

# Town of Manchester, Maine



## Land Use & Development Ordinance

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**Town of Manchester**  
**Land Use and Development Ordinance**

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## **ARTICLE I. GENERAL PROVISIONS**

<b>Section 1. <u>Title</u></b>
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This Ordinance shall be known and may be cited as the "Land Use and Development Ordinance of the Town of Manchester, Maine", and will be referred to herein as "this Ordinance".

<b>Section 2. <u>Legal Authority</u></b>
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This Ordinance has been prepared in accordance with the provisions of Title 30-A, Maine Revised Statutes Annotated, Sections 3001, Ordinance Power (Home Rule), 4401-4407, Subdivision Law; 4352 and 4353 Land Use Regulation, and 4452, Enforcement of Land Use Laws and Ordinances; and Title 38, M.R.S.A., Section 435- 449 Shoreland Zoning; as amended.

<b>Section 3. <u>Purpose</u></b>
----------------------------------

The purpose of this Ordinance is to promote the health, safety and general welfare of the residents of the Town; to encourage the most appropriate use of land throughout the Town by controlling building sites, placement of structures and land uses; to promote traffic safety and safety from fire and other elements; to provide adequate light and air and prevent overcrowding of real estate; to promote a wholesome home environment; to prevent housing development in unsanitary areas; to provide an adequate street system and public services; to promote the coordinated development of unbuilt areas; to encourage the formation of community units and provide an allotment of land area in new developments sufficient for all requirements of community life; to maintain rural character; to conserve natural resources; to prevent and control water pollution; to protect spawning grounds, fish, aquatic life, bird and other wildlife habitat; and to conserve shore cover and visual as well as actual points of access to inland areas, especially in flood prone areas and shores unsuitable for development.

<b>Section 4. <u>Conformity Required</u></b>
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No building hereafter erected, moved, added to or structurally altered; no existing building or structure, and no land shall be used except in conformance with the provisions, regulations and restrictions of this Ordinance. All construction or moving of buildings and structures, or the alteration of the land, or change of uses shall be in conformance with this Ordinance.

**Section 5. Non-conformance**

It is the intent of this Ordinance to promote land use compatibility and to encourage the elimination of nonconforming uses. This Ordinance intends to be realistic so that: nonconforming lots and buildings may reasonably be used; and nonconforming uses may be changed to equally nonconforming or more conforming uses. Except as otherwise provided in this ordinance, a non conforming condition shall not be permitted to become more nonconforming.

**A. General Requirements**

**1. Continuance, Enlargement, Reconstruction**

Any use of land, or any building, structure, or parts thereof, legally existing at the time of adoption of this Ordinance or at the time of adoption of an applicable amendment to this Ordinance, which does not conform to the requirements of this Ordinance or its amendments, may continue, but may not be repaired, extended, reconstructed, replaced, enlarged or structurally altered, except as specified below.

**2. Transfer of Ownership**

Ownership of lots, structures and uses which remain lawful but become nonconforming by the adoption or amendment of this Ordinance may be transferred, and the new owner may continue the non-conforming structure, lot or use subject to the provisions of this Ordinance.

**3. Restoration or Replacement**

- a. This Ordinance allows: the normal upkeep and maintenance of non-conforming uses and structures; repairs; replacement; renovations and structural alterations which do not entail the expansion of a non-conforming use or structure without a permit; and such other changes in non-conforming uses or structures as Federal, State or local building or safety codes may require. Permits are required for maintenance, repairs, or restorations whenever the cost or value exceeds \$2500. Permits are required for replacements and structural alterations of cost.
- b. Any non-conforming use or structure damaged, or destroyed, or willfully removed by any fire or cause other than the willful act of the owner or his/her agent may be restored, replaced or reconstructed within one (1) year eighteen (18) months of the date of said damage or destruction provided that: (1) a non-conforming structure shall not be enlarged except in conformity with this Ordinance and the Maine State Plumbing Code; and (2) a non-conforming use shall not be expanded in area. *NOTE: This provision only applies to areas not located in the Shoreland Zone or Resource Protection Area.*

- c. Nothing in this Ordinance shall prevent the strengthening or restoration to safe condition any part of any building or structure declared unsafe by the Building Inspector or Code Enforcement Officer.

**4. Vested Rights**

Rights to Nonconforming use cannot arise by the mere filing of a notice of intent to build, an application for building or use permit, or an application for required State permits and approvals. Such rights arise when actual construction has begun, or, in the case of pending applications, when the substantive review of a complete application has been conducted. Such construction must be legal at the time it is commenced and the owner must be in possession of and in compliance with all applicable State and local land use laws and permits. Notwithstanding the provisions of Title 1 M.R.S.A. Paragraph 302, amendments to this Ordinance shall apply to any applications submitted on or after the date when notice is first given of a public hearing to consider the amendments.

**B. Nonconforming Uses**

**1. Resumption Prohibited**

A lot, building, or structure in which a nonconforming use is discontinued for a period of 24 consecutive months or more, or which is superseded by a conforming use, may not again be devoted to a nonconforming use, even if the owner has not intended to abandon the use. A use shall not be deemed to have been discontinued for the purposes of this subsection if the building or structure is not being used due to pending probate proceedings.

**2. Expansions**

- a. A structure which contains a nonconforming use, shall not be enlarged unless a variance is obtained.
- b. A nonconforming use of part of a structure shall not be extended throughout other parts of the structure unless those parts of the structure were manifestly arranged or designed for such use prior to the adoption of this Ordinance, or of any amendment making such use nonconforming.

**3. Change of Use**

An existing nonconforming use may be changed to another nonconforming use provided that the proposed use is equally or more appropriate in the district than the existing use and that the proposed use is reviewed and approved by the Planning

Board according to the standards for review contained in Article IV. of this Ordinance.

**4. Use of Land**

- a. A nonconforming use of land may not be extended into any part of the remainder of a lot unless a variance is obtained.
- b. A nonconforming use of land which is incidental to or accessory to a nonconforming use of building shall be discontinued at the same time the nonconforming use of the building is discontinued.

**C. Nonconforming Structures**

**1. Enlargements Controlled**

- a. A nonconforming structure or use shall not be added to or enlarged except as allowed in (b) or unless such addition or enlargement does not increase the non-conformity of the current structure or unless a variance is obtained.

- b. Nonconforming structures in the Shoreland and Resource Protection Districts:

- i. Expansions of non-conforming structures with respect to the setback from the normal high water mark or upper edge of a wetland.

No non-conforming structure or portion thereof shall be expanded toward the water or wetland so as to become more nonconforming After January 1, 1989 if any portion of a structure is less than the required setback that portion shall not be expanded as measured in floor area or volume, by 30% or more during the lifetime of the structure. These provisions shall apply to the addition of porches, patios, decks and similar features as well as to the addition of steps or an unenclosed wheelchair ramp.

- ii. Whenever a new, enlarged or replacement foundation is constructed under a non-conforming structure. the structure and new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in subsection iii below.

- 1. The structure and the new foundation are placed such that the setback requirement is met to the greatest practical extent as determined by the

Planning Board, basing its decision on the criteria specified in subsection iii, below.

2. The completed foundation does not extend beyond the exterior dimensions of the structure, and:
3. The foundation does not cause the structure to be elevated by more than three (3) additional feet, as measured from the uphill side of the structure (from the original ground level of the bottom of the first floor sill) and it shall not be considered an expansion of the structure.

iii. A non-conforming structure may be relocated within the boundaries of the parcel on which the structure is located provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board, and provided that the applicant demonstrates that the present subsurface wastewater disposal system meets the requirements of State law and the State of Maine Subsurface Wastewater Disposal Rules, or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more non-conforming.

1. In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems, and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the planning board shall require replanting of native vegetation to compensate for destroyed vegetation. In addition, the area from which the relocated structure is removed must be replanted with vegetation. replanting shall be required as follows:
  - a. Trees removed in order to relocate a structure must be replanted with one native tree three (3) feet in height for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees

must be planted no further from the water or wetland than the trees that were removed.

- b. Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be reestablished with the setback area.
  - c. Where feasible, when a structure is relocated on a parcel, the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.
- iv. Any non-conforming structure which is located less than the required setback from a water body, tributary stream, or upland edge of a wetland and which is removed, or damaged or destroyed, regardless of cause by more than 50% of the market value of the structure before such damage, destruction or removal, may be reconstructed or replaced provided that;

(1) a permit is obtained within eighteen (18) months of the date of such damage, destruction, or removal.

(2) Such reconstruction or replacement is in compliance with the water or wetland setback requirement to the greatest practical extent as determined by the Planning Board in accordance with the purposes of this ordinance. In no case shall a structure be reconstructed or replaced so as to increase its non-conformity.

If the total amount of floor area and volume of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirements for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replaced in accordance with Section. 5(C)(1)(b)(iii)

Any non-conforming structure which is located less than the required setback from a water body, tributary stream or Wetland

and which is removed by 50% or less of the market value, or damaged or destroyed by 50% or less of the market value, excluding normal maintenance and repair, may be reconstructed in place if a permit is obtained from the Code Officer within one (1) year of such damage, destruction or removal.

In determining whether the building reconstruction or replacement meets the water setback to the greatest practical extent, the Planning Board shall consider in addition to the criteria in paragraph iii, above, the physical condition and type of foundation present, if any.

- v. The use of a non-conforming structure may not be changed to another use unless the Planning Board after receiving a written application determines that the new use will have no greater adverse impact on the water body, tributary stream, or wetland, or on the subject or adjacent properties and resources than the existing use.

In determining that no greater adverse impact will occur, the Planning Board shall require written documentation from the applicant, regarding the probable effects on public health and safety, erosion and sedimentation, water quality, fish and wildlife habitat, vegetative cover, visual and actual points of public access to waters, natural beauty, floodplain management, archeological and historic resources, and commercial fishing and maritime activities, and other functionally water-dependent uses.

- c. In all other land use districts, the addition of one set of unenclosed steps or one unenclosed wheelchair ramp, provided no roof is involved, shall not constitute the expansion of a nonconforming use. The addition of a deck, porch or open patio does constitute the expansion of a nonconforming use and therefore shall meet all applicable dimensional requirements.
- d. In all land use districts, the placing of a foundation below a lawfully existing nonconforming structure shall not constitute the expansion of the structure, provided that the first floor area or total living area of the structure is not increased.

## **2. Lack of Required Parking or Loading Space**

A structure or use which is nonconforming as to the requirements for off-street parking and/or loading space shall not be enlarged, added to, or altered unless off-street parking and/or loading space is provided to bring parking

and/or loading space into conformance with the requirements of this Ordinance for both the addition or alteration and for the original building or structure.

**D. Nonconforming Lots of Record**

**1. Vacant Lots**

- a. Nonconforming vacant lots of record which are part of a land subdivision approved by the Manchester Planning Board, recorded in the Kennebec County Registry of Deeds at the time of ordinance enactment, and not located in a shoreland area, may be built upon provided that dimensional requirements governing the placement of structures are met and that all other requirements of this Ordinance and State law are met.
- b. Any other nonconforming vacant lot of record may be built upon provided that such lot is in separate ownership and not contiguous with any other vacant lot in the same ownership, and that all provisions of this Ordinance except lot size, lot width or lot frontage can be met. Variance of yard or other requirements not involving area, width or frontage shall be obtained only by action of the Board of Appeals.
- c. If two or more contiguous lots or parcels of record are in the same single or joint ownership on or after the effective date of this Ordinance or applicable amendment, and if either or both of these lots do not individually meet the dimensional requirements of this Ordinance or amendments, and one or more of the lots are vacant or contain only an accessory structure, the lots shall be combined to the extent necessary to meet all dimensional standards, except where rights have vested.

**2. Built Lots**

- a. A nonconforming lot of record that was built upon prior to the enactment or applicable amendment of this Ordinance is subject to the following restrictions. The structure(s) may be repaired, maintained, or improved, and may be enlarged in conformity with all dimensional requirements of this Ordinance except lot area, lot width, or lot frontage. If the proposed enlargement of the structure(s) can't meet the dimensional requirements of the Ordinance, a variance must be obtained from the Board of Appeals.
- b. If two or more contiguous lots or parcels of record are in the same single or joint ownership on or after the enactment or applicable amendment of this Ordinance and if either or both of these lots do not

meet the dimensional requirements of this Ordinance, *and* if a principal use exists on each lot, the nonconforming lots may be conveyed separately or together in accordance with the State Minimum Lot Size Law and State Plumbing Code.

**3. Rear Lots**

A rear lot (lacks frontage) that meets size requirements but is accessible only by a right-of-way that does not meet the width requirements may be used for a single dwelling or other single permitted use provided that the right-of-way existed at the effective date of this Ordinance, a wider right-of-way cannot be negotiated with abutting landowners, and all other relevant provisions of this Ordinance can be met. Rear land shall not be subdivided unless a legal width street can be provided.

**E. Exceptions for Utilities**

The Planning Board may grant an exception for public utility installation and accessory structures, including substations and pumping stations, occupying lots not meeting the size and dimensional requirements otherwise applicable, provided that no attendant is regularly on the premises. The usual setback requirements still apply. Such exemptions shall be subject to Site Plan Review.

**F. Requirements for Sub-Surface Utilities**

All new sub-surface utilities that will run parallel to any road right of way shall be on the side and away from pavement except for service connections.

<b>Section 6. <u>Repeal of Prior Ordinances</u></b>
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The following ordinances, and any amendments to them, are repealed and essential components replaced herein:

- Mobile Home Park Ordinance
- Shoreland Zoning Ordinance
- Subdivision Ordinance
- Zoning Ordinance
- Streets and Ways Ordinance
- Camping and Trailer Park Ordinance
- Peddler & Itinerant Vendor Ordinance

**Section 7. Conflict with Other Ordinances**

In any case where a provision of this Ordinance is found to be in conflict with a provision of any other Ordinance or Code of the Town existing on the effective date of this Ordinance, or State or federal regulation, the provision which establishes the higher standard for the promotion and protection of health and safety shall prevail.

**Section 8. Validity and Severability**

Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

**Section 9. Amendment**

**A. Initiation**

A proposal for an amendment to this Ordinance may be initiated by:

1. The Planning Board, by favorable majority vote of the Board;
2. The Town Officers, through a request to the Planning Board;
3. An individual, through a request to the Planning Board and subsequent favorable majority vote of the Board; or
4. A written petition of a number of voters equal to at least ten percent (10%) of the voters in the last gubernatorial election.

**B. Procedure**

1. Any proposal for an amendment shall be made to the Planning Board in writing stating the specific changes requested. Amendments initiated by petition shall be presented to the Town Officers who shall then transmit them to the Planning Board. When a change in zoning boundaries is proposed, the application shall state the nature, extent, and location of the proposed boundary change, and shall be accompanied by a scale drawing showing the areas to be changed, with dimensions. When an amendment proposed by an individual receives a favorable vote of a majority of the Planning Board, the individual shall pay a fee to cover the costs of hearings and advertisements.
2. Within thirty (30) days of receiving a properly initiated amendment, the Planning Board shall hold a public hearing on the proposal. Notice of the hearing shall be made in accordance with applicable provisions of MRSA, Title 30A, §4352.

3. Following the public hearing, the Planning Board shall make a written recommendation regarding passage to the Town Officers and Town Meeting prior to any action on the amendment by the Town Officers.

**C. Adoption**

1. Any amendment to this Ordinance shall be adopted by a majority vote of the Town Meeting.
2. Copies of amendments affecting shoreland and resource protection districts certified by the attested signature of the Chairperson of the Planning Board shall be submitted to the Department of Environmental Protection within fourteen (14) days of acceptance by the Town Meeting and shall not be effective unless approved by the Department of Environmental Protection. If the Department of Environmental Protection fails to act on any amendment within forty-five (45) days of its receipt of the amendment, the amendment is automatically approved. Any application for a permit submitted to the Town within this forty-five (45) day period shall be governed by the terms of the amendment, if such amendment is approved by the Department.

**D. Repetitive Petitions**

No proposed changes to this Ordinance which have been unfavorably acted upon by the Town Meeting shall be considered on its merits by the Town Meeting within two (2) years after the date of such unfavorable action unless adoption of the proposed change is recommended by the vote of at least five (5) members of the entire Planning Board.

<b>Section 10. <u>Effective Date</u></b>
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This Ordinance shall take effect and be in force from the date of its adoption.

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ARTICLE II. LAND USE DISTRICTS AND USES

**Section 1. Establishment of Districts**

To implement the provisions of this Ordinance, the Town of Manchester is hereby divided into the following land use districts which are depicted on the Manchester Land Use District Map:

**A. Manchester Village**

The purpose of this district is to maintain and re-create the village atmosphere in Manchester. The area designated as the Village District was part of the historic village of the Town of Manchester, which served as the cultural and civic center of the Community. However, because of increased vehicular traffic on Route 202 over the years and the resultant road widening activities and other traffic improvements, the village area has been largely diminished and much of the village atmosphere lost. The goal of Manchester Village is to encourage the re-creation of the traditional village components that would accommodate a wide variety of land uses that are compatible with the traditional uses and historical character of this area.

Land uses in the Manchester Village District would generally be managed for a mix of residential, civic, cultural and commercial uses that are compatible with the existing uses and the character of this area, which may consist of compatible building design, signage, etc.

**B. Community Residential**

The purpose of this district is to continue the single-family district as an area to protect the single-family homeowner from encroachment by non-compatible or value-reducing uses.

The Community Residential District would accommodate the majority of the projected 174 new dwelling units over the next ten years. Historically, these areas of the Town have traditionally accommodated single-family residential compatible with the surrounding land uses and natural resources.

**C. General Development**

The purpose of this district is to continue to accommodate compatible commercial, residential and other non-residential development likely to occur along, and in close proximity to, a major arterial such as Route 202. Traditionally, with exception of the area located between Route 202 and Granite Hill Road, this area has served as the primary business district of Manchester and is approximately 70 percent developed. Future development in this area will be restricted due to the natural resource constraints presented by the lake watershed. All land development proposals, will be subject to site plan review in an effort to insure that development results in attractive buildings and sites, discourages

sprawl, minimizing curb cuts and access ways, avoiding unsightly strip development along the highway, minimizing adverse impacts upon traffic, public facilities, the natural environment and neighboring properties and uses.

**D. Rural Residential**

The purpose of this designation is to continue to encourage rural residential, forestry and agricultural uses as well as a variety of other uses compatible with the rural character of Manchester and other existing uses.

The Rural Residential areas would be maintained for rural residential and limited low intensity commercial uses compatible with the rural character, such as home occupations, country stores, etc., agricultural, timber harvesting, recreational and other natural resource dependent uses that would be compatible with, and not impair the existing uses and resources. Provisions in this Ordinance would discourage development sprawl by establishing subdivision open space ratios of at least 60%, encouraging cluster developments and other planning mechanisms.

**E. Shoreland District**

The Shoreland District covers land areas within 250 feet, horizontal distance, of the normal high-water line of any great pond, river Weston Brook, upland edge of those freshwater wetlands shown on the Official Land Use District Map, and 75 feet, horizontal distance, of the normal high-water line of other streams in Manchester. The Shoreland District generally provides for seasonal and year-round residential and recreational development. Development in the Shoreland District, due to its proximity to surface waters, requires closer scrutiny than development situated farther away in order to protect the water resource of the Town.

**F. Resource Protection**

The Resource Protection District is the critical natural resource areas in Town which, based upon their resource value, should remain essentially undisturbed. The purpose of this land use classification is to preserve fragile and significant environmental areas from intrusions which adversely affect these systems or creates threats to public health and safety.

This district includes areas in which development would adversely affect water quality, productive habitat, biotic systems, or scenic and natural values. This area includes:

- Significant lakes, ponds and streams.
- Areas within 250 feet, horizontal distance, or the upland edge of freshwater, wetlands and wetlands associated with great ponds, which are rated as moderate to high-value waterfowl and wading bird habitat, including nesting and feeding areas, by the Department of Inland Fisheries and Wildlife, that

are depicted on a geographic information system data layer maintained by MDIF&W or the Department of Environmental Protection as of May 1, 2006. For the purposes of the paragraph "wetlands associated with great ponds and rivers" shall mean areas characterized by non-forested wetland vegetation and hydric soils that are contiguous with great pond or river, and have a surface elevation at or below the water level of the great pond or river during the period of normal high water. "Wetlands associated with great ponds or rivers" are considered to be part of that great pond or river.

- Areas of two (2) or more contiguous acres with sustained slopes greater than twenty percent (20%), or unstable soil subject to slumping, mass movement, or severe erosion, when these areas are two acres or more in size.
- Areas of two (2) or more contiguous acres supporting wetland vegetation and hydric soils, which are not part of a freshwater wetland, as defined, and which are not surfically connected to a water body during normal spring high-water.

This area may also include:

- Other significant wildlife habitat
- Flood plains as defined by the 100-year flood or the flood of record, or, in the absence of these, by soil types identifiable as recent flood plain soils.
- Natural sites of significant scenic or aesthetic value;
- Areas designated by the Federal, State or Municipal Government as natural areas of significance to be protected from development; and
- Other significant areas.

**G. Aquifer Management Overlay District**

The Aquifer Management Overlay District is the Bond Brook Aquifer located in the northeast corner of the Town. The purpose of this Overlay District is to preserve and improve water quality and the quantity of surface water resources by limiting the intensity of development and controlling nutrient loading into important water bodies. All new land use activities within this overlay district must meet the requirements specified for this Overlay District.

Land uses in the Aquifer Management Overlay Districts should be reserved for low intensity uses. Some low intensity residential, recreational, agricultural and timber related uses may be accommodated through the application of existing State regulations related to septic system design and soil conditions and the Town's site plan review process.

**Section 2. Location of Districts**

The land use districts are located and bounded as shown on the official Land Use District Map of the Town of Manchester, Maine, dated and on file in the Town Office. The official Land Use District Map shall be signed by the Town Clerk and Chairperson of the Planning Board following the adoption or amendment of this Ordinance certifying the date of such adoption or amendment.

**Section 3. Interpretation of District Boundaries**

**A. Uncertainty of Boundaries**

Where uncertainty exists with respect to boundaries of various districts as shown on the official zoning map, the following rules shall apply:

1. Boundaries indicated as approximately following the center lines of streets, highways, or right-of-way shall be construed to follow the center lines of such streets, highways, or rights-of-way;
2. Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines;
3. Boundaries indicated as approximately following municipal limits shall be construed as following municipal limits;
4. Boundaries indicated as following shorelines shall be construed to follow the normal high-water line, and in the event of natural changes in the shoreline shall be construed as moving with the actual shoreline;

5. Boundaries indicated as approximately following the center line of streams and other water bodies shall be construed to follow such center lines and in the event of natural change in the location of the water body, shall be construed as moving with the actual center line;
6. Boundaries indicated as parallel to or extensions of features indicated in paragraphs 1 through 5 above shall be so construed. Distances not specifically indicated on the official zoning map shall be determined by the scale of the map.
7. Boundaries indicated as approximately following natural features such as flood plains, wetlands, aquifers or watershed boundaries shall be construed to follow said natural features. The location of said natural features shall be determined by reference to appropriate natural resource maps and their actual location on the ground.
8. Where physical or cultural features existing on the ground are at variance with those shown on the official zoning map, or in other circumstances not covered by subsections 1 through 7 above, the Board of Appeals shall interpret the district boundaries.
9. The Resource Protection/Rural Residential District boundary line which runs from the Granite Hill Road to Route 202 and which lies westerly of the Foye Road shall be interpreted to include all land having sustained slopes of 20% or greater and all land within 100 feet of land having sustained slopes of 20% or greater in the Resource Protection District.

**B. Division of Lots by District Boundaries**

When a lot is divided by a land use district boundary other than the boundary to an overlay zone, the following rules shall apply:

1. On lots of record on June 29, 1992, which are 80,000 square feet or less in area, the lot shall be used as if the entire lot were in the district that comprises the larger portion.
2. On all lots other than as provided in paragraph (B)(1) above, the district regulations shall be followed in each portion.

**C. Submerged Lands.**

Submerged lands which are not included in a specific district on the official Land Use District Map shall be included in the Resource Protection District.

**Section 4. Land Uses**

Land uses permitted in Manchester are shown on Table 1 (Table of Permissible Uses) by the type of permit required or not required within each Land Use District under Article I. of this Ordinance (General Provisions).

**Key to Table 1**

- Y Allowed use (no permit required, but the use must comply with all applicable land use standards).
- P Use requires construction or use permit from CEO.
- C Use requires conditional use permit from Planning Board following site plan review.
- S Use requires special exception permit from Planning Board following site plan review, provided that the applicant shows by substantial evidence:
  - a. there is no alternate site which is both suitable to the proposed use and reasonably available to the applicant; and
  - b. that an environmental neighborhood impact report shows that there will be minimal adverse impacts on neighboring uses.
  - c. a. and b. may be waived by the Planning Board for minor developments, if it is deemed that impact or hazards would be minimal.
- N Prohibited use.

**TABLE 1**  
**Table of Permissible Uses**

LAND USE DISTRICT							
USE/STRUCTURE	M V	C R	G D	R R	SL	A M	R P
<u>RESIDENTIAL</u>							
Accessory Dwelling	P	P	P	P	C	C	N
Accessory Structure (1 mo. or more)	P	P	P	P	C	C	C
Accessory Structure (less than 1 mo.)	P	P	P	P	P	P	P
Group Homes	C	C	C	C	C (A)	C	N
Duplex	P	P	P	P	C	C	N
Family Child Care Home	P	P	P	P	P	P	P
Home Occupation	P	P	P	P	P	P	P
Manufactured Housing	P	P	P	P	P	C	N
Mobile Home Park	N	C	C	N	N	N	N
Multi-Family Dwelling	C	C	C	S	S (A)	S	N
Single-Family Dwelling	P	P	P	P	C	C	N
Subdivision	C	C	C	C	C	S	N
<u>Residential and Commercial</u>							
Demolition over 500 sq ft (B)	P	P	P	P	P	P	P
Driveway or parking lot paving	P	P	P	P	C	P	C
New Driveway or culvert to town road	P	P	P	P	C	P	C
<u>COMMERCIAL</u>							
Accessory Structure (< 100 sq. ft.)	P	P	P	P	C (A)	C	N
Accessory Structure (> 100 sq. ft.)	C	C	C	C	C (A)	C	N
Amusement Facility, Commercial Recreation	C	N	C	S	S (A)	S	N
Auto, Rec. Vehicle, Small Engine Repair	S	N	C	S	N	N	N

**Legend**

MV = Manchester Village District  
 CR = Community Residential District  
 GD = General Development District  
 RR = Rural Residential District

SL = Shoreland Residential/Recreational District  
 AM = Aquifer Management Overlay  
 RP = Resource Protection District

(A) These uses are permitted in the Shoreland and Resource Protection Districts only when they are also located within the Village, General Development or Community Residential Districts, as shown on the Official Land Use Map.

**TABLE 1 (cont.)  
Table of Permissible Uses**

USE/STRUCTURE	LAND USE DISTRICT						
	M V	C R	G D	R R	S L	A M	R P
COMMERCIAL (cont.)							
Automobile, Rec. Vehicle, Small Engine Sales	C	N	C	S	N	S	N
Bed and Breakfast	C	C	C	C	C (A)	C	N
Boarding, Lodging	C	C	C	C	C (A)	C	N
Car Wash	S	N	C	N	N	N	N
Commercial Marina	N	N	N	N	C	N	N
Construction, Excavation Contractors	N	C	C	C	C	C	N
Earth Moving less than 50 c.y. within Shoreland Zone					P		
Earth Moving 50 c.y. or greater within Shoreland Zone					C		
Firewood Processing	N	N	C	C	N	S	N
Gasoline Service Station	S	N	C	S	N	N	N
Group Child Care Center Class A	C	C	C	P	C (A)	C	N
Group Child Care Center Class B	C	C	C	C	C (A)	C	N
Hotel/Motel	C	N	C	S	S (A)	S	N

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**TABLE 1 (cont.)**  
**Table of Permissible Uses**

**LAND USE DISTRICT**

<b>USE/STRUCTURE</b>	<b>M V</b>	<b>C R</b>	<b>G D</b>	<b>R R</b>	<b>SL</b>	<b>A M</b>	<b>R P</b>
Indoor Theater	C	N	C	N	N	N	N
Junkyard, Minor	C	N	C	C	C (A)	S	N
Junkyard, Major	N	N	C	S	N	N	N
Landscaping Contractor	N	C	C	C	C	C	N
Peddler and Itinerant Vendor	P	P	P	P	P	P	N
Neighborhood Store	C	C	C	C	C (A)	C	N
Offices; Business, Professional, Medical	C	S	C	S	S (A)	S	N
Printing/Photocopying	C	N	C	S	N	N	N
Transmission Tower	N	N	C	C	C	C	C
Restaurant	C	N	C	S	S (A)	N	N
Retail Fuel Distributor (Petroleum Products)	S	N	C	S	N	N	N
Retail Business	C	N	C	S	C (A)	S	N
Shopping Center	C	N	C	N	N	N	N
Veterinary Hospital	S	N	C	C	S (A)	S	N
Wholesale Business	S	N	C	S	N	N	N
Wireless Telecommunications Facility (WTF)	S	S	S	S	N	S	N

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**TABLE 1 (cont.)  
Table of Permissible Uses**

<b>LAND USE DISTRICT</b>							
<u>USE/STRUCTURE</u>	<b>M V</b>	<b>C R</b>	<b>G D</b>	<b>R R</b>	<b>S L</b>	<b>A M</b>	<b>R P</b>
<u>INDUSTRIAL:</u>							
Light Manufacturing	C	N	C	S	N	N	N
Heavy Manufacturing	N	N	C	N	N	N	N
Sawmill and Related Operations	N	N	C	C	N	S	N
Wastewater Disposal/Landfill	N	N	N	N	N	N	N
Sludge and Ash Spreading and Disposal	N	N	N	C	N	N	N
Terminal for Bulk Oil and Gas	S	N	C	N	N	N	N
Trucking Distribution Terminal	S	N	C	S	S	S	N
Warehousing and Storage	S	N	C	S	S (A)	S	N
<u>EDUCATION, INSTITUTIONAL</u>							
Accessory Structure	P	P	P	P	C	C	N
Church, Synagogue, Parish House	C	C	C	C	C (A)	C	N
Civic, Convention Centers	C	N	C	N	C (A)	N	N
Community Centers, Clubs	C	S	C	C	C (A)	S	N

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**TABLE 1 (cont.)  
Table of Permissible Uses**

**LAND USE DISTRICT**

<b>USE/STRUCTURE</b>	<b>M V</b>	<b>C R</b>	<b>G D</b>	<b>R R</b>	<b>S L</b>	<b>A M</b>	<b>R P</b>
Day Care	C	C	C	C	C (A)	C	N
Essential Services	C	C	C	C	C	C	C
Fire Police Station	C	C	C	C	C (A)	C	N
Government Office	C	N	C	S	S (A)	S	N
Congregate Housing/Nursing Home	C	S	C	S	S (A)	S	N
Hospital, Medical Care	C	N	C	N	N	N	N
Museum, Library	C	C	C	C	C (A)	C	N
Public, Private School	C	C	C	C	C (A)	C	N
Public Utility Facility	C	C	C	C	C	C	C
<u>OUTDOOR, RESOURCE BASED USES</u>							
Accessory Structure (<5,000SF)	P	P	P	P	P	P	N
Accessory Structure (= or >5,000SF)	C	C	C	C	C	C	N
Agriculture	Y	Y	Y	Y	Y	Y	Y
Agricultural Packaging and Storage	C	N	C	C	S	S	N
Agricultural Products Processing	N	N	C	C	N	N	N
Animal Breeding or Care	N	N	C	C	S	S	N
Campground	N	N	N	C	C	C	N
Cemetery	C	C	C	C	S	S	N
Extractive Industry	N	N	N	C	N	C	N
Farm Stands	P	P	P	P	P	P	N
Forestry (meet applicable requirements)	Y	Y	Y	Y	Y	Y	Y

<b>USE/STRUCTURE</b>	<b>M V</b>	<b>C R</b>	<b>G D</b>	<b>R R</b>	<b>S L</b>	<b>A M</b>	<b>R P</b>
<b>OUTDOOR, RESOURCE BASED USES (cont'd)</b>							
Golf Course (excluding miniature golf)	N	C	C	C	S	S	N
Kennels/Stables	N	N	C	C	S	S	N
Parks and Recreation	C	C	C	C	C	C	S
Mass Gathering (more than 1,000 persons for more than 12 consecutive hours)	N	N	C	C	C	C	N
Earthmoving (< 100CY) (See Note 2)	Y	Y	Y	Y	P	Y	Y
Earthmoving (> 100 CY) (See Note 2)	P	P	P	P	P	P	P

***Legend***

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**Note:** For any land use not listed above, the CEO and/or Planning Board will determine appropriate permit and procedure (if any).

Note 2: Earthmoving includes activity within boundaries of property in the same ownership.

**Section 5. Dimensional Requirements**

A. General Requirements. Unless otherwise permitted or limited by this Ordinance, lots, structures, and uses shall meet or exceed the requirements as set forth below in Table 2.

Where more than one principal structure exists on a lot, or is proposed, the lot area and frontage shall be increased proportionally (except as otherwise provided in this Ordinance) to the lot area and frontage requirements.

A1. Anything to the contrary in the definition of structure notwithstanding, the minimum requirements for sideline setbacks for a driveway, parking area, sidewalks, fences, and field or garden walls or embankment retaining walls in the Shoreland and Resource Protection Districts shall be the same as in all other Districts.

**TABLE 2**  
**Dimensional Requirements**  
**Land Use Districts**

<b>Dimensions</b>	<b>Land Use Districts</b>						
	<b>MV</b>	<b>CR</b>	<b>GD</b>	<b>RR</b>	<b>SL</b>	<b>RP</b>	<b>AM</b> Overlay
Minimum lot area (sq. ft. in thousands)							
with public sewer	20	20	20	60	60	130	120
without public sewer	40	60	60	80	80	218	200
Multi-Family Density (per dwelling unit) <sup>4</sup>							
with public sewer	15/5	20/10	15/5	60	60	n/a	120
without public sewer	40	60	60	80	80	n/a	200
Minimum road frontage (public or private)							
with public sewer	100	100	100	175	100	175	250
with public sewer multi-family <sup>4</sup> (per dwelling unit)	100/25	100/25	100/25	175	100	n/a	250
without public sewer	125	200	200	200	125	200	300
Minimum lot depth	150	150	150	200	200	200	200
Minimum setbacks (principal and accessory structure)							
Front setback (from centerlines)							
Route 202	100	100	100	100	100	100	100
Other State road	50	50	50	75	75	75	75
Town or private road	30	30	30	60	25	30	30
Rear/Side setback (principal)	15	20	20	30	30	30	30
Rear/Side setback (accessory)	15	15	15	20	20	20	20
Driveway and parking area side setback	10	10	10	10	10	10	10
Minimum shore frontage	---	---	---	200	200	200	-
See Note 1 for items listed in ( )					(300)	(300)	
Maximum lot coverage (%)							
Building coverage	50	20	40	20	20	20	20
Impervious area	70	30	60	20	20	20	20

A2. All road frontage for any given lot must be constructed prior to issuing building permits for that lot.

**TABLE 2 (Cont.)**

**Dimensional Requirements**

**Land Use Districts**

<b>Dimensions</b>	<b>MV</b>	<b>CR</b>	<b>GD</b>	<b>RR</b>	<b>SL</b>	<b>RP</b>	<b>AM</b> Overlay
Maximum Height of Structure	40	40	40	40	35	35	40
Minimum floor area for residential structure (sq. ft.)	500	500	500	500	500	500	500
Minimum waterfront setback (all structures)	---	---	---	---	100	100	100
Maximum floor area for a retail store (square feet in thousands)	75	---	75	75	---	---	---

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 GD = General Development District  
 RR = Rural Residential District  
 SL = Shoreland Residential/Recreational District  
 AM = Aquifer Management Overlay  
 RP = Resource Protection District

NOTE 1: Shore frontage shall be 300 feet for all commercial, industrial and all other non-residential uses proposed for the Shoreland and Resource Protection Districts.

NOTE 2: Duplex structures/uses in the Rural Residential, Shoreland, and Aquifer Management Overlay Districts shall require 1½ times the required lot area otherwise required in the district.

NOTE 3: Linkage of commercial parking areas is strongly encouraged. Parking area side setbacks do not apply between commercial parking lots when they are connected.

NOTE 4: Indicates requirements for 1st dwelling unit/each additional dwelling unit

**B. Wireless Telecommunications Facilities.**

Wireless Telecommunications Facilities (WTFs) shall comply with the dimensional requirements under Section 8(L)(2).

**Section 6. General Performance Requirements and Standards**

The following standards apply to all lots created and all land use activities undertaken, where applicable.

**A. Access to Lots**

The purpose of this section is to protect the health, safety and welfare of the residents of Manchester by establishing regulations for access to all lots and structures in order to:

- Allow for the safe passage of vehicles to the property.
- Allow emergency vehicle access to the property.
- Ensure proper road construction and maintenance.
- Provide various options to access property.
- Ensure that the creation of new lots or the construction of new principle structures and seasonal structures converted to year round use, on existing roads are safe for vehicle passage.

1. All new lots, existing lots, new principle structures and seasonal structures converted to year round use shall conform to the Dimensional Requirements contained in Article II, Sec. 5, Table Two for Road Frontage, or Non-Conformance contained in Article I, Sec. 5, and the applicable access requirements in this Section.
2. All lots shall be provided with an access to the property by means of a driveway, common driveway, private road or public road.
3. No new lot shall be created or subdivision plan approved unless access to the property is provided.
4. No construction permit shall be issued to erect any principle structure unless access to the lot is provided.
5. All lots not having frontage on a public road shall contain in the legal description of that lot a maintenance agreement for the access way to the property. The maintenance agreement shall establish the ownership of the access way and responsibility for maintenance. The maintenance agreement shall also include a statement that it is a private road and not the responsibility of the Town of Manchester and further state that the road shall not be eligible for acceptance by the Town of Manchester unless the road conforms to the Town's Public Road Standards.

6. Access Standards

- a. Driveway. A driveway may be used to provide access in all districts. A driveway may be used to create frontage in all districts, except Village and General Development for the use of one lot or structure.
- b. Common Driveway. A common driveway may be used to provide access in all districts. A common driveway may be used to create frontage to all lots without road frontage in all districts, except Village and General Development districts, for the use of up to four (4) lots or structures. The following design and construction standards shall apply:
  - i. The maximum length shall not exceed 1000 feet.
  - ii. All common driveways in excess of 500 feet shall contain at least one 10 foot by 30 foot turnout. The exact location shall be determined by the Board with the review of the Fire Department.
  - iii. The common driveway shall have a minimum 25 foot ROW for up to two (2) lots or structures, and a minimum 50 foot ROW for over two (2) lots or structures
  - iv. The travel way shall be a minimum of 12 feet wide with two foot graded and grassed shoulders, and shall be located as close as possible within the center line of the right of way.
  - v. The travel way shall be constructed of a minimum of 12 inches of gravel.
  - vi. Drainage ditches and culverts shall be provided as necessary.
- c. Private Road. A private road may be used to create access for the use of over four (4) lots or structures and roads exceeding 1000 feet. A private road may be used to create frontage except when a lot has frontage on a public road in Village or General Development district the frontage requirement must be met by the front lot line frontage on a public road. All private roads shall conform to the Road Standards for new roads as contained in subsection N of this Ordinance.
- d. Public Road. A public road may be used to create frontage and access. Any lot or structure with frontage and access on a public road shall be deemed to have met all provisions of this section.

7. Existing Driveways, Common Driveways, and Private Roads.

All existing driveways, common driveways and private roads may continue to be used in their present condition. Any new lot created, new principle structure constructed or seasonal structure converted to year round use and located on an existing driveway, common driveway or private road shall conform to the following:

- a. The existing driveway, common driveway or private road shall be improved in conformance with Subsection A of Section 6, except as provided in paragraph b below for access ways existing prior to June 29, 1992 .
- b. The applicant proposing the new lot, new principle structure or conversion of a seasonal dwelling shall be responsible for any required improvements to the existing access way. The Board may modify the dimensional standards of subsection A of Section 6, if the Board makes a finding, based on clear and convincing evidence, that conformance with such standards is not practicable with due consideration to all relevant factors including topography, drainage, expected use, potential traffic hazards and relative costs, provided however, the applicant's lack of ownership interest in sufficient land necessary to conform to such standards is not a relevant consideration. The Board may not approve any modification of such standards, unless it further finds that required improvements to an existing driveway, common driveway, or private road permit the year-round passage of fire trucks and other emergency vehicles. Subdivisions with five or more lots approved after June 16, 2005 and with sole access on an existing private road must upgrade the private road to Town road standards from intersection of access with private road to the public road.

**B. Agriculture.**

Agricultural activities in the Shoreland and Resource Protection Districts shall conform to the following land use standards. In other land use districts, such activities must comply with applicable State and Federal regulations.

1. All spreading of manure shall be accomplished in conformance with the Manure Utilization Guidelines published by the Maine Department of Agriculture on 11-1-2001, and the Nutrient Management Law (7 M.R.S.A. sections 4201-4209)
2. There shall be no tilling of soil within fifty (50) feet of the normal high-water mark of any stream, lake or pond whose shore lands are covered by this Ordinance.
3. Where soil is tilled in a Resource Protection District, or where soil in excess of 20,000 square feet is tilled in any other Land Use District, and the tilled area lies either wholly or partially within the shoreland areas covered by this Ordinance, such tillage shall be carried out in conformance with the provisions of a Conservation Plan which meets the standards of the regional Soil and Water Conservation District. The number of the plan shall be filed with the Planning Board. Nonconformance with the provisions of such Conservation Plan shall be considered to be a violation of this Ordinance.
4. There shall be no new tilling of soil or newly established livestock grazing areas within 100 feet horizontal distance, of the normal high-

water line of a great pond classified GPA; with 75 feet, horizontal distance, from other water bodies; nor within 25 feet, horizontal distance, of tributary streams and wetlands. Operations in existence on the effective date of this ordinance and not in conformance with this provision may be maintained.

**C. Air Emissions.**

All uses, regardless of size, shall meet the air emission standards set by the Maine Department of Environmental Protection.

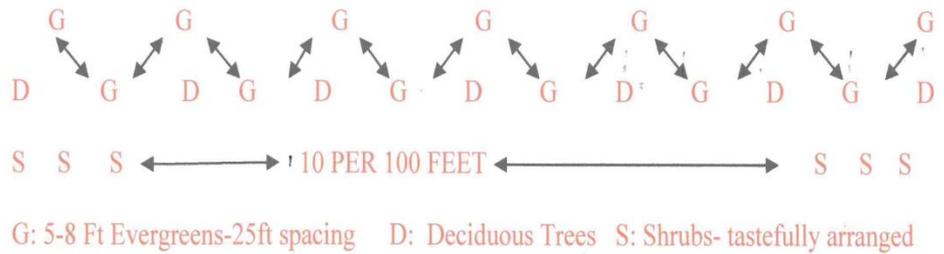
**D. Beach Construction.**

Beach construction on any great pond, or any river, stream, or brook shall require a permit from the Department of Environmental Protection, under State law.

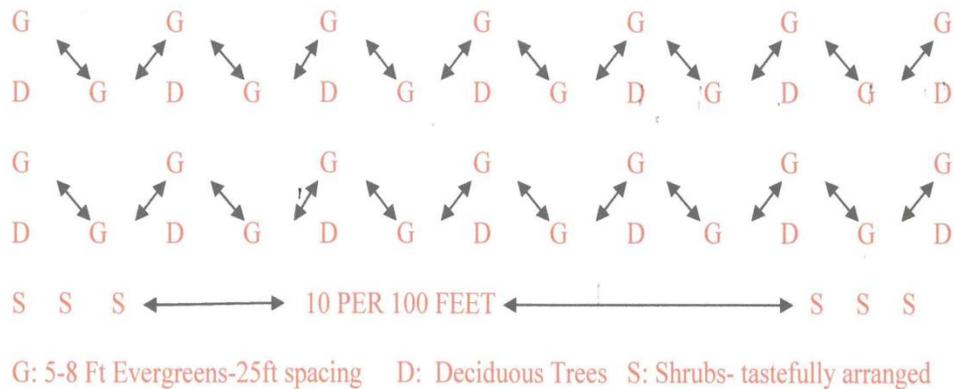
**E. Buffers/Screening.**

Buffers are fences, vegetation, landscaping, used to minimize any adverse impacts or nuisance conditions as experienced on the site or from adjacent areas. The following regulations apply to multi-family residential, commercial, industrial, institutional or other non-residential structures or uses including clear cutting:

1. No such buildings or uses shall be established or abut a residential, agricultural, institutional, public or recreational use, or be located within the Rural Residential district, unless natural vegetation or a landscaped buffer strip at least twenty-five (25) feet wide is provided to visually screen the uses to the extent practical. Where no natural vegetation can be maintained or due to varying site conditions, the landscaping may consist of fences, walls, tree plantings, hedges or combinations thereof.
2. Also natural landscape features shall be maintained wherever possible to provide a buffer between the proposed development and incompatible abutting properties. When natural features such as topography, gullies, stands of trees, shrubbery, or rock outcrops do not exist or are insufficient to provide a buffer, other kinds of buffers shall be utilized. The buffering shall minimize the adverse impacts on adjacent properties (including public roads) and shall meet the following standards:
  - a. For minor developments of low intensity use and located in structures which are or will be similar in size, scale, and appearance to typical residential homes and garages the Planning Board may reduce buffering requirements except that existing natural features which can serve as a buffer must be retained.
  - b. For other minor developments not described by Section 6E, 2a, where natural vegetation does not effectively screen the use, a buffer of five to eight foot evergreens arranged as indicated below is required to screen the use from abutting properties and in Rural Residential District from public roads.



- c. For major developments, where natural vegetation does not effectively screen the use, a buffer of arranged as indicated below is required to screen the use from abutting properties and in Rural Residential District from public roads.



All plant material required by this ordinance shall meet the following minimum standards at time of installation. The sizes shall be measured at diameter at chest height. The Planning Board may require or accept a landscaping designed by a registered landscape architect to fulfill buffering requirements of this section.

TYPE	INSTALLATION SIZE	MATURE HEIGHT
Evergreen Shrubs		18" height or spread
Low Shrubs	18" height	2' - 5'
Intermed. Shrubs	24" height	3' - 10'
Understory Trees	1 3/4 - 2" caliper	10' - 35'
Canopy Trees	2 1/2" caliper	35' or more
Evergreen Trees	5' - 8' height	35' or more

- d. For major developments in General Development district buffer areas within minimum setback require landscaping that creates an attractive setting drawing attention to the landscaped area while minimizing the visual impact created by roof lines, parking lots or other aspects of use as viewed from public roads.
  - e. Outdoor off-street parking and loading spaces, shall be effectively screened from view by a continuously landscaped area not less than six (6) feet in height and fifteen (15) feet in width along exterior lot lines adjacent to single-family residential properties, except that driveways shall be kept open to provide visibility for entering and leaving.
  - f. Buffers shall be provided along interior roads running parallel to roads exterior to the site, to prevent confusion, particularly at night.
  - g. Exposed storage and waste disposal areas, sand and gravel extraction operations, and areas used for the storage or collection of any articles of salvage or refuse shall have sufficient setbacks and screening (such as stockade fence, a wooden or masonry screen or a dense evergreen hedge six (6) feet or more in height) so that they do not adversely affect other land uses and properties in the area.
  - h. For any use or area presenting a potential safety hazard to children, physical screening and/or barriers sufficient to deter small children from entering the hazardous area shall be provided and maintained in good condition.
3. All buffer areas shall be maintained in a neat and sanitary condition by the owner. Fencing and screening shall be durable and properly maintained and shall be so located within the property lines to allow access for maintenance on both sides without intruding upon abutting properties. Vegetation shall be replaced to insure continuous year-round screening.
  4. All plantings required under this Ordinance shall be of a type and species appropriate for the soil types and conditions of the site. Native plantings shall be used whenever possible; landscape plans shall strive for a "natural" rather than a "manmade" look.

**F. Clearing or removal of Vegetation for Activities Development within the Shoreland District Other Than Timber Harvesting.**

1. In a district, designated for Resource Protection, abutting a great pond, there shall be no cutting of vegetation within the strip of land extending seventy-five (75) feet, horizontal distance, inland from the normal high-water line, except to remove safety hazards.
2. Except in areas as described in Section 6 (F) 1 above, and except to allow for the development of permitted uses, within a strip of land extending one-hundred (100) feet, horizontal distance, inland from the normal high-water line of a great pond,

and within seventy-five (75) feet, horizontal distance, of the normal high-water line of streams, tributary streams, rivers, or upland edge of those wetlands designated on the official Manchester Land Use Map, a buffer strip of vegetation shall be preserved as follows:

- a. Adjacent to a great pond or stream as described in Section 3, the rivers, or upland edge of those wetlands designated on the official Manchester Land Use Map, the width of a single six (6) foot wide foot path shall be allowed. There shall be no cleared opening greater than 250 square feet in the forest canopy (or other existing woody vegetation if a forested canopy is not present) as measured from the outer limits of the tree or shrub crown. However, a footpath not to exceed six (6) feet in width as measured between tree trunks and/or shrub stems is allowed provided that a cleared line of sight to the water through the buffer strip is not created.
- b. Selective cutting of trees within the buffer strip is allowed provided that a well distributed stand of trees and other natural vegetation is maintained so long as no more than 40% of the total volume of trees at 0 - 7% slope of land, 30% of the total volume of trees at 8 - 14% slope of land and 20% of the total volume of trees at 15% or greater slope of land four (4) inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten (10) year period. For the purposes of Section 15(P)(2)(b) a "well distributed stand of trees" adjacent to a great pond classified GPA or a river or stream flowing to a great pond classified GPA, shall be defined as maintaining a rating score of 24 or more in each 25 foot by 50 foot rectangular (1250 sq. ft.) area as determined by the following rating system:

Diameter of Tree at 4 1/2 feet Above Ground Level	
INCHES	POINTS
2 - <4 in.	1
4 - <8 in.	2
8 - <12 in.	4
12 in. or greater	8

Adjacent to other water bodies, tributary streams, and wetlands, a "well-distributed stand of trees" is defined as maintaining a minimum rating score of 16 per 25 foot by 50 foot rectangular area.

The following shall govern in applying this point system:

- (i) The 25 foot by 50 foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
- (ii) Each successive plot must be adjacent to, but not overlap a previous plot;

(iii) Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this Ordinance;

(iv) Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this Ordinance;

(v) where conditions permit, no more than 50% of the points on any 25 foot by 50 foot rectangular area may consist of trees greater than 12 inches in diameter.

For the purposes of this Section "other natural vegetation" is defined as retaining existing vegetation under three (3) feet in height and other ground cover and retaining at least five (5) saplings less than two (2) inches in diameter at four and one half (4 1/2) feet above ground level for each 25 foot by 50 foot rectangle area. If five (5) saplings do not exist, no woody stems less than two (2) inches in diameter can be removed until five (5) saplings have been recruited into the plot.

Notwithstanding the above provisions, no more than 40% of the total volume of trees four (4) inches or more in diameter, measured at 4 1/2 feet above ground level may be removed in any ten (10) year period.

- c. In order to protect water quality and wildlife habitat, adjacent to great ponds, streams and tributary streams as described in Section 3, the rivers, or upland edge of those wetlands designated on the official Manchester Land Use Map, existing vegetation under three (3) feet in height and other ground cover shall not be removed, except to provide for a footpath or other permitted uses as described in paragraphs 2 and 2a above.
- d. Pruning of tree branches, on the bottom 1/3 of the tree is allowed.
- e. In order to maintain a buffer strip of vegetation, when the removal of storm-damaged, diseased, unsafe, or dead trees results in the creation of cleared openings, these openings shall be replanted with native tree species unless existing new tree growth is present.

The provisions contained in paragraph 2 above shall not apply to those portions of public recreational facilities adjacent to public swimming areas. As long as cleared areas are limited to the minimum area necessary.

- 3. At distances greater than one hundred (100) feet, horizontal distance, from a great pond and Weston Brook, and seventy-five (75) feet, horizontal distance, from the normal high-water line of other streams, or the upland edge of those wetlands designated on the official Manchester Land Use Map, there shall be allowed on any lot, in any ten (10) year period, selective cutting of not more than forty (40) percent of the volume of trees four (4) inches or more in diameter, measured 4 1/2

feet above ground level. Tree removal in conjunction with the development of permitted uses shall be included in the forty (40) percent calculation. For the purposes of these standards volume may be considered to be equivalent to basal area.

In no event shall cleared openings for any purpose, including but not limited to, principal and accessory structures, driveways, lawns and sewage disposal areas, exceed in the aggregate, 25% of the lot area within the shoreland zone or ten thousand (10,000) square feet, whichever is greater, including land previously cleared.

4. Legally existing non-conforming cleared openings may be maintained, but shall not be enlarged, except as allowed by this Ordinance.
5. Fields and other cleared openings which have reverted to primarily shrubs, or trees shall be regulated under the provisions of Section 15 P.
6. In any other land use district, the clearing of vegetation shall be limited to that which is necessary for uses expressly authorized in that district.

**G. Emergency Vehicle Access.**

Provisions shall be made for convenient and safe emergency vehicle access to all principal structures at all times.

**H. Glare and Illumination.**

1. Lighting Standards

- a. All exterior lighting and all reflective properties of the development shall be designed to minimize light pollution, an adverse impact on neighboring properties.
- b. Lighting fixtures shall be focused, shielded, or hooded so that the lighting elements shine downward and does not have an adverse impact on motorists, pedestrians, adjacent dwellings or public places.
- c. Lighting fixtures with a lamp or lamps rated at a total of more than 1800 lumens and all flood or spot light fixtures with a lamp or lamps rated for more than 900 lumens shall not emit any direct light above a horizontal plane through the lowest direct light emitting part of the light fixture.
- d. Direct or indirect illumination shall not exceed 0.5 foot candles at the abutting property line as when measured from a distance of four (4) feet from the ground.
- e. The maximum height of a lighting fixture shall not exceed 25 feet, as measured from ground level.
- f. All exterior lighting except security and safety lighting, shall be extinguished one hour after closing of the business.
- g. All exterior light fixtures in place prior to the date of these ordinance amendment shall be grandfathered. However, any exterior light fixtures that replace a

grandfathered light fixture, or any grandfathered exterior light picture that is moved, must meet the standards of this ordinance.

2. Exceptions

- a. All temporary emergency lighting needed by the police, the fire department, or other emergency services, as well as all vehicular lights shall be exempt from requirements of this subsection.
- b. All hazard warning lights required by federal regulatory agencies are exempt requirements of this subsection except that all lights must be red and must be shown to be as close as possible to the federally required minimum lumen output required for the specific task.
- c. Spot lights for US and state flags and illumination of church steeple shall be exempt from the requirements of this subsection.

**I. Height of Structures or Buildings.**

No structure or building shall exceed those heights specified in Table 2, unless specifically exempted by this Ordinance. Non-flammable features of buildings and structures, such as chimneys, towers, ventilators, and spires may exceed the Ordinance's maximum building height, but shall be set back from the nearest lot line a distance not less than the height of such feature or structure, unless a greater setback is required by other provisions of this Ordinance. Chimneys on residential structures shall be exempt from the requirements of this paragraph.

**J. Landscaping.**

The landscape shall be preserved in its natural state insofar as practical, by minimizing tree removal and grade changes in keeping with the general appearance of neighboring areas. Landscaping shall be designed to soften, screen, or enhance the physical design of structures and parking areas to avoid the encroachment of the proposed use on abutting land uses.

1. General Requirement. All uses will maintain the first fifteen (15) feet from edge of the right-of-way (excluding driveways) front of all buildings and structures as a green strip. The green strip shall consist of a maintained vegetated area (e.g., lawn, garden, landscaped shrubbery) or natural growth.
2. Commercial and Industrial Uses. Active, non-residential uses will maintain the first fifteen (15) feet of the right-of-way (excluding driveways) in front of all buildings, structures and designed impervious areas as a green strip. The green strip shall consist of a maintained vegetated area (e.g. lawn, garden, landscaped shrubbery), with a 2-1/2 dbh. or large deciduous shade tree, spaced every twenty-five (25) feet or a shrub two to three feet in height minimum, place the equivalent of one per ten feet, along the green strip and parallel to the right-of-way. In order to ensure proper visibility for entering and departing vehicles, all

driveway entrances and exits shall be kept free from visual obstructions higher than three (3) feet above street level for a distance of twenty-five (25) feet measured along the intersecting driveway and street lines.

3. All plantings required under this Ordinance shall be of a type and species appropriate for the soil types and climactic conditions in Manchester.

**K. Noise Abatement**

**SECTION 1: PURPOSE**

The Town of Manchester has an interest in ensuring for its residents and visitors an environment free from excessive noise that may jeopardize their health or welfare, or degrade their quality of life. This Ordinance is enacted to protect, preserve and promote the health, safety, welfare and quality of life for the citizens of Manchester through the reduction, control and prevention of loud and unreasonable noise.

**SECTION 2: STANDARDS**

Standards. Noise shall be controlled by relative and absolute standards, in accordance with the following:

1. Relative Limits. In order to prevent a single sound source from radically changing the noise levels in a neighborhood, the amount of additional sound that may be generated shall be limited.
  - A. In all zoning districts, the following relative increases shall be permitted:
    - 1) between 7:00 a.m. and 10:00 p.m.: an increase not to exceed 10 decibels;
    - and
    - 2) at all other times: an increase not to exceed 5 decibels.
  - B. In any zone, a short-duration activity that occurs for not more than 15 minutes per day, between the hours of 8:00 a.m. and 5:00 p.m., shall be permitted to increase the relative sound level by an additional 10 decibels above that otherwise permitted in this Section.
2. Absolute Limits. The maximum permissible sound pressure level of any continuous, regular, or frequent source of sound shall be limited as follows:
  - A. Between 7:00 a.m. and 10:00 p.m.:
    - 1) 65 decibels in the Village and General Development District; and
    - 2) 55 decibels in all other districts.

**SECTION 3: EXCEPTIONS**

Activities listed in this Section are declared to be exempt from the limitations of this Ordinance, as follows:

1. Natural phenomena.
2. Church bells rung as part of any official church ceremony or service, and tower clock bells ringing the hour during daytime hours.
3. Any siren, whistle or bell lawfully used by emergency vehicles or any other alarm systems used in any emergency situation, provided, however, that burglar alarms not terminated within thirty (30) minutes after being activated shall be unlawful.
4. Safety signals or warning devices required by OSHA or other State or Federal regulations.
5. Lawful emergency maintenance or construction such as, but not limited to, repair of a broken water main or replacement of overhead power lines.
6. Special events approved by the Board of Selectmen, including but not limited to parades, special sporting events, concerts and fireworks displays.
7. Noises created by on-site construction and maintenance activities between 7 a.m. and 8 p.m.
8. Traffic noise.
9. Municipal Activities. Any legitimate activity of the Town, or a water or sewer district, may be exempt from the provisions of this Ordinance at the discretion of the Town Manager.
10. Emergencies or Extraordinary Situations. In an emergency or an extraordinary situation, the Town Manager may vary these standards if, in the Town Managers sole judgment, it is in the best interests of the Town.
11. Normal Agricultural activities

#### **SECTION 4: MEASUREMENT**

1. Sound Pressure Level. This Ordinance regulates sound pressure levels. It shall be measured in terms of overall readings that provide a single decibel value taking into account all frequencies or pitches.
2. Equipment. A sound level meter used in the administration of this Ordinance shall be a Type 2 (or better) meter that complies with the ANSI standard S1.4, 1983, or the latest version thereof.
3. Location. Measurements shall be taken in accordance with the following:
  - A. In all cases, noise measurements shall be taken with the meter at least four feet above the ground.
  - B. To measure relative limits, noise shall be measured at the point of concern, not on the property on which the noise is generated. In the case of a compliant, measurement shall be taken at the property of the person complaining.
  - C. To measure maximum limits, noise shall be measured at points around the perimeter of the lot on which the sound is being generated.

#### **SECTION 5: ADMINISTRATION AND ENFORCEMENT**

1. This Ordinance shall be administered and enforced by the Manchester Code Enforcement Office.

2. No person shall interfere with, oppose or resist an authorized person charged with the enforcement of this Ordinance while such person is engaged in the performance of his duty.
3. For the purpose of determining compliance with the provisions of this Ordinance, the Code Enforcement Officer is authorized to make inspections of all noise sources, and to take measurements and make tests whenever necessary to determine the quantity and character of noise. The Code Enforcement Officer may enter any property with the consent of the owner or owner's agent. If consent is not granted, the Officer may seek an administrative warrant from District Court.
4. Violations of this Ordinance shall be prosecuted in the same manner as other civil violations, provided, however, that in the event of an initial violation of the provisions of this Ordinance, a written notice shall be given the alleged violator which specifies the time by which the condition shall be corrected. No complaint or further action shall be taken in the event the cause of the violation has been removed, the condition abated or fully corrected within the same period specified in the written notice. The notice shall state that unless corrections are made within the allotted time, the violator is subject to prosecution pursuant to provisions of this Ordinance.
5. In the event the alleged violator cannot be located in order to serve the notice of the intent to prosecute, the notice as required herein shall be deemed to be given upon mailing of notice by registered or certified mail, return receipt requested, to the alleged violator at this last known address or at the place where the violation occurred, in which event the specified time period for abating the violation or applying for a variance shall commence at the date of the day following the mailing of such notice. Subsequent violations of the same offense shall result in the immediate filing of a criminal complaint.

#### **SECTION 6: PENALTIES**

Anyone who violates any of the provisions of this Ordinance, or who fails to conform to any of the provisions thereof, or who fails to obey any lawful order of any officer charged with the enforcement of the provisions of this Ordinance, or other persons who shall assist in the violation of this Ordinance, shall be guilty of a civil violation and upon conviction thereof shall be fined not less than one hundred dollars (\$100.00), but not more than five hundred dollars (\$500.00). Each violation or failure to comply constitutes a separate offense. The municipality may be awarded reasonable attorney's fees and costs incurred in enforcing this Ordinance.

#### **SECTION 7: GENERAL PROVISIONS**

1. Saving Clause. If any portion of this Ordinance is found to be invalid by the courts, it shall not affect the validity of any other portion of this Ordinance.
2. Conflict with Other Codes. Where provisions of this Ordinance are in conflict with or different than provisions of other codes, the more restrictive shall apply.

3. Internal Conflicts. Where provisions of this Ordinance are in conflict with one another, the more restrictive shall apply.
4. References to Zoning Districts. References to districts in the Zoning Ordinance shall refer to the Official Land Use District Map signed and dated June 22, 1998.

**L. Off-Street Parking and Loading**

1. Basic Design. Off-street parking shall be required for all new, expanded, or remodeled uses in Town, including change of uses. No parking space shall serve more than one use, unless joint use of parking has been approved by the Planning Board in accordance with subsection 2(e) below. Spaces shall be arranged so that vehicles can be turned around within such area and are not required to back into the street or road.
2. Multi-Family Residential, Commercial, Industrial and Institutional Development. Development in any district shall not be extended, and no structure shall be constructed or enlarged, unless off-street automobile parking space is provided in accordance with the following requirements:
  - a. Access points from a public road to commercial and industrial operations shall be so located as to minimize traffic congestion and to avoid generating traffic on local access streets of a primarily residential character.
  - b. All parking areas and driveways shall have a gravel sub-base at least twelve (12) inches in thickness and two (2) inches of finish gravel or bituminous concrete, and shall have appropriate bumper or wheel guards where needed.
  - c. Required off-street parking for all land uses shall be located on the same lot as the principal building or facility, unless otherwise approved by the Planning Board.
  - d. Loading facilities shall be located entirely on the same lot as the building or use to be served. Trucks, trailers, and containers for loading or storage shall not be located upon any Town way. Loading facilities shall also be designed so that they do not interfere with customer traffic flows and parking.
  - e. The joint use of a parking facility by two or more principal buildings or uses may be approved by the Planning Board where it is clearly demonstrated that said parking facilities will substantially meet the intent of the requirements by reason of variation in the probable time of maximum use by patrons or employees of such establishments.
  - f.
3. Parking Lot Design Criteria (Not applicable to single- or two-family dwellings)
  - a. Vehicular Entrance and Exit

- i. Entrances and exits shall be clearly identified by the use of entrance and exit signs, curb cuts, and landscaping.
- ii. Entrance/exit design shall be in conformance with the standards of subsection N.

**b. Interior Vehicular Circulation**

- i. Major interior travel lanes shall be designed to allow continuous and uninterrupted traffic movement.
- ii. Enclosures, such as guardrails, curbs, fences, walls, and landscaping, shall be used to identify circulation patterns of parking areas and to restrict driving movements diagonally across parking aisles, but not to reduce visibility of on-coming pedestrians and vehicles.
- iii. Entrance/exits shall be designed to allow adequate stacking of vehicle circulation lanes.

**c. Minimum Parking Requirements**

- i. Access to parking stalls shall not be provided from any public way or from major interior travel lanes serving fifty (50) or more vehicles.
- ii. Parking areas shall be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles.
- iii. All parking spaces and access drives shall be at least ten (10) feet from any side or rear lot line, except for the additional requirements in buffer yards.
- iv. Parking stalls and aisle layout shall conform to the design standards in Table 3:

**TABLE 3**  
**Parking Design Standards**

<b>Parking Angle</b>	<b>Stall Width</b>	<b>Skew Width</b>	<b>Stall Depth</b>	<b>Aisle Width</b>
90°	9'-0"		18'-0"	24'-0"
60°	8'-6"	10'-5"	10'-0"	16'-0" one way only
45°	8'-6"	12'-9"	17'-5"	12'-0" one way only
30°	8'-6"	19'-0"	17'-0"	12'-0" one way only

- v. In paved parking areas, painted stripes shall be used to delineate parking stalls. Stripes should be a minimum of four (4) inches in width. Where double lines are used, they should be separated a minimum of one (1) foot on center.
- vi. In unpaved parking areas, raised barriers a minimum of eighteen (18) inches in height shall be used to delineate parking stalls.
- vii. In aisles utilizing diagonal parking, arrows shall be painted on the pavement to indicate proper traffic flow.
- viii. Bumpers and/or wheel stops shall be provided where overhang of parked cars might restrict traffic flow on adjacent through roads, restrict pedestrian movement on adjacent walkways, or damage landscape materials.
- ix. All non-residential uses shall provide at least one (1) parking space for each employee on the largest work shift. In addition, parking spaces shall be provided to conform with the number required in Table 4.
- x. Where practicable, parking lots shall be located either on the side or rear of structures.

**TABLE 4**

**Parking Requirement Schedule**

<b><u>ACTIVITY</u></b>	<b><u>MINIMUM REQUIRED PARKING</u></b>
Residential Units with 2 or more bedrooms	2 spaces per dwelling unit
with 1 bedroom	1-1/2 spaces per dwelling unit
Elderly Housing	1-1/4 space per dwelling unit
Tourist Homes, Boarding and Lodging Houses, Motels, Hotels, and Inns	1 space per room/unit rental
Campgrounds	1 space per site rental
Churches	1 space per three (3) seats based upon maximum seating capacity
Schools	
Primary	1.5 spaces per classroom
Secondary	8 spaces per classroom
Post-Secondary	1 space for each student and 1 space for each faculty and staff member
Child Care Facility	1 space for every four (4) children for whom facility is licensed to care
Private Clubs or Lodges	1 space for every fifty (50) square foot of floor space
Theaters, Auditoria, Public Assembly Areas	1 space per three (3) seats based upon maximum seating capacity
Libraries, Museums Art Galleries	1 space for each 200 square foot of floor area
Commercial Recreation Facilities	1 space for each 100 square foot of floor area
Marinas	1 space for each boat slip and mooring
Funeral Homes	1 space per three (3) seats based upon maximum seating capacity

**TABLE 4 (cont.)**

**Parking Requirement Schedule**

<b><u>ACTIVITY</u></b>	<b><u>MINIMUM REQUIRED PARKING</u></b>
Medical Care Facilities	1 space for every two (2) beds
Professional Services such as Accountants, Barbers, Hair Dressers, Doctors, Lawyers, Insurance Agents, Real Estate Agents, Veterinarians	1 space for each 250 square foot of floor area
Retail and Service Businesses	1 space for every 150 square foot of sales area
Automobile Repair Garages	4 spaces for each bay or each used for repair work
Motor Vehicle Sales	1 space reserved for customers per twenty-five (25) vehicles displayed on the lot
Restaurants	1 space per three (3) seats based upon maximum seating capacity
Drive-In Restaurants	1 space per fifty (50) square feet of floor area
Industrial Businesses, Warehouses, and Wholesalers	1 space for each vehicle parked overnight on the premises
Flea Markets	2 spaces per eight (8) linear feet of table
Mixed Uses	Total of individual uses

**NOTES:**

1. Where the calculation of the aforementioned parking spaces results in a fractional part of a complete parking space, the parking spaces required shall be construed to be the next highest number.
2. The above are minimum standards, and additional parking spaces may be required if these prove to be inadequate.
3. Where floor space is to be used in calculating the number of required parking stalls, gross floor area shall be used unless otherwise noted.
4. The Planning Board may permit shared parking, or less than the standards described above, where it can be demonstrated that adequate parking will be provided.

**M. Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Located Beyond the Normal High-Water Line of a Water Body or Within a Wetland**

1. Access from shore shall be developed on soils appropriate for such use and constructed so as to control erosion.
2. The location shall not unduly interfere with existing developed or natural beach areas.
3. The structure shall be located so as to minimize adverse effects on water quality.
4. The facility shall be no larger in dimension than necessary to carry on the activity and be consistent with the surrounding character and, uses of the area. A temporary pier, dock or wharf in non-tidal waters shall not be wider than six (6) feet for non-commercial uses.
5. No new structures shall be built on, over or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland.
6. New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act.
7. No existing structures built on, over or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units.
8. Piers, docks, wharves, bridges and other structures and uses extending over or located beyond the normal high-water line of a water body or within a wetland shall be subject to the same zoning requirements which apply to structures in the Resource Protection District.
9. Such structures shall not extend or be located more than thirty (30) feet from the normal high-water line in order to minimize the hazard to navigation.

**N. Road Construction**

1. Waiver and Modification

A variation in the strict application of the standards outlined in this Ordinance may be permitted when in the opinion of the Planning Board and Road Committee, topography, soil conditions, and/or special project design features warrant such

variation provided that public convenience, safety, health and welfare will not be affected adversely and the general intent of the standards are not violated.

2. Applicability

This Section applies to the construction, and/or acceptance of new Town roads, private roads streets, ways, and/or the relocation or major alteration thereof.

It applies to roads, streets or ways predominantly serving permanent year-round residents or businesses. It does not preclude, but neither does it contemplate or imply, the acceptance of ways serving property predominantly occupied or used only on a seasonal basis.

Streets or ways dedicated, partially constructed, or used for public travel prior to the passage of this Ordinance shall comply with the requirements of this Ordinance before formal acceptance by the Town, except that in such cases, the Town may, by vote at a legal Town Meeting, modify certain of these requirements upon concurrent recommendation of the Board of Selectmen and the Planning Board.

3. Permit Required – All proposed roads shall obtain initial approval of the Planning Board before construction of the road. The permit is only valid for two (2) consecutive construction seasons.
4. Construction Inspection – all roads shall be inspected by a Professional Engineer during the construction of the road to assure compliance of road design and construction standards as indicated in sections 7 & 8. The road developer shall be responsible for the cost of the inspections. For roads proposed to Town Acceptance see Section O (F).
5. Application for Proposed Construction.

A representative of the Manchester Sanitary District, the Augusta Water District and any other utilities which are proposed to have or do have installations in the proposed street shall be invited to comment of the plan and/or application.

a. Information on Application

Application for acceptance of a new street or way or a proposed private road must file a plan showing the following:

- i. Plan and profile of roadway drawn to a scale of 1" = 50' H and 1" = 5' V
- ii. The location and dimensions of water supply and waste disposal mains
- iii. The direction of magnetic north.
- vi. The starting and ending points with relation to established roads, streets or ways.

- v. The street lines, with relation to existing buildings and landmarks.
- vi. Dimensions, both lineal and angular, necessary for locating boundaries, and necessary for location subdivision, lots, easements and building lines.
- vii. The lots as laid out on said street, and showing the names of all owners of abutting property.
- viii. All natural water ways and water courses in or on land contiguous to the said streets or ways.
- ix. If the street is part of a subdivision, the name of the sub divider, date of Planning Board approval and date of recording in the Registry of Deeds shall be provided.
- x. Any streets or right-of-way adjacent to the proposed street shall be located on the plan and any existing or proposed names shall be given.
- xi. Proposed street names shall be noted on the proposed plan.
- xii. Profile shall show center line finish grade at minimum fifty foot intervals.
- xiii. All necessary horizontal and vertical control shall be shown on the plan.
- xiv. Plan shall show typical road section. See Appendix C.
- xv. With the plan, the applicant shall submit a written application for the construction and/or acceptance, giving the following information:
  - (1) The name of the owner or owners of the land containing the street or way to be accepted.
  - (2) The name or names of the developers.
  - (3) A statement of any legal encumbrances on the property.

6 Street Design Standards.

- a. These design standards shall be met by all roads and shall control the roadway, shoulders, curbs, drainage systems, culverts, and other appurtenances.
- b. Streets shall be designed to discourage through-traffic on minor streets within a residential subdivision.
- c. The following design standards, shown in Table 5, apply according to street classification (both private and Town owned).

TABLE 5  
TYPE OF STREET

Description	Coll.	Residential & Rural	Residential (Less than 15 Lots)	Industrial & Comm.
Minimum Right of Way Width (ft)	60	50	40	60
Minimum Pavement Width (ft)	24	20*	18	24
Minimum Shoulder Width (ft)	4	4*	3	6
Minimum Grade (%)	1	1	1	1
Maximum Grade (%)	10	10	10	10
Minimum Center Line Radius (ft)	175	110	110	230
Minimum Tangent Between Reverse Curves (ft)	100	50	50	100
Roadway Crown (in/ft)	1/4	1/4	1/4	1/4
Shoulder Crown (in/ft)	3/4	3/4	3/4	3/4
Minimum Angle of Street Intersections	75	75	75	75
Maximum Grade within 75 feet of Intersection (%)	3	3	10	3
Maximum Negative Grade at cul-de-sac (%)	4	4	4	3
Minimum Turning Radii At Intersections (ft)	25	25	25	30

- d. The center line of the roadway shall be at the center line of the right-of-way.
- e. Dead-end streets shall be provided with an adequate turn around (T-shaped or L-shaped) and shall be approved by the Planning Board. See Appendix D.
- f. Private roads except those that serve a subdivision with five or more lots do not need to be paved. However, any private road which is paved, and/or any road to be considered for acceptance by the Town shall meet all design requirements including paving prior to consideration by the Town.

\* Access roads serving subdivisions of less than 15 lots may have a minimum pavement width of 16 feet and a minimum shoulder width of three feet. In the event the subdivision exceeds 14 lots, the developer must expense widening the entire access road to meet Town road standards. If in the judgment of the Planning Board, the subdivision has a high potential for expansion, the Planning Board may require that the access road have a twenty foot pavement width with a four foot shoulder width. Amended June 27, 1994, and June 16, 1997

- g. Adequate provisions shall be made for the disposal of surface water through ditches, culverts and/or other similar means. Culverts shall be not less than fifteen inches (15") in size.

- h. Grades, Intersections and Sight Distances.

- i. Grades of all streets shall conform, in general, to the terrain, so that the cuts and fills are minimized while maintaining the grade standards above.
- ii. All changes in grade shall be connected by vertical curves in order to provide the following minimum stopping sight distances based on the street design speed.

Design Speed (mph)	25	30	35	40	50
Stopping Sight Dist.	150'	200'	250'	325'	400'

Stopping sight distance shall be calculated with a height of eye at 3.5 feet and the height of object of 0.5 feet.

- iii. Where new streets intersections or driveways are proposed, sight distances, as measured along the road onto which traffic will be turning, shall be based upon the posted speed limit and conform to the table below. Sight distances shall be measured from the driver's seat of a vehicle standing on that portion of the exit with the front of the vehicle a minimum of ten (10) feet behind the curb line or edge of the shoulder, with the height of the eye 3-1/2 feet, to the top of an 4-1/2 inch object above the pavement.

Posted Speed Limit (mph)	25	30	35	40	45	50	55
Sight Distance	250'	300'	350'	400'	450'	500'	550'

Where necessary, corner lots shall be cleared of all growth and sight obstructions, including ground excavation, to achieve the required visibility.

- iv. Cross (four-cornered) street intersections shall be avoided insofar as possible. A minimum distance of two-hundred feet (200') shall be maintained between center lines of side streets.

7. Street Construction Standards.

- a. The minimum thickness of materials after compaction is in Table 6, below:

**TABLE 6**

**Minimum Requirements**

<b>Street Materials</b>	<b>Coll.</b>	<b>Residential Rural</b>	<b>Industrial &amp; Commercial</b>
Gravel Base Course (Maximum size stone 6")	21"	21"	21"
Crushed Surface Gravel Course	3"	3"	3"
Hot Bituminous Pavement			
Total Thickness	3-1/2"	3"	4"
Surface Course	1-1/2"	1-1/4"	1-1/2"
Base Course	2"	1-3/4"	2-1/2"
Loam On Shoulders Planted With Low Growing Ground Cover		3"	

b. Preparation.

- i. Before any clearing has started on the right-of-way, the center line and side lines of the new road shall be staked or flagged at fifty (50) foot intervals.
- ii. Before grading is started, all trees, stumps, ledge, and large boulders shall be removed to accommodate roads and drainage-ways within right-of-ways. No less than thirty six feet of a residential and rural road right-of-way (thirty four feet when eighteen foot pavement is allowed) and forty six feet of other road right-of-ways must be cleared. Depending on topography and site distance the Planning Board may require that the total right-of-way be cleared.
- iii. All organic and unsuitable materials shall be removed from the roadway sub-grade. All rocks and boulders visible at the sub-grade and exceeding six (6) inches in size shall also be removed. All sub-soils which have been identified by the Town as not suitable for roadways shall be removed from the road site and replaced with material meeting the specifications for gravel base course.
- iv. Except in a ledge cut, side slopes shall be no greater than a slope of three (3) feet horizontal to one (1) foot vertical, and shall be graded, loamed, fertilized, and seeded according to the specifications of the erosion and sedimentation control plan.
- v. All underground utilities shall be installed prior to paving to avoid cuts in the pavement. Building sewers and water service connections shall be installed to the edge of the right-of-way prior to paving.

c. Base and Pavement.

i. Bases.

- (1) The Gravel Base Course shall be gravel of durable particles free from vegetable matter, lumps or balls of clay and other deleterious substances. the gradation of the part that pass a three (3) inch square sieve shall meet the grading requirements, shown in Table 7.

**TABLE 7**

**Gravel Base Material**

<b>Sieve Designation</b>	<b>Percentage by Weight Passing Square Mesh Sieve</b>
1/4 inch	25-70%
No. 40	0-30%
No. 200	0-5%

Aggregate for the Gravel Base shall contain no particles of rock which will not pass the six (6) inch square mesh sieve.

- (2) The Surface Gravel Course shall be crushed gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a three (3) inch square mesh sieve shall meet the grading requirements, shown in Table 8.

**TABLE 8**

**Crushed Surface Gravel**

<b>Sieve Designation</b>	<b>Percentage by Weight Passing Square Mesh Sieve</b>
1/2 inch	45-70%
1/4 inch	30-55%
No. 40	0-20%
No. 200	0-5%

Aggregate for the surface gravel shall contain no particles of rock which will not pass the two (2) inch square mesh sieve.

- ii. Pavement Joints. Where pavement joins and existing pavement, the existing pavement shall be cut along a smooth line to form a neat, even, vertical joint.
- iii. Pavements.
  - (1) Minimum standards for the base layer of pavement shall be the Maine Department of Transportation's specifications for plant mix grade "B" with an aggregate size no more than 3/4" maximum.
  - (2) Maximum standards for the surface layer of pavement shall meet the Maine Department of Transportation's specifications for plant mix grade "C" or "D" with an aggregate size no more than 1/2" maximum.
  - (3) Placement of the hot bituminous pavements shall meet the Maine Department of Transportation's specifications 401.07 through 401.20.
- iv. Shoulder Loam. A three (3) inch layer of loam on residential and rural street shoulders shall be planted with a low-growing ground cover like white clover.

8. Erosion Control.

- a. Erosion and sediment shall be controlled through appropriate management practices to prevent any adverse downstream water quality impacts.
- b. Natural and man-made drainage ways and drainage outlets shall be protected from erosion from water flowing through them. Drainage ways shall be designed and constructed in order to carry water from a twenty-five (25) year storm or greater, and shall be stabilized with vegetation or lined with rip-rap.
- c. Erosion and sedimentation control measures shall apply to all aspects of the proposed project involving land disturbance, and shall be in operation during all stages of the activity. The amount of exposed soil at every phase of construction shall be minimized to reduce the potential for erosion.
- d. The developer shall maintain all components of the erosion and sediment control and storm water management system.
- e. Stabilization Timelines.
  - i. In general, all activities regulated by these standards shall be conducted after March 1st and before October 30th. All other times will require special permission from the Town.
  - ii. Disturbed soil shall be stabilized within one (1) week from the time it was last actively worked using temporary or permanent measures such as placement of rip-rap, sod, mulch or erosion control blankets or other comparable measures.
  - iii. In all cases within the shore land zones, permanent stabilization shall occur within nine (9) months of the initial date of exposure.

- iv. Permanent re-vegetation of all disturbed areas, using native plant material wherever possible, shall
    - (1) occur within thirty (30) days from the time when last actively worked,
      - for spring and summer activities, by October 21st;
      - for fall and winter activities, by June 15th;
      - except where precluded by type of disturbance (e.g., rip-rap, road surfaces, etc.). The vegetation cover shall be maintained.
  - f. If mulch is likely to be moved because of steep slopes or wind exposure, it shall be anchored with netting, peg and twine or other suitable method and shall be maintained until a catch of vegetation is established over the entire disturbed area.
  - g. Mulch or other temporary erosion control measures shall be maintained until the site is permanently stabilized with vegetation or other permanent control measures.
9. Driveway Entrances. Each abutting property owner or developer, as the case may be, shall not obstruct the flow or drainage of any ditch existing on any road or street within the jurisdiction of the Town by the construction of a driveway or entrance to his property. To comply with this, all culverts that may be necessary shall initially be furnished and installed by the owner or developer after obtaining a permit and inspected by the Town to assure compliance with this Ordinance. On accepted streets, the culverts will thereafter be maintained by the Town. Culverts shall be not less than fifteen inches (15") in size. Lengths shall be a minimum of Twenty feet (20').
10. Sidewalks. The Planning Board shall have the authority to designate whether sidewalks shall be required or not, and whether sidewalks shall be constructed on both sides of the street or way, or only on one (1) designated side.
11. Application for Acceptance. Whenever an application for accepting any street or way is presented to the Board of Selectmen, it shall refer the same to the Planning Board and Town Road Committee, which shall proceed to examine the application and the site. No street or way shall be presented to the Town for acceptance until the Planning Board and Road Committee shall have made a careful investigation and shall have reported to the Board of Selectmen that the provisions of this Ordinance have been complied with.

The Planning Board and Road Committee shall make its report to the Board of Selectmen within sixty (60) days of receipt of an application.

12. Recommendation for Acceptance. At such time as the developer has complied with the above specifications and provided for the road to the satisfaction of the Board of Selectmen, the Road Committee, and the Planning Board, the Board of Selectmen may give such developer written statement that he has complied with the specifications of the Ordinance, and that such Board will recommend the acceptance of such street or way at the next regular Town Meeting, or a Special Town Meeting called for the purpose or other purposes within a reasonable and feasible time. The Owner of the road prior to acceptance by the Town shall supply the Town with a warrantee deed for the road right-of-way at time of formal acceptance by the Town.
13. Roads and Driveways within Shoreland or Resource Protection Districts .The following standards shall apply to the construction of roads and/or driveways and drainage systems, culverts and other related features.
- a. Roads and driveways shall be set back at least one-hundred (100) feet horizontal distance from the normal high-water line of a great pond and Weston Brook, and seventy-five (75) feet horizontal distance from the normal high-water line of other water bodies, tributary streams, or the upland edge of a wetland unless no reasonable alternative exists as determined by the Planning Board. If no other reasonable alternative exists, the road and/or driveway setback requirement shall be no less than fifty (50) feet upon clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of the water body. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream, or wetland.
- On slopes of greater than twenty percent (20%), the road and/or driveway setback shall be increased by ten (10) feet for each five (5) percent increase in slope above twenty (20) percent. This paragraph shall neither apply to approaches to water crossings nor to roads or driveways that provide access to permitted structures, and facilities located nearer to the shoreline due to an operational necessity.
- b. Existing public roads may be expanded within the legal road right-of-way regardless of its setback from a water body, tributary stream or wetland.
- c. New roads and driveways are prohibited in a Resource Protection District except, as permitted by the Planning Board<sup>10</sup> to provide access to allowed uses within the district, or as approved by the Planning Board upon a finding that no reasonable alternative route or location is available outside the district, in which case the road and/or driveway shall be set back as far as

practicable from the normal high-water line of a water body, tributary stream, or upland edge of a wetland.

- d. Roads banks shall be no steeper than a slope of two (2) horizontal to one (1) vertical, and shall be graded and stabilized in accordance with the provisions for erosion and sedimentation control contained in Section 6(Q) of this Ordinance.
- e. Road grades shall be no greater than ten (10) percent except for short segments of less than two hundred (200) feet.
- f. In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands roads and driveways shall be designed, constructed, and maintained to empty onto an un-scarified buffer strip at least fifty (50) feet plus two (2) times the average slope, in width between the outflow point of the ditch or culvert and the normal high-water line of a water body, tributary stream, or upland edge of a wetland. Surface drainage which is directed to an un-scarified buffer strip shall be diffused or spread out to promote infiltration of the runoff and to minimize channelized flow of the drainage through the buffer strip.
- g. Ditch relief (cross drainage) culverts, drainage dips and water turnouts shall be installed in a manner effective in directing drainage onto un-scarified buffer strips before the flow in the road or ditches gains sufficient volume or head to erode the road or ditch. To accomplish this, the following shall apply:
  - i. Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road at intervals no greater than indicated in the following table:

<b>Road Grade (Percent)</b>	<b>Spacing (Feet)</b>
0-2	250
3-5	200-135
6-10	100-80
11-15	80-60
16-20	60-45
21+	40

- ii. Drainage dips may be used in place of ditch relief culverts only where the road grade is ten (10) percent or less.

- iii. On road sections having slopes greater than ten percent (10%), ditch relief culverts shall be placed across the road at approximately a thirty degree (30) angle down-slope from a line perpendicular to the centerline of the road.
- iv. Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.
  
- h. Ditches, culverts, bridges, dips, water turnout and other storm water runoff control installations associated with roads shall be maintained on a regular basis to assure effective functioning.

**O. Roads Proposed for Town Acceptance**

All applications shall be made to the Selectmen and Planning Board of the Town of Manchester. Approval for acceptance must be obtained before the plans are filed with the Registry of Deeds. (moved from N5)

All proposed roads shall obtain initial approval of the Planning Board before construction of the road.

- A. Application for Acceptance. Whenever an application for accepting any street or way is presented to the Board of Selectmen, it shall refer the same to the Planning Board and Town Road Committee, which shall proceed to examine the application and the site. No street or way shall be presented to the Town for acceptance until the Planning Board and Road Committee shall have made a careful investigation and shall have reported to the Board of Selectmen that the provisions of this Ordinance have been complied with.

The Planning Board and Road Committee shall make its report to the Board of Selectmen within sixty (60) days of receipt of an application.

- B. Recommendation for Acceptance. At such time as the developer has complied with the above specifications and provided for the road to the satisfaction of the Board of Selectmen, the Road Committee, and the Planning Board, the Board of Selectmen may give such developer written statement that he has complied with the specifications of the Ordinance, and that such Board will recommend the acceptance of such street or way at the next regular Town Meeting, or a Special Town Meeting called for the purpose or other purposes within a reasonable and feasible time. The Owner of the road prior to acceptance by the Town shall supply the Town with a warrantee deed for the road right-of-way at time of formal acceptance by the Town.
- C. Provision for a bond, letter of credit or acceptable cash equivalent covering the cost of the construction for the proposed road shall be supplied to the Town prior

to beginning construction. Such bond shall run for two (2) years or until the road is accepted by the Town.

- D. Permits for the construction of roads shall be obtained for streets proposed as part of new subdivisions.
- E. Permit is only valid for two (2) consecutive construction seasons.
- F. Construction Inspection. The developer shall pay the Town of Manchester, before any construction begins, a Construction Inspection Fee to cover the costs by the Town to have the road inspected during the construction. The dollar amount of the inspection fee shall be determined by the Selectmen. In the event the actual cost to the Town is less than the estimated amount, the Town will reimburse the developer that difference. In the event the actual cost to the Town is greater than the estimated amount, the developer will pay the Town the difference. Neither party shall be entitled to interest on any amount due upon completion or the amount advanced by the developer.

**P Sanitary Standards.**

- 1. All subsurface sewage/waste water disposal facilities shall be installed in conformance with the State of Maine Subsurface Waste Water Disposal Rules, Chapter 241, as revised. As per these sanitary standards, a holding tank (any type) is not allowed for the first time use (intermittent, temporary or permanent) of commercial/industrial or residential structures.
- 2. When two or more lots or buildings in different ownership share a common subsurface disposal system, the system shall be owned and maintained in common by an owners' association. Covenants in the deeds for each lot shall require mandatory membership in the association and provide for adequate funding of the association to assure proper maintenance of the system

**Q. Signs. (See also Article II, Sec. 8(D), §5)**

- 1. Location and Illumination of Signs.
  - a. No sign shall be located in, or extend over, any public right-of-way, except temporary banners. In addition, no sign shall be erected adjacent to any public way in such a manner as to obstruct clear and free vision or where, by reason of its position, shape, color, illumination or wording, the sign may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device, or otherwise constitute a hazard to pedestrian or vehicular traffic.

- b. No exterior signs or interior signs visible from the outside shall be illuminated with flashing, moving, or animated lights nor shall signs move or have moving parts.
  - c. Interior lighted signs shall be prohibited, except for within one-hundred and fifty (150') feet of the centerline of Route 202. All signs, outside of the aforementioned area, to be illuminated, shall be lighted by an exterior light source directed solely on the sign in such a manner that it will not result in hazards to motorists.
  - d. No sign shall be located off the site of the lot on which the related service or occupant is located, except for MDOT approved directional signs.
  - e. No free standing sign shall be located closer than one-hundred (100) feet to any other free standing sign, except where necessary to allow each business one sign.
2. Signs in the Community Residential, Rural Residential and Shoreland Districts, only the following signs shall be permitted:
- a. All signs shall conform with the provisions of Title 23, Maine Revised Statutes Annotated, Sections 1901-1925.
  - b. Signs conveying the inhabitant's names, the property name, and safety and caution messages, shall be no larger than two square feet.
  - c. The sale or rental of real estate may be advertised by temporary signs, no larger than six (6) square feet in area. Each broker or person advertising the sale shall be allowed<sup>10</sup> only two (2) signs on any premises. All such signs shall be removed within two (2) days of closing.
  - d. At any entrance to a residential subdivision or multi-family development, there may be not more than two (2) signs identifying such subdivision or development. A single side of any such sign may not exceed eighteen (18) square feet for sign face, nor may the total surface area of all such signs located at a single entrance exceed ten (10) feet in height.
  - e. Non-residential uses (including home occupations) may display one sign, not exceeding eighteen (18) square feet in area, per sign face, per use, not to exceed ten (10) feet in height. Said sign may be either a wall sign or a free-standing sign.
  - f. Signs relating to trespassing and hunting shall be allowed without restrictions as to number provided that no such sign shall exceed two (2) square feet in area.

3. Signs in the Village and General Development Districts, only the following signs shall be permitted:
  - a. All non-business signs allowed in the Rural Residential, Resource Protection and Shoreland Districts.
  - b. Business signs, which relate to the premises on which they are located, identify the occupant of such premises or advertise the services or products available within the premises, are permitted in accordance with the following:
    - i. Wall Signs. Each developed lot shall be permitted wall signs in accordance with the following:
      - a. Up to 0.5 square feet of sign surface area per linear foot of street frontage up to two-hundred (200) feet of frontage, or up to 0.75 square feet of sign surface area per linear foot of lot street frontage in excess of two-hundred (200) feet.
      - (2) If a lot has frontage on more than one street, then the total wall sign surface area permitted on that lot shall be the sum of the sign surface area allotments related to each street on which the lot has frontage. However, the total wall sign surface area may not exceed a total sign surface area of five-hundred (500) square feet for any lot.
    - ii. Free-standing Signs. Each developed lot shall be permitted only one free-standing sign, in accordance with the following:
      - (1) Signs are permitted up to 0.75 square feet in surface area per sign face for every linear foot of street frontage along the street toward which such sign is primarily oriented. However, in no case may a single side of such sign exceed two-hundred-fifty (250) square feet in surface area for any lot.
4. Design Standards for Signs
  - a. Signs placed flush with the wall of a building shall not project beyond twelve (12) inches from the structure surface. Signs placed perpendicular to the wall of a building shall have the nearest edge of the sign within twelve (12) inches of the structure's surface.
  - b. No free standing sign shall exceed the height of twenty-five (25) feet.

- c. Signs shall be constructed of durable materials such as wood, metal, heavy gauge plastic or any similar material approved by the Planning Board.
- d. All colors on signs shall be compatible with the architectural qualities of the proposed use and surrounding buildings.
- e. The style and character of the lettering shall be compatible with the architectural qualities of the proposed use and surrounding buildings.
- f. Those signs which are traditionally accepted pictorial symbols conveying the nature of the business such as barber pole, eye glasses, boots, mortar and pestle, normally constructed in heavy relief or are three-dimensional are permissible under the requirements herein.

5. Prohibited Signs

Billboards, roof signs and permanent portable signs are prohibited in Manchester.

6. Temporary Signs. Temporary signs may be posted in any district upon a written permit from the Code Enforcement Officer . The Code Enforcement Officer shall only grant such a permit after presentation of evidence that the authorities controlling the proposed location of the sign have approved its posting. A temporary sign shall be posted for a period not to exceed thirty (30) days in one (1) period, and not more than 60 days per year . The applicant shall remove said signs upon termination of the activity. Street banners shall be no larger than fifty (50) square feet in area.

No temporary sign, other than a street banner, shall be larger than twenty-four (24) square feet in area. Complete liability for any damage resulting from the placement of a banner across the public way shall be provided, in writing, by the person, firm, or corporation hanging the banner before the issuance of a permit for such banner. Such liability shall be acknowledged upon the application for the permit.

7. Exemptions. The preceding regulations shall not apply to the following:

- a. Flags and insignia of any government.
- b. Legal notices, identification, information, or directional signs erected or required by governmental bodies.
- c. Signs directing and guiding traffic and parking on private property, but bearing no advertising matter or commercial identification.
- d. Signs indicating gasoline prices as required by State law.

- e. Advertisements and sales in windows.
- f. Yard and garage sale signs posted for no more than three (3) days and no more than ten (10) square feet in area.
- g. All political signs and public referendum signs which comply with State law.

**R. Soil and Water Quality Protection**

- 1. Soils.
  - a. No construction activity shall be permitted in the Aquifer Management Overlay District in any area where slopes exceed twenty percent (20%), depth to groundwater is less than twelve (12) inches, depth to bedrock is less than twelve (12) inches, the K factor for soils exceeds four-tenths (0.4) or the soils fall in hydrologic soils group D, unless satisfactory evidence is presented to the Code Enforcement Officer, within the application for a permit, or to the Planning Board, within the application for site plan review that construction methods will overcome any pertinent soil inadequacies.
  - b. All development projects within an Aquifer Management Overlay District shall have a suitable alternative site for wastewater disposal.
- 2. Soil Erosion Control. Erosion of soil and sedimentation of drainage ways, wetlands and surface water shall be minimized by employing the following "best-management" practices:
  - a. The least possible amount of disturbance shall occur during site development in regards to tree removal, de-vegetation, and soil disturbance. In particular, strips of naturally vegetated areas existing on the down slope side of the construction site shall be maintained as undisturbed buffer areas.
  - b. All exposed soils during construction shall be stabilized (i.e., mulched, covered, or mulched and re-seeded).
    - i. In most areas mulching shall occur within 15 calendar days of disturbance or at the completion of work, whichever is sooner. The mulch rate shall be as follows:

**Method of  
Stabilization**

**Rate of Application**

Hay mulch/straw	2 tons/acre
Wood chips/bark	4" thick
Re-seeding (only between April 15 and September 15)	In accordance with application rates in the Maine Erosion and Sediment Control Handbook for Construction Best Management Practices, March 1991

- ii. In sensitive areas (within 100 feet of streams, wetlands, and in lake watersheds) mulch or mulch netting must be applied within 7 days or prior to any storm event.
  - iii. On slopes over 15%, in drainage ways, in areas exposed to wind, or within 100 feet of lakes, streams, and wetlands, mulch netting (mats) shall be used. During the late fall and winter (September 15 - April 15) heavy grade mats shall be used on all areas noted above plus lighter grade mats shall be used on: side slopes of grassed waterways and slopes over 8%.
  - iv. In lake watersheds when mulch is applied to provide over-winter protection (September 15 - April 15) it shall be applied to a depth of 4 inches (150 - 200 lbs. of hay or straw per 1000 SF).
  - v. Alternate State approved methods of erosion control may be utilized with CEO approval.
- c. All drainage ways, swales, wetlands and surface water shall be protected from sedimentation by the installation of silt-fence barriers and/or hay-bale barriers. Such barriers shall be installed prior to any digging, soil removal, the stripping of vegetation, scarification, or soil disturbance of any kind. The barriers shall be installed at all points immediately down-slope of all soil exposing activities.

In addition, in areas where slopes exceed fifteen percent (15%), all drainage ways, swales, wetlands and surface water shall be protected from sedimentation by the maintenance of a one-hundred (100) foot wide undisturbed vegetative buffer.

- d. Permanent (final) vegetation and mechanical erosion control measures shall be installed by the time construction is completed.

- e. Whenever any portion of a designed impervious area over 10,000 square foot falls within the Aquifer Management Overlay or Shoreland District, lake watershed with slopes exceeding 8%, five-hundred (500) feet of a drainage way, wetland, or surface water, the Planning Board shall initiate a review in conjunction with the Kennebec County Soil and Water Conservation District, or other qualified professionals, as appropriate. If it is determined that because of the slope, soil erodibility, designed impervious area, and site location there is a need for temporary or permanent sedimentation control mechanisms, the Planning Board, in consultation with the reviewing professionals and in accordance with the guidelines established in the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, March 1991, as applicable, shall require the use of debris basins, sediment basins, silt traps, or other acceptable methods to trap sediment in run-off water.
- f. Erosion control measures shall be effectively maintained at all times.
- g. It is the responsibility of any person doing any act on or across a communal stream, watercourse or swale or upon the floodway or right-of-way thereof to maintain as nearly as possible in its present state the stream, watercourse, swale, floodway or right-of-way during the duration of such activity and to return it to its original or equal condition after such activity is completed. Whenever sedimentation is caused by stripping vegetation, re-grading or other development, it shall be the responsibility of the developer causing such sedimentation to remove it from all adjoining surface, drainage systems and watercourses and to repair any damage at his expense as quickly as possible.
- h. Contractors Certified in Erosion Control - As required in MRSA 38 section 439 – B, whenever a proposed project is located within the Shoreland or Resource Protection District and causes the disturbance of soil, an excavation contractor certified by the Maine DEP in erosion control practices shall be;
  - 1. Responsible for management of erosion and sediment control practices at the site; and
  - 2. Present at the site each day earthmoving activity occurs for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed.

The requirements of this subsection apply until erosion control measures that will permanently stay in place have been installed at the site or, if the site is to be re-vegetated, erosion control measures that will stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion have been installed. The section does not apply to activities resulting in less than one (1) cubic yard of material being added or displaced.

A permit shall not be issued by the Planning Board or Code Enforcement Officer unless the permit application contains an excavator contractor that is certified as indicated for projects involving the disturbance of soil in the Shoreland or Resource Protection Districts.

3. PHOSPHOROUS CONTROL.

a. Phosphorous Export. When a proposed project is within the direct watershed of a great pond, the applicant shall make provisions to limit the export of phosphorous from the site following completion of the project in conformance with the State of Maine Department of Environmental Protection's, maximum allowable phosphorous standard, as revised.

b. Off-Site Phosphorous Mitigation. The Planning Board may consider an off-site phosphorus mitigation plan when an applicant is unable to comply with the requirements of section Q, 2.h. due to one or more of the following conditions: soil limitations, size of the lot, steep slopes, high on-site phosphorus control development cost, and site conditions.

An off-site phosphorous mitigation plan shall comply with all of the following:

1. The proposal shall mitigate not less than the amount of phosphorus exported from the developed site which exceeds 0.02 lbs./acre/year in accordance with DEP's Phosphorus Control in Lake Watersheds: A Technical Guide to Evaluating New Development.
2. The off-site mitigation shall be located in the same watershed as the development site. The off-site mitigation site(s) may be selected from a list of prioritized sites from Cobbossee Watershed District.
3. Whenever feasible non-structural mitigation methods shall be used as vegetative buffer strips.
4. The applicant shall submit a maintenance plan for the upkeep and future capital improvements for all structural mitigation methods. The plan shall specify the legal ownership and maintenance responsibilities of all parties.
5. The applicant shall submit a deed covenant or other such similar document that provides for the permanent protection of the mitigation site from future development.
  - j. At a minimum, vegetative buffer strips shall be provided on the downhill side of all lots, along all tributaries to great ponds and along the great pond. The minimum required width of buffer strips are designated in Table 9 and depend on the size of the lot, the hydrologic soil group, and whether deed restrictions are proposed to limit the area which may be cleared on each lot.

**TABLE 9**

**Buffer Requirements**

	<b>Hydrologic Soil Group</b>	<b>Buffer Width (ft.) per lot Clearing Restricted to 12,500 sq. ft.</b>	<b>No Clearing Restrictions</b>
< 1 Acre	A	75	85
	B	130	150
	C	NA	NA
	D	NA	NA
1-1.99 Acres	A	25	25
	B	25	25
	C	55	190
	D	200	NA
2-2.99 Acres	A	25	25
	B	25	25
	C	25	50
	D	25	200

*All lots three (3) acres and larger shall provide a minimum twenty-five (25) foot buffer.*

4. Storm Water Management. The following standards shall apply to all development activities that require site plan review:
  - a. All new construction and development, whether or not served by a storm water collection and transportation system, shall be designed to reflect or resemble, as nearly as possible, natural runoff conditions in terms of volume, velocity and location of runoff.
  - b. Prior to the initiation of any construction or development, an evaluation must be made of pre-development and post-development peak storm water runoff rates. Such evaluations shall be based on a 24-hour for two (2) year, and 25-year recurrence interval storm, and estimates of peak storm water discharge and volume must be completed using Storm Water Management for Maine: Best Management Practices, January 2006 or latest revision.

- c. If runoff after development will exceed pre-development runoff conditions, all appropriate controls as presented in the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, March 2003, shall be utilized to eliminate such off-site impacts as soil erosion and sedimentation, reduced drainage capacity, and impaired land use or land cover characteristics.
- d. When two or more lots or buildings in different ownership will share a common, non-municipal, storm water runoff control system requiring maintenance, the system shall be owned and maintained in common by an owner's association. Covenants in the deeds for each lot shall require mandatory membership in the association and provide for adequate funding of the association, or other terms, to ensure adequate maintenance of the system.
- e. Storm water runoff systems shall be designed to facilitate aquifer recharge when it is advantageous to compensate for groundwater withdrawals or reductions in infiltration. Conversely, designs shall avoid recharge where groundwater effects might be harmful. Design of permanent storage facilities shall avoid recharge where groundwater effects might be harmful. Design of permanent storage facilities shall consider safety, appearance, recreational use, and cost and effectiveness of maintenance operations, in addition to the primary storage function. Natural overland flows, and open drainage channel and swale locations shall be the preferred alignments for major components of a residential drainage system. The use of enclosed components (such as underground piping) shall be minimized where the existing natural systems are able to accommodate storm runoff. Energy dissipaters (to reduce high-flow velocities), rip rap, and other forms of outfall protection shall be employed where enclosed drains discharge onto erodible soils.
- f. Notwithstanding the waterfront setback provision in Table 9 (Article II, Section 5) the Planning Board may permit the construction or placement of a structure or impervious surface on a conforming lot that is not less than 50 feet from the normal high water mark of Weston Brook in all districts, except the AM District, only if the applicant constructs and continuously maintains a system of storm water control and treatment approved by the Planning Board. The Planning Board may approve a system of storm water control and treatment if it finds that:
  - 1. The system is specifically designed to reduce or eliminate pollutants caused by the placement or construction of the proposed structure or impervious surface and its use;
  - 2. The system utilizes scientifically recognized treatment methods (such as sedimentation, filtration, absorption, biochemical reaction, oxidation, and precipitation) of reducing or eliminating pollutants including phosphorous, metals, and organic compounds; and

3. The system needs or exceeds the phosphorous export standards contained in subparagraph 2 of this sub-section Q.
5. **Water Quality Degradation.** To the extent necessary to protect water quality, no activity shall locate, store, discharge, or permit the discharge of any treated, untreated or inadequately treated liquid, gaseous, or solid materials of such nature, quality, obnoxiousness, toxicity, or temperature that runoff, seep, percolate, or wash into surface or ground waters so as to contaminate, pollute, or harm such waters or cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness, or be harmful to human, animal, plant, or aquatic life. All above ground storage facilities for fuel, chemicals, or chemical or industrial wastes shall be located on impervious pavement, and shall be completely enclosed by an impervious dike which shall be high enough to contain the total volume of liquid kept within the storage area, plus the rain falling into this storage area during a twenty-five (25) year storm, so that such liquid shall not be able to spill onto or seep into the ground surrounding the paved storage area. Storage tanks for "home heating oil" and diesel fuel, not exceeding 275 gallons in size, shall be exempted from this requirement, in situations where neither a high seasonal water table (within fifteen (15) inches of the surface) nor rapidly permeable sandy soils are involved.

**S. Storage of Materials**

1. **Outdoor Storage.** All materials stored outdoors, except agricultural materials, shall be stored in such a manner as to prevent the breeding and harboring of insects, rats or other vermin. This shall be accomplished by enclosures in containers, raising materials above ground, separation of material, prevention of stagnant water, extermination procedures or other means.
2. **Exemptions.** The following trailers and vehicles are exempted from the provisions of this Ordinance regarding storage:
  - a. Recreational trailers and vehicles.
  - b. Farm equipment.
  - c. Intermittently parked trailers and vehicles used by an individual who derives a substantial portion of his/her income from the operation of such vehicles off-premises, when parked on property occupied by the individual.
  - d. Trailers and vehicles parked or stored within a building or structure.
  - e. Trailers and vehicles parked on property where construction or demolition activities are in process, providing the vehicles are set back from any property line at least ten (10) feet, and are removed within twenty (20) days of project completion.

**T. Street Access and Driveways**

1. Street Access. Provision shall be made for vehicular access to the development and circulation upon the parcel in such a manner as to safeguard against hazards to traffic and pedestrians in the street within the development, to avoid traffic congestion to any street and to provide safe and convenient circulation on public streets and within the development. The term driveway as used in this section shall refer to any one of the following: driveway, common driveway, private road, parking lot entrance or exit, property access, or other vehicle access way onto a parcel. More specifically, access and circulation shall also conform to the following standards and design criteria:
  - a. The vehicular access to the development shall be arranged to avoid through traffic use of local residential streets, unless planned, laid out and constructed to accommodate such use.
  - b. Where the entire parcel and individual lots have frontage on two or more streets, the access to the parcel or lots shall be provided across the frontage and to the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians.
  - c. The street giving access to the parcel and neighboring streets which can be expected to carry traffic to and from the development shall have traffic carrying capacity and be suitably improved to accommodate the amount and types of traffic generated by the proposed use.
  - d. Where necessary to safeguard against hazard to traffic and pedestrians and/or to avoid traffic congestion, provision shall be made for turning lanes, traffic directional islands, frontage roads, driveways and traffic controls within public streets.
  - e. Access ways shall be of a design and have sufficient capacity to avoid queuing of entering vehicles on any street.
  - f. Where topographic and other conditions allow, provision shall be made for circulation driveway connections to adjoining lots of similar existing or potential use:
    - i. When such driveway connection will facilitate fire protection services as approved by the Fire Chief and/or,
    - ii. When such driveway will enable the public to travel between two existing or potential uses, generally open to the public, without need to travel upon a street.

2. Driveways.
  - a. The number of driveways accessing off-site public streets shall be kept to a minimum.
  - b. The appropriate use of common access ways is encouraged. Where lots will access an off-site public street, common access ways shall be used where appropriate to minimize the number of curb cuts required.
  - c.. All driveway areas shall be included in the total lot disturbance calculation for the lot on which the driveway is located.
  
3. Driveway Design. The following standards shall apply in all land use districts in the Town of Manchester:
  - a. Sight Distances. Driveways shall meet the requirements set forth in Section N(4)(h)(iii) .
  - b. Driveway Intersections.
    - i. Skew Angle. Driveways shall intersect the road at an angle as nearly ninety (90) degrees as site conditions permit, but in no case less than sixty (60) degrees.
    - ii. Driveway Location and Spacing. Curb radii will vary depending if the driveway is one-way or two-way operation. On a two-way driveway, the curb radii shall be between twenty-five (25) feet and forty(40) feet, with a preferred radius of thirty (30) feet. On one-way driveways, the curb radii shall be thirty (30) feet for right turns into and out of the site, with a five (5) foot radius on the opposite curb.
  
  - c. Driveway Location and Spacing.
    - i. Minimum Corner Clearance. Corner clearance shall be measured from the point of tangency (PT) for the corner to the point of tangency for the driveway. In general, the maximum corner clearance should be provided as practical based on site constraints. Special case driveways are one-way and two-way drives with partial access (right turn only) permitted.

<b>Driveway Type</b>	<i>Minimum Corner Clearance (feet)</i>	
	<b>Intersection Signalized</b>	<b>Intersection Unsignalized</b>
Full Access	150	50
Special Case		
Right turn in only	50	50
Right turn out only	100	50
Right turn in or out	100	50

- ii. Driveway Spacing. Driveways shall be located at least Fifty (50) feet from adjacent driveways. Driveways and parking areas in all zones shall be located at least ten (10) feet from property lines (except in the case of shared drives between adjacent parcels or lots). This distance shall be measured from the driveway point of tangency to the driveway point of tangency for spacing between driveways and from the driveway point of tangency to a projection of the property line at the edge of the roadway for driveway spacing to the property line.
- iii. Special Case Drives. Where the minimum standard for a full access drive cannot be met, only a special case driveway shall be permitted. If based on the criteria in paragraphs a. and b. above, full access to the site cannot be provided on either the major or minor streets, the site shall be restricted to partial access. Alternately, construction of a shared access drive with an adjacent parcel is recommended.
- d. Number of Driveways. The maximum number of driveways onto a single street is controlled by the available site frontage and the above driveway spacing. In addition, no traffic generator, except agricultural uses or timber harvesting activities, shall have more than two driveways in total onto a single roadway.
- e. Construction Materials/Paving
  - i. All driveways entering a curbed street shall be curbed at the entrance. Curbing is required around all raised channelization islands or medians.
  - ii. All commercial driveways regardless of driveway volume may be required by the Planning Board to be paved with bituminous concrete pavement within thirty (30) feet of the street right-of-way.

**U. Structure Elevation.**

The first floor elevation or openings of all buildings and structures shall be elevated at least one foot above the elevation of the 100-year flood, the flood of record, or, in the absence of these, the flood as defined by soil types identifiable as recent flood plain soils.

**V. Water Supply:**

Prior to the issuance of any occupancy permit for any structure with a private water supply system, a complete analysis of water quality in accordance with Appendix A of the "Rules Relating to Testing of Private Water Supplies", Effective Dec. 1, 1984, Department of Human Services shall be conducted and the results shall be submitted to the Code Enforcement Officer.

**W. Architectural Standards**

1. Purposes. The purposes of these provisions are: (a) to foster community identity and place making within Manchester's Village (MVD) and General Development (GDD) districts by encouraging commercial architecture inspired by traditional New England examples without dictating a particular style; (b) to discourage monotonous, unsightly, and inharmonious commercial development; (c) to protect and enhance the Town's appeal to residents and visitors, and thus support desirable investment and occupancy of commercial properties;(d) to ensure that commercial buildings are designed to human scale which addresses comfort, enjoyment, and safety of the users.
2. Applicability. All provisions in Article II Section 6.N of this ordinance apply only to structures subject to site plan review in MVD and, unless screened from view of public road and adjacent properties, in GDD. *Natural evergreen screening is preferred.* Structures within a commercial /industrial business park and which front on an access road within the park are exempt from these standards provided they cannot be seen from any other road or adjacent property.
3. Design Standards.
  - a. Design. The architecture of new buildings shall be influenced by traditional New England building forms and town-making patterns, the nature of the intended use, and other site-specific factors. Contemporary architectural styles are appropriate, provided they meet these standards. (See Photos 1 and 5 – 17 in Appendix E.) Alternative designs with historical merit, within the New England tradition, may be approved if the applicant demonstrates that the alternative design is recognized in the literature by the Maine Historical Preservation Commission as being a style that is worthy of preservation.
  - b. Human scale. The forms, massing, and openings of buildings shall be proportional to the size of the human figure using architectural elements such as integral planters, recessed openings, windows with divided panes, building mounted light fixtures, dormers, cupolas, projecting rooflines, covered walkways, colonnades, and similar features.(See Photos 2-4 in Appendix E.)
  - c. Free Standing Accessory Structure. Such structures, for example freestanding ATMs, cart corrals, etc., shall be coordinated with the principal building through

repetition of architectural forms, materials, colors, and detailing unless screened from view of public roads and adjacent properties.

- d. Energy Conscious Design. *Energy conservation is encouraged*
  - e. Roadways & Parking. Parking shall be located to the rear or side of buildings where practicable. *Vehicle access connections to adjacent parking areas are strongly encouraged.*
  - f. Pedestrian Circulation. Connections to existing or proposed public sidewalk in the Village district shall be included in the site plan encourage pedestrian use. Access routes leading to or from primary structures shall minimize conflicts with pedestrian circulation. Where walkways must cross driveways, motorists shall be made aware of pedestrians through signage, lighting, raised crosswalks, changes in paving or other devices.
4. Renovations and Additions. (See Photos 18-20 in Appendix E.)
- a. Alterations. Where the existing building currently meets the design standards, proposed renovations must be designed to respect the proportions, fenestration patterns, and details of the original building. *Where the existing building does not meet the design standards, the owner is strongly encouraged to upgrade the entire structure.*
  - b. Design. Applications to the planning board that involve renovations and additions shall show all improvements as well as the existing structure. A narrative shall accompany the application which explains the designer's intent to relate the old with the new.
  - c. Materials. Where existing buildings meet the design standards, additions or renovations shall complement or match the materials, form, and color, and detailing of the original structure. Where the original building does not meet the standards, the owner shall demonstrate how the materials used in the renovation will complement the existing structure.
5. Facade Design. (See Photos 21-31 in Appendix E.)
- a. Facade Treatment. The front façade shall contain a clearly defined, highly visible customer entrance and three or more of the following: canopies, overhang rooflines to shelter pedestrians, recesses or projections in keeping with scale of the building, arcades, gables and dormers, pilasters, peaked roof forms, or other features designed to add scale and visual interest to the façade. Strong shadow lines, changes in rooflines, pilasters and other architectural details, patterns in the surface material, and wall openings can all be effectively used to add visual interest and scale to the façade.

- b. Offsets. Facades greater than 100 feet shall incorporate wall plane projections or recesses having a depth of at least 3% of the length of the façade and extending at least 20 percent of the length of the façade. Where the plane of the wall is broken, the offset shall be proportional to the building's height and length. Projections used to break up the mass of the building shall extend to the ground.
  - c. Rear and Side Facades. Rear and side facades shall be designed to match or complement front façade architectural treatment unless not used for public access and screened from view of road and adjacent property owners.
  - d. Site Design. Lighting, landscaping, and other exterior elements shall be designed to complement and be in scale with the façade, avoid visual or functional conflicts, and retain visibility, and shall be consistent with the ordinance.
  - e. Trim. Windows, door openings, ventilation openings, and other forms of exterior fenestration in frame construction shall be trimmed.
  - f. Windows and Shutters. Windows should be vertical in orientation, or square. If shutters are used, they must be sized appropriate for the openings and provided for all windows on a given wall.
  - g. Functional Elements. When these elements need to be part of the façade (e.g., downspouts, vents) they shall be incorporated into the architecture through detailing or matching colors. Meters, utility banks, HVAC equipment and other exterior service elements shall be contained in service closets, behind walls, or located out of view from the public, to the greatest extent practicable. If these are located on or near the side or rear façade buffering is also an option. Building elevations presented for Planning Board review shall show the location and treatment of all functional elements.
  - h. Illustrations. All elevations of proposed buildings shall be evaluated as part of the design review.
6. Building Materials. (See Photos 32-49 in Appendix E.)
- a. Materials. Traditional, high quality building materials common to northern New England (e.g., brick, clapboard, shingles or other similar products) shall be used as the primary siding material. Contemporary materials that have the same visual characteristics (e.g., cement plank clapboards, or vinyl siding) are acceptable if attention is paid to detailing (e.g., corners, trim at openings, changes in material). Painted MDO plywood is acceptable when used in combination with traditional materials to give it scale. Long-term maintenance needs shall be a consideration in building material selection. Highly reflective or processed materials (e.g., metal or plastic panels, brushed aluminum, bronzed glass, concrete block, T-111, untreated plywood, dryvit, etc.) and multicolored brick (incorporating occasional white bricks in a random pattern) shall not be used on the primary or front facing façade.

- b. Colors. Traditional colors commonly found in New England villages are appropriate for all components of the building. Façade colors shall be low reflectance. The use of high intensity, high reflectance, chrome, metallic, or fluorescent colors or black is prohibited as the primary color.
  - c. Trim and Detailing. Where the trim is used, it shall be a color that complements to the building's primary color. Neon tubing shall not be allowed as an exterior trim or accent material.
7. Awnings & Canopies. (See Photos 50-53 in Appendix E.)
- a. Location. Where used, awnings shall be an integral architectural element and shall be located over windows and doors.
  - b. Materials. Awnings and canopies shall not be made of reflective materials. Their color shall match or complement the building façade.
  - c. Design Elements. Awnings shall not be used as advertising features but may identify the business. Backlit awnings are prohibited. Graphics on canopies or awnings are counted toward the total signage area.
8. Rooflines. (See Photos 54-56 in Appendix E.)
- a. Pitched Roofs. *Buildings with pitched roofs are strongly encouraged.* Where pitched roofs are used, the minimal pitch shall be at least 5/12. Projecting rooflines shall be designed to create strong shade/shadow patterns.
  - b. Shapes To Be Avoided. False Mansard, A-frames, and other non-traditional roof forms shall not be used as the primary roof line.
  - c. Flat Roofs. *Flat roofs, especially on single –story isolated buildings, are discouraged in most applications.* Where flat rooflines are used, the design shall create no horizontal line greater than 100 feet without a break, using features found on traditional New England buildings. (See Large Scale Buildings for additional design standards.)

Parapets. Where parapets are used to break up the roofline, the height of the parapet shall be at least 5 percent of the total length of the wall.

Preferred Materials for Pitched Roofs. Composite asphalt shingles and standing seam non-glare metal, and other alternative materials consistent with New England styles are required for visible roofing. High gloss roofing materials are prohibited. Roofing materials shall complement the color and texture of the building's façade. Roof colors shall be muted earth tones or a color that is darker than the façade. Stripes and patterns on the roof are prohibited.

Roof-Mounted Equipment. Mechanical and other equipment mounted on rooftops must be screened from public view to the greatest extent practicable. Where used, screening for roof-mounted equipment shall be designed as an integral part of the architecture to complement the building's mass and appearance.

9. National Franchises. (See Photos 57-67 in Appendix E.)

- a. Franchise Styles. New England regional prototypes from national franchises are permitted provided they meet the Design Standards. Buildings that are stylized to the point where the structure is a form of advertising are not acceptable.
- b. Coordination of Site Features. Applicants shall provide the Planning Board with illustrations that demonstrate how site features and accessory structures will be coordinated with the principal building. These may include dumpster screens, storage buildings, refrigeration lockers, playgrounds, signage, and lighting.

10. Large Scale Buildings. (See Photos 68-76 in Appendix E.)

- a. Design and Massing. Large structures shall be designed to break up their mass into smaller visual components through the use of projections, recesses, and varied façade treatments. (See Façade Treatment).
- b. Site Design. Scale reductions of large buildings shall be reinforced by appropriate site features such as pedestrian shelters, large trees, clearly defined entrances, and site furnishings.
- c. Architectural Details. Architectural details shall be used to reduce the scale and uniformity of large buildings. Elements such as colonnades, pilasters, gable ends, canopies, display windows, and light fixtures can be effective measures to add human scale.
- d. Facades and Exterior Walls. Horizontal facades greater than 100 feet in length shall incorporate wall plane projections or recesses having a depth of at least 3% of the length of the façade and extending at least 20% of the length of the façade. Other devices to add interest to long walls include strong shadow lines, changes in rooflines, pilasters and architectural details, patterns in the surface material, and wall openings. All façade elements shall be coordinated with the landscape plan to ensure balance, proportion, and continuity.
- e. Smaller Retail Stores. Where principal buildings contain additional, separate stores which in total occupy less than 20,000 square feet of gross floor area, with separate, exterior customer entrances, windows shall be trimmed and include visually prominent sills, shutters or other such forms of framing.
- f. Entryways. Each principal building shall have a clearly defined, highly visible customer entrance featuring three or more of the following: canopies, overhangs or recesses providing shelter, arcades leading to entrances, raised corniced parapets over the door, peaked roof forms, outdoor patios, architectural details such as moldings integrated into building design, or other features designed to add scale and visual interest to the buildings. Where additional stores are located in the principal building and customer entrances to such stores are outdoors, each additional store shall conform to the above requirements. All components used to enhance entranceways or provide a distinctive look shall be designed or detailed as integral parts of the whole building.
- g. Features and Amenities. Large scale buildings shall contribute to the establishment or enhancement of the pedestrian environment by providing at least two of the

following: patio/seating area, pedestrian area with benches, window shopping walkway, kiosk area, water fountain, or other focal features or amenities that enhance the pedestrian environment. Any such area shall have direct access to existing or proposed public sidewalk. Such features shall be constructed of materials that are equivalent in quality to the building and landscape.

11. Linear Commercial Buildings. (See Photos 77-85 in Appendix E).

- a. Design. Buildings with multiple store fronts(e.g., strip shopping centers, one story office buildings) shall be visually unified through the use of complimentary architectural forms, similar materials and colors, consistent details, and coordinated signage. Variations in the front setbacks are strongly encouraged to add visual interest, create spaces for common entries, outdoor eating/social spaces, and landscaped spaces.
- b. Scale. Linear structures shall include architectural elements designed to provide shelter, encourage pedestrian movement, and visually unite the building. These can include covered walkways, open colonnades, arcades, and similar features.
- c. Entrances. Public entrances to such structures shall be clearly delineated to convey a sense of individuality. This can be accomplished by architectural detailing, roofline breaks, landscaping, or a combination of these elements.
- d. Rooflines. Variations in rooflines, detailing, and building heights shall be included to break up the scale of connected linear buildings.
- e. Focal Points. Linear commercial buildings shall include a focal point - such as a raised entrance way, a clock tower, or other architectural elements – to add visual interest and help reduce the scale of the building.

12. Service Stations, Convenience Stores, & Car Washes.(See Photos 86 & 87 in Appendix E).

- a. Design. Windows or other forms of fenestration shall be included on the façade facing the street which shall be treated as the front façade.
- b. Orientation. Service stations, convenience stores, and similar uses shall be sited to face the street.
- c. Canopies. Service stations canopies shall be visually compatible with the main structure. Backlighting inside the canopy or awning is prohibited. Graphics on canopies or awnings are counted toward the total signage area.

13. Drive-Thru. (See Photos 88 and 89 in Appendix E).

- a. Design. Where drive-through windows are allowed, they shall be incorporated into the design of the building through their scale, color, detailing, massing, and other architectural treatments. Drive-through elements shall not face the street, unless there is no alternative for safety or security.

- b. Location. Drive-thrus shall be located at the side or rear of the building and avoid facing public or private roadways. Where drive-thrus are located at the rear, consideration shall be taken to make the site as visible as possible to ensure the safety of patrons.
- c. Canopies. Drive-through canopies shall be visually compatible with the main structure. Bands of bold color on the canopy, backlighting inside the canopy, and advertising graphics other than the business name or logo are prohibited. Graphics on canopies or awnings are counted toward the total signage area.

**Section 7. Building Code**

The Maine Uniform Building and Energy Code (30-A MRSA § 3003) is adopted in its entirety with the exception that permits shall expire as indicated in Article IV, Section 6 of the Manchester Land Use and Development Ordinance.

**Section 8. Performance Requirements and Standards for Specific Activities**

The following requirements and standards apply in addition to those specified in Sections 6 and 7, above.

A-1. Campgrounds

Campgrounds shall conform to the minimum requirements imposed under State licensing procedure and the following:

- 1. Campgrounds shall contain a minimum of five thousand (5,000) square feet of land, not including roads and driveways, for each site. Land supporting wetland vegetation, and land below the normal high-water line of a water body shall not be included in calculating land area per site.
- 2. The areas intended for placement of a recreational vehicle, tent or shelter, and utility and service buildings shall be set back a minimum of one hundred (100) feet, horizontal distance from the normal high-water line of a great pond, and seventy-five (75) feet, horizontal distance from the normal high-water line of the rivers, streams, or tributary streams or upland edge of those wetlands designated on the official Manchester Land Use Map.

Individual, private campsites not associated with campgrounds are allowed<sup>10</sup> provided the following conditions are met:

A-2. Individual Private Campsites

1. One campsite per lot existing on the effective date of this Ordinance, or thirty thousand (30,000) square feet of lot area within the shore land district, whichever is less, may be permitted.
2. Campsite placement on any lot, including the area intended for a recreational vehicle or tent platform, shall be set back one hundred (100) feet, horizontal distance from the normal high-water line of a great pond or river flowing to a great pond and seventy-five (75) feet, horizontal distance, from the normal high-water line of streams, the rivers, or upland edge of a wetland.
3. Only one recreational vehicle shall be allowed on a campsite. The recreational vehicle shall not be located on any type of permanent foundation except for a gravel pad, and no structures except a canopy shall be attached to the recreational vehicle.
4. The clearing of vegetation for the siting of the recreational vehicle, tent or similar shelter in a Resource Protection District shall be limited to one thousand (1,000) square feet.
5. A written sewage disposal plan describing the proposed method and location of a sewage disposal shall be required for each campsite and shall be approved by the Local Plumbing Inspector. Where disposal is off-site, written authorization from the receiving facility of land owner is required.

**B. Use of Camper Trailers**

The use of camping trailers and campers, so called, shall be permitted without a permit only in properly authorized and license camping grounds, or on private land if the landowner has granted written permission for the occupancy and:

1. The occupancy is for less than thirty (30) days within a calendar year or;
2. If the occupancy is for more than thirty (30) days, there are adequate provisions for proper disposal of sewage and other wastes associated with the parked vehicle.
3. The occupancy of a recreational vehicle or similar shelter placed on site for more than 120 days per year, shall meet requirements for residential structures except for minimum floor area, including installation of a waste water disposal system compliant with the State of Maine Sub-Surface Waste Disposal rules.

**C. Density Bonuses.**

The Planning Board may grant a density bonus to an applicant who proposes affordable housing and/or a clustered concept as a component of the project, in accordance with the following criteria. However, no combination of density bonuses may exceed 25% per any project.

1. Affordable Housing Bonus.

- a. A 25% density bonus may be granted if an applicant provides a minimum of 25% of units affordable for families meeting the criteria of 80% to 120% of the County's median income. Such units may either be for sale or rent.
- b. The Planning Board must approve a plan for long-term retention of the affordable units within that category.

2. Cluster Development Bonuses. A bonus of up to 20% may be granted for a project that meets the cluster criteria set forth in Subsection I (4) below.

**D. Home Occupations**

1. Permitted home occupations may be carried out without: offending custom or disturbing neighbors; altering the residential character of the structure or neighborhood; or changing the character of the lot from its principal use as a residence. A home occupation shall be permitted if it complies with all of the requirements of this Section.
2. A home occupation shall be carried on by permanent residents of the dwelling unit, not to exceed five hundred (500) square feet or twenty-five percent (25%) of the total floor area of the dwelling unit, and not to exceed more than two (2) full-time equivalent, non-resident employees.
3. The home occupation shall be carried on wholly within the principal or accessory structures. There shall be no outside storage or display of materials or products or equipment or vehicles.
4. The General Performance Standards and Building Code of this Ordinance shall also apply.
5. There shall be no exterior signs or displays other than one (1) non flashing, exterior illuminated or non-illuminated sign, no larger than six (6) square feet designed to complement the characteristics of the neighborhood.

**E. Hotels, Motels and Inns.**

For traffic safety on and immediately adjoining each motel, hotel or inn and to assure health, safety and welfare of occupants and of the neighborhood generally, the following land, space, building, traffic, utility, and service design requirements shall be met. For the purposes of this section, the terms hotel, motel and inn are used interchangeably.

1. No part of any building on a motel lot shall be closer than fifty (50) feet to the front lot line, rear lot line or either side line of such lot. A green space, not less than twenty-five feet wide, shall be maintained open and green with grass, bushes, flowers or trees all along each side lot line, the rear lot line, the front line of such lot, except for entrance and exit driveways. The green space shall not be used for automobile parking.
2. Buildings on a lot shall not cover more than twenty percent (20%) of the area of the lot.
3. If cooking or eating facilities are provided in hotel rental units, each rental unit shall be considered a dwelling unit and the hotel shall be required to meet all the standards for multi-family developments in this Ordinance, including the residential density requirements of the appropriate district. On each hotel lot, only one apartment may be provided for a resident owner, manager or other responsible staff person without meeting the requirements of this paragraph.
4. Each motel rental unit shall contain not less than two-hundred (200) square feet habitable floor area enclosed by walls and roof, exclusive of any adjoining portions of roofed or covered walkways. Each motel rental sleeping room shall not be less than twelve (12) by fifteen (15) feet horizontal dimensions, exclusive of bath. Each rental unit shall include private bathroom facilities.
5. Hotel building construction plans shall be reviewed and approved by the State Fire Marshall's Office.
6. All hotels and motels shall be connected to the public sewer and water systems.

**F. Mineral Exploration and Extraction**

1. Groundwater Protection
  - a. No excavation may occur between five (5) and two (2) feet of the seasonal high-water table unless sufficiently detailed information is submitted, documenting the position of the seasonal high-water table, to allow the Planning Board to determine that the groundwater will not be adversely affected. No excavation may occur within two (2) feet of the seasonal high-water table.

- b. Petroleum products, or other substances that could contaminate groundwater, must be stored on the affected land in accordance with a spill prevention, control and containment plan. Refueling operations, oil changes and maintenance activities requiring the handling of hydraulic fluids, as well as any other on-site activity involving the use of products which, if spilled, could contaminate groundwater, must also be conducted in accordance with such plan.
- c. A three-hundred (300) foot separation must be maintained between the limit of excavation and any predevelopment private drinking water supply. A one-thousand (1,000) foot separation must be maintained between the limit of excavation, and any well or spring which qualifies as a public drinking water supply.
- d. The mining operation must not withdraw more than five-thousand (5,000) gallons of groundwater per day.

2. Surface Water Protection/Stormwater Management.

- a. If the estimated peak rate of stormwater runoff from the affected land is calculated, at any time, to be greater than the predevelopment runoff peak rate in any watershed within the boundaries of the affected land, a detention basin must be designed and constructed to maintain the predevelopment runoff peak rate. A development which conveys stormwater directly into the ocean (except estuarine tidal waters), entirely within a man-made piped or open drainage system, does not require a stormwater detention basin.
- b. The outlet structures of each detention basin must be designed to control 24-hour storms of 2-year, 10-year and 25-year frequency. Each detention basin must be constructed with an emergency spillway designed to independently convey the runoff from a 25-year, 24-hour storm event if the primary spillway is blocked or its capacity exceeded.
- c. All processing water must be discharged to a sedimentation basin. No chemicals may be used to process borrow.

- d. Petroleum products, or other substances that could contaminate surface water, must be stored on the affected land in accordance with a spill prevention, control and containment plan. Refueling operations, oil changes, and maintenance activities requiring the handling of hydraulic fluids, as well as any other on-site activity involving the use of products which, if spilled, could contaminate surface water, must be conducted in accordance with the applicant's spill prevention, control and containment plan.
- e. No part of any extraction operation including drainage and runoff control features, shall be permitted within one hundred (100) feet, horizontal distance, of the normal high water line of a great pond classified GPA or a river flowing to a great pond classified GPA, and within seventy-five (75) feet, horizontal distance, of the normal high water line of any other water body, tributary stream, or the upland edge of a wetland.

3. Erosion and Sedimentation Control

- a. The working pit may not exceed ten (10) acres, at any one time, in order to limit the potential for erosion and sedimentation damage.
- b. Ditches, sedimentation basins, dikes, and other control measures must be used as necessary to prevent sediments from being washed or deposited into classified bodies of water. Each sedimentation basin must be designed and constructed with capacity to detain runoff from a storm of 10-year frequency and 24-hour duration for a minimum of ten (10) hours. Each sedimentation basin must be inspected, and accumulated sediments removed as necessary, to ensure that the design limit for accumulated sediments is not exceeded.
- c. Topsoil stockpiles must be seeded, mulched, anchored, or otherwise temporarily stabilized.

4. Natural Buffer Strips

- a. A natural buffer strip at least fifty (50) feet plus four (4) times the average percent slope in width must be maintained between the affected land and a classified body of water.
  - b. A natural buffer strip at least one-hundred and fifty (150) feet wide must be maintained between the borrow pit (affected land) and a public road. A natural buffer strip at least twenty-five (25) feet wide must be maintained between the topsoil mining operation (affected land) and a public road.
  - c. A natural buffer strip at least one-hundred and fifty (150) feet wide must be maintained between the affected land and the property boundary. This buffer may be reduced to twenty-five (25) with written permission of the abutting property owner. It may be eliminated between abutting properties containing borrow pits or topsoil mining operations with written permission of the abutting property owner.
5. Air Quality. Any dust generated, including dust associated with traffic to and from the working pit, must be controlled by sweeping, paving, watering or other best management practices for control of fugitive emissions so that the particulate standards set forth in 38 M.R.S.A 584-A(1) are not exceeded.
6. Noise
- a. A mining operation may only be operated or reclaimed between the hours of seven o'clock (7:00) a.m. and seven o'clock (7:00) p.m., Monday through Saturday.
  - b. Hourly sound levels must not exceed the sound level limits set forth in 06-096 CMR 375.10.
7. Solid Waste. Refuse spoils; unused soil stockpiles; stumps and associated debris; and other solid waste generated must be disposed of in accordance with 06-096 CMR 400-409.
8. Reclamation. The affected land must be restored to a condition or physical state which either is similar to and compatible with that which existed prior to any development, or encourages the future productive use of the land.
- a. The mining operation must be reclaimed in phases so that:

- i. the working pit (operation phase) does not exceed ten (10) acres at any time; and
- ii. the area being actively reclaimed (reclamation phase) does not exceed fifteen (15) acres at any time.

A single stockpile area, not to exceed five (5) acres, is allowed in addition to the ten (10) acre working pit.

- b. Upon the completion of excavation, the side slopes of the borrow pit or topsoil mining operation must be re-graded within thirty (30) days to a slope no steeper than two and on-half (2.5) horizontal to one (1) vertical. Slopes up to two (2) to one (1) vertical may be allowed, if a slope stability analysis is submitted showing that there will be no major failure or sloughing of slopes under construction loads.
- c. Haul roads must be reclaimed.
- d. Vegetative cover must be established on all affected land. Top soil must be placed, seeded and mulched within thirty (30) days of final grading.
  - i. A minimum of four (4) inches of topsoil must be placed on the excavated slopes and surfaces. Two (2) inches of the loam must be mixed or harrowed into the substrate and two (2) inches of the loam must be placed on top. The topsoil must be mixed into the original material to provide a gradual transition between soil layers, and to avoid distinct plains resulting in slope failure. The topsoil must have a soil compaction sufficient to sustain vegetative growth.
  - ii. Vegetative material used in reclamation must consist of grasses, legumes, herbaceous or woody plants, shrubs, trees or a mixture thereof. Plant material, except material for dormant seedlings, must be planted during the first growing season following the beginning of the reclamation phase. Selection and use of vegetative cover must take into account soil and site characteristics such as drainage, pH, nutrient availability, and climate.
  - iii. The vegetative cover is acceptable if:
    - (a) the planting of trees and shrubs results in a permanent stand, or stand capable of regeneration and succession, sufficient to assure a seventy-five percent (75%) survival rate; and
    - (b) the planting of all materials results in ninety percent (90%).

NOTE: Dormant seeding is defined as seeding done at twice the permanent or temporary seeding rate, and mulched at a rate of two (2) tons per acre. The seed and mulch are applied to bare earth between November 10th and April 15th, before snow cover occurs.

**G. Mobile Home Parks.**

Mobile home parks shall be developed in accordance with the following requirements.

1. Lot Area and Lot Width Requirements: Lots in a mobile home park shall meet the following lot area and lot width requirements.
  - a. Lots served by individual subsurface wastewater disposal systems:  

Minimum lot area: 20,000 square feet  
Minimum lot width: 100 feet
  - b. Lots served by a central subsurface wastewater disposal system approved by the Maine Department of Human Services:  

Minimum lot area: 12,000 square feet  
Minimum lot width: 85 feet
  - c. Lots served by a public sewer system:  

Minimum lot area: 6,500 square feet  
Minimum lot width: 50 feet
  - d. The overall density of any park served by any subsurface wastewater disposal system shall not exceed one unit per 20,000 square feet of total park area.
  - e. Mobile home parks located within the Shoreland District shall meet the standard development lot area, lot width, setbacks and shore frontage requirements for that district.
2. Unit Setback Requirements: Each manufactured home within a mobile home park shall be set back a minimum of:
  - a. Twenty (20) feet from the boundaries of the lot on which the mobile home is placed; and
  - b. Fifty (50) feet from all mobile home park boundary lines.
3. Buffer/Screening Requirements.

- a. Each mobile home park shall retain or have a buffer strip at least fifty (50) feet wide around the perimeter of the park parcel. No structures, roads or utilities may be placed in the strip except that roads and utilities may cross the strip to serve the park. The outer twenty-five (25) foot wide portion of the strip shall have natural screening (trees, other vegetation, terrain, etc.) to provide a visual and sound buffer between the park and adjacent properties.
- b. The Planning Board may require the developer to plant trees or other vegetation, or do landscaping, so that there is adequate buffering and screening where the natural screening is insufficient.

4. Groundwater Protection Requirements.

- a. No mobile home park shall increase any contaminant concentration in the groundwater to more than one-half (1/2) of the Primary Drinking Water Standards or more than the Secondary Drinking Water Standards.
- b. If groundwater contains contaminants in excess of the primary standards, and the mobile home park is to be served by on-site groundwater supplies, the applicant shall demonstrate how water quality will be improved or treated.
- c. If groundwater contains contaminants in excess of the secondary standards, the mobile home park shall not cause the concentration of the parameters in question to exceed one-hundred fifty percent (150%) of the ambient concentration.
- d. Subsurface wastewater disposal systems and drinking-water wells shall be constructed as shown on the map submitted with the assessment.

5. Road Design, Circulation and Traffic Requirements.

- a. All mobile home parks shall have safe and convenient vehicular access from abutting public streets or roads.
- b. All roads within a mobile home park shall be designed by a Professional Engineer, registered in the State of Maine.
- c. Roads which the applicant proposes to be accepted as public ways by the Town shall be designed and constructed in accordance with the Town Road specifications.
- d. Private roads within the Mobile Home Park, which the applicant or owner does not intend to offer to the Town for acceptance as a Town way, shall:

- i. Have a minimum right-of-way of twenty-three (23) feet in width, twenty (20) feet of which must be the travelway.
  - ii. Conform to reasonable safety standards applicable to intersections with public ways adjacent to the mobile home park.
- e. Such roads, as the Planning Board determines, shall have a designated four (4) foot wide minimum walkway along its boundary. The walkway shall be marked or built so that its bounds and function are clearly distinguishable from the road.
- f. Any dead-end roads shall be no longer than five-hundred (500) feet. The closed end shall have a clear turnaround area with a minimum radius of sixty (60) feet.
- g. Off-road parking for at least two cars shall be furnished for each mobile home. Parking spaces shall only be located within the individual mobile home lots that they are intended to serve.
- h. Any mobile home park expected to generate average daily traffic of two-hundred (200) trips per day or more shall have at least two (2) road connections with existing public roads, other roads within the park, or other roads shown on an approved subdivision plan.
- i. No individual lot within a park shall have direct vehicular access onto an existing public road.
- j. The intersection of any road within a park and an existing public road shall meet the following standards:
- i. Angle of intersection. The desired angle of intersection shall be ninety (90) degrees. The minimum angle of intersection shall be seventy-five (75) degrees.
  - ii. Maximum Grade. The maximum grade within 75 feet of the intersection shall be two (2) percent.
  - iii. Minimum Sight Distance. A minimum sight distance of ten (10) feet for every mile per hour of posted speed limit on the existing road shall be provided. Sight distances shall be measured from the drivers seat of a vehicle that is ten (10) feet behind the curb or edge of shoulder line with the height of the eye three and one-half (3 1/2) feet above ground level and the height of object four and one-quarter (4 1/4) feet above ground level.
  - iv. Distance from other intersections. The centerline of any road within a park intersecting an existing public road shall be no less than one-hundred twenty-five (125) feet from the centerline of any other road intersecting that public road.

6. Conversions of Mobile Home Parks. No development which is approved under this section as a mobile home park may be converted to another use without the approval of the Planning Board, and meeting the appropriate lot size, lot width, setback and other requirements.

7. General Requirements

- a. The land within the park shall remain in a unified ownership and the fee to lots or portions of lots shall not be transferred.
- b. No dwelling unit other than a manufactured housing unit shall be located within the park.
- c. Each mobile home park owner shall establish and enforce regulations governing the conduct of the internal affairs of the park.

## **H. Multi-Family Development**

1. Design Standards

- a. An adequate water supply shall be provided to the development for fire fighting purposes. Wet or dry fire hydrants or fire ponds shall be located so that they are not more than five-hundred (500) feet from any building, as fire hose is laid on the street.
- b. No structures shall be located on land unsuitable for development under the net buildable acreage calculation.
- c. All developments containing fifteen (15) or more dwelling units may be required by the Planning Board to have more than one street access for emergency and safety purposes. No more than two (2) accesses shall be allowed on any single street or roadway.
- d. A fifteen (15) foot landscaped buffer shall be provided along all property boundaries.
- e. All multi-family developments of ten (10) dwelling units or more shall provide a developed open recreation area of no less than five-hundred (500) square feet per dwelling unit.
- f. The owner(s) shall be responsible for rubbish disposal, snow removal, and site maintenance.

**I. Subdivisions**

1. Purposes

- i. The purposes of these provisions are: (a) to provide for efficient use of land and the preservation of open space, prime farmland, and rural character; (b) to provide for development in harmony with the natural features of the land; (c) to allow for innovative concepts of housing development; (d) to encourage efficient use of infrastructure; and (e) to encourage the construction of affordable housing in the community.
- ii. Notwithstanding provisions of this and other ordinances relating to dimensional requirements, the Planning Board, in reviewing and approving proposed creative open space subdivisions (COSS) meeting standards in subsection I(4), may modify said provisions related to dimensional requirements and grant density bonuses of up to 20% to permit innovative approaches to housing and environmental design in accordance with the following standards.
- iii. To permit the preservation of environmentally significant areas for the use of future generations. Toward this end, the Planning Board may require that subdivisions be laid out as creative open space subdivisions (COSS) according to standards in section I(4) and in a manner consistent with this ordinance as a whole.

The Planning Board, in making its determination whether or not a creative open space subdivision (COSS) will be required, will inventory and catalogue the significant, individual environmental attributes of the parcel, including, but not limited to, prime agricultural soils, moderate to high yield wildlife and waterfowl areas, moderate to high yield aquifers, open fields, heavily wooded areas, scenic views or areas, etc. Creative open space subdivisions (COSS) will be required if a standard cluster subdivision would result in the elimination or permanent alteration of at least fifty percent (50%) of one or more of the catalogued attributes.

2. Application Procedures.

At the pre-application stage of the site plan review process, the applicant shall submit a map showing the significant natural features including the land cover, water bodies and wetlands, soil types from Kennebec County Soils Survey, and the elevation based on the USGS 7.5 Minute Topographic Quadrangle. In addition, two sketch plans shall be submitted for major subdivisions with one showing the proposed layout as creative open space subdivision, both indicating the appropriate common open space and significant natural features. If only a creative open space subdivision is proposed then only one sketch plan is necessary. Each lot, or combination of lots, shall have an area suitable for subsurface waste water disposal according to the Maine Subsurface Disposal rules, unless it is serviced by public sewer. The number of buildable lots or dwelling units in the open space development shall not exceed the number of lots or dwelling units in the standard subdivision at this stage.

A written statement shall describe the natural features which will be preserved or enhanced by the cluster approach. Natural features include, but are not limited to, moderate to high value wildlife and waterfowl habitats, moderate to high yield aquifers, prime agricultural soils, scenic areas, and other important natural and historic sites.

These procedures (except two (2) sketch plans provision described above) are clarified and detailed in the following step by step process:

- a. Pre-Application Discussion: A Pre-Application Discussion is strongly encouraged between the applicant, the site designer(s), and the Planning Board. The purpose of this informal meeting is to introduce the applicant and the site designer(s) to the Town's zoning and subdivision regulations and procedures, and to discuss the applicant's objectives in relation to the Town's ordinance requirements. The applicant may choose to bring an Existing Features Plan as described in 2b to this meeting.
- b. Existing Features (Site Analysis) Plan: An Existing Features Plan analyzing each site's special features is required for all proposed subdivisions. At a minimum the plan must include:
  - (1) a contour map based at least upon topographic maps published by the U.S. Geological Survey;
  - (2) the location of Primary Conservation Areas which include constraining elements such as steep slopes (20% or more), wetlands, hydric soils, moderate to high value aquifers, surface waters including intermittent streams;
  - (3) soil boundaries as shown on county USDA Soil Conservation Service medium-intensity maps particularly delineating hydric soils (Primary Conservation Areas) which include the following types: Biddeford, Limerick, Monarda, Ridgebury, Rifle, Saco, Scantic, Scarboro, Togus, and Vassalboro. (Note a high intensity soils map based on test pits may be advantageous in determining less area with hydric soils.)

- (4) the location of other nonbuildable areas which include rights-of-ways and easements, and portions in Resource Protection District, and portions utilized for storm water management facilities;
- (5) the location of Secondary Conservation Areas which include significant features such as open fields and meadows, scenic views into or out from the property, natural drainageways, stone walls, treelines, mature woodlands, moderate to high value wildlife habitat, rock outcrops, and existing historic structures (e.g. farmhouses, barns, etc.), roads and trails, and hilltops.

The Existing Features Plan shall identify both Primary Conservation Areas [listed in I2b(2) and (3)], and Secondary Conservation Areas [listed in I2b(4)].

- c. The net buildable acreage for minor subdivisions shall be calculated by taking the total area of the lot and subtracting, in order, the following:
  - i. Portions of the lot which are unsuitable for development in their natural state due to hydric soils.
  - ii. Portions of the lot located in the Resource Protection District.
  - iii. Portions of the lot covered by surface waters.
  - iv. Portions of the lot utilized for storm water management facilities.
  - v. Portions of the lot with slopes exceeding 20%.
  - vi. Seven (7) percent of the area of the lot to account for roads and parking.
  - vii. Portions of the lot encompassing moderate to high value aquifers.

The NBA for a creative open space subdivision shall be the lesser:

The remainder of the total parcel minus the open space set-aside  
(open space ratio x total parcel); or,

The remainder of the total parcel minus the sum of all non-buildable areas.

For other major subdivisions and high impact subdivisions the NBA is the remainder from the sum of primary conservation areas and open space to be set aside (open space ratio multiplied by total parcel) subtracted from total parcel.

- d. The Number of Allowable lots for a subdivision is calculated by adding the non-buildable areas and subtracting the sum from the parcel, then dividing the remainder by the density permitted (See Table 10).
- e. For minor subdivisions see subsection I3j and consider tentative location of buildings on site.

- f. For major subdivisions that are creative open space subdivisions the open space to be set aside is calculated by multiplying the total parcel size by the open space ratio Table 10. However primary and secondary conservation areas must be part of the open space set aside which may increase size of dedicated area required. Note: Non-buildable areas are included in the open space set aside. Major commercial subdivisions in GD and MV districts are exempt from open space set aside.
- g. For major subdivisions that are standard cluster subdivisions the open space to be set aside is calculated by multiplying the total parcel by the open space ratio. (Note: typically major standard cluster subdivisions require significantly more open space to be set aside than major creative open space subdivisions do because non buildable acreage must be set aside in addition to open space set aside from open space ratio calculation for standard cluster subdivisions.) The net buildable acreage for these subdivisions is determined by subtracting the open space to be set aside plus primary conservation areas from the total parcel.
- h. For high impact subdivisions the open space to be set aside is calculated by multiplying the total parcel by the open space ratio (See Table 10). The net buildable acreage for these subdivisions is determined by subtracting the open space to be set aside plus primary conservation areas from the total parcel.
- i. For most major subdivisions and all high impact subdivisions review “Four Step Process” described in I2I, as well as subsection 4a, and consider potential location of house sites and street alignments.
- j. On-Site Visit: After the Existing Features Plan has been prepared, the Planning Board shall schedule an on-site visit to walk the property with the applicant and their site designer. The applicant shall bring a copy of the Existing Features Plan to the on-site visit. The purpose of this visit is to familiarize Town officials with the property’s special features, and to provide them an informal opportunity to offer guidance (or at least a response) to the applicant regarding the tentative location of the Secondary Conservation Areas and potential house locations and street alignments. How the “four step process” to designing subdivisions could be applied to the subject property for most major subdivisions or high impact subdivisions should also be discussed.
- k. Conceptual Preliminary Plan: After the on-site visit a sketch plan or a conceptual preliminary plan shall be submitted for all subdivisions. As used in this ordinance, the term “Preliminary Plan” refers to a preliminarily engineered sketch plan drawn to illustrate initial thoughts about a conceptual layout for house sites, street alignments, open space set aside (for most major subdivisions). This is the stage where drawings are tentatively illustrated before heavy engineering costs are incurred in the design of streets, stormwater management, or the accurate delineation of internal lot boundaries. The conceptual preliminary plan shall be submitted to the Planning Board for review for the purpose of securing early agreement on the overall pattern of streets, house lots, Primary and Secondary Conservation Areas, and potential trail linkages (where applicable).

1. Four Step Process: Each conceptual preliminary plan for most major and all high impact subdivisions shall follow a four step design process. When the sketch plan is submitted, applicants shall be prepared to demonstrate to the Planning Board that these four design steps were followed by their site designers in determining the layout of their proposed streets, house lots, and open space set aside.
  - i. Designating Open Space: during the **first step**, all potential Conservation Areas (both Primary and Secondary) and non-buildable areas are identified, using the Existing Features Plan. Primary Conservation Areas shall consist of the elements described in I2b (2 and 3). Secondary Conservation Areas shall consist of the elements described in I2b (4). Both areas are part of total open space set aside.
  - ii. Location of House Sites: During the **second step**, potential house sites shall be tentatively located and identified on the conceptual preliminary plan. Houses shall be laid out to the greatest extent feasible to achieve the objectives listed in I4a.
  - iii. Street and lot layout: The **third step** consists of aligning proposed streets to provide vehicular access to each house in the most reasonable and economical way. When lots and access streets are laid out, they shall be located in a way that avoids or at least minimizes adverse impacts on both the Primary and Secondary Conservation Areas e.g. when possible roadways shall not be located in open fields. To the greatest extent practicable, wetland crossings and streets traversing existing slopes over 15% shall be strongly discouraged. The creation of single-loaded residential access streets, in order that the maximum number of homes in new developments may enjoy views of open space is generally encouraged.
  - iv. Lot Lines: The **fourth step** is simply to draw in the lot lines.
- m. Further Application Procedures are required in Article III except for Section 4A. Questions about whether certain requirements have been addressed for previous procedures should be directed to CEO.
3. Basic Requirements.
  - a. All subdivisions shall meet the requirements of subsection 8(I), except 8(I)(4); and shall meet the Town's road standards and all other applicable ordinances, including the General Performance Standards of this Ordinance and State laws and regulations.

- i. All minor subdivisions shall meet the requirements of Subsection 8(I) except 8(I)(3f) whereas the open space requirement does not apply, however, the net density requirement does apply. When any or all of a proposed minor subdivision falls in a shoreland district, the Planning Board may require that the minor subdivision comply with all or any of the major subdivision requirements.
  - ii. All major subdivisions that are creative open space subdivisions shall meet all requirements of 8(I) except 8(2)f applies for open space calculation.
  - iii. High impact subdivisions must meet all requirements of 8(I) such that they shall be creative open space subdivisions.
- b. Lots.
- i. Wherever possible, side lot lines shall be perpendicular to the street.
  - ii. The subdivision of tracts into parcels in all districts with more than twice the required minimum lot size shall specify as conditions in the final subdivision plat plan and deed restrictions that any future division shall constitute a revision to the plan and shall require approval from the Board, subject to the criteria of the Subdivision Statute, the standards of these regulations and conditions placed on the original approval. In the rural residential district the subdivision shall be laid out in such a manner as to either provide for or preclude future division. If applicant elects to provide for future division in the rural residential district primary and secondary conservation areas and net buildable acreage must be delineated on the plan for the whole tract. Net buildable acreage must be identified as either phase 1 or future phases. The maximum number of lots allowed in the future phase must be indicated. Detailed engineering plans are required as each phase of development is submitted to the Planning Board for approval. Delineation of the net buildable acreage cannot be revised following initial approval.
  - iii. If a lot on one side of a stream, tidal water, road or other similar barrier fails to meet the minimum requirements for lot size, it may not be combined with a lot on the other side of the stream, tidal water, or road to meet the minimum lot size.
  - iv. The ratio of lot length to width shall not be more than three to one. Flag lots and other odd-shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited.
  - v. No more than two lots in any subdivision may access directly onto an existing State or Town road.

- vi. If any lots in a proposed subdivision have shore frontage on a river, stream, brook, or great pond as these features are defined in Title 38, Section 480-B, none of the lots created within the subdivision have a lot depth or shore frontage ratio greater than 5 to 1.
- vii. In accordance with Article III, Section 10 (A)(9), the final recorded plot plan for subdivisions will include a standard condition that if at least twenty-five percent (25%) of the cost of all proposed improvements within the subdivision are not expended within five (5) years, then the subdivision must be re-reviewed by the Planning Board.
- viii. Any ownership of a corporation or abutting parcel when there is at least one joint common owner, is for the purposes of the subdivision law, same ownership.
- c. The applicant shall illustrate the placement of buildings and the treatment of spaces, paths, roads, service and parking and in so doing shall take into consideration all requirements of this section and of other relevant sections of this Ordinance.
- d. Each building shall be an element of an overall plan for the site development.
- e. The use of the land shall not differ from the uses permitted in which the development is to be located.
- f. The overall development shall not exceed the net density requirements of the parcel of land within the Land Use District it occupies, in accordance with Table 10, unless a density bonus is granted by the Planning Board.

**TABLE 10**  
**Open Space & Net Density Requirements**

	MV	CR	GD	RR	SL	A M	R P
Open Space Ratio	30	50	40	60	60	--	--
Net Density							-
With Public Sewer	20,000	20,000	20,000	60,000	60,000	--	--
Without Public Sewer	40,000	60,000	60,000	80,000	80,000	--	--
1st unit/each additional unit must be on public sewer	15,000 / 5000	20,000/ 10,000	15,000 /5000	--	--	--	--

- g. For major or high impact subdivisions, attached dwellings shall include no more than four (4) such dwellings attached in any single series.
- h. Multi-family dwellings shall include no more than six (6) dwelling units per structure nor more than two (2) dwelling units arranged one above the other.
- i. The location of subsurface wastewater disposal systems and an equivalent reserve area for replacement systems shall be shown on the plan. The reserve areas shall be restricted so as not to be built upon. The report of a licensed Site Evaluator shall accompany the plan. If the subsurface disposal system is an engineered system, approval from the Department of Human Services, Division of Health Engineering, shall be obtained prior to Planning Board approval.
- j. Buildings shall be oriented to preserve and/or take maximum advantage of scenic vistas, natural landscape features, topography, solar energy, and natural drainage areas, for example, when possible shall be located on the edges of fields and when possible in wooded areas to minimize visual impact of development. Existing stone walls shall be preserved except where access point(s) intersect perpendicularly. Existing farmhouses and barns should be preserved when possible. Architectural compatibility of new construction with historic buildings and rural character is encouraged.
- k. The applicant shall demonstrate the availability of water adequate for domestic purposes as well as for fire safety. The Planning Board may require the construction of storage ponds and dry hydrants. The location of all wells shall be shown on the plan.
- l. Phosphorus Export. When a proposed project is within the direct watershed of a great pond, the applicant shall make provisions to limit the export of phosphorus from the site following completion of the project, consistent with the maximum allowable phosphorus standard of 0.02 lbs./acre/year and consistent with DEP's *Phosphorus Control in Lake Watersheds: A Technical Guide to Evaluating New Development*.

At a minimum, vegetative buffer strips shall be provided on the downhill side of all lots, along all tributaries to great ponds and along the great pond. The minimum required width of buffer strips are designated in Table 9 and depend on the size of the lot, the hydrologic soil group, and whether deed restrictions are proposed to limit the area which may be cleared on each lot.

- m. Shoreland Buffer Strips. Notwithstanding 1 above, in a Shoreland District, within a strip of land extending one-hundred (100) feet inland from the normal high-water line of a great pond or any tributary to a great pond, and Weston Brook, and seventy-five (75) feet from any other water body or the upland edge of a wetland, a buffer strip of vegetation shall be preserved. The deeds to any lots which include such land shall contain the following restrictions:
- i. There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath not to exceed ten (10) feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created. Adjacent to a great pond, or a tributary to a great pond, the width of the foot path shall be limited to six feet.
  - ii. Selective cutting of trees within the buffer strip is permitted provided that a well distributed stand of trees and other vegetation is maintained. No more than forty percent (40%) of the total volume of trees four (4) inches or more in diameter, measured at four and one-half (4 1/2) feet above ground level may be removed in any ten (10) year period.
  - iii. In order to protect water quality and wildlife habitat, adjacent to great ponds, and tributaries to great ponds, existing vegetation under three (3) feet in height and other ground cover shall not be removed, except to provide for a footpath or other permitted uses as described above.
  - iv. Pruning of tree branches, on the bottom 1/3 of the tree is permitted.
- n. Access from public ways, internal circulation, and parking shall be designed to provide for vehicular and pedestrian safety and convenience, emergency and fire equipment, snow clearance, street maintenance, and delivery and collection services. Any streets which may be offered to the Town shall be constructed in accordance with Town Road Standards.
- o. Adequate provision shall be made for storm water runoff, particularly effluent draining from the site. Erosion that could result from any changes on the site shall be prevented by landscaping or other means of maintenance.
- p. All utilities shall be installed underground unless specifically waived by the Planning Board. Transformer boxes, pumping stations and meters shall be located so as not to be unsightly or hazardous to the public.
- q. Every building lot that is reduced in area below the amount normally required should abut the open space for a distance of 50 feet, or be within 1,500 feet walking distance of such land, as measured along public ways.

- r. In no case shall shore frontage and setback be reduced below the minimum normally required by the State shoreland zoning requirements.
- s. Where a major or high impact subdivision abuts a body of water, a usable portion of the land along the water, as well as reasonable access to it, shall be a part of the common land. This open space land shall have a minimum depth of 100 feet.
- t. Common Open Space. The common open space created by the subdivision:
  - i. Shall be shown on the plat plan with appropriate notation that it is restricted and shall not be used for future building lots.
  - ii. Shall be accessible to the owners or residents of the development, subject to any necessary limitations in connection with the uses of the land (e.g., farming), which may be permitted.
  - iii. Shall be usable for low-intensity recreation, agriculture, or other passive outdoor living purposes and for preserving the natural features of the site. Potential uses (e.g., farming) may be by the sub-divider, owners or residents, or a lessee or agent. Such uses shall not include above-ground rights-of-way or parking areas, or tennis courts, swimming pools, or similar recreation development. The use of any open space may be further limited or controlled at the time of final subdivision approval as necessary to protect adjacent properties.
  - iv. Shall be adequately maintained into the future. The developer shall provide a plan and related documentation sufficient to insure this. Such plan may provide for common ownership, directly or through a homeowner's association, dedication of the common areas to the Town or other appropriate representative of the public, a perpetual trust fund, or other means. The maintenance of open space may include provision for cutting or planting of vegetation, tilling of soil, or other means of maintenance.
  - v. Shall be owned, preserved, and maintained as required by this section by any of the following mechanisms or combinations thereof:
    - (1) Dedication of open space to the Town or a suitable land trust, if either is willing to accept the dedication.
    - (2) Dedication of development rights of open space to a suitable land trust with ownership remaining with the developer or homeowners association. Maintenance responsibilities shall remain with the property owner.

- (3) Common ownership of the open space by a homeowners' association which assumes full responsibility for its maintenance.
- (4) Deed-restricted private ownership which shall prevent development and/or subsequent subdivision of the open space and provide maintenance responsibility. This option may apply only if open space is part of an existing farm, working or not, or if there is a future intent to farm by the owner.

u. Preservation and Maintenance of Open Space and Facilities

- i. There shall be no further subdivision of open space. Open space shall be used only for agriculture, non-commercial recreation, forestry or conservation. However, easements for public utilities, but no structure, may be permitted in the open space area.
- ii. The open space(s) shall be shown on the open space plan and with appropriate notation on the face thereof to indicate that: a) the open space shall not be used for future building lots; and b) a part or all of the open space may be dedicated for acceptance by the Town or a suitable land trust.
- iii. If any or all of the open space is to be reserved as common open space for use by the residents, the by-laws of the proposed neighborhood association and shall be submitted to the Planning Board prior to approval. Such by-laws shall, at a minimum, include mandatory membership of all lot owners, responsibility for maintenance of common areas, taxes and insurance, etc. The developer or sub-divider shall maintain control of such open space(s) and be responsible for their maintenance until development sufficient to support the association has taken place. Such determination shall be made by the Board of Appeals upon request of the neighborhood association or the developer or sub-divider.
- iv. Open space land may be sold or leased to a third party for agriculture or forestry purposes, provided that development rights are held by the Town, a conservation organization, or other public or semi-public entity. The legal instruments for conveying such land and retaining development rights shall first be submitted to and approved by the Planning Board.

4. Siting and Buffering Standards for Creative Open Space Subdivisions.

- a. Lots shall be laid out to the greatest extent feasible to achieve the following objectives:

- i. on most suitable soils for subsurface septic disposal (in un-sewered areas), provided there is no or minimal conflict with other criteria.
  - ii. on the least fertile soils for agricultural uses, and in a manner which maximizes usable area remaining for agricultural use, provided there is no or minimal conflict with other criteria.
  - iii. within woodlands contained in the parcel, or along far edges of open fields within adjacent woodlands (to reduce impact upon agriculture to produce summer shade and shelter from winter wind and to enable new construction to be absorbed by natural landscape features).
  - iv. avoiding moderate to high value wildlife and waterfowl habitat, moderate to high yield aquifers and natural drainage ways.
  - v. in locations least likely to block or interrupt scenic views from public roadways.
  - vi. in locations minimizing negative impacts upon mature woodlands and forestry, provided there is no or minimal conflict with other criteria.
  - vii. in locations where greatest number of units could be designed to take maximum advantage of solar heating opportunities provided there is no or minimal conflict with other criteria (4ai-vi, viii).
  - viii. in locations where linkage with nearby open space on other properties is not blocked, and, when possible, where continuous corridors of natural vegetation are protected.
  - ix. so that stone rows and treelines are preserved.
  - x. so that structures are not placed on top of ridgelines or on slopes exceeding 20%.
  - xi. so that existing farmhouses and barns are preserved, where feasible.
- b. The distance between any two principal buildings shall be no less than the height of the taller of the two buildings and no less than 25 feet.
  - c. No individual lots shall have frontage on a road which existed prior to the time of development unless waived by the Planning Board to further objectives of creative open space subdivisions.
  - d. Buildings shall be designed and laid out to protect bedroom windows from light invasions by vehicle headlights or glare from existing outdoor lighting or illuminated signs where allowed, insofar as practicable.

- e. Where parking spaces or storage areas are located in areas abutting existing residential properties, a permanent wood or masonry screen at least four feet high shall be erected along the property line in addition to the green perimeter strip described below.
  - f. A green perimeter strip, not less than twenty (20) feet wide shall be maintained with grass, bushes, flowers, or trees along all lot lines (except for entrance and exit driveways). Such green strip shall not be built on or paved or used for parking or storage. There shall be no removal of trees over 4 inches in diameter within this buffer. Vegetation shall be retained in its natural state, although tree planting shall be permitted as a matter of right.
  - g. Buffer zones at least 75 feet in width shall be required between residential and agricultural uses, and shall be thickly planted with fast-growing native shrubs and trees.
  - h. Where practicable, when homes can be seen from a public road, landscaping shall be provided. The visual screening may consist of fences, berms, landscaping (such as shrubs and trees) and/or natural existing vegetation. This screening shall effectively screen at least eighty percent (80%) of the homes from view from the existing road and shall be maintained throughout the life of the project.
  - i. Where appropriate, internal buffers shall be maintained between groups of residences to insure proper site design and site plan development. In all buffer areas, the conservation of land in its natural or forested condition is essential.
5. Net Buildable Acreage Calculation. – ENTIRE SECTION DELETED JUNE 2012  
(SEE ARTICLE II, SECTION 8 I(2)(c).

**J. Timber Harvesting within the Shoreland District**

- (1) Shoreline integrity and sedimentation. Persons conducting timber harvesting and related activities must take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of water body and tributary stream banks, water body and tributary stream channels, shorelines, and soil lying within water bodies, tributary streams and wetlands

occurs, such conditions must be corrected.

- (2) Slash treatment. Timber harvesting and related activities shall be conducted such that slash or debris is not left below the normal high-water line of any water body or tributary stream, or the upland edge of a wetland. Section 8(J)(2) does not apply to minor, incidental amounts of slash that result from timber harvesting and related activities otherwise conducted in compliance with this section.
  - (a) Slash actively used to protect soil from disturbance by equipment or to stabilize exposed soil, may be left in place, provided that no part thereof extends more than 4 feet above the ground.
  - (b) Adjacent to great ponds, rivers and wetlands:
    - (i) No accumulation of slash shall be left within 50 feet, horizontal distance, of the normal high-water line or upland edge of a wetland; and
    - (ii) Between 50 feet and 250 feet, horizontal distance, of the normal high-water line or upland edge of a wetland, all slash larger than 3 inches in diameter must be disposed of in such a manner that no part thereof extends more than 4 feet above the ground.
- (3) Timber harvesting and related activities must leave adequate tree cover and shall be conducted so that a well-distributed stand of trees is retained. This requirement may be satisfied by following one of the following three options:
  - (a) Option 1 (40% volume removal), as follows:
    - (i) Harvesting of no more than 40 percent of the total volume on each acre of trees 4.5 inches DBH or greater in any 10 year period is allowed. Volume may be considered to be equivalent to basal area;
    - (ii) A well-distributed stand of trees which is wind firm, and other vegetation including existing ground cover, must be maintained; and,
    - (iii) Within 75 feet, horizontal distance, of the normal high-water line of rivers, streams, and great ponds, and within 75 feet, horizontal distance, of the upland edge of a freshwater or coastal wetlands, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river or great

pond or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of total volume removal. Volume may be considered equivalent to basal area.

- (b) Option 2 (60 square foot basal area retention), as follows:
  - (i) The residual stand must contain an average basal area of at least 60 square feet per acre of woody vegetation greater than or equal to 1.0 inch DBH, of which 40 square feet per acre must be greater than or equal to 4.5 inches DBH;
  - (ii) A well-distributed stand of trees which is windfirm, and other vegetation including existing ground cover, must be maintained; and,
  - (iii) Within 75 feet, horizontal distance, of the normal high-water line of water bodies and within 75 feet, horizontal distance, of the upland edge of wetlands, there must be no cleared openings. At distances greater than 75 feet, horizontal distance, of the normal high-water line of a river or great pond, or upland edge of a wetland, timber harvesting and related activities must not create single cleared openings greater than 14,000 square feet in the forest canopy. Where such openings exceed 10,000 square feet, they must be at least 100 feet, horizontal distance, apart. Such cleared openings will be included in the calculation of the average basal area. Volume may be considered equivalent to basal area.
- (c) Option 3 (Outcome based), which requires: An alternative method proposed in an application, signed by a Licensed Forester or certified wildlife professional, submitted by the landowner or designated agent to the State of Maine Department of Conservation's Bureau of Forestry (Bureau) for review and approval, which provides equal or better protection of the shoreland area than this rule.

Landowners must designate on the Forest Operations Notification form required by 12 M.R.S.A. chapter 805, subchapter 5 which option they choose to use. If landowners choose Option 1 or Option 2, compliance will be determined solely on the criteria for the option chosen. If landowners choose Option 3, timber harvesting and related activities may not begin until the Bureau has approved the alternative method.

The Bureau may verify that adequate tree cover and a well-distributed stand of trees is retained through a field procedure that uses sample plots that are located randomly or systematically to provide a fair representation of the harvest area.

- (4) Skid trails, yards, and equipment operation. This requirement applies to the construction, maintenance, and use of skid trails and yards in shoreland areas.
  - (a) Equipment used in timber harvesting and related activities shall not use river, stream or tributary stream channels as travel routes except when surface waters are frozen and snow covered, and the activity will not result in any ground disturbance.
  - (b) Skid trails and yards must be designed and constructed to prevent sediment and concentrated water runoff from entering a water body, tributary stream, or wetland. Upon termination of their use, skid trails and yards must be stabilized.
  - (c) Setbacks:
    - (i) Equipment must be operated to avoid the exposure of mineral soil within 25 feet, horizontal distance, of any water body, tributary stream, or wetland. On slopes of 10 percent or greater, the setback for equipment operation must be increased by 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent. Where slopes fall away from the resource, no increase in the 25-foot setback is required.
    - (ii) Where such setbacks are impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (5) Land Management Roads. Land management roads, including approaches to crossings of water bodies, tributary stream channels, and freshwater wetlands, ditches and other related structures, must be designed, constructed, and maintained to prevent sediment and concentrated water runoff from directly entering the water body, tributary stream or wetland. Surface water on or adjacent to water crossing approaches must be diverted through vegetative filter strips to avoid sedimentation of the watercourse or wetland. Because roadside ditches may not extend to the resource being crossed, vegetative filter strips must be established in accordance with the setback requirements in

Section 8(J)(7) of this rule.

- (a) Land management roads and associated ditches, excavation, and fill must be set back at least:
  - (i) 100 feet, horizontal distance, from the normal high-water line of a great pond, river or freshwater or coastal wetland;
  - (ii) 50 feet, horizontal distance, from the normal high-water line of streams; and
  - (iii) 25 feet, horizontal distance, from the normal high-water line of tributary streams
- (b) The minimum 100 foot setback specified in Section 8(J)(5)(a)(i) above may be reduced to no less than 50 feet, horizontal distance, and the 50 foot setback specified in Section 15(O-1)(5)(a)(ii) above may be reduced to no less than 25 feet, horizontal distance, if, prior to construction, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (c) On slopes of 10 percent or greater, the land management road setback must be increased by at least 20 feet, horizontal distance, plus an additional 10 feet, horizontal distance, for each 5 percent increase in slope above 10 percent
- (d) New land management roads are not allowed within the shoreland area along Significant River Segments as identified in 38 M.R.S.A. section 437, nor in a Resource Protection District, unless, prior to construction, the landowner or the landowner's designated agent makes a clear demonstration to the Planning Board's satisfaction that no reasonable alternative route exists outside the shoreland zone, and that the new road must be set back as far as practicable from the normal high-water line and screened from the river by existing vegetation.

- (e) Ditches, culverts, bridges, dips, water turnouts and other water control installations associated with roads must be maintained on a regular basis to assure effective functioning. Drainage structures shall deliver a dispersed flow of water into an unscarified filter strip no less than the width indicated in the setback requirements in Section 8(J)(7). Where such a filter strip is impracticable, appropriate techniques shall be used to avoid sedimentation of the water body, tributary stream, or wetland. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (i) Road closeout and discontinuance. Maintenance of the water control installations required in Section 8(J)(5)(e) must continue until use of the road is discontinued and the road is put to bed by effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to avoid surface water flowing over or under the water bar, and extending a sufficient distance beyond the traveled way so that water does not reenter the road surface.
- (g) Upgrading existing roads. Extension or enlargement of presently existing roads must conform to the provisions of Section 8(J). Any nonconforming existing road may continue to exist and to be maintained, as long as the nonconforming conditions are not made more nonconforming.
- (h) Exception. Extension or enlargement of presently existing roads need not conform to the setback requirements of Section 8(J)(5)(a) if, prior to extension or enlargement, the landowner or the landowner's designated agent demonstrates to the Planning Board's satisfaction that no reasonable alternative exists and that appropriate techniques will be used to prevent sedimentation of the water body, tributary stream, or wetland. Such techniques may include, but are not limited to, the installation of settling basins, and/or the effective use of additional ditch relief culverts and turnouts placed to avoid sedimentation of the water body, tributary stream, or wetland. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (i) Additional measures. In addition to the foregoing minimum requirements, persons undertaking construction and maintenance of roads and river, stream and tributary stream crossings must take reasonable measures to avoid sedimentation of surface waters.

- (6) Crossings of waterbodies. Crossings of rivers, streams, and tributary streams must allow for fish passage at all times of the year, must not impound water, and must allow for the maintenance of normal flows
- (a) Determination of flow. Provided they are properly applied and used for the circumstances for which they are designed, methods including but not limited to the following are acceptable as a means of calculating the 10 year and 25 year frequency water flows and thereby determining water crossing sizes as required in Section 8(J): The United States Geological Survey (USGS) Methods; specifically: Hodgkins, G. 1999. Estimating the Magnitude of Peak Flows for Streams in Maine for Selected Recurrence Intervals. U.S. Geological Survey. Water Resources Investigations Report 99-4008. 45 pp.
  - (b) Upgrading existing water crossings. Extension or enlargement of presently existing water crossings must conform to the provisions of Section 8(J). Any nonconforming existing water crossing may continue to exist and be maintained, as long as the nonconforming conditions are not made more nonconforming; however, any maintenance or repair work done below the normal high-water line must conform to the provisions of Section 8(J).
  - (c) Other Agency Permits. Any timber harvesting and related activities involving the design, construction, and maintenance of crossings on waterbodies other than a river, stream or tributary stream may require a permit from the Land Use Regulation Commission, the Department of Environmental Protection, or the US Army Corps of Engineers.
  - (d) Any timber harvesting and related activities involving the design, construction, and maintenance of crossings of freshwater wetlands identified by the Department of Inland Fisheries and Wildlife as essential wildlife habitat require prior consultation with the Department of Inland Fisheries and Wildlife.
  - (e) Notice to Bureau of Forestry. Written notice of all water crossing construction maintenance, alteration and replacement activities in shoreland areas must be given to the Bureau prior to the commencement of such activities. Such notice must contain all information required by the Bureau, including:
    - (i) a map showing the location of all proposed permanent crossings;
    - (ii) the GPS location of all proposed permanent crossings;
    - (iii) for any temporary or permanent crossing that requires a permit from state or federal agencies, a copy of the approved permit or permits; and
    - (iv) a statement signed by the responsible party that all temporary and permanent crossings will be constructed, maintained, and closed out in accordance with the

requirements of this Section.

- (f) Water crossing standards. All crossings of rivers require a bridge or culvert sized according to the requirements of Section 8(J)(6)(g) below. Streams and tributary streams may be crossed using temporary structures that are not bridges or culverts provided:
  - (i) concentrated water runoff does not enter the stream or tributary stream;
  - (ii) sedimentation of surface waters is reasonably avoided;
  - (iii) there is no substantial disturbance of the bank, or stream or tributary stream channel;
  - (iv) fish passage is not impeded; and,
  - (v) water flow is not unreasonably impeded.

Subject to Section 8(J)(6)(f)(i-v) above, skid trail crossings of streams and tributary streams when channels of such streams and tributary streams are frozen and snow-covered or are composed of a hard surface which will not be eroded or otherwise damaged are not required to use permanent or temporary structures.

- (g) Bridge and Culvert Sizing. For crossings of river, stream and tributary stream channels with a bridge or culvert, the following requirements apply:
  - (i) Bridges and culverts must be installed and maintained to provide an opening sufficient in size and structure to accommodate 10 year frequency water flows or with a cross-sectional area at least equal to 2 1/2 times the cross-sectional area of the river, stream, or tributary stream channel.
  - (ii) Temporary bridge and culvert sizes may be smaller than provided in Section 8(J)(6)(g)(i) if techniques are effectively employed such that in the event of culvert or bridge failure, the natural course of water flow is maintained and sedimentation of the water body or tributary stream is avoided. Such crossing structures must be at least as wide as the channel and placed above the normal high-water line. Techniques may include, but are not limited to, the effective use of any, a combination of, or all of the following:
    - 1) use of temporary skidder bridges;
    - 2) removing culverts prior to the onset of frozen ground conditions;
    - 3) using water bars in conjunction with culverts;
    - 4) using road dips in conjunction with culverts.

- (iii) Culverts utilized in river, stream and tributary stream crossings must:
  - 1) be installed at or below river, stream or tributary stream bed elevation;
  - 2) be seated on firm ground;
  - 3) have soil compacted at least halfway up the side of the culvert;
  - 4) be covered by soil to a minimum depth of 1 foot or according to the culvert manufacturer's specifications, whichever is greater; and
  - 5) have a headwall at the inlet end which is adequately stabilized by riprap or other suitable means to reasonably avoid erosion of material around the culvert.
- (iv) River, stream and tributary stream crossings allowed under Section 8(J), but located in flood hazard areas (i.e. A zones) as identified on a community's Flood Insurance Rate Maps (FIRM) or Flood Hazard Boundary Maps (FHBM), must be designed and constructed under the stricter standards contained in that community's National Flood Insurance Program (NFIP). For example, a water crossing may be required to pass a 100-year flood event.
- (v) Exception. Skid trail crossings of tributary streams within shoreland areas and wetlands adjacent to such streams may be undertaken in a manner not in conformity with the requirements of the foregoing subsections provided persons conducting such activities take reasonable measures to avoid the disruption of shoreline integrity, the occurrence of sedimentation of water, and the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands. If, despite such precautions, the disruption of shoreline integrity, sedimentation of water, or the disturbance of stream banks, stream channels, shorelines, and soil lying within ponds and wetlands occurs, such conditions must be corrected.
- (h) Skid trail closeout. Upon completion of timber harvesting and related activities, or upon the expiration of a Forest Operations Notification, whichever is earlier, the following requirements apply:
  - (i) Bridges and culverts installed for river, stream and tributary stream crossings by skid trails must either be removed and areas of exposed soil stabilized, or upgraded to comply with the closeout standards for land management roads in Section 15(O-1)(6)(i) below.

- (ii) Water crossing structures that are not bridges or culverts must either be removed immediately following timber harvesting and related activities, or, if frozen into the river, stream or tributary stream bed or bank, as soon as practical after snowmelt.
  - (iii) River, stream and tributary stream channels, banks and approaches to crossings of water bodies and tributary streams must be immediately stabilized on completion of harvest, or if the ground is frozen and/or snow-covered, as soon as practical after snowmelt. If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.
- (i) Land management road closeout. Maintenance of the water control features must continue until use of the road is discontinued and the road is put to bed by taking the following actions:
- (i) Effective installation of water bars or other adequate road drainage structures at appropriate intervals, constructed to reasonably avoid surface water flowing over or under the water bar, and extending sufficient distance beyond the traveled way so that water does not reenter the road surface.
  - (ii) Water crossing structures must be appropriately sized or dismantled and removed in a manner that reasonably avoids sedimentation of the water body or tributary stream.
  - (iii) Any bridge or water crossing culvert in roads to be discontinued shall satisfy one of the following requirements:
    - 1) it shall be designed to provide an opening sufficient in size and structure to accommodate 25 year frequency water flows;
    - 2) it shall be designed to provide an opening with a cross-sectional area at least 3 1/2 times the cross-sectional area of the river, stream or tributary stream channel; or
    - 3) it shall be dismantled and removed in a fashion to reasonably avoid sedimentation of the river, stream or tributary stream.

If, despite such precautions, sedimentation or the disruption of shoreline integrity occurs, such conditions must be corrected.

(7) Table Slope

Filter strips, skid trail setbacks, and land management road setbacks must be maintained as specified in Section 8(J), but in no case shall be less than shown

in the following table.

Average slope of land between exposed mineral soil and the shoreline (Percent)	Width of strip between exposed mineral soil and shoreline (Feet along surface of the ground)
0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

**K. Waste Disposal**

No solid, liquid, industrial, petroleum, chemical or hazardous wastes shall be disposed of in the Town of Manchester except for slash resulting from timber harvesting operations, which must be disposed of in accordance with the State Forest Practices Act, as amended.

**L. Wireless Telecommunications Facilities**

**1. Purpose**

These standards are designed and intended to balance the interests of the residents of the Town of Manchester, wireless communications providers and wireless communication customers in the siting of wireless communications facilities within the town. Beyond the objectives described in Article I and in other provisions of this Ordinance, these Wireless Communications Facilities standards are also intended to:

- a. Implement a municipal policy concerning the provisions of wireless telecommunications services, and the siting of their facilities;
- b. Establish clear guidelines, standards and time frames for the town to regulate wireless communications facilities;
- c. Ensure that all entities providing Wireless Communications Facilities within the Town comply with the ordinances of Manchester;

- d. Permit the Town of Manchester to fairly and responsibly protect public health, safety and welfare;
- e. Encourage the siting of Wireless Communications Facilities to co-locate, thus minimizing adverse visual impacts on the community;
- f. Support the goals and policies of the Comprehensive Plan, especially the orderly development of the Town with minimal impacts on existing residential uses;
- g. Protect Manchester's environmental resources and rural character as consistent with the goals and objectives outlined by the Manchester Comprehensive Plan;
- h. Provide for the removal of towers and associated structures that are no longer being used for wireless communications purposes;
- i. Minimize any potential adverse effect of Wireless Communication Facilities on property values; and
- j. Protect the scenic and visual character of Manchester.

2. **Dimensional Standards**

- a. **Height** – The vertical distance between the highest point of a WTF (structure mounted or building mounted) and the mean natural grade at the base of the structure or building shall not exceed one hundred (100) feet, provided, however, (1) if antennas are located on an existing utility structure, including water tower, electrical transmission tower, or utility pole, the vertical height of the existing structure may not be increased by more than ten (10) feet; (2) the highest point of a building mounted WTF on an existing building may not be ten feet higher than the existing building unless the WTF is completely camouflaged as provided in paragraph 3 (a) and (b); and (3) the highest point of structure mounted WTFs shall not exceed ten (10) feet above the average tree canopy height of the trees located within an area defined by a one hundred fifty (150) foot radius or perimeter of the mount, security barrier, or designated clear area for access to equipment, whichever is greatest. Refer to paragraph 6 (c) - Average Tree Canopy Height.
- b. **Reconstruction of Nonconforming WTF** – A non-conforming structure mounted WTF, removed or destroyed for any reason, may be reconstructed subject to site plan review on the same site, provided that it complies with the height restrictions of this Subsection.
- c. **Setbacks:** All WTFs and their equipment shelters shall comply with the building setback provisions of the zoning district in which the facility is located. Fences shall comply with the setback provisions of the zoning district in which the facility is located.

- d. Fall Zone for Structure Mounts: In order to ensure public safety, the minimum distance from the base of any structure-mount of a WTF to any property line, public road, habitable dwelling, business or institutional use, or public recreational area shall be, at a minimum, the distance equal to the fall zone, as defined in paragraph 6 (k). The fall zone may cross property lines, so long as the applicant secures a fall zone easement from the affected property owner(s). The area of the easement shall be shown on all applicable plans submitted to the Town, and the terms of the easement shall be provided as part of the site plan review. Fall zones for WTFs may overlap.
  - e. Fall Zone for Mounts: In the event that an existing structure is proposed as a mount for a WTF, a fall zone shall not be required, but the setback provisions of the zoning district shall apply. In the case of pre-existing nonconforming structures, WTFs and their equipment shelters shall not increase any non-conformities.
3. Performance and Design Standards
- a. Visibility – The applicant is encouraged to utilize enhancements to the property and must demonstrate that every reasonable effort has been made to cause the facility to have the least possible visual impact on the Town.
    - i. Visual impacts are measured on the basis of:
      - 1. Change in community scale, as exhibited in relative height, mass or proportion of the WTF within their proposed surroundings.
      - 2. New visible elements proposed on a contrasting background.
      - 3. Different colors and textures proposed against a contrasting background.
      - 4. Use of materials that are foreign to the existing environment.
    - ii. Enhancements are measured on the basis of:
      - 1. Conservation of opportunities to maintain community scale. e.g. buffering areas and low-lying building should not be compromised so as to start a trend away from the existing community scale.
      - 2. Amount and type of landscaping and/or natural vegetation.
      - 3. Preservation of view corridors, vistas, and view sheds.
      - 4. Continuation of existing colors, textures, and materials.
    - iii. Visibility focuses on:
      - 1. Eliminating or mitigating visual impact.
      - 2. Protecting, continuing, and enhancing the existing environment.

iv. Camouflage for Facilities on Roof of Existing Buildings:

When a WTF extends above the roof height of a building on which it is mounted, every effort shall be made to conceal or camouflage the facility within or behind existing or new architectural features to limit its visibility. Facilities mounted on a roof of a building shall be stepped back from the front façade in order to limit their impact on the buildings' silhouette.

v. Camouflage for Facilities on Side of Existing Buildings:

WTFs mounted on a side of a building, shall blend with the existing building's architecture and the panels shall be painted or shielded with material consistent with the design features and materials of the building. All surfaces shall be non-reflective.

vi. Camouflage for Structure-Mounted Facilities:

All structure-mounted WTFs shall be surrounded by a buffer of dense tree growth that extends continuously for a minimum distance of one hundred and fifty (150) feet from the mount, security barrier, or designated clear area for access to equipment, whichever is greatest, and screens views of the facility in all directions. These trees must be existing on the subject property, planted on site, or be within a landscape easement on an adjoining site.

The one hundred fifty (150) foot vegetative buffer area shall be protected by a landscape easement or be within the area of the WTF owner's lease. The easement or lease shall specify that the trees within the buffer shall not be removed or topped, unless the trees are dead or dying and present a hazard to persons or property.

- b. Color – To the extent that a WTF extends above the height of the vegetation immediately surrounding it, it shall be of a color which blends with the background or surroundings. All surfaces shall be non-reflective.
- c. Equipment Shelters – WTF Equipment shelters shall be designed consistent with one of the following design standards:
- i. Equipment shelters shall be located in underground vaults; or
  - ii. Equipment shelters shall be designed so that the shelters are architecturally consistent, with respect to materials and appearance, to the buildings in the area of the WTF; or

- iii. Equipment shelters shall be camouflaged behind an effective year-round landscape screen, equal to the height of the proposed building and/or fence. The Planning Board shall determine the style of fencing and/or landscape buffer that is compatible with the neighborhood; or
- iv. If mounted on the roof of a building, the equipment shelter shall be concealed or camouflaged so that the shelter either is not visible at grade or appears to be a part of the original structure.

d. Lighting, Signage, and Security

- i. Lighting: The mounts of WTFs shall be lighted only if required by the Federal Aviation Administration (FAA). Lighting of equipment structures and any other facilities on site shall be shielded from abutting properties. Foot-candle measurements at the property line shall be 0.0 initial foot-candles.
- ii. Signage: WTFs shall not contain any permanent or temporary signs, writing, symbols or any graphic representation of any kind except those needed to identify the property and the owner and warn of any danger. All signs shall comply with the requirements of this Ordinance, including Section 6 (D).
- iii. Security Barrier: Structure mounted WTFs shall be enclosed by security fencing equipped with an anti-climbing mechanism.

e. Historic Buildings

- i. An WTF located on or within an historic structure shall not alter the character-defining features, distinctive construction methods, or original historic materials of the building.
- ii. Any alteration made to an historic structure to accommodate a WTF shall be fully reversible.
- iii. WTFs authorized by this subsection shall be concealed within or behind existing architectural features, or shall be located so that they are not visible from public roads and viewing areas.

- f. Scenic Landscapes and Vistas – Structure-mounted facilities shall not be located within open areas that are clearly visible from public roads, recreational areas, nearby or abutting properties unless these WTFs are hidden or disguised in such a way so as to blend in with their surroundings. All structure-mounted WTFs shall be surrounded by a buffer of dense tree growth as provided under paragraph 3(vi).

- g. Driveways – If available, existing entrances and driveways to serve a WTF shall be utilized, unless the applicant can demonstrate that a new entrance and driveway will result in less visual traffic, and environmental impact. New driveways to serve a WTF shall not exceed twelve (12) feet in width. A gravel or crushed stone surface is encouraged.
- h. Antenna Types – Any antenna array placed upon an existing or proposed structure mount, utility pole, or transmission line mount shall have a diameter of no more than four (4) feet, exclusive of the diameter of the mount.
- i. Mounts – All structure mounts shall be of a mast or monopole type mount. Mounts affixed to the roof or side of a building shall be masts only. Lattice towers, guyed towers, and roof mounted monopoles are expressly prohibited, unless constructed as part of a reconstruction of a non-conforming structure permitted under paragraph 2(b).
- j. Hazardous Waste – No hazardous waste shall be discharged on the site of any WTF. If any hazardous materials are to be used on site, there shall be provisions for full containment of such materials. An enclosed containment area shall be provided with a sealed floor designed to contain at least one hundred and ten percent (110%) of the volume of the hazardous materials stored or used on the site.
- k. Noise – WTFs shall not generate noise in excess of limits permitted under Article II, Section 6(K).
- l. Radio Frequency Radiation (RFR) Standards – All equipment proposed for a WTF shall be fully compliant with the FCC Guidelines for Evaluating the Environmental Effects of Radio Frequency Radiation (FCC Guidelines), under *Report and Order*, FCC 93-326, published on August 1, 1996, and all subsequent amendments.
- m. Federal and State Requirements – All WTFs must meet or exceed current standards and regulations of the FAA, FCC and any other agency of the federal or state government with the authority to regulate WTFs. If such standards and regulations are changed, then the owners of the facilities governed by this ordinance shall bring such facilities into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling agency. Failure to bring WTFs into compliance with such revised standards and regulations shall constitute grounds for removal of the WTF as abandoned, in accordance with paragraph 5, at the owner(s) expense through the execution of the posted security.

- n. Building Code – Safety Standards – To ensure the structural integrity of WTFs, the owner of the facility shall ensure that it is maintained in compliance with the standards contained in applicable local building codes and the applicable standards for WTFs that are published by the Electronics Industries Association, as amended from time to time. If, upon inspection, the Town concludes that a WTF fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the WTF, the owner shall have thirty (30) days to bring such WTF into compliance with such standards. If the owner fails to bring such WTF into compliance within thirty (30) days, such action shall constitute an abandonment and grounds for the removal of the facility as abandoned, in accordance with Section 11 of this Article, at the owner(s) expense through execution of the posted security.
  - o. Balloon Test – The Planning Board may require a certified balloon test accurately simulating the height and location of the proposed WTF. Public notice shall be given of the date and time of such test not less than 10 days prior thereto. The applicant shall provide photographs of such test from locations around the Town and within 20 miles from which the balloon(s) is visible.
  - p. Migrating Bird Protection – The applicant shall submit a plan indicating methods that it shall use to mitigate adverse impacts on migrating bird populations.
  - q. The owner of the WTF, as a condition of approval, shall execute an agreement that it will indemnify and hold the Town, its officials and employees harmless from all claims against the Town for personal injury, property damages, and loss, including costs of defense and reasonable attorney’s fees, arising from or related to the construction, operation repair and removal of the WTF or any part thereof.
4. Conditions of Approval
- a. Maintenance – The owner of the facility shall maintain the WTF in good condition. Such maintenance shall include, but shall not be limited to, painting, structural integrity of the mount and security barrier, maintenance of the buffer areas, landscaping, and camouflage materials. The Planning Board may direct the owner to perform maintenance that it determines to be required.
  - b. Monitoring – The property owner and the owner of the WTF shall agree that the Town and its appointed representative(s) may enter the subject property to obtain RFR measurements, noise measurements, and to perform maintenance and safety inspections at the expense of the carrier. In the case of taking RFR and or noise measurements, the Town may enter without any advance notice to either the WTF owner or the property owner. In all other

cases, the Town shall provide reasonable written notice to the carrier and landowner and provide them the opportunity to accompany the Town representatives when the inspections are conducted.

- c. Security for Removal – Recognizing the hazardous situation presented by abandoned and unmonitored telecommunications facilities, the Planning Board shall set the form and amount of security that represents the cost for removal and disposal of abandoned telecommunications facilities in the event that a facility is abandoned and the facility owner is unwilling or unable to remove the facility in accordance with Section 11.2. The amount of the security shall be based upon the removal cost plus, fifteen percent (15%) provided by the applicant and certified by a professional civil engineer licensed in Maine. The owner of the facility shall provide the Planning Board with revised removal cost estimate and structural evaluation prepared by a professional civil engineer licensed in Maine every five (5) years from the date of the Planning Board’s approval of the site plan. If the cost has increased more than fifteen percent (15%) then the owner of the facility shall provide additional security in the amount of the increase.
  
- d. Antenna Installation – An antenna or antenna array may be located, without further approval, on any structure mounted WTF legally existing prior to June 23, 2001, and on any WTF subsequently approved under the provisions of this Ordinance, provided that:
  - i. All carriers using the WTF comply with provisions of this Ordinance including the requirements of co-location;
  - ii. All carriers using the WTF comply with the terms and conditions of approval of the WTF by the Planning Board; and
  - iii. There is no increase in the WTF’s height, carrier capacity, or area of the security barrier.

Otherwise, site plan review and approval is required.

#### **4. Commencement, Abandonment, or Discontinuation of Use**

- a. Commencement of Operation – Operation of a WTF shall commence no later than nine (9) months from the date the application was approved. If the WTF is not operating and providing the citizens of the Town with Personal Wireless Services, as defined, within this time period, the Planning Board, at its discretion, may revoke its approval, regardless of whether construction has begun.

- b. Notification of Continued Use – Beginning 12 months after Planning Board approval and continuing on an annual basis thereafter, the owner of a WTF shall provide the Planning Board with written, signed certification that the WTF is being used to provide Personal Wireless Services as defined. Failure to comply with this requirement shall constitute an admission that the WTF is not in use and has been abandoned.
- c. Discontinuance – At such time that the owner plans to discontinue operation of a WTF, the owner will notify the Town by certified U. S. Mail of the proposed date of discontinuation of operations. Such notice shall be given no less than thirty (30) days prior to discontinuation of operations. In the event that the owner fails to give such notice, the WTF shall be considered abandoned upon such discontinuation of operations.
- d. Removal – Upon abandonment or discontinuation of use, the owner of the facility shall physically remove the WTF within ninety (90) days from the date of abandonment or discontinuation of use. “Physically remove” shall include, but not be limited to:
  - i. Removal of antennas, mount, equipment shelters and security barriers from the subject property.
  - ii. Proper disposal of the waste materials from the site in accordance with local and state solid waste disposal regulations.
  - iii. Restoring the site of the WTF to its natural condition, except that any landscaping and grading shall remain in the after-condition.
- e. Failure to Remove – If the owner of the facility does not remove the facility upon the Planning Board’s order, then the Board of Selectmen shall, after holding a public hearing with notice to the owner and abutters, issue a declaration of abandonment. The owner of the facility shall dismantle and remove the facility within ninety (90) days of receipt of the declaration of abandonment by the Board of Selectmen. If the abandoned facility is not removed within ninety (90) days, the Town may execute the security to pay for this action.
- f. Failure to Maintain – If the owner of the facility fails to maintain the facility in accordance with the directions of the Planning Board pursuant to paragraph 4 (a), then the Board of Selectmen, shall after holding a public hearing with notice to the owner and abutters, issue a declaration of abandonment. The owner of the facility shall dismantle and remove the facility within ninety (90) days of receipt of the declaration of abandonment by the Board of Selectmen. If the abandoned facility is not removed within ninety (90) days, the Town may execute the security to pay for this action.

6. Definitions –This section has been moved to the Definitions Section at the end of the ordinance.

**M. Sexually Oriented Businesses**

1. Findings

There is convincing documented evidence that sexually oriented businesses, because of their very nature, have negative secondary effects on surrounding areas. Research and studies of municipalities throughout this country indicate that the presence of sexually oriented businesses is consistently and strongly associated with perceived decreases in value of both residential and commercial properties and the facilitation of illicit and undesirable activities. This evidence is relevant to issues facing the Town. It is recognized that sexually oriented businesses can adversely affect the character and quality of life of a town and can be incompatible with surrounding uses, particularly when the sexually oriented businesses are located in proximity to residences, day care centers, schools, houses of worship, public parks or recreational areas, or another sexually oriented business. A police power ordinance is a proper and reasonable means of controlling the negative secondary effects of sexually oriented businesses.

2. Purpose

The regulations of this Article are not directed at the content of speech, but are directed at the negative secondary effects of sexually oriented businesses. The purpose of this Article is to regulate the time, place and manner of operation of sexually oriented businesses. It is intended to regulate and to annually license sexually oriented businesses; and to prevent their location in proximity to residences, day care centers, schools, houses of worship, public parks or recreational areas, or another sexually oriented business. Regulation of these uses is necessary to insure that the negative secondary effects will not contribute to the blighting or downgrading of the surrounding areas or the Town at large. The purpose of this Article is not to prohibit sexually oriented businesses from operating in the Town, but to regulate their location and manner of operation while providing a reasonable opportunity for such businesses to exist.

3. Definitions - **This section has been moved to the Definitions Section at the end of the ordinance.**

4. Prohibited Sites, Site Requirements

- a. A sexually oriented business may not be sited within 1,000 feet of the lot lines of any of the following:

- i. a church, synagogue or other house of religious worship;
- ii. a public or private elementary or secondary school;
- iii. a residence;
- iv. a day care facility;
- v. a public park or public recreational facility;
- vi. another sexually oriented business.

The distance cited in this section shall be measured between any structure used as a sexually oriented business and the lot line of the site of the use listed in (i) through (vi) above at their closest points.

- b. A sexually oriented business must have a separate driveway entrance, parking area and signage at least 200 feet from any driveway entrance or signage of any of the following:
  - i. a church, synagogue or other house of religious worship;
  - ii. a public or private elementary or secondary school;
  - iii. a residence;
  - iv. a day care facility;
  - v. a public park or public recreational facility;
  - vi. another sexually oriented business.
- c. A sexually oriented business must have a continuous 6 foot high solid fence around any buildings or parking areas.
- d. A lawfully existing sexually oriented business, at the time of renewal of a not yet expired valid license, shall not be in violation of the site requirements of this Section by the subsequent location of a residence, day care center, school, house of worship, or public park or recreation area, at a site that would otherwise conflict with the site requirements of this Section.

5. Interior Layout of Sexually Oriented Business.

- a. Any sexually oriented business having available for customers, patrons or members, any booth, room or cubicle for any private viewing of any adult entertainment shall comply with the following requirements:
  - i. Access. Each booth, room or cubicle shall be totally accessible to and from aisles and public areas of the sexually oriented business, and shall be unobstructed by any door, lock or other control-type devices.
  - ii. Construction. Every booth, room or cubicle shall meet the following construction requirements:
    - (a) Each booth, room or cubicle shall be separated from adjacent booths, rooms and cubicles and any non-public areas by a

wall.

- (b) Each booth, room or cubicle must have at least one side totally open to a public lighted aisle so that there is an unobstructed view at all times of anyone occupying the booth, room or cubicle.
      - (c) All walls shall be solid and without any openings, extended from the floor to a height of not less than six feet and be light-colored, non-absorbent, smooth textured and easily cleanable.
      - (d) The floor must be light-colored, non-absorbent, smooth textured and easily cleanable.
      - (e) The lighting level of each booth, room or cubicle, when not in use shall be a minimum of ten foot candles at all times, as measured from the floor.
    - iii. Occupants. No more than one individual shall occupy a booth, room or cubicle at any time. No occupant of a booth, room or cubicle shall engage in any type of sexual activity, cause any bodily discharge or litter while in the booth. No individual shall damage or deface any portion of the booth.
  - b. Any adult motion picture theater shall comply with the following requirements:
    - i. Aisle lights and overhead lights in the theater shall be kept on during business hours and shall illuminate to a minimum of ten-foot candles except when motion pictures are being shown;
    - ii. No standing shall be allowed in the theater;
    - iii. Signs shall be posted warning patrons that sexual activity is prohibited in the theater, and informing them of the presence of surveillance cameras; and
  - iv. Theater employees shall regularly patrol the theater during business hours and eject persons found to be engaged in sexual intercourse, a sexual act, sexual contact or any criminal activity. Incidents of sexual intercourse, sexual acts, sexual contact or criminal activity in the theater shall be immediately reported to a law enforcement officer.
    - c. Rest rooms must be individual rooms and shall not contain facilities for more than one person at a time. No more than one person may be in the rest room with the door closed at any time.

6. Prohibited Activities.

- a. All acts of public indecency, as defined in 17-A M.R.S.A. §854, are prohibited in sexually oriented businesses.
- b. Dancers, performers, employees, owners or officers of a sexually oriented business shall not fondle or caress any patron or client, and patrons and clients shall not fondle or caress dancers, performers, employees, owners or officers of the sexually oriented business.
- c. Dancers, performers, employees, owners or officers of a sexually oriented business shall not commit or perform, or offer or agree to commit or perform, any specified sexual activity either alone or with each other or any patron or client of the sexually oriented business; and
- d. Patrons and clients of sexually oriented businesses shall not commit or perform, or offer or agree to commit or perform, any specified sexual activity either alone or with any dancer, performer, employee, owner, officer, patron or client of the sexually oriented business.

7. Dancers and Other Performers.

A sexually oriented business must observe the following restrictions on dancers and other performers:

- a. All dancing or other performances must occur on a platform intended for that purpose which is raised at least two feet from the level of the floor.
- b. No dancing or other performance shall occur closer than ten feet from any patron, and no patron shall be allowed to be closer than ten feet from any dancer or other performer.

8. License Required.

A person wishing to operate a sexually oriented business shall obtain an annual municipal license prior to opening the person's establishment.

9. Standards for Suspension; Revocation.

A sexually oriented business license may be suspended or revoked by the Board of Selectmen after notice and hearing upon a finding that the licensee has violated any provision of this Article.

10. Age Restriction.

No sexually oriented business may permit any person under the age of 18 years on the premises at which the sexually oriented business is located.

11. Display of License; Prices charged and names of owners or officers to be prominently displayed.

A sexually oriented business licensee must display the sexually oriented business license at all times in an open and conspicuous place in the sexually oriented business for which the license has been issued. Sexually oriented business licensees must also display at all times in an open and conspicuous place in the sexually oriented business a complete list of the names of owners and officers of the sexually oriented business and a complete list of fees, prices and charges for all food, beverages, goods, wares, merchandise or services offered by the business.

**N. SMALL WIND ENERGY SYSTEM REQUIREMENTS**

A small wind energy system means a system of equipment located on a single lot that as a aggregate rated capacity of not more than 100 kW that converts and then stores or transfers energy from the wind into usable forms of energy. For the purpose of this ordinance, Small Wind Energy Systems shall be considered a structure and shall meet all dimensional requirements of applicable districts.

1. Permitted Locations: A small wind energy system is permitted in any zoning district.
2. Minimum Lot Size: No wind energy system shall be erected on any lot less than one acre in size.
3. Total Height: For property sizes between one acre and two acres, the total height shall not exceed 45 feet. For property sizes between two and five acres, the total height shall not exceed 60 feet.
4. Number of Systems: For property sizes equal to or greater than five acres the total number of small wind energy systems shall not exceed three. Each system shall be separated at its base by 1.2 times its total height.
5. Setbacks:
  - a. Property lines: A small wind energy system shall be set back from the nearest inhabited building not less than 1.5 times its total height except when that system is designed to be mounted on a structure then it must meet dimensional requirements of the respective zone.
  - b. Inhabited Structures: A small wind energy system shall be set back from the nearest inhabited building not less than 1.5 times its total height.
6. Design Standards.
  - a. Monopole Design: The design of the small wind energy system shall be of a monopole design without guy wires.
  - b. Minimum Blade Height: The minimum height of the lowest extent of a turbine blade shall be 20 feet above the ground or 20 feet above the highest point of any structure or obstacle within 20 feet from base of the turbine.
  - c. Access: No tower shall have a climbing apparatus within 12 feet of the ground. All access doors or access ways to towers and electrical equipment shall be lockable.
  - d. Noise: No small wind energy system shall exceed Article II Section 6, K. Noise Abatement.

- e. Visual Appearance: Small wind energy systems shall be finished in a rust-resistant, non-obtrusive finish and color that is non-reflective. No small wind energy system shall be lighted unless required by the FAA. No advertising signs of any kind or nature whatsoever shall be permitted on any small wind energy system.
  - f. Electrical Interconnections: All electrical interconnection or distribution lines shall be underground and comply with all applicable codes and public utility requirements.
  - g. Signal Interference: Efforts shall be made to site small wind energy systems to reduce the likelihood of blocking or reflecting television and other communication signals. If signal interference occurs, both the small wind energy system owner and individual receiving interference shall make reasonable efforts to resolve the problem. No small wind energy system shall cause permanent and material interference with television or other communication signals.
  - h. Over speed Controls: Every small wind energy system shall be equipped with both manual and automatic over speed controls.
7. Permit Applications. Application for a small wind energy system shall include the following information.
- a. **Site plan** to scale showing the location of the proposed small wind energy system and the locations of all existing buildings, structures and property lines along with distances.
  - b. **Elevations** of the site to scale showing the height, design and configuration of the small wind energy system and the height and distance to all existing structures, buildings, electrical lines and property lines.
  - c. **Standard drawings** and an engineering analysis of the systems tower including weight capacity.
  - d. A **standard foundation** and anchor design along with soil conditions and specifications for the soil conditions at the site.
  - e. **Specific information** on the type, size, rotor material, rated power output, performance, safety and noise characteristics of the system including the name and address of the manufacturer, model and serial number.
  - f. **Emergency** and normal shutdown procedures.
  - g. A **line drawing** of the electrical components of the system in sufficient detail to establish that the installation conforms to all applicable electrical codes.

- h. **Evidence** that the provider of electrical service of the property has been notified of the intent to install an interconnected electricity generator unless the system will not be connected to the electricity grid.
- i. If the CEO determines that the small wind energy system has been abandoned, the Owner of the small wind energy system shall remove the wind generator and the tower at the Owner's sole expense within 6 months after the Owner receives the Notice of Abandonment.

## **O. MASS GATHERING ORDINANCE**

### **I. STATEMENT OF PURPOSE**

The Town of Manchester is concerned about the adverse effect to the general health and safety of the community that may result from large crowds which attend outdoor events, including but not limited to, exhibitions, festivals, music concerts and fairs. Large gatherings may lead to sanitation problems, resulting from inadequate waste disposal, insufficient drinking water and ill-equipped first aid facilities. Such gatherings may also threaten the safety of the community through the obstruction of roads, violation of liquor and drug laws, and destruction of property. Therefore, the following ordinance is hereby ordained for the purposes of protecting the general welfare, preventing disease, promoting health and providing for the public safety.

### **II. REQUIREMENT OF A LICENSE FOR LARGE OUTDOOR EVENTS**

- A. No person or group of persons may sponsor, promote, operate or hold any activity which 250 or more people are reasonably expected to attend and in which a substantial portion of the entertainment or the people attending will be out-of-doors unless a license is first obtained from the Board of Selectman of the Town of Manchester.
- B. The licensing procedure will be administered in the following manner:
  - 1. The person or group of persons seeking a license must file an application form with the Town Clerk of the Town of Manchester no less than 45 days before the proposed commencement of the outdoor event.
  - 2. The non-refundable fee for the license shall be \$100.00 and must accompany the application therefore.
  - 3. Before a license may be issued, the Board of Selectman may hold a public hearing in order to review the application and determine the conditions required to safeguard the public health, safety and welfare. The appropriate Town officials shall prepare and have ready for the public review their finding after inspecting the site and review of the application. The license applicants have the right to attend and to represent their interests at such hearing. After assessing the possible effects that the proposed event may have on the public's health, safety and welfare, the Board of Selectman

may deny the permit or grant the permit, or grant the permit and impose such reasonable conditions on the issuance of a license as would safeguard the public interest; including requiring the applicant to:

- a. Post a corporate bond from a company authorized to do business in Maine, to ensure prompt cleaning of the grounds after the close of the outdoor event, and to ensure prompt payment for all damages caused by any attendee or employee to public or private property in the vicinity resulting from or in connection with the licensed event. The surety shall be to the benefit of the Town and shall allow the Town to draw on the funds if actions are not taken within three (3) working days after the event.
- b. Agree and hire security guards, police, firefighters, emergency medical personnel at the expense of the licensee. The number and qualifications of personnel shall be determined by the approved agency providing the service.
- c. Demonstrate, by means of a written descriptive plan, that adequate facilities will be provided at the site of the outdoor event, in order to protect the health of the people who attend, including:
  1. Adequate waste disposal facilities;
  2. Adequate fire fighting equipment and personnel;
  3. Adequate water supplies;
  4. Adequate first aid facilities; and
  5. Adequate communication facilities.
- d. Provide notice to the appropriate town, county and state officials, as named by the Board of Selectman of Manchester.
- e. File proof of authority from landowners whose property will be used in holding the outdoor event.
- f. Demonstrate in a written descriptive plan that adequate parking space will be available. Permission from any property owner whose property will be used for parking must also be included.

### III. EXEMPTIONS

All outdoor events, festivals, music concerts, fairs and other large gatherings sponsored and under the direct supervision of the Town of Manchester including the School Department shall be exempt from the provisions of this ordinance.



Town of Manchester, Maine  
P.O. Box 18, Manchester, ME 04351  
207-622-1894

**APPLICATION FOR PERMIT TO CONDUCT AN OUTDOOR MASS GATHERING**

*Pursuant to the Town of Manchester's Outdoor Mass Gathering Ordinance*

Dated Application Submitted: \_\_\_\_\_

Gathering

Name: \_\_\_\_\_

Date(s) Gathering Will Be

Held: \_\_\_\_\_

Hours of Operation: \_\_\_\_\_ Will the event be held after daylight hours?  Yes  No

Gathering Site

Address: \_\_\_\_\_

Gathering Property Owner Name: \_\_\_\_\_

*Owner refers to any person, who alone, or severally with others, has legal title to the premises where the mass gathering will take place. This can be a person or group who has charge or control of the property such as the owner's agent or lessee.*

Owner Address \_\_\_\_\_

Owner Phone Number \_\_\_\_\_ Owner E-mail \_\_\_\_\_

Address \_\_\_\_\_

If you are not the Property Owner, please provide a written statement stating you have permission to use the property.

**Organizer Information.**

*The Organizer includes any person who holds, stages or sponsors an outdoor mass gathering and the owner, lessee or possessor of the real property upon which the outdoor mass gathering is to take place. The Organizer shall establish a headquarters at the gathering site and the Organizer or Organizer's designee shall be present at the gathering at all times during operating hours.*

Organizer Name: \_\_\_\_\_

Address: \_\_\_\_\_ Phone Number \_\_\_\_\_

E-mail \_\_\_\_\_

Address \_\_\_\_\_

Contact Person (Person-in-charge) \_\_\_\_\_ Contact Person's Phone Number \_\_\_\_\_

Contact Person's Phone Number While at the Event \_\_\_\_\_

**Gathering Details**

Purpose of Gathering (run, walk, fair, concert, etc.) [provide details]:

\_\_\_\_\_

Maximum Number of Attendees at Any Given Time: \_\_\_\_\_

How long is an attendee likely to be on the site? (Hours): \_\_\_\_\_

Maximum Number of Attendees Expected Each Day: \_\_\_\_\_  
Maximum Number of Attendees Over the Entire Gathering: \_\_\_\_\_

**Public Safety**

What agency(s) will be providing for public safety?

- Police/ Security \_\_\_\_\_
- Fire \_\_\_\_\_
- Emergency Medical \_\_\_\_\_

How many first aid stations will be provided? \_\_\_\_\_

**Please attach** - Supporting documentation from the agency(s) which states the agency will be providing the service and that they can provide the appropriate number of qualified personnel for the respective event.

**Solid Waste Clean Up**

Will the Organizer handle solid waste management and site clean-up?  Yes  No

If no, who is the contractor, under written contract with the Organizer that will handle the solid waste and site clean-up? \_\_\_\_\_

How many, and what type, trash containers will be on site?

\_\_\_\_\_

**Food/Water Information**

What will be the source of the required water supply? \_\_\_\_\_

*[The Organizer shall provide and strategically locate drinking water stations.]*

Will food be sold at the event?  Yes  No

Will alcoholic beverages be sold / allowed on the premises?  Yes  No

Will electricity be provided for the food booths?  Yes  No

If no, who will provide the electricity? \_\_\_\_\_

**Miscellaneous Information**

Will amplified sound or a public address system be used?  Yes  No

*Amplified sound cannot exceed Noise Standards of the Town of Manchester's Land Use Ordinance.*

Will there be fireworks?  Yes  No

If yes, what time? \_\_\_\_\_ How long? \_\_\_\_\_

Will animals be present?  Yes  No

If yes, how will the animals be involved? \_\_\_\_\_

Will there be overnight camping?  Yes  No

What electrical source will be used?  Yes  No

***I hereby certify that all information reported in the above list (and/or attachments included) is true and correct to the best of my knowledge and belief.***

**Dated:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

**P. PEDDLER AND ITINERANT VENDORS**

**I. Definitions – This section has been moved to the Definitions section at the end of the ordinance.**

**II. Location of Peddler or Vendor**

- A. The location of all activity, sales, or operations shall not interfere with the safe flow of pedestrian and vehicular traffic.
- B. Access or exit entrances on a state road must be reviewed and approved by the local authorities and by the Department of Transportation if required.

- C. Adequate off-street and/or on street parking shall be provided so as not to interfere with the flow of traffic. Adequate sight distances shall be provided for traffic entering and exiting the site.
- D. No activity including parking areas, signs, display of goods or any other advertisements shall interfere with the flow of traffic. All signs must conform to the Town of Manchester ordinances.
- E. All activity shall meet dimensional standards of the Manchester Land Use Ordinance unless an exception is approved by the Planning Board.
- F. There shall be a minimum of 500 feet between sites. There may be more than one vendor on a site with the approval of the Planning Board.
- G. Written evidence of the approval of the landowner by either lease or rental agreement shall be presented with the application for the license.

### **III. Hours of Operation**

- A. The hours of operation shall be limited to the hours between 5:00 a.m. and 10:00 p.m.

### **IV. Waste Disposal**

- A. All solid waste, including but not limited to trash, food waste, paper, plastic, etc. shall be removed from the site each day and disposed of in a legal manner.
- B. When a vendor is required to be licensed to sell a consumable product by the State and is in place or on-site for more than one hundred and twenty (120) days per year, all requirements for residential/commercial structures shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal rules or the vendor must be served by public sewage facilities.
- C. If a portable toilet is located on the property, it must have a suitable buffer or screen.

### **V. Other**

- A. Before a vendor's license is approved, all personal, excise and real estate taxes shall be paid and up-to-date by the owner of said leased or rented property.
- B. The burden of proof that a proposed land use activity is in conformity with the purposes and provisions of the Manchester Land Use Ordinance relating to Peddlers and Itinerant Vendors lies with the applicant.
- C. Any licensed peddler or vendor who operates longer than seven (7) months during a calendar year must discontinue the operation until reviewed and approved by the Manchester Planning Board. Any license issued under this ordinance will not be extended beyond the planned seven (7) month period.
- D. A Peddler and Itinerant Vendor license will not be issued for any business that can reasonably be expected to continue to operate for more than seven months.

### **Q. Yard Sale Ordinance**

#### **Section 1. Purpose.**

The purpose of this ordinance is to establish procedures for yard sales.

**Section 2. Definitions.**

Unless the context specifically and clearly indicates otherwise, the meaning of the terms used in this ordinance shall be as follows:

**2.1 Yard Sale:** The term "yard sale" shall include "garage sale", "tag sale", "barn sale", "lawn sale", and "rummage sale". A yard sale is an event to sell used and unwanted personal goods.

**Section 3. Restrictions.**

**3.1** Yard sales shall not be open for business more than three (3) consecutive days during one (1) week, and no more than six (6) sales per year on any single property or by any resident. The ensuing sale must take place a minimum of thirty (30) days after the last day of the prior sale. Yard sales shall be permitted between sunrise and sunset only.

**Section 4. Fines.**

**4.1** A fine of \$100.00 per day will be placed on any person that violates the yard sale ordinance after first being notified by the Code Enforcement Officer or an authorized Town of Manchester representative.

**Section 5. Applications.**

**5.1** Notification prior to sale to town office during normal business hours. There is no application fee.

**Section 6. Signs.**

**6.1** Signs intended for yard sale advertisement may be posted 48 hours prior to sale. Signs may remain in place no longer than 24 hours after the yard sale has ended, and removal is the responsibility of the yard sale holder.

**ARTICLE III. SITE PLAN REVIEW**

**Section 1. Purpose**

The purposes of Site Plan Review are to:

- A. Provide a level of municipal review that would not otherwise occur for projects that could adversely impact the surrounding Community as a whole;
- B. Maintain/protect the Town's rural character and natural resources, including scenic and historic resources, by requiring that structures, signs and other alterations on, or to the land, are sited and developed in accordance with certain standards.
- C. Promote and protect the health, safety and welfare of the Townspeople.

**Section 2. Applicability**

This Article shall apply to any proposed use, listed in the Table of Permissible Uses (Article II, Sec. 4), which is marked as requiring Site Plan Review.

**Section 3. Classification of Projects**

Projects subject to Site Plan Review shall be divided into two (2) classes: minor developments and major developments.

Minor developments shall include:

- A. projects involving the construction, addition or conversion of less than five-thousand (5,000) square feet of gross floor area;
- B. projects involving the construction or installation of less than five-thousand (5,000) square feet of impervious surfaces; or
- C. Projects involving the construction or establishment of less than (10) lots or dwelling units except for any of the above projects which are deemed by the Planning Board to require review as a major development in order to protect the health, safety and welfare of the citizens of Manchester.

Major developments shall include all other projects or uses requiring Site Plan Review.

**Section 4. Administration**

**A. Pre-Application Meeting.**

- 1. Applicants are required to schedule a meeting with the Planning Board, prior to a formal submission for review, so as to discuss their plans and gain an understanding of the review procedures, requirements and standards.
- 2. During this pre-application meeting, the Planning Board will determine the appropriate procedural and administrative process for the proposed development. In addition, the Planning Board may waive specific application requirements when an applicant can show that such requirements are not relevant to the proposed project.

**B. Applications in Writing.**

All applications for Site Plan Review shall be made in writing to the Code Enforcement Officer on the forms provided for this purpose. Applications shall be made by the owner of the property, or his agent, if so authorized in writing by the owner.

The Code Enforcement Officer shall make an initial determination of the completeness of the application, which shall then be subject to the determination of the Planning Board. If an application is not complete, it shall be held by the Code Enforcement Officer and returned to the applicant to inform the applicant in writing the additional information required. When an application is determined to be complete, including all documentation required by this Article, the Planning Board, at its next regular meeting shall issue a dated receipt to the applicant. Unless the applicant and Board agree to an extension, the Board shall (within sixty [60] days of the dated receipt) act to approve or disapprove the Site Plan Application in accordance with this Article.

For major development activities, applications for Site Plan Review shall not be submitted until a Site Inventory and Environmental Assessment is first submitted to the Code Enforcement Officer and reviewed by the Planning Board. The Planning Board shall act on the completeness of the Site Inventory and Environmental Assessment within thirty (30) days of its receipt.

**C. Notice to Property Owners.**

The Planning Board shall mail all property owners within five hundred (500) feet of the lot notice of consideration of an application for Site Plan Review; except for residential applications in the Shoreland and Resource Protection District, the abutter notification requirement shall be reduced to two hundred feet (200'). This notice shall indicate the time, date, and place of Planning Board consideration of the application.

**D. Independent Review and Advice.**

1. Professional Services. The Planning Board may require that an attorney or consultant review one or more aspects of an application for compliance, or noncompliance with this Ordinance and to advise the Board. The attorney or consultant shall first estimate the cost of such review and the applicant shall deposit, with the Town, the full estimated cost, which the Town shall place in an escrow account. The Town shall pay the attorney or consultant from the escrow account and reimburse the applicant if funds remain after payment.
2. Additional Studies. The Planning Board may require the applicant to undertake any study which it deems reasonable and necessary to demonstrate and ensure that the requirements of the Ordinance are met. The costs of such studies shall be borne by the applicant.

**E. No "E" from original Land Use and Development Ordinance dated June 29, 1992.**

**F. Public Hearing.**

Prior to taking final action on any Site Plan Review Application, the Planning Board may hold a hearing to afford the public an opportunity to comment on the application. In review of subdivision applications, notice of public hearings will be provided in accordance with applicable provisions of MRSA, Title 30A, §4403.

**G. Financial Guarantee.**

Prior to final approval of any plan, the Planning Board may require the applicant to provide a financial guarantee, in such amount as is reasonably necessary, to ensure completion of all improvements in accordance with Section 9 of this Article.

**H. Conditions.**

The Planning Board may attach reasonable conditions to Conditional Use or Special Exception Permits to ensure compliance with the standards and criteria of this Article.

**I. Expiration of Permits.**

All permits issued by the Planning Board shall expire within two years of the date of issuance, unless work there under is commenced within that period. If work is not completed according to the schedule, if any, set forth in the approval, a new or amended application must be filed with the Board.

**J. Access.**

The Town shall have access to the site at all times to review the progress of the work and shall have the authority to review all records and documents related to the project.

<b>Section 5. <u>Contents of Site Inventory and Environmental Assessment for Major Development Activities</u></b>
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The Site Inventory and Environmental Assessment for major developments is intended to provide both the applicant and the Planning Board with an understanding of the site and the opportunities of and constraints on its potential use.

The Site Inventory and Environmental Assessment shall contain, at least, the following information:

1. The name(s), address(es) and phone number(s) of the owner(s) of record and the applicant, if different.

2. The name(s), address(es) and phone number(s) of all consultants working on the project.
3. An accurate scale plan of the parcel, at a scale of not more than one-hundred (100) feet to the inch, showing at least:
  - a. the name of the development, north arrow, date and scale;
  - b. the boundaries of the parcel;
  - c. the topography of the site at an appropriate contour interval (2' to 5') depending on the proposed use and the character of the site;
  - d. manmade and natural features of the site and within 1,000 feet of the site, including dwellings, farms, roads, wetlands, streams, ponds, flood plains, groundwater aquifers, scenic resources, and significant wildlife habitats;
  - e. any legal restrictions or benefits (e.g. easements) attached to the site;
  - f. the location and size of existing utilities or improvements servicing the site;
  - g. if on-site sewage disposal is proposed, soils information to identify those portions of the site which are suitable and those which are unsuitable for on-site disposal systems;
  - h. areas of potential off-site conflicts or concerns (e.g., noise, lighting, traffic), and
  - i. name of any proposed road, roadway, or street according to the addressing standards as established in the Town of Manchester Addressing Ordinance.
4. A narrative describing the existing conditions of the site and surrounding area, the proposed use, and the constraints and opportunities of the site and surrounding area, including: any traffic studies, utility studies, market studies or other preliminary work that will assist the Planning Board in understanding the site and surrounding area, and the proposed use.
5. Nine (9) copies of the Site Inventory and Environmental Assessment shall be submitted.

<b>Section 6. <u>Review of Site Inventory and Environmental Assessment for Major Development Activities</u></b>
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The Planning Board shall review the Site Inventory and Environmental Assessment to determine if it provides a clear statement of the opportunities and constraints of the site for the proposed use. If additional information or analysis is required, the Planning Board shall advise the applicant in writing.

Based on its review of a complete Site Inventory and Environmental Assessment, the Board shall advise the applicant in writing of the issues and constraints that must be addressed in the formal Site Plan Review Application.

### **Section 7. Site Plan Review Application**

Applications for Site Plan Review follow the format of Article III, Section 7, A-G; whatever is applicable, unless a proposal is a minor Shoreland Zoning project which will require a specific form instead. The complete application form, required fees, and the required plans and related information shall be submitted to the Code Enforcement Officer, who shall make a record of its receipt and forward the application to the Chairman of the Planning Board.

The Planning Board may modify or waive any of the following submission requirements if it determines that, because of the size of the project or circumstances of the site such requirement(s) would not be applicable or would be an unnecessary burden upon the applicant and would not adversely affect the abutting landowners or the health, safety, and welfare of the Town.

The submission shall contain at least the following exhibits and information:

1. Two (2) copies of the completed and signed application form (with any attachments) and two (2) sets of maps or drawings, all of which shall contain the information listed below, unless additional copies are requested by the Board.
2. One (1) original of all maps and drawings on durable, permanent, transparency material.

The maps or drawings shall be at a scale sufficient to allow review of the items listed under approved criteria, but in no case shall be more than fifty (50) feet to the inch for that portion of the tract of land being proposed for development.

- a. All plans submitted for Planning Board Approval shall contain the following standard note: The property shown on this plan may be developed and used only as depicted on this approved plan. All elements and features of the plan and all representations made by the applicant concerning the development and use of the property which appear in the record of the Planning Board proceedings are conditions of approval. No change from the conditions of approval is permitted unless an amended plan is first submitted to and approved by the Planning Board.

Applicants of major developments shall submit an electronic scan of site plans.

**A. General Submission Information.**

1. Name(s), address(es) and phone number(s) of record owner(s) and of applicant, if different.
2. The name of the proposed development.
3. Names and addresses of all property owners within five hundred (500) feet of the edge of the property lines of the proposed development.
4. Sketch map showing general location of the site within the Town.
5. Boundaries of all contiguous property under the control of the owner or applicant, regardless of whether all or part is being developed at this time.
6. The tax map and lot number of the parcel or parcels.
7. A copy of the deed to the property, option to purchase the property or other documentation to demonstrate right, title or interest in the property on the part of the applicant.
8. The name, registration number and seal of the land surveyor, architect, engineer and/or similar professional who prepared any plan.
9. The name of any proposed road, roadway, or street according to the addressing standards as established in the Town of Manchester Addressing Ordinance.

**B. Existing Conditions**

1. The bearings and distances of all property lines of the property to be developed and the source of this information.
2. Location and size of any existing sewer and water mains, culverts and drains that will serve the development whether on or off the property, along with the direction of existing surface water drainage across the site.
3. Location, names, and present widths of existing streets and rights-of-way within or adjacent to the proposed development.
4. The location, dimensions and ground floor elevations Above Ground Level (AGL) of all existing buildings on the site.
5. The location and dimensions of existing driveways, streets, parking and loading areas and walkways on the site.
6. Location of intersecting roads or driveways within two hundred (200) feet of the site.

7. The location of open drainage courses, wetlands, stands of trees, and other important natural features, with a description of such features to be retained.
8. The location, front view and dimensions of existing signs.
9. The location and dimensions of any existing easements and copies of existing covenants or deed restrictions.

**C. Proposed Development Activity.**

1. The location of all building setbacks, yards and buffers, required by this or other Town Ordinances.
2. The location, dimension, and ground flood elevations (AGL) of all proposed buildings.
3. The location and dimensions of proposed driveways, parking and loading areas, and walkways.
4. The plan for any proposed road, roadway, or street shall contain lines or dots at fifty (50) foot intervals in the center of any proposed road, roadway, or street to aid in the assignment of numbers to structures subsequently constructed according to the addressing standards as established in the Town of Manchester Addressing Ordinance.
5. Name of any proposed road, roadway, or street according to the addressing standards as established in the Town of Manchester Addressing Ordinance.
6. The location and dimensions of all provisions for water supply and wastewater disposal.
7. The direction and route of proposed surface water drainage.
8. The location, front view, and dimensions of proposed signs.
9. The location and type, height and lumens of all exterior lighting.
10. The proposed landscaping and buffering.
11. Demonstration of any applicable State applications, or permits which have been or may be issued.
12. A schedule of construction, including anticipated beginning and completion dates.
13. Space shall be provided on the plan for the signatures of the Planning Board and date, together with the following words, "Approved: Town of Manchester Planning Board."

**D. Applications for Major Developments.**

Applications for major developments shall include the following additional information:

1. Existing and proposed topography of the site at two (2) foot contour intervals, or such other intervals as the Planning Board may determine.
2. A storm water drainage and erosion control program showing:
  - a. The existing and proposed method of handling storm-water run-offs.
  - b. The direction of flow of the run-off.
  - c. The location, elevation, and size of all catch basins, drywells, drainage ditches, swales, retention basins, and storm sewers.
  - d. Engineering calculations used to determine drainage requirements based upon the 25-year, 24-hour storm frequency, but only if the project will significantly alter the existing drainage pattern, due to such factors as increased impervious surfaces from paving and building.
  - e. Methods of controlling erosion and sedimentation during and after construction.
3. A groundwater impact analysis prepared by a groundwater hydrologist for projects located within the Aquifer Management Overlay District, or involving common on-site water supply or sewage disposal facilities with a capacity of two-thousand (2,000) gallons per day.
4. A utility plan showing the location and nature of electrical, telephone, and any other utility services to be installed on the site.
5. A planting schedule, keyed to the Site Plan, indicating the varieties and sizes of trees, shrubs, and other plants to be planted.
6. Analysis of the solid or hazardous waste to be generated and a plan for its recycling and disposal, along with evidence of disposal arrangements.
7. A traffic impact analysis demonstrating the impact of the proposed project on the capacity, level of service and safety of adjacent streets.
8. Construction drawings for streets, sanitary sewers, water and storm drainage systems, which are designed and prepared by a professional engineer who is registered in the State of Maine.

9. The location of any pedestrian ways, lots, easements, open spaces and other areas to be reserved for, or dedicated to, common or public use and/or ownership. For any proposed easement, the developer shall submit the proposed easement language with a signed statement certifying that the easement will be executed upon approval of the development. The location, width, typical cross-section, grades and profiles of all proposed streets and sidewalks.
10. A copy of any covenants or deed restrictions intended to cover all, or part of, the property. Such covenants or deed restrictions shall be referenced on the plan.
11. If any legal interest in land is to be dedicated to the Town for public use, then a copy of a written offer of dedication or conveyance to the Town, in a form satisfactory to the Town Attorney, for all such land shall be included.
12. Evidence of adequate provision for maintenance of the development.
13. Cost estimates of the proposed development and evidence of financial capacity to complete it. This evidence should include a letter from a bank, or other source of financing, indicating the name of the project, amount of financing proposed, and the means of financing the project.
14. A narrative and/or plan describing how the proposed development scheme relates to the Site Inventory and Environmental Assessment.

**E. Applications for Special Exception Permits.**

In addition to the foregoing requirements, applications for Special Exception Permits shall include:

1. An alternative sites analysis identifying and analyzing other reasonable alternative sites and justification of how the proposed site is the most suitable; and
2. A neighborhood environmental impact report evaluating the potential impacts on neighboring properties and environs and presenting mitigation measures that alleviate adverse effects.

**F. Additional Application Requirements for Wireless Telecommunication Facilities.**

In addition to the foregoing requirements contained in this section, applications for Wireless Telecommunications Facilities shall include:

1. (Reserved)

2. A proposal to construct or modify a WTF must include evidence of a commitment from a duly licensed carrier to utilize the tower to provide wireless communication services.
3. Written approval by all applicable state and federal agencies, including but not limited to the FAA and FCC, including a description of any conditions or criteria for the approval, or a statement from the agency that no approval is required.
4. An inventory of all of the provider's existing and approved towers, antennae or sites within the Town of Manchester and locations in surrounding communities where wireless telecommunications are proposed to be utilized in conjunction with the facility proposed in the application. Service area maps or network maps of the applicant's existing and proposed facilities in Kennebec County.
5. Identification of any other WTFs existing or proposed on the site.
6. Details of all existing or proposed accessory structures including buildings, parking areas, utilities, gates, access roads, etc.
7. Evidence must be provided that written notice was sent, by pre-paid first class United States mail, to all other such tower and alternative tower structure owners and licensed wireless communication providers that could furnish service to the Town of Manchester utilizing existing towers and ATS's and to owners of such towers. This notice shall state the applicant's siting needs and include a request for information of the co-location capabilities of the existing or previously approved facilities. Evidence that this notice requirement has been fulfilled shall include a name and address list, copy of the notice that was sent, and a return receipt request that the notices were sent as required.
8. Evidence must be provided that existing or previously approved towers and alternative tower structures with the Town of Manchester cannot accommodate the communications equipment (antennae, cables, etc.) planned for the proposed tower. Such evidence shall include documentation from a qualified and licensed professional engineer that:
  - a. Planned necessary equipment would exceed the structural capacity of existing and approved WTFs and alternative tower structures considering (1) the existing and planned use of those WTFs and alternative tower structures, and (2) the existing and approved WTFs cannot be reinforced or enlarged to accommodate planned or equivalent equipment at a reasonable cost.

- b. Planned equipment will cause electromagnetic frequency interference with other existing or planned equipment for that WTF or alternative tower structure, and the interference cannot be prevented at a reasonable cost;
  - c. Existing or approved WTFs and alternative tower structures do not have space on which planned equipment can be placed so it can function effectively and at least in parity with other similar equipment in place or approved; or
  - d. Other documented reasons make it technically or financially unfeasible to place the equipment planned by the applicant on existing and approved WTFs and alternative tower structures.
9. Evidence must be provided that the proposed WTF cannot be co-located on existing or previously approved tower sites. Evidence should include an assessment of whether such WTF sites could be changed to accommodate the proposed tower, and a general description of the projected cost of shared use of the existing or approved WTF site.
10. A report must be provided from a Registered Professional Engineer that describes the WTF, the technical reasons for the WTF design and the capacity of the WTF, including the number(s), type(s), and volume(s) of antennae that it can accommodate and the basis for the calculation of capacity.
11. A letter of intent must be provided that commits the WTF owner and its successors in interest to:
  - a. respond in a timely, comprehensive manner to a request for information from a potential co-location applicant;
  - b. negotiate in good faith for shared use by third parties that have received an FCC license or permits; and
  - c. allow shared use if an applicant agrees in writing to pay reasonable charges.
12. Proof of financial capacity to build, maintain, and remove the proposed WTF must be submitted.
13. Photos showing site vegetation, existing and adjacent structures, views of and from the proposed site, topography, and land uses on the proposed parcel and on abutting properties must be provided.
14. Landscaping plan reflecting location of proposed screening and fencing, planting areas, proposed plantings, existing plant materials to be retained and trees or shrubs to be removed must be submitted.

15. Elevation drawings, cross-sectional area or silhouette, of the facility, drawn to scale, and showing all measurements, both linear and volumetric, showing front, sides and rear of the proposed facility including all fencing, supporting system for transmission cables running between the tower and accessory structures, control panels, antennae, and existing structures and trees. Reference any design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
16. Detail of the tower base or method of attachment to a structure. If the facility will be attached to an existing building or structure, provide measurements and elevations of the structure.
17. An analysis of the visual impact of the proposed facility, including tower and supporting structures, which may include photo montage, field mock up, or other techniques, that identify the potential visual impacts, at design capacity, of the proposed facility. Consideration shall be given to views from roads, public areas, private residences, historic resources, including historic districts and structures listed in the National Register of Historic Places, and archaeological resources. The analysis of the impact on historical and archaeological resources shall meet the requirements of the Maine State Historical Preservation Officer in his/her review capacity for the FCC.
18. An analysis of the cumulative impacts of the proposed facility and other existing communication facilities in the area.
19. The applicant shall submit written proof that the proposed use and the facility comply with the FCC regulations on radio (RF) frequency exposure guidelines and a propagation map showing the proposed radio frequency coverage.
20. The applicant shall submit written proof that an evaluation has taken place, as well as the results of such evaluation, satisfying the requirements of the National Environmental Policy Act (NEPA) further referenced in applicable FCC rules. If an Environmental Assessment (EA) or an Environmental Impact Statement (EIS) is required under the FCC rules and NEPA, submission of the EA or EIS to the Town prior to the beginning of the federal 30 day comment period, and the Town process, shall become part of the application requirements.
21. The applicant shall submit annually to the Office of Selectmen a Certificate of Insurance showing public liability insurance coverage of not less than \$1 million Combined Single Limit.
  - a. The applicant will provide information as to whether any of the wireless telecommunications carriers providing service to the Town use the

system known as cable micro-cell integrator/head end interface converter (CMI/HIC) which utilizes cable television lines and small transceivers mounted on utility poles to communicate with wireless telephones and whether there are any such carriers using CMI/HIC in Kennebec County.

**G. Additional Application Requirements Including Investigation and Issuance of License for Sexually Oriented Business**

1. Application. An applicant for a sexually oriented business license shall:
  - a. Complete and file an application prescribed by the Board of Selectmen;
  - b. Deposit a license fee of \$250 and a \$50 processing fee in advance with the Town Clerk;
  - c. Submit the completed application to the Town Clerk, together with attested copies of the articles of incorporation and bylaws, if the applicant is a corporation, evidence of partnership, if a partnership, or articles of association and bylaws, if the applicant is an association, as well as a list of all officers and directors;
  - d. File a sworn affidavit, which states the name of all owners, officers, managers or partners of the applicant, and their places of residence at the time of the application and for the immediately preceding three (3) years;
  - e. File the release authorized by 16 M.R.S.A. §620(6) (Criminal History Record Information Act) with the application, for the applicant and each officer, owner, manager or partner of the applicant;
  - f. Submit evidence of right, title or interest in the premises in which the sexually oriented business will be sited, along with the written consent of the owner of the premises for such use if applicant is not the owner;
  - g. State the date of initiation of the sexually oriented business and the nature of the business with a description of the nature of all products and services offered to customers;
  - h. Submit evidence of compliance with Section 4 (Prohibited Sites, Site Requirements) of this Article and evidence that there is no basis for denial of a license to applicant under the standards listed in Section 4 ( Prohibited Sites, Site Requirements) of this Article.

2. Investigation of applicant, officers. Upon receipt of an application or notice of a change of owners, officers, managers or partners of the applicant:
  - a. The Town Clerk, upon receipt of a completed application, shall immediately send a copy of the complete application to the Town officials referenced in paragraphs “b” through “e” below. The Town Clerk shall also immediately consult with the chairman of the Board of Selectmen and then arrange for public notice of a public hearing on the application in a newspaper of general circulation and by mail to owners of lots within 1000 feet of the proposed location of the structure, at least ten days prior to the public hearing before the Board of Selectmen. The costs of publication, certified mail postage, and other expenses related to the hearing shall be paid from the processing fee. After receipt of required reports from Town officials, the Town Clerk shall forward the application and other documents to the Board of Selectmen for public hearing and final decision. The hearing shall be held within thirty (30) days after receipt of a complete application by the Town Clerk and a decision shall be made within three (3) business days thereafter.
  - b. The Health Officer, within fifteen days of notice, shall inspect the location or proposed location to determine whether the applicable laws relating to health and safety have been satisfied and then report finding in writing to the Town Clerk;
  - c. The Fire Chief, within fifteen days of notice, shall inspect the location or proposed location of the business to determine if applicable State and fire and safety regulations have been satisfied and then report findings in writing to the Town Clerk;
  - d. A constable or other law enforcement officer shall investigate the applicant, including the criminal history record information required under Section (1)(e) and then report findings in writing to the Town Clerk; and
  - e. The Code Enforcement Officer, within fifteen days of notice, shall verify that the proposed premises of the establishment will comply with Section 4 (Prohibited Sites, Site Requirements) of Article II and with all other applicable State and town laws and land use codes of the Town and then report findings in writing to the Town Clerk.
3. Issuance of License. The Board of Selectmen, after notice and public hearing, shall determine whether the application and documents submitted comply with all of the requirements of this Article. The license shall be issued upon determination by the Board of Selectmen based upon the record, including evidence and testimony at the public hearing, that the application meets the requirements of this Article. The license may not be transferred or assigned.

4. Standards for Denial. An application for a sexually oriented business license shall be denied by the Board of Selectmen in the following circumstances
- a. The applicant is a corporation that is not authorized to do business in the State of Maine;
  - b. The applicant is an individual who is less than 18 years of age;
  - c. The applicant has submitted an incomplete application, knowingly made an incorrect statement of a material nature, or failed to supply additional information required by the Town Clerk or Board of Selectmen that is reasonably necessary to determine whether the license is issuable;
  - d. The applicant, if an individual, or any person having an ownership or management interest, if a corporation, has been denied a sexually oriented business license for knowingly making an incorrect statement of a material nature within the immediately preceding five years;
  - e. The applicant, if an individual, or any person having an ownership or management interest, if a corporation, has had a license granted pursuant to this Article or a similar ordinance provision in any other municipality revoked for any reason during the immediately preceding five years;
  - f. The applicant, if an individual, or any person having an ownership or management interest, if a corporation, has committed any Specified Criminal Activity as defined herein.
  - g. The site on which the sexually oriented business is proposed is a prohibited site under Section 4 (Prohibited Sites, Site Requirements), Article II; or
  - h. The application in any other way fails to meet the requirements of this Ordinance.

## **Section 8. Criteria for Review and Approval of Site Plans and Subdivisions**

In approving sites plans and subdivisions within the Town of Manchester, the Planning Board shall consider the following criteria and before granting approval shall make findings of fact that the provisions of this Ordinance have been met and that the proposed development will meet the guidelines of Title 30-A, M.R.S.A., Section 4404, as amended, which includes the following:

### **A. Aesthetic, Cultural and Natural Values.**

The proposed activity will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.

**B. Erosion.**

The proposed activity will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results;

**C. Financial Burden on Town.**

The proposed activity will not cause an unreasonable financial burden on the Town for provision of public services and facilities.

**D. Financial and Technical Ability**

1. Financial Capacity. The applicant has adequate financial resources to construct the proposed improvements and meet the criteria of the statute and the standards of these regulations. When the applicant proposes to construct the building as well as any subdivision improvements, the applicant shall have adequate financial resources to construct the total development. In making the above determinations, the Board shall consider the proposed time frame for construction and the effects of inflation.
2. Technical Ability. In determining the applicant's technical ability, the Planning Board shall consider the applicant's previous experience, the experience and training of the applicant's consultants and contractors, and the existence of violations of previous approvals granted to the applicant.

**E. Flood Areas**

Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the application whether the activity is in a flood-prone area. If the activity, or any part of it, is in such an area, the applicant shall determine the 100-year flood elevation and flood hazard boundaries within the lot(s). The proposed project plan must include a condition of plan approval requiring that principal structures within the lot(s) will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation.

**F. Freshwater Wetlands.**

All freshwater wetlands within the proposed site have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district.

**G. Groundwater.**

The proposed activity will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.

**H. Municipal Solid Waste Disposal.**

The proposed activity will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be utilized.

**I. Municipal Water Supply.**

The proposed activity will not cause an unreasonable burden on an existing water supply, if one is to be used;

**J. Neighborhood Compatibility**

1. The proposed activity will be compatible and sensitive to the character of the site and neighborhood relative to land uses; scale, bulk and building height; neighborhood identity and historical character; and orientation on lot.
2. The proposed activity maximizes the opportunity for privacy by the residents of the immediate area.
3. The proposed activity ensures safe and healthful conditions within the neighborhood.
4. The proposed activity will minimize any detrimental effects on the value of adjacent properties.

**K. Pollution.**

The proposed activity will not result in undue water or air pollution. In making this determination, the Planning Board shall at least consider:

1. The elevation of the land above sea level and its relation to the flood plains;
2. The nature of soils and subsoils and their ability to adequately support waste disposal;
3. The slope of the land and its effect of effluents;
4. The availability of streams for disposal of effluents;
5. The applicable State and local health and water resource rules and regulations; and
6. The impact of phosphorous export, and other pollutants, on water bodies.

**L. River, Stream or Brook.**

Any river, stream or brook within or abutting the proposed project has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, Section 480-B, Subsection 9.

**M. Sewage Disposal.**

The proposed activity will provide for adequate sewage/waste disposal as outlined in the Maine Subsurface Waste Water Disposal Rules (144 CMR 241) and provide the same protection as in Section 6(O). Also, the proposed sewage/waste water disposal will not cause an unreasonable burden on municipal services if they are utilized.

**N. Storm Water.**

The proposed activity will provide for adequate storm water management.

**O. Sufficient Water.**

The proposed activity has sufficient water available for the reasonably foreseeable needs of the project.

**P. Traffic.**

The proposed activity will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed;

**Q. Conformity with Ordinances and Plans.**

The proposed activity conforms with this Ordinance, other duly adopted ordinances and the Manchester Comprehensive Plan.

**R. Special Exception Permits.**

In addition to the above criteria for uses requiring a Special Exception Permit, the Planning Board must find that the applicant has adequately demonstrated that:

1. There is no alternate site which is both suitable to the proposed use and reasonably available to the applicant; and
2. That a neighborhood environmental impact report shows that there will be minimal adverse impacts on neighboring uses.

At the end of the site plan review of application criteria just listed, the Planning Board votes to give general approval or general approval subject to the following conditions, or denial of the application. The Chairman of the Planning Board is authorized to sign on behalf of the Planning Board permits concerning conditional use and special exception approvals. In the absence of the Chairman, the Vice Chairman would assume the authorization.

**Section 9. Performance Guarantees**

**A. Types of Guarantees.**

As required by the Planning Board, the developer shall provide one of the following Performance Guarantees for an amount adequate to cover the total construction costs of all required improvements, taking into account the time span of the construction schedule and the inflation rate for construction costs. Following, in order of preference, are the three types of Performance Guarantees acceptable to the Town:

1. A certified check, payable to the Town, or a savings account or certificate of deposit naming the Town as owner, for the establishment of an escrow account;
2. An irrevocable letter of credit from a financial institution establishing funding for the construction of the project, from which the Town may draw if construction is inadequate; or
3. A Performance Bond, payable to the Town, issued by a surety company, and acceptable to the Town.

The form, time periods, conditions and amount of the Performance Guarantee shall be determined by the Planning Board.

**B. Contents of Guarantee.**

The Performance Guarantee shall contain a construction schedule, cost estimates for each major phase of construction taking into account inflation, provisions for inspection of each phase of construction, provisions for the release of part or all of the Performance Guarantee to the developer, and a date after which the developer will be in default and the Town shall have access to the funds to finish construction.

**C. Escrow Account.**

A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the municipality, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the developer, the municipality shall be named as owner or co-owner, and the consent of the municipality shall be required for a withdrawal, but the consent of the sub-divider shall not be required for a withdrawal. Any interest earned on the escrow account shall be returned to the developer unless the Town has found it necessary to draw on the account, in which case the interest earned shall be proportionately divided between the amount returned to the sub-divider and the amount withdrawn to complete the required improvements.

Any certified check shall be deposited in the name of the Town by the Treasurer, in an interest bearing account and shall bear the name of the Developer and of the proposed project, and withdrawals shall be made after a designated Engineer has certified the work as completed. The Planning Board shall be duly notified prior to any withdrawal. Any work which has not been completed, shall be performed at the discretion of the Town and such work shall be paid from the escrow account. The Planning Board will recommend to the Town Officers such disbursements from the escrow account as will pay for completed work in accordance with an approved disbursement schedule.

**D. Letter of Credit.**

An irrevocable letter of credit from a bank or other lending institution shall indicate that funds have been set aside for the construction of the project and may not be used for any other project or loan.

**E. Performance Bond.**

A Performance Bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the sub-divider, and the procedures for collection by the municipality. The bond documents shall specifically reference the development activity for which approval is sought.

**F. Phasing of Development.**

The Planning Board may approve plans to develop a Major Subdivision in separate and distinct phases. This may be accomplished by limiting final approval to those lots abutting that Section of the proposed project street which is covered by a Performance Guarantee. When development is phased, road construction shall commence from an existing public way. Final approval of lots in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases.

**G. Release of Guarantee.**

Prior to the release of any part of the Performance Guarantee, the Planning Board shall determine to its satisfaction, in part upon the report of a qualified engineer designated by the Planning Board and whatever other agencies and departments may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.

**H. Default.**

If, upon inspection, the Code Enforcement Officer finds that any of the required improvements have not been constructed in accordance with the Plans and specifications filed as part of the application, he shall so report in writing to the Municipal Officers, the Planning Board, and the sub-divider or builder. The Municipal Officers shall retain the authority to take any steps necessary to preserve the Town's rights.

**Section 10. Subdivision Plat Plans**

**A. Submission and Contents of a Final Subdivision Plat Plan**

Within six (6) months of the date of Planning Board action on the site plan review of the subdivision, the sub divider shall submit the Final Plat Plan to the Planning Board with a payment of the appropriate fee, as established in Appendix B. The check shall be made payable to the Town of Manchester. Failure to submit the Final Plat Plan within the designated time period shall require the submission of a new subdivision application, except that the Planning Board may waive this requirement for good cause.

The Final Plat Plan shall consist of one (1) original transparency (mylar) and four (4) copies of one or more maps or drawing similar to the maps or drawings prepared for preliminary plat plan submission.

In addition to all of the items required in the site approval plan and unless otherwise indicated by the Planning Board, the following items shall be required as part of the Final Plat Plan submission.

1. Registered Land Surveyor. The name, registration number, and seal of the registered land surveyor and/or professional engineer who prepared the Final Plat (show on plat).
2. Streets. The names and lines, lengths of all straight lines, the deflection of angles, radii, length of curves, and central angles of all curves, and tangent distances and bearings (show on Plat).
3. Open Spaces. The designation of all easements, areas reserved for, or dedicated to, public use or the common use of lot owners, and areas reserved by the sub-divider.
4. Lots. The location, bearing and length of every lot line, with all lots to be numbered in accordance with local practices.
5. Permanent Reference Monuments. The location of permanent markers set at all lot corners, as shown on the plat.
6. Financial Guarantee. A financial guarantee to secure completion of all public improvements if required by the Planning Board and written evidence that the municipal officers are satisfied with the legal sufficiency of such guarantee.
7. Land Dedication. Written copies of any documents of land dedication, and written evidence that the municipal officers are satisfied with the legal sufficiency of any documents accomplishing such land dedication.
8. Approval Space. Suitable spaces to record on the approved plat plan, the date and conditions of approval, if any. This space shall be similar to the following example:

Approved: Town of Manchester Planning Board

Signed: \_\_\_\_\_ Chairman  
\_\_\_\_\_ Member  
\_\_\_\_\_ Member  
\_\_\_\_\_ Member  
\_\_\_\_\_ Member  
\_\_\_\_\_ Member  
\_\_\_\_\_ Member

Date: \_\_\_\_\_

Conditions: (or reference to separate text  
\_\_\_\_\_  
\_\_\_\_\_ or document with conditions)  
\_\_\_\_\_  
\_\_\_\_\_

9. Standard Condition. The final recorded plot plan for the subdivision shall include the Standard Condition that, if at least twenty-five percent (25%) of the cost of all proposed improvements within the subdivision are not expended within five (5) years, then the subdivision must be re-reviewed by the Planning Board, and be subject to any and all ordinance changes after the initial plan approval.

**B. Notification of Completed Subdivision Application.**

After the Planning Board has received the Final Plat Plan and all of the information required to be submitted with it, the Planning Board shall notify the subdivider in writing that a completed subdivision application has been filed, and shall begin its final evaluation.

**C. Recording of Final Plat Plans.**

All final plat plans, upon final approval of the Planning Board, shall be duly recorded in the Kennebec County Registry of Deeds. A mylar copy of the recorded plat plan, measuring no greater than eighteen inches by twenty-four inches (18" x 24") shall be submitted to the Town within seven (7) days of recording.

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## **ARTICLE IV. ADMINISTRATION, ENFORCEMENT AND PENALTIES**

### **Section 1. Administering Bodies and Agents**

#### **A. Code Enforcement Officer**

1. Appointment. A Code Enforcement Officer (CEO) shall be appointed or re-appointed annually by the Selectmen.
2. Powers and Duties. The CEO shall have the following powers and duties:
  - a. Enforce the provisions of this Ordinance and any others which call for CEO action.
  - b. Act upon building applications, refer permits requiring Site Plan Approval to the Planning Board, and refer requests for variances and administrative appeals to the Board of Appeals.
  - c. Enter any property at reasonable hours, with the consent of the property owner, occupant or agent, to inspect the property or structure for compliance with pertinent laws or ordinances.
  - d. Investigate complaints and reported violations.
  - e. Make and keep written inspection reports and records of other activities.
  - f. Collect application fees and fines.
  - g. Issue violation notices.
  - h. Participate in appeals procedures.
  - i. Appear in court, when authorized by the Selectmen.
  - j. Attend such meetings of the Board of Appeals and of the Planning Board, as necessary or desirable.
  - k. Revoke any permits issued in error or which are based on erroneous information.
  - l. Exercise any additional powers or duties authorized by the statutes.

**B. Planning Board.**

1. Establishment.

Pursuant to M.R.S.A. Const. Art. VIII-A and 30 M.R.S.A., Sections 1914, 1915, and 1917, the town of Manchester hereby reorganizes the Town Planning Board, originally created by a majority vote at a Town Meeting held on March 7, 1955.

2. Appointment.

- a. Appointments to the Board shall be made by the Municipal Officers.
- b. The Board shall consist of seven members.
- c. The term of each member shall be three (3) years.
- d. When there is a permanent vacancy, the municipal officers shall within 60 days of its occurrence appoint a person to serve for the unexpired term. A vacancy shall occur upon the resignation or death of any member, or when a member ceases to be a legal resident of the Town, or when a member fails to attend three (3) consecutive regular meetings, or fails to attend at least 75% of all meetings during the preceding twelve (12) month period. When a vacancy occurs, the chairperson of the board shall immediately so advise the municipal officers in writing. The board may recommend to the municipal officers that the attendance provision be waived for cause, in which case no vacancy will then exist until the municipal officers disapprove the recommendation. The municipal officers may remove members of the planning board by unanimous vote, for cause, after notice and hearing. (Note: This section may be modified, in the case of elected board members, to indicate that the person appointed by the municipal officer serves only until the next annual meeting (or some other time specified.)).
- e. No selectman can serve as a member of the Planning Board, and not more than one (1) other municipal officer may serve as a member on the Planning Board at any one time.
- f. All members shall be residents of the Town of Manchester.

3. Organization and Rules.

- a. The Board shall elect a chairman and a vice-chairman from among its members and create and fill such other offices as it may determine. The term of all offices shall be one (1) year with eligibility for re-election with the term starting at the first regular meeting, following the annual Town Meeting.

- b. All members shall be entitled to vote except where there might be a conflict of interest.
- c. Any question as to whether a member shall be disqualified from voting on a particular matter shall be decided by a majority vote of the members except the member who is being challenged.
- d. The Chairman shall call at least one regular meeting of the Board each month.
- e. No meeting of the Board shall be held without a quorum consisting of four (4) members.
- f. The Board shall adopt rules for transaction of business and the Secretary shall keep a record of its resolutions, transactions, correspondence, findings and determinations. All records shall be deemed public and may be inspected at reasonable times.

4. Duties – Powers.

- a. The Board shall prepare a Comprehensive Plan as defined by 30 M.R.S.A. 4961 and any comprehensive plan that is adopted by the Board shall control until superseded by provisions adopted by the Town’s Legislative Body.
- b. The Board shall perform such duties and exercise such powers as are provided by Town Ordinances and the laws of the State of Maine including, but not limited to, reviewing and acting upon application for Site Plan Review Approval.
- c. The Board may obtain goods and services necessary to its proper function within limits of appropriations made for the purpose.

**C. Board of Appeals.**

A Board of Appeals shall be created in accordance with the provisions of Title 30-A, Section 2691. It shall conduct its affairs in accordance with State Law and pertinent ordinance provisions.

**Section 2. Permits Required**

After the effective date of this Ordinance, the use made of property may not be changed, and the property may not be graded, cleared for development, or excavation may not be commenced, and structures, including septic systems and wells, may not be constructed, erected, moved or altered, except in accordance with and pursuant to one or more of the following permits.

A construction or use permit shall be obtained from the CEO for the uses so marked in Table 1 in Article II and following the granting of a conditional use or special exception permit from the Planning Board, as appropriate.

A conditional use permit shall be obtained from the Planning Board after site plan review for the uses so marked in Table 1 in Article II.

A special exception permit shall be obtained from the Planning Board for the uses so marked in Table 1 of Article II.

**Section 3. Permit Application**

Every permit applicant shall submit, on a form provided by the Town to the appropriate official(s), a written application.

All applications shall be signed by the owner(s) or lessee(s) of the property, or other person with a letter of authorization from the owner(s) or lessee(s), and such signature shall certify that the information in the application is complete and correct.

All applications shall be dated, and the Code Enforcement Officer or Planning Board, as appropriate, shall note upon each application the date and time of its receipt.

No building permit or use permit shall be issued by the Code Enforcement Officer until all required subsurface wastewater disposal permits, Manchester Sanitary District authorizations and internal plumbing permits have been issued by the Code Enforcement Officer.

**Section 4. Procedure for Administering Permits**

Within thirty (30) days of the date of receiving a written application:

1. the Planning Board or CEO, as indicated in Article V, shall notify the applicant in writing, either that the application is a complete application or,
2. if the application is incomplete, that specified additional material is needed to make the application complete.

The Planning Board or the CEO, as appropriate, shall approve or deny all permit applications in writing, within thirty (30) days of receiving a completed application. However, if the Planning Board has a waiting list of applications, such approval or denial shall occur within thirty (30) days of the first available opening on the Planning Board's agenda or, within thirty (30) days of the public hearing, if one is held. Permit applications that are determined to be incomplete shall be denied if the applicant does not file a revised application within ninety (90) days of the determination. All denied applications shall require a new permit fee for subsequent new applications.

Permits shall be approved if the proposed use or structure is found to be in conformance with the purposes and provisions of this Ordinance. Permits may be made subject to reasonable conditions to insure conformity with the purposes and provisions of this Ordinance, and the permittee shall comply with such conditions which may include, but are not limited to, specifications for: type of vegetation; increased setbacks and yards; specified sewage disposal and water supply facilities; landscaping and planting screens; period of operations; operational controls; professional inspection and maintenance; sureties; deed restrictions; restrictive covenants; location of piers, docks, parking and signs; type of construction; or any other conditions necessary to fulfill the purpose of this Ordinance. If a permit is either denied or approved with conditions, the reasons shall be stated in writing.

No approval shall be granted for an application involving a structure, if the structure would be located in an unapproved subdivision, or would violate any other local ordinance or regulation, or any State law for which the Town has responsibility.

The burden of proof that a proposed land use activity is in conformity with the purposes and provisions of this Ordinance lies with the applicant.

**Section 5. Application and Inspection Fees**

- a. Application fees must be paid to the Code Enforcement Officer or the Town Clerk upon submittal of application, in accordance with Appendix B of this Ordinance.
- b. An inspection fee in accordance with Appendix B of this Ordinance shall be charged for all required Maine Uniform Building Energy Code (MUBEC) inspections or additional inspections as indicated in the subsequent paragraph. The fee for MUBEC inspections shall be paid in addition to permit fee and collected as conditions to any issued permit. The building inspector shall indicate to the applicant the inspections that are necessary and collect inspection fees at the time permitting.

Additional inspections also may be required when work is found to be incomplete at a prearranged date and time. In such cases, additional inspection fees shall be assessed for plumbing, septic system, and MUBEC inspections by the municipality to the person undertaking the work, with all additional fees, being retained by the municipality; except no fee will be assessed for the first additional inspection of the total additional inspections needed on the lot.

**Section 6. Expiration of Permits**

A. Following the issuance of a permit, except for subdivisions as indicated in (B) if no substantial start is made in construction, or in use of the property for which such permit has been issued, within two years of the date of the permit, the permit shall lapse and become void.

B. In accordance with Article III, Section 10 (A) 9, the final recorded plot plan for subdivisions shall include a standard condition that if at least twenty-five percent (25%) of the costs of all proposed improvements within the sub-division are not expended within five years then the subdivision must be re-reviewed by the Planning Board and be subject to any and all ordinance changes after the initial plan approval.

C. If the use for which any non-residential permit is issued is discontinued for a time period exceeding three (3) consecutive years, except as indicated in (B), the permit for that use shall expire. The resumption of any non-conforming uses that are discontinued is also subject to Article I, Section 5 (B)(1) and any other provisions of this Ordinance.

D. Any applicant may re-apply for permitting of any expired permit, subject to all ordinance conditions or requirements at the time of the re-application.

## **Section 7. Installation of Public Utility Service**

No public utility, water district, sanitary district or any other utility company may install, or connect services to, any new use or structure requiring a permit under this ordinance, unless written authorization attesting to the validity and currency of all permits required under this Ordinance has been issued by the appropriate Town official(s). Following installation of service, the company or district shall forward a copy of the written authorization to the Town official(s) and indicate that installation has been completed.

### **a. Residential Solar Zoning Ordinance**

#### **1.0 Purpose**

The purpose of this Ordinance is to encourage and facilitate the construction, installation, and operation of solar energy structures, equipment, and facilities in a way that promotes and protects the health, safety, economic viability and welfare of Manchester residents and their respective properties. This ordinance seeks to:

- 1.1.** Provide property owners and business owners with a standardized set of guidelines in which to follow when implementing/altering a solar photovoltaic system.
- 1.2.** Promote energy efficiency and reduce overall energy demands within the municipality.
- 1.3.** Streamline the permitting process for solar equipment installation by updating zoning ordinances to specifically address solar power generating equipment.
- 1.4.** Maintain consistency with the Town of Manchester's Comprehensive Plan.
- 1.5.** Prevent inappropriate installation and use of solar equipment.
- 1.6.** Maintain and protect property owner rights and property value.

#### **2.0 Definitions**

- 2.1.** Accessory Use: A use customarily incidental and subordinate to the primary use or building and located on the same lot there with. A use which dominates the primary use or building in area, extent, or purpose shall not be considered an accessory use.
- 2.2.** Battery Back-Up: A battery system that stores electrical energy from a solar PV system, making the electricity available for future use. Battery Back-Up systems are common in Off-Grid Systems and Hybrid Systems.
- 2.3.** Combiner or Junction Box: Combines the inputs (electrical flows) from multiple strings of solar panels (or micro-inverters) into one output circuit.
- 2.4.** Crystalline silicon cells: Solar photovoltaic cells fashioned from either mono-crystalline, multi-crystalline, or ribbon silicon capable of converting sunlight into electricity. Crystalline silicon solar PV panels are the most commonly used and are generally the most efficient.
- 2.5.** Distributed Solar: For the purposes of this Ordinance, distributed solar refers to solar energy systems located on-site and designed to provide solar thermal energy or solar PV electricity to a property owner, occupant, and/or facilities.
- 2.6.** Electricity Generation (aka production, output) - The amount of electric energy produced by transforming other forms of energy, commonly expressed in kilowatt-hours (kWh) or megawatt hours (MWh).

- 2.7. Electrical Equipment:** Any device associated with a solar energy system, such as an outdoor electrical unit/control box, that transfers the energy from the solar energy system to the intended on-site structure.
- 2.8. Ground-Mount System:** A solar energy system that is directly installed on specialized solar racking systems, which are attached to an anchor in the ground and wired to connect to an adjacent home or building. Ground-mount systems may be applicable when insufficient space structural and shading issues, or other restrictions prohibit rooftop solar.
- 2.9. Hybrid Solar Photovoltaic Systems (aka grid-tied PV with battery back-up):** Solar photovoltaic electricity generation systems designed to serve the electricity needs of the building to which it is connected, thus offsetting a home's or business's electricity usage, while also utilizing a battery back-up in the event of a power outage. This is the only system that provides the ability to have power when the utility grid is down. Typical system components include: PVpanels, inverter(s), and required electrical safety gear, battery bank, and a charge controller
- 2.10. International Residential Code (IRC) - Part of the International Building Code (IBC),** the IRC sets buildings standards for residential structures.
- 2.11. Inverter:** A device that converts the Direct Current (DC) electricity produced by a solar photovoltaic system is converted to useable alternating current (AC).
- 2.12. Mounting -** The manner in which a solar PV system is affixed to the roof or ground (i.e. roof mount, ground mount, pole mount).
- 2.13. National Electric Code (NEC) -** Sets standards and best practices for wiring and electrical systems.
- 2.14. Net Meter:** On-grid solar PV systems connected to the utility grid use a net meter, typically provided and installed by the local utility, to measure the flow of electricity from the solar system for the purposes of net metering.
- 2.15. Net Metering:** A billing arrangement that allows customers with grid-connected solar electricity systems to receive credit for any excess electricity generated on-site and provided to the utility grid.
- 2.16. Off-Grid Solar Photovoltaic Systems with battery back-up:** Solar photovoltaic electricity systems designed to operate independently from the local utility grid and provide electricity to a home, building, boat, RV (or remote agricultural pumps, gates, traffic signs, etc.). These systems typically require a battery bank to store the solar electricity for use during nighttime or cloudy weather (and/or other back-up generation). Typical system components include: PV panels battery bank, a charge controller, inverter(s), required disconnects, and associated electrical safety gear.
- 2.17. Orientation (or Azimuth):** In the northern hemisphere, true solar south is the optimal direction for maximizing the power output of solar PV. Although, systems can be oriented east southeast, southwest, and west, while still providing 75%-85% of maximum production, depending on the tilt. Proper orientation and access to sun are critical for achieving maximum energy production potential (ideally, the orientation of the solar energy system ensures that solar access is not obstructed by other buildings, shade trees, chimneys, HVAC systems, or other equipment).
- 2.18. Photovoltaic (PV) System:** A solar energy system that produces electricity by the use of semiconductor devices, called photovoltaic cells, which generate electricity when exposed to sunlight. A PV system may be roof-mounted, ground-mounted, or pole-mounted.

- 2.19. Pole-Mount Systems:** A solar energy system that is directly installed on specialized solar racking systems, which are attached to pole, which is anchored and firmly affixed to a concrete foundation in the ground, and wired underground to an attachment point at the building's meter. Unlike ground-mount systems, pole-mount systems are elevated from the ground. Pole-mounted systems can be designed to track the sun (with single-axis or dual-axis tracking motors) and maximize solar output throughout the year.
- 2.20. Power -** the rate at which work is performed (the rate of producing, transferring, or using energy). Power is measured in Watts (W), kilowatts (kW), Megawatts (MW), etc.
- 2.21. PV-Direct Systems:** The simplest of solar photovoltaic electric systems with the fuse components (no battery back-up and not interconnected with the utility) designed to only provide electricity when the sun is shining. Typical system components include: PV panels, required electrical safety gear, and wiring.<sup>12</sup>
- 2.22. Racking:** Solar energy systems are attached securely and anchored to structural sections of the roof-mounted or pole-mounted systems. Specially designed metal plates called flashings prevent leaks and are placed under shingles and over bolts to create a water-tight seal.
- 2.23. Roof-Mount System (aka rooftop mounted, building mounted):** A solar energy system consisting of solar panels are installed directly on the roof of a home, commercial building, and/or an accessory structure, such as a garage, pergola, and/or shed. Solar panels are mounted and secured using racking systems specifically designed to minimize the impact on the roof and prevent any leaks or structural damage. Roof-mount systems can be mounted flush with the roof or tilted toward the sun at an angle.
- 2.24. Solar Array:** Multiple solar panels combined together to create one system.
- 2.25. Solar Collector:** A solar PV cell, panel, or array, or solar thermal collector device, that relies upon solar radiation as an energy source for the generation electricity or transfer of stored heat.
- 2.26. Solar Easement:** The purpose of which is to secure the right to receive sunlight across the property of another for the continued access to sunlight necessary to operate a solar energy system. According to state law, parties may voluntarily enter into written solar easement contracts that are enforceable by law. An easement must be created in writing and filed, duly recorded and indexed in the office of the recorder of the county in which the easement is granted. A solar easement, once created, runs with the land and does not terminate unless specified by conditions of the easement.
- 2.27. Solar Energy System:** A system capable of collecting and converting solar radiation into heat or mechanical or electrical energy and transferring these forms of energy by a separate apparatus to storage or to point of use, including, but not limited to, water heating, space heating or cooling, electric energy generation, or mechanical energy generation. This definition shall include Solar Thermal, Photovoltaic, and Passive Solar Systems.
- 2.28. Solar Glare:** The potential for solar panels to reflect sunlight, with an intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.
- 2.29. Solar Photovoltaic (Solar PV) System–** Solar systems consisting of photovoltaic cells, made with semiconducting materials, that produce electricity (in the form of direct current (DC)) when they are exposed to sunlight. A typical PV system consist of PV panels (or modules) that combine to form an array; other system components may include mountain racks and hardware, wiring for electrical connections, power conditioning equipment, such as an inverter

and/or batteries. For the purposes of this Ordinance, a solar PV system is defined as generating capacity of not more than 25 kilowatts for residential facilities and not more than two megawatts for non-residential facilities. [*Solar PV systems larger than this are governed by another Ordinance*]

**2.30.** Solar Panel (or module): A device for the direct conversion of sunlight into useable solar energy (including electricity or heat).

**2.31.** Solar Process Heat technologies provide industrial specific applications, including ventilation air preheating, solar process heating, and solar cooling.

**2.32.** Solar-Ready: The concept of planning and building with the purpose of enabling future use of solar energy generation systems. Solar-ready buildings, lots, and developments make it easier and more cost-effective to utilize passive solar techniques and adopt active solar technologies in the future. Solar-Ready Buildings are built anticipating future installation of active solar energy systems (including structural reinforcement, pre-wiring or plumbing for solar, and east-west building orientation). Solar-Ready Lots are oriented to take maximal advantage of a location's solar resource. Solar-Ready Developments expand this concept to entire subdivisions.

**2.33.** Thin Film Solar PV – Capable of generating electricity from the sun, thin film solar PV cells consist of layers of semiconductor materials (made from amorphous silicon, cadmium telluride, copper indium gallium diselenide, among other materials) a few micrometers thick, which allow for greater flexibility. Thin film is made by depositing one or more thin layers of photovoltaic material on a substrate; products include rooftop shingles and tiles, building facades, the glazing for skylights, and other building integrated materials.

**2.34.** Tilt: The angle of the solar panels and/or solar collector relative to their latitude. The optimal tilt to maximize solar production is perpendicular, or 90 degrees, to the sun's rays at true solar noon. True solar noon is when the sun is at its highest during its daily east-west path across the sky (this is also known as 0° Azimuth). Solar energy systems can be manually or automatically adjusted throughout the year. Alternatively, fixed-tilt systems remain at a static tilt year-round

**2.35.** Utility Scale - Electricity sold to wholesale utility buyers. This scale applies to all solar operations generating in excess of 25 KW.

### **3.0 Applicability**

**3.1.** This ordinance applies to all distributed solar systems installed and constructed after the effective date of this Ordinance. For purposes of this Ordinance, "solar energy system" means a distributed solar energy system as defined herein.

**3.2.** Solar energy systems constructed prior to the effective date of this ordinance shall not be required to meet the requirements of this ordinance.

**3.3.** All solar energy systems shall be designed, erected, and installed in accordance with applicable local, state, utility, and national codes, regulations, and standards.

**3.4.** Solar PV systems with a surface area of 5,000 square feet or less (For reference, a solar PV system capable of generating 1 MW occupies an average of 5 acres).

**3.5.** Solar PV systems with a surface area of 65 square feet or less in their entirety are exempt from this ordinance.

#### 4.0 Solar Energy System Requirements

**4.1.** To the extent practicable, and in accordance with municipal law, the accommodation of solar energy systems and associated electrical equipment, and the protection of access to sunlight for such, shall be encouraged in the application of the various review and approval provisions of the Town of Manchester Land Use Ordinance.

**4.2.** Solar energy systems are permitted in all zoning districts as an accessory use to permitted, conditional, and special exception uses.

**4.3.** A solar energy system shall provide power for the principal use and/or accessory use of the property on which the solar energy system is located.

**4.4.** The installation and construction of a *roof-mount solar energy system* shall be subject to the following development and design standards:

**A.** A roof or building mounted solar energy system may be mounted on a principal or accessory building.

**B.** The maximum height of any solar PV system is limited to the maximum principal structure height as determined by the Manchester Land Use Ordinance.

**C.** Placement of solar collectors on flat roofs shall be allowed by right provided that panels do not extend horizontally past the roofline.

**4.5.** The installation and construction of a *ground-mount or pole-mount solar energy system* shall be subject to the following development and design standards:

**A.** The height of the solar collector and any mounts shall not exceed 20 feet when oriented at maximum tilt.

**B.** The surface area of a ground- or pole-mounted system, regardless of the mounted angle, shall be calculated as part of the overall lot coverage.

**C.** The minimum solar energy system setback distance from the property lines shall be equivalent to the building setback or accessory building setback requirement of the underlying zoning district.

**D.** All power transmission lines from a ground mounted solar energy system to any building or other structure shall be located underground and/or in accordance with the building electrical code, as appropriate.

#### 5.0 Safety and Inspections

**5.1.** The design of the solar energy system shall conform to applicable local, state and national solar codes and standards. A building permit reviewed by department staff shall be obtained for a solar energy system. All design and installation work shall comply with all applicable provisions in the National Electric Code (NEC), the International Residential Code (IRC), International Commercial Building Code, State Fire Code, and any additional requirements set forth by the local utility (for any grid-connected solar systems).

**5.2.** The solar energy system shall comply with all applicable Town of Manchester Ordinances and Codes so as to ensure the structural integrity of such solar energy system. *Please note that the existing roof structure and the weight of the solar energy system shall be taken into consideration when applying for a solar energy system permit.*

- 5.3.** Prior to operation, electrical connections must be inspected by an appropriate electrical inspection person or agency, as determined by the Town of Manchester.
- 5.4.** Any connection to the public utility grid must be approved by the appropriate public utility.
- 5.5.** If solar storage batteries are included as part of the solar collector system, they must be installed according to all requirements set forth in the National Electric Code and State Fire Code when in operation. When no longer in operation, the batteries shall be disposed of in accordance with the laws and regulations of the Town of Manchester and any other applicable laws and regulations relating to hazardous waste disposal.
- 5.6.** Unless otherwise specified through a contract or agreement, the property owner of record will be presumed to be the responsible party for owning and maintaining the solar energy system.

## **6.0 Abandonment and removal**

- 6.1.** If a ground mounted solar energy system is removed, any earth disturbance as a result of the removal shall be landscaped in accordance with the Town of Manchester's Land Use Ordinance.
- 6.2.** A ground or pole-mounted solar energy system is considered to be abandoned or defective if it has not been in operation for a period of twelve (12) months. If abandoned, the solar energy system shall be repaired by the owner to meet federal, state, and local safety standards, or be removed by the owner within the time period designated by the Manchester Code Enforcement Officer. If the owner fails to remove or repair the defective or abandoned solar energy system within the designated time period, the Town of Manchester reserves the right to take legal action to have the system removed at the owner's expense.

## **7.0 Appeals**

- 7.1.** If the owner of a solar energy system is found to be in violation of the provisions of this Ordinance, appeals should be made in accordance with the established procedures of the Town of Manchester Board of Appeals.
- 7.2.** If a building permit for a solar energy system is denied because of a conflict with other goals of the town, the applicant may seek relief from the Manchester Board of Appeals, which shall regard solar energy as a factor to be considered, weighed, and balanced along with other factors.

## **8.0 Restrictions on Solar Prohibitions**

- 8.1.** In accordance with the Town of Manchester Land Use Ordinance, the Planning Board and Code Enforcement Officer maintains and reserves the right to refuse any plat or subdivision plan if deed restrictions, covenants or other agreements running with the land prohibit or have the effect of prohibiting reasonably sited and designed solar collectors or other renewable resource devices.

## **b. Utility Solar Zoning Ordinance**

### **1.0 Purpose**

The purpose of this Ordinance is to encourage and facilitate the construction, installation, and operation of utility scale solar farms/production sites in a way that does not negatively impact surrounding residences. This ordinance seeks to:

- 1.1.** Provide a standardized set of guidelines for utility solar power generation companies to follow when implementing/altering/dismantling a solar PV system.
- 1.2.** Promote energy efficiency and reduce overall energy demands within the municipality.
- 1.3.** Streamline and standardize the permitting process for commercial scale solar farm applicants.
- 1.4.** Maintain consistency with the Town of Manchester's Comprehensive Plan.
- 1.5.** Delineate appropriate/suitable zones for potential utility scale solar farms.
- 1.6.** Prevent unsafe or inappropriate installation of solar PV equipment.
- 1.7.** Maintain and protect property owners/respective property values.
- 1.8.** Maintain and protect adequate access to sunlight necessary for such systems.
- 1.9.** Protect and preserve invaluable natural resources/historic sites/sites of special value.

### **2.0 Definitions**

*Refer to Residential Solar Zoning Ordinance*

### **3.0 Applicability**

- 3.1.** This ordinance applies to all solar PV systems occupying 5,500 square feet or more (.125 acres), or with a minimum generating capacity of 25 kw, with the primary use being off-site power generation [a resident could potentially house a solar PV system with a capacity of greater than 25 kw and sell the excess to the grid, so long as it is on the same property as the residence and the owner is consuming in excess of 50% of the electricity generated by said system]. The target of this ordinance is not to penalize Manchester residents who want to utilize this eco-friendly resource, but rather control and regulate large scale solar farms.
- 3.2.** Utility scale solar PV systems occupying 10 acres of land or greater are prohibited.
- 3.3.** Solar PV systems constructed prior to the effective date of this ordinance shall not be required to meet the requirements of this ordinance.
- 3.4.** All solar PV systems shall be designed, erected, installed, and operated in accordance with all other applicable state, utility, national codes, regulations and standards.

### **4.0 Site Plan Review**

- 4.1.** All utility scale applicants must undergo Site Plan Review through the Manchester Planning Board.

**4.2.** An application fee of \$1,000 will be due prior to the presentation of a proposal to the Board. This fee will be used to fund research on the impacts of this intensive use of the selected land, as well as to notify all properties within five hundred (500) feet of the boundaries of the selected property.

**4.3.** All utility scale solar farms are to be treated as a Major Development.

## **5.0 Solar PV System Requirements**

**5.1.** The installation and construction of a *ground-mount or pole-mount solar energy system* shall be subject to the following development and design standards:

**A.** The height of the solar collector and any mounts shall not exceed the maximum structure height of the delineated zone when oriented at maximum tilt.

**B.** The surface area of a ground- or pole-mounted system, regardless of the mounted angle, shall be calculated as part of the overall lot coverage.

**C.** The minimum solar energy system setback distance from the property lines shall be equivalent to the building setback or accessory building setback requirement of the underlying zoning district.

**D.** All power transmission lines from a ground mounted solar energy system to any building or other structure shall be located underground and/or in accordance with the building electrical code, as appropriate.

**5.2.** Adequate screening must be provided in order to minimize negative impacts on abutting properties as well as Manchester's established views.

## **6.0 Zoning**

**6.1.** Suitable zones for utility scale solar PV systems include the General Development Zone with a conditional use permit as well as the Rural Residential Zone with a special exception permit.

## **7.0 Safety and Inspections**

**7.1.** An annual inspection/site visit is required by the Town of Manchester's Code Enforcement Officer, as well as an annual inspection by a 3rd party specialist (at the owner's expense) to ensure the ongoing safety and efficiency of the operation.

**7.2.** Upon completion of installing all necessary components of the solar PV system, an inspection by an accredited 3rd party (and other applicable inspections) inspection agent is necessary prior to the commencement of operations.

## **8.0 Abandonment and Removal**

**8.1.** If a ground mounted solar energy system is removed, any earth disturbance as a result of the removal shall be landscaped in accordance with the Town of Manchester's Land Use Ordinance.

**8.2.** A ground or pole-mounted solar energy system is considered to be abandoned or defective if it has not been in operation for a period of twelve (12) months. If abandoned, the solar energy

system shall be repaired by the owner to meet federal, state, and local safety standards, or be removed by the owner within the time period designated by the Manchester Code Enforcement Officer. If the owner fails to remove or repair the defective or abandoned solar energy system within the designated time period, the Town of Manchester reserves the right to take legal action to have the system removed at the owner's expense. Upon being labeled abandoned, the owner has an additional twelve (12) months to dismantle/remove the solar PV system in its entirety before legal action by the Town of Manchester is authorized.

**8.3.** Security for removal will be set prior to issuance of a permit. The amount of the security shall be based upon the removal cost plus, fifteen (15%) provided by the applicant and certified by a professional civil engineer licensed in Maine. The owner of the facility shall provide the Planning Board with revised removal cost estimate prepared by a professional civil engineer licensed in Maine every five (5) years from the date of the Planning Board's approval of the site plan. If the cost has increased more than fifteen percent (15%) then the owner of the facility shall provide additional security in the amount of the increase.

## **9.0 Appeals**

**9.1.** If the owner of a solar energy system is found to be in violation of the provisions of this Ordinance, appeals should be made in accordance with the established procedures of the Town of Manchester Board of Appeals.

**9.2.** If a building permit for a solar energy system is denied because of a conflict with other goals of the town, the applicant may seek relief from the Manchester Board of Appeals, which shall regard solar energy as a factor to be considered, weighed, and balanced along with other factors.

## **10.0 Restrictions on Solar Prohibitions**

**10.1.** In accordance with the Town of Manchester Land Use Ordinance, the Planning Board and Code Enforcement Officer maintains and reserves the right to refuse any plat or subdivision plan if deed restrictions, covenants or other agreements running with the land prohibit or have the effect of prohibiting reasonably sited and designed solar collectors or other renewable resource devices.

**Section 8. Enforcement**

**A. Enforcement Procedure.**

1. It shall be the duty of the CEO to enforce the provisions of this Ordinance. If the CEO finds that any provision is being violated, he or she shall notify, in writing, the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it.

These orders may include discontinuance of illegal use of land, buildings or structures, or work being done, removal of illegal buildings or structures, and abatement of nuisance conditions. A copy of such notice(s) shall be submitted to the Selectmen and be maintained as a permanent record.

2. The CEO shall conduct on-site inspections to insure compliance with all applicable laws and any conditions attached to permit approvals. The CEO shall also investigate all complaints of alleged violations of this Ordinance.
3. The CEO shall keep a complete record of all essential transactions of the office including: applications submitted, fees collected, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fines collected. In the case of violations in the Shoreland District, the CEO shall, on an annual basis, submit a summary of this record to the Director of the Bureau of Land Quality Control within the Department of Environmental Protection.

**B. Legal Actions.**

When the above action does not result in the correction or abatement of the violation or nuisance condition, the Selectmen upon notice from the CEO, are directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions and the imposition of fines, as may be appropriate or necessary to enforce the provisions of this Ordinance.

The Selectmen, or their authorized agent, may enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and imposing fines without Court action. Such agreements should not allow an illegal structure or use to continue, unless there is clear and convincing evidence that the illegality was a direct result of erroneous information or advice given by an authorized Town Official, and there is no evidence that the owner/violator acted in bad faith.

**C. Fines.**

Any person including, but not limited to, a landowner, a landowner's agent or a contractor, who is responsible for a violation of this Ordinance is liable for the penalties in Title 30-A, MRSA, Section 4452.

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## ARTICLE V. APPEALS

### **Section 1. Establishment of Board of Appeals**

The Town shall have a Board of Appeals Board, in accordance with the provisions of Title 30-A, MRSA, Section 2691.

### **Section 2. Powers and Duties**

The Board shall have the following powers:

#### **A. Administrative Appeals**

To consider appeals in which an aggrieved party alleges that there was:

1. an error or omission in any action taken by the Code Enforcement Officer in the administration of this Ordinance, except as provided in Section 3(G) of this Article; or
2. an error or omission by the Planning Board. When errors of administrative procedures or interpretation are found, the case may be remanded back to the Code Enforcement Officer or Planning Board for correction.

#### **B. Variance Appeals**

To consider variance appeals, within the limitations set forth in this Ordinance.

1. Dimensional variances may be granted only from dimensional requirements including, but not limited to, frontage (including shore frontage), lot area, lot width, structure height, percent of lot coverage, and setback requirements (except waterfront setbacks).
2. Use variances shall not be granted to allow a use otherwise prohibited by this Ordinance.
3. Except as provided under paragraph 4 below, the Board shall *not* grant a variance *unless* it finds both:
  - a. The proposed structure or use would meet the requirements of this Ordinance, except for the specific provision which has created the non-conformity and for which relief is sought; *and*
  - b. The strict application of the terms of this Ordinance would result in undue hardship.

The term "undue hardship" shall mean all of the following:

- i. That the land in question cannot yield a reasonable return, unless a variance is granted;
- ii. That the need for a variance is due to the unique circumstances of the property and not to general conditions in the neighborhood;
- iii. That the granting of a variance will not alter the essential character of the locality; and
- iv. That the hardship is not the result of action taken by the applicant or a prior owner.

4. The Board may grant a variance from the dimensional standards of this Ordinance only if the Board finds *all* of the following:
  - a. The strict application of this Ordinance to the applicant and the applicant's property would cause a "practical difficulty", which means that the strict application of the ordinance to the property precludes the ability of the petitioner to pursue a use permitted in the zoning district in which the property is located and results in significant economic injury to the petitioner;
  - b. The need for a variance is due to the unique circumstances of the property and not to the general condition of the neighborhood;
  - c. The granting of a variance will not produce an undesirable change in the character of the neighborhood and will not unreasonably detrimentally affect the use or market value of abutting properties;
  - d. The practical difficulty is not the result of action taken by the applicant or a prior owner;
  - e. No other feasible alternative to a variance is available to the applicant.
  - f. The granting of a variance will not unreasonably adversely affect the natural environment; and
  - g. The property is not located in whole or in part within shoreland areas as described in Title 38, Section 435;

As used in this paragraph, "dimensional standards" means and is limited to the provisions of this Ordinance relating to lot area, lot coverage, frontage and setback requirements except as limited in paragraph 1.

5. The Board of Appeals shall limit any variances granted as strictly as possible to insure maximum conformance with the purposes and provisions of this Ordinance, and in doing so, may impose such conditions on a variance, as it deems necessary. The party receiving the variance shall comply with any conditions imposed.
6. A copy of any such variances granted by the Board of Appeals shall be submitted to the Planning Board and the Department of Environmental Protection within fourteen (14) days of the decision.

**Section 3. Appeal Procedure**

**A. Time Limit**

An administrative or variance appeal shall be filed within sixty (60) days of the date of the decision being appealed.

**B. Written Notice**

Such appeal shall be made by filing with the Board of Appeals a written notice which includes:

1. A concise written statement indicating what relief is requested and why it should be granted.
2. A sketch drawn to scale showing lot lines, location of existing buildings and structures, and other physical features of the lot pertinent to the relief requested.

**C. Record of Case.**

Upon being notified of an appeal, the Code Enforcement Officer shall transmit to the Board of Appeals all of the papers constituting the record of the decision being appealed.

**D. Public Hearing.**

The Board of Appeals shall hold a hearing on the appeal within thirty-five (35) days of its receipt of an appeal request. Interested parties and the public shall be given an opportunity to be heard.

**E. Decision by Board of Appeals.**

1. Quorum. A majority of the full Board of Appeals shall constitute a Quorum for the purpose of deciding an appeal.
2. Majority Vote. The concurring vote of a majority of the members of the Board of Appeals present and voting shall be necessary to make a decision.
3. Burden of Proof. The person filing the appeal shall have the burden of proof.
4. Time Frame; Written Decision.
  - a. The Board shall decide each appeal within thirty-five (35) days after the close of the hearing, shall issue a dated written decision on each appeal, and shall send a copy of the decision to the applicant, CEO and the Planning Board.
  - b. All decisions shall become a part of the record, shall include a statement of findings of fact and of conclusions along with the reasons therefore and shall include an appropriate order.

**F. Reconsideration.**

Upon good cause shown to the Board, within thirty (30) days of its prior decision, the Board of Appeals may vote to reconsider its decision as provided by Statute. The Board may conduct an additional hearing to receive additional evidence and testimony. The Board shall then follow the procedures for decisions as set forth above.

**G. Appeal to Superior Court.**

1. Appeals from any decision of the Board of Appeals may be taken to Superior Court within 45 days of the date of the vote on the original decision and in accordance with Rule 80B of the Maine Rules of Civil Procedure.

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## **APPENDIX A. DEFINITIONS**

### **Section 1. Construction of Language**

In the interpretation and enforcement of this Ordinance, all words, other than those specifically defined in the Ordinance, shall have their ordinarily accepted meaning. In the case of any difference of meaning or implication between the text of this Ordinance and any map, illustration, or table, the text shall control.

The word "person" includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual or any other legal entity.

The present tense includes the future tense, the singular number includes the plural, and the plural numbers include the singular.

The word "shall" and "will" are mandatory; the word "may" is permissive.

The word "lot" includes the words "plot" and "parcel".

The word "building" includes the word "structure".

The word "used" or "occupied", as applied to any land or building, shall be construed to include the words "intended, arranged, or designed to be used or occupied".

The word "Town" means the Town of Manchester, Maine.

### **Section 2. Definitions**

In this Ordinance the following terms shall have the following meanings:

Abutter: The owner of any property with one or more common boundaries or points, or across the road or stream from the property involved in application or appeal.

Accessory Dwelling: See Dwelling

Accessory Use or Structure: A use or structure which is customarily both incidental and subordinate to the principal use or structure on the same lot only. The term "incidental" in reference to the principal use or structure shall mean both a) subordinate and minor in significance to the principal use or structure, and b) attendant to the principal use or structure. Such accessory uses, when aggregated, shall not subordinate the alleged principal use of the lot.

Adult use establishment: An adult amusement store, adult entertainment cabarets, adult motion picture theaters, or adult relaxation spas, all as defined below; or any commercial establishment that permits any person on the premises, including an employee, entertainer or patron, to expose that person's specified anatomical areas or perform specified sexual activities as defined below.

Adult Amusement Store: An establishment having as a substantial or significant portion of its sales or stock in trade, sexual devices or printed material including pictures and photographs or films for sale or viewing on premises that are distinguished or characterized by their emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas,” or an establishment with a portion of the premises devoted to the sale or display of such material, or an establishment that holds itself out to the public as a purveyor of such materials based upon its signage, advertising, displays, actual sales, presence of video preview or coin-operated booths, the exclusion of minors from the establishment’s premises or any other factors showing that the establishment’s primary purpose is to sell such material.

Adult Motion Picture Theatre: An enclosed building used regularly and routinely for presenting motion picture or video material having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or relating to “specified sexual activities” or “specified anatomical areas,” for observation by patrons therein.

Adult Entertainment Cabaret: A public or private establishment which:

- i. features topless dancers, strippers, male or female impersonators, or erotic dancers;
- ii. Features entertainers who display “specified anatomical areas”;
- iii. Features entertainers who by reason of their appearance or conduct perform in a manner which is designed primarily to appeal to the prurient interest of the patron or entertainers who engage in, or engage in explicit simulation of, “specified sexual activities”; or
- iv. Offers Sadoomasochistic acts of Bondage and discipline to patrons.

Adult Relaxation Spa: An establishment that provides steam bath, sauna, bathing, hot tub, or “rub down” or other pseudo massage services at which a person performs any activity that applies any method of rubbing, kneading, tapping, vibration, compression, percussion, application of friction, massage, or a manipulation of the external parts of the human body with hands or other parts of such person or with the aide of any instrument or device, if such person performs such activity or services while that person’s specified anatomical areas are exposed to another individual, or if such person performs such activity to another individual whose specified anatomical areas are exposed or touched.

Agricultural Activities: The growing of vegetables, fruits, seeds, nursery crops, poultry, livestock, game or exotic animals, field crops, cultivated or pasture hay, and farm woodlot products, including Christmas trees.

Alteration: Any change, or modification in construction, or change in the structural members of a building or structure, such as bearing walls, columns, beams or girders, or in the use of a building. The term shall also include change, modification, or addition of a deck, dormer, staircase, or roof of the building.

Aggrieved Party: A person whose land is directly or indirectly affected by the grantor denial of a permit or variance under this Ordinance, or a person whose land abuts or is across a road or street or body of water from land for which a permit or variance has been granted.

Amusement Facility: Any private, commercial premises which are maintained or operated primarily for the amusement, patronage, or recreation of the public, containing four (4) or more table sports, pinball machines, video games, or similar mechanical or electronic games, whether activated by coins, tokens, or discs, or whether activated through remote control by the management.

Animal Breeding or Care: The keeping or raising of four or more animals, including domestic animals and pets, for any commercial use. This definition also includes kennels.

Antenna: The surface from which wireless radio signals are sent and/or received by a WTF.

Antenna Array: A collection of antennas attached to a mount to send and receive radio signals

Arcade: An arched or covered passageway.

Architectural Feature: A prominent or significant part or element of a building, structure or site.

Authorized Agent: An individual or a firm having written authorization to act on behalf of a property owner. The authorization shall be signed by the property owner.

Automotive Body Shop: A business establishment engaged in body, frame, or fender straightening and repair, or painting and undercoating.

Automobile Repair Shop: A business establishment engaged in general repair, engine rebuilding, and/or parts replacement.

Average Tree Canopy Height: An average height found by inventorying the height, at above ground level (AGL) of all trees over twenty (20) feet in height within the area that extends for a distance of one hundred fifty (150) feet from the base of the mount, security barrier, or designated clear area for access to equipment whichever is greatest. Trees that will be removed for construction shall NOT be used in this calculation.

Bed and Breakfast: Any dwelling in which transient lodging or boarding and lodging are provided and offered to the public for compensation for less than one week. This dwelling shall also be the full-time, permanent residence of its owner. There shall be no provisions for cooking in any individual guest room.

Boarding, Lodging Facility: Any residential structure where lodging and/or meals are provided for compensation, for a period of at least one week, and where a family residing in the building acts as proprietor or owner. There shall be no provisions for cooking in any individual guest room.

Buildable: Construction is allowed.

Building: Any three (3) dimensional enclosure by any building materials or any space, for any use or occupancy, temporary or permanent, including swimming pools, foundations or pilings in the ground, and all parts of any kind of structure above ground including decks, railings, dormers, and stairs, and excluding sidewalks, fences, driveways, parking lots, and field or garden walls or embankment retaining walls.

Building Mass: The height, width, and depth of a structure.

Building/Structure Height: The vertical distance between the highest point of the roof and the average grade of the existing or original ground adjoining the building or structure, whichever distance is greater.

Business and Professional Offices: The place of business of doctors, lawyers, accountants, financial advisors, architects, surveyors, real estate and insurance businesses, psychiatrists, counselors, and the like, or in which a business conducts its administrative, financial or clerical operations including banks and other financial services, but not retail sales or activities utilizing trucks as part of the business operation.

Business Park: A commercial/industrial subdivision limited to light industrial and related business uses including warehousing. These parks might house the following functions: distribution, sales and service, business services, small light manufacturing, laboratory work, and research and development

Campground: Land on which one or more tents are erected or trailers are parked for a fee for temporary family recreational use on sites arranged specifically for that purpose. The word "campground" shall include the words "camping ground", and "tenting grounds".

Camouflaged: A WTF that is disguised, hidden, part of an existing or proposed structure, or placed within an existing or proposed structure.

Carrier. A company that provides personal wireless services also sometimes referred to as a provider.

Cemetery: Property used for the interring of the dead.

Church: A building or structure, or group of buildings or structures, designed, primarily intended and used for the conduct of religious services, excluding school.

Civic, Convention Center: A building or complex of buildings that house Town offices and services, and which may include cultural, recreational, athletic, convention and entertainment facilities owned and/or operated by a governmental agency.

Cluster (Standard) Subdivision: A development consisting exclusively of residential dwelling units or commercial uses, planned, developed as a whole, or in a programmed series of developments, and controlled by one developer which contemplates a more compact grouping of dwelling units or other uses and permanently set aside open space that meets open space ratio and net density requirements of Table 10. Non buildable acreage must also be set aside in addition to acreage from open space ratio requirement. Cluster developments treat the developed area as an entirety to promote flexibility in design, architectural diversity, the efficient use of land, a reduction in the size of road and utility systems, the creation of permanent, common open space, and the conservation of natural characteristics of the land.

Code Enforcement Officer: A person appointed by the Town Officers to administer and enforce this Ordinance.

Co-location: The use of a single mount by more than one carrier (vertical co-location), or the use of more than one mount on the same site by more than one carrier (horizontal co-location), or the use of several mounts on an existing building or structure by more than one carrier.

Commercial Communication Tower: A structure on which commercial transmitting and/or receiving antenna(e) are located.

Commercial Marina: A business establishment having frontage on navigable water and as its principle use, providing for hire offshore moorings or docking facilities for boats, and which may also provide accessory services such as boat and related sales, boat repair and construction, indoor and outdoor storage of boats and marine equipment, bait and tackle shops and marine fuel service facilities.

Commercial Recreation: Any commercial enterprise which receives a fee in return for the provision of some recreational activity including, but not limited to: campgrounds, racquet and tennis clubs, health facilities, amusement parks, golf courses, gymnasiums and swimming pools, etc., but not including: bowling alleys or amusement centers, as defined herein.

Commercial Use: Any activity carried out for pecuniary gain.

Community Scale: Compatibility between the proposed WTF and its surroundings in relation to the height, mass, materials, contrasts, and proportion of the proposed facility and its surroundings.

Common Driveway: A vehicular access way serving up to four (4) dwelling units, lots or structures and not exceeding 1,000 feet in length.

Community Center, Club: A building that houses any voluntary association of persons organized for social, religious, benevolent, literary, scientific, or political purposes; whose facilities, especially a clubhouse, are open to members and guests only, and not the general public; and are not engaged in activities customarily carried on by a business or for pecuniary gain.

Community Character: The image of a community as defined by such factors as its built environment, natural features, open space, architectural styles of buildings, infrastructure, and the type and quality of public facilities and services.

Conforming: A building, structure, use of land, or portion thereof, which complies with the provisions of this Ordinance.

Congregate Housing: Residential housing consisting of private apartments and central dining facilities and within which a congregate housing supportive services program serves functionally impaired elderly or disabled occupants; the individuals are unable to live independently yet do not require the constant supervision or intensive health care available at intermediate care or skilled nursing facilities. Congregate housing shall include only those facilities which have been certified by the State of Maine as meeting all certification standards and guidelines for congregate housing facilities as promulgated by the Department of Human Services pursuant to the provisions of the Maine State Statutes.

Constructed: Built, erected, altered, reconstructed, moved upon, or any physical operations on the premises which are required for construction. Excavation, fill, drainage, and the like, shall be considered a part of construction.

Construction: Building by putting together parts which includes any erecting, altering, reconstructing, moving upon, any physical operating on the premises, which is required for construction. Excavation, fill, drainage, and the like shall be considered a part of construction.

Construction, Excavation Contractors: A contractor with three (3) or more motorized vehicles associated with excavation for commercial use.

Creative Open Space Subdivision: A development consisting exclusively of residential dwelling units or commercial uses, planned, developed as a whole, or in a programmed series of developments, and controlled by one developer which contemplates an innovative, more compact grouping of dwelling units or other uses. Site design accounts for both primary and secondary conservation areas and meets criteria in subsection 8(I)4. Creative Open Space Subdivisions treat the developed area as an entirety to promote flexibility in design, architectural diversity, the efficient use of land, a reduction in the size of road and utility systems, the creation of permanent, common open space, and the conservation of natural characteristics of the land.

Day Care: Homes and Centers licensed as such by the Maine Department of Human Services.

Day Care Center: Any child care arrangement that provides day care on a regular basis for more than four hours per day for more than five children of pre-school age.

Density: The number of dwelling units per lot of land or unit.

Development: Any man-made changes to improved or unimproved real estate including, but not limit to: buildings or other structures, mining, dredging, filling, grading, paving, excavating, or drilling operations.

District: A specified portion of the Town, delineated on the land use map, within which certain regulations and requirements or various combinations thereof apply under the provisions of this Ordinance.

Driveway: A vehicular access way serving one structure or lot.

Duplex: A building containing only two dwelling units, for occupancy by not more than 2 families but not including an accessory dwelling.

Dwelling: Any building or structure or portion thereof designed or used for residential purposes.

1. Accessory Dwelling: A second dwelling unit which occupies a portion of, or is attached to, a single-family residence (not associated with a duplex) that comprises not more than 25% of the gross floor area of the building, nor more than a total of 600 square feet and contains no more than one bedroom.
2. Single-Family Dwelling: Any structure containing one (1) dwelling unit for occupation by not more than one (1) family.
3. Two-Family Dwellings: A building containing only two (2) dwelling units, for occupation by not more than two (2) families.
4. Multi-Family Dwellings: A building containing three (3) or more dwelling units, such buildings being designed exclusively for residential use and occupancy by three (3) or more families living independently of one another, with the number of families not exceeding the number of dwelling units.
5. Dwelling Unit: A room or suite of rooms used by a family as a habitation which is separate from other such rooms or suites of rooms, and which contains independent living, cooking, sleeping, bathing and sanitary facilities.

Environmental Assessment (EA): An EA is a document required by the Federal Communications Commission (FCC) and the National Environmental Policy Act (NEPA) when a WTF is placed in certain designated areas.

Equipment Shelter: An enclosed structure, cabinet, shed, vault, or box near the base of the mount within which are housed equipment for WTFs such as batteries and electrical equipment. Equipment shelters are sometimes referred to as base transceiver stations.

Erotic Dance: A form of dance, which seeks, through one or more dancers, to arouse or excite the sexual desire of a patron or patrons.

Essential Services: Facilities for the transmission or distribution of water, gas, electricity, or essential communications, or for the collection, treatment or disposal of wastes including, without limitation: towers, poles, wires, mains, drains, sewers, traffic signals, hydrants and similar accessories but not buildings. Essential services do not include commercial communication towers.

Extractive Industries: The excavation, processing or storage of soil, topsoil, peat, loam, sand, gravel, rock, or other mineral deposits, not including:

1. The excavation of material incidental to, and at the site of, approved construction of buildings, driveways or parking areas;
2. The excavation of material incidental to, and at the site of, construction or repair of streets; and
3. The excavation, processing or storage of less than ten (10) cubic yards of material on a lot, within a one year period.

Facility: See Wireless Telecommunications Facility.

Fall Zone: The area on the ground from the base of a structure mounted personal wireless service facility that forms a circle with a diameter equal to twice the height of the facility, including any antennas or other appurtenances. The fall zone is the area within which there is a potential hazard from falling debris (such as ice) or collapsing material.

Family: One or more persons occupying a dwelling unit and living as a single housekeeping unit, as distinguished from a group occupying a tourist home, rooming house, hotel, motel or inn.

Family Child Care Home: A private residence where care, protection, and supervision are provided, for a fee, at least twice a week to no more than six children at one time, including children of the adult provider.

Fenestration: Window treatment in a building or on a building façade

Filling: Depositing or dumping any matter on, or into, the ground or water.

Firewood Processing: The cutting, sorting, and storage of wood for re-sale as firewood. All wood processed for firewood and used on the same premises shall not be included in this definition.

Flood: A temporary rise in stream flow or tidal surge that results in water overflowing its banks and inundating adjacent areas.

1. Flood Insurance Rate Map: The official map on which the Federal Emergency Management Agency (FEMA) has delineated both the areas of special flood hazards and the risk premium zones.

2. **Flood Plain:** The lands adjacent to a body of water which have been, or may be, covered by the regional flood.
3. **Regional Flood:** The maximum known flood of a body of water; either the one-hundred (100) year frequency flood, where calculated, or the flood of record.
4. **Floodway:** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**Floor Area:** The sum of the horizontal areas of the floor(s) of a structure enclosed by exterior walls, plus the horizontal area of any unclosed portions of a structure such as porches, decks, and patios.

**Forestry:** The operation of timber tracks, tree farms, forest nurseries, the gathering of forest products, or the performance of forest services.

**Foundations:** The supporting substructure of a building or other structure, excluding wooden sills and post supports but including basements, slabs, frost walls or other base consisting of concrete, block, brick or similar material.

See Road Frontage.

**Frontage, Shore:** The horizontal distance, measured in a straight line, between the intersections of the lot lines with the shoreline of a water body or wetland at normal high water elevation.

**Garage:** An accessory building, or part of a principal building, including a car port, used primarily for the storage of motor vehicles as an accessory use.

**Gasoline Service Station:** Any place of business at which gasoline, other motor fuels or motor oil are sold to the public for use in a motor vehicle, regardless of any other business on the premises.

**Great Pond:** Any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has a surface area in excess of thirty acres except for the purposes of this Ordinance, where artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

**Group Child Care Center, Class A:** A building or structure where care, protection and supervision are provided, on a regular schedule, at least twice a week to at least seven, and no more than twelve children, including children of the adult provider.

**Group Child Care Center, Class B:** A building or structure where care, protection and supervision are provided, on a regular schedule, at least twice a week to more than twelve children, including children of the adult provider.

Group Home: A community living facility for eight (8) or fewer mentally handicapped or developmentally disabled persons which is approved, authorized, certified or licensed by the State. It may include foster home, or intermediate care facilities.

Guyed Tower: A monopole or lattice tower that is secured to the ground or other surface by diagonal cables for lateral support.

Hazardous Material: Any gaseous, liquid or solid materials, either in pure form or incorporated into other materials, according to current guidelines of the U.S. Environmental Protection Agency, or substances designated as hazardous by the United States Environmental Protection Agency and/or the Maine Department of Environmental Protection.

Heavy Industry: Industrial uses, such as the manufacture or processing of chemicals, cement or rubber products, stockyards, steel mills, or distilleries, that generally produce nuisances. These nuisances may be in the form of air pollutants, excessive noise, traffic, glare or vibrations, noxious odors, danger of explosion, or unsightly appearance.

Height. The height above ground level (AGL) from the natural grade of a site to the highest point of a structure.

Holding Tank: A closed, watertight structure designed and used to receive and store wastewater inside a structure or outside a structure (above or below ground).

Home Occupation: An occupation or profession which is carried on in no more than five-hundred (500) square feet or twenty-five percent (25%) of the floor area of a detached, single-family dwelling unit by the full-time permanent occupants of the dwelling and no more than two (2) non-occupant employees on site at any time, which is clearly incidental and secondary to the use of the dwelling for residential purposes and which does not change the character thereof (by way of illustration and not of limitation, the term home occupation shall include such items as breads, cookies, or preserves, rugs, birdhouses, fishing flies, and quilts). The term "home occupation" shall include both professional and personal services.

Hospital: An institution providing, but not limited to, overnight health services, primarily for in-patients, and medical or surgical care for the sick or injured including, as an integral part of the institution, such related facilities as laboratories, out-patient departments, training facilities, central services facilities, and staff offices.

Hotel/Motel: A commercial building or group of buildings built to accommodate, for a fee, travelers and other transient guests who are staying for a limited duration with sleeping rooms without cooking facilities, each rental unit having its own private bathroom and its own separate entrance leading either to the outdoors or to a common corridor or hallway. A hotel may include restaurant facilities where food is prepared and meals served to its guests and other customers.

Human Scale: The relationships of a development and/or its elements in terms of size, height, bulk, intensity, and aesthetics, to human beings.

Indoor Theater A building or portion of a building used for gathering 50 or more persons for such purposes as viewing movies, plays or other forms of entertainment.

Industrial Uses: Industrial uses shall have the following definitions:

Junkyards: Junkyard shall have the following definitions:

Minor Junkyards: Parts, whole or a combination equaling ten or less, secondary to, and part of, the primary operation.

Major Junkyards: Parts, whole or combination, equaling more than ten and/or a fundamental parts of the operation.

Kennel: An establishment in which more than four (4) dogs or four (4) cats are sold, housed, bred, boarded, or trained for a fee.

Landscaping Contractor: A contract with three (3) or more pieces of motorized equipment associated with landscaping for commercial use.

Large Scale Building: Any structure within purview of Architectural Standards which is equal to or greater than 20,000 square feet in floor area.

Lattice Tower. A type of mount with multiple legs and structural cross-bracing between the legs that is self-supporting and freestanding.

Light Industry: Industrial uses that, generally, do not have offensive characteristics and can be conducted entirely within enclosed buildings. These may include: industrial processes such as printing, manufacturing of products from component parts, food packaging, or warehousing.

Limited Period of Time: For a period of no more than seven months within a calendar year.

Lot: An area of land in one (1) ownership, or one (1) leasehold, with ascertainable boundaries established by deed or instrument of record, or a segment of land ownership defined by lot boundary lines on a land subdivision plan duly approved by the Planning Board and recorded in the County Registry of Deeds.

Lot Area: The total horizontal area within the lot lines.

Lot, Minimum Area: The minimum required lot area within a district for a single use.

Lot, Corner: A lot with at least two contiguous sides abutting a street or right-of-way.

Lot, Coverage: The percentage of a lot covered by all buildings.

Lot Lines: The lines bounding a lot as defined below.

1. **Front Lot Line:** Interior lots: the line separating the lot from a street or right-of-way. Corner lot or through lot; the line separating the lot from either street or right-of-way.
2. **Rear Lot Line:** The lot line opposite the front lot line. On a lot pointed at the rear, the rear lot line shall be an imaginary line between the side lot lines parallel to the front lot line, not less than ten (10) feet long, lying farthest from the front lot line. On a corner lot, the rear lot line shall be opposite from the front lot line of least dimension.
3. **Side Lot Line:** Any lot line other than the front lot line or rear lot line.

**Lot of Record:** A parcel of land, a legal description of which, or the dimensions of which, are recorded on a document or map on file with the County Register of Deeds prior to June 29, 1991.

**Lot, Shorefront:** Any lot abutting a body of water.

**Lot, Through:** Any interior lot having frontages on two more or less parallel streets or rights-of-way or between a street and a body of water, or a right-of-way and a body of water, or between two bodies of water, as distinguished from a corner lot. All sides of through lots adjacent to streets, rights-of-way, and bodies of water shall be considered frontage, and front yards shall be provided as required.

**Lot Width:** The distance between the side boundaries of the lot measured at the front setback line.

**Lumen:** Is a unit of measurement of the amount of brightness that comes from a light source.

**Manufactured Housing:** A structural unit or units designed for occupancy and constructed in a manufacturing facility and transported, by use of its own chassis or an independent chassis, to a building site.

**Massing:** The grouping of three-dimensional forms to achieve variation (as in a building or landscape planting).

**Mast.** A thin pole that resembles a street light standard or a telephone pole. A dual-polarized antenna is typically deployed on a mast.

**Minimum Lot Depth:** The minimum distance between the front and rear boundaries of the lot measured perpendicular to a road.

**Mobile Home Park:** A plot of land laid out to accommodate at least three (3) manufactured homes for commercial purposes.

**Mount.** The structure or surface upon which antennas are mounted. (interior or exterior) including the following two types of mounts:

- i. **Structure-mounted** – A mount that is a structure affixed to the ground, other than a building, upon which one or more antennas are mounted.

- ii. Building-mount – A mount that is: (1) the roof or side of a building upon which one or more antennas are mounted; or (2) a mount that is a structure affixed directly to the roof or side of a building and not part of the building, upon which one or more antennas are mounted.

After June 23, 2001, all structure-mounts shall be masts or monopoles, and all structures (other than buildings) used with building mounts shall be masts.

Neighborhood "Convenience" Stores: A store of less than 1,500 square feet of floor space intended to service the convenience of a residential neighborhood primarily with the sale of merchandise, including such items as, but not limited to, basic food, newspapers, emergency home repair articles, and other household items, but not to include "sit-down" dining or "eat-in" foods or take out windows.

Net Buildable Acreage (NBA): For minor subdivisions the remainder from the sum of non-buildable areas subtracted from the total area of the parcel; for creative major open space subdivisions the lesser of: A) the remainder from open space set aside (open space ratio multiplied by total parcel); or, B) the remainder of the total parcel minus the sum of all non-buildable areas; for other major subdivisions and high impact subdivisions the remainder from the sum of primary conservation areas and open space to be set aside (open space ratio multiplied by total parcel) subtracted from the total parcel. Note that 7% of parcel is also deducted to account for roads and parking for all subdivisions except creative major open space subdivisions.

Net Residential Density: The number of dwelling units per net residential acre.

Nonbuildable: Construction is not allowed.

Nonbuildable Areas: Areas that shall not be built upon when part of a subdivision include steep slopes (20% or more), hydric soils, wetlands, moderate to high value aquifers, surface water including intermittent streams, rights-of-ways and easements, Resource Protection District, and portions utilized for stormwater management facilities.

Non-Conforming: A building, structure, lot, use of land, or portion thereof, legally existing at the effective date of adoption or amendment of this Ordinance which thereafter fails to conform to all applicable provisions of this Ordinance.

Non-Permanent Place of Business: A moveable structure, with or without wheels, and without a fixed location, which is on land leased or rented and not owned by the applicant. Such structures shall be removed when the activity is discontinued for the year.

Nursing Home: A privately operated establishment where maintenance and personal or nursing care are provided for persons who are unable to care for themselves.

Offices: See Business and Professional Offices

Parapet: The extension of the main walls of a building above the roof line.

Parks and Recreation: Non-commercially operated recreation facilities open to the general public including, but not limited to, playgrounds, parks, monuments, green strips, open space, mini-parks, athletic fields, boat launching ramps, piers and docks, picnic grounds, swimming pools, and wildlife and nature preserves, along with any necessary accessory facilities, rest rooms, bath houses, and the maintenance of such land and facilities. The term shall not include campgrounds, or commercial recreation and amusement centers.

Peddlers and Itinerant Vendors: Any person who engages in the sale, by the roadside of goods, wares, merchandise from a non-permanent place of business for a limited period of time.

Permitted Use: Uses which are listed as permitted uses in the various districts set forth in this Ordinance. The term shall not include prohibited uses.

Personal Wireless Services. The three types of services covered by this Ordinance: commercial mobile radio services, unlicensed wireless services, and common carrier wireless exchange access services as described in the Telecommunications Act of 1996, as amended.

Planning Board: The Planning Board of the Town of Manchester.

Primary Conservation Areas: Those non-buildable areas which include constraining elements such as steep slopes (20% or more), wetlands, hydric soils, moderate to high value aquifers, and surface waters including intermittent streams.

Principal Structure: The structure in which the primary use of the lot is conducted.

Principal Use: The primary use to which the premises are devoted.

Private Road, Roadway, Street: A privately owned road neither owned nor maintained by the town or general public.

Public Road, Roadway, Street: Any roadway which is owned, leased or otherwise operated by a governmental body or entity.

Public and Private Schools: Primary and secondary schools, or parochial schools, which satisfy either of the following requirements: the school is not operated for a profit or as a gainful business; or the school teaches courses of study which are sufficient to qualify attendance in compliance with State Compulsory Education Requirements.

Public Utility: Any person, firm, corporation, Town department, board or commission authorized to furnish gas, steam, electricity, waste disposal, communication facilities, transportation or water to the public.

Radio Frequency (RF) Engineer: An engineer specializing in electrical or microwave engineering, especially the study of radio frequencies.

Radio Frequency Radiation (RFR): The emissions from WTFs.

- i. Security Barrier. A wall, fence, or berm that restricts an area from unauthorized entry or trespass.

Recreational Vehicle: A self-propelled or drawn vehicle or vehicular attachment designed for temporary sleeping or living quarters for one or more persons, which is not a dwelling and which may include a pick-up camper, travel trailer, tent trailer, or motor home.

Residence: Any structure, which is principally used as a dwelling including, without limitation, a single family or multi-family house, an apartment, a condominium, or mobile home.

Restaurant: An establishment where meals are prepared and served to the public.

Retail Business: A business establishment engaged in the sale, rental, or lease of goods or services to the ultimate consumer for direct use or consumption and not for resale.

Retail Fuel Distribution: The structures, buildings and fuel storage facilities necessary for the retail sale of petroleum products directly to the consumer.

Right-of-way: All public or private roads and streets, state and federal highways, private ways (now called public easements), and public land reservations for the purpose of public access, including utility rights-of-way.

River: A free flowing body of water including its associated flood plain wetlands from that point at which it provides drainage for a watershed of 25 square miles to its mouth.

Road: An existing state, county, or town way or a street dedicated for public use and shown upon a plan duly approved by the Planning Board and recorded in the County Registry of Deeds or a road dedicated for public use and shown on a plan duly recorded in the County Registry of Deeds prior to the establishment of the Planning Board and the grant to the Planning Board of its power to approve plans. The term "road" shall not include those ways which have been discontinued or abandoned.

Road, Roadway, Street: A route or track consisting of a bed of exposed mineral, soil, gravel, asphalt, or other surfacing material constructed or created by the repeated passage of motorized vehicles.

Road Frontage The horizontal, straight line distance between the intersection of the side lot lines with the road right of way

Sadomasochistic Acts/Bondage and Discipline: Respectively, flagellation, torture or punishment by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained while so clothed or by a person so clothed.

Sawmill and Related Operations: The processing, cutting and finishing of raw logs into a finished product for re-sale and including related activities such as storage and sales.

Scale: The relationships of a development and/or its elements in terms of size, height, bulk, intensity, and aesthetics, to one another and the surroundings.

Scale: The relationships of a development and/or its elements in terms of size, height, bulk, intensity, and aesthetics, to one another and the surroundings.

Secondary Conservation Areas: Those non-buildable areas which include significant features such as open fields and meadows, scenic views into or out from the property, natural drainage-ways, stone walls, tree-lines, mature woodlands, moderate to high value wildlife habitat, rock outcrops, and existing historic structures (e.g. farmhouses, barns, etc.), roads and trails, and hilltops.

Setback: The minimum horizontal distance from a lot line to the nearest part of a building, including porches, steps, and railings.

Sexual Device: A device or object the primary purpose of which is to provide direct sexual stimulation to male or female genitals or anus.

Shopping Center: Any concentration of two or more retail stores or service establishments under one ownership or management containing 15,000 sq. ft. or more of gross floor space.

Sign: Any structure, display, logo, device or representation which is designed or used to advertise any business activity or place to include specialty advertising devices.

Site Furniture: Constructed, above-ground objects, such as outdoor seating, kiosks, bus shelters, sculpture, tree grids, trash receptacles, and fountains that have the potential for enlivening and giving variety to streets, sidewalks, plazas and other outdoor spaces used by the public.

Sludge and Ash Spreading and Disposal: The land-spreading, composting or burial of sludge, residuals or ash as approved, authorized or licensed by the State Department of Environmental Protection.

Specified Criminal Activity: A criminal conviction for any of the following offenses: prostitution or promotion of prostitution; dissemination of obscenity; sale, distribution, or display of harmful material to a minor; sexual performance by a child; possession or distribution of child pornography; public lewdness; indecent exposure, indecency with a child; sexual assault; molestation of a child; or any similar sex-related offenses to those described above under the Maine Criminal Code or statutes of other states, the United States or any other nation or province, and for which:

- ii. less than two (2) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is for an offense punishable by a maximum term of imprisonment of less than one year;
- iii. less than five (5) years have elapsed since the date of conviction or the date of release from confinement imposed for the conviction, whichever is the later date, if the conviction is for an offense punishable by a maximum term of imprisonment of one year or more;
- iv. less than five (5) years have elapsed since the date of the last conviction or the date of release from confinement imposed for the last conviction, whichever is the later date, if the convictions are for two or more offenses or combination of offenses occurring within any twenty-four (24) hour period, and all such offenses are punishable by maximum term of imprisonment of less than one year.

Specified Anatomical Areas:

- ii. Less than completely and opaquely covered: (a) human genitals, pubic region, (b) buttocks or (c) female breast below a point immediately above the top of the areola; and
- iii. Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities:

- i. Human genitals in a state of sexual stimulation or arousal;
- ii. Acts of human masturbation, sexual intercourse, any sexual act or sexual contact as defined by Maine law, or sodomy;
- iii. Fondling or other touching of human genitals, pubic region, buttock or female breast.

Stream: A free flowing body of water from the outlet of a great pond or the confluence of 2 perennial streams as depicted on the most recent edition of a United State Geological Survey 7.5 minute series topography map, or if not available, a 15-minute series topography map, to the point where the body of water becomes a river or flows to another water body or wetland within the shoreland zone.

**Structure:** Anything constructed or erected, the use of which requires a fixed location on or in the ground or in the water, or an attachment to something having a fixed location on the ground, or in the water including foundations, piers, piles, buildings, billboards, free standing signs, commercial park rides and games, carports, porches, and other building features, including stacks and antennas. All subsurface sewage/waste disposal facilities designed in conformance with the State of Maine Subsurface Waste Water Disposal Rules, Chapter 241, as revised shall not be considered a structure. The following items are also not considered structures, except when they are located within 100 feet of the normal high water mark in the Shoreland District or Resource Protection District: sidewalks, fences, driveways, culverts and piping, parking lots, and field or garden walls or embankment retaining walls.

**Subdivision:** Subdivision means subdivision (1) as defined in Title 30-A M.R.S.A., 4401, as amended (i.e. generally a division of a tract or parcel of land into three (3) or more lots within a five year period (see statute for full definition) and (2) as such definition is augmented by the following:

1. Such division may be accomplished by sale, lease, development, building or otherwise, including informal arrangements which result in the functional division of a tract or parcel. The term subdivision may, at the Planning Boards discretion, also include cluster housing, shopping centers, lodging places (e.g. motels, inns, etc.) and apartment, condominium, or cooperative housing units, when any of these items contain three or more units.
2. Under such definition, lots of forty (40) or more acres each shall be counted as lots if the lots are wholly or partly within the Shoreland District and the average lot-depth-to-shore-frontage ratio is greater than three to one.

**Subdivision, minor** - any subdivision containing less than five (5) lots or dwelling units, or any subdivision involving less than 10 acres but five (5) to nine (9) lots which the Board finds according to Article II, Sec. 8(I), §1(iii) does not require open space set aside.

**Subdivision, major** - any subdivision, except commercial subdivisions in GD and MV districts, containing five (5) to nine (9) lots or dwelling units unless within the criteria for a minor subdivision. Note that major commercial subdivisions in GD and MV districts do not require open space set aside.

**Subdivision, high impact** - any subdivision containing 10 or more lots or dwelling units.

**Substantial Start in Construction** – Completion of twenty-five percent (25%) of improvements to a permitted structure or site measured as a percentage of total cost.

**Swimming Pool:** An outdoor man-made receptacle or excavation designed to hold water to a depth of at least twenty-four (24) inches, primarily for swimming or bathing, whether in the ground or above the ground.

**Temporary Signs:** Mean signs that are not permanently fixed.

Terminal for Bulk Oil and Gas: The structures, buildings and fuel storage facilities designed for the storage of oil and gas for re-sale to retail fuel distributors.

Timber Harvesting – The cutting and removal of timber for the primary purpose of selling or processing forest products. The cutting or removal of trees in the shoreland zone on a lot that has less than two (2) acres within the shoreland zone shall not be considered timber harvesting. Such cutting of trees shall be regulated pursuant to Section 6 (F) clearing of vegetation for development within the shoreland district.

Tributary Stream: A channel between defined banks created by the action of surface water, whether intermittent or perennial, and which is characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed devoid of topsoil containing waterborne deposits on exposed soil, parent material or bedrock, and which flows to a water body or wetland as defined. This definition does not include the term “stream” as defined elsewhere in this ordinance, and only applies to that portion of the tributary stream located within the shoreland district of the receiving water body or wetland.

Use: The manner in which land or a structure is arranged, designed or intended, or is occupied.

Vernacular Architecture: Architectural forms which are indigenous to an area, having developed in response to available materials, environmental conditions, and local traditions. The New England Style of architecture includes, and only if Article V Section 3a Sentence (two) 2 applies, but is not limited to, Cape Cod, Georgian, Neoclassical, Colonial, Classic Revival, New England farmhouse, Romantic Revival, Federal, and Queen Anne.

Volume of Structure: The volume of all portions of a structure enclosed by roof and fixed exterior walls in excess of three (3) feet in height as measured from the exterior faces of these walls and roof.

Warehousing and Storage: A building whose primary use is for the storage or sheltering of goods, merchandise, products, vehicles or animals.

Waste Disposal/Landfill: The offices, plans, structures or place used for the permanent disposal of waste material by land burial or burning.

Wastewater: Any wastewater produced by human origin from commercial, industrial or residential sources, which may contain human, animal or vegetable matter in suspension or solution.

Wetland: A fresh water wetland, swamps, marsh, bog and similar area, other than forested wetlands, which are:

1. Of ten or more contiguous acres; or of less than 10 contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of 10 acres; and,

2. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

Wholesale Business: A business establishment engaged in the sale, rental or lease of goods or services to a specific or limited group, trade, profession, or business for re-sale.

Wireless Telecommunication Facility (WTF): Facility for the provision of personal wireless services, as defined by the Telecommunications Act of 1996, as amended and this Ordinance. WTFs include a mount, antenna, equipment shelter, and other related equipment. A WTF shall not include any of the following:

- i. Wireless communication facilities for emergency communications by public officials.
- ii. Amateur (ham) radio stations licensed by the Federal Communications Commission (FCC)
- iii. Parabolic Antennae less than seven (7) feet in diameter, that are an accessory use of the property.
- iv. Temporary Wireless Telecommunications Facilities in operation for one maximum period of one hundred eighty (180) days. Such temporary facilities shall be removed prior to 30 days following the maximum period.
- v. An antenna that is an accessory use to a residential dwelling unit, provided that the WTF is not used for commercial purposes.

**APPENDIX B. MANCHESTER FEE SCHEDULE**

<b><u>Board of Appeals</u></b>	\$200.00
<b><u>Conditional Use Permit</u></b>	\$100.00 + \$100 per additional lot or new structure
<b><u>Notice Fee</u></b>	\$3.00 for each property owner within 500 feet
<b><u>Construction permits</u></b>	
Principal structure	\$25.00 + \$.10 per square foot
Accessory structure	\$20.00 + \$.05 per square foot
Structural Renovation	\$20.00 + \$.05 per square foot
Building (over 500 sq. ft.) demolition/moving	\$25.00
<b><u>Maintenance, Repairs, Restoration</u></b>	
Over \$2500 in cost or value	<u>\$25.00</u>
<b><u>Demolition of Buildings (over 500 square feet)</u></b>	\$25.00
<b><u>Driveway Paving Permit</u></b>	\$25.00
<b><u>Driveway and Culvert Permit Town Road</u></b>	\$25.00
<b><u>Earth Moving of 100 Cubic Yards or More</u></b>	
<b><u>Within the Boundaries of Property in the Same Ownership</u></b>	\$5.00
<b><u>Earth Moving less than 50 c.y. within Shoreland Zone</u></b>	\$5.00
<b><u>Earth Moving 50 c.y. or greater within Shoreland Zone</u></b>	\$5.00
<b><u>Filling or Other Earth Moving Activity of More than 100 Cubic Yards</u></b>	\$25.00
<b><u>Final Plat Plan Review</u></b>	\$100.00
<b><u>Flood Zone Construction Fee:</u></b>	
Minor Flood Permit	\$25.00
Major Flood Permit	\$50.00
<b><u>Gravel Excavation and/or Mining</u></b>	Annual fee of \$100.00 in addition to applicable permit review fee
<b><u>Home Occupation Permit</u></b>	\$25.00 per use
<b><u>Inspection Fees (MUBEC) &amp; Additional Inspections</u></b>	\$50/Inspection
<b><u>Minor Development</u></b>	\$100 initial lot + \$100 per additional lot or additional structure
<b><u>Major Development</u></b>	\$200 + \$100 per additional lot or new structure
<b><u>Peddler or Itinerant Vendor</u></b>	\$25/year (Resident) \$100/week (Non-Resident)
<b><u>Public Hearing Advertisements</u></b>	Cost Varies
(The applicant shall bear the cost of advertising in a newspaper of local circulation. The fee shall be equal to the actual cost of running the advertisement.)	
<b><u>Special Exception Permit</u></b>	\$200.00 + \$100 per additional lot or new structure

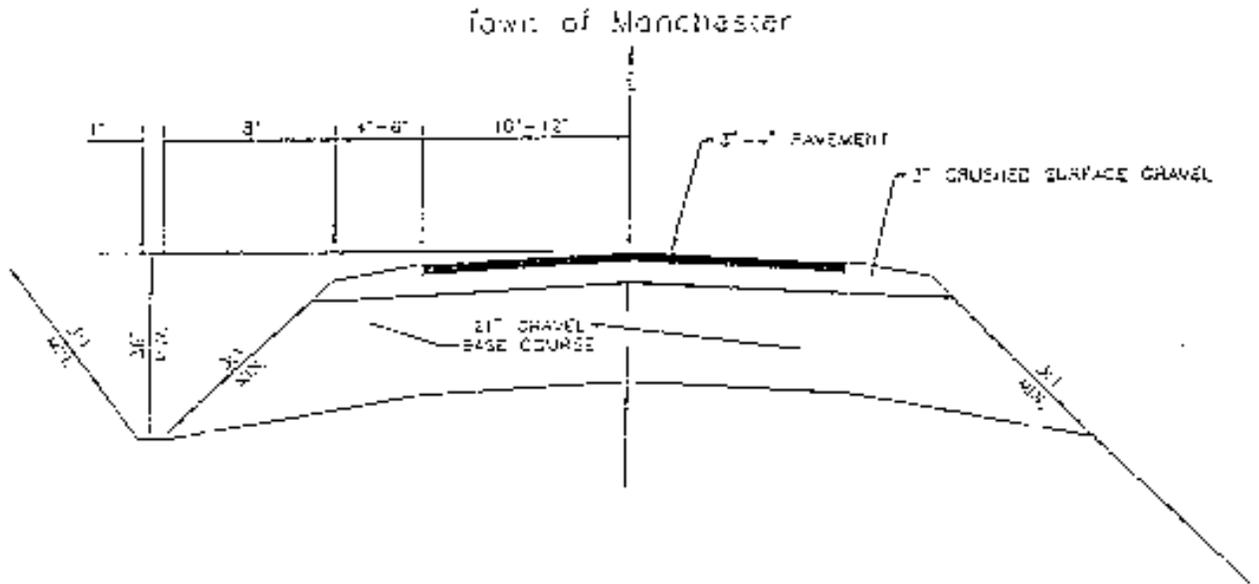
**Temporary Sign Permit**

\$10.00 per sign

**After-the-fact permits** are double the established fee above.

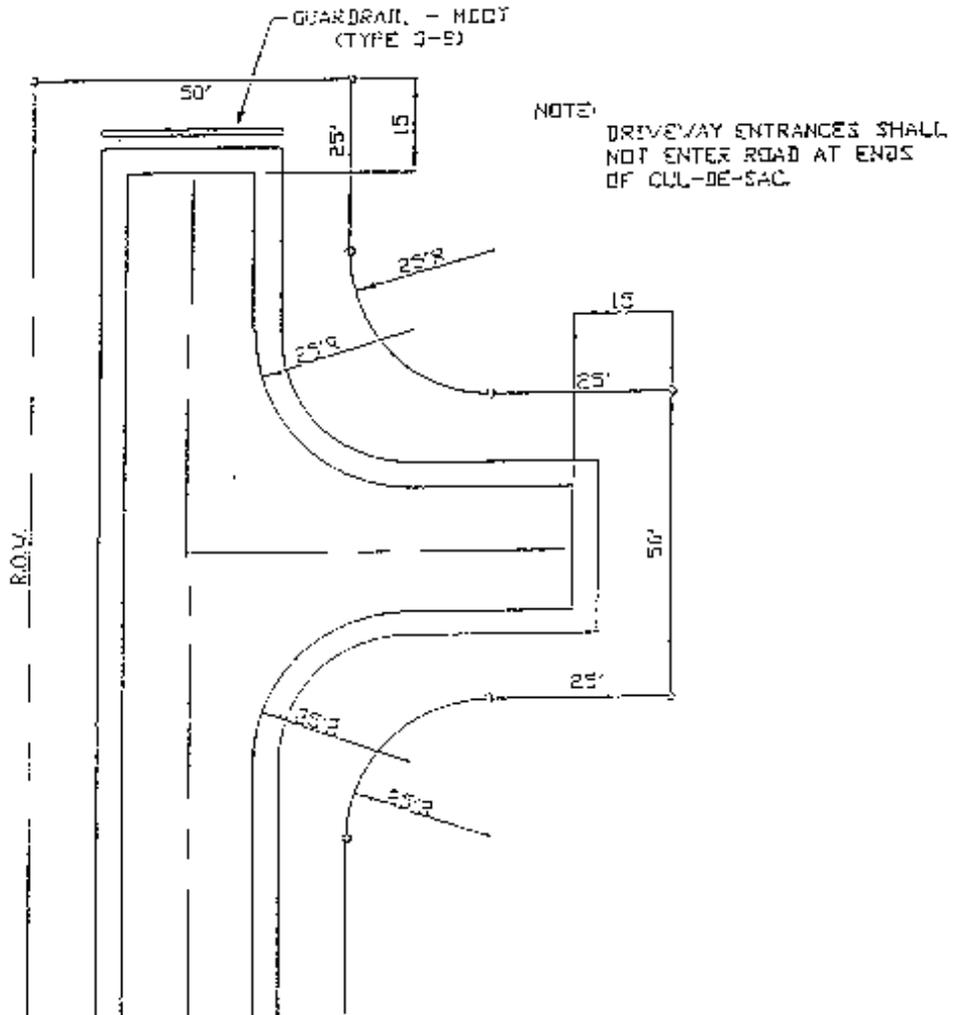
**Changing of Fees:** The above fees may be changed by the Board of Selectmen after the Planning Board holds a public hearing and recommends changes to the Selectmen.

**APPENDIX C. TYPICAL ROAD CROSS SECTION**



**TYPICAL ROAD CROSS SECTION**  
N.T.S.

**APPENDIX D. TYPICAL CUL-DE-SAC DETAIL**



TYPICAL CUL-DE-SAC DETAIL

NTS

**APPENDIX E. PHOTOS RELATED TO ARCHITECTURAL STANDARDS<sup>13</sup>**



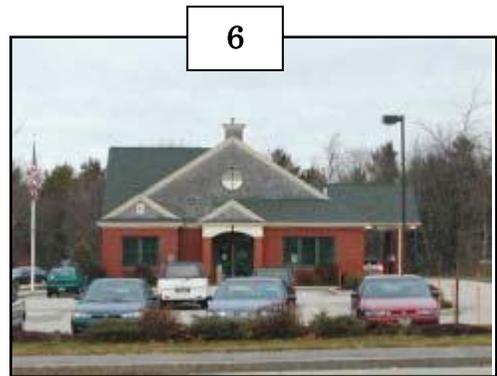
Drawing from traditional forms, the scale of this commercial building is reduced by variations in roofline, massing, and high quality architectural details. Photo 1.



Examples of high quality Maine architecture – a medical office, a retail store, and a library – that have been designed at human scale and fit their unique sites.

Photos 2-3-4.

<sup>13</sup> Added June 14, 2007



Finely detailed commercial buildings using traditional New England Forms and materials. Entrances are well marked and provide users with areas for shelter and/or interaction.  
Photos 5-6-7-8.



Three examples of buildings that have little reference to traditional New England forms or materials.  
Photos 9-10-11.





A freestanding ATM and remote teller located in the rear of the building designed to complement the main bank building in color, scale and detailing.

13



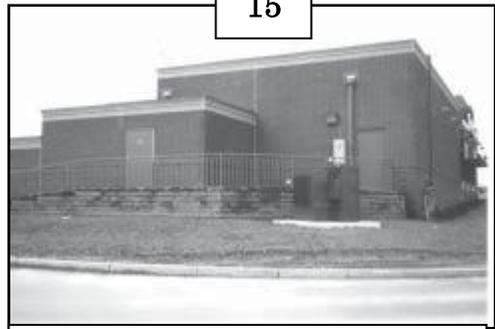
A freestanding canopy designed with the same form and detailing as the main building. The signage is well integrated into the facades.

14



An office complex that offers a variety of exterior spaces and relates well to surrounding residential areas by paying particular attention to design, scale and details.

15



This restaurant occupies a highly visible corner location yet provides the public with a scaleless, blank wall that does not contribute to the aesthetics of the street.

16



A commercial building that lacks scale. There are virtually no distinguishing features to give the structure character or relate it to the context of New England.

17



This cart corral does not reflect the architectural treatment of the large retail establishment and appears out of place in the parking lot.

18



The repetition of architectural and landscape details help to integrate a shopping center with a historic building

19



A single style revocation transformed a small nondescript building into a noteworthy restaurant.

20



The additions on both sides of this restaurant do not relate to the form of the central structure

23



While the front plane of the wall of this building is broken, the offset does not continue to the ground. The projection becomes a billboard and the building is seen as a large box.

21



22



Façade Treatments on these two commercial buildings wrap around the corners to present a unified design from all visible faces (Photos 21-22)

24



The scale of this “big box” has been effectively reduced by architectural elements and detailing. The overhang provides protection for pedestrians and emphasizes the entrance.

25



26



27



Three views of a branch bank set in a mixed-use village setting. All facades were treated with equal importance. The front (#25) faces the street and is built to the sidewalk, encouraging pedestrian traffic. The side of the building (#26) facing a single family home is residential in scale and design. The canopy at the rear (#27) provides a transition area between the parking lot and the back entrance. (Photos 25-26-27)

28



29



Small scale buildings, especially those viewed at close range, offer an opportunity to display a high level of detailing to enrich the pedestrian environment.

Highly articulated details are used successfully as design elements on the facade of this building.

30



This building's ventilation equipment and service connections are highly visible, adding unnecessary clutter.

31



The building's meters and service connections are located out of sight in this service cabinet.

32



Cement plank clapboard is a new material that resembles traditional wooden siding with less maintenance.

33



34



35



Three buildings that use traditional materials, brick, granite, and wood. Photos 33-34-35.

36



Reflective Metal Siding

40



Metal Panels

37



Multicolored brick (poor image from source)

41



Split face block

38



Highly reflective glazed tile with bright plastic accents.

42



Textured plywood and arbitrary changes in materials.

39



Painted concrete block

Examples of primary building materials and treatments that are prohibited in Manchester's commercial districts.

Photos 36-37-38-39-40-41-42.

43



47



44

48



45



49



46



Examples of the richness and variety of traditional New England color schemes.

Photos 43-44-45-46-47-48-49.

50



51

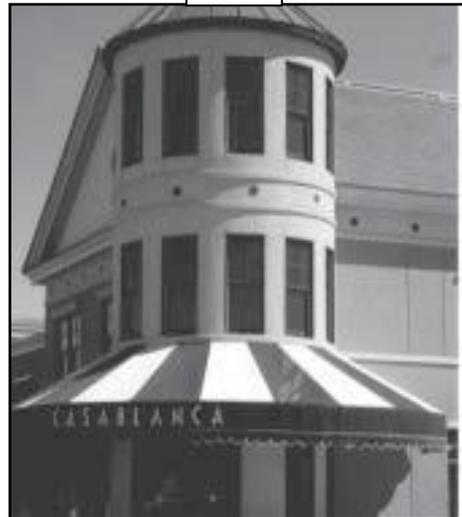


53



Backlit, highly reflective canopies are not appropriate in Manchester. These canopies (above and to the right) function primarily as a large signs, which is not acceptable. Photos 50 & 53.

52



Canopies over the doorways emphasize the main entrance and provide effective protection from the elements. Photos 51-52.

54



The scale of this linear shopping plaza has been effectively reduced through variations in roof planes, dormers and a cupola.

55



Standing seam metal roofing is a traditional material in older commercial buildings in New England.

56



A cupola projecting from this steeply pitched roof is an example of traditional forms used in a contemporary structure. Roof-mounted mechanical equipment has been effectively screened by balustrades.

57



An addition to house an indoor playground bears no relationship to the existing structure.

58

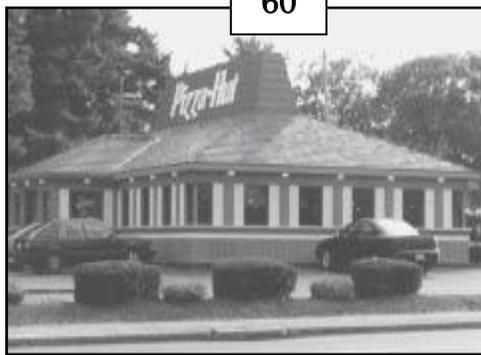


A fast food restaurant that was designed to complement the vision for a highway corridor.

59



60



61



The design used for national franchises are often repeated across the country. Generic architecture has little or no reference to traditional New England forms and can further the loss of identity.

62



65



63



66



64



67



Examples of building forms used for national franchises  
(Photos 62-63-64)

Examples of architecture from the same franchises which have been designed to local design standards  
(Photos 65-66-67)

68



Main entrances on large-scale buildings shall be designed as prominent focal points to orient customers.

69



The mass of this large building has been reduced by a columns and subtle changes in geometry.

70



A large retail establishment that still projects the image of a big box, despite the canopy and entrance treatment.

71



Arcades can be an effective way to add human scale to large buildings. Architectural detailing and shadow patterns create an inviting space.  
Photos 71-72.

72



73



Entrances to this larger grocery store are emphasized by projecting canopies, distinctive openings and a covered arcade.

74



75



Examples of large retail buildings that have been effectively designed to avoid the  
Photos 74-75

76



This retail store, attached to a large grocery store, has been designed as an individual building, with a separate entrance and architectural detailing. A covered walkway connects all the storefronts.

77



Covered walkways add a shadow line which can reduce the scale of a long building and unify the façade.

78



Colonnades add visual interest to linear buildings while providing scale and protection from the elements.

79



A commercial building that uses a clock tower as a focal point. Offset in the roofline helps to break up the mass of the building.

80



A multi-tenant building with no variation in the roofline or facades to break up the scale.

81



84



82



83



A linear building that has been effectively scaled down by variations in the roofline and façade. Each storefront is treated as a separate entity. Variety in the use of materials adds visual interest to all facades. The covered walkway encourages pedestrian movement and window shopping.

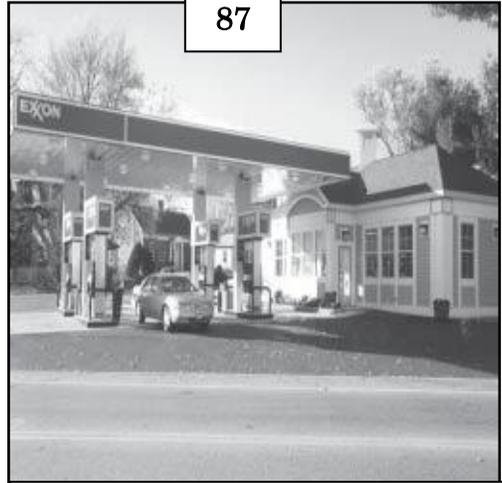
Photos 81-82-83-84-85.

86



This service station canopy is designed to be an extension of the building. The columns, roofline, formers and signage contribute to a sense of continuity in the architecture.

87



The flat-roofed canopy bears no design relationship to the well-detailed convenience store in terms of form, materials, or architectural style. The store was designed to fit into the residential surroundings.

88



89



The banks' drive-through windows have been designed as integral parts of the building. They repeat the rooflines, forms and materials

(Photos 88-89)

