3) For commercial developments 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) The Development Review Board may grant Greenspace reductions when a development project provides exceptional landscape enhancements as described in Section 9.3.15.
(5) Exceptions to these requirements shall be made only in the case of essential services to provide appropriate, separation or screening for these larger buildings or uses, but not to require so much separation or screening as to effectively preclude a use that is otherwise permissible.

9.4 Landscaping

9.4.1 Intent. The provisions of Section 9.4 are intended to:

(1) Enhance the appearance of the built environment as viewed from public vantage points;
(2) Provide shade and reduce heat and glare, particularly along sidewalks and walkways, and within parking lots;
(3) Control soil erosion and stormwater runoff;
(4) Screen potentially incompatible land uses and utilitarian site features;
(5) Calm traffic, and improve pedestrian safety and comfort; and
(6) Preserve existing mature vegetation and naturally vegetated buffers to the maximum extent feasible.

9.4.2 Applicability. Proposed development subject to site plan approval, including planned unit developments, must provide landscaping in accordance with the provisions of Section 9.4.

9.4.3 General Standards. All landscaping required under this ordinance must conform to the following:

(1) **Landscape Plan.** Applicants for site plan approval must submit a landscape plan prepared by a licensed landscape architect or a certified horticulturist when landscaping will be altered or installed.

(2) **Plant Materials.** Plant materials must meet the specifications in Figure 9-1 and the following:
   (a) The Town of Manchester strongly encourages use of native species and prohibits use of invasive species as identified by the Vermont Agency of Natural Resources.
   (b) For reasons of health, vigor, and longevity, only nursery-grown plant materials may be installed to meet the standards of Section 9.4.
   (c) All plantings must be planted according to accepted horticultural standards.
   (d) Species chosen must be appropriate to their specific planting location (trees or shrubs planted close to a road or parking area should be salt- tolerant, for example).

(3) **Design Principles.** Landscaping must be an integral element of 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) and must be designed in accordance with the following:
   (a) Clustered plantings of substantial trees must be provided in order to enhance the aesthetic appearance of a site. Except for street trees, individual trees or plantings shall not appear at rigid intervals.
   (b) Substantial deciduous trees with wide canopies mixed with conifers, shrubs and ornamental plants must be provided to create significant shade, screening, and aesthetic improvement. Single-species hedges (such as arbor vitae) must be used for accent or as a backdrop only, and not as primary landscaping elements.

(c) Densely planted, well-maintained flower beds are strongly encouraged as an aesthetic enhancement to landscaping plans.
(d) Where pedestrian paths are provided, landscaping such as planters, trees, or other features must be used to reinforce the identification and use of these paths.

(4) **Performance Bond.** If landscaping cannot be installed at an appropriate stage in the construction due to time of year or unusual weather conditions, the Development Review Board may allow the applicant to install the landscaping within a reasonable time frame. The applicant must submit a performance bond in accordance with Section 2.11.4 to ensure that landscaping will be installed in accordance with the approved plans. The performance bond will be held until the landscaping is completed.

(5) **Maintenance.** Landscaping required under Section 9.4 or as a condition of approval must be maintained in a healthy condition. Dead or dying plants must be replaced within one growing season with a comparable plant (in terms of type, form, size at maturity, etc.) of at least the minimum size requirements specified in Figure 9-1.

(6) **Inspection.** The Development Review Board may require that the Zoning Administrator inspect the site to determine that the plant materials are healthy and that the landscaping is functioning as intended after several growing seasons as a condition of approval. An inspection is recommended when landscaping is integral to ensuring that the proposed development performs as approved (such as within green stormwater infrastructure or riparian buffers, or where there is a specific screening or aesthetic concern, for example).

Figure 9-1. Planting Specifications

Plant Material	**Maximum Crown/Spread** (at maturity)	**Maximum Height** (at maturity	**Minimum Caliper** (at planting)	**Minimum Height** (at planting)	**Minimum Soil Volume** (per plant)	**Equivalent Planting Units**
Large Tree	40 ft or more	50 ft or more	2-3 inches for deciduous trees	4-6 ft for coniferous trees	1,000 cf	1.0
Medium Tree	30 ft to 40 ft	30 ft to 50 ft			500 cf	0.8
Small Tree	< 30 ft	< 30 ft			250 cf	0.6
Large Shrub	9 ft or more	8 ft or more	n/a	30 in	120 cf	0.5
Medium Shrub	6 ft to 9 ft	4 ft to 8 ft	n/a	24 in	60 cf	0.3
Small Shrub	< 6 ft	< 4 ft	n/a	18 in	15 cf	0.1

Notes: *Minimum soil volume per plant may be reduced by 40% for planting areas landscaped with multiple plants that are not less than 10 ft. in any dimension. Existing, healthy, mature plant materials that will be preserved may be counted towards landscaping requirements at a rate of 120% of the applicable equivalent planting units. Perennial ornamental plants may be substituted for not more than 30% of the total number of required plants at a rate of 0.1 equivalent planting units. Minimum size at planting must be a #1 container or equivalent.*

9.4.4 Front Yard Standards. Proposed land development must provide landscaping within the minimum front yard setback, except within the Office Industrial District or where the principal building is or will be constructed to the edge of the sidewalk, in accordance with the following:

(1) **Location.** Front yard landscaping must be provided between the edge of the street right-of-way and the frontline of the principal building to:
(a) Highlight and enhance entrances to the site or freestanding signs located within the front setback;
(b) Provide direction to and enhance building entrances;
(c) Provide visual breaks along blank building facades;

(d) Enhance and shade sidewalks and walkways;
(e) Screen parking areas or other utilitarian site elements; and
(f) Intercept and filter stormwater runoff.

(2) **Quantity.** Front yards must be landscaped with not less 1.0 equivalent planting unit (EPUs) for every 10 feet of lot frontage (exclusive of street trees).

9.4.5 Streetscape Standards. Proposed land development must provide street trees along existing and proposed streets in accordance with the following:

(1) **Location.** Street trees must be planted as follows:
(a) Within three feet of the edge of the street right-of-way unless otherwise recommended by the Department of Public Works.
(b) In a planting strip or a tree well within or immediately adjacent to the street right-of-way that is not less than four feet in any dimension unless otherwise recommended by the Department of Public Works.

(2) **Size.** Street trees must be sized as follows:
(a) Where there are no existing or proposed overhead utility lines, street trees must be large trees.
(b) Where there are existing or proposed overhead utility lines 35 feet or more in height, street trees must be medium trees.
(c) Where there are existing or proposed overhead utility lines less than 35 feet in height, street trees must be small trees.
(d) If existing buildings or similar obstructions will conflict with large trees as they mature, the Development Review Board may waive the requirement for large street trees and allow the applicant to plant medium or small trees as recommended by the Department of Public Works.

(3) **Spacing.** Street trees must be planted with a reasonably even, linear spacing as specified below:
(a) Large trees must be planted at a minimum ratio of one for every 50 feet of frontage.
(b) Medium or small trees must be planted at a minimum ratio of one for every 30 feet of frontage.
(c) As recommended by the Department of Public Works, the Development Review Board may approve shifting the spacing of street trees to accommodate site features or maintain sight distance.

(4) **Preservation of Existing Trees.** The Town of Manchester strongly encourages preservation of existing, healthy, mature trees. The Development Review Board may waive the location, spacing and alignment standards above to allow existing trees within 10 feet of the edge of the street right-of-way to meet street tree requirements.

9.4.6 Parking Area Standards. Proposed land development must landscape existing and proposed parking areas except within the Office Industrial District in accordance with the following:

(1) **Location.** Single-loaded parking areas with up to 10 spaces and double-loaded parking areas with up to 20 spaces may be landscaped solely along the perimeter of the parking area provided that the planting area is not less than 4 feet in any dimension. All other parking areas must incorporate landscaped planting islands within the parking area.

(2) **Planting Islands.** Planting islands must:
(a) Be not less than 8 feet in any dimension (excluding area subject to vehicle overhang).
(b) Equal an area that is not less than 15% of the total area of parking spaces (excluding access aisles).

(3) **Quantity.** Parking areas must be landscaped with not less 1.0 equivalent planting unit (EPU) for every 4 parking spaces.
(4) **Green Stormwater BMPs.** Parking area landscaping must also function as green stormwater best management practices (BMPs). The Development Review Board may modify the standards of Section 9.4 as recommended by the Department of Public Works to accommodate green stormwater BMPs.

9.5 Outdoor Lighting

9.5.1 Purpose. The provisions of Section 9.5 are intended to:

(1) Ensure that outdoor lighting is designed to maintain safety and security;
(2) Minimize the obtrusive and disruptive aspects of outdoor lighting;
(3) Reduce energy use by directing appropriate amounts of light where and when it is needed, and using energy-efficient light sources; and
(4) Prevent glare, light trespass and skyglow by requiring light fixtures to be shielded and properly aimed.

9.5.2 Applicability. All outdoor lighting must be installed in accordance with the provisions of *S*ection *9.5* except for public street lights located within rights-of-way. See Section 10.11 for additional provisions pertaining to the lighting of signs.

9.5.3 General Standards. Outdoor lighting must conform to the following:

(1) **Lighting Plan.** Applicants for site plan approval must submit a lighting plan prepared by a professional lighting engineer or designer if outdoor lighting will be altered or installed.
(2) **Shielding.** All outdoor light fixtures must be fully shielded and installed and maintained in such a manner that the shielding is effective. Partial shielding of security lamps may be allowed according to 9.5.3(6) and 9.5.3(9) below. Carriage style lamps with top cap and light spread that does not extend past property lines are also be allowed.
(3) **Total Output.** Total output from all light fixtures on a site must not exceed 1.25 lumens per developed square foot for residential uses or 2.5 lumens per developed square foot for commercial uses.
(4) **Light Source.** All fixtures must use lamps that produce a white light, such as light-emitting diode (LED), compact fluorescent lamp (CFL), metal halide, or incandescent bulbs. LEDs with correlated color temperatures above 3000K are prohibited. Sodium and neon lighting is prohibited. Exterior lighting must shine in a steady, non-fluctuating or non-undulating manner.
(5) **Uniformity.** Outdoor lighting must be designed to provide a uniform distribution of light in areas regularly traversed by vehicles or pedestrians. Lighting plans that produce a ratio of 3:1 or less between the highest light level and lowest light level within a trafficked area on the site are strongly encouraged and ratios in excess of 10:1 are prohibited.
(6) **Spot Light Aiming.** Light fixtures containing spot or flood lamps must be aimed no higher than 45° above straight down. When aimed straight down, such light fixtures will be considered fully shielded; when aimed above straight down, they will be considered partially shielded. Ground mounted spot lighting is prohibited.
(7) **Freestanding Lights.** Freestanding light fixtures must not exceed 24 feet in height in the Office Industrial District and 16 feet in height in all other districts. The Development Review Board may approve higher lights if increased efficiency is achieved without causing light trespass. Freestanding light fixtures may be located within setbacks. The initial light output of a freestanding light fixtures must not exceed 3,000 lumens per lamp. Use of decorative fixtures not

more than 12 feet in height is encouraged to light walkways and other pedestrian-oriented spaces.

(8) **Light Trespass.** Outdoor light fixtures must be oriented and shielded as necessary to prevent light trespass over adjacent property or rights-of-way.

(9) **Time Limits.** Outdoor lighting must be extinguished by 10:00 p.m. or one hour past the close of business. After 10:00 p.m. or one hour past close of business, security lights may be triggered for short periods by motion sensor. The Development Review Board may approve lighting beyond these limits upon concluding the lighting is necessary to protect public safety or secure the property. The Development Review Board may further limit when outdoor lighting may be used as deemed necessary to achieve the purposes of Section 9.5 and protect the character of the area.

9.6 Parking and Loading Areas

9.6.1 Purpose. The provisions of Section 9.6 are to:

(1) Provide a reasonable balance between the supply and demand for parking over the short and long term.
(2) Ensure that land development provides adequate off-street parking and loading areas to avoid congestion on surrounding streets.
(3) Minimize the consumption of land for parking and loading to improve stormwater performance.
(4) Enhance the character of streetscapes and property frontages.
(5) Provide for pedestrian linkages and amenities.
(6) Create effective parking that is convenient, safe, attractive and comfortable.

9.6.2 Design Principles. Design characteristics and strategies to help achieve these purposes, include, but are not limited to:

(1) Providing safe, convenient pedestrian links within and between buildings and sites, between parking lots and from these lots to the street, adding amenities such as benches, trees, and comfortable lighting;
(2) Minimizing the number and size of curb cuts serving any property;
(3) Creating off-street vehicular links between parking lots;
(4) Improving and expanding the public sidewalk system;
(5) Incorporating multi-modal facilities and amenities;
(6) Building new parking in rear yards and encouraging existing front or side yard parking to be relocated in rear yards;
(7) Linking adjoining parking lots to ensure efficient use of land, lessen the number of vehicle trips or movements into public streets, and maximize sidewalk and greenspace areas along the street.

Figure 9-2. Baseline Parking for Residential Uses

Use	Town Core	Outside Core
1-Bedroom Apartment	1 per unit	1 per unit
2-Bedroom Apartment	1 per unit	1.5 per unit
General Residential	1 per unit	2 per unit
Senior Housing	0.25 per unit	0.5 per unit
Lodging House	0.5 per room	1 per room
Nursing Home	1 per 2 beds	1 per 2 beds

9.6.3 Applicability. All land development must provide off-street parking and all nonresidential or mixed-use development must provide loading areas in accordance with Section 9.6 except there are no minimum off-street parking or loading requirements for non-residential uses in the town core that occupy less than 1,500 square feet and that are located either on a street with on-street parking or within 1,000 feet (as measured along the sidewalk) of a public parking facility.

Figure 9-3. Baseline Parking for Nonresidential Uses
(*FTE = full-time equivalent employees, SF =Active Floor Area, unless specified otherwise)

Use	Base	Additional
Place of Public Assembly	1 per 4 seats	-
Library or Museum	1 per 500 SF	-
Automobile Service	3	3 per bay
Automobile Retail	1 per 1,250 SF	1 per 1,250 SF lot area
Furniture or Appliance Store	1 per 1,250 SF	-
Art Gallery	1 per 1,250 SF	-
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, Take out	1 per 75 SF	-
Restaurant, Eat in	1 per 2.5 seats	1 per 10 seats
Bar, Brew Pub	1 per 2.5 seats	1 per 10 seats
Micro-Brewery, Distillery, Winery	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 students	1 per FTE
9-12	1 per 10 students	1 per FTE
Vocational/Other	1 per 3 students	1 per FTE
Warehousing/Storage	1 per 2 FTE	-
Light industry	1 per 2 FTE	-
Mail Order/Wholesale	1 per 2 FTE	-

9.6.4 Amount of Parking. Except as exempted in Section 9.6.3, all development must provide off-street parking for automobiles to meet the needs of the proposed use(s) in accordance with the following:

(1) **Minimum Number of Spaces.** The minimum number of vehicle parking spaces will be as specified in Figures 9-2 and 9-3, except as otherwise calculated according to Figure 9-4.
(2) **Maximum Number of Spaces.** The maximum number of parking spaces will be 1.25 times the minimum number of spaces as specified in Figures 9-2 and 9-3.
(3) **Calculation of Number of Spaces.** When calculating the total number of spaces, any decimal will be rounded up to the nearest whole number. On lots with multiple units or uses, the number of spaces for all units and uses may be added together before rounding up any decimal.
(4) **Modification of Number of Spaces.** The applicant must provide any combination of the following in order for the Development Review Board to make a decision to increase or decrease the amount of required off-street parking:
   (a) A parking study prepared by a qualified professional demonstrating the amount of parking that will be needed;
   (b) The applicant makes a payment in lieu of parking in accordance with Section 9.6.6; or
   (c) The applicant demonstrates that there is adequate on-street or public parking available within 1,000 feet (as measured along the sidewalk) of the proposed development to meet all or a portion of the demand.
   (d) The applicant provides supplementary bicycle parking in accordance with Section 9.6.10.

Figure 9-4. Shared Parking Table

Use	WEEKDAY			WEEKEND		
	Daytime	Evening	Nighttime	Daytime	Evening	Nighttime
	(7 am – 5 pm)	(5 pm – 11 pm)	(11 pm – 7 am)	(7 am – 5 pm)	(5 pm – 11 pm)	(11 pm – 7 am)
Office or Industrial	100%	10%	5%	10%	5%	5%
Retail	70%	30%	5%	100%	70%	5%
Lodging	10%	60%	90%	50%	90%	100%
Dining – Breakfast/Lunch	100%	5%	5%	100%	5%	5%
Dining - Dinner	10%	100%	5%	20%	100%	10%
Bar or Nightclub	5%	100%	60%	5%	100%	60%
Institutional	100%	60%	5%	100%	60%	5%
Residential	50%	90%	100%	80%	90%	100%

9.6.5 Shared or Off-Site Parking. The Development Review Board may approve a cooperative parking plan to allow parking to be shared by two or more uses or to be provided off-site in accordance with the following:

(1) Calculate the total amount of shared parking required by:
   (a) Determining the minimum parking requirements for each use as if it were a separate use in accordance with Section 9.6.4 above.
   (b) Multiply each amount by the corresponding percentages for each of the six time periods set forth in Figure 9-4. The Zoning Administrator will establish percentages for any unlisted use.
   (c) Calculate the total for each time period.
   (d) Select the highest total as the required minimum number of shared parking spaces.

(2) Any shared or off-site parking must be located within 1,000 feet of the associated use (as measured along the sidewalk) unless shuttle service is provided. The parking area and buildings served must be connected by a sidewalk or pedestrian walkway.
(3) For shared parking arrangements involving multiple properties, the applicant must record a written agreement between the owners and lessees, executed for a minimum of 10 years, in the town's land records. Should the use(s), parties involved, or terms of the agreement change in a manner that would alter the amount of parking provided or required, the agreement will need to be revised, re-approved and re-recorded in accordance with Section 9.6.5. Should the agreement expire or otherwise terminate, the use(s) for which the shared or off-site parking was provided will be considered in violation of this ordinance unless replacement parking is provided in accordance with Section 9.6.
(4) The applicant must submit plans showing the location of the use(s) or structure(s) for which shared or off-site parking will be provided, the location of the parking, and the schedule of times used by those sharing the parking.
(5) Twenty-five percent of public parking spaces within 200 feet of the use(s) on the site may be counted toward required parking.

9.6.6 Payment in Lieu of Parking. The Development Review Board may approve a payment in lieu of parking for some or all of the required on-site parking for proposed land development within the town core in accordance with the following:

(1) The applicant must make the full payment in lieu of parking to the town prior to the Zoning Administrator issuing a certificate of compliance for the associated development.
(2) The fee will be proportional to the number of parking spaces that would otherwise be required, and will be based upon reasonable cost estimates for the provision of that parking.
(3) The site plan approval will specify the amount of parking credited as part of the rights attached to the subject property for current and future uses.

9.6.7 Location Standards. Off-street parking and loading areas must be located as follows:

(1) Required parking and loading areas must be located on the same lot as the use or structure they serve unless a cooperative parking plan is approved in accordance with Section 9.6.5 above or a payment in lieu of parking is made in accordance with Section 9.6.6 above.
(2) Parking and loading must only occur on those portions of the lot indicated for such use on the approved site plan.
(3) Required parking and loading areas (inclusive of vehicle overhang) must be located on the lot in accordance with the following:
    (a) Parking areas must meet the setback requirements specified in Figure 4-1. Shared parking areas may be located within a common side or rear setback provided that a cooperative parking plan is approved in accordance with Section 9.6.5 above.
    (b) Parking areas must not be located within minimum required front setback; and in the town core, parking is prohibited between the street and the building frontline. This will not be interpreted to prohibit parking of registered, operable motor vehicles within a residential driveway.
    (c) Except within the Office Industrial District, loading areas must be located to the side or rear of building they serve.

9.6.8 Dimensional Standards. Off-street parking and loading areas must conform to the following:

(1) **Parking Spaces.** Off-street parking spaces must not be less than 9 feet wide by 18 feet deep. Each space must be accessible from a driveway or access aisle except for:
   (a) Spaces serving a single-family or two-family home; or
   (b) Tandem parking (a double-depth parking space with one vehicle parking the other in) approved by the Development Review Board for multi-family housing, religious facilities or employee parking.
(2) **Access Aisles.** The minimum width of access aisles within a parking lot or structure is 20 feet except that one-way aisles serving angled parking spaces may be a minimum of 16 feet wide.
(3) **Loading Areas.** Loading areas:
   (a) Serving small trucks must have an overhead clearance of at least 10 feet and must be not less than 12 feet wide and 40 feet long, exclusive of access and maneuvering area.
   (b) Serving tractor-trailer trucks must have an overhead clearance of at least 14 feet and must be not less than 12 feet wide and 60 feet long, exclusive of access and maneuvering area.
(4) **Turnarounds.** All off-street parking and loading areas must be designed so that vehicles can enter and exit the property without backing out onto a street except for parking that serves a single-family or two-family home and that does not require backing out onto an arterial street.

9.6.9 Design, Construction and Maintenance Standards. Off-street parking and loading areas must conform to the following:

(1) **Surface.** Off-street parking and loading areas must provide a firm, level surface appropriate for the anticipated level of use in all seasons. Parking areas for more than 10 vehicles, drive-through lanes and loading areas must be surfaced with asphalt or concrete. The Development Review Board may modify the surfacing requirements to accommodate green stormwater management practices.
(2) **Layout.** Perpendicular (90 degree) parking is required unless the applicant demonstrates that due to site-specific conditions angled parking will allow for more efficient site design and compact development footprint. The Development Review Board may modify the dimensional requirements for angled parking spaces and associated aisles as recommended by the Department of Public Works.
(3) **Erosion and Drainage.** Off-street parking and loading areas must be surfaced, graded, drained and maintained to properly treat all stormwater and minimize erosion in accordance with the provisions of Section 6.10 and Section 6.18. Run-off or eroded surface materials must not flow onto adjacent streets or properties.
(4) **Markings.** Parking areas for other than one- or two-family use must demarcate the parking spaces. The markings must be kept clearly visible and distinct. Accessible parking spaces must be marked and signed in accordance with state and federal requirements.
(5) **Screening.** Off-street parking areas and loading areas must be screened as follows:
   (a) Parking areas located within 50 feet of a residential lot must be screened with a fence in accordance with Section 6.12 and a vegetated buffer in accordance with Section 9.3.15.
   (b) Loading areas must be screened in the same manner as parking areas.
(6) **Landscaping.** Off-street parking areas must be landscaped in accordance with Section 9.4. The amount of landscaping required will be reduced from 1.0 equivalent planting unit (EPU) per 5 parking spaces to 1.0 EPU per 10 parking spaces for rear parking lots that will be screened from view at the street by buildings.
(7) **Snow Removal.** Snow storage areas must be shown on the site plan in accordance with the following:
   (a) Applicants must demonstrate that adequate area is available on the site for snow storage or, if an adequate area does not exist, that snow will be removed from the site.

(b) Snow must not be stored within required vegetated buffers or stormwater infrastructure unless those features are specifically designed for that purpose.
(c) If the parking area has more parking spaces than the minimum required for the use under Section 9.6, snow may be stored on the excess spaces.

(8) **Accessible Parking.** Land development must provide accessible parking in accordance with applicable state and federal regulations. Accessible spaces will count towards the minimum parking required under Section 9.6.

(9) **Electric Vehicle Charging.** Electric vehicle charging stations may be provided within off-street parking areas as an allowed accessory use in any zoning district. Additional parking will not be required when parking spaces are converted or reserved for charging vehicles and such spaces will count towards the minimum parking required under Section 9.6.

(10) **Bus or RV Parking.** The Development Review Board may modify the dimensional requirements for bus or RV parking as recommended by the Department of Public Works.

(11) **Maintenance.** Parking and loading areas must be maintained in good condition, free of weeds, dust, trash and debris, and appropriately surfaced and graded to prevent erosion, sedimentation and runoff.

9.6.10 Bicycle Parking.

(1) At least one bicycle parking space for every 25 automobile parking spaces must be provided.
(2) Bicycle parking must be located within 175 feet of a building entrance on a firm, flat surface (for clarification, a grass or gravel surface is acceptable).
(3) Additional bicycle parking can substitute for automobile parking on a basis of one automobile parking space per six bicycle parking spaces.
(4) If bicycle parking is located under a roof or within a structure, it can substitute for automobile parking on a basis of one automobile space per three bicycle parking spaces.

Section 10 Sign Regulations

10.1 Purpose

The natural surroundings, history, and built environment of Manchester provide the community with its distinctive character and allure. Section 10 has been adopted to ensure that all signs installed in the Town of Manchester are compatible with the town's unique character and environment and the Manchester Town Plan. Section 10 recognizes the necessity of signs to inform residents and the travelling public, as an aid to local businesses in attracting customers, and as an avenue for citizen expression. It also recognizes that neither residents, the travelling public, nor local businesses are well served by unlimited signage.

The purpose of Section 10 is to preserve and improve scenic and pedestrian oriented streetscapes within the Town of Manchester, to promote the welfare, convenience and safety of residents and visitors, to conserve the value of property, and to encourage a style and scale of outdoor advertising and messaging that is compatible with the local economy and the town's design guidelines, including the following specific purposes:

(1) To improve traffic safety by promoting the efficient flow of vehicles and the protection of pedestrians, bicyclists, and motorists from injury caused by – or fully or partially attributable to – cluttered, distracting, or illegible signage.
(2) To allow adequate avenues for both commercial and non-commercial messaging.
(3) To protect the aesthetic appeal of the town's natural and built environment, including the protection of viewsheds.
(4) To protect the nighttime dark sky, avoid light pollution, and prevent unsafe conditions that may be caused by sign lighting.
(5) To prevent property damage, personal injury, and litter caused by improperly constructed or poorly maintained signage.
(6) To protect property values, the local economy, and quality of life by enhancement of the streetscape.
(7) To provide clear standards that enable efficient, fair, and consistent enforcement of these regulations.

10.2 Content Neutrality

(1) Section 10 is not intended to and does not restrict speech on the basis of its content, viewpoint, or message. No part of Section 10 should be construed to favor commercial speech over non-commercial speech. A non-commercial message may be substituted for any commercial message displayed on a sign, or the content of any non-commercial message displayed on any sign may be changed to a different non-commercial message without the need for any approval, permit, or registration, provided neither the size, mounting, nor material composition of the sign is changed.
(2) Section 10 does not prohibit a person from holding a sign on public property, so long as the person holding the sign does not block ingress or egress from buildings and does not create a safety hazard by impeding travel on sidewalks, in bike or vehicle lanes, or on other public pathways.
(3) To the extent that any provision of Section 10 is deemed ambiguous, it must be interpreted not to regulate on the basis of the content of the message.

10.3 Permitting & Review Procedures

Before the alteration, construction, or installation of any sign, a zoning permit shall be secured from the Zoning Administrator, except as otherwise provided Section 10.13 and Section 10.3.4.

10.3.1 Development Review Board Approval Required

Except on parcels with only single- or two-family use, any proposed permanent freestanding sign, shall require approval by the Development Review Board as part of the site plan review process as set forth in this ordinance.

10.3.2 Design Review Required

(1) Any proposed permanent sign within the Design Review Overlay District, shall require review by the Design Advisory Committee, which will make a recommendation to the Development Review Board or Zoning Administrator prior to a hearing or to a permit being issued.
(2) The Design Advisory Committee, Development Review Board, and Zoning Administrator shall consider size, location, design, color, texture, lighting, and materials of all exterior signs in keeping with *Design Guidelines for Manchester's Commercial & Historic Districts*.

10.3.3 Administrative Review

(1) Permanent signs on parcels with only single- or two-family use and temporary signs shall be subject to administrative review.
(2) The Zoning Administrator may act on an application for a minor modification to an already approved sign within the Design Review Overlay District without consultation from the Design Advisory Committee. A minor modification shall include only a change that does not increase the size of the sign and retains the same material composition. This may include a change in location of the sign, and changes to sign lighting.

10.3.4 No Permit Required

(1) The replacement, repair, or repainting of a damaged or worn sign with one of the same construction, size, material composition and design does not require a permit.
(2) Replacement of panels on a multipanel sign with panels of the same material composition not resulting in an increase in sign size does not require a permit.
(3) The display of window signs does not require a permit, but such signs must conform to Section 10.9.
(4) Freestanding signs of 1.5 square feet or less do not require a permit, but such signs must not exceed eight in number without a waiver granted by the Development Review Board.
(5) Wall signs of 1.5 square feet or less do not require a permit, but such signs must not exceed eight in number without a waiver granted by the Development Review Board.
(6) Signs painted on the surface of a paved parking lot do not require a permit.
(7) The display of temporary signs as described in Section 10.12 does not require a permit, but must be registered with the town after submittal of an online registration form through the Town of Manchester website.
(8) The display of a sign not exceeding 11" x 17" on a community bulletin board does not require a permit.
(9) Architectural features of a building, such as cornerstones, do not require a permit.
(10) The display of street address numbers in compliance with Enhanced 9-1-1 addressing standards does not require a permit.

10.3.5 Size

(1) The size of any sign is determined by multiplying the full encompassing height by the full encompassing width of the writing, representation, emblems, or physical structure of the sign, whichever is largest. However, the calculated area of a freestanding sign does not include posts, cornices, or the base of a monument sign, provided these support elements are proportional and comply with the standards of Section 10.4.2(6). See illustration in Figure 10-2.
(2) The size of non-planar signs (sculptural, spherical, free-form or other non-planar forms) is one half of the sum of the areas of the four equal sides of the smallest six sided polyhedron (cuboid) that encompasses the sign structure.

10.4 Freestanding Signs

10.4.1 Number

(1) In the TC, MU1, MU2, MU3 OI, R10, R4, R1, RR, RA, and FC zoning districts, permanent freestanding signs are allowed according to the numbers indicated in Table 10-1. Freestanding signs are not allowed in the DN zoning district, except that freestanding signs existing in the district on the effective date of this provision (May 5, 2020) may be retained as previously approved.
(2) For a parcel without frontage on a public road that is served by a legally deeded right-of-way through a parcel with such frontage, said right-of-way shall be considered as part of the premises for purposes of an allowable freestanding sign. The width of the right of way shall determine the length of frontage for the purposes of determining the number of signs allowed. 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 signage under this ordinance.

10.4.2 Dimensions

Dimensional parameters for freestanding signs are indicated in Table 10-2 and the following:

(1) Planar freestanding signs shall only have two sides, which are parallel to each other, and no more than six inches apart.
(2) Non-planar freestanding signs must comply with size limits of the underlying zoning district as measured as described in Section 10.3.5.
(3) The maximum allowable size of a freestanding sign in the TC, MU3, and OI districts is 32 square feet.
(4) The maximum allowable size of a freestanding sign in the MU1 and MU2 districts is 16 square feet.
(5) The maximum allowable size of a freestanding sign in the R10, R4, R1, RR, RA, and FC is eight square feet.
(6) The size of posts and cornices, and the base of any monument sign, shall be proportional with the size of the sign (that is: at least 15% and no more than 100% of the total size of the structure).
(7) The maximum allowable height for any freestanding sign is ten feet, measured from grade level to the top of the sign or any part of its structure.

10.4.3 Setback

Freestanding signs and their associated support elements shall be set back at least three feet from the inner edge of public sidewalks; and where public sidewalks do not exist, the setback shall be at least seven feet from the traveled way or edge of pavement of the public street or highway.

10.5 Wall Signs

10.5.1 Number

Wall signs are allowed according to the numbers indicated in Table 10-1, except that total allowable area of one wall sign may be divided into multiple signs.

10.5.2 Dimensions

Dimensional parameters for wall signs are indicated in Table 10-2 and the following:

(1) Total area of all wall signage per unit* must not exceed a number equivalent to 30% of the linear length of the front of the building on which it is mounted. If linear length is measured in feet, total signage area is in square feet. For example, for a building with a linear front of 80 feet, the combined area of wall signs per unit* mounted on the building cannot exceed 24 square feet. (*Unit shall mean any distinct tenant, use, or defined space within the building.)
(2) The maximum size of a wall sign in the DN, MU1, MU2, and RA districts is 20 square feet.
(3) In the TC, MU3, and OI districts the maximum size of a wall sign is 40 square feet.
(4) The maximum size of a wall sign in the R10, R4, R1, RR, and FC districts is eight square feet.

10.5.3 Mounting

(1) A planar wall sign shall protrude no more than six inches from the wall on which it is mounted.
(2) A non-planar wall sign shall protrude no more than 18 inches from the wall on which it is mounted.
(3) A wall sign must be mounted in a manner that does not obscure or impair the architectural elements of the wall on which it is mounted (see Figure 10-3 for examples of unacceptable positions).

10.6 Projecting Signs

(1) Projecting signs may be substituted for allowable wall signs on an area-for-area basis.
(2) Projecting signs shall not exceed eight square feet in size.
(3) A projecting sign shall not extend further than three feet away from the wall on which it is mounted.
(4) The lowest part of a projecting sign or its support structures shall be at least eight feet above the sidewalk or grade directly beneath the sign.
(5) A projecting sign must be mounted in a manner that does not obscure or impair the architectural elements of the wall on which it is mounted (see Figure 10-3 for examples of unacceptable positions).

10.7 Soffit Signs

(1) Soffit signs may be substituted for allowable wall signs on an area-for-area basis.
(2) Soffit signs shall not exceed six square feet in size in the DN, TC, MU1, MU2 MU3, and OI districts.
(3) Soffit signs shall not exceed four square feet in size in the R10, R4, R1, RR, RA, and FC districts.
(4) Soffit signs shall be hung in a direction perpendicular to the underlying walkway.
(5) The lowest part of a soffit sign or its support structures shall be at least eight feet above the sidewalk or grade directly beneath it.
(6) A soffit sign must be mounted in a manner that does not obscure or impair the architectural elements of the building on which it is mounted (see Figure 10-3 for unacceptable positions).

10.8 Awning, Canopy, & Marquee Signs

(1) Awning, canopy, and marquee signs may be substituted for allowable wall signs on an area-for-area basis.
(2) Signs on awnings, canopies, and marquees shall not exceed 16 square feet in the DN, MU1, and MU2 districts.
(3) Signs on awnings, canopies, and marquees shall not exceed 20 square feet in the TC, MU3, and OI districts.
(4) Signs on awnings, canopies, and marquees shall not exceed 8 square feet in the R10, R4, R1, RR, RA, and FC districts
(5) The lowest part of any awning, canopy, or marquee with signage shall be at least eight feet above the sidewalk or grade directly beneath the structure.
(6) An awning, canopy, or marquee with signage must be mounted in a manner that does not obscure or impair the architectural elements of the building on which it is mounted.

10.9 Window Signs

Window signs may be displayed, and may cover up to 25% of the total window area on the side of the building where such signs are located, provided that coverage for a single window does not exceed 50%. Any temporary window signs must be considered together with any permanent window signs in calculating window coverage and vice versa.

10.10 Additional Permanent Signs

In addition to the allotted freestanding, wall, projecting, soffit, awning, canopy, or marquee signs on a premises, additional signs may be permitted after a waiver is applied for and granted by the Development Review Board. Such signs shall not exceed 3 square feet and may not be higher than 4 feet from grade.

10.11 Sign Lighting

(1) Sign lighting must meet the standards of Section 9.5 for outdoor lighting.
(2) Lighting on any sign must be directed and shielded to shine only on the subject signage, and to prevent glare offsite, into the sky, or onto adjoining properties or roads and highways.
(3) Ground or under mounted lighting is prohibited. Such lighting existing on the date of adoption of this provision (May 5, 2020) may remain. However, any change to such signage or its lighting will require complete compliance with the ordinance in effect at the time of the application for change.
(4) Lighting on any sign shall be limited to a total of 150 watts of incandescent light, 40 watts LED, or the equivalent. LED lighting must be less than or equal to 3000K temperature color.
(5) No sign may be internally illuminated. Backlighting of opaque or cutout features of a sign is allowed.
(6) Internally illuminated signs existing on the date of adoption of this provision (January 6, 1997) may remain, even if the content of the sign changes. However, any changes other than to the content will require complete compliance with the ordinance in effect at the time of the application for change.
(7) Alterations to existing noncompliant signs or sign lighting must include bringing the lighting into compliance with these lighting standards.
(8) The Zoning Administrator may require the adjustment or relocation of any sign lighting in order to prevent glare and to ensure vehicular and pedestrian safety.

10.12 Temporary Signs

(1) The display of temporary signs must conform to the parameters described in Section 10.12. Such signs must be registered through the Town of Manchester website. For display locations not owned by the registrant, the applicant must attest to receiving landowner permission.
(2) Such signs may not be displayed within a public right-of-way.
(3) Such signs may not be displayed on lands owned by the Town of Manchester.
(4) Such signs may not be internally or externally illuminated except as incidentally, externally illuminated by existing, approved site lighting.
(5) Temporary window signs do not need to be registered, but must be considered together with any permanent window signs in calculating window coverage and vice versa.

10.12.1 A-frame, T-frame & X-frame Signs

(1) One temporary A-frame, T-frame, or X-frame sign may be displayed per unit provided it is stationary, stable, or securely affixed to the ground.
(2) These signs may be displayed during daytime or business hours only and must be stored indoors at all other times.
(3) These signs must be registered on the Town of Manchester website for up to 90-day increments.
(4) Dimensional standards for these signs are indicated in Table 10-4.

10.12.2 Teardrop Signs

In the TC, MU2, MU3 and OI districts, one teardrop sign may be displayed on a parcel provided it is stationary and securely affixed to the ground with a ground stake. Teardrop signs shall not be displayed for more than 3 consecutive days in any month and shall not exceed 8 feet in height from the ground in which they are anchored.

10.12.3 Banner Signs

One temporary banner sign may be displayed on a parcel provided it is affixed securely to a structure to prevent movement. Dimensional standards for banner signs are indicated in Table 10-4. Banner signs shall not be displayed for more than 60 consecutive days.

10.12.4 Yard Signs

Yard signs may be displayed on a parcel according to the parameters indicated in Table 10-3 and Table 10-4. These signs shall not be displayed for more than 90 consecutive days except that such signs may be re-registered via the Town of Manchester website for additional 30-day increments.

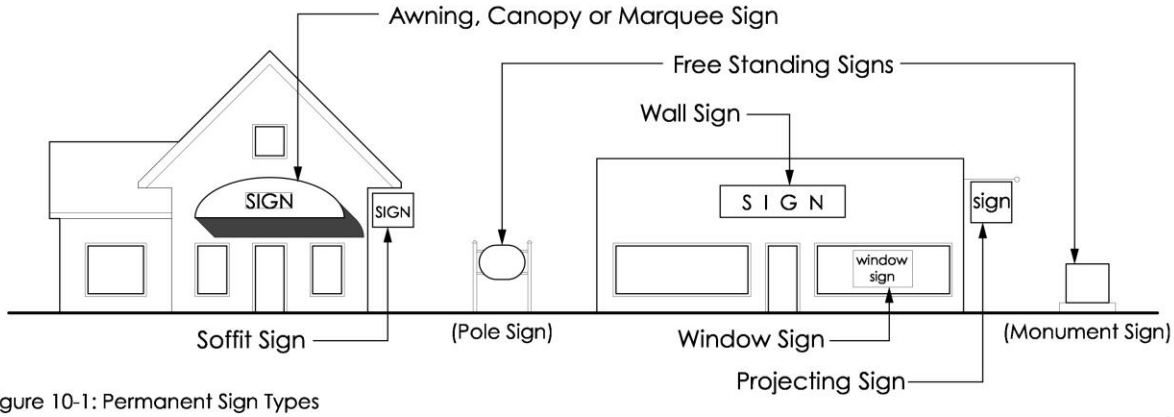


Figure 10-1: Permanent Sign Types

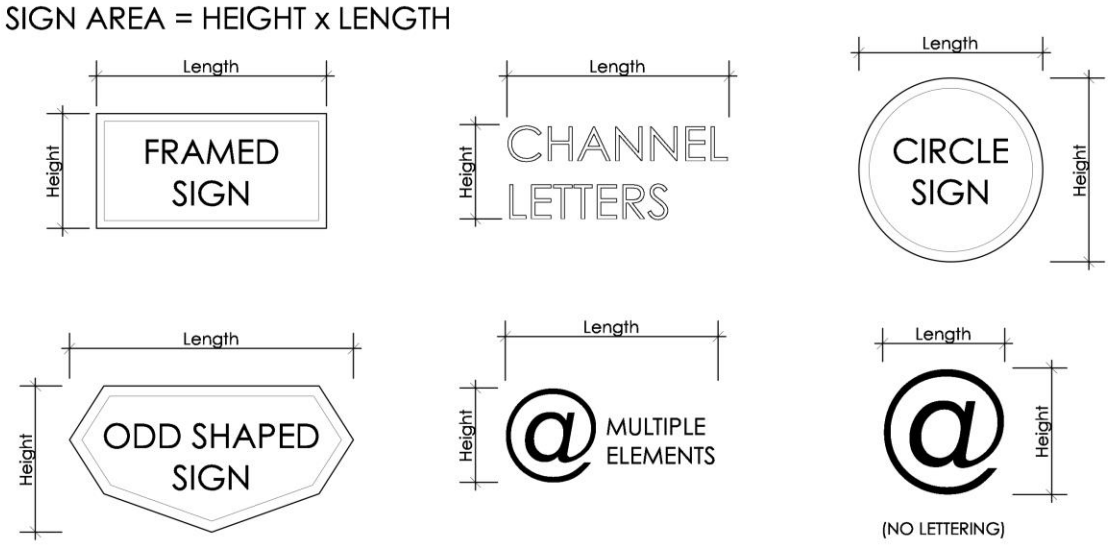


Figure 10-2: Sign Measuring Standards

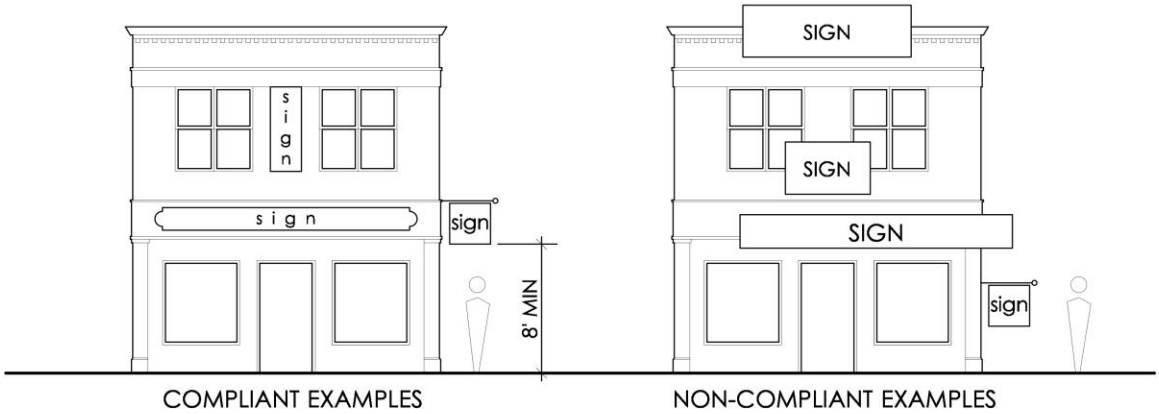


Figure 10-3: Sign Examples

10.13 Exempt Signs

The following signs are exempt from the sign provisions of this ordinance:

(1) Signs erected by a government entity compliant with the Manual on Uniform Traffic Control Devices for Streets and Highways (MUTCD).
(2) Signs located on or in a rolling stock of common carriers, provided such rolling stock is not regularly parked near a public right-of-way such that the rolling stock becomes the functional equivalent of a permanent sign.
(3) Signs on registered and inspected motor vehicles, provided such vehicle is not regularly parked near a public right-of-way such that it becomes the functional equivalent of a permanent sign.
(4) Signs erected by the Town of Manchester.
(5) Signs erected by the State of Vermont.
(6) Signs erected as part of an event that has received an event permit from the Town of Manchester.
(7) Flags of a nation or state.

10.14 Prohibited Signs

Unless specifically exempted under Section 10.13, no sign may be installed or maintained along and intelligible from any town or state maintained traveled way 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 signs and approaching or merging traffic.
(3) Encroaches on a public right-of-way, path of pedestrian or vehicular travel, parking space, building entry or exit, or causes an unsafe condition.
(4) Contains, includes or is illuminated by any flashing, intermittent or moving lights, or contains or consists of pennants, flags, ribbons, balloons, streamers or spinners, or has any animated or moving parts.
(5) Has any lighting that 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.
(6) Contains any fluorescent paint or material or which is lit by neon.
(7) Is not stable or securely affixed to the ground or a substantial structure.
(8) Is affixed to a utility pole, official traffic control device, guard rail, or bridge structure, or a tree, rock or other natural feature.
(9) Is placed on or mounted from the roof of any building or structure.
(10) Any other sign that is not otherwise permitted or allowed under this ordinance.

Table 10-1. Permanent Sign Number Limits

Sign Type	Zoning District											
	DN	TC	MU1	MU2	MU3	OI	R10	R4	R1	RR	RA	FC
Freestanding	Not allowed	1 per lot or 120' frontage	1 per lot or 90' frontage	1 per lot or 90' frontage	1 per lot or 150' frontage	1 per lot or 120' frontage	1 per lot	1 per lot	1 per lot	1 per lot	1 per lot	1 per lot
Wall	1 per 12' façade length	1 per 12' façade length	1 per 12' façade length	1 per 12' façade length	1 per 12' façade length	1 per 12' façade length	1 per façade	1 per façade	1 per façade	1 per façade	1 per 12' façade length	1 per façade
Projecting or Blade	Same as Wall	Same as Wall	Same as Wall	Same as Wall	Same as Wall	Same as Wall	Same as Wall	Same as Wall	Same as Wall	Same as Wall	Same as Wall	Same as Wall
Hanging or soffit	1 per 12'	1 per 12'	1 per 12'	1 per 12'	1 per 12'	1 per 12'	Not allowed	Not allowed	Not allowed	Not allowed	1 per 12'	1 per 12'
Awning, Canopy or Marquee	Same as Wall	Same as Wall	Same as Wall	Same as Wall	Same as Wall	Same as Wall	Not allowed	Not allowed	Not allowed	Not allowed	Same as Wall	Same as Wall

Table 10-2. Permanent Sign Size Limits (Area limits in square feet, unless otherwise indicated.)

Sign Type	Zoning District											
	DN	TC	MU1	MU2	MU3	OI	R10	R4	R1	RR	RA	FC
Freestanding	Not allowed	32	16	16	32	32	8	8	8	8	8	8
Wall *	20	40	20	20	40	40	8	8	8	8	20	8
Sculptural, (Freestanding or Wall)	16	16	16	16	16	16	8	8	8	8	16	16
Projecting or blade	8	8	8	8	8	8	4	4	4	4	4	4
Hanging or soffit	6	6	6	6	6	6	4	4	4	4	4	4
Awning, Canopy, or Marquee	16	20	16	16	20	20	8	8	8	8	8	8
Window (includes temporary)	25% of window area	25% of window area	25% of window area	25% of window area	25% of window area	25% of window area	25% of window area	25% of window area	25% of window area	25% of window area	25% of window area	25% of window area

*** Total area of all wall signage per unit must not exceed a number equivalent to 30% of the linear frontage of the side of the building on which it is mounted. For the purpose of determining allowable wall signage on a building, unit shall mean any distinct tenant, use, or defined space within the building.**

Table 10-3. Temporary Sign Number Limits

Sign Type	Zoning District											
	DN	TC	MU1	MU2	MU3	OI	R10	R4	R1	RR	RA	FC
A-frame, T-frame or X-frame	1 per unit	1 per unit	1 per unit	1 per unit	1 per unit	1 per unit	1 per unit	1 per unit	1 per unit	1 per unit	1 per unit	1 per unit
Yard (per frontage)	1 per 10’	1 per 10’	1 per 10’	1 per 25’	1 per 25’	1 per 25’	1 per 10’	1 per 10’	1 per 25’	1 per 25’	1 per 25’	1 per 25’
Freestanding Banner	Not allowed	1 per lot	Not allowed	1 per lot	1 per lot	1 per lot	Not allowed	Not allowed	Not allowed	Not allowed	1 per lot	1 per lot
Wall Banner	1 per unit	1 per unit	1 per unit	1 per unit	1 per unit	1 per unit	1 per unit	1 per unit	1 per unit	1 per unit	1 per unit	1 per unit
Teardrop	Not allowed	1 per lot	Not allowed	1 per lot	1 per lot	1 per lot	Not allowed	Not allowed	Not allowed	Not allowed	Not allowed	Not allowed

For the purpose of determining allowable signage, unit shall mean any distinct tenant, use, or defined space on a property.

Table 10-4. Temporary Sign Size Limits (Area limits in square feet, unless otherwise indicated.)

Sign Type	Zoning District											
	DN	TC	MU1	MU2	MU3	OI	R10	R4	R1	RR	RA	FC
A-frame, T-frame, or X-frame	6	6	6	6	8	8	6	6	6	6	6	6
Yard	4	4	4	4	4	4	3	3	3	3	4	4
Freestanding Banner	Not allowed	25	Not allowed	25	25	25	Not allowed	Not allowed	Not allowed	Not allowed	20	10
Wall Banner*	20	40	20	20	40	40	8	8	8	8	20	8
Teardrop (Height)	Not allowed	8’	Not allowed	8’	8’	8’	Not allowed	Not allowed	Not allowed	Not allowed	Not allowed	Not allowed
Window (includes permanent)	25% of window area	25% of window area	25% of window area	25% of window area	25% of window area	25% of window area	25% of window area	25% of window area	25% of window area	25% of window area	25% of window area	25% of window area

*** Total area of all wall signage per unit must not exceed a number equivalent to 30% of the linear frontage of the side of the building on which it is mounted. For the purpose of determining allowable wall signage on a building, unit shall mean any distinct tenant, use, or defined space within the building.**

Section 11 Subdivision Standards

11.1 Applicability

All subdivision of land must conform to the standards of Section 11. Subdivisions shall include the division of a lot into two or more lots, boundary line adjustments, Planned Unit Developments, and Planned Residential Developments.

11.2 Capacity of Community Facilities and Utilities

The applicant must demonstrate that the proposed subdivision will not cause a disproportionate or unreasonable burden on the town's ability to provide community services, facilities, and utilities, including:

(1) Local schools.
(2) Police, fire protection and ambulance services.
(3) Road infrastructure and maintenance.
(4) Parks and recreation facilities.
(5) Water supply, sewage disposal and stormwater systems and infrastructure.
(6) Solid waste disposal services and facilities.

11.3 Character of the Area or Settlement Pattern

The applicant must demonstrate that the proposed subdivision will:

(1) Be compatible with and enhance the character of the area.
(2) Not contribute to a pattern of strip development.
(3) Not substantially impair or diminish the use, value and enjoyment of other property in the area for the purposes already established.
(4) Not impair or impede the lawful development of property within the area for the uses permitted in the applicable zoning district.

11.4 Suitability of the Land

11.4.1 No Adverse Impacts. The land to be subdivided must be suitable for use without endangering public health or safety, and adversely impacting the environment, neighboring properties or the character of the area.

11.4.2 Undevelopable Lands. Land subject to periodic flooding, poor drainage, inadequate capability to support development, or other hazardous conditions must not be subdivided unless the applicant can demonstrate that appropriate measures will be taken to overcome the physical limitations.

11.4.3 Soil Preservation. The applicant must:

(1) Stockpile any topsoil removed during the course of construction on-site.
(2) Redistribute stockpiled topsoil to provide even cover on all disturbed areas to be seeded or planted.
(3) Make reasonable efforts to repair any soil compaction prior to seeding or planting by tilling, subsoiling, and plug aerating, or adding organic amendments.

(4) Not remove any sand, gravel or other earth resources from the site for any purpose other than the minimum necessary and authorized to meet the construction needs of the subdivision.

11.5 Design and Configuration of Parcel Boundaries

11.5.1 Lot Arrangement. The applicant must design the subdivision:

(1) To follow and extend the planned settlement pattern (including lot size, lot configuration, road layout and building location) as defined by the purpose and standards of the applicable zoning district to the maximum extent feasible given the site's topography and natural features.
(2) To connect to and extend existing road, sidewalk, path, trail, utility, greenway, and open space corridors to the maximum extent feasible given the site's topography and natural features.
(3) So that there will be no foreseeable difficulties in obtaining zoning permits to build on all lots not intended for conservation purposes in accordance with the standards of these regulations.
(4) So that there will be no foreseeable difficulties in providing access to buildings on lots not intended for conservation purposes from an existing or planned road.
(5) To avoid direct access from arterial streets or state highways. The Development Review Board may require shared access or other means to minimize new curb cuts along arterial streets or state highways.
(6) To allow further subdivision on any remaining undivided land, lots with further subdivision potential, or adjoining undeveloped parcels in a manner that would result in a logical and coordinated development pattern.
(7) So that there will be positive drainage away from building sites and a coordinated stormwater drainage pattern for the subdivision that does not concentrate stormwater drainage from each lot to adjacent lots.

11.5.2 Lot Dimensions. The applicant must design the subdivision:

(1) So that all lots front on a road.
(2) So that lot dimensions meet the minimum standards for the zoning district.
(3) So that generally side lot lines are at right angles to straight roads or radial to curved roads with recognition that some variability may be desirable to respond to the site's topography and natural features.
(4) So that generally rear lot lines are parallel to front lot lines with recognition that some variability may be desirable to respond to the site's topography and natural features.
(5) To avoid flag and other irregularly shaped lots except when desirable to respond to the site's topography and natural features.
(6) To minimize the number of lots with frontage on more than one road.
(7) To minimize the number of lots with a rear lot line that abuts the side lot line of an adjacent lot.

11.5.3 Building Envelopes. The applicant must designate one or more building envelopes on each lot not intended for conservation purposes in accordance with the following:

(1) Building envelopes identify and limit the area(s) of a lot where structures, parking and associated site development may be located. Access and utilities may be located outside a building envelope.
(2) A building envelope must not include any land within zoning district setbacks.
(3) A building envelope generally must not include any undevelopable land.
(4) For lots 2 acres or less in size, the zoning district setback requirements may define the building envelope.

(5) For lots more than 2 acres in size, a building envelope generally must be limited to not more than 1 acre if one principal building will be located on an individual lot or not more than 2 acres if multiple principal buildings will be located on a common lot. The Development Review Board may adjust these standards as deemed appropriate given the specific characteristics of the subject property and the proposed subdivision.
(6) The Development Review Board may approve more than one building envelope per lot given the specific characteristics of the subject property and the proposed subdivision.

11.6 Design and Layout of Necessary Improvements

11.6.1 Roads. Applicants must design and construct all new roads within a subdivision in accordance with this subsection. A vehicular way that provides access to more than 3 lots or 6 dwelling units will be considered a road.

A. General. All new roads within a subdivision must be designed and constructed to:

(1) Comply with the Vermont Agency of Transportation A-76 Standards for Town and Development Roads except as otherwise specified in Section 11.6.1.
(2) Provide for a maximum 30 miles per hour speed, or less where site conditions require.
(3) Safely accommodate all users, including anticipated vehicular, bicycle and pedestrian traffic.
(4) Provide efficient access to property within the subdivision.
(5) Minimize the generation of traffic congestion on existing roads.
(6) Provide for attractive streetscapes.

B. Connectivity. Discontinuous road systems are inefficient and cause undue congestion. Accordingly, the following shall criteria shall be met:

(1) New roads shall be integrated into the town's existing road network to the maximum extent feasible.
(2) Cul-de-sac or dead-end roads are prohibited except under the following circumstances:
    (a) As stubs to permit future expansion. The Development Review Board may require construction of street stubs or condition approval on the future extension of such roads when adjacent property is developed.
    (b) Where topography or other physical conditions make construction of through roads impossible or undesirable.
    (c) Where the development site abuts a limited access highway or a previously developed site where a through connection is not possible.

C. Access Points.

(1) A subdivision with more than 20 lots must have at least two access points.
(2) The Development Review Board may require a secondary or emergency access for smaller subdivisions or developments when deemed necessary to protect public safety.
(3) The Development Review Board may allow a secondary access to be limited to emergency access.
(4) Driveway access points shall be located and designed to intersect roads at or above street grade.

D. Width. Applicants must design new roads in accordance with the following unless otherwise approved by the Development Review Board to respond to site-specific physical conditions or anticipated traffic flows:

(1) Provide for minimal width to calm traffic and minimize impervious surface.
(2) For roads with a traffic volume of less than 100 trips per day on average, lane widths must be at least 7 feet and not more than 9 feet.
(3) For roads with a traffic volume of 100 trips per day or more on average, lane widths must be at least 9 feet and not more than 10 feet with 2-foot shoulders on both sides.
(4) For roads intended to accommodate on-street parking, a parking lane at least 7 feet and not more than 9 feet wide may be located on one or both sides of the road.

E. Drainage. New roads must be designed:

(1) All roads must have a cross-slope of at least 1% and not more than 3%.
(2) To divert run-off to vegetated areas.
(3) Not to block the flow of drainage in existing ditches, swales or gutters.
(4) Not to unreasonably contribute to an accumulation of stormwater that would exceed the capacity of downstream facilities or infrastructure.
(5) With culverts where needed that are sized to convey anticipated peaks stormwater flows and that are not less than 18 inches in diameter.
(6) With culverts that extend at least two feet beyond the edge of the road and that are installed to minimize erosion damage at the inlet and outlet.
(7) To maintain or establish a buffer of natural woody vegetation between roads and surface waters at least 50 feet wide. The Development Review Board may waive or modify the buffer requirement to respond to site specific physical conditions.

F. Grade. New roads must:

(1) Generally conform to the topography and be graded and laid out to conform as closely as possible to the pre-existing topography.
(2) Must not exceed a maximum grade of 7% for gravel roads and 10% for paved roads as measured over any 100-foot section.
(3) The Development Review Board may allow short segments to exceed the maximum grade to respond to the site's topography and natural features.

G. Street Lights. To help maintain the town's rural character and to preserve the night sky:

(1) Streetlights shall only be employed as necessary to provide safety and security.
(2) Accordingly, where they are deemed necessary, streetlights shall be employed at intersections, crosswalks and high-traffic areas.
(3) Streetlights shall consist of LED lamps or fixtures of comparable or greater efficiency according to Section 9.5.

11.6.2 Sidewalks and Pathways. The applicant must integrate pedestrian and bicycle access into the design of the subdivision in accordance with the following:

(1) Applicants must install sidewalks along new roads in the town core in accordance with Section 13-9 of the *Manchester Unified Ordinance*.
(2) Outside of the core, the Development Review Board may require an applicant to install sidewalks within a proposed subdivision to connect to existing public sidewalk along a public street. Such sidewalks outside the core must also meet the standards of Section 13-9 of the *Manchester Unified Ordinance*.

(3) Applicants must install pathways as necessary to provide pedestrian and bicycle access within the subdivision to common lands or facilities, parking areas or similar amenities, as well as between buildings.

11.6.3 Water and Wastewater Facilities. The applicant must design the subdivision to provide potable water and wastewater facilities in accordance with the following:

(1) Any subdivision within a public water service area must be connected to the public system. The applicant must provide water service to each lot not intended for conservation purposes in accordance with applicable public works specifications.
(2) Any subdivision within the Town of Manchester sewer service area must be connected to the public system. The applicant must provide sewer service to each lot not intended for conservation purposes in accordance with applicable public works specifications.
(3) Any subdivision not served by public water and sewer must demonstrate compliance with the state's water supply and wastewater system rules.

11.6.4 Firefighting Facilities. The applicant must design the subdivision to provide water for fire protection in accordance with the following:

(1) Within any subdivision that will be connected to the town's water system, the applicant must install fire hydrants in accordance with the town's public works specifications.
(2) Within any subdivision that will not be connected to the town's water system, the Development Review Board may require the applicant to install a fire pond or make other appropriate provisions to facilitate firefighting.

11.6.5 Public and Private Utilities.

(1) The applicant must design the subdivision to provide utility service to each lot not intended for conservation purposes.
(2) Utilities must be located within road rights-of-way to the maximum extent feasible.
(3) The applicant must provide the town with a maintenance and access easement for any utilities not located within a road right-of-way.

11.6.6 Landscaping. The applicant must design the subdivision to maximize the preservation of existing mature vegetation and provide additional landscaping as follows:

(1) The landscaping plan shall include street trees along new roads in accordance with Section 9.4 of this ordinance.
(2) The landscaping plan shall provide privacy for adjoining property owners.
(3) The landscaping plan shall maintain or establish vegetated buffers along waterways and other natural areas (see Section 6.27 of the ordinance).

11.6.7 Stormwater Management. The applicant must design the subdivision with adequate drainage and stormwater infrastructure in accordance with Section 6.18 and the following:

(1) Low impact development and green stormwater infrastructure techniques shall be employed.
(2) Post-development peak discharge rates shall not exceed pre-development peak discharge rates.
(3) The stormwater drainage system shall be separate and independent of any wastewater disposal system.

11.6.8 Monuments and Lot Corner Markers. The applicant must install:

(1) Permanent right-of-way monuments at all road intersections and other critical points in street lines in accordance with all applicable state specifications, including Rules of the Board of Land Surveyors.
(2) Lot corner markers at corners and angle points of all lots in accordance with all applicable state specifications, including the Rules of the Board of Land Surveyors.

11.6.10 Construction and Maintenance of Necessary Improvements. The applicant must:

(1) Construct the necessary improvements in accordance with all conditions of approval and specifications before the Zoning Administrator may issue any zoning permits for further land development within the subdivision.
(2) Maintain necessary improvements while lots within the subdivision are being sold and developed in accordance with all conditions of approval.
(3) Demonstrate how the necessary improvements required under Section 11.6 will be maintained once lots have been sold or developed.
(4) Establish an owners' association or similar legally enforceable mechanism to ensure continuing maintenance of private roads, shared infrastructure, or other common land or facilities within the subdivision. The Development Review Board may require the applicant to provide drafts of covenants, articles of incorporation, bylaws, maintenance agreements or other legal documents for review prior to final approval of the subdivision and to record such documents with the town along with the final plat.

Section 12 Flood Hazard Regulations

Section 12 of the ordinance, together with Section 5.3, shall be known and referred to herein as the flood hazard regulations.

12.1 Administration

12.1.1 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 areas, floodways, and river corridors 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 Zoning Administrator before work can begin.

12.1.2 Referral

Upon receipt of a complete application for substantial improvement or *new construction* within the regulated flood hazard area, the Zoning Administrator 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 Zoning Administrator 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 Zoning Administrator 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.

12.1.3 Decision

The Zoning Administrator 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 Development Review Board may recess the proceedings on any application pending submission of additional information.

12.1.4 Records

The Zoning Administrator shall properly file and maintain a record of:

(1) All permits and corresponding certificates of compliance 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 buildings (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 variances and *violation*s) and all supporting findings of fact, conclusions of law, decision and order with any conditions.

12.1.5 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 Zoning Administrator 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 Zoning Administrator 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 Zoning Administrator 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, violations of required agricultural practices pursuant to 6 VSA §4810(a) shall be considered violations of these flood hazard regulations. Upon learning of such violations, the Zoning Administrator shall immediately report them to the Vermont Secretary of Agriculture, Food and Markets for enforcement.

12.2 Special Flood Hazard Areas

Development within the Special Flood Hazard Area (as defined in Section 13.20) 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 elevations 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 Section 12.2(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 basements) 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 Section 12.2(1).

(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 buildings, including manufactured or mobile homes, 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.

12.3 Floodway Areas

Within designated floodway areas (as defined in Section 13.7), *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.

12.4 River Corridor Areas

Within designated river corridors (as defined in Section 13.19) *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.

12.5 Flood Hazard Area Definitions

The definitions provided in Section 13 apply throughout this ordinance, including to the flood hazard regulations as put forth in Section 5.3 and Section 12. The definitions provided in Section 12 are specific to the flood hazard regulations and are indicated in italics in Section 5.3 and Section 12.

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

Existing manufactured home park means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, 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.

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 13 Definitions

Defined terms are indicated in **boldface** throughout the text of Section 13. Terms used with specific meaning under the flood hazard area regulations are indicated in ***bold italics*** and are separately defined within Section 12.5.

13.1 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 Section 12, 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 Section 12, 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.

13.2 A

A-frame Sign: See **Sign, A-frame, T-frame or X-frame**.

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

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

Accessory Structure: A **structure** that 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, (3) clearly and customarily related to the principal **structure** or use, and (4) in compliance with the dimensional standards for accessory structures outlined in Section 4.15.3 and Figure 4-1.

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** 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 development projects prior to the Development Review Board hearing.

Administrative Officer. See 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 takeoff 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 **Zoning Administrator.**

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.

Awning Sign: See **Sign, awning, canopy or marquee**.

13.3 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** that is essential in maintaining the integrity thereof.

Banner Sign: See **Sign, banner**.

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: A **building** in which rooms are rented to six or more persons to serve as the boarder's principal residence. Meals, housekeeping, or laundry services are commonly included in the rent. Also referred to as **Lodging House** or **Rooming 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 or roofed **structure**, including a gas or liquid storage tank that is principally above ground.

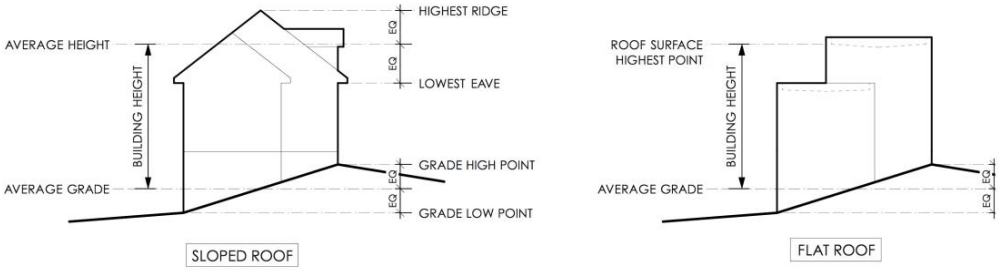
Building, Accessory: Any **building** that is subordinate to and use of which is incidental and accessory to the use of the principal **building** on the same **lot**, or an adjoining **lot** under the same ownership. An accessory building shall be one not attached to the principal **building** by any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

Building Coverage: The ground area enclosed by the walls of a **building**. Also, **building footprint**.

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 ridge for other types of roofs. (See illustration below.)



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 and consulting, equipment rental, and other similar services as approved by the **Development Review Board** or **Zoning Administrator**.

Bylaw: A provision of this ordinance, a regulation.

13.4 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.

Canopy Sign: See **Sign, awning, canopy or marquee**.

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 or pets 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 Compliance: A certificate issued by the **Zoning Administrator** confirming that a property conforms to municipal zoning approvals, permits, and applicable zoning regulations.

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 Core: All portions of the Town of Manchester falling within the DN, TC, and MU1 zoning districts.

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 that 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 multiple individuals or groups.

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 conclusions under general and specific standards, as outlined in Section 3.3 of this ordinance.

Condominium: Privately owned units as defined in the condominium ownership act of the State of Vermont.

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.

Core: That portion of the Town of Manchester falling in the Downtown, Town Center, and Mixed Use 1 zoning districts or within 2,500 feet of the roundabout at the intersection of Main Street and Depot Street.

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 Section 6.6 of this ordinance.

13.5 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 Committee: 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 **Zoning Administrator** in the areas of landscaping, architecture, engineering and other pertinent site and architectural design criteria as described in 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 12.5 additionally applies to Section 5.3 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 **Zoning Administrator** 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.

Distillery, Craft: A light industrial beverage manufacturing facility for the production and packaging of spirit alcohol for distribution, **retail**, or wholesale, on or off premise, with a capacity of not more than 750,000 gallons per year.

Distribution Center: A facility where goods are received and stored for delivery to remote locations.

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 non-aqueous 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.

13.6 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.

Eat-in Restaurant: See **Restaurant, Eat-in.**

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 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 Section 2.8 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.

13.7 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**.

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. See **Silviculture** and also see **Forestry Operations**.

Forestry Operations: Woodlot and off-woodlot processing of trees and logs, and the manufacture, assembly, drying, storage, sale and distribution of forest products such as maple syrup, lumber, pulpwood, mulch, veneer, bolt wood, stud wood, poles, pilings, wood chips, fire wood, fuel wood, wood pellets, biomass, Christmas trees, wreaths, bough material and cones.

Freestanding Sign: See **Sign, freestanding**.

Frontage: A width of a **lot** along its front bordering on and parallel to a private road or **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).

13.8 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).

13.9 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 District: One of four districts as outlined and delineated in the Manchester Town Plan that includes a distinct arrangement of architectural styles reflective of important periods in the town's historical development.

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.

13.10 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 **Zoning Administrator** 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.

13.11 J

Junk Yard: See **Salvage Yard**.

13.12 K

Kennel: An establishment housing or maintaining 5 or more domestic animals over the age of 6 months.

Kiosk: A small **structure** used for providing information or displaying advertisements, often incorporating an interactive display screen or screens.

13.13 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: See **Boarding 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 Coverage: The area of a **lot** (expressed as a percentage of total lot area) that is covered by developed features, including **structure**s, **building**s, **accessory structure**s, parking areas, loading areas, service areas, swimming pools, paved recreational courts, sidewalks, pathways, driveways, roads, storage areas for personal property, exterior display areas for merchandise. Areas covered by permeable pavement and decks and boardwalks may be counted at 50% if installed over a reservoir layer to treat and retain stormwater infiltration. **Lot coverage** includes that portion of a lot that is not covered with woody or herbaceous plantings or mulch materials.

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, planning, 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.

13.14 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**.

Marquee Sign: See **Sign, awning, canopy or marquee**.

Microbrewery: A light industrial beverage manufacturing 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.

Monument Sign: See **Sign, monument**.

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.

13.15 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.

Net Zero Density Bonus: A residential density bonus that may be awarded by the **Development Review Board** to a **Planned Residential Development** that results in residential **structure**s meeting the **net zero energy building** definition.

Net Zero Energy Building (NZEB): A building or group of buildings designed and operated to produce an amount of energy from renewable sources on site equal to the amount of energy the building or group of buildings consumes annually.

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 **Zoning Administrator** 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 **Zoning Administrator** 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 **Zoning Administrator** 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.

13.16 O

13.17 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: See **Sign, permanent**.

Permanent Structure: See **Structure, permanent**.

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 Residential Development (PRD): A type of **Planned Unit Development** consisting of residential **lot**s or uses.

Planned Unit Development (PUD): Development of a site in which **building**s or **lot**s may not conform to the dimensional standards of the underlying zoning district in exchange for provision of a public good such as open space protection, affordable housing, recreational amenities, or others. A **PUD** allows for creativity in site design not possible with conventional subdivision and land **development** practices. A **PUD** may have a mix of residential and nonresidential land uses. In exchange for design flexibility, developers are better able to provide amenities and infrastructure improvements, and to accommodate environmental and scenic attributes of the site.

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**.

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 shops, 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.

Projecting Sign: See **Sign, projecting**.

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.

13.18 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.

13.19 R

Recreation Facility: A structure or site 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 **recreation facility** wholly within an enclosed **building**. Indoor recreation facilities 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 include but are not limited

to: public or private **health club**s, enclosed racquet courts, indoor swimming pools, YMCAs and YWCAs, **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 **recreation facility** wholly or partially outside of any **building** or **structure**. Fields, wooded areas, bodies of water, or other lands may be used for outdoor recreational purposes in this way. Outdoor recreation facilities may include **structure**s such as swimming pools, tennis courts, skating rinks, playground equipment, and **accessory structure**s. A**ccessory use**s such as snack bars, pro shops, locker rooms, and equipment rental may also occur. Examples of outdoor recreation facilities include but are not limited to: public and private **golf course**s, swimming pools, tennis courts, ball fields, ball courts, driving ranges, miniature golf courses, skateboard parks, trail systems, and other similar unenclosed recreation facilities.

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 Zoning District: a zoning district in which the primary permitted land use is residential, which includes the R10, R4, R1, and RR zoning districts.

Restaurant: Any food service establishment subject to Vermont Health Regulations where food and beverages are prepared and served for consumption; 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**, **Restaurant, Eat-In** and **Restaurant, Take-Out**)

Restaurant, Eat-in: A **restaurant** that prepares and serves food or beverages primarily to seated patrons for immediate consumption on the premises. It may prepare and package food and beverages for consumption off premises (take-out) provided the area devoted to patron seating (exclusive of any outdoor dining area) is not less than 40% of the gross floor area of the **restaurant** (exclusive of any outdoor dining area). Any **restaurant** with drive-through or drive-in service will be considered a **take-out restaurant** under this ordinance.

Restaurant, Take-Out: A **restaurant** with no or limited seating that prepares and serves food and beverages primarily for consumption off the premises. Any **restaurant** with drive-through or drive-in service will be considered a **take-out restaurant** under this ordinance. This definition includes a retail **bakery** that sells 40% or more of its products on the premises.

Retail: A **building**, property, or activity where the principle use or purpose 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 **Boarding House**.

13.20 S

Salon: A **personal service** establishment where hair styling or other cosmetic treatments are performed.

Sawmill: A facility that processes logs for the manufacture of lumber, veneer, plywood, stud wood, poles, pilings, and wood chips.

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 and extracurricular space for an institution for the teaching of children or adults in the following categories:

(1) Primary: An elementary school, offering instruction inclusive of grades kindergarten through eight (K-8).
(2) Secondary: A high school or vocational center for instruction after primary school, granting a diploma for levels of education inclusive of grades nine through twelve (9-12).
(3) Post-Secondary: A school offering instruction after secondary school, including colleges, community colleges, universities, or continuing education institutions.
(4) Trade or Professional: A school that offers instruction in skilled trades.
(5) Preschool: A school providing educational services for children from three years of age until admission to primary school and that may include kindergarten (Pre-K and K).

Sculptural Sign: See **Sign, sculptural**.

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**, display, device, or representation, including its component parts, designed or used to advertise, call attention to, or direct a person to a business, association, profession, institution, service, entertainment, person, place, product, thing, or activity of any kind, and is intelligible from any town or state maintained traveled way.

Sign, A-frame, T-frame, or X-frame: A **temporary sign** of A-frame, T-frame, or X-frame composition that may be placed securely on the ground.

Sign, awning, canopy or marquee: A **sign** affixed to a **structure** such as an awning, **canopy**, or marquee that is projecting from and supported by a **building** and extending beyond the **building** wall.

Sign, banner: A **temporary sign** printed on a non-rigid surface that may be mounted in the ground on a frame or poles, or may be affixed to a wall**.**

Sign, freestanding: 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, monument: A **freestanding sign** that is mounted low to the ground on a base that extends the full width of the **sign**.

Sign, permanent: Any **sign** erected or displayed consistently for the duration of any permitted use on premises or any **sign** the display of which exceeds the specific time limits prescribed for different types of **temporary sign**s in Section 10 of this ordinance.

Sign, projecting: A **sign** attached to and projecting away from the face of a **building** or **structure**. Also referred to as a blade sign.

Sign, sculptural: A nonplanar **sign** that may be freestanding or mounted on the wall of a **building.**

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**. Also referred to as a hanging sign.

Sign, teardrop: A type of **banner sign** that is stretched tight by the spring tension of a pole that can be anchored into the ground.

Sign, temporary: A portable **sign** displayed for a temporary period of time as allowed by provisions of Section 10 of this ordinance.

Sign, wall: A **sign** attached to and mounted parallel to the face of a **building** or **wall**.

Sign, window: A **sign** affixed to a window or glass door, or a **sign** placed within a **building** so as to be plainly visible and legible through a window or door. Interior displays of merchandise or seasonal decorations visible through a window shall not be considered window signs.

Sign, yard: A **temporary sign** affixed to a pole or frame that can be inserted into the ground.

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 Section 2.10 of this ordinance.

Small Home Child Care: A state registered small home-based **daycare** serving six or fewer children.

Soffit Sign: See **Sign, soffit**.

Special Flood Hazard Area (SFHA): The land area covered by the floodwaters of the base flood on National Flood Insurance Program (NFIP) maps. The SFHA is the area where the NFIP's floodplain management regulations must be enforced and the area where the mandatory purchase of flood insurance applies. The SFHA includes Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, V1-30, VE, and V.

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**.

Structural Alteration: See **Renovation**.

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**.

Structure, permanent: A **structure** that is affixed to a **permanent foundation** or is connected to electrical power, heating, cooling, or water and wastewater systems. As such, Quonset huts, tents, tipis, yurts and hoop houses may be considered permanent structures.

Structure, temporary: Any **structure** designed or used for purposes that are relatively impermanent in nature, not attached to a **permanent foundation,** and not connected to electrical power, heating, cooling, or water and wastewater systems. These may include, but are not limited to, box trailers, storage pods, Quonset huts, tents, tipis, yurts, and hoop houses. (See Sections 6.20 and 6.21)

Subdivision: A division of a **parcel** of land into two or more **lot**s, or other divisions of a parcel.

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.

13.21 T

T-frame Sign: See **Sign, A-frame, T-frame or X-frame**.

Take-Out restaurant: See **Restaurant, Take Out.**

Tailor Shop: An establishment for the repair, alteration, or custom making of clothes such as suits, coats, and dresses. See also **Seamstress Shop**.

Teardrop Sign: See **Sign, teardrop**.

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 Sign: See **Sign, temporary**.

Temporary Structure: See **Structure, temporary**.

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.

13.22 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 Conservation (FC) District, and lands within public and private rights-of-way, or under conservation easement. (See Section 6.23)

Utility Facility: A facility that is associated with production, transmission or distribution of power, electricity, light, heat, gas, oil, crude products, water, steam, waste, stormwater not connected with highway drainage, or any other similar commodity, including any fire or police signal system or street lighting system, which directly or indirectly serves the public.

13.23 V

Variance: The relaxation or deviation of the terms of this ordinance in compliance with 24 VSA §4469, 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.

13.24 W

Wall (see also **Fence**): A side of a building that forms part of the building's structure, or a continuous vertical structure that encloses or divides an area of land.

Wall sign: See **Sign, wall**.

Warehouse: A **building** where raw materials or manufactured goods may be stored before distribution for sale or use.

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.

Water Resources Setback: The minimum required setback from surface water features required in a basic zoning district according to Section 4.18 and as further described in Section 6.25 of this ordinance.

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 light industrial beverage processing facility 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.

Workforce Housing: For the purposes of this ordinance, **workforce housing** shall mean housing for people making 60 to 250 percent of area median income for Bennington County. Housing costs should constitute no more than 35% of such income to qualify as workforce housing.

Worship, Place of: See **Place of Worship**.

13.25 X

X-frame Sign: See **Sign, A-frame, T-frame or X-frame**.

13.26 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.

13.37 Z

Zoning Permit: A document signed and issued by the **Zoning Administrator** authorizing land use or **development** pursuant to the requirements of this ordinance.

Zoning Administrator: 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 compliance, administrative opinions, notices or citations of violation, or any other actions necessary to administer the provisions of the ordinance. The **Zoning Administrator** shall include the **Zoning Administrator** or **Assistant Zoning Administrator**.