

# NOTICE OF PUBLIC HEARING

## VILLAGE OF MANCHESTER VERMONT

### BOARD OF TRUSTEES

**Pursuant to Title 24 V.S.A. Chapter § 4385 and 4447**, the residents, property owners, and interested parties of the Village of Manchester **are hereby notified** that the **VILLAGE OF MANCHESTER BOARD OF TRUSTEES** will hold a **PUBLIC HEARING** at **4:00 P.M., MONDAY, DECEMBER 4, 2023**, at the **Village Office** located at 45 Union Street, Manchester, Vermont for public input on proposed revisions to the **Village of Manchester Zoning Bylaw** as adopted in 1931, amended September 20, 2023.

Statement of Purpose: The purpose of the proposed revisions is to align with the Village of Manchester Plan of Development, remove barriers to housing development, and to clarify ambiguous language and provisions.

Geographic Areas Affected: All areas within the Village of Manchester.

Proposed changes are found in the following sections:

1. SECTION 1 – DEFINITIONS
2. SECTION 2 – DISTRICTS
3. SECTION 3.3 – USE REGULATIONS FOR ALL DISTRICTS
4. SECTION 3.5 – ADMINISTRATIVE REQUIREMENTS
5. SECTION 5.1.3 – PERMITTED USES IN RURAL RESIDENTIAL (RR) DISTRICTS
6. SECTION 5.2.2 – DIMENSIONAL REQUIREMENTS IN VILLAGE RESIDENTIAL (VR) DISTRICT
7. SECTION 5.3.2 – DIMENSIONAL REQUIREMENTS IN MULTI-FAMILY (MR) DISTRICTS
8. SECTION 5.5.11 – STREETLIGHTS
9. SECTION 7.1.1 – DIMENSIONAL REQUIREMENTS IN THE BUSINESS DISTRICTS
10. SECTION 9.6.3 – REQUIRED AREA FOR PARKING FACILITIES
11. SECTION 10.1 – PERMITS

The proposed Bylaw amendment and the report of the Planning Commission may be examined at the Village of Manchester office located at 45 Union Street between 9:00 A.M. and 3:00 P.M Monday through Thursday or viewed and downloaded from the Village of Manchester website <https://www.villageofmanchester.com>.

This notice is given November 13, 2023, for publication in the Bennington Banner Wednesday, November 15, 2023 and in the Manchester Journal Friday, November 17, 2023.

# **Village of Manchester**

## **Planning Commission Report**

### **Amendment to Zoning Bylaw**

**First enacted 1931, Last amended September 20, 2023**

The State of Vermont has identified the need for housing development as a central goal for local, regional, and state planning efforts. It is important that good quality housing, for purchase or rent, be available in a variety of types and price ranges. People need to be able to have sufficient income to pay housing costs, as well as food, clothing, transportation, and other necessities.

One measure often used to assess housing affordability for residents of a community is the number of families paying over 30% of their income toward housing costs. In the Village, 24.7% of homeowners and 35.9% of renters pay greater than 30% of their incomes toward housing costs. These are not the lowest percentages in the county but are among the lowest.

Although most homeowners and renters in the Village are paying less than 30% of their income toward housing costs, it is still important to provide affordable housing to residents in need. Though, providing affordable housing in the Village is difficult due to the high cost of property.

The recommended amendments are compatible with the following general guidelines for development outlined in the Village Plan of Development:

1. Development is defined to mean any change in any use of land and structures including the division of a parcel of land into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation, or enlargement of any structure; any mining, excavation, landfill, or land disturbance, and any use or extension of the use of land.
2. Land use and development must be consistent with the land's capability to support such use and development. The natural and irreplaceable resources such as the scenic backdrop of Mount Equinox and Green Mountains must be preserved.
3. Development projects must integrate natural features and resources, rather than reclaiming, modifying, or destroying them.

4. Open space and landscaping must be incorporated into development projects.
5. Any type or style of development that would adversely alter historic structures, or alter the aspect of the small, well-preserved, late 19<sup>th</sup> and early 20<sup>th</sup> century village and resort community must be avoided.
6. Development must consider the relationship to adjacent properties.
7. Utility lines should be off-street or preferably installed underground.
8. Parking shall be at the rear of the building whenever possible and feasible.
9. Development and signage shall adhere to the design guidelines and/or criteria established for the Village.
10. Small and mid-scale renewable energy development is appropriate, when well-sited in compliance with all applicable ordinances, in many areas of the Village. Large-scale renewable energy facilities are appropriate only in preferred areas.

Proposed updates are aimed to comply with statutory changes intended to remove barriers to housing development, to clarify ambiguous provisions of the bylaws, and to update other statutory references and standards. The proposed changes include:

1. Clarification that basic zoning districts do not overlay although the design overlay districts do.
2. Revised definition of accessory dwelling units (ADUs) to clarify that ADUs are permitted as an accessory use to all single-unit residential use and to increase allowable square footage for ADUs to comply with state statute.
3. Clarification that existing small lots connected to sewer and water may be developed.
4. Clarifications and distinctions made to the definitions of B&B, Inn, Hotel, Motel, Condominium, and Family Childcare.
5. Definition of driveway revised to reflect that it may serve up to 2 dwelling units.
6. Clarification that some permits can be administratively approved.

7. Clarification of which forms of site development are allowed in the front yard.
8. Section 3.5 conditional use criteria were updated to reflect state statutory language.
9. Section 3.6 statutory references were updated.
10. References to the Development Review Board were clarified throughout the bylaws.
11. Removed the requirement for additional lot size for multiple dwelling units within the VR, MR, B-1, and B-2 districts.
12. Added “wetland” to the list of water resources in Section 9.2.
13. Clarification that the Village Trustees have jurisdiction over the amount and form of surety bonds in Section 9.5.3.
14. Reduced minimum parking requirements from two spaces per dwelling unit to one space per dwelling unit to reflect new statutory limits.
15. Updated reference to the Manchester assessing office.
16. Changed the initial term of a permit to reflect statutory requirements. State statute requires at least a 2-year term for site plan and conditional use permits.

The Planning Commission plans to continue making modifications to the bylaws to further streamline permitting and development review processes and to ensure compliance with the recently enacted Home Act (Act 47).

# **Village of Manchester, Vermont**

## **Zoning Bylaw**

**First enacted: 1931**

**Last Amended: September 20, 2023**

**Adopted:**

**Effective:**

With support of the Bylaw Modernization Grant program as administered by the  
Vermont Department of Housing and Community Development

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## **PURPOSE**

The Village of Manchester first enacted a zoning bylaw in 1931, and has updated, amended, re-enacted and maintained that bylaw since that time. The bylaw, as it is presently enacted, divides the Village into Zoning Districts and overlapping Design Control Districts. This bylaw, and the regulations it sets out represents the Village's effort to require all development within the Village to comply with its duly enacted Village Plan.

## **SECTION 1 - DEFINITIONS**

For the purpose of this bylaw, certain terms or words shall be defined as below. Words in the present tense shall include the future: the singular number includes the plural, and vice-versa.

**Accessory Dwelling Units:** An efficiency or one bedroom apartment or dwelling unit that is clearly subordinate to a single-family primary dwelling, of which it is a part or appurtenant to, provided such accessory dwelling unit, and has facilities and provisions for independent living, including sleeping, food preparation, and sanitation, and provided there is compliance with all of the following:

- (i) The unit can be up to 30% of the total habitable floor area of the single family primary dwelling, or 900 sq feet, whichever is greater.
- (ii) The unit meets all setback, coverage, water, wastewater, and parking requirements specified in the bylaws.

**Accessory Use:** A use customarily incidental and subordinate to a principal use on the same lot.

**Addition:** Construction that increases the size of the original structure by building outside its existing walls and/or roof.

**Alteration:** Any change to a structure because of construction, maintenance or other means, including addition or replacement of exterior doors, windows, porches, decks, siding, architectural details, lighting or location of TV or radio sending or receiving devices.

**Applicant:** The owner of record of a resource, the duly appointed representative of the owner of record, or a person holding "bona fide" contract to purchase a resource.

**Appurtenances:** A feature related to a parcel of land or to a building, structure, object, site, or to a related group thereof. The term includes, but is not limited to, buildings, structures, objects, sites, landscaping features, walls, fences, light fixtures, steps, paving, sidewalks, shutters, awnings, solar panels, satellite dishes, and signs.

**Bed & Breakfast Facility:** A small lodging establishment, usually in an owner-occupied residence that offers overnight short-term accommodations and breakfast to travelers.

**Building:** Any structure having a roof and intended for shelter, housing, or enclosure of persons, animals or materials.

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

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

**Building Bulk:** The mass or scale of a structure as used in the Design Review Guidelines.

**Building Coverage:** The ground area covered by any portion of a structure.

**Building Height:** The vertical distance from the finished grade at the primary entrance to the of a structure to the highest point of the roof of the structure.

**Building Line:** A line parallel to a street at a distance equal to the required front yard, or at a greater distance when otherwise legally established by the municipality or by private covenant.

**Change of Use:** Within any Zoning District, a change from one numbered category to another numbered category of use.

**Character Defining:** The distinguishing characteristic of a building or neighborhood.

**Cluster Development:** Residential land development that permits construction of the number of dwelling units allowed for the entire development, but provides for those units to be clustered on lots of less than the individual acreage otherwise required, with the balance of the development acreage reserved as open space for the purposes set forth in these Bylaws this bylaw.

**Conditional Use:** Use allowed in a particular district, if approved by the Development Review Board as meeting the requirements of this Bylaw.

**Condominium:** A type of property ownership in which the dwelling unit or business unit, within a building or buildings, with or without a small area of land, is owned individually, but where the bulk of the associated land, and often recreation and other facilities, are owned in common by all unit owners.

**Congregate Housing:** Attached or detached individual housing units, in an accessible physical environment, that may contain complete cooking facilities, and provide common interior spaces for recreation, educational, and/or social activities, meeting and activity space, and common dining. Congregate housing facilities providing these services shall not be considered separate dwelling units

**Customary Home Occupation:** See Section 3.4

**Detail:** A minor or subordinate part of a building or structure, such as a column, capital, molding, or structural connection.

**Demolition:** The intentional destruction of all or part of a building or structure; in restoration or renovation projects, it may include removal of structural elements or features.

**Deteriorated:** Characterized by the loss of the original condition, over time, due to natural elements or human activity; used more often in reference to buildings and structures than to objects.

**Development:** See "Land Development."

**District:** A portion of Manchester Village established by the provisions of Section 2 of this bylaw.

**Driveway:** An access-way serving four or fewer up to two dwelling units.

**Dwelling, Multiple:** A building containing separate dwelling units for three or more families, having separate or joint entrances, services or facilities.

**Dwelling, Single Family:** A detached building designated for or occupied solely as a dwelling by one family.

**Dwelling, Two-Family:** A detached building designated for, or occupied solely as, a dwelling by two families.

**Dwelling Unit:** A dwelling or part of a dwelling occupied, or intended for occupancy, by one family for residential purposes, containing full housekeeping facilities for the exclusive use of the occupants.

**Elevation:** A drawing showing the vertical elements of a building, either interior or exterior, as a direct projection to a vertical plane, also used to refer to the external faces of a building.

**Environment:** The sum of all the physical features at a particular location, including the natural environment and the built environment.

**Exterior Features:** Exterior features of a structure shall include, but not be limited to, the color, kind and texture or building materials and the type and style of all windows, doors and appurtenances.

**Family:** Any number of individuals related by blood, marriage, civil union or adoption; or not more than five unrelated individuals living together as a single housekeeping unit.

**Family Child Care Home Facility:** Pursuant to 24 V.S.A. Section 4412(5), a state licensed or registered family child care facility within the home of the child care provider serving no more than six full-time, and no more than four part-time, children, shall be considered to constitute a permitted single one-family residential use of property. A family child care home serving in excess of six full-time and four part-time children, as defined in 33 V.S.A. Section 4902(3)(A), may be permitted as a conditional use in the VR (Village Residential) RR (Rural Residential), MR (Multiple Dwelling), (B) Business and (EHD) Equinox Historic Districts only.

**Flat Roof:** A roof with a pitch sufficiently low that it can be walked upon easily; may be a true horizontal plane or have a low pitch (typically not more than 1 in 20) for rainwater drainage; may be surrounded by a parapet or have only a gravel stop at the perimeter.

**Foundation:** The supporting portion of a structure below the first-floor construction, or below grade, including footings.

**Gable:** The vertical triangular part of a wall at the end of a ridged roof, from the level of the eaves to the roof.

**Grade:** The height of the surface of the ground, especially in relation to a building; an element that is at grade is on the same level as the ground.

**Hierarchy:** A group of architectural elements arranged in a graded series.

**Historic District:** A definable geographic area that contains a number of related historic sites, buildings, structures, features, or objects, united by past events, or aesthetically by plan or physical development, and that has been designated on a national, state or local register of historic places; may encompass a neighborhood or all of a small town; some districts may comprise individual elements separated geographically, but linked in an association or history.

**Historic Preservation:** Encompasses a broad range of activities related to preservation and conservation of the built environment by physical and intellectual methods.

**Hotel/Inn:** An establishment with one or more structures building providing lodging short-term accommodation for persons travelers with or without meals, and intended for the accommodation of transients, and so designed that normal access and egress are controlled from a central point. A hotel is not a dwelling unit. May include a restaurant, bar, event facility, spa or fitness center as accessory uses.

**Inn:** An operator-occupied establishment with one or more structures providing short-term accommodation for travelers. May include a restaurant, bar, event facility, spa or fitness center as accessory uses.

**Junk/Solid Waste:** Any discarded material or permanently disabled object, (i.e. cars, appliances, earth products, etc.) which are customarily disposed of at an off-site location.

**Land Development:** The division of a parcel into two or more parcels; the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure, or of any mining, excavation or landfill, and any change of use of any building or other structure, or land, or extension of use of land.

**Land Use:** The way in which a particular property or district is used, or is permitted or requested to be used in the future; categories or usage typically include residential, commercial, industrial, and farming; used in planning analysis and in zoning.

**Landscape:** The whole of the exterior environment of a site, district, or region, including landforms, trees and plants, rivers, lakes and the built environment.

**Landscaping:** The process of designing and constructing landscape architecture.

**Lot:** A plot or parcel of land occupied or capable of being occupied by one principal building and the accessory buildings or uses customarily incident to it, including such open spaces as are required by this bylaw. In the case of multiple dwellings and public, institutional, commercial, industrial or agricultural buildings, a group of buildings on the same or contiguous premises, all under the same ownership, may be considered as occupying the same lot.

**Lot, Corner:** A lot at the intersection of and abutting on two or more streets where the angle of intersection is not more than 135 degrees, or where the intersection is rounded by a curve having a radius of less than one hundred feet.

**Lot, Interior:** A lot other than a corner lot or through lot.

**Lot, Through:** A lot other than a corner lot that abuts two or more streets which do not intersect at the lot.

**Lot Line:** The established division line between lots or between a lot and a street.

**Lot Line, Front:** The line between a street and the lot shall be considered a front line.

**Lot Line, Rear:** The line or lines bounding a lot at the rear and approximately parallel to and at the maximum distance from the front lot line.

**Lot Line, Side:** The line or lines bounding a lot, which extends from the street towards the rear in a direction approximately perpendicular to the street. In the case of corner lots, or through lots, all lines extending from streets shall be considered side lot lines.

**Lot, Minimum Width of:** The distance between the side lot lines measured in a straight line at right angles to the mean direction of such side lot lines, which line of measurement shall touch, but not be in front of the building line. In the case of a corner lot, the minimum width shall be similarly measured, but measured from the side lot line to the opposite street line.

**Massing:** The overall composition of the exterior of the major volumes of a building, or group of buildings, especially when the building, or group of buildings, has major and minor elements.

**Motel:** A building or group of buildings providing lodging short-term accommodations for persons travelers, intended primarily for the accommodations of transients, and having a private outside entrance for each room or suite of rooms, and for each of which rooms or suites of rooms parking space is provided on the premises.

**National Historic Landmark:** A district, site, building, structure, and/or object that has been formally designated as a National Historic Landmark by the Secretary of the Interior, and possesses exceptional value

or quality in illustrating or interpreting the heritage of the United States in history, architecture, archaeology, engineering, and culture, and that possesses a high degree of integrity of location, design, setting, materials, workmanship, feeling and association. The National Historic Landmarks are automatically listed in the National Register of Historic Places.

**National Register of Historic Places:** A federal list of cultural resources worthy of preservation, authorized under the National Historic Preservation Act of 1966 as part of a national program to coordinate and support public and private efforts to identify, evaluate, and protect the nation's historic and archaeological resources. The National Historic Register program is administered by the State Historic Preservation Office, and by the National Park Service.

**New Construction is:**

- The initial erection or placement of any structure on a lot, or
- Relocation of a structure to another portion of the same lot, or to another lot, or
- Additions to structures.
- Modifications to any of the above are "Alterations," as defined in Section 1.

**Non-Conforming Use:** A use of land or structure or premises, which is not a use permitted by this bylaw for the district in which such land, structure or premises are situated.

**Non-Conforming Structure:** A structure or part thereof not in conformance with the zoning regulations covering building bulk, dimensions, height, area, density, or off-street parking or loading requirements.

**Non-Conforming Lot:** An existing small lot, as defined in Section 9.1.4.

**Open Space-Green Space:** The areas on any lot not occupied by structures, parking areas, driveways, loading or storage areas. Open Space is intended to be synonymous with green space whether natural or landscaped.

**Ordinary Repairs or Maintenance:** Work done to prevent deterioration of a structure or any part thereof by returning the structure as nearly as practical to its condition prior to such deterioration, decay or damage, and by reusing, where possible, original materials.

**Planned Unit Development:** See Section 8 (cf. 24 V.S.A. 4303 when authorized by Bylaw)

**Person:** An individual, a corporation, a partnership, an association, and any other incorporated or unincorporated organization or group.

**Pre-existing:** Pre-dating a certain point in time.

**Preservation:** The protection of a material from physical deterioration or disintegration because of natural elements or human activity by various technical, scientific and craft techniques; includes use of a preservative, as well as maintenance, stabilization, and conservation. In the 20th century the process of enhancement and protection of historic and heritage sites, structures, buildings, and objects, through a broad range of physical and intellectual methods. In the late 20th century "The act or process of applying measures to sustain the existing form, integrity and material of a building or structure, and the existing form and vegetative cover of a site." (Secretary of the Interior's Standards for Rehabilitation)

**Principal Building:** The building on the lot containing the major permitted use or uses, as opposed to a building containing a minor use customarily incidental to the principal use.

**Public Sewer:** A system of sanitary sewers owned and operated by a municipality or other governmental unit.

**Public Water Supply:** A system of water supply owned and operated by a municipality or other governmental unit, or by a corporation authorized and regulated by the State of Vermont for purposes of public water supply.

**Rehabilitation:** The act or process of making possible a compatible use for a property through repair, alterations and additions, while preserving the portions or the features that convey the property's historic, cultural or architectural values.

**Repair:** Minor work required to restore a structure or area to its condition prior to damage or injury, so as to render the impaired structure or area indistinguishable from its condition and appearance prior to the damage or injury. Consult the Administrative Officer to determine whether a zoning permit is required for the work contemplated. (Also see "Replacement in Kind).

**Replacement in Kind:** Correction of a minor defect or damage to a structure or area, solely by the addition, replacement or substitution of the same materials, so as to render the structure or area indistinguishable from its condition and appearance prior to the occurrence of the defect or damage. Consult the Administrative Officer to determine whether a zoning permit is required for the work contemplated. (Also see "Repair").

**Restore:** To bring a building back to its original condition.

**Restoration:** The act or the process of accurately depicting the form, features and character of a property as it appeared at a particular period of time, by means of the removal of features from other periods in its history, and the reconstruction of missing features from the restoration period.

**Restaurant:** An establishment, the primary function of which is to serve food and beverages to the public for consumption only at tables on the premises.

**Right of Way:** A servitude imposed by law or deed by virtue of which one has a right to pass on foot, or in a vehicle, through the property of another, the width of which shall be determined by the deed or the provision of law which creates the right of way.

**Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings:** A federal document setting standards and guidelines for the appropriate rehabilitation and preservation of historic buildings.

**Setback:** The distance from the lot frontage or a property line to a building or structure.

**Sign:** Anything made of any material on any surface including symbols or lettering on any exterior wall or building, or logos or lettering inside a building and within 8' of any window, the purpose of which is to visually call attention to, or advertise, or bring public attention to a person, place, building, land use, service or product made or sold on or off the premises.

**Site:** The land on which a building or other feature is located. For Design Review purposes, the location of a significant event, a prehistoric or historic occupation or activity, or a building or structure, whether standing, ruined, or vanished, where the location itself maintains historical or archeological value, regardless of the value of any existing structure; examples include a battlefield, a farm, an individual historic building, or the location of prehistoric rock art.

**Site Development Plan:** See Section 3.8.

**Story (Storey):** The above ground horizontal division of a building.

**Street Furniture:** The manufactured elements that are found in the public right-of-way, such as benches, streetlights, fire hydrants, mailboxes and signs.

**Street Line:** The line dividing the street and the lot



**Streetscape:** The built environment encompassing a street or road, including sidewalks and roadway paving, street furniture, buildings, landscaping and signage, and their relationships.

**Structure:** An assembly of materials for occupancy or use, including, but not limited to, a building, mobile home or trailer, tower, billboard, sign, wall or fence; except a wall or fence on an operating farm.

**Style:** The overall appearance of the design of a building, structure, landscape, object or decorative design, including construction, form, space, scale, materials and ornamentation; may be a unique individual expression or part of a broad cultural pattern. A category of similar things, distinguished by characteristic construction, form and ornament; may also be defined partly by the period of construction or manufacture.

**Traditional Construction:** Locally established methods or styles of building, predating or independent of major outside influences.

**Traveled Way:** The edge of pavement, the curb-line, or on an unpaved road, the edge of the improved surface, including shoulders, if present

**Ventilator:** A louvered projection above a roof, or in the gabled end of a building, that provides air circulation to the interior space by exhausting warm air; of many forms, such as a cupola, gable, ventilator or sheet metal hood over a vertical duct.

**Yard, Front:** An open space between the building and the front lot line, extending the full length of the lot, in the case of a corner lot, extending along all streets.

**Yard, Side:** An open space between the building and a side lot line, extending the full length of the lot.

**Yard:** Required Front, Rear, Side: So much of the front, rear, or side yard as is required by the applicable provision of this bylaw.

**Yards: Depth or Width of:** The depth of front and rear yards, and the width of side yards, shall be measured perpendicularly to the respective lot lines.

**Zoning Permit:** See Section 3.1 for when a Zoning permit is required.

**SECTION 2 – DISTRICTS**

1. All development within the Village of Manchester is required to comply with the requirements of both the Zoning District and the Design Control District within which a property is located.
2. The requirements of the Zoning District will control the type of development allowed, as well as the dimensional requirements, including the amount of land needed for specific developments, setbacks, percentage of property coverage, building heights, and other specific requirements.
3. The Design Control Districts generally set out requirements for building locations, designs, materials used, lighting, landscaping, and similar considerations.
4. The Village Development Review Board has the authority to rule on all applications, which are not determined to be eligible for administrative approval by the Zoning Administrator, and potentially waive dimensional requirements as provided in Section 9.4, if, in its opinion, the granting of a waiver would allow a specific development to better comply with the intent of the Village Plan of Development, and blend in with the surrounding properties.

**2.1 ZONING DISTRICTS**

For the purpose of this bylaw, the Village is divided into the following classes of districts, to be designated by the abbreviations set forth below.

**Residential Districts:**

<b>Rural Residential</b>	<b>RR5</b>
<b>Rural Residential</b>	<b>RR3</b>
<b>Rural Residential</b>	<b>RR2</b>
<b>Rural Residential</b>	<b>RR1</b>
<b>Village Residential</b>	<b>VR</b>
<b>Multiple Dwelling</b>	<b>MR</b>
<b>Residential Planned Development Overlay</b>	<b>RPD</b>

**Open Use Districts:**

<b>Forest and Recreation</b>	<b>F</b>
<b>Floodplain</b>	<b>FP</b>

**Commercial Districts:**

<b>Business 1</b>	<b>B-1</b>
<b>Business 2</b>	<b>B-2</b>

**Mixed Use Districts:**

<b>Equinox Historic District</b>	<b>EHD</b>
<b>Planned Unit Development</b>	<b>PUD</b>

**2.2 DESIGN CONTROL DISTRICTS**

<b>Historic Core District</b>	<b>HCD</b>
<b>Preservation District</b>	<b>PD</b>
<b>General Review District</b>	<b>GRD</b>

### 2.3 ZONING MAP

The boundaries of these districts are hereby established, as shown on the Zoning Map of the Village of Manchester, (Appendix 1), and the Flood Insurance Map, dated June 20, 1985, which maps and amendments are hereby declared to be part of this bylaw. LAND UNDER WATER

Zoning Districts shall include land under rivers, streams, lakes or ponds lying within them. Where opposite sides of a river or stream lie in different districts, the boundary shall be the center of the river or stream. Where opposite sides of a lake, pond, swamp or other water body lie in different districts, the boundary shall be deemed to be in the center thereof. However, the area of lands under water within a parcel or lot may not be included when calculating residential density for subdivision purposes, or as part of the required area for any proposed lot, or when calculating allowable lot coverage for commercial or industrial uses.

### 2.4 INTERPRETATION OF MAP

Any uncertainty as to the location of a district boundary line on the Zoning Map shall be resolved by the Administrative Officer with appeals of any such decisions made to the Development Review Board.

## **SECTION 3 - GENERAL REGULATIONS**

### **3.1 COMPLIANCE WITH BYLAWS**

1. No land, building or premises, or part thereof, shall hereafter be used, and no building or part thereof, or other structure shall be constructed, reconstructed (except for an identical reconstruction), extended, enlarged, razed, moved, or altered, except in conformity with this bylaw.

### **3.2 DIMENSIONAL REQUIREMENTS FOR ALL ZONING DISTRICTS**

1. Land development may be permitted only on lots which have frontage of at least 50 ft. on a public street, or, with the approval of the Development Review Board, have access to a public street by a permanent easement or right-of-way, not less than 20 feet wide for up to two one dwelling units, or not less than 50 feet wide for more than one, but less than five dwelling units.
2. Access for five or more dwelling units shall meet the requirements of the Residential Planned Unit Overlay District. Access for four or less dwelling units shall enter the street at the site of an existing access point, if possible. If it is not possible to combine access points, any new access point shall be located at least 50 feet from any other access point, and at least 150 feet from any street intersection.
3. Driveways shall enter streets in such a manner as to provide the maximum site distance possible and shall be flared when they meet the street pavement by curves having radii of not less than 20 feet. The location of the entire driveway shall follow the natural contours of the land and shall not exceed 8% grade.
4. Any cut or fill necessary to achieve the required grade shall not differ from the natural grade of the original site by more than 4 feet.
5. Nothing in this bylaw shall prohibit the projection of minor architectural features, for more than one foot into the required open space, nor the planting or landscaping of such open spaces.
6. No building in any district shall exceed a height applicable to the District, but this limit shall not apply to spires and cupolas occupying in the aggregate not more than 10% of the area of such building and not used for any human occupancy, nor to chimneys, farm silos or flagpoles.
7. Notwithstanding other requirements for front yards, on lots abutting a street with a right-of-way less than 50 ft. wide, the required front yard facing such street shall be increased by one-half the difference between the actual street right-of-way and 50 feet.
8. No fence, wall, hedge, shrubbery, or other obstruction to vision shall be placed or allowed to grow at street or driveway intersections.

### **3.3 USE REGULATIONS FOR ALL DISTRICTS**

1. No building, structure or portion thereof shall be erected, altered, razed or moved, and no land, buildings, or part thereof, shall be used for any use other than the one listed as a permitted or approved conditional use in the district in which it is located without first obtaining a zoning permit.

2. A continuous strip not less than 10 feet in width shall be suitably landscaped and maintained in good appearance between the traveled way and the balance of the lot in all districts. The required strip may be traversed only by driveways, utility lines serving the lot, and pedestrian walks.
3. Not more than 30% of the area of the required front yard shall be used for driveways and parking, and the balance shall be suitably landscaped and maintained in good appearance.
4. No portion of the required front yard shall be used for storage or for any purpose except as above provided for driveways, utility lines, or pedestrian walks.
5. No inoperable or unregistered motor vehicle, or trailers, or boats, may be stored on any lot for a period in excess of thirty days, except within a building.
6. No scrap or waste material not originating on the premises may be stored or disposed of on any lot. No scrap or waste material originating on the premises may be stored on any lot unless within a building or screened from off-premise view, except that a period of three months shall be allowed for removal of scrap or waste material resulting from a construction operation, and a reasonable time shall be allowed for removal of material from fire, flood, or similar emergency.

#### 3.4 CUSTOMARY HOME OCCUPATIONS

Nothing in this bylaw shall infringe upon the right of any resident of the Village of Manchester to use a minor portion of his or her dwelling for an occupation which is customary in the home, and that does not have an undue adverse effect upon the character of the residential area in which the dwelling is located. A site plan may be required by the Development Review Board.

Applicants seeking a permit for a Customary Home Occupation must demonstrate:

- a. The home occupation shall be carried on only by residents of the dwelling, and no more than two full time employees who are not residents, working at the location.
- b. The home occupation uses less than 50% of the floor area of the dwelling, and is clearly secondary to the residential use of the dwelling.
- c. The use does not create a nuisance, objectionable noise, smoke, vibration, odor or noxious gas detectable on any adjoining property or dwelling unit.
- d. Hours of operation, signage, outdoor lighting, parking, traffic, etc., shall be compatible with the character of the residential neighborhood.

#### 3.5 ADMINISTRATIVE REQUIREMENTS

1. The provisions of this bylaw relating to Minimum Lot Area and Minimum Lot Width only, shall be waived to permit the construction of an otherwise permitted building or the establishment of an otherwise permitted use on a lot not less than one-eighth acre in area with a minimum width or depth dimension of 40 feet, which at the date of the adoption of this bylaw, and continuously thereafter, was in individual and separate and non-affiliated ownership from surrounding properties.
2. Except in the case of two-family dwelling units, multi-family housing, and the Equinox Historic District, where more than one dwelling is to be placed on any one lot, such dwellings shall be located so that each such dwelling, and any building accessory to it, could be set off as a separate lot conforming to all of the applicable provisions of this bylaw, and no building shall be sold into separate ownership except in compliance with the above.

3. A conditional use may only be approved after a public hearing, at which the burden of proof shall be upon the Applicant, and the Development Review Board finds the proposed use will not result in an undue adverse effect on any of the following unduly adversely affect:
  - a. The capacity of existing or planned community facilities, including public schools in the Town of Manchester;
  - b. The character of the area as defined by the purpose or purposes of the zoning district within which the project is located and specifically stated policies of the municipal plan;
  - c. the Residential uses in the vicinity or elsewhere in the Village;
  - d. the Traffic on roads and highways in the vicinity including private roads;
  - e. Significant natural resources on the site.
  - f. Bylaws and ordinances in effect.
  - g. Utilization of renewable energy resources.
4. Approval of the Development Review Board shall be based on a Site Development Plan, conforming to the requirements of Section 3.7, and an Open Space Plan, if required by this bylaw. Failure of the development to conform to such Site Plan and Open Space Plan shall constitute a violation of this bylaw.

### 3.6 LIMITATIONS ON MUNICIPAL LAWS

In accordance with the Vermont Municipal and Regional Planning and Development Act, Title 24 V.S.A. Chapter 117, Section 4413, the following uses may be regulated only with respect to location, size, height, building bulk, yards, courts, setbacks, density of buildings, off street parking, loading facilities, traffic, noise, lighting, landscaping and screening requirements, and only to the extent that regulations do not have the effect of interfering with the intended use:

- a. State or community-owned and operated institutions and facilities.
- b. Public and private schools and other educational institutions certified by the ~~state~~ department Agency of Education.
- c. Churches and other places of worship, convents and parish houses.
- d. Public and private hospitals.
- e. Regional solid waste management facilities certified under 10 V.S.A. Chapter 159.
- f. Hazardous waste management facilities for which a notice of intent to construct has been received pursuant to 10 V.S.A. 6606a.

This Bylaw shall not:

1. Regulate public utility and power generating plants, and transmission facilities regulated under 30 V.S.A. § 248 or subject to regulation under 30 V.S.A. § 8011.
2. Regulate accepted agricultural and silvicultural practices, including the construction of farm structures, as those practices are defined by the Secretary of Agriculture, Food and Markets, or the Commissioner of Forests, Parks and Recreation, respectively, under subsections 1021(f) and 1259(f) of Title 10 and Section 4810 of Title 6.
  - (a) For purposes of this section "farm structure" means a building, enclosure or fence for housing livestock, raising horticultural or agronomic plants, or carrying on other practices associated with accepted agricultural or farming practices, including a silo, as "farming" is defined in 10 V.S.A. 6001(22), but excludes a dwelling for human habitations.

- (b) A person shall notify a municipality of their intention to build a farm structure, and shall abide by setbacks approved by the Secretary of Agriculture, Food and Markets. No municipal permit for a farm structure shall be required.
- 3. Regulate the installation, operation, and maintenance, on a flat roof of an otherwise complying structure, of a solar energy device that heats water or space or generates electricity. For the purpose of this subdivision, "flat roof" means a roof having a slope less than or equal to five degrees.
- 4. Prohibit or have the effect of prohibiting the installation of solar collectors not exempted from regulation under subdivision (3) of this subsection, clotheslines, or other energy devices based on renewable resources.

### 3.7 SITE DEVELOPMENT PLAN

For all division of land, and wherever else required by provision of this bylaw, a Site Development Plan shall be submitted with an application for a permit or other approval. Such Site Development Plan shall be at a scale prescribed by the Development Review Board and shall show, where applicable:

- a. the boundaries and area of the lot,
- b. existing and proposed buildings on the lot and on adjacent lots within a distance of 200 feet from the subject lot,
- c. existing and proposed streets and driveways within a distance of 200 feet from the subject lot,
- d. proposed vehicular circulation and parking,
- e. proposed pedestrian circulation, open space, park and playground facilities,
- f. landscape details, (including proposed removal of living trees over 6" diameter breast height located forward of the building line of the principal building within any yard fronting a street, and which are also within 150' of the street right-of- way).
- g. proposed grading,
- h. water supply and fire protection,
- i. sanitary sewage, storm drainage and natural drainage ways and watercourses,
- j. existing contours, land conditions

and such other information as the Development Review Board may require. The Administrative Officer will make an initial determination of what details are needed. The Development Review Board may, at its discretion, require additional information when relevant to an application.

## **SECTION 4 - DESIGN CONTROL DISTRICTS**

### **4.1 PURPOSE**

The purpose of the Design Control District is to assure that future land development in the Village of Manchester will be consistent with items 1 through 4 of the "Goals for the Village" set forth in Section 2.0 of the Village Plan of Development, or as modified therein.

Zoning Bylaw provisions which set forth criteria for development in the three Design Control Sub-Districts do not supersede the dimensional requirements applicable to the several Manchester Village Zoning Districts and apply only if they are in conformity with those dimensional requirements.

### **4.2 APPLICABILITY**

The Design Control District includes the entire Village of Manchester. To facilitate design control, the Design Control District is divided into three sub-districts:

- A. Historic Core Sub-District
- B. Preservation Sub-District
- C. General Review Sub-District

Each of these sub-districts has different, but related criteria. The following standards are to be applied to specific projects in a reasonable manner, taking into consideration economic and technical feasibility.

### **4.3 HISTORIC CORE SUB DISTRICT**

The Historic Core Sub-District (defined in Appendix 1 of the Village Plan) is the most restrictive sub-district. This geographic district comprises those lots located within Manchester Village that contain the principal structures and outbuildings listed on the National Register of Historic Places, and the Equinox Historic District, as specified in the Manchester Village Zoning Bylaw.

Within the Historic Core Sub-District, no structure or parts thereof, will be demolished or relocated (except to remedy a dangerous situation). Additions, alterations, or repairs to structures, or alterations of lots within this district, must preserve or restore historical detail to preserve the historic character of the structure and streetscapes. Additions, alterations and repairs in this district shall, if possible, conform to the Secretary of the Interior's Standards dated 1992, (or as later revised). New structures in this district will conform to Section 4.3.3 below.

#### **4.3.1 MAINTENANCE AND REPAIRS IN THE HISTORIC CORE SUB-DISTRICT**

- a. Repairs must replace deteriorated or damaged features to match the original in design, size, shape, material, dimension, pattern, texture, color and detail. Newly available synthetic materials may be approved by the Development Review Board for use on an ad-hoc basis.
- b. Where possible, repairs should involve the replacement of only the deteriorated or damaged portion or detail of a feature, rather than the entire feature.
- c. The preferred color for the body and trim of a structure is white, though other subtle colors may be approved if the Development Review Board finds them to be appropriate for the structure. Previously painted surfaces may be repainted with paints that match the current color, without a permit. Sandblasting and/or excessive power washing are discouraged, as they are detrimental to historic materials.
- d. Damaged, deteriorated or missing exterior lighting fixtures may be replaced with new fixtures that are either similar in appearance, detail and scale, or compatible with the historic structure and site in material, appearance and scale.



#### 4.3.2 ALTERATIONS AND ADDITIONS IN THE HISTORIC CORE SUB-DISTRICT

The following provisions apply to alterations and additions to historic structures in the Historic Core Sub-District. Alterations and additions to a non-historic structure in the Historic Core Sub-District shall conform to section 4.4.2 of these bylaws.

- a. If necessary, new walkways, driveways, or parking areas may be constructed if they are compatible with the location, scale, materials, configuration and overall historical character of the historic structure and site. Whenever possible, new parking should be at the rear of the structures, and existing mature vegetation and additional perimeter landscaping or screening should be used to lessen the impact of the new parking areas.
- b. If necessary, for security or safety, or to highlight a public historic building, new exterior lighting that is compatible with the character and scale of the historic structure and site may be introduced after approval by the Development Review Board.
- c. New non-historic roof features, such as skylights, vents and antennae, may only be installed on non-character-defining roofs. Such features must not be visible from the street and must be located so that they do not diminish the original character of the historic structure, or damage historic roofing materials.
- d. New wall features, including doors, windows, ventilators, and electrical and mechanical fixtures, may be introduced only on non-character-defining elevations, and located so that they do not diminish the original character of the historic structure, or damage historic wall materials.
- e. The preferred color of the body and trim of a structure is white, though other subtle colors may be approved if the applicant can demonstrate to the Development Review Board that they are historic and/or appropriate for the structure. Accent colors may be used on separate features such as shutters, doors and sash with Board approval.
- f. Storm windows and doors may be installed for energy efficiency. Storm windows should not damage or obscure existing sash and frame and should be painted or finished with a color compatible with the existing sash color.
- g. If desired and historically appropriate in color and style, fabric awnings over windows, entrances, or porch openings, may be installed in a way that does not damage or obscure historic features after Development Review Board approval.
- h. New porches, decks or entrances may be introduced only on non-character-defining elevations and must be attached in ways that minimize the loss of historic fabric.
- i. Transformers, meters, pipes, alternative energy sources such as solar panels, and mechanical or communication-related items should be located as inconspicuously as possible, usually in rear yard locations or along non-character-defining elevations. Such features should be screened from view. Air conditioning units, if needed, shall be located on the rear or on non-character-defining elevations of historic structures.
- j. Existing additions that contribute to the overall historic character of a historic structure should not be removed.
- k. New additions may be added on non-character-defining elevations in such a manner as not to visually overpower the historic structure or diminish, conceal or detract from the character of the historic structure and the structure's historic setting, and must be compatible with the historic building in massing, height, form, scale, proportions, roof shape, and relationship of solids to voids in exterior walls.

#### 4.3.3 NEW CONSTRUCTION IN THE HISTORIC CORE SUB-DISTRICT

New construction in Manchester Village requires design review and a permit. A severely damaged or deteriorated structure shall not be demolished without a permit. This permit may require certification by an engineer, architect or other professional, knowledgeable in Historic Preservation, that the structure cannot be practically or economically (compared to replacement costs) restored. However, such certification is not binding upon the Development Review Board.

A pre-existing, non-conforming historic building, which has been destroyed by natural disaster, may be reproduced identical to the original, in external location and appearance, without a variance from the Development Review Board.

The following provisions apply to new construction on a lot in the Historic Core Sub-District that contains a Historic Structure. New construction on a lot in the Historic Core Sub-District that does not contain a Historic Structure (e.g. an empty lot where a historic structure was destroyed or demolished and is not being exactly reproduced, or a lot containing an non-contributing structure), is governed by the provisions of Section 4.4.3 herein. New structures on historic sites shall be constructed only in locations that do not diminish, conceal, or detract from the character of the historic site, and shall be sited on historic sites in ways that conform to the orientation characteristic of the specific historic site.

- a. New construction shall be designed to be compatible with the historic building in massing, height, form, scale, proportion and roof shape, as well as character of the historic structure's setting.
- b. New construction will be compatible with the historic structure in terms of scale, design, materials and finishes.
- c. Although the new construction must be compatible with the historic structure, it must also be differentiated from it. It is not appropriate to attempt to make new construction duplicate the historic structure, or to create a false historic appearance.

#### 4.4 PRESERVATION SUB-DISTRICT

The Preservation Sub-District is the next most restrictive sub-district and has its own design criteria and provisions. This district is defined as all lands within 300 feet of the centerline of all through roads and streets in Manchester Village (see map APPENDICES "A" and "B"). In most cases, the Preservation Sub-District boundaries do not follow lot lines, and therefore may or may not completely contain those contiguous lots that border the Village through roads and streets. In many cases, the Preservation Sub-District overlaps the lots that make up the Historic Core District and/or there may be structures in the Preservation Sub-District deemed to be historically significant (see APPENDIX "C"). For such cases, the more restrictive design provisions and criteria of the Historic Core Sub-District will apply.

Within the Preservation Sub-District new structures, additions, alterations, and repairs shall maintain the primarily late 19th and early 20th century appearance of the village. Repairs or alterations to structures in this sub-district must basically reproduce the significant architectural style, features and details of the present structure, though substitution of modern materials may be permitted. Additions to structures in this sub-district may either reproduce the architectural style, features, and details of the present structure or may be designed to inconspicuously complement the present structure. Similarly, new structures in the Preservation Sub-District may either attempt to reproduce a style typical of the late 19th and early 20th century or may be designed to inconspicuously complement neighboring structures. In no case shall additions, new structures, or alterations or repairs to lots detract from the primarily late 19th and early 20th century appearance of the sub-district.

Architecturally significant structures listed in APPENDIX "C" which are not physically located in the Historic Core Sub-District, are deemed to be historic, and fall under the more restrictive provisions of the Historic Core Sub-District.

Within the Preservation Sub-District, the following provisions apply:

- a. The size, shape and massing of structures should be consistent with the lot size and with neighboring structures.
- b. Houses should be arranged with respect to neighboring structures, streets and roads to maintain the aesthetics, environment and appearance of the late 19th and early 20th century village.
- c. Design should be compatible with the area and should be appropriate for a traditional late 19th and early 20th century village.
- d. Building exteriors should be compatible with traditional Manchester Village structures.

#### 4.4.1 MAINTENANCE IN THE PRESERVATION SUB-DISTRICT

The provisions for maintenance and repair in the Preservation Sub-District are, with the following exceptions, the same as for those for the Historic Core Sub-District.

- a. Repairs in the Preservation Sub-District shall adhere to Section 4.3.1 of this bylaw.
- b. If it is more economical or practical, repairs may replace in kind, an entire feature, rather than attempting to preserve that portion of a feature that is not deteriorated or damaged.

#### 4.4.2 ALTERATIONS OR ADDITIONS IN THE PRESERVATION SUB-DISTRICT

- a. In the Preservation Sub-District, alterations and additions to an existing structure and landscape may either be treated in accordance with the Secretary of the Interior's standards, dated 1992, (or as amended), i.e. compatible but differentiated, or may duplicate and mimic the existing structure and landscape.
- b. Alterations and additions shall be designed to be compatible with the existing building, and the character of the building's setting.

#### 4.4.3 NEW CONSTRUCTION IN THE PRESERVATION SUB-DISTRICT

- a. New structures should present an architecturally consistent appearance that is compatible with late 19th and early 20th century structures.
- b. New designs should minimize broad appearance differences in massing, between the new and adjacent neighboring structures.

#### 4.4.4 LOCATION ON LOT

- a. To provide a uniform streetscape, new principal structures in the Preservation Sub-District should be located with their fronts parallel to the street, centered between the lot lines, and set back a distance comparable to adjacent structures.
- b. Free standing accessory buildings or attachments, such as garages, should be located at the rear of the main structure, so that they do not detract from the streetscape.
- c. Where possible, garages, whether free standing, or built into the dwelling, should be positioned so that their doors are not visible from the street or sidewalks.

#### 4.4.5 SIZE

- a. To maintain uniform appearance in size, the total footprint of new structures on a lot should be comparable to those on adjoining lots on the same street.
- b. The number of stories of the principal structure can vary from one and one half to three. Single story structures will not be approved.

#### 4.4.6 EXTERIORS

- a. Painted wooden clapboards or shingles, when used with appropriate corner and sill boards, cornices and crown moldings, are the preferred siding materials for structures in Manchester Village, though other materials may be permitted, on an ad-hoc basis.
- b. The preferred color of the body and trim of a structure is white, though other subtle colors may be approved, if the applicant can demonstrate to the Board that they are historic and/or appropriate for the structure.

#### 4.4.7 WINDOWS

- a. Mirrored glass or severely tinted glass will not be approved.
- b. Storm windows are permitted. The frames of the storm windows should align with the frames of the windows they protect.
- c. Wooden shutters are encouraged, though aluminum or vinyl shutters may be approved on new structures if they adequately simulate wood.
- d. Solar walls, picture windows, or other large expanses of glass will not be approved on exterior surfaces that are visible from the street or sidewalks.

#### 4.4.8 ENTRANCE

- a. Front entrances convey a significant traditional design element. An appropriate entrance for new construction in Manchester Village shall be located on a prominent façade, and whose size and style clearly identifies the formal entrance to the structure.

#### 4.4.9 PORCHES

- a. As long as their design and architectural detail complement the rest of the structure, porches may run across the house front, wrap around the sides and rear, and may be one or two stories high.
- b. Exposed brick or stone piers supporting porches are acceptable. Wood lattice screening is preferred. Exposed cement blocks or concrete piers are not permitted.
- c. Tongue and groove board flooring is preferred.

#### 4.4.10 DECKS AND TERRACES (PATIOS)

- a. Generally, decks and terraces should not be located on the front or public side of a house.

#### 4.4.11 ROOFS

- a. Gabled roofs are preferred in Manchester Village and should be pitched at a minimum of 7/12 slope. Hip roofs may be permitted, but shed and flat roofs, with the exception of porches, should be used only when they cannot be viewed from the street or sidewalk.
- b. The roof shall not overhang any exterior wall by more than 2 feet. Soffits and fascia must be finished so that no portion of the roof rafters is visible, unless the roof rafters are treated as a decorative architectural detail.

- c. Slate roofing or shingles are preferred, but manufactured roofing resembling slate, dark colored asphalt shingles, or seamed metal roofing may be used. Rolled roofing is not appropriate and may be used only on roofs out of sight from the street and sidewalks.
- d. Dormers may be used to provide light and ventilation to the upper floors of buildings. The size, number and location of dormers should complement the overall appearance and symmetry of the structure.
- e. Skylights may be used on structures only when they are inconspicuous and cannot be viewed from the street or sidewalks.
- f. Solar panels and TV antennas and dishes may not be visible from the streets or sidewalks.
- g. TV dishes shall not exceed two feet in diameter.

#### 4.4.12 CHIMNEYS AND FOUNDATIONS

- a. All visible chimney surfaces should be stone or brick. Concrete blocks or formed concrete (whether or not covered with stucco), or metal flues should not be visible from the street. Boxed chimneys will be permitted only when the boxing material adequately simulates stone or brick.
- b. Foundations of natural stone are preferred. With appropriate foundation plantings for screening, poured concrete or concrete blocks, with a thick mortar wash coat or stucco, may be used. No concrete blocks or foundation insulation shall be visible above grade.

#### 4.4.13 FENCES AND WALLS

- a. No fence or wall, of any height, with the exception of the historic wall along River Road, will be allowed between Manchester Village structures and the street and sidewalk. Fences and walls will be allowed only as permitted.
- b. Fencing materials such as rails, pickets, slats, mesh, etc., shall be attached to the center or outside surfaces of fence posts, so as to present the most finished surface to neighboring properties.

#### 4.5 GENERAL REVIEW SUB-DISTRICT

New land development in the General Review Sub-District shall not in any way detract from the Historic Core or Preservation Sub-Districts. Additions, alterations, new structures, and landscaping in this district shall be compatible with those on adjacent and neighboring lots.

The design criteria for the General Review Sub-District are less restrictive than those for the other two districts and, subject to the intent described above, allow unrestricted architectural freedom and maximum use of the site's attributes.

In the General Review Sub-District, the following provisions apply:

- a. Site plans and arrangement of facilities shall not be in conflict with the adjoining uses of land.
- b. Roads, streets and driveways shall be designed to follow natural contours of the land.
- c. Design, size, location, lighting and other aspects of signs shall be closely controlled.
- d. Landscaping and lighting shall be compatible with the surrounding area and should be appropriate for the particular design control sub-district.

##### 4.5.1 NEW CONSTRUCTION IN THE GENERAL REVIEW SUB-DISTRICT

In the General Review Sub-District, the provisions of this Bylaw are intended to ensure that new development does not in any way detract from the Historic Core or Preservation Sub-Districts, and to ensure that the structures and landscaping on lots in the sub-district, if they can be viewed from the street or

neighboring properties, are compatible with those on adjacent or neighboring lots. In the General Review Sub-District, the following provisions apply:

- a. New structures in the General Review Sub-District need not necessarily convey a late 19th or early 20th appearance. However, if they can be viewed from the street, or from neighboring properties, it is required that new construction preserve local character, and be compatible with, rather than compete with, existing neighboring buildings and land patterns.
- b. New construction that is screened so that it cannot be viewed from the streets or neighboring properties is allowed the maximum use of the sites' attributes and architectural freedom within it. If the structure contains large glass surfaces that may present reflections or significant night lighting, additional screening may be required to maintain the concept of a Village nestled in a green, undisturbed background.

#### 4.6 BUILDING PLANS

Development Review Board approval of "Building Plans" shall be required for:

- a. New construction as defined in Section 1.
- b. Alterations to structures as defined in Section 1.
- c. Any change in exterior color.
- d. Removal of trees over 6" diameter breast height (DBH) located forward of any principal building line in any yard fronting on, and within 150' of any street right-of-way, or removal of more than 20% of trees forward of the building line in any yard fronting a street. Removal of dead trees does not require a permit.
- e. Razing or demolition of all or a portion of a building. See Section 9.

##### 4.6.1 A BUILDING PLAN SHALL INCLUDE:

- a. a site development plan of the property, showing drives and landscaping, building elevations showing door and window types, shutters and other exterior details.
- b. description of exterior building materials and colors.
- c. location and type of all exterior lighting.
- d. landscaping details.
- e. the Board may approve minor changes to the exterior of a structure, without submission of full "building plans," as long as the application for approval is clear and complete relative to such minor change.

##### 4.6.2 CRITERIA FOR APPROVAL

In its consideration of approval of "building plans" the Development Review Board or Administrative Officer shall make the following findings:

- a. The basic design of the structure, alteration or addition is compatible with its surroundings and is appropriate for the particular Design Control Sub-district in which it is being proposed.
- b. The bulk of the structure is consistent with the lot size, and its neighbors, and the structure will not adversely affect its immediate neighbors.
- c. The site plan and arrangement of facilities is not in conflict with adjoining uses of land.
- d. Building exteriors are compatible with traditional Manchester Village structures.
- e. Roads, and driveways serving 2 or more dwelling units are designed to follow the natural contours of the land.
- f. Buildings are arranged at such angles to streets and roads that aesthetics of the environment are preserved.

- g. Landscaping is compatible with the surrounding area, and is appropriate for the particular Design Control Sub-district in which it is being proposed.
- h. The design, size, location, lighting and other aspects of signage are compatible with the Village setting and conform to all requirements of the Village Sign Regulations.

#### 4.7 DESIGN ADVISORY COMMITTEE

A Design Advisory Committee, consisting of five residents of the Village, may be established and appointed by the Village Trustees, to have such term of office as said Trustees determine. The Design Advisory Committee shall review all applications for Zoning Permits seeking approval of New Construction, Alterations and Additions to existing properties, proposed Changes of Property Use, and Signs, and shall make recommendations to the Development Review Board with respect to those applications.

#### 4.8 PROCEDURE

- a. Where the regulations of the Design Control Sub-District require Development Review Board approval, the Administrative Officer shall, upon receipt of a complete application, including fee, provide the Development Review Board with all information required by the Board to schedule a hearing on the application, and render a decision thereon.
- b. Within sixty (60) days after receipt of complete "building plans," the Board, or Administrative Officer, where permitted, shall approve, approve with modifications, or deny approval of the "building plans." In case of denial, the Board or Administrative Officer shall notify the applicant in writing of the reason therefore, and all actions taken in connection with an approval shall be made a part of the permanent records of the Village.
- c. The Board or Administrative Officer may request advice from the Design Advisory Committee to assist in their consideration of approval of "building plans."
- d. One copy of approved "building plans," appropriately endorsed by the chair of the Development Review Board, shall be returned to the applicant, and one copy shall be filed in the permanent records of the Administrative Officer. No changes from the approved plans shall be made during construction without prior approval applied for and approved in accordance with the above procedure.

**SECTION 5 - RESIDENTIAL ZONING DISTRICTS**

**5 PURPOSE**

The purpose of the regulations applicable to rural residential districts is to insure development of a variety of residential use types, densities and cost levels appropriate to the present and projected population of the Village. Development requires the provision of appropriate water supply and sanitary sewer systems, as well as higher standards of street improvements.

**5.1 RURAL RESIDENTIAL (RR) DISTRICTS**

**5.1.1 PURPOSE**

Rural Residential (RR) Districts are intended to maintain the historic settlement pattern of the Village, and to ensure the preservation of the natural, rural and scenic qualities of areas that are planned to be predominantly residential and agricultural in character.

**5.1.2 DIMENSIONAL REQUIREMENTS IN RURAL RESIDENTIAL (RR) DISTRICTS<sup>(a)</sup>**

	RR-5	RR-3	RR-2	RR-1
Lot size in acres, and per dwelling unit	5	3	3/2 <sup>(b)</sup>	3 <sup>(c)</sup>
Lot width	200	200	200	200
Yard, front setback	50'	50'	50'	50'
Yard, side setback	40'	30'	30'	30'
Yard, rear setback	50'	50'	40'	40'
Maximum building coverage	10%	10%	10%	10%
Maximum building height	35'	35'	35'	35'

- a. Notwithstanding the residential density requirements set forth in these bylaws, any residence which is listed on the National Register of Historic Places as a contributing structure may be developed with not more than two dwelling units (owners quarters shall be one dwelling unit), provided all alterations and additions to the building are approved by the Development Review Board in accordance with this bylaw, and all other requirements of the Zoning Bylaw are met. In addition, if there is an accessory structure on the property which is listed as a contributing structure on the National Register of Historic places, notwithstanding the residential density requirements of this bylaw, the accessory unit may be developed as one dwelling unit provided all alterations and additions are approved by the Board in accordance with this bylaw and all other requirements of the bylaw are met. This provision applies to all such dwellings in the Village, notwithstanding the Zoning District (RR, VR, MR, or B) in which they may be located.
- b. 2 acre minimum lot area permitted where public water and public sewer is available.
- c. In the RR-1 District, the density may be increased to not over one family per 60,000 sq. ft. of gross tract area, provided that the golf course is maintained as an operating course, and no part of the course is developed with buildings.



### 5.1.3 PERMITTED USES IN RURAL RESIDENTIAL (RR) DISTRICTS

The following are permitted uses in the Rural Residential (RR) Districts, subject to the limitations and requirements of Sections 3.6 and 3.7 of this Bylaw.

- a. Single family and two-family dwellings.
- b. Customary home occupations. See Section 3.4.
- c. Farming, including dairying, orchards, wood lots, forestry and non-commercial greenhouse.
- d. A residential care home caring for two or less persons who are developmentally disabled or physically handicapped.
- e. A state licensed, or registered residential care home or group home, serving not more than six persons who are developmentally disabled or physically handicapped. Such use may not be located within 1000 feet of another such home.
- f. A family child-care home serving six or fewer children.

### 5.1.4 CONDITIONAL USES PERMITTED IN RURAL RESIDENTIAL (RR) DISTRICTS

The following may be permitted as conditional uses in Rural Residential (RR) Districts in conformance with the provisions of 3.3.

- a. A public park or playground, community recreation building or center, library, museum, art center, medical clinic, or similar philanthropic use, operated by a governmental unit, or a community association.
- b. A sewer or water pumping station, standpipe, water tank, reservoir, unattended telephone exchange, provided that the design and landscaping are in keeping with the character of the vicinity.
- c. A bona-fide club, including a golf club.
- d. A state licensed, or registered residential care home or group home, serving seven or more persons who are developmentally disabled or physically handicapped. Such use may not be located within 1000 feet of another such home, nor have less than 6000 sq. ft. of lot area per patient accommodation.
- e. A cemetery owned by a non-profit cemetery association located in the Village.
- f. Community owned and operated institutions and facilities.
- g. An accessory dwelling unit, including a new accessory structure, which results in an increase in the height or floor area of the existing dwelling, or which requires an increase in the dimensions of the parking area.
- h. Public and private schools, and other institutions Certified by the Vermont Department of Education.
- i. Bed and Breakfast facilities in Rural Residential (RR) Districts only.

### 5.1.5 ACCESSORY USES PERMITTED IN RURAL RESIDENTIAL (RR) DISTRICTS

- a. An accessory use as defined in Section 1.
- b. An accessory apartment in the same building as the owner-occupied single-family dwelling.

### 5.1.6 SIGNS PERMITTED IN RURAL RESIDENTIAL (RR) DISTRICTS

- a. All signs must meet the requirements of the Village of Manchester Sign Regulations.

## 5.2 VILLAGE RESIDENTIAL (VR) DISTRICTS

### 5.2.1 PURPOSE

The purpose of the Village Residential (VR) Districts is to provide for compact residential development, in single and two-family dwellings, in suitable areas, served by public water supply and public sewer systems.

### 5.2.2 DIMENSIONAL REQUIREMENTS IN VILLAGE RESIDENTIAL (VR) DISTRICTS

	VR-1	VR-2	VR-3
Lot size in square feet	15,000	30,000	40,000
Lot width	100'	120'	150'
Yard, front setback	25'	25'	30'
Yard, side setback	10'	15'	15'
Yard, rear setback	25'	25'	30'
Maximum building coverage	25%	15%	10%
Maximum building height	35'	35'	35'

### 5.2.3 PERMITTED USES IN VILLAGE RESIDENTIAL (VR) DISTRICTS

The following uses in the Village Residential (VR) Districts, subject to the limitations and requirements of Sections 3.6 and 3.7 of this Bylaw.

- a. Single family and two-family dwellings.
- b. Customary Home Occupations. See Section 3.4.
- c. A residential-care home serving not more than two persons who are developmentally disabled or physically handicapped.
- d. A state licensed or registered residential care home or group home, serving not more than six persons who are developmentally disabled or physically handicapped. Such use may not locate within 1000 feet of another such home.
- e. A family child-care home serving six or fewer children.

### 5.2.4 CONDITIONAL USES PERMITTED IN VILLAGE RESIDENTIAL (VR) DISTRICTS

The following may be permitted as conditional uses in Village Residential (VR) Districts:

A public park or playground, a community recreation center or building, a library, museum or hospital, clinic or similar philanthropic use, operated by a governmental unit or non-profit corporation, or a community association.

- a. A municipal fire or police station, sewer or water pumping station, standpipe, water tank, reservoir, electric transformer station or unattended telephone exchange, provided that the design and landscaping are in keeping with the character of the vicinity.
- b. A bona-fide club, including a golf club, the principal activity of which is not carried on as a business, provided a building for human occupancy shall be not less than 50 feet from a lot

line or a street line, and provided that no parking or outdoor activities shall be permitted in any required yard.

- c. Public and private schools, (including on or off-premise dormitories) and other institutions certified by the Vermont Department of Education.
- d. A state licensed or registered residential care home or group home, serving seven or more persons who are developmentally disabled or physically handicapped. Such use may not locate within 1000 feet of another such home and shall have a minimum of 4000 sq. ft of lot area per patient accommodation.
- e. A family childcare home serving in excess of six full time, and four part time children.
- f. Solid waste disposal facilities.

### 5.2.5 ACCESSORY USES PERMITTED IN VILLAGE RESIDENTIAL (VR) DISTRICTS

An accessory use as defined in Section 1.

### 5.2.6 SIGNS PERMITTED IN VILLAGE RESIDENTIAL (VR) DISTRICTS

All signs shall meet the requirements of the Village of Manchester Sign Regulations.

## 5.3 MULTI-FAMILY RESIDENTIAL (MR) DISTRICT

### 5.3.1 PURPOSE

The purpose of Multi-Family Residential (MR) Districts is to ensure the appropriate use of land, to ensure economical provision of streets and utilities, to secure the best possible environment for multiple family dwellings, and to control locations for apartment buildings, row houses and similar group housing in planned development projects with integrated design serviced by public water and public sewer systems.

### 5.3.2 DIMENSIONAL REQUIREMENTS IN MULTI-FAMILY (MR) DISTRICTS

	MR
Lot size in square feet	20,000 <sup>(a)</sup>
Lot width	100'
Yard, front setback	30'
Yard, side setback	15'
Yard, rear setback	40'
Maximum building coverage	20%
Maximum building height	35'

- a. When connected to neither public water nor public sewer, the minimum lot area per dwelling unit is 40,000 square feet.

### 5.3.3 PERMITTED USES IN MULTI-FAMILY (MR) DISTRICTS

The following uses, subject to the limitations and requirements of Sections 3.6 and 3.7 of this Bylaw.

- a. Buildings with not more than six dwelling units each.
- b. Customary home occupations. See Section 3.4 et seq.



### 5.3.4 CONDITIONAL USES PERMITTED IN MULTI-FAMILY (MR) DISTRICTS

The following uses may be permitted as conditional uses in a Multi-Family (MR) District, in conformance with the provisions of 3.6:

- a. A public park or playground, a community recreation building or center, a library, museum or hospital, clinic or a similar philanthropic use, operated by a governmental unit or non-profit corporation or community association.
- b. A municipal fire or police station, sewer or water pumping station, standpipe, water tank, reservoir, electric transformer station or unattended telephone exchange, provided that the design and landscaping are in keeping with the character of the vicinity.
- c. A state licensed or registered residential care home or group home, serving seven or more persons who are developmentally disabled or physically handicapped. Such use may not locate within 1000 feet of another such home and shall have a minimum of 2000 sq. ft of lot area per patient accommodation.
- d. Public and private hospitals.
- e. Public and private schools certified by the Vermont Department of Education, provided:
  - i The school is located on a parcel of at least 20 acres;
  - ii The maximum enrollment for the school shall be restricted to 125 students per school year, with no student above Grade 8 as presently defined;
  - iii The Development Review Board approves an Open Space Plan, which provides for substantial areas of open space preserved in perpetuity as open space accessible to the public.
- f. Congregate housing for older or physically disabled residents. Congregate housing shall have a minimum of 2,000 sq. ft. of lot area per bedroom provided: The Development Review Board approves an Open Space Plan, which provides for substantial areas of open space preserved in perpetuity and open space accessible to the public.

### ACCESSORY USES PERMITTED IN MULTI-FAMILY (MR) DISTRICTS

An accessory use as defined in Section 1.

### 5.3.5 SIGNS PERMITTED IN MULTI-FAMILY (MR) DISTRICTS

All signs shall meet the requirements of the Village of Manchester Sign Regulations.

## 5.4 CLUSTER SUBDIVISION DEVELOPMENTS

### 5.4.1 PURPOSE

The purpose of cluster subdivision is to promote the most appropriate use of land, reduce the spread of housing development, gain greater amenity without changing the overall density of the areas, facilitate the economic provision of streets and utilities, enhance the environmental quality of the area through maximum preservation of open space, and protect open lands and natural resources.

### 5.4.2 WHERE PERMITTED

Cluster subdivision may be permitted by the Development Review Board for one-family or two-family dwelling units in RR-5, RR-3, and RR-2 Districts, and for multi-family dwelling units in groups of not more than six dwelling units each in the RR-2 District, in accordance with the provisions of this subsection, provided that:

- a. Where public water or public sewer are to be connected, the tract of land to be subdivided contains 18 acres, or more, in gross area.

- b. Where such utilities are not available, the tract of land to be subdivided contains 30 acres or more in gross area, and provided further that that the sanitary sewage disposal facilities comply with the provisions of the Village of Manchester Health Regulations, as amended from time to time.

The Development Review Board may require that an applicant provide a cluster design for some or all of a development site in order to protect wetlands, wildlife habitat, significant scenic or historic resources, stream corridors, ponds or other unique resources on or adjacent to the site.

**5.4.3 PERMITTED USES IN CLUSTER SUBDIVISIONS**

- a. One-family and two-family dwellings
- b. Customary home occupations
- c. Any other use or conditional use permitted in the district in which the cluster subdivision is located. The lot occupied by such use shall be separately shown on the Site Plan, and the area thereof shall not be included as any part of the Cluster Subdivision for purposes of determining the number of dwelling units in such subdivision.
- d. Accessory uses and signs, conforming to the requirements of the district in which the subdivision is located.
- e. A cluster subdivision project conforming to the applicable provisions of these bylaws, occupying within the Rural Residential (RR-1) District, a tract of not less than 20 acres, the buildings thereof to contain not more than 6 dwelling units each, where there is an approved off-premises of public sewer, and a public water system, the total density to be in accordance with Section 5.1.2.

**5.4.4 DENSITY OF DWELLINGS**

Cluster developments are subject to the dimensional and density requirements set forth in this section, as well as the provisions of Section 8 of this Zoning Bylaw. Thus, the total number of dwelling units shall not exceed the number allowed under Section 5.4.2 of this bylaw.

**5.4.5 DIMENSIONAL REQUIREMENTS IN CLUSTER DEVELOPMENTS**

Dimensional requirements in cluster developments are determined both by their location, and by the municipal services available to the property:

Cluster (1) dimensional requirements apply in the RR-2 and RR-3 districts when public water and public sewer service are both available.

Cluster (2) dimensional requirements apply in the RR-2 and RR-3 districts when neither public water nor public sewer service is available.

Cluster (3) dimensional requirements apply in the RR-1 district, subject to density calculation requirements.

	Cluster (1)	Cluster (2)	Cluster (3)
Lot size in square feet	45,000	60,000	12,000
Lot size per dwelling unit	25,000	30,000	6,000
Lot width	125'	150'	80'
Yard, front setback	40'	50'	30'
Yard, side setback	15'	20'	10'

Yard, rear setback	40'	50'	35'
Maximum building coverage	25%	25%	25%
Maximum building height	35'	35'	35'
Minimum Open Space/Green Space	35%	35%	35%

## 5.5 PLANNED RESIDENTIAL OVERLAY (PRD) DISTRICTS

### 5.5.1 PURPOSE

To provide a thorough review process for major developments, to determine compliance with the requirements of this Planned Residential Overlay (PRD) District, as well as other applicable provisions of the Zoning Bylaws, to plan for provision of municipal facilities at an orderly rate, to provide for protection of valuable natural resource areas such as wetlands, streams and wildlife habitat, and to guide development away from unsuitable areas for building, such as steep slopes, poor soils and floodplains.

### 5.5.2 APPLICABILITY

The Planned Residential Overlay (PRD) District is applicable to new land developments or expansions of existing land developments by five dwellings or more, for new land developments proposing five or more lots for single-family dwelling units, or any residential project with an improved road of greater than 400 feet.

### 5.5.3 DENSITY

The allowed density of major land developments shall be based on net density. Net density is determined by subtracting from the gross acreage of the site:

- a. the acreage of slopes over 20%
- b. wetlands as defined by the National Wetlands Inventory maps, or other established source.
- c. major drainage ways, as shown on the Town Plan Map.
- d. floodplains as shown on the National Flood Insurance maps.
- e. the area under any pond, lake or stream.
- f. for land developments which are proposed for on-site sewage disposal, those soils which are identified as being unsuitable for on-site sewage disposal.

The net density is then divided by the allowed units/acre as provided by the Zoning Bylaws in the particular underlying residential district to determine the number of units allowed on the site.

### 5.5.4 PROCEDURE

No permit shall be issued under Section 10.1 for a building or use in the Planned Residential Overlay (PRD) District, until a site plan, as provided in Section 3.8 is approved by the Development Review Board.

### 5.5.5 PERMITTED USES

As required by the residential zoning district in which the proposal is located, unless a cluster subdivision is proposed or required.

### 5.5.6 WATER

Major land developments shall be connected to public water supply where possible. If an additional water line is required for the connection, in advance of municipal plans for expansion, the installation costs must be paid by the applicant. A Water Permit must be issued prior to final approval of a PRD by the Development Review Board. For developments proposed on wells, information about well logs in the area must be submitted, if available, to show potential for adequate water supply. For those developments proposed for

private community water systems, State approval of the proposed system must be received prior to final approval of the PRD by the Development Review Board.

#### 5.5.7 SEWAGE DISPOSAL

Major land developments shall be connected to public sewer systems where available. Where lines must be extended to connect the proposed development in advance of planned municipal expansion, costs therefor shall be paid by the applicant. For land developments proposed to be served by on-site sewage disposal systems, all designs must meet the requirements of the applicable health regulations, and shall be installed according to the approved design. The project engineer shall so certify prior to issuance of any occupancy or use permit.

#### 5.5.8 STORM DRAINAGE

Each major land development shall provide a storm drainage plan for the entire development proposed. Such plan shall be prepared by a licensed civil engineer. It shall be based on 10-year storm criteria, with provision for snow stockpiling and runoff, and shall allow no increase in off-site drainage over that occurring prior to development.

#### 5.5.9 STREETS

All streets shall be built to the standards contained in the Manchester Village Design Criteria for Acceptance of Highways. However, design and construction of private streets to those standards does not obligate the Village Board of Trustees to accept such streets as Village streets. The Development Review Board shall require that each deed contain a notification that the internal streets in the PRD are private streets and that maintenance and repair are the sole responsibility of the owners/developer and/or the individual homeowners as described in the covenants of the homeowners association.

#### 5.5.10 UTILITIES

Utility lines shall be underground if possible, and otherwise shall be located off-street.

#### 5.5.11 STREETLIGHTS

Streetlights may be required at the discretion of the Development Review Board. Such lights must meet the requirements of the Criteria for Approval of the Design Control District.

#### 5.5.12 SIDEWALKS

The Development Review Board may require pedestrian walkways as appropriate to facilitate pedestrian movement within or between PRDs, or between PRDs and other community facilities.

#### 5.5.13 SIGNS

All signs shall meet the requirements of the Village of Manchester Sign Regulations.



## **SECTION 6 - OPEN USE DISTRICTS**

### **6.1 FOREST (F) DISTRICT**

#### **6.1.1 PURPOSE**

The purpose of the Forest District is to preserve lands for their resource and recreation value, and to protect public water supplies.

#### **6.1.2 PERMITTED USES IN THE FOREST DISTRICT**

The following uses shall be allowed as permitted uses in the Forest (F) District, subject to the limitations and requirements of Sections 3.5 and 3.6 of this Bylaw:

- a. Commercial forestry and related uses.
- b. Forestry carried on for research, demonstration, education and related uses.
- c. Municipal recreation area, or private recreation area, not operated for profit, which is suitable to a forest environment.

#### **6.1.3 CONDITIONAL USES IN THE FOREST DISTRICT**

- a. Water collection, storage and underground transmission facilities.

#### **6.1.4 SIGNS PERMITTED IN THE FOREST DISTRICT**

All signs shall meet the requirements of the Village of Manchester Sign Regulations.

### **6.2 FLOOD HAZARD AREA DISTRICT**

#### **6.2.1 PURPOSE**

The purpose of the Flood Hazard Area (FHA) District is to minimize hazards from flooding, erosion and sedimentation, to maintain the capacity of stream channels to carry the flood waters, to protect the recharge and water storage benefits of streams as they relate to flooding, to protect streams as wildlife habitat and to minimize potential threats against life and property.

#### **6.2.2 PERMITTED USES IN THE FLOOD HAZARD AREA (FHA) DISTRICT**

In any area designated by the Federal Emergency Management Agency, and shown on the Flood Insurance Map of the Federal Emergency Management Agency as Zone "A," no building shall be erected, altered, or moved, and no land shall be used other than as provided for in the Manchester Village Flood Hazard Area Bylaw.

**SECTION 7- BUSINESS DISTRICTS (B-1 and B-2) and EQUINOX HISTORIC DISTRICT (EHD)**

**7.1.1. DIMENSIONAL REQUIREMENTS IN THE BUSINESS DISTRICTS (B-1 AND B-2) AND EQUINOX HISTORIC DISTRICT (EHD)**

	B-1	B-2	EHD
Lot size in square feet	40,000 <sup>(a)</sup>	40,000	(b)
Lot width	150 <sup>'(a)</sup>	150'	NA
Yard, front setback	75 <sup>'(a)</sup>	75'	NA
Yard, side setback	30 <sup>'(a)</sup>	30'	NA
Yard, rear setback	50 <sup>'(a)</sup>	50'	NA
Maximum building coverage	20%	25%	NA
Maximum building height	40 <sup>'(a)</sup>	40'	45'
Maximum stories	2 <sup>(a)</sup>	2	
Minimum Open Space/Green Space	30%	15%	50%

(a) Residential uses in the Business (B-1) District are governed by the dimensional requirements of the Rural Residential (RR-2) district, except that front yard setbacks are 75'.

(b) Development in the Equinox Historic (EHD) District must meet the requirements of Section 7.3.5, including the green space requirement set forth therein.

**7.1.2. BUSINESS (B-1) DISTRICT**

**7.1.3. PURPOSE**

The purpose of the Business (B-1) District is to insure that further business development is compatible with the present scale and character of the Village, to promote the sound economic development of the Village, to control the best use of land in areas most appropriate for locating business establishments, and to discourage large retail stores, shopping complexes, and manufacturing or assembling of large or heavy goods, consistent with the Village Plan of Development, as adopted.

**7.1.4. APPROVAL OF PLANS**

No permit shall be issued under Section 10.1 for a building or use in the Business (B-1) District, until a Site Development Plan, as provided for in Section 3.8, has been approved by the Development Review Board.

**7.1.5. USES PERMITTED IN THE BUSINESS (B-1) DISTRICT**

The following permitted uses in the Business 1 (B1) District, subject to the limitations and requirements of 3.6, and to the requirement that all merchandise display is located inside buildings:

- a. Stores, sales and showrooms for the conduct of retail business, limited to no more than 2000 sq. feet of total area for one owner or tenant for a one story building, nor more than 3000 sq. feet total in a multi-story building, the street elevation eaves of which are not over 18 ft. above ground level, provided that such establishment has no more than ten (10)

- persons employed on the premises at any one time. There shall be no more than one such building per lot.
- b. Conversion of residential dwellings to business use, provided that no more than 50% of the total area of the residence is converted to retail use, and further limited to no more than 2000 sq. feet of total retail area for one owner or tenant for a one story building, nor more than 3000 sq. feet total retail area in a multi-story building, and no more than ten (10) persons employed on the premises at any one time.
  - c. Professional and business offices, including financial services.
  - d. Banks and loan institutions.
  - e. Libraries
  - f. Restaurants and other suitable places serving food and beverages, provided that all food and beverages are customarily served to customers seated at tables or counters, inside or outside the building, and consumed on the premises, but this shall not prevent a catering operation, where food is sold and taken out for home consumption. Drive-thru facilities are not permitted.
  - g. Hotels
  - h. Service establishments, such as barbershops, beauty parlors, caterers, custom tailoring, decorators, appliance repair, and similar establishments, but not including fuel service stations.
  - i. Single family and two-family dwellings, subject to the requirements of the Rural Residential (RR-2a) District (3.2).

#### 7.1.6. CONDITIONAL USES PERMITTED IN THE BUSINESS (B-1) DISTRICT

The following uses may be permitted as conditional uses in the Business (B-1) District, in conformance with the provisions of 3.6, and the requirement that all merchandise display is located inside buildings.

- a. A retail owner or tenant having more than 10 persons employed on the premises at any one time. No retail owner or tenant engaged in the sale of merchandise shall contain more than 2000 sq. ft. in a one-story building, or 3000 sq. ft. in a multi-story building, the street elevation eaves of which are not over 18 feet above ground level.
- b. A public park or playground, a community recreation building or center, museum, art center, or hospital, clinic or similar philanthropic use, operated by a governmental unit or non-profit corporation, or a community association.
- c. A municipal fire or police station, sewer or water pumping station, standpipe, water tank, reservoir, unattended telephone exchange, provided that the design and landscaping are in keeping with the character of the vicinity.
- d. A bona-fide club, including a golf club.
- e. A state licensed, or registered residential care home or group home, serving seven or more persons who are developmentally disabled or physically handicapped. Such use may not be located within 1000 feet of another such home, nor have less than 6000 sq. ft. of lot area per patient accommodation.
- f. A cemetery, owned by a church or cemetery association located in the Village.
- g. Community owned and operated institutions and facilities.
- h. Bed and Breakfast facilities.

ACCESSORY USES PERMITTED IN THE BUSINESS (B-1) DISTRICT

- i. Accessory uses customarily incidental to the permitted use.
- j. Uses accessory to a Conditional Use (7.1.6) are permitted only when applied for, and granted, as part of the Conditional Use.

7.1.7. SIGNS PERMITTED IN THE BUSINESS (B-1) DISTRICT

All signs in the Business-1 District shall meet the requirements of the Village Sign Regulations.

7.1.8. TREATMENT OF FRONT YARDS AND DRIVEWAYS

a. Front Yards

A continuous landscaped strip of not less than 10 feet in width shall be maintained between the traveled way and the interior of all lots having street frontage within the Business (B-1 and B-2) District(s) as provided in Section 3.3.2 of this bylaw.

b. Driveways

Driveways and their intersections with streets or highways shall be designed and located as approved by the Development Review Board. Unless otherwise specifically approved by the Development Review Board, there shall be no more than one driveway per lot, with the exception that the Board may grant an additional driveway access for lots with street frontage in excess of 200 ft. Driveways shall be located not less than 150 ft. from street intersections except in those cases where the entire lot frontage is within 150' of the intersection. Driveways shall enter streets in such a manner as to provide the maximum sight distance possible. Driveways shall not exceed 40 ft., nor be less than 12 ft. in width, measured at and parallel to the street line, except that dual driveways may be permitted as approved by the Development Review Board, consisting of two lanes marked respectively for entrance and for exit, each lane not more than 30 ft. nor less than 12 ft. in width and separated by not less than 10 feet. Driveways shall be flared when they meet the street pavement by curves having radii of not less than 20 feet. The Board may require the installation of acceleration and deceleration lanes on the street or highway adjacent to any driveway, if it deems necessary.

7.2. BUSINESS (B-2) DISTRICT

7.2.1. PURPOSE

The purpose of the Business (B-2) District is to establish a defined area for those retail establishments that provide necessary services to the community (grocery and food stores, pharmacies, etc.), to provide a location for other retail businesses, and to ensure that those businesses are able to continue to provide their important services. It is also the intent of this district to provide a location that can accommodate economic growth while preserving the character of the remainder of the Village. Finally, it is the intent of this district to promote the best use of land in areas most appropriate for business establishments, and to attempt to minimize adverse impacts of traffic by concentrating it in this designated area, consistent with the Village Plan of Development, as adopted.

7.2.2. APPROVAL OF PLANS

No permit shall be issued under Section 10.1 for a building or use in the Business (B-2) District until a Site Development Plan is approved by the Development Review Board.

7.2.3. USES PERMITTED IN THE BUSINESS (B-2) DISTRICT

The following uses, subject to the limitations and requirements of 3.6, and to the requirement that all merchandise display be located inside buildings.

- a. Stores, sales and showrooms for the conduct of retail business, limited to no more than 2000 sq. feet of total area for one owner or tenant for a one story building, nor more than 3000 sq. feet total in a multi-story building, the street elevation eaves of which are not over 18 ft. above ground level, provided that such establishment has no more than 10 persons employed on the premises at any one time.
- b. Professional and business offices, including financial services.
- c. Banks and saving and loan institutions.
- d. Restaurants and other suitable places serving food and beverages, provided that all food and beverages are customarily served to customers seated at tables or counters, inside or outside the building, but this shall not prevent a catering operation, where food is sold and taken out for home consumption.
- e. Hotels.
- f. Service establishments, such as barbershops, beauty parlors, caterers, custom tailoring, decorators, appliance repair, and similar establishments, but not including fuel service stations.

#### 7.2.4. CONDITIONAL USES PERMITTED IN THE BUSINESS (B-2) DISTRICT

The following uses may be permitted as conditional uses in the Business (B-2) District, in conformance with the provisions of 3.6, and the requirement that all merchandise display be located inside buildings.

- a. A retail owner or tenant, other than a supermarket, having more than 10 persons employed on the premises at any one time. No retail owner or tenant, other than a supermarket engaged in the sale of merchandise shall contain more than 2000 sq. feet in a one-story building, or 3000 sq. feet in a multi-story building, the street elevation eaves of which are not over 18 feet above ground level.
- b. A public park or playground, a community recreation building or center, a library, museum, art center, or hospital, clinic or similar philanthropic use, operated by a governmental unit or non-profit corporation, or a community association.
- c. A municipal fire or police station, sewer or water pumping station, standpipe, water tank, reservoir, unattended telephone exchange, provided that the design and landscaping are in keeping with the character of the vicinity.
- d. Community owned and operated institutions and facilities.
- e. A supermarket.

#### 7.2.5. ACCESSORY USES PERMITTED IN THE BUSINESS (B-2) DISTRICT

- a. Accessory uses customarily incidental to the permitted use.
- b. Uses accessory to a Conditional Use (cf. 7.2.4) are permitted only when applied for and are granted as part of the Conditional Use.

#### 7.2.6. SIGNS PERMITTED IN THE BUSINESS (B-2) DISTRICT

All signs in the Business (B-2) District shall meet the requirements of the Village Sign Regulations.

#### 7.2.7. TREATMENT OF FRONT YARDS AND DRIVEWAYS

- a. Front Yards: See Section 7.1.9(a)
- b. Driveways: See Section 7.1.9(b)

### 7.3. EQUINOX HISTORIC DISTRICT (EHD)

#### 7.3.1. PURPOSE

In order to preserve the unique historic and architectural qualities of the Village Center, which serves as a vital regional resource, while enhancing its vitality and livability, an Equinox Historic District (EHD) has been established. The Equinox Historic District (EHD) constitutes a Planned Unit Development (PUD) under Section 8 of these bylaws.

Land development within this core area shall be in accordance with an overall development plan, and may include one or a variety of the uses enumerated in 7.3.3, provided that the general intent of the Village Plan is met.

#### 7.3.2. STANDARDS FOR DEVELOPMENT WITHIN THE EQUINOX HISTORIC DISTRICT (EHD)

Development in the Equinox Historic District (EHD) shall be approved by the Development Review Board. Such approval may be given simultaneously with Site Plan approval.

Before granting approval for development in the Equinox Historic District (EHD), the Development Review Board may consult with an independent qualified professional planner and/or professional engineer and shall determine that the following standards are met:

- a. The proposed development is designed and landscaped so as to minimize any adverse effects on neighboring properties and the uses are arranged so as to be compatible and insure visual and aural privacy for residents of the project and neighboring properties.
- b. Development in the Equinox Historic District (EHD) shall be an effective and unified treatment of the development possibilities on the project site, and the development plan shall make appropriate provision for preservation of the unique historic and architectural qualities of the Village center.
- c. The overall residential density shall be no greater than 3 dwelling units per acre. However, this requirement may be met by the preservation of open land that may or may not be contiguous with the project parcel. Such land shall be in the Village of Manchester and shall not be within the Forest District. The Development Review Board may establish such conditions on the ownership, use and maintenance of such property as it deems necessary to assure the preservation of such lands for their intended purpose, including conveyance of their development rights to the Village of Manchester.
- d. The placement and arrangement of structures, landscaping and other screening, and parking areas are disposed in such a way as to permit the flexibility needed for innovation while assuring that there is adequate light and privacy to protect residents of the development and neighboring properties.
- e. A retail business engaged in the sale of merchandise shall not contain more than 2000 sq. ft. of total area for a one story building, nor more than 3000 sq. ft. total in a multi-story building.
- f. A legal instrument setting forth the duties, responsibilities, and liabilities of the owners of all the individual residential units, commercial space, and all common facilities and other elements, in accordance with the laws of the State of Vermont, shall be approved by the Development Review Board. Such approval shall be based on the Board's satisfaction that the property shall be properly maintained and that the interests of the Village are protected.
- g. In the case of time sharing units, appropriate conditions may be established within the permit to protect the Village's interests, including but not limited to conditions determining the number of time sharing units, the procedures for assuring the payment of property taxes, and the duration cycle of the time shared ownership.

- h. All signs shall meet the requirements of the Village of Manchester Sign Regulations.
- i. The minimum setback for newly constructed buildings within the EHD shall be 50 feet from the district boundaries. This shall not apply to the reconstruction of an existing historic structure on its original site.
- j. The maximum building height for newly constructed buildings within the Equinox Historic District (EHD) shall be 45 feet.
- k. All streets shall meet the requirements of the Village of Manchester Street Regulations.
- l. The Development Review Board may impose a minimum percentage of open space (vegetative green space including ponds or lakes) within the EHD, the boundaries of which shall be determined by the Board. However, in no instance shall the percentage of green space be less than 44% of the entire project parcel.
- m. The Board may impose such other reasonable conditions which it finds are necessary to protect the public health, safety and welfare and any other purpose of 24 VSA Chapter 117, and the Village Plan and Zoning Bylaw.

#### 7.3.3. USES WITHIN THE EQUINOX HISTORIC DISTRICT (EHD)

The Equinox Historic District (EHD) may consist of one or a variety of the following uses: retail, office, personal service, municipal, tourist oriented lodging and associated facilities.

#### 7.3.4. PERMIT PROCEDURE

No permit shall be issued for a building or use in the Equinox Historic District (EHD) until a Site Development Plan pursuant to Section 3.8 has been approved by the Development Review Board.

## **SECTION 8 – PLANNED UNIT DEVELOPMENT (PUD)**

### **8.1. PURPOSE**

The Purpose of Planned Unit Development (PUD) is:

- a. Promote the appropriate use of land, buildings, use of open areas, provision of circulation facilities, including pedestrian facilities and parking, and related site and design considerations that will best achieve the goals for the Village, as articulated in the Village Plan and Zoning Bylaw, within the particular character of the site and its surroundings.
- b. Provide for the conservation of open space features recognized as worthy of conservation in the Village Plan and Zoning Bylaw, such as the preservation of trails and other recreational resources, critical and sensitive natural areas and scenic resources.
- c. Encourage and preserve opportunities for energy efficient use of public facilities and infrastructure.

### **8.1.2 WHERE PERMITTED**

Planned Unit Developments (PUDs) may be permitted by the Development Review Board in all Manchester Village Zoning Districts, in accordance with the provisions of this subsection, provided that:

- a. Where public water, or public sewer, or both are to be connected, the tract of land to be subdivided contains 18 acres or more in gross area.
- b. Where such utilities are not available, the tract of land to be subdivided contains 30 acres or more in gross area, and provided further that the sanitary sewage disposal facilities comply with the provisions of the State of Vermont Wastewater and Water Supply Regulations, as they may be amended from time to time.

### **8.1.3 PERMITTED USES IN PLANNED UNIT DEVELOPMENTS (PUD)**

- a. One family and two family dwellings.
- b. Customary home occupations. See Section 3.4.
- c. Any other use or conditional use permitted in the zoning district in which the Planned Unit Development is located. The lot occupied by such use shall be separately shown on the Site Plan, and the area thereof shall be included as any part of the Planned Unit Development for purposes of determining the number of permitted units in such development.
- d. Accessory uses and signs, conforming to the requirements of the district in which the subdivision is located.

### **8.1.4 DENSITY OF DWELLINGS**

In Planned Unit Developments (PUD), the total number of dwelling units shall not exceed the number allowed under Section 5.4.2 of this bylaw.

### **8.1.5 SITE PLAN APPROVAL**

No permit shall be issued under Section 10.1 for a building or use in Planned Unit Development (PUD), until a Site Development Plan as provided in Section 3.8 shall have been approved.

### **8.1.6 LOT DIMENSIONAL REQUIREMENTS**

For good cause shown, Development Review Board may permit individual lots in a Planned Unit Development (PUD) to be reduced in required area width, and yard dimensions, below the



dimensional requirements otherwise prescribed herein for the particular zoning district in which the Planned Unit Development (PUD) is located.

#### 8.1.7 SEWAGE DISPOSAL

The method and installation of facilities for sewage disposal on every lot, which is not connected to a public sewer system, shall be subject to all of the applicable State and Local Health Regulations, as amended from time to time.

#### 8.1.8 STREET STANDARDS

All streets shall be built to the standards contained in the Village Street Standards Ordinance. However, design and construction of private streets to those standards does not obligate the Village Board of Trustees to accept such streets as Village streets. The Development Review Board shall require that each deed contain a notification that the internal streets in a Planned Unit Development (PUD) are private streets and that maintenance and repair are the sole responsibility of the owners/developer and/or the individual homeowners as described in the covenants of the homeowners association.

#### 8.1.9 UTILITIES

Utility lines shall be underground.

#### 8.1.10 OPEN SPACE

The land area not included in building lots or in streets, rights-of-way, or easements for utilities, shall be permanently reserved as open space for recreation, conservation and the enhancement of the natural environment as a residential neighborhood. Such open space shall be of a character, size, extent and shape suitable for the above purposes, and in a location convenient to the residents. Such open space shall contain not less than 35% of the gross area of the cluster subdivision. The design of the street and lot layout, and locations of open space, shall implement the stated objectives of the Plan of Development and shall be subject to the approval of the Development Review Board. Eventual ownership of open space shall conform to the provisions of these Bylaws.

### 8.2. LEGAL RECORDINGS REQUIRED FOR PLANNED UNIT DEVELOPMENT (PUD)

#### 8.2.1 DEDICATION OF OPEN SPACE

Where land to be reserved as permanent open space in a Planned Unit Development (PUD), and is shown as open space in the Plan of Development, such land shall be offered for dedication to the Village for park and conservation purposes. Other land so reserved as open space shall be offered for dedication to the Village, or shall be dedicated to a community association, or other entity, as herein provided. Any land offered to the Village for dedication and not accepted by the Village, shall be dedicated to a community association or other entity, as herein provided.

## 8.2.2 COMMUNITY ASSOCIATIONS, COOPERATIVES

As a condition of approval of the Site Plan for a Planned Unit Development (PUD), the applicant shall organize an incorporated, non-profit community association or cooperative, organized under the laws of the State of Vermont, composed of all present and future owners of lots in such subdivision or project. Each dwelling unit shall be entitled to one vote, to be cast by the owner thereof, and membership shall be mandatory for all owners of dwelling units. Each owner shall be liable for his proportionate share of assessments for maintenance, upkeep, and other costs of operations, on the basis of their respective assessed valuations in the grand list of the Village. The open space and other properties and facilities of such association or cooperative shall be held for the benefit of the occupants of all dwellings therein. The charter of such association or cooperative shall be subject to the approval of the Development Review Board.

## 8.2.3 VILLAGE OWNED SPACE

In the case of Cluster Subdivision, in which all land designated on the Site Plan as permanent open space is owned or to be owned by the Village, the organization of a community association or cooperative shall not be required for this purpose.

## 8.2.4 CONDOMINIUMS

In lieu of the provisions of 8.2.3, and subject to the approval of the Development Review Board, all land reserved as permanent open space, and all other community facilities may be transferred to the owners of dwelling units under condominium ownership, in accordance with the laws of the State of Vermont.

## 8.2.5 RECORDING OF PERMIT

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

## 8.2.6 AMENDMENTS TO THE PLANNED UNIT DEVELOPMENT (PUD)

Amendments to the Planned Unit Development (PUD) shall require a separate zoning permit subject to the approval of the Development Review Board. In making its determination, the Board shall consider standards set forth in this section. Failure to comply with the approved Planned Unit Development (PUD) Plan shall constitute a violation of this bylaw.

## **SECTION 9 - SPECIAL REGULATIONS**

### **9.1 NONCONFORMING USES AND NONCOMPLYING STRUCTURES**

#### **9.1.1 GENERAL REQUIREMENTS**

Any nonconforming use of a structure or premises, and/or any nonconforming use of any structure or premises which lawfully existed at the time of adoption of this bylaw, or any pertinent amendment thereto, may continue. Any changes to the nonconforming structure or in the nonconforming use are subject to the following regulations:

- a. No nonconforming use may be changed, except to a conforming use.
- b. No nonconforming use shall, if once changed into a conforming use, be changed back again into a nonconforming use.
- c. No nonconforming use shall be extended or expanded.
- d. No nonconforming use, which has been discontinued for a period of one year shall be resumed thereafter, regardless of evidence of intent to resume such use.
- e. No non-complying structure shall be enlarged or substantially altered, unless such enlarged or altered portion conforms to the regulations, including use regulations, applying to the district in which it is located.

#### **9.1.2 RECONSTRUCTION AFTER DAMAGE**

Structures damaged by fire, explosion, accident or the public enemy, which are restored or reconstructed within one year, do not need a permit if the restoration or reconstruction is identical in external appearance and location. Any restoration or reconstruction resulting in external changes to the structure must have a permit.

#### **9.1.3 EXISTING SMALL LOTS**

Any lot in individual and separate non-affiliated ownership from surrounding properties in existence on the effective date of this Bylaw, or any previous regulation of the Village of Manchester, may be developed for the purposes permitted in the district in which it is located, even though not conforming to minimum size requirements, if such lot is not less than one-eighth acre in area, with a minimum width or depth dimension of forty feet. If the proposed development of a pre-existing small lot meeting the requirements of this section cannot meet the dimensional requirements (other than lot size), a variance is required.

#### **9.1.4 MERGER OF NON-CONFORMING AND UNDERSIZED PARCELS**

If a pre-existing small lot comes under common or affiliated ownership with one or more contiguous lots, the non-conforming lot shall be deemed merged with the contiguous lot. Once merged, such lots may not thereafter be divided into undersized lots.

However, a non-conforming lot shall not be deemed merged, and may be separately conveyed if all of the following apply:

- a. The lots are conveyed in their pre-existing, non-conforming configuration.
- b. On the effective date of this bylaw, each lot was developed with a water supply and wastewater disposal system constructed in accordance with all existing state and municipal requirements and regulations.
- c. At the time of the transfer, each water supply and wastewater system is properly functioning.

- d. The deeds of conveyance create appropriate easements on both lots for replacement of one or more wastewater systems, potable water systems, or both, in case there is a filed system or supply as defined in 120 V.S.A. Chapter 24, or as hereafter amended.

## 9.2 PROTECTION OF STREAMS AND DRAINAGE WAYS

No structure shall be placed, and no land shall be excavated, filled, or graded in any zoning district within a distance of 70 feet from the normal bank of any stream or watercourse, shown on the Village Plan of Development as a drainage way, or within a distance of 70 feet from the shoreline of any natural or artificial pond, lake, wetland, or water body, except with the approval of the Development Review Board, as a conditional use.

Application for such approval shall be submitted to the Development Review Board with such surveys, maps and other data as the Board may require in order to make its decision. Prior to granting such approval, the Board shall have found that the proposed construction, earth excavation, filling or grading will not contribute to any impeded drainage, flood hazard, erosion, silting, or other adverse effect on the natural conditions, or on fish or wildlife habitat, nor interfere with the present or planned storm water drainage system of the Village.

Indigenous vegetation shall be maintained within the buffer area.

In addition, 10 VSA 1021 requires that persons planning to alter or modify the course of a stream with a drainage area greater than 10 square miles, by movement, fill or excavation of 10 cubic yards or more of material shall first obtain a stream alteration permit from the Agency of Environmental Conservation.

## 9.3 VARIANCES

A variance may be granted for any non-complying structure or use by the Development Review Board, if the following facts are found, and the finding is specified in its decision.

- a. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the zoning regulation in the neighborhood or district in which the property is located;
- b. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation and that authorization of a variance is therefore necessary to enable the reasonable use of the property;
- c. That the "unnecessary hardship" has not been created by the appellant;
- d. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy sources, nor be detrimental to the public welfare; and
- e. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the zoning regulation and the plan.
- f. In rendering a decision in favor of a variance, the Development Review Board may attach conditions as it may deem necessary and appropriate under the circumstances, to implement the purpose of this Bylaw and the Village Plan, as duly adopted or amended, to safeguard the public welfare and to maintain property values in the Village.

- g. On an application in which a variance from the provisions of this Bylaw is requested for a structure that is primarily a renewable energy resource structure, the Development Review Board may grant a variance if all the following facts are found:
  - i. It is unusually difficult or unduly expensive for the appellant to build a suitable renewable energy resource structure in conformance with the regulations; and
  - ii. That the hardship was not created by the appellant; and
  - iii. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use or development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare; and
  - iv. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the zoning regulation and the plan.

#### 9.4 WAIVERS

A waiver allowing for the modification of the dimensional requirements set forth in this Zoning Bylaw may be granted by the Development Review Board if the waiver is determined to allow a specific project to better comply with the Village Plan and is not counter to the underlying purpose of this Bylaw. For a waiver to be granted, it must address the plans and goals set forth in 24 V.S.A. §4302, this Bylaw and the Manchester Village Plan of Development.

Specifically, the Village of Manchester has made, and is continuing to make, through its Plan and Bylaw, an effort to identify, protect, and preserve its most important historic structures, sites and districts, and, as no Bylaw can be written so broadly as to cover all issues, a waiver may be granted to modify specific dimensional requirements, as provided below, to allow a project located in the Village to address an unanticipated issue in a manner that would bring the project more closely into alignment with the goals set out in the Village Plan, but full compliance with all other requirements will be required.

An application for a waiver must set out specifically: what dimensional requirements are requested to be waived; why the project cannot or should not be made to comply with the specific dimensional requirement of the Bylaw; and how the requested waiver will bring the project into line with a specific goal of the Plan or Bylaw.

A waiver may be granted for the following reasons:

- a. To improve access for disabled persons.
- b. To enhance fire safety.
- c. To provide for energy conservation.
- d. To permit the construction, reconstruction, restoration, alteration or replacement of, or an addition to, a structure or facility, the use and design of which conforms to the nature and character of the area for which it is proposed, but does not, for good cause shown, conform to the dimensional requirement of this Bylaw.

Any request for a waiver shall be warned, and a public hearing held, pursuant to Section 10.12 of this Bylaw.

The development Review Board may impose conditions regarding the design, screening and other elements of the proposed development, to mitigate any adverse impacts on neighboring properties.

A written decision on any application for a waiver requested pursuant to this section shall be issued within 45 days of the adjournment of the public hearing, as required by 24 V.S.A. §4464(b)(1).

An interested party may appeal that decision to the Environmental Court, as provided for in 24 V.S.A. §4471 and §4472.

## 9.5 EARTH PRODUCTS REMOVAL RESTRICTED

Except as otherwise provided in this subsection, there shall be no removal from the premises in any district of earth, sand, gravel, clay or stone, except that, with the approval of the Development Review Board, surplus material resulting from a bona-fide construction, landscape or agricultural operation being executed on the premises may be removed, provided that no permanent damage is done to the landscape.

### 9.5.1 PERMIT FOR REMOVAL OF EARTH PRODUCTS

The Development Review Board, after a public hearing, may grant a permit for the removal of earth, sand, gravel, clay or stone, under the following conditions:

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

### 9.5.2 EXISTING SAND AND GRAVEL OPERATIONS

Existing sand and gravel or other extractive operations must conform to this Bylaw from its effective date with respect to any enlargement of the area on which operations are conducted.

### 9.5.3 SURETY BONDS

Before a permit is granted under this Section, the applicant shall post a surety bond with the Treasurer of the Village in an amount and form approved by the Village Board of Trustees as sufficient to guarantee conformity with the work according to the conditions of the permit.

## 9.6 OFF-STREET PARKING

### 9.6.1 PARKING FACILITIES REQUIRED

Parking facilities shall be provided to serve any building erected, moved, altered, enlarged, extended, or any use changed, and all premises otherwise developed after the adoption of this bylaw. Such facilities shall be located outside the street or highway right-of-way, whether public or private, and shall be sufficient to accommodate the motor vehicles of all occupants, employees, customers, and other persons normally visiting such building or premises at any one time.

### 9.6.2 LOCATION OF REQUIRED PARKING FACILITIES

Required parking facilities shall be located on the same lot as the building or other use which they serve, except that upon approval of the Development Review Board, required parking facilities may be located elsewhere (including across a municipal boundary), or may be shared between two or more uses whose hours of operation are such that the requirements of 9.6.1 can be met individually for each use.

### 9.6.3 REQUIRED AREA FOR PARKING FACILITIES

Unless otherwise specifically approved by the Development Review Board, required parking facilities shall contain not less than the minimum areas set forth below, exclusive of driveways, areas for turning vehicles and access ramps. Indoor parking may be included to the extent of one-half of the required area. No parking facilities shall be reduced in area to less than required herein, and no building or use of a building or premises shall be enlarged or extended, or any use changed, unless the parking facilities are extended to comply with the requirements hereof.

- a. Residential – 1 space per dwelling unit.
- b. Offices - 1 space for each 125 square feet of enclosed floor area.
- c. Retail/service - 1 space per each 125 square feet of enclosed floor area.
- d. Industrial/warehouse - 1 space per business vehicle housed at the site plus 1 space per employee on the largest shift.
- e. Nursing home, residential care facility - 1 space for each patient plus 1 space for each employee normally employed at one time.
- f. Banks and other financial institutions - one space for each 125 square feet of enclosed floor area.
- g. Restaurants - 1 space per each 3 seats and one space per employee on the largest shift.
- h. Inns, guest houses, etc. - 1 space per guest room, plus 1 space per employee on the largest shift, and two spaces for the owner's residence if located on site.
- i. Hotels - 1 space for each guest room, plus one space for each employee on the largest shift.
- j. Schools - 1 space per 15 seats.
- k. Places of assembly, (churches, recreation facilities, etc.) - 1 space for each 3 seats or legal occupants, and 1 per employee on the largest shift/time of use.
- l. On any altered, enlarged, extended or changed use facility, parking facilities shall be in accordance with the requirements for the specific type of facility designated herein.

### 9.6.4 SURFACING OF PARKING AREAS

Parking facilities shall have adequate all weather surfacing, capable of allowing free and safe movement of all vehicles customarily using the facilities.

### 9.6.5 TRUCK LOADING SPACE

In the case of retail, wholesale and industrial buildings, space shall be provided for loading and unloading trucks at the rate of one space not less than 400 sq. ft. in area for each 15,000 sq. ft. of floor area or fraction thereof, or as otherwise approved by the Development Review Board. All loading activities shall occur on-site, and out of the street right-of-way. Loading areas shall be located away from residential areas wherever possible.

### 9.6.6 DIMENSIONAL SPACE - PARKING

Minimum Dimension for Parking				
Angles of:	0°	45°	60°	90°
Stall length, feet	24	25	22	18.5
Stall width, feet	12	13	10	9
Aisle width, feet				
1 way	12	12	16	26
2 way	24	26	26	26
Entrance/exit width, feet				
1 way	14			
2 way	24			

### 9.6.7 LANDSCAPE AND LIGHTING FOR PARKING AREAS:

Landscaping and lighting plans for parking lots and loading areas shall be required as part of applications. Such plans shall include a landscaped strip of not less than 10' in width adjacent to all streets, except at access points. Additional guidelines are available from the Administrative Officer. All lighting, except that necessary for safety and security, shall be extinguished no later than 10 PM. All commercial lighting shall be designed and located so that glare is directed away from residential uses and Residential Districts. 'Wash' type lighting is preferred.

### 9.6.8 PARKING AREAS

In the Business-1, Business-2, and Equinox Historic Districts:

- a. Parking areas shall be screened from adjacent roads and adjoining residential uses. Vegetation used for this purpose may include both conifers for winter screening and deciduous plants to provide summer shade and to create an overhead canopy. Screening may also include features such as berms, low walls or fences, where such features are incorporated into an overall landscape design. Screening may also be achieved by placing smaller buildings between the parking area and the road.
- b. It is not expected that screening will create an impenetrable visual barrier. Rather, the objectives of the screening are:
  - i. to create a pleasant streetscape.
  - ii. to create a visual edge for the public space along the street, and
  - iii. to prevent unobstructed views of the parking areas while allowing visual perception of the commercial uses beyond.
- c. At planting, conifers shall be at least five (5) feet tall and deciduous trees shall be at least 2.5 inches diameter at breast height (DBH).
- d. Parking areas shall be designed to include landscaped islands, which may serve to separate the ends of parking bays from circulation aisles, or which may be internal to parking bays.
  - i. Each landscaped island shall be large enough to ensure the healthy growth of at least one deciduous tree plus some smaller plantings and ground cover.
  - ii. Landscaped islands shall be distributed over the entire parking area so as to prevent the appearance of large expanses of unbroken pavement.



- e. Maintenance of landscaping and screening shall be the responsibility of the property owner. Dead, dying or diseased plants shall be promptly removed and replaced as soon as possible, consistent with good landscape planting practice. The applicant shall post a surety or performance bond, in a form acceptable to the Village, in the amount of twenty-five (25) percent of the total cost of all landscaping. Said bond shall be posted for a period expiring two years after planting of the landscaping. If the property owner fails to replace plants during the two years after planting, this bond shall be used to cover the cost of replacement plantings. At the end of the two-year period, any amount remaining of the bond may be claimed by the applicant.

#### 9.6.9 SNOW REMOVAL

Areas shall be provided for storage of snow removed from parking and loading areas. Such areas shall be designed so that run-off is collected and dispersed within the lot on which the parking is located or drains directly along a public right-of-way to a storm drain. At no time shall such drainage cause ponding or flooding off-site. Snow storage shall not block line of vision from adjacent driveways or streets.

#### 9.6.10 APPLICABILITY

Repainting of an existing parking lot, as part of on-going maintenance, shall not be considered a new layout, and shall not be required to meet these standards. Changes in the location of existing striping, addition or reduction in spaces as part of repainting, expansions or changes of use, and all new uses, must meet these requirements. Site Plan Review by the Development Review Board is required.

#### 9.7 PONDS

A swimming pool or pond with a surface area not in excess of 40,000 square feet may be approved as a permitted use by the Development Review Board, provided the front, side, and rear setbacks applicable to the district in which the pond is located are satisfied.

A pond with a surface area in excess of 40,000 square feet may be approved as a conditional use by the Development Review Board after a public hearing, provided that there shall be no adverse effect upon the public health and safety, and surrounding use. No water areas shall be closer than 50 feet to any side or rear lot line, except as approved by the Development Review Board.

In reviewing such application, the Development Review Board shall require plans and specifications, and other information deemed necessary. Such information shall include:

- a. Map of entire property, showing location of the pond with respect to present structures, roads, and boundaries.
- b. The nearest building(s) on adjoining land.
- c. Specifications for the dam, if one is to be constructed.
- d. An estimate of the surface area of the pond, and volume of water.
- e. Natural or proposed drainage, and contours.
- f. Evaluation and recommendation by the Natural Resource Conservation Service.
- g. Evidence that the pond will not present an unreasonable hazard to neighboring persons or property.

## 9.8 DEMOLITION OF BUILDINGS

Before all or any portion of a building is permitted to be demolished or razed, a site development plan, and building plans for the structure proposed to replace the razed structure, must be submitted to the Development Review Board for approval, unless this requirement is formally totally or partially waived by that Board after consideration, for reasons that shall be set out in their decision. The applicant may also be required to submit a certification by a professional engineer, licensed architect, or other qualified professional, knowledgeable in historic preservation, that a structure proposed for demolition that has been determined to be historic, has deteriorated to the extent its condition constitutes a danger to the general public, and that the cost of restoration of the structure will exceed the replacement cost.

## SECTION 10 - ADMINISTRATION AND ENFORCEMENT

The provisions of this bylaw shall be administered and enforced by the Village Administrative Officer, appointed by the Development Review Board with the approval of the Village Trustees as provided by law. They shall enforce the provisions of these regulations, inspect land developments, maintain records of their actions, and perform all other necessary and required tasks to carry out the provisions of these regulations, and the duties of their office.

### 10.1 PERMITS

A Zoning Permit must be obtained from the Administrative Officer before any of the following may occur:

- a. land development
- b. any land or building is devoted to a new or changed use, including the addition of an apartment to a single-family residence or accessory building.
- c. new construction as defined in Section 1.
- d. alterations to structures as defined in Section 1.
- e. any change in exterior color.
- f. removal of trees over 6" diameter breast height located forward of the building line of the principal building within any yard fronting a street, and which are also within 150' of the street right-of-way. Removal of dead trees does not require a permit.
- g. On a vacant lot, removal of more than 20% of trees over 6" diameter breast height unless the removal is being done under a forest management plan prepared by a professional forester. On an occupied lot, removal of more than 20% of trees forward of the building line of the principal building in any yard fronting a street.
- h. Razing of a building.
- i. Installation of walls or fencing.

Application for such permit shall be made on a prescribed form, accompanied by a fee in an amount established by the Village Trustees. The applicant shall provide copies of municipal water and sewer connection permits, and permits or other evidence that all State and other required permits have been obtained before the Administrative Officer may issue a Village zoning permit.

Before issuing any such permit, the Administrative Officer shall certify that the proposed building and use comply with all the provisions of this bylaw. The Administrative Officer will notify applicant of approval, delay or denial of a permit within 30 days of the filing of a complete application, including fee.

The Administrative Officer shall maintain a full and accurate record of all applications, permits and violations which they acted upon, and these records shall be filed with the Village Office. Each zoning permit shall contain a statement indicating that an appeal may be filed within 15 days.

Within 3 days following the issuance of a zoning permit, the Administrative Officer shall post a copy of the permit in two public places in the Village for a period of 15 days, deliver a copy to the Town of Manchester assessor, and a copy of the permit to the Town Clerk, as provided for in 24 V.S.A. Section 4449.

Unless otherwise extended by the authority issuing such permit, all projects authorized by any permit, including any design review permit, must be fully completed within two years after the issuance of the permit.

For any property for which a permit has been issued, a notice of permit shall also be posted within view from the public right-of-way most nearly adjacent to the subject property until the time for appeal (24 V.S.A. Section 4465) has passed.

No permit shall take effect until the time for appeal set out in 24 V.S.A. 4465 has passed, or in the event that a notice of appeal is properly filed, no such permit shall take effect until adjudication of that appeal by the appropriate municipal panel is complete, and the time for taking an appeal to the Environmental Court has passed without an appeal being taken. If an appeal is taken to the Environmental Court, the permit shall not take effect until the Environmental Court rules in accordance with 10 V.S.A. 8504 on whether to issue a stay, or until the expiration of 15 days, whichever comes first.

## 10.2 MINOR PERMITS

If the Administrative Officer believes that the project dealt with by an application is minor, has no adverse impact on the existing character of the property where it is proposed, the Village of Manchester, or any abutting property, and costs no more than \$20,000. The Administrative Officer may, after informing the members of the Development Review Board, issue a permit for the project. All applications that the Administrative Officer believes do not meet this standard shall be passed to the Development Review Board for formal review.

## 10.3 POSTING OF MINOR PERMITS

Copies of the proposed Permit shall be posted in accordance with Section 10.10.1. For purposes of this subsection, when properties are separated only by a road or watercourse, they shall be considered to abut. Fifteen days after the mailing and posting of the proposed Permit, if no interested person nor any member of the Development Review Board shall request in writing to the Administrative Officer a review of the application by the Development Review Board, the proposed Permit may be issued by the Administrative Officer without approval of the building plans by the Development Review Board.

## INTERPRETATION OF BYLAWS

In their interpretation and application, the provisions of this bylaw shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. It is not intended by this bylaw to repeal, abrogate, annul or in any way to impair or interfere with existing provision of the law or ordinance or any rules, regulations, or permits previously adopted or issued, or which shall be adopted or issued pursuant to law, relating to the use of buildings or premises; nor is it intended by this bylaw to interfere with or abrogate or annul any easements, covenants, or other agreements between parties, provided, however, that where this bylaw imposes a greater restriction upon the use of buildings or premises, or upon the height of buildings, or required larger yards, courts, or other open spaces than are imposed or required by existing provisions of law or ordinances, or by such rules, regulations, or permits, or by such easements, covenants or agreements, the provisions of this bylaw shall control.

## 10.4 ENFORCEMENT PROCEDURES - PENALTIES

- a. No action may be brought under this section unless the alleged offender has had at least seven (7) days warning notice by certified mail. Action may be brought without the seven-day notice and opportunity to cure, if the alleged offender repeats the violation after the seven-day warning period and within the next succeeding twelve months. The seven-day warning notice shall state:
  - i. A violation exists; and
  - ii. The alleged offender has the opportunity to cure the violation within seven days; and
  - iii. The alleged offender will not be entitled to an additional warning notice occurring after the seven days.

- b. The provisions of this bylaw will be enforced by the Administrative Officer in accordance with 24 V.S.A. 4452, or as hereafter amended, as follows: If any street, building, structure or land is, or is proposed to be, erected, constructed, re-constructed, altered, maintained, or used in violation of any bylaw, the Administrative Officer shall institute in the name of the municipality an appropriate action, injunction or other proceeding to prevent, restrain, correct or abate such construction or use or to prevent, in or about such premises, any act, conduct, business or use constituting a violation. A court action under this section may be initiated in environmental court, or as appropriate, before the judicial bureau, as provided under 24 V.S.A. Section 1974a.”
- c. Any person who violates this bylaw shall be fined not more than one hundred (\$100) dollars for each offense. In default of payment of the fine, such person, the members of the partnership, or the principal officers of such corporation shall each pay double the amount of such fine. Each day that a violation is continued shall constitute a separate offense.
- d. An enforcement proceeding must be instituted within 15 years from the date the alleged violation first occurred and not thereafter, and any such proceeding shall be subject to such other limitations as are contained in 24 V.S.A. Section 4454.

## 10.5 CERTIFICATES OF USE

It shall be unlawful to use or occupy or permit the use or occupancy of any land or structure, or part thereof created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure after the effective date of these bylaws, within the Village of Manchester, until a Certificate of Use is issued therefore by the Administrative Officer stating that the proposed use of the structure or land conforms to the requirements of the zoning regulations.

## 10.6 VALIDITY

If any section or provision of this bylaw is adjudged to be unconstitutional or otherwise invalid, such decision shall not affect the validity of this bylaw as a whole, or of any part thereof other than the part so adjudicated.

## 10.7 PUBLIC NOTICE

Any public notice that is required for a public hearing under this bylaw shall be given as required by 24 V.S.A. Section 4464.

## 10.8 DEVELOPMENT REVIEW BOARD

There shall be a Development Review Board created, as provided in 24 V.S.A. 4460-4473, inclusive, with the following powers and duties:

- a. Review of land development within the Village of Manchester, including rights-of-way or easements for land development without frontage.
- b. Review of proposed conditional uses.
- c. Review of proposed planned unit developments.
- d. Review of requests for variances.
- e. Review of requests for waivers.
- f. Site plan review.
- g. Review of proposed subdivisions.
- h. Review of proposed wireless telecommunications facilities.
- i. Appeals from a decision of the administrative officer.
- j. Any other reviews required by the bylaws

The Development Review Board shall consist of seven members, and up to five alternates, who shall serve when a Board member is conflicted, or is otherwise unable to serve. Alternates sit as members of the Board only for the cases for which they are designated. Once seated on a case, the alternate finishes the case, even if the original Board member shall later become available.

A Board quorum is a majority of the members of the Board. Any action of the Board requires a majority of the members of the Board, not just a majority of those present and voting.

The Board shall continue to exercise its planning and bylaw development functions, and other duties provided in 24 V.S.A. Chapter 117. Alternates may not serve when the Board is fulfilling those functions.

#### 10.9 APPEALS

Any interested person may appeal a decision of the Administrative Officer by filing a notice of appeal with the Development Review Board, and the Administrative Officer, as provided for in 24 V.S.A. Sections 4465-4470.

Any interested person may appeal a decision of the Development Review Board to the Environmental Court, as provided for in 24 V.S.A. Sections 4471, 4472, and 4475.

#### 10.10 AMENDMENTS

This bylaw, or the boundaries of zone districts established herein, may be amended from time to time after a public hearing, as provided by 4441-4444 of the Vermont Municipal and Regional Planning and Development Act, Title 24, V.S.A., Chapter 117, as amended.

#### PUBLIC HEARINGS

All hearings held under this Bylaw shall be duly warned in accordance with 24 V.S.A. Section 4464. In all cases coming before the Development Review Board for hearing, the applicant for a permit shall furnish the Administrative Officer with names and addresses of all owners of property adjoining the subject lot. The Administrative Officer shall send notice of the hearing, verified by a certificate of mailing, to the adjoining property owners.

#### 10.11 DECISIONS OF THE DEVELOPMENT REVIEW BOARD

The development Review Board shall issue a written decision on any application under review within 45 days of the adjournment of the public hearing, as provided for in 24 V.S.A. Section 4464(b)(1).

#### 10.12 SEVERABILITY

If any section, paragraph, subdivision, clause, phrase, or other part of this bylaw shall be adjudged invalid or held unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of this bylaw as a whole or any part or provision thereof other than that part so decided to be invalid or unconstitutional.

THIS ZONING BYLAW WAS COMPLETE AT THE TIME OF PRINTING. SINCE THAT TIME, HOWEVER, AMENDMENTS MAY HAVE BEEN MADE. CHECK WITH THE VILLAGE ADMINISTRATIVE OFFICER FOR ANY CHANGES.

THIS BYLAW SHALL REMAIN IN FULL FORCE AND EFFECTIVE UNTIL SUCH ACTION OF THE BOARD OF TRUSTEES OR VOTERS OF THE VILLAGE, IN ACCORDANCE WITH THE PROCEDURES OF THE VERMONT MUNICIPAL AND REGIONAL PLANNING AND DEVELOPMENT ACT, TITLE 24, V.S.A., CHAPTER 117, DETERMINES OTHERWISE.

## APPENDIX

- A. Zoning Map
- B. Design Review Districts Map
- C. List of Properties Entered Into National List of Historic Places
- D. Sketch Map Showing Village Locations of Historic Buildings