

## Chapter 149

### ZONING

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[HISTORY: Adopted by the Borough Council of the Borough of Manchester 12-14-1981  
by Ch. 12 of the 1981 Code of Ordinances; amended in its entirety 6-17-1987.  
Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Animals — See Ch. 63.

Auction rooms — See Ch. 65.

Uniform construction codes — See Ch. 73.

Floodplain damage prevention — See Ch. 90.

Streets and sidewalks — See Ch. 126.

Subdivision and land development — See Ch. 128.

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## ARTICLE I

**Title, Purpose and Community Development Objectives****§ 149-1. Title. [Amended 7-14-1997 by Ord. No. 1997-12]**

This chapter shall be known and may be cited by the short form title of the "Manchester Borough Zoning Ordinance." Where the phrase "this chapter" appears herein, such phrase refers to this entire Chapter 149, Zoning, of the Code of the Borough of Manchester, also known as the "Manchester Borough Zoning Ordinance."

**§ 149-2. Purpose.**

The purpose of these regulations is to provide for the harmonious development of the Borough by facilitating:

- A. The orderly and efficient integration of land development within the Borough.
- B. Proper density of population.
- C. Adequate water and sewerage.
- D. Adequate police protection, schools, parks and other public grounds and buildings.
- E. The protection of water resources and drainageways.
- F. Adequate light and air.
- G. Adequate transportation, parking and loading space.
- H. The greater health, safety and welfare of the citizens of the Borough.
- I. Protection of the agricultural resources of the Borough.
- J. Adequate sites for recreation, conservation, scenic and other open space purposes.
- K. The prevention of blight and overcrowding of land.

**§ 149-3. Community development objectives.**

There is hereby established a new comprehensive zoning plan for the Borough, which plan is set forth in the text and map that constitute this chapter. Said plan is adopted in the interest of protecting and promoting the public health, safety, morals and general welfare and shall be deemed to include the following related and specific community development objectives, among others as may be stated in the Borough of Manchester Comprehensive Plan:

- A. Develop a well-balanced land use plan for the Borough consistent with existing characteristics and utilities as well as anticipated future trends and programs.
- B. Encourage housing alternatives to meet the diverse needs of Borough residents.
- C. Encourage conservation and rehabilitation of the Borough's housing stock.

- D. Provide for new and expansion of existing commercial areas where access is adequate and compatibility with neighboring uses exist.
- E. Encourage the development of industrial activities consistent with transportation utilities and site requirements.
- F. Provide various forms of active and passive recreational facilities.
- G. Adopt a zoning ordinance encompassing certain of the established objectives and containing common-sense provisions for flexibility.
- H. Develop a roadway network which addresses the efficient function of both internal and through traffic.
- I. Provide for appropriate parking areas in those locations serving land use activities.
- J. Improve existing community facilities consistent with proper fiscal management and community needs.

## ARTICLE II Definitions and Word Usage

### § 149-4. Intent.

Words and phrases shall be presumed to be used in their ordinary context unless such word or phrase is defined or interpreted differently within this article.

### § 149-5. General interpretation.

Unless otherwise expressly stated, the following words shall, for the purposes of this chapter, be interpreted in the following manner:

- A. Words used in the present tense include the future tense.
- B. Words used in the singular include the plural.
- C. The word "person" includes an individual, a corporation, a partnership, an incorporated association or any other similar entity.
- D. The word "lot" includes the words "plot," "parcel" or "tract."
- E. The word "shall" is always mandatory.
- F. The word "used" or "occupied," as applied to any land or building, shall be construed to include the words "intended, arranged or designed to be used or occupied."

**§ 149-6. Specific words or phrases.**

- A. Certain words used are as defined in the Pennsylvania Municipalities Planning Code.<sup>1</sup>  
[Added 7-14-1997 by Ord. No. 1997-12]
- B. The following words are defined to facilitate the interpretation of this chapter for administrative purposes and for the carrying out of duties by appropriate officers and by the Zoning Hearing Board.

**ACCESS DRIVE** — A private minor vehicular right-of-way, other than a street or driveway, providing access from a street to a property or parking area within lot. For the purposes of this chapter, access drives shall be required for all commercial, industrial institutional and multifamily uses, and all other uses excluding those for which driveways, as defined in the chapter, may be used. [Amended 10-10-2005 by Ord. No. 2005-47]

**ACCESSORY BUILDING** — A building, subordinate to and detached from the principal building, located on the same lot with such principal building. [Amended 10-10-2005 by Ord. No. 2005-47]

**ACCESSORY USE** — A use, customarily incidental and subordinate to the principal use of the property, and located on the same lot as such principal use.

**ADULT-REGULATED FACILITY** — An establishment open to the general public, except persons under the age of 18 years, where more than 20% of the occupied area of the facility is used for one or more of the following purposes:

- (1) **ADULT BOOKSTORE** — An establishment which offers for sale, for rent, for lease, for view on the premises or for loan, pictures, photographs, drawing, sculptures, motion picture film or similar visual representation of sexual conduct, or sexual excitement, or books, pamphlets, magazines, printed matter or sound recordings containing explicit and detailed descriptions or narrative accounts of sexual conduct or sexual excitements; or offers for sale devices, equipment, stimulants or other materials for use in sexual conduct or sexual excitement.
- (2) **ADULT THEATER** — An establishment in which there is offered for view motion picture film or similar visual representation of sexual conduct or excitement, commonly referred to as "X-rated" movies, peep shows or the equivalent thereof.
- (3) **CABARET** — An establishment, club, restaurant, theater or hall which features topless dancers, exotic dancers, strippers, male or female impersonators or similar entertainers exhibiting specified anatomical areas or specified sexual activities for observation by patrons therein.
  - (a) **SPECIFIED ANATOMICAL AREAS** — Less than completely and opaquely covered:

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1. Editor's Note: 53 P.S. § 10101 et seq.

- [1] Human genitals, pubic regions;
- [2] Buttocks; and
- [3] Female breasts below a point immediately above the top of the areola.

(b) SPECIFIED SEXUAL ACTIVITIES:

- [1] Human genitals in a state of sexual stimulation or arousal.
- [2] Acts of human masturbation, sexual intercourse or sodomy.
- [3] Fondling or other erotic touching of human genitals, pubic region, buttocks or female breasts.

- (4) ADULT MASSAGE PARLOR or ADULT MASSAGE STUDIO — A commercial establishment whose business emphasis is the administration of sexually oriented massage to patrons by employees.

AGRICULTURE — The tilling of the soil, the raising of crops, horticulture and gardening, but not including poultry or livestock husbandry.

ALTERATIONS — As applied to a building or structure, means a change or rearrangement in the structural parts, or in the existing facilities, or an enlargement, whether by extending on a side or by increasing in height, or the moving from one location or position to another.

ALTERATIONS, STRUCTURAL — Any change in the supporting members of a building, such as bearing walls, columns, beams or girders.

ANIMAL HUSBANDRY — The breeding, raising, boarding or maintenance of poultry, farm, domestic or wild animals and domestic pets in excess of three.

APARTMENT — A dwelling unit within a multiple-family dwelling. This classification includes apartments in apartment houses, apartment hotels, bachelor apartments, studio apartments and kitchenette apartments. Conversion apartments are not included in this classification.

AREA, BUILDING — The total of areas, taken on a horizontal plane, at the main grade level of the principal building, and all accessory buildings, exclusive of uncovered porches, terraces and steps.

BLOCK — A land area bounded by streets.

BOARDINGHOUSE — Any dwelling in which more than three unrelated persons are housed or lodged for hire, with or without meals. A rooming house, or a furnished-room house, shall be deemed a boardinghouse.

BOROUGH — The Borough of Manchester, York County, Pennsylvania.

BUILDING — Any structure, having a roof, supported by columns or walls and intended for the shelter, housing or enclosure of persons, animals or chattels; and including mobile homes, covered porches, bay windows and chimneys.

**BUILDING CODES OFFICIAL** — The official appointed by resolution of the Borough Council as the Building Codes Official with the responsibility to enforce the Pennsylvania Uniform Commercial Code. **[Added 10-10-2005 by Ord. No. 2005-47]**

**BUILDING, DETACHED** — A building surrounded by open space on its lot; residential, intended for occupancy by one family only.

**BUILDING, HEIGHT OF** — The vertical distance, measured from the average elevation of the proposed finished grade at the front of the building, to the highest point of the roof for flat roofs; to the deck of mansard roofs; and to the mean height between eaves and ridge for gable, hip and gambrel roofs.

**BUILDING LINE** — A line, parallel to the front, sides or rear lot line so as to provide the required yard area.

**BUILDING PERMIT** — Any permit required by the Manchester Borough Building Code for the erection, construction, reconstruction, extension, moving or razing of any structure. **[Added 10-10-2005 by Ord. No. 2005-47]**

**BUILDING SETBACK LINE** — The line within a property defining the required minimum distance between any structure and the adjacent street right-of-way or property line. **[Amended 10-10-2005 by Ord. No. 2005-47]**

**BUSINESS** — A principal use involving any enterprise, occupation, trade or profession engaged in, either continuously or temporarily, for profit. The term "business" shall include the principal occupancy or principal use of a building or premises or any portion thereof for the transaction of business or the rendering or receiving of professional or personal service. **[Added 10-10-2005 by Ord. No. 2005-47]**

**CARPORT** — A covered space, open on two or more sides, for the storage of one or more vehicles, and accessory to a building.<sup>2</sup>

**CARTWAY** — That portion of a street which is improved and intended for vehicular use. **[Added 10-10-2005 by Ord. No. 2005-47]**

**COMMON OPEN SPACE** — A parcel or parcels of land, or an area of water, or a combination of land and water, within a development site, designed and intended for the use or enjoyment of residents of the particular development, not including streets, off-street parking areas and areas set aside for public facilities. Common open space shall be substantially free of structures, but may contain such improvements as are in the development plan, as finally approved, and as are appropriate for the recreation of residents.

**CONVERSION APARTMENTS** — A building existing on the effective date of this chapter which is rearranged to create two or more dwelling units. The creation of additional conversion apartments is prohibited. **[Amended 10-10-2005 by Ord. No. 2005-47]**

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2. Editor's Note: The definition of "Commission," which followed this definition, was repealed 7-14-1997 by Ord. No. 1997-12. See now the definition of "Planning Commission."

COUNTY — York County, Pennsylvania.

COURT — Court of Common Pleas of York County.

COVERAGE — That portion, or percentage, of the plot, or lot area, covered by the main building area.

CROSSWALK — A right-of-way, publicly or privately owned, intended to furnish access for pedestrians.

CURB LEVEL — The officially established grade of the curb, at the midpoint of the frontage of the lot.<sup>3</sup>

DENSITY — The number of dwelling units or units of occupancy per acre, exclusive of street rights-of-way and permanent drainage easements. **[Added 10-10-2005 by Ord. No. 2005-47]**

DISMANTLED AND NONOPERABLE VEHICLE — A vehicle which does not display the current Pennsylvania State Inspection Certification or is manifestly incapable of being locomotive in its existing condition.

DRIVE-IN SERVICE PLACES — An establishment or activity where patrons are served with food, soft drinks, ice cream, and similar confections, or where patrons are provided with professional, commercial or personal services, outside the confines of the principal building, or in vehicles parked upon the premises, regardless of whether or not, in addition thereto, seats or other accommodations are provided for the patrons. Drive-in theaters shall not be included.

DRIVEWAY — An improved surface for vehicular travel which provides access between a public or private street and the parking area for all residential uses (except multifamily) and all agricultural uses. **[Added 10-10-2005 by Ord. No. 2005-47]**

DUPLEX — See "dwelling, single-family semidetached."

DWELLING — A building containing one or more dwelling units. (See Appendix I for Selected Illustration of Residential Dwelling Types.<sup>4</sup>) **[Amended 10-10-2005 by Ord. No. 2005-47]**

DWELLING GROUP — A group of two or more single-family, two-family or multifamily dwellings occupying a lot in one ownership.

DWELLING, MULTIFAMILY — A building containing three or more dwelling units located on a single lot. **[Amended 10-10-2005 by Ord. No. 2005-47]**

DWELLING, SINGLE-FAMILY ATTACHED — A portion of a building containing one dwelling unit and having two party walls. Each dwelling unit is located on a single lot. End units which have one party wall in common are included and are subject to the

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3. Editor's Note: The definition of "developer," which followed this definition, was repealed 7-14-1997 by Ord. No. 1997-12.

4. Editor's Note: Appendix I is on file in the Borough offices.

lot area requirements for other single-family attached units but must meet setback requirements on the open side. **[Amended 10-10-2005 by Ord. No. 2005-47]**

DWELLING, SINGLE-FAMILY DETACHED — A building containing only one dwelling unit located on a single lot. **[Amended 10-10-2005 by Ord. No. 2005-47]**

DWELLING, SINGLE-FAMILY SEMIDETACHED — A portion of a building containing one dwelling unit and having one party wall in common with another dwelling unit. Each dwelling unit is located on a single lot. **[Amended 10-10-2005 by Ord. No. 2005-47]**

DWELLING, TWO-FAMILY — A building containing two dwelling units located on one lot. **[Amended 10-10-2005 by Ord. No. 2005-47]**

DWELLING UNIT — One or more rooms used for living and sleeping purposes and having a kitchen, with fixed cooking facilities and a bathroom with a toilet and a bathtub or shower arranged for occupancy by one family. **[Amended 10-10-2005 by Ord. No. 2005-47]**

EASEMENT, UTILITY — A right-of-way granted for limited use of land for public or quasi-public purposes.

ESSENTIAL SERVICES — The erection, construction, alteration or maintenance by public utilities, or municipal or other government agencies or private corporations, under contract to a municipality, of gas, electrical, telephone, steam or water transmission or distribution system, and sewer and solid waste disposal systems, including buildings, enclosures, wells, pumping stations, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic light signals, hydrants, sanitary landfills, incinerator waste disposal areas and other similar equipment and accessories and services, in connection therewith, reasonably necessary for the furnishing of adequate service by such public utilities, or municipal or other governmental agencies or private corporations, under contract to a municipality, including firehouses of fire companies and emergency services, under agreement with the municipality, or for the public health, safety or general welfare.

FAMILY — Any number of individuals living in a single, nonprofit housekeeping unit and doing their cooking on the premises, when said individuals are related by blood, marriage or adoption; or no more than four unrelated individuals living together as a single nonprofit housekeeping unit and doing their cooking on the premises. A "group home," as defined herein, shall be considered a family. This term specifically excludes: **[Amended 10-10-2005 by Ord. No. 2005-47; 2-12-2018 by Ord. No. 2018-1]**

- (1) Individuals and groups occupying a boarding- or rooming house, lodging house, club, group home, fraternity, hotel or similar living environment; and
- (2) Persons living together in homes for current users of illegal controlled substances, persons convicted for illegal manufacture or distribution of a controlled substance, sex offenders, and juvenile offenders, unless considered disabled under the Fair Housing Act,<sup>5</sup> by virtue of that status.

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5. Editor's Note: See 42 U.S.C.A. § 3601 et seq.

FAMILY DAY-CARE HOME — A residence offering babysitting services and child care services for four to six children, unrelated to the resident household and meeting all applicable licensing/registration requirements of the Pennsylvania Department of Public Welfare or other such designated state agency having such authority and responsibility. **[Added 12-8-2008 by Ord. No. 08-58]**

FENCE — A protective or confining barrier or wall.

FLOODPLAIN — The area along a natural watercourse which is periodically overflowed by water therefrom.

GARAGE — An accessory building for the storage of one or more automobiles and/or other vehicles accessory and incidental to the primary use of the premises.

GARDEN APARTMENT — A multifamily building, under one ownership, having three or more dwelling units, with each unit occupied by one family.

GOVERNING BODY — The Borough Council of the Borough of Manchester, York County, Pennsylvania.

GROUND FLOOR — The story of a building nearest the mean grade of the front of the building.

GROUP HOME — A residential facility used as living quarters by no more than four unrelated persons, each of whom is handicapped within the meaning of the Fair Housing Act, 42 U.S.C. § 3601 et seq., living together, long-term, as a single, nontransient housekeeping unit, with such resident or nonresident staff as may be needed to assist the residents with their daily life activities. To be considered a single, nontransient housekeeping unit, all residents must have common use of and access to all living areas, eating areas, bathrooms and food preparation and serving areas. A group home constitutes a "family," as defined herein. **[Added 2-12-2018 by Ord. No. 2018-1]**

- (1) This term specifically excludes residences or homes for persons with current, illegal use of or addiction to a controlled substance (as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. § 802), alcoholism or drug addiction, work-release facilities for convicts or ex-convicts, or other housing facilities serving as an alternative to incarceration and any persons whose residency in the home would constitute a direct threat to the health or safety of other individuals, except to the extent that such groups constitute "handicapped" persons, within the meaning of the Fair Housing Act.<sup>6</sup>

HOME OCCUPATION — Any use customarily conducted entirely within the dwelling, provided that the use is clearly incidental and secondary to the use of the dwelling for dwelling purposes; that the exterior appearance of the structure or premises is constructed and maintained as a residential dwelling; and that no goods are publicly displayed on the premises, other than signs as provided herein in § 149-31.

IMPERVIOUS SURFACE — Those surfaces that do not absorb precipitation. Areas, including but not limited to roofs, parking areas, driveways, roads, sidewalks, swimming pools/ornamental ponds, patios and any similar areas of concrete, brick, stone, including

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6. Editor's Note: See 42 U.S.C.A. § 3601 et seq.

crushed stone or asphalt, shall be considered impervious surfaces. In addition, all buildings and structures shall be considered as impervious surfaces for computation of lot coverage. **[Added 10-10-2005 by Ord. No. 2005-47]**

**INDUSTRY** — The manufacturing, compounding, processing, assembly or treatment of materials, articles or merchandise.

**LAND DEVELOPMENT** — Any of the following activities: **[Amended 7-14-1997 by Ord. No. 1997-12]**

- (1) The improvement of one lot or two or more contiguous lots, tracts or parcels of land for any purpose involving:
  - (a) A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots, regardless of the number of occupants or tenure; or
  - (b) The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.
- (2) A subdivision of land.
- (3) Development in accordance with 53 P.S. § 10503(1.1).

**LANDOWNER** — The legal or beneficial owner or owners of land, including the holder of an option or contract to purchase (whether or not such option or contract is subject to

any conditions), a lessee if he is authorized under the lease to exercise the rights of the landowner, or other person, having a proprietary interest in land, shall be deemed to be a landowner for the purpose of this chapter. **[Amended 7-14-1997 by Ord. No. 1997-12]**

**LOADING SPACE** — An off-street space, on the same lot with a building, or contiguous to a group of buildings for the temporary parking of a commercial vehicle, while loading or unloading merchandise or materials, and which abuts on a street or other appropriate means of access.

**LOT** — A plot or parcel of land which is intended for separate development, use or improvement, now or in the future, which shall front upon a public street or any approved private roadway. **[Amended 10-10-2005 by Ord. No. 2005-47]**

- (1) **CORNER LOT** — A lot at the junction of, and abutting on, two or more intersecting streets or private roads, or at the point of abrupt change of a single street or private road, where the interior angle is less than 135°. The front setback dimensions shall apply to both street frontages. The rear setback dimension shall be opposite the frontage after which the property is addressed. The remaining yard shall be considered the side yard.
- (2) **DOUBLE FRONTAGE LOT** — An interior lot having frontage on two streets.
- (3) **INTERIOR LOT** — A lot other than a corner lot or a double frontage lot.
- (4) **REVERSE FRONTAGE LOT** — A lot extending between and having frontage on an arterial or collector street and a minor street, and with vehicular access solely from the minor street. The front setback dimensions shall apply to both street frontages.

**LOT AREA** — The area contained within the property lines of a lot, excluding space within all street rights-of-way and within all permanent drainage easements, but including the area of all other easements. **[Amended 10-10-2005 by Ord. No. 2005-47]**

**LOT COVERAGE** — The percentage of a lot determined by dividing the total area of all impervious surfaces, including building area, by the lot area. **[Added 10-10-2005 by Ord. No. 2005-47]**

**LOT, DEPTH OF** — The average horizontal distance between the front and rear lot lines.

**LOT LINES** — The lines bounding a lot, as defined herein (see definition for "lot area").

**LOT, MINIMUM WIDTH** — The minimum lot width as measured along the street right-of-way line.

**LOT OF RECORD** — A lot which has been recorded in the Office of the Recorder of Deeds of York County, Pennsylvania.

**MAINTENANCE, ROUTINE** — Activities which do not alter a building or structure, including but not limited to painting, replacements such as roofs, windows, doors and spouting and related improvements.

**MASSAGE PARLOR** — An establishment whose business emphasis is the administration of non-sexually oriented massage to patrons by employees.

**MINOR STREET** — A street which is used primarily for access to abutting properties.

**MOBILE HOME** — A transportable single-family dwelling, intended for permanent occupancy, office or place of assembly, contained in one unit, or in two or more units, designed to be joined into one integral unit, capable of again being separated for repeated towing, which arrives at a site complete and ready for occupancy, except for minor and incidental unpacking and assembly operations, and constructed so that it may be used without a permanent function. **[Amended 7-14-1997 by Ord. No. 1997-12]**

**MOBILE HOME LOT** — A parcel of land in a mobile home park, improved with the necessary utility connections and other appurtenances, necessary for the erection thereon of a single mobile home which is leased by the park owner to the occupants of the mobile home erected on the lot. A mobile home not located in a mobile home park shall meet the lot requirements for a single-family detached dwelling of that district where located.

**MOBILE HOME PARK** — A parcel of land, under single ownership, which has been planned and improved for the placement of mobile homes for nontransient use, consisting of two or more mobile home lots.

**MULTIPLE-USE BUILDING** — Any building containing residential in addition to nonresidential uses permitted in the zone. **[Amended 10-10-2005 by Ord. No. 2005-47]**

**MUNICIPALITY** — The Borough of Manchester, York County, Pennsylvania.

**NO-IMPACT HOME-BASED BUSINESS** — A business or commercial activity administered or conducted as an accessory use which is clearly secondary to the use a residential dwelling and which involves no customer, client or patient traffic, whether vehicular or pedestrian, pickup, delivery or removal functions, to or from the premises, in excess of those normally associated with residential use. **[Added 10-10-2005 by Ord. No. 2005-47]**

**NONCONFORMING LOT** — A lot the area or dimension of which was lawful prior to the adoption or amendment of this chapter, but which fails to conform to the requirements of the zoning district in which it is located by reasons of such adoption or amendment. **[Amended 7-14-1997 by Ord. No. 1997-12]**

**NONCONFORMING STRUCTURE** — A structure, or part of a structure, manifestly not designed to comply with the applicable use provisions in this chapter or amendment heretofore or hereafter enacted, where such structure lawfully existed prior to the enactment of such ordinance or amendment to its location by reason of annexation. Such nonconforming structures include but are not limited to nonconforming signs.<sup>5</sup>

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5. Editor's Note: See also § 149-37A.

**NONCONFORMING USE** — A use, whether of land or of structure, which does not comply with the applicable use provisions in this chapter or amendment heretofore or hereafter enacted, where such use was lawfully in existence prior to the enactment of such ordinance or amendment or prior to the application of such amendment to its location by reason of annexation.<sup>6</sup>

**OFFICE BUILDING** — A building designed or used primarily for office purposes, no part of which is used for manufacturing or for dwelling other than by a watchman or janitor.

**OFFICE, PROFESSIONAL** — A room, or rooms, used for the carrying on of a profession.

**OPEN SPACE** — The unoccupied space, open to the sky, on the same lot with the building, not including parking lots.

**PARKING LOT** — An open area providing more than three parking spaces.

**PARKING SPACE** — The space, within a building or on a lot or parking lot, for the parking or storage of one automobile.

**PARTIES** — Participants to a hearing before the Zoning Hearing Board [see § 149-44B(1)].

**PLANNING COMMISSION or COMMISSION** — The Planning Commission of the Borough of Manchester. **[Amended 7-14-1997 by Ord. No. 1997-12]**

**PRINCIPAL USE/PRINCIPAL BUILDING** — The main or primary use or activity whether of land or of building(s) or structures. **[Amended 10-10-2005 by Ord. No. 2005-47]**

**PUBLIC NOTICE** — Notice published once each week for two successive weeks in a newspaper of general circulation in the municipality. Such notice shall state the time and place of the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than 30 days and the second publication shall not be less than seven days from the date of the hearing. **[Amended 7-14-1997 by Ord. No. 1997-12]**

**PUBLIC THOROUGHFARE** — A street (see definition for "street").

**REAR YARD** — On lots fronted by one public street, the yard opposite the front yard. On corner lots and/or lots fronted by two public streets, "rear yard" shall mean the yard opposite the yard adjoining the street after which the property is addressed. **[Added 10-9-1995 by Ord. No. 1995-03]**

**REQUIRED YARD** — The area between a boundary line and a setback line (see definitions for "building line" and "setback line").

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6. Editor's Note: See also § 149-37A.

RESTORATION — The act of replacing with same or similar materials or returning to a previous condition.

RIGHT-OF-WAY — Land set aside for use as a street or alley; or any legal right over or upon privately owned land.

ROW HOUSE — A townhouse.

SCREENING — A well-maintained fence, wall, hedge or vegetative material, at least five feet in height, and of a density sufficient to conceal from the view of neighboring property owners the structures and uses on the premises on which the screening is located. All screening shall be approved by the Zoning Hearing Board.

SETBACK — The required horizontal distance between a structure and a street right-of-way or property line. **[Amended 10-10-2005 by Ord. No. 2005-47]**

- (1) FRONT YARD SETBACK — The line nearest the front of and across a lot establishing the minimum open space to be provided between the front line of buildings and structures and the street right-of-way line.
- (2) SIDE YARD SETBACK — The line nearest the side of and across a lot establishing the minimum open space to be provided between the side line of buildings and structure.
- (3) REAR YARD SETBACK — The line nearest the rear of and across a lot establishing the minimum open space to be provided between the rear line of buildings and structures and the rear lot line.

SHOPPING CENTER — A group of stores planned and designed to function as a unit on the lot on which it is located and with off-street parking provided as an integral part of the unit.

SIGN — Any structure or device for visual communication that is used for the purpose of bringing the subject thereof to the attention of the public, but not including the following:

- (1) Flags and insignias of any governmental agency or civic, charitable, religious, fraternal or similar organization.
- (2) Legal notices, identification, informational or directional signs erected or required by governmental bodies.
- (3) Signs which are solely devoted to prohibiting trespassing, hunting or fishing.
- (4) Signs placed in the interior of windows in the General Use and Community Centered District.

SIGN, AREA OF — Where a sign has two or more faces, the area of all faces shall be included in determining the area of the sign, except where two faces are placed back to back, the area of the sign shall be taken as the area of one face if both faces are of equal area, or as the area of the larger face if the two faces are of unequal sizes. Structural

members supporting the sign which do not bear advertising matter shall be excluded from the sign area. **[Amended 10-10-2005 by Ord. No. 2005-47]**

**SIGN, BUSINESS** — A sign which directs attention to a use conducted, a product or commodities sold or a service performed upon the premises.

**SIGN, COMMERCIAL ADVERTISING OR BILLBOARD** — An advertising sign, structure or symbol erected and maintained by an individual or corporation, upon which space there is displayed, by means of painting, posting or other method, advertising copy describing a wide variety of products or services which are not necessarily made, produced, assembled, stored or sold from the lot or premises upon which the advertisement is displayed.

**SPECIAL EXCEPTION** — The granting of the right to use land or the right to deviate from stated requirements which the Zoning Hearing Board is permitted to authorize in specific instances listed in this chapter under the terms, procedures and conditions prescribed herein. In granting a special exception, the Zoning Hearing Board may attach such reasonable conditions, in addition to those expressed in this chapter, as it may deem necessary to implement the purposes of this chapter.

**SPECIAL USE** — A special exception.

**STORY** — That portion of any building included between the surface of any floor and the surface of the next floor above it, or, if there is no floor above it, then the space between such floor and the ceiling next above it. A story shall not exceed 14 feet.

**STORY, HALF** — A story immediately under a gable, hip, or gambrel roof, the wall plates of which, on at least two opposite exterior walls, are not over two feet above the finished floor of such story.

**STREET** — Includes street, avenue, boulevard, road, highway, freeway, parkway, lane, alley, viaduct, and any other ways used or intended to be used by vehicular traffic or pedestrians, whether public or private. The word "street" includes the entire right-of-way and is not limited to the cartway area. **[Amended 7-14-1997 by Ord. No. 1997-12; 10-10-2005 by Ord. No. 2005-47]**

**STRUCTURE** — Any man-made object having an ascertainable stationary location on or in land or water, whether or not affixed to the land, including a building and including but not limited to porches, flagpoles, decks, stadiums, platforms, sheds, storage bins, fences, signs, signposts, swimming pools, lights and light standards. Patios, driveways, walks and parking area at yard grade and other structures below grade, except for those specifically listed above, are exempt from this definition. **[Amended 7-14-1997 by Ord. No. 1997-12; 10-10-2005 by Ord. No. 2005-47]**

**SUBDIVISION** — The division or redivision of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land, including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development; provided, however, that the subdivision by lease of land for agricultural purposes into parcels of more than 10 acres, not involving any new street or easement of

access or any residential dwelling shall be exempted. **[Added 10-10-2005 by Ord. No. 2005-47]**

TOWNHOUSE — See "dwelling, single-family attached."

USE — The specific purpose for which land or a building is designated, arranged, intended or for which it is or may be occupied or employed. The term "permitted use," or its equivalent, shall not be deemed to include any nonconforming use.

VARIANCE — Relief from the terms of this chapter granted pursuant to the provisions of § 149-45C hereof. **[Added 10-10-2005 by Ord. No. 2005-47]**

YARD — An unoccupied space, other than a court, open to the sky and on the same lot with a building or structure. **[Amended 10-10-2005 by Ord. No. 2005-47]**

YARD, BUFFER — A yard intended to provide an area of separation between different districts or uses.

YARD, EXTERIOR — An open, unoccupied space between the buildings of a dwelling group, or its accessory buildings, and the project boundary or street line.

YARD, FRONT — An open, unoccupied space on the same lot with a principal building extending the full width of the lot and situated between the street right-of-way line and front line of the principal building projected to the side lines of the lot. The depth of the front yard shall be measured between the front line of the principal building and the street right-of-way line. **[Amended 10-10-2005 by Ord. No. 2005-47]**

YARD, INTERIOR — An open, unoccupied space between the buildings of a dwelling group, or its accessory buildings; not a front, side or rear yard.

YARD, REAR — An open, unoccupied space on the same lot with a principal building extending the full width of the lot and situated between the rear line of the lot and the rear line of the principal building projected to the side lines of the lot. **[Amended 10-10-2005 by Ord. No. 2005-47]**

YARD, SIDE — An open, unoccupied space on the same lot with the principal building situated between the principal building and the sideline of the lot and extending from the front yard to the rear yard. Any lot line, not a rear line or a front line, shall be deemed a side line. **[Amended 10-10-2005 by Ord. No. 2005-47]**

ZONING MAP — The map, setting forth the boundaries of the zoning districts of the Borough of Manchester, which shall be part of this chapter and officially displayed at the Borough offices.

ZONING PERMIT — Any permit, certificate of use and occupancy, or both, whichever is required in a specific circumstance. **[Added 10-10-2005 by Ord. No. 2005-47]**

ARTICLE III  
**Establishment of Districts**

**§ 149-7. List of districts.**

The Borough is hereby divided into the classes of districts listed below:

R-1	Low-Density Residential
R-2	Multiple Residential
R-3	General Residential
GU	General Use
CC	Community Centered
PT	Public Transition

**§ 149-8. Zoning Map.**

The boundaries of the said districts are hereby established as shown on the "Manchester Borough Zoning Map," which accompanies and which, with all explanatory matter thereon, is hereby adopted and made a part of this chapter. A copy of said map, indicating the latest amendments, shall be kept up-to-date by the Zoning Officer for the use and benefit of the public.

**§ 149-9. District boundaries.**

In determining the boundaries of districts shown on the Zoning Map, the following rules shall apply:

- A. Where district boundaries are indicated as approximately following the center lines of public thoroughfares, streets, highways, watercourses or railroad rights-of-way or such lines extended, such center lines shall be construed to be such boundaries.
- B. Where such boundaries are indicated as approximately following the property lines of parks or other publicly owned lands, such lines shall be construed to be such boundaries.
- C. Unless otherwise shown, all district boundaries running parallel to streets and public thoroughfares shall be construed to be 300 feet back from the rights-of-way of said streets or public thoroughfares.
- D. In all cases where a district boundary line is located closer than 15 feet from a lot line of record, such boundary line shall be construed to coincide with such lot line.
- E. In all cases where dimensions are not shown on the Zoning Map, the location of boundaries shown on the map shall be determined by the use of the scale appearing thereon.
- F. In case of uncertainty as to the true location of a district boundary line in a particular instance, the determination thereof shall be made by the Zoning Officer, subject to an appeal being taken to the Zoning Hearing Board, as provided in Article VIII herein.

**§ 149-10. Effect of the establishment of districts.**

Following the effective date of this chapter and except as hereinafter provided:

- A. No building shall be erected, moved, altered, rebuilt or enlarged, nor shall any land or building be used, designed or arranged to be used for any purpose or in any manner, except in conformity with all regulations, requirements and restrictions specified in this chapter for the district in which such building or land is located.
- B. No setback or open space required in connection with any building or use shall be considered as providing a required open space for any other building on the same or any other lot. **[Amended 10-10-2005 by Ord. No. 2005-47]**
- C. No lot shall be formed from part of a lot already occupied by a building unless such building, all setbacks and open spaces connected therewith and the remaining lot comply with all requirements prescribed by this chapter for the district in which said lot is located. No zoning permit shall be issued for the erection of a building on any new lot thus created unless such building and lot comply with all the provisions of this chapter. **[Amended 10-10-2005 by Ord. No. 2005-47]**
- D. Nothing contained in this chapter shall require any change in the plans, construction or designated use of a building complying with the local laws in force, prior to this chapter, provided that the following is found to exist:
  - (1) A building permit shall have been duly issued prior to the date of first publication of notice of the public hearing on this chapter.
  - (2) The entire building shall have been constructed in accordance with such plans as have been filed with the Borough and shall have been completed within one year from the effective date of this chapter.
- E. Whenever, in any district established under this chapter, a use is neither specifically permitted nor denied and an application is made to the Zoning Officer for such use, the Zoning Officer shall refer the matter of interpretation to the Zoning Hearing Board in accordance with Article VIII.
- F. A no-impact home-based business shall be permitted in all residential zones as a use permitted by right, except that such permission shall not supersede any deed restriction, covenants or agreement restricting the use of land, nor any master deed, bylaw or other document applicable to a common interest ownership community. The business or commercial activity must satisfy the following requirements: **[Added 10-10-2005 by Ord. No. 2005-47]**
  - (1) The business activity shall be compatible with the residential use of the property and surrounding residential uses.
  - (2) The business shall employ no employees other than family members residing in the dwelling.
  - (3) There shall be no display or sale of retail goods and no stockpiling of inventory of a substantial nature.

- (4) There shall be no outside appearance of a business use, including but not limited to parking, signs or lights.
- (5) The business activity may not use any equipment or process which creates noise, vibration, glare, fumes, odors or electrical or electronic interference, including interference with radio or television reception, which is detectable in the neighborhood.
- (6) The business activity may not generate any solid waste or sewage discharge, in volume or type, which is not normally associated with residential use in the neighborhood.
- (7) The business activity shall be conducted only within the dwelling and may not occupy more than 25% of the habitable floor area.
- (8) The business may not involve any illegal activity.

ARTICLE IV  
**District Use Regulations**

**§ 149-11. R-1 Low-Density Residential District.**

- A. Permitted uses. The following uses are permitted by right in the R-1 District: **[Amended 9-9-1991]**
- (1) Single-family detached dwellings.
  - (2) Accessory buildings and uses customarily incidental to a permitted use.
  - (3) No-impact home-based business (see § 149-10F). **[Added 10-10-2005 by Ord. No. 2005-47]**
- B. The maximum amount of lot coverage shall not exceed 40%. **[Amended 10-10-2005 by Ord. No. 2005-47]**

**§ 149-12. R-2 Multiple Residential District. [Amended 9-9-1991]**

- A. Permitted uses. The following uses are permitted by right in the R-2 District:
- (1) Single-family detached dwellings.
  - (2) Single-family semidetached dwellings.
  - (3) Accessory buildings and uses customarily incidental to a permitted use.
  - (4) No-impact home-based business (see § 149-10F). **[Added 10-10-2005 by Ord. No. 2005-47]**
- B. Special exception uses. The following uses shall be permitted as special exceptions when authorized by the Zoning Hearing Board: **[Amended 7-14-1997 by Ord. No. 1997-12; 10-10-2005 by Ord. No. 2005-47]**

- (1) Home occupations (see § 149-31).
  - (2) Family day-care home. **[Added 12-8-2008 by Ord. No. 08-58]**
- C. The maximum amount of lot coverage shall not exceed 45%. **[Added 10-10-2005 by Ord. No. 2005-47]**

**§ 149-13. R-3 General Residential District.**

- A. Permitted uses. The following uses are permitted by right in the R-3 District:
- (1) Single-family detached dwellings.
  - (2) Single-family semidetached dwellings. **[Amended 10-10-2005 by Ord. No. 2005-47]**
  - (3) No-impact home-based business (see § 149-10F). **[Amended 9-9-1991; 10-9-1995 by Ord. No. 1995-03; 10-10-2005 by Ord. No. 2005-47]**
  - (4) Accessory buildings and uses customarily incidental to a permitted use.
- B. Special exception uses. The following uses shall be permitted as special exceptions when authorized by the Zoning Hearing Board: **[Amended 10-9-1995 by Ord. No. 1995-03; 3-11-1996 by Ord. No. 1996-07]**
- (1) Home occupations.
  - (2) Multifamily dwellings and single-family attached dwellings. **[Amended 10-10-2005 by Ord. No. 2005-47]**
  - (3) Family day-care home. **[Added 12-8-2008 by Ord. No. 08-58]**
- C. The maximum amount of lot coverage shall not exceed 60%. **[Added 10-10-2005 by Ord. No. 2005-47]**

**§ 149-14. GU General Use District.**

- A. Permitted uses. The following uses are permitted by right in the GU District:
- (1) Commercial and business uses such as retail stores, service establishments, business and professional offices, personal services, repair services and shopping centers.
  - (2) Industrial uses such as manufacturing, converting, assembling, altering, finishing or other processing of products or materials; warehousing and sales.
  - (3) Churches, nursing homes, convalescent homes, medical centers and related uses.
  - (4) Any other use that in the opinion of the Zoning Hearing Board is consistent with the stated permitted uses of this district.

- (5) No-impact home-based business (see § 149-10F). **[Amended 10-10-2005 by Ord. No. 2005-47]**
  - (6) Accessory buildings and uses customarily incidental to a permitted use.
  - (7) Home occupations (see § 149-31).
- B. Special exception uses. The following uses shall be permitted as special exceptions subject to the standards set forth in § 149-13B and elsewhere in this chapter and when authorized by the Zoning Hearing Board: **[Amended 3-11-1996 by Ord. No. 1996-07]**
- (1) All residential uses as listed and regulated in the R-1, R-2 and R-3 Districts.
  - (2) Mobile home parks as defined and regulated in the Chapter 128, Subdivision and Land Development.
  - (3) Agriculture.
  - (4) Animal husbandry.
  - (5) Adult regulated facility/massage parlor (see § 149-35).
  - (6) Multiple-use buildings subject to the requirements of § 149-20B, and further provided that each use is permitted in the GU District.
  - (7) Storage facilities, junkyards, salvage yards, parking garages, parking lots and mini storage.
  - (8) Conversion apartments.
  - (9) Family day-care home. **[Added 12-8-2008 by Ord. No. 08-58]**
- C. The maximum amount of lot coverage shall not exceed 70%. **[Added 10-10-2005 by Ord. No. 2005-47]**

**§ 149-15. CC Community Centered District.**

- A. Permitted uses. The following uses are permitted by right in the CC District:
- (1) Residential uses as listed in the R-3 District.
  - (2) Commercial and business uses such as the following, provided that such uses are not primarily designed to function as drive-in facilities as defined in § 149-6:
    - (a) Retail business such as stores and restaurants.
    - (b) Business services such as banks and professional offices.
    - (c) Personal services such as barbershops and laundromats.
    - (d) Repair services such as radio-television shops and shoe repairs.

- (e) Manufacturing and processing of products which are clearly incidental to a retail or service business, provided that the products are sold primarily on the premises.
  - (3) Home occupations, if such occupations otherwise are permitted in the CC District (see § 149-31).
  - (4) Churches, nursing homes, convalescent homes, medical centers and related uses.
  - (5) Accessory uses customarily incidental to the permitted principal use.
  - (6) No-impact home-based business (see § 149-10F). **[Added 10-10-2005 by Ord. No. 2005-47]**
- B. Special exception uses. The following uses shall be permitted as special exceptions when authorized by the Zoning Hearing Board:
- (1) Multiple-use buildings subject to the requirements of § 149-20B, and further provided that each use is permitted in the CC District.
- C. The maximum amount of lot coverage shall not exceed 70%. **[Added 10-10-2005 by Ord. No. 2005-47]**

#### **§ 149-16. PT Public Transition District.**

- A. Permitted uses. In any designated Public Transition District, all uses in existence upon the effective date of this chapter shall be considered permitted uses.
- B. Change in uses. Prior to any change in an existing use, the Borough Council shall rezone said area occupied as a public use upon notice by the property owner of intent to change said existing use. The rezoning shall be in accordance with the procedures set forth in Article IX and the objectives embodied in both this chapter and the adopted Comprehensive Plan.
- C. The maximum amount of lot coverage shall not exceed 65%. **[Added 10-10-2005 by Ord. No. 2005-47]**

### ARTICLE V

#### **Minimum Lot Area, Setback and Related Regulations**

#### **§ 149-17. General requirements for all uses.**

All structures must be located as provided herein as pertaining to lot area, setback and related regulations. All minimum lot sizes are based upon the utilization of central sewer and water facilities. Where no central sewer is available, the minimum lot size shall be 15,000 square feet. All dimensions below are minimum requirements unless otherwise noted.

**§ 149-18. Requirements for residential uses in all districts where permitted.****A. Single-family detached dwellings.**

- (1) Lot size: 9,500 square feet. [Amended 10-10-2005 by Ord. No. 2005-47]
- (2) Lot width: 75 feet.
- (3) Front yard setback: 25 feet.
- (4) Each side yard setback: 10 feet. [Amended 10-9-1995 by Ord. No. 1995-03]
- (5) Rear yard setback: 35 feet.
- (6) Off-street parking: two spaces.
- (7) Building height (maximum): 2 1/2 stories.

**B. Single-family semidetached dwellings. [Amended 10-10-2005 by Ord. No. 2005-47]**

- (1) Lot size per dwelling: 7,500 feet.
- (2) Lot width per dwelling: 60 feet.
- (3) Front yard setback: 25 feet.
- (4) Each side yard setback: 10 feet. [Amended 10-9-1995 by Ord. No. 1995-03]
- (5) Rear yard setback: 35 feet.
- (6) Off-street parking per dwelling unit: two spaces.
- (7) Building height (maximum): 2 1/2 stories.

**C. Single-family attached dwellings. [Amended 10-10-2005 by Ord. No. 2005-47]**

- (1) Lot size per dwelling unit: 5,000 square feet.
- (2) Lot width per dwelling (except end units): 18 feet. The lot width for end units: 33 feet.
- (3) Front yard setback: 25 feet.
- (4) Each side yard for end units: 15 feet.
- (5) Rear yard setback: 35 feet.
- (6) Off-street parking per dwelling unit: two spaces.
- (7) Building height (maximum): 2 1/2 stories.
- (8) Length of each building (maximum): 150 feet.
- (9) Number of dwelling units per building: three minimum, seven maximum.

**D. Multifamily dwellings. [Amended 9-9-1991; 10-10-2005 by Ord. No. 2005-47]**

- (1) Front yard setback: 35 feet.
- (2) Each side yard setback: 20 feet.
- (3) Rear yard setback: 50 feet.
- (4) Off-street parking per dwelling unit: 2.5 spaces. All parking areas shall be located at least 10 feet from any property line or street right-of-way line.
- (5) Distance between buildings: 40 feet.
- (6) Density shall not exceed six dwelling units per acre (refer to the definition of "density" to calculate the density).
- (7) Screening, in accordance with § 149-22 and as defined herein, shall be required where proposed multifamily dwellings will abut the R-1 or R-2 Zone, or a lot containing an existing residential use of lesser intensity.
- (8) Provisions for the use and maintenance of all common areas, including but not limited to parking and recreation, shall be explicitly provided with the proposed project.

**§ 149-19. Requirements for commercial and industrial uses as permitted in the General Use District.**

A. For all permitted uses except multiple-use buildings.

- (1) Lot size: 15,000 feet.
- (2) Lot width: 100 feet.
- (3) Front yard setback: 50 feet.
- (4) Each side yard setback: 20 feet.
- (5) Rear yard setback: 35 feet.
- (6) Building height (maximum): three stories.
- (7) Off-street parking: per § 149-28.

B. For multiple-use buildings.

- (1) There shall be a minimum lot area of 3,000 square feet for the first use in time of occupancy and 1,000 square feet for each additional use.
- (2) Off-street parking is required, as follows:
  - (a) One space for each residential use.
  - (b) Parking for commercial uses shall be in accordance with appropriate provisions of § 149-28.

- (3) Lot width: 25 feet.
- (4) Front yard setback: 25 feet. **[Amended 9-9-1991]**
- (5) Each side yard setback: 10 feet. **[Amended 9-9-1991]**
- (6) Rear yard setback: 35 feet.
- (7) Building height (maximum): 2 1/2 stories.

**§ 149-20. Requirements for commercial/business uses and multiple-use buildings in the Community Centered District.**

A. For commercial/business uses.

- (1) Lot size: 3,000 feet.
- (2) Lot width: 25 feet.
- (3) Front yard setback: 25 feet. **[Amended 9-9-1991]**
- (4) Each side yard setback: 10 feet. **[Amended 9-9-1991]**
- (5) Rear yard setback: 35 feet.
- (6) Building height (maximum): 2 1/2 stories.
- (7) Off-street parking: per § 149-28.

B. For multiple use buildings.

- (1) There shall be a minimum lot area of 3,000 square feet for the first use in time of occupancy and 1,000 square feet for each additional use.
- (2) Off-street parking is required, as follows:
  - (a) One space for each residential use.
  - (b) Commercial parking shall be in accordance with appropriate provisions of § 149-28.
- (3) Lot width: 25 feet.
- (4) Front yard setback: 10 feet.
- (5) Each side yard setback: 10 feet. **[Amended 10-9-1995 by Ord. No. 1995-03]**
- (6) Rear yard setback: 35 feet.
- (7) Building height (maximum): 2 1/2 stories.

**§ 149-21. Requirements for uses in the Public Transition District.**

A. For all permitted uses:

- (1) Lot size: 15,000 square feet.
- (2) Lot width: 100 feet.
- (3) Front yard setback: 50 feet.
- (4) Each side yard setback: 50 feet.
- (5) Rear yard setback: 50 feet.
- (6) Building height (maximum): three stories.
- (7) Off-street parking: per § 149-28.

**§ 149-22. Screening.**

- A. Whenever a residential use abuts a nonresidential use, the nonresidential user shall provide for vegetative screening.
- B. Upon application for a special exception or variance, the Zoning Hearing Board may require screening. Failure to maintain screening shall act as a revocation of the zoning approval.

**§ 149-23. Exceptions.**

The general principles of design and the minimum area requirements stipulated in this article may be varied by the Borough Council in the case of a project large enough to constitute a substantially self-contained neighborhood, industrial park or commercial center. Such a project shall be developed in accordance with a Comprehensive Plan, safeguarded by appropriate restrictions, which in the judgment of the Council has made adequate provisions for all essential requirements; provided, however, that no modification shall be granted by the Council which would conflict with features of any adopted long-range plan of the Borough, or with the intent and purpose of the general principles of design and minimum requirements of this chapter.

ARTICLE VI  
**Supplementary Regulations**

**§ 149-24. Accessory building regulations.**

- A. Yard requirements. A building accessory to a residential use and not attached to the principal structure may be located in any required side or rear yard, provided that:  
[Amended 10-9-1995 by Ord. No. 1995-03]

- (1) Such buildings shall not exceed 20 feet in height.
  - (2) Such buildings shall be set back at least 10 feet from the property line.
  - (3) The total area of all such buildings shall not occupy more than 20% of the area of the required rear or side yard, provided that there shall be no encroachment over the setback line.
- B. Grouping of accessory buildings. Accessory buildings may be located in pairs or groups on adjoining lots, in the required rear or side yards, along the common side lot line or rear lot line, provided that such buildings shall abut a wall that is a common wall for its entire length.
- C. Nonresidential requirements. Accessory buildings for principal uses other than residential shall not be located closer than 20 feet to any side or rear property line abutting a residential district or lot used for residential purposes. **[Amended 10-9-1995 by Ord. No. 1995-03]**
- D. Attached accessory structures. When an accessory structure is attached to any principal building, it shall comply in all respects with the requirements of this chapter applicable to the principal building.
- E. Front setback. No accessory building shall project nearer to the street on which the principal building fronts than the minimum building setback distance for the principal building.
- F. Miscellaneous structures. Disc antennas, windmills, solar collectors and similar items, whether freestanding or attached to any structure, shall comply with the same yard setback requirements and height limitations imposed upon the principal use for which the disc antenna, windmill, solar collector or similar item is accessory thereto.

#### **§ 149-25. Height regulations.**

- A. Multiple frontage. Where a lot has frontage on two or more streets or other public rights-of-way, the height limitation of structures shall apply only as measured from the curb level along the street or right-of-way with a higher elevation above sea level. In all other instances, the determination of height shall be as set forth in this chapter.
- B. Exceptions. Chimneys, flues, towers, spires, cupola domes, poles, masts and antennas shall be exempt from the height limitations of this chapter, provided that they are not higher than 60 feet above ground level.

#### **§ 149-26. Yard and lot regulations.**

- A. On corner lots:
- (1) On a corner lot, front yards are required on both street frontages, and one yard, other than the front yard, shall be deemed a rear yard and the other a side yard. (See the definition of "yard, rear" in § 149-6.) **[Amended 9-9-1991; 7-14-1997 by Ord. No. 1997-12]**

- (2) A clear sight triangle as defined and regulated in Chapter 128, Subdivision and Land Development, shall be maintained.
- B. Front yard exception. No proposed dwelling need have a setback greater than the average of the two existing dwellings with the greatest setbacks located within 100 feet on each side of the said proposed dwelling, on the same side of the street, within the same block, and the same district. However, in no event shall the front yard be less than 10 feet.
  - C. Patios. Open patios, at yard grade, may be located in side and rear yards, provided that, if located closer than five feet to any adjacent property line, they shall be screened as defined in this chapter. In case of a corner lot, no patios shall extend into the required yard adjoining each street frontage.
  - D. Existing small lots. A lot owned individually and separately and separated in ownership from any adjoining tracts of land on the effective date of this chapter, which has a total lot area or dimension(s) less than prescribed in this chapter, may be used, provided that such lot shall be developed in conformity with all applicable district regulations, other than the minimum lot area and setback requirements. Existing small lots meeting the above stipulations shall comply with the following:
    - (1) Side yard width shall be a minimum of five feet.
    - (2) Rear yard depth shall be a minimum of 10 feet.
    - (3) Front yard shall be as prescribed in Article V or in accordance with § 149-26B, if applicable.
  - E. Double-frontage lots other than corner lots. Where a lot has frontage on more than one street, the applicable front yard regulations shall apply on each street frontage. In the case of double-frontage lots, the front yard shall be that adjacent to the more minor street having frontage, and all access to the lots shall be from the more minor street.
  - F. Waiver of yards. No side yard or rear yard shall be required where such yard abuts an operating railroad right-of-way.

**§ 149-27. Outdoor swimming pools. [Amended 10-10-2005 by Ord. No. 2005-47]**

A zoning permit shall be required for the installation or construction of an outdoor swimming pool which is located on the same lot as the principal residence and which is capable of containing more than 24 inches of water in depth. Outdoor swimming pools, both in-ground and aboveground, must also meet the following provisions:

- A. Location. Such pool may be erected in the rear yard; or in the side yard, if the pool is hidden by screening from view from the front and side property lines.
- B. Setbacks. The edge of such pool shall not be located nearer than 15 feet to any lot line, unless screening, as defined herein, is provided; but in no event shall such pool be located nearer than five feet to any lot line.
- C. Fencing.

- (1) All pools shall be completely surrounded by a wall or fence that is no less than four feet in height.
  - (2) All fences, gates and door openings through a fence shall be erected, maintained and provided with a self-closing, self-locking gate to prevent unauthorized entrance and use of the pool and to prevent accidents. No fence shall be constructed so as to have openings exceeding six inches.
  - (3) Aboveground pools. For pools that are located not less than four feet above ground level, a fence is not required, provided that all points of access to the pool are adequately protected by a self-closing, self-locking gate, or which pool has a retractable ladder.
- D. Water shall not be discharged from any swimming pool onto any adjoining property or public sidewalk.
- E. All pool installations shall conform to all applicable building codes.
- F. No pool shall be located under any electric power lines (including service lines), and the pool must be located at least 10 feet (measured horizontally) from such power lines.
- G. Outdoor lights, if used, shall be shielded and not reflected toward adjacent residential properties.
- H. The area of swimming pools and associated structures or decks are to be included in the calculation for lot coverage.

**§ 149-28. Parking regulations.**

- A. Parking requirements. Accessory off-street parking spaces shall be provided in accordance with the applicable provisions of Article V and the Parking Schedule contained herein.<sup>7</sup> Reasonable and appropriate off-street parking requirements for structures and uses which do not fall within the requirements listed in Article V shall be determined by the Zoning Officer upon consideration of all factors entering into the parking needs of each such use. A building permit shall be required for the installation or construction of access driveways, parking lots and parking areas.
- B. Areas computed as parking spaces. Areas which may be computed as open or enclosed off-street parking spaces include any private garage, carport or other area available for parking, other than a street or driveway. However, a driveway 12 feet or greater in width for a one-family or two-family residence may count as two parking spaces.
- C. Size of spaces. Minimum parking stall width shall be nine feet, minimum length shall be 18 feet. All parking aisles shall have a minimum width of 25 feet for 90° parking and a minimum width of 20 feet for two-way angle parking. One-way angle parking shall have a minimum aisle width of 15 feet. All parking lots containing more than three spaces shall be permanently striped.

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7. Editor's Note: See Subsection J below.

- D. Circulation. All dead-end parking lots shall be designed to provide sufficient backup area for the end stalls. Parking lots shall be designed so that each vehicle may proceed without requiring the moving of any other vehicle. In no case shall parking lots be designed to require or encourage vehicles to back into a public street.
- E. Access.
- (1) Unobstructed access to and from a street shall be provided. The width of entrance or exit drives for any parking lot shall be a minimum of 15 feet for one-way use only, and a minimum of 25 for two-way use. No entrance or exit, for any multiple dwelling, commercial, or industrial parking lot, shall be located within 50 feet of any street intersection. No drives shall exceed 30 feet in width.
  - (2) The number of access driveways may not exceed one per lot on any one street frontage.
  - (3) All driveways and access drives shall be in accordance with § 128-58, Access requirements and driveways, of Chapter 128, Subdivision and Land Development. **[Added 10-10-2005 by Ord. No. 2005-47]**
- F. Drainage and surfacing. All parking areas, parking lots and driveways shall be graded and drained to dispose of all surface water anticipated within the parking complex. Surfacing requirements shall be as follows:
- (1) All parking areas, parking lots and driveways serving lots for residential uses shall, as a minimum, be improved with the following:
    - (a) Base course: four-inch crushed aggregate.
    - (b) Surface course: 2 1/2 inches penetrated bituminous surface (mixed in place).
  - (2) All parking areas, parking lots and driveways serving lots for commercial and industrial uses shall, as a minimum, be improved with the following:
    - (a) Base course: six-inch crushed aggregate.
    - (b) ID-2 binder course: 1 1/2 inches.
    - (c) ID-2 wearing course: one inch.
- G. Screening and setbacks. No parking lot shall be closer than 10 feet to a principal multifamily dwelling, commercial or industrial building or to a side or rear lot line. Parking lots shall be physically separated from any public cartway by a minimum of a five-foot planting strip. Parking lots, other than those of single-family detached and semidetached dwellings, shall be screened, as defined herein, if the abutting property is zoned R-1 or R-2 at the time of development or in residential use, whether a conforming use or not. **[Amended 10-10-2005 by Ord. No. 2005-47]**
- H. Large parking lot access. An access drive to any parking lot containing more than 50 parking spaces is considered to be a street and thus is subject to the requirements of Chapter 128, Subdivision and Land Development; however, no street dedication or acceptance is implied.

- I. Off-street parking requirements. All uses permitted by this chapter or hereafter permitted in any of the districts herein established, except as may be otherwise designated, shall provide, as a minimum, the number of off-street parking spaces specified in the following schedule. Parking spaces for employees shall be computed on the basis of maximum employment, including seasonal and part-time, on the largest shift. For uses not specified in the following schedule, the same requirements of the most similar use in the schedule shall apply. Where calculations of spaces result in a fractional space, any fraction under 1/2 may be disregarded and any fraction 1/2 and over shall be construed as one whole space.
- J. Table of Off-Street Parking Requirements. [Amended 7-14-1997 by Ord. No. 1997-12; 10-10-2005 by Ord. No. 2005-47]

<b>Off-Street Parking Requirements (Where Use Type is Permitted)</b>		
<b>Use Type Public or Private Recreation</b>	<b>One Off-Street Parking Space Required for Each:</b>	<b>Plus One Off-Street Parking Space Required for Each:</b>
Private or membership clubs or lodges	6 members or 6 persons of total capacity	Full-time employee
Bowling alleys	0.25 lanes (4 spaces per lane)	Full-time employee
Theaters, auditoriums, libraries, skating rinks, stadiums	6 seats	2 full-time employees
Governmental, Institutional Educational and Utility		
Churches or other places of worship	5 seats	—
Public or private educational instruction	1 faculty member or other full-time employee	5 pupils for high school or college facility, or 1 parking space per classroom for elementary and middle school facilities
Convalescent or nursing home	5 beds	Staff and visiting doctor and every 2 employees (including nurses) on the largest shift
Cemeteries	1 full-time employee	Salesperson
Medical centers	3 beds	Staff and visiting doctor and every 2 employees (including nurses) on the largest shift
Essential public utility	1 employee	—

**Off-Street Parking Requirements  
(Where Use Type is Permitted)**

<b>Use Type Public or Private Recreation</b>	<b>One Off-Street Parking Space Required for Each:</b>	<b>Plus One Off-Street Parking Space Required for Each:</b>
Retail, Commercial, Business Professional Service		
Automobile servicing and repair	1/3 service bay (3 spaces per bay)	Full-time employee
Business services such as banks, credit unions	250 sq. ft. of floor area used for serving customers	Full-time employee
Professional offices such as real estate, insurance, consultants	500 sq. ft. of gross floor area	Full-time employee
Retail stores and businesses	250 sq. ft. of area used for serving customers	2 full-time employees
Funeral homes	4 seats for patron use or 50 sq. ft. of gross floor area	Full-time employee
Medical or dental offices, clinics or centers	0.25 practitioner (4 spaces per practitioner)	Full-time employee
Personal service businesses such as barbershops, photo shops, appliance repair	100 sq. ft. of floor area used for serving customers	2 full-time employees
Restaurants, taverns	3 seats for customers	2 full-time employees
Drive-in restaurants	100 sq. ft. of gross floor area	Table or booth, plus 1 space for each 2 counter stools, plus 1 space for each 2 employees
Self-service laundromats	4 washing or dry-cleaning machines	2 full-time employees
Motel, hotel	Rental room or suite	Full-time employee
Other Home occupations	(a) dwelling unit (b) nonresident employee	100 sq. ft. of floor space used for the occupation or office
Elderly housing	2 dwelling units	
Industrial uses	1 employee on the largest shift, or each 5,000 square feet of gross floor area, whichever is greater	

**Off-Street Parking Requirements  
(Where Use Type is Permitted)**

<b>Use Type Public or Private Recreation</b>	<b>One Off-Street Parking Space Required for Each:</b>	<b>Plus One Off-Street Parking Space Required for Each:</b>
Mini-storage facilities	Parking for the individual storage units shall be provided by parking/driving lanes adjacent to the buildings; these lanes shall be at least 24 feet wide.	

- K. Parking required for lots containing multiple principal uses shall be the total of the number of spaces required for each use individually. However, the number of spaces required in a common parking facility may be reduced below this total as a special exception if it can be demonstrated to the Zoning Hearing Board that the hours or days of peak parking needed for the uses are so different that a lower total will provide adequately for all uses served by the parking facility. [Added 10-10-2005 by Ord. No. 2005-47]
- L. Any parking lot that includes 10 or more spaces shall be required to provide landscaped areas within the spaced area. The required landscaped areas shall be located at the end of each parking space row and at intervals of no greater than 100 feet along each parking space row. Such interior landscaped areas shall be minimum of eight feet wide and contain ground cover, trees, shrubs, or other approved material. Parking areas shall have at least one tree for every 10 parking spaces. Trees in these planting areas shall be approved by Borough Council. The plant materials should be located so as to accomplish one or more of the following purposes: screening, retard stormwater runoff, direct or restrict pedestrian access, and define spaces. [Added 10-10-2005 by Ord. No. 2005-47]

**§ 149-29. Off-street loading requirements.**

Off-street loading berths, open or enclosed, are permitted as an accessory use subject to the following minimum provisions:

- A. Size of spaces. Each loading berth shall be at least 12 feet wide, 33 feet long and 14 feet high.
- B. Location and access. Unobstructed access, at least 10 feet wide, to and from a street shall be provided. Such access may be combined with access to a parking lot. All loading berths shall be on the same lot as the use to which they are accessory and shall be designed so as to not extend into public rights-of-way or adjacent lots. No entrance or exit for any off-street loading area shall be located within 50 feet of any street intersection. No off-street loading berth shall be located in any front yard or within 10 feet of any side or rear property line which adjoins a residential district boundary or residential use, whether or not conforming.

**§ 149-30. Storage of dismantled or nonoperable vehicles.**

The storage of dismantled or nonoperable vehicles, as defined in this chapter, shall be only in enclosed buildings on residential lots, and shall be adequately screened when stored on commercial or industrial lots, subject to the provisions for junked automobiles in the Manchester Borough Code.<sup>8</sup>

**§ 149-31. Home occupations.**

Home occupations are subject to the following provisions:

- A. Employment limitation. A home occupation shall have no more than one person, in addition to those persons residing in said dwelling, employed in the home occupation.
- B. Signs. Signs shall not display or create, outside the building, any evidence of the home occupation, except that one unanimated, nonilluminated, flat sign, having an area of not more than four square feet, shall be permitted in accordance with § 149-33 hereof.
- C. Uses. Home occupations shall consist of the following:
  - (1) Medical, dental or other professional office or studio.
  - (2) Custom tailoring.
  - (3) Tutoring for not more than four students simultaneously.
  - (4) Barbershop or beauty parlor.
  - (5) Any similarly related customary home occupation which in the opinion of the Zoning Hearing Board is clearly incidental to the residential use of the premises and neighborhood.
- D. Parking. All off-street parking standards shall apply, where possible.
- E. Number limitation. Only one home occupation is permitted per dwelling.

**§ 149-32. Homeowners' association.**

Whenever a developer or owner proposes to provide land or structures for the exclusive benefit of the particular homeowners of a project, such as open space and active play areas, a homeowners' association shall be established, and the Borough Council shall retain the right to review the Articles of Incorporation and all declarations of covenants, conditions and restrictions of the homeowners' association during the life of such association, and to set certain requirements appropriate to this chapter.

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8. Editor's Note: See Ch. 143, Vehicles, Junked or Abandoned.

**§ 149-33. Sign regulations.**

A building permit shall be obtained prior to the erection of any business or identification sign. Signs may be erected and used only when in compliance with the following provisions:

- A. General regulations apply to all signs.
- (1) No sign shall be located in the established right-of-way of any street, nor shall any sign be erected over a sidewalk.
  - (2) No sign shall extend more than 20 feet above the ground.
  - (3) Only one outdoor sign per street frontage shall be permitted.
  - (4) Signs shall not project beyond property lines.
  - (5) All signs shall be removed within 30 days after the circumstances leading to their erection no longer apply. Failure to remove such signs shall constitute a violation of this chapter and, in addition to the penalties contained herein, the Borough may remove such sign(s) and may charge the owner for the cost of removal of such sign(s).
- B. Regulations for signs permitted as an accessory use to commercial and industrial uses.
- (1) Size of signs. No sign shall have a gross surface area of more than 40 square feet, except that, where only one surface of such sign is visible, the gross surface area shall be no more than 20 square feet (see definitions<sup>9</sup>).
  - (2) Number and location. Attached signs shall be parallel to the face of the building and shall not project more than 18 inches beyond the face of the building. Whenever a building is located more than 35 feet from the right-of-way, one freestanding sign also may be permitted. Such freestanding sign shall not be located closer than 10 feet to any building.
- C. Prohibited signs. The zoning regulations are intended to assure and promote public health, safety and welfare as well as community aesthetics; thus, the following signs shall be prohibited:
- (1) Signs, advertisements, etc., which simulate official directional or warning signs such as those erected by a municipality or public utility.
  - (2) Signs erected within a seventy-five-foot clear sight triangle of intersecting streets.
  - (3) Signs illuminated by neon and those illuminated by flashing, intermittent, rotating light which beams upon a public street or adjacent premises.
  - (4) Signs placed upon the roof of a building.
  - (5) Billboards, or similar outdoor advertising signs, which advertise products or businesses not connected with the site or building shall be prohibited.

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9. Editor's Note: See § 149-6.

- D. Portable signs. Portable signs shall be permitted in the Community Center and General Use Zones subject to the provisions of Subsection A of § 149-33 and the following criteria: **[Added 10-10-2005 by Ord. No. 2005-47]**
- (1) A sign permit must be obtained from the Borough Zoning Officer.
  - (2) No flashing lights are permitted.
  - (3) Only one portable sign shall be permitted per street frontage with a minimum setback from the right-of-way of 10 feet or the building face.
  - (4) The placement of the sign shall not be located on the lot for more than 30 consecutive days per event. In addition, the placement of the sign may not exceed two events per year.
  - (5) The maximum height allowed shall be 10 feet, and the maximum projection from any building shall be 12 inches.
  - (6) Removal of the sign shall occur within 15 days after the event.
  - (7) The maximum size permitted shall be 32 square feet; such area shall not be included in the computation of maximum surface area for any other type of permitted sign.
  - (8) The placement of such sign shall not interfere with traffic, sight distance or clear sight triangles at street intersections and accesses to the public right-of-way.
- E. Permitted temporary signs. Only the types of temporary signs listed on Chart A, which follows, are permitted throughout the Borough.<sup>10</sup> Temporary signs must conform to the standards set forth in Chart A, as well as satisfy the general regulations of Subsection A of § 149-33.

#### **§ 149-34. Shopping centers.**

Compliance with the following standards, in addition to the applicable requirements contained elsewhere in this chapter, is required:

- A. Access. There shall be a minimum of two separate points of ingress and egress, and such points are considered to be streets for application of Chapter 128, Subdivision and Land Development; however, no street dedication or acceptance is implied.
- B. Management. A shopping center shall be under unified management, which clearly shall assume and accept centralized responsibility for the operation and maintenance of the project, including all common areas.
- C. Signs. There shall be only one freestanding sign for each public road frontage, which shall be designed and used for the purpose of announcing the shopping center itself, in compliance with the applicable provisions of this chapter. Signs for each individual business shall be parallel to the building and comply with § 149-33B(1).

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<sup>10</sup> Editor's Note: Chart A is included as an attachment to this chapter.

- D. Parking. There shall be a minimum of 5.5 parking spaces for every 1,000 square feet of floor area designed for tenant occupancy and exclusive use, including basements, mezzanines and upper floors, measured from the center line of joint partitions and from outside wall faces, commonly referred to as "gross leasable area" (GLA). Parking requirements, other than the number of spaces, shall comply with applicable provisions of § 149-28H.
- E. Circulation. Traffic circulation within a shopping center project shall be designed to minimize pedestrian and vehicular mixing and congestion. Circulation shall be provided along the outer perimeters, and along store frontages, for all vehicles.
- F. Setback requirements. Shopping centers shall comply with the setback requirements for the General Use District.
- G. Land development. A shopping center is considered to be a subdivision and/or land development and is subject to the Borough ordinance appropriate thereto.<sup>11</sup>

**§ 149-35. Adult regulated facility and massage parlor requirements.**

These uses are allowed in a General Use District only by special exception [see § 149-14B(5)], subject to the following standards and those listed elsewhere in this chapter:

- A. Adult regulated facility.
  - (1) An adult regulated facility shall not be located within 1,000 feet of any other adult regulated facility.
  - (2) An adult regulated facility shall not be permitted to be located within 1,000 feet of any public or private school, day-care facility, public recreation facility or any house of worship.
  - (3) An adult regulated facility shall not be located within 500 feet of an existing dwelling unit.
  - (4) No materials, merchandise, film or service offered for sale, rent, lease, loan or for view shall be exhibited, displayed or graphically represented outside of a building or structure.
  - (5) Any building or structure used and occupied as an adult regulated facility shall be windowless or have an opaque covering over all windows or doors of any area in which materials, merchandise, film, service or entertainment are exhibited or displayed, and no sale materials, merchandise, film or other offered items or service shall be visible from outside the structure.
  - (6) No sign shall be erected upon the premises depicting or giving a visual representation of the type of materials, merchandise, film, service or entertainment offered therein.

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11. Editor's Note: See Ch. 128, Subdivision and Land Development.

- (7) Each and every entrance to the structure shall be posted with a notice of at least four square feet that the use is an adult regulated facility, that persons under the age of 18 are not permitted to enter, and warning all others that they may be offended upon entry.
- (8) Parking shall be established at the minimum ratio of one parking space for each 100 square feet of gross floor area, plus one parking space for each employee.

B. Massage parlor.

- (1) A massage parlor shall not be permitted to be located within 1,000 feet of an adult regulated facility, measured lot line to lot line.
- (2) A massage parlor shall not be located within 200 feet of any public or private school, public recreation facility, house of worship, day-care facility or any dwelling unit.
- (3) Parking shall be established at the minimum ratio of one parking space for each 100 square feet of gross floor area, plus an additional parking space for each employee.

**§ 149-36. Fences.**

- A. All fences shall require a building permit.
- B. No fence shall be erected to a height of more than four feet in the front yard nor more than six feet along the side and rear property lines and any other area, unless authorized by a special exception.
- C. No fence shall obstruct the clear view access to any street or driveway.
- D. No fence shall be permitted to become a nuisance or dangerous to the public.
- E. No fence shall contain barbed wire, electrified elements or similar dangerous devices.
- F. All fences shall be set back from the property line a minimum of 12 inches and shall be no closer than 18 inches to a public sidewalk. **[Amended 10-14-2013 by Ord. No. 2013-5]**

**§ 149-36.1. Parking, storage and repair of recreational or commercial vehicles. [Added 1-10-2000 by Ord. No. 2000-22]**

- A. Parking and storage of recreational vehicles. For purpose of this section, a "recreational vehicle" is defined as temporary living quarters (whether occupied or not) for recreational camping or travel use, with either its own motive power or mounted on or drawn by another vehicle, including but not limited to a travel trailer, park model trailer, slide-in camper, camping trailer and motor home. No recreational vehicle, boat, or boat trailer shall be parked or stored on private residential properties in the Borough of Manchester unless the following conditions are met:

- (1) Recreational vehicles, as defined, not to exceed two, with no more than one of each type of recreational vehicle, may be parked or stored outside on each parcel or contiguous parcels which exist under one ownership. A boat which is situated on its own trailer shall be considered one vehicle. Trailers not holding a boat shall constitute a separate vehicle.
  - (2) All recreational vehicles shall be parked in rear or side yards. No portion of a recreational vehicle, no matter how small the portion, is permitted to extend beyond the front line of a residence. No recreational vehicle shall be parked within five feet of the rear or side property line. **[Amended 7-8-2019 by Ord. No. 2019-1]**
  - (3) The parking and storage of recreational vehicles shall not preempt the use of space needed for off-street parking of other vehicles per requirements of this chapter.
  - (4) Recreational vehicles may be parked or stored in an enclosed building.
- B. Parking and storage of commercial vehicles.
- (1) No commercial vehicle having an overall length of 20 feet or more, nor any tractor, tractor-trailer, semitrailer, or construction vehicle of any length, shall be parked on any public or private property in a residential district unless temporarily in connection with a bona fide commercial service, sales, or delivery visit to such property. Two-axle pickup trucks or vans used primarily by the occupant of the property where the truck is parked shall not be considered construction vehicles.
  - (2) A commercial vehicle which is not a tractor, tractor-trailer, semitrailer or construction vehicle, having an overall length of 20 feet or less, may be parked on public property in a residence district and may be parked or stored outside on private property in a residence district, subject to the following regulations:
    - (a) Only one such vehicle per family may be parked or stored on any lot containing the dwelling unit of such family. The foregoing notwithstanding, a maximum of two such vehicles may be parked or stored on such lot, provided that one of the vehicles is parked or stored within an enclosed garage or is completely screened from public view.
    - (b) Such vehicle shall only be parked or stored in a driveway or garage.
    - (c) The parking or storage of such vehicle shall be in full compliance with the off-street parking requirements of this chapter and shall not preempt the use of space needed for the off-street parking of other vehicles.
    - (d) The parking or storage of such vehicle shall be in full compliance with the vehicle and traffic regulations of this Code.
    - (e) Such vehicle must be used exclusively by an owner or occupant of the premises where it is being parked or stored.

- C. Storage on vacant property. No vehicle shall be parked or stored outside on any privately owned vacant property in a residence district held in single and separate ownership.
- D. Repairs to vehicles. All vehicle repairs which cannot be completed in the same day they are commenced must occur in an enclosed building. The provisions of this section shall not prohibit the repair of vehicles inside an enclosed garage or other building. Nothing herein shall be construed as permitting the commercial repair of vehicles in residence districts.
- E. Penalties for offenses. Any person, partnership or corporation who or which has violated or permitted the violation of the provisions of this section of the Zoning Ordinance, upon being found liable therefor in a civil enforcement proceeding commenced by a municipality, pay a judgment of not more than \$500 plus all court costs, including reasonable attorney fees incurred by a municipality as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the District Justice. If the defendant neither pays nor timely appeals the judgment, the municipality may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the District Justice, determining that there has been a violation, determines that there was a good faith basis for the person, partnership or corporation violating the ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of the determination of violation by the District Justice and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of this section shall be paid over to Manchester Borough.

**§ 149-36.2. Lighting. [Added 10-10-2005 by Ord. No. 2005-47]**

Where a use involves exterior lighting, the lighting must be so located and shielded so that illumination or glare is not cast upon adjoining properties.

**§ 149-36.3. Family day-care homes. [Added 12-8-2008 by Ord. No. 08-58]**

- A. All applicants must provide proof of all approved documentation required by the Commonwealth of Pennsylvania prior to the time of the request for a special exception. In the alternative, proof must be provided at the hearing that application has been made to the Commonwealth of Pennsylvania and final approval from Pennsylvania is conditioned solely on approval of the use by Manchester Borough.
- B. Applicant shall provide proof that the use shall meet all requirements of licensing or certification by the Department of Public Welfare and the Department of Labor and Industry.
- C. The Zoning Officer shall have the authority to continue the special excepting use as long as proof of annual license, certification and recertification are provided to the Borough when the applicant receives such documentation.
- D. A minimum outdoor play area of 65 square feet per child is required.

- E. Outdoor play areas shall be sufficiently enclosed so as to provide for the health and safety of the children as determined by the Zoning Hearing Board. Outdoor play areas for newly approved family day-care homes shall be sufficiently enclosed prior to conducting the first day of business. If the use existed prior to Zoning Hearing Board

approval and no fencing existed, the applicant must install fencing as soon as possible and the children to be served by the facility may not use the outdoor play area until the fencing requirements are completed. The minimum height requirement for fencing is four feet with spacing in any fencing structure not to exceed four inches.

- F. At least one off-street parking space for each person employed plus one off-street space for each four children to be served by the facility shall be provided. A minimum of 500 square feet of off-street parking shall be provided.
- G. Outdoor play shall be restricted to the hours of 9:00 a.m. through 5:30 p.m.
- H. Pools shall be separated from the outdoor play area by a fence.
- I. Complete the application for day-care certificate of occupancy and pay any applicable fees.

**§ 149-36.4. Group homes. [Added 2-12-2018 by Ord. No. 2018-1]**

- A. Intent. It is the specific intent of this section to promote the safety, morals and general welfare of the inhabitants of Manchester Borough in their person and property by permitting group homes in the Borough, subject to the requirements of this section. Additionally, permitting group homes by special exception in residential districts will increase the availability of housing and access to valuable services for Borough residents with disabilities without altering the essential character of the neighborhood or district in which the group home is located.
- B. Permitted by special exception; requirements. Group homes are permitted in all residential districts as a use by special exception pursuant to the requirements and regulations herein. Prior to obtaining a permit and a special exception approval for a group home use, the applicant shall provide evidence of the following:
  - (1) The lot upon which the group home or institutional residence is situated shall meet the minimum area requirements established in the district regulations for the district in which the use is to be located. However, in order to integrate group homes into a neighborhood and create a deinstitutionalized setting for the residents of group homes, no group home may be located within 2,500 feet of another group home.
  - (2) Residents of a group home shall maintain a single household unit with shared use of living areas, eating areas, bathrooms and food preparation and serving areas, and shall share mealtimes and housekeeping responsibilities.
  - (3) Accommodations in a group home shall be provided for no more than four residents, excluding staff, at one time. However, there shall be no more than two persons per bedroom. Applications for group homes shall specify the maximum number of residents or occupants to be housed or cared for at the facility.
  - (4) Applicants for group homes shall indicate the type of care, counseling or treatment to be provided at the site. In each instance, medical care shall be incidental in nature and shall not be a major element of the care being provided at the facility.

- (5) Evidence shall be provided with the application for a group home or institutional residence indicating that all applicable federal, state and/or county certification and licensing requirements have been met for the particular type of care provided.
  - (6) Sewage and water facilities shall be sufficient to handle the anticipated loading created by the proposed facility and shall meet all requirements of the Pennsylvania Department of Environmental Protection and/or the applicable public or community sewer and water boards or authorities.
  - (7) Arrangements for the collection, storage and disposal of solid waste generated by the facility shall be made by the applicant and submitted to the Borough for approval as part the application for such a use.
  - (8) The group home must comply with the Manchester Borough Construction Code, Chapter 73.
  - (9) Notwithstanding any provision of the Manchester Borough Construction Code, the group home must contain an automatic sprinkler system.
  - (10) Off-street parking must be adequate to accommodate the needs of the residents and staff. At a minimum, the group home must meet the minimum requirements for the district in which it is located.
  - (11) The group home will not alter the essential character of the neighborhood or district in which the group home is located.
  - (12) Maintenance of the property shall be provided by the property owner in accordance with municipal ordinances.
- C. Inspections. The owner, operator or agent of a group home shall permit inspections thereof by the Code Enforcement Officer annually. If the owner, operator or agent does not permit such inspection by the Code Enforcement Officer, the Borough may seek any appropriate legal or equitable relief to compel access to such property for such inspection.
- D. Registration with Borough.
- (1) The group home shall register, in writing, its location, general type of treatment/ care, maximum number of residents and sponsoring agency with the Borough.
  - (2) In addition, each resident of the group home shall be registered with the Borough. Such registration shall include the resident's name and special needs in order to assist the Borough in coordinating its emergency response plan. This registration must be updated whenever there is change in the composition of the group home residency, but in no event less frequently than once every three months.
  - (3) Any other registration of group home residents with any state and/or county agency for emergency preparation purposes shall be made and updated in accordance with the applicable state and/or county regulations.
- E. Proof of staff licensure, certification and criminal background clearances.
- (1) All caretakers, administrators and staff must be duly licensed and/or certified by the Department of Public Welfare, Department of Health and other federal, state

or county agencies as may be required for the particular type of care provided and the nature of the employee's responsibilities. Every employee of the group home must have valid criminal background clearances, licensure and/or certification with the issuing agency or agencies while employed by the group home.

- (2) The owner, operator or agent of any group home shall provide the Borough with a register of all employees and furnish proof of all required licenses, certifications and criminal background clearances for each employee prior to commencing operation in the Borough. Thereafter, an updated register and proof of licensure, certifications and criminal background clearances shall be provided on at least an annual basis.
- (3) For every new person employed by the group home, the name of the employee, along with proof of all required licenses, certifications and criminal background clearances, shall be submitted to the Borough prior to the commencement of the employment.

## ARTICLE VII

### Nonconforming Uses and Buildings

#### § 149-37. Definitions; nonconforming uses.

- A. Definitions.<sup>14</sup> As used in this article, the following terms shall have the meanings indicated:

**NONCONFORMING STRUCTURE OR BUILDING** — A structure or building, or part thereof, not designed to comply with the applicable provisions contained in this chapter, or its subsequent amendments, where such structure lawfully existed prior to the enactment of this chapter or amendments. Such nonconforming structures include but are not limited to nonconforming signs.

**NONCONFORMING USE** — A use, whether of land or of structure, which does not comply with the applicable use provisions in this chapter or its subsequent amendments, where such use was lawfully in existence prior to the enactment of this chapter or amendments.

- B. Use provisions. Any nonconforming use of land, or structure, or combination thereof, may be continued, subject to the following:
- (1) Such use shall not be moved to another location where such use would be nonconforming.
  - (2) Such use shall not be changed to another nonconforming use without special exception approval by the Zoning Hearing Board in accordance with the remainder of this section.
  - (3) Such use shall not be reestablished, unless in accordance with § 149-38, if such use has been discontinued for a period of one year or more.

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**14. Editor's Note:** See also § 149-6B for other definitions.

- C. Procedure. Any nonconforming use or nonconforming structure or building, or any combination thereof, may be expanded or changed, only upon approval of the Zoning Hearing Board by a variance. **[Amended 10-9-1995 by Ord. No. 1995-03]**
- D. Standards. Each application for an expansion or change of a nonconforming use shall be subject to the following standards:
- (1) It shall be the responsibility of the applicant to sufficiently document to the Zoning Hearing Board that the proposed expansion or change will not be contrary to the purposes of this chapter and the public health, safety and welfare of municipal residents in general, and of the residents of the immediate area in particular.
  - (2) Such expansion or change shall not extend beyond the lot lines existing on the date this chapter or its subsequent amendments were adopted.
  - (3) Such expansion or change shall comply with the applicable yard and setback requirements of the district where located.
  - (4) Any person seeking permission to change a nonconforming use to any other nonconforming use shall sufficiently document to the Zoning Hearing Board that such new nonconforming use is more in compliance with the applicable provisions of this chapter than the present nonconforming use.
  - (5) The Zoning Hearing Board may attach additional provisions to the granting of a special exception to expand or change a nonconforming use, for the purpose of promoting the objectives and intent of this chapter.

#### **§ 149-38. Discontinuance.**

Any person discontinuing a nonconforming use may do so, but may resume the same use within one year after such discontinuance, provided that such person has so notified the Borough, in writing, within 30 days after the use is discontinued. A discontinued use will not be deemed to be resumed, unless such use is operated on a regular basis for six months after such resumption begins. This right of resumption shall inure to any buyer or subsequent user of the property.

#### **§ 149-39. Repairs and maintenance.**

Notwithstanding any of the above regulations, nothing in this article shall be deemed to prevent normal or necessary maintenance and repair of any nonconforming use or structure.

#### **§ 149-40. Registration of nonconforming uses.**

Lawful uses and structures existing at the effective date of this chapter which do not conform to the requirements set forth herein, or any amendments hereto, shall be identified and registered by the owner or user thereof.

ARTICLE VIII  
**Zoning Hearing Board**

**§ 149-41. Creation and appointment. [Amended 7-14-1997 by Ord. No. 1997-12]**

Pursuant to Article IX of the Pennsylvania Municipalities Planning Code,<sup>13</sup> the Borough Council does hereby create a Zoning Hearing Board and appoint three members, who shall be residents of the Borough, and who shall hold no other office in the Borough. Their terms of office shall be three years and shall be so fixed, except that the term of office of one member shall expire each year.

**§ 149-42. Organization of Zoning Hearing Board.**

- A. The Zoning Hearing Board shall elect, from its own membership, its officers. They shall serve annual terms, as such, and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than two, but where two members are disqualified to act in a particular matter, the remaining member may act for the Board. The Zoning Hearing Board may appoint a Hearing Officer from its own membership to conduct any hearing on its behalf, and the parties may waive further action by the Zoning Hearing Board as provided in § 149-44. The Zoning Hearing Board may make, alter and rescind rules and forms for its procedure, consistent with ordinances of the Borough and laws of the Commonwealth of Pennsylvania. The Zoning Hearing Board shall keep full public records of its business and shall submit a report of its activities to the Borough Council once a year.
- B. If, by reason of absence or disqualification of a member, a quorum is not reached, the Chairman of the Board shall designate as many alternate members of the Board to sit on the Board as may be needed to provide a quorum. Any alternate member of the Board shall continue to serve on the Board in all proceedings involving the matter or case for which the alternate was initially appointed until the Board has made a final determination of the matter or case. Designation of an alternate pursuant to this section shall be made on a case-by-case basis in rotation according to declining seniority among all alternates. [Added 7-14-1997 by Ord. No. 1997-12]

**§ 149-43. Referral to Planning Commission. [Amended 7-14-1997 by Ord. No. 1997-12]**

Before consideration by the Zoning Hearing Board, all matters first may be submitted to the Borough Planning Commission for its recommendation.

**§ 149-44. Hearings.**

The Zoning Hearing Board shall conduct hearings and make decisions in accordance with the following requirements:

- A. Notice (see definition of "public notice" in § 149-6). Notice shall be given to the public, the applicant, the Zoning Officer and to any person having reasonable connection with

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13. Editor's Note: See 53 P.S. § 10901 et seq.

the matter, who has made timely request for the same. Notices shall be given at such time and in such manner as shall be prescribed by the Zoning Hearing Board. The governing body may establish, by resolution, reasonable fees, based on cost, to be paid by the applicant and by persons requesting any notice not required by ordinance. In addition to the notice provided herein, notice of said hearing shall be conspicuously posted on the affected tract of land.

- B. Conduct of hearing. The hearings shall be conducted by the Zoning Hearing Board, or the Zoning Hearing Board may appoint any member as a Hearing Officer. The decision, or, where no decision is called for, the findings, shall be made by the Zoning Hearing Board, but the parties may waive decision or findings by the Zoning Hearing Board and accept the decision or findings of the Hearing Officer as final.
- (1) The parties to the hearing shall be the municipality, any person affected by the application who has made timely appearance of record before the Board and any other person, including civic or community organizations, permitted to appear by the Board. The Board shall have power to require that all persons who wish to be considered parties enter appearances, in writing, on forms provided by the Borough for that purpose. **[Amended 7-14-1997 by Ord. No. 1997-12]**
  - (2) The Chairman or acting Chairman of the Zoning Hearing Board, or the Hearing Officer presiding, shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witness and documents requested by the parties.
  - (3) The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument, and to cross-examine adverse witnesses on all relevant issues.
  - (4) Formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded.
  - (5) The Board or the Hearing Officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or Hearing Officer or shall be paid by the person appealing from the decision of the Board if such appeal is made, and in either event, the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases, the party requesting the original transcript shall bear the cost thereof. **[Amended 7-14-1997 by Ord. No. 1997-12]**
  - (6) The Zoning Hearing Board or the Hearing Officer shall not communicate, directly or indirectly, with any party, or his representatives, in connection with any issue involved except upon notice and opportunity for all parties to participate; shall not take notice of any communication, reports, staff memoranda or other materials, unless the parties are afforded an opportunity to contest the material so noticed; and shall not inspect the site or its surroundings, after commencement of hearings, with any party or his representative unless all parties are given a reasonable opportunity to be present, upon due notice.

## C. Decision.

- (1) The Zoning Hearing Board, or the Hearing Officer, as the case may be, shall render a written decision, or, when no decision is called for, make written findings on the application, within 45 days after the last hearing before the Board or Hearing Officer. Each decision shall be accompanied by findings of fact and conclusions based thereon, together with the reasons therefor. Conclusions based on any provisions of this chapter or of any appropriate ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate, in the light of the facts found. If the hearing is conducted by a Hearing Officer, and there has been no stipulation that his decision or findings are final, the Board shall make his report and recommendations available to the parties within 45 days, and the parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings, and the Board's decision shall be entered no later than 30 days after the report of the Hearing Officer. Where the Board fails to render the decision within the period required by this subsection, or fails to hold the required hearing within 60 days from the date of the applicant's request for a hearing, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed, in writing or on the record, to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of the Board to meet or render a decision as hereinabove provided, the Board shall give public notice of said decision within 10 days from the last day it could have met to render a decision in the same manner as provided in Subsection A of this section. If the Board shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction. **[Amended 7-14-1997 by Ord. No. 1997-12]**
- (2) The final decision, or, where no decision is called for, a copy of the findings, shall be delivered to the applicant personally, or mailed to him, not later than the day following its date. To all other persons who have filed their names and addresses with the Zoning Hearing Board, a brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined shall be forwarded not later than the last day of the decision period.

**§ 149-45. Functions of the Zoning Hearing Board.**

- A. Appeals from decision of the Zoning Officer. The Zoning Hearing Board shall hear and decide appeals where it is alleged by the appellant that the Zoning Officer has failed to follow prescribed procedures or has misinterpreted or misapplied any provision of this chapter or any valid rule or regulation governing the action of the Zoning Officer. Such appeals may be filed with the Zoning Hearing Board, in writing, by the landowner affected, or any officer or agency of the Borough, or any person aggrieved. The Zoning Board may also hear appeals pursuant to the provisions of the Municipalities Planning Code, 53 P.S. § 10909.1. Nothing contained herein, however, shall be construed to deny to the appellant the right to proceed directly in court, where appropriate, pursuant to

Pennsylvania Rules of Civil Procedure No. 1091, relating to action in mandamus.  
[Amended 7-14-1997 by Ord. No. 1997-12]

B. Challenge to the validity of this chapter or map.

- (1) The Zoning Hearing Board shall hear challenges to the validity of this chapter or map, pursuant to the provisions of the Pennsylvania Municipal Planning Code (Act 247, 1968), as amended.<sup>14</sup> In all such challenges, the Zoning Hearing Board shall take evidence and make a record thereon as provided in § 149-44. At the conclusion of the hearing, the Board shall decide all contested questions of interpretation and shall make findings on all relevant issues of fact, and such findings shall become part of the record on appeal to the court.
- (2) Proceedings to challenge this chapter may be filed with the Zoning Hearing Board, in writing, by the landowner affected, or any officer or agency of the Borough or any person aggrieved.

C. Variances.

- (1) The Zoning Hearing Board shall hear requests for variances where it is alleged that the provisions of this chapter inflict unnecessary hardship upon the applicant. All applications for a variance shall first be submitted to the Borough Planning Commission for recommendations (see § 149-43).
- (2) The Zoning Hearing Board may grant a variance, provided that the following findings are made, where relevant in a given case:
  - (a) 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 the unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of this chapter in the neighborhood or district in which the property is located.
  - (b) Because of such physical circumstances or conditions, the property cannot be reasonably developed in strict conformity with the provisions of this chapter and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.
  - (c) Such unnecessary hardship has not been created by the appellant.
  - (d) The variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially nor permanently impair the appropriate use or development of adjacent property, nor be detrimental to the public welfare.
  - (e) The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification reasonably possible of the regulation in issue.

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14. Editor's Note: See 53 P.S. § 10101 et seq.

- (f) In granting any variance, the Zoning Hearing Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this chapter.
- (3) Requests for a variance may be filed with the Zoning Hearing Board by any landowner or any tenant, with the permission of such landowner.

D. Special exceptions.

- (1) The Zoning Hearing Board may grant a special exception where the applicant shows that the use and operations in connection with it would be in harmony with the orderly and appropriate development of the district. However, all applications for a special exception shall first be submitted to the Borough Planning Commission for recommendations (see § 149-43).
- (2) Requests for a special exception may be filed with the Zoning Hearing Board by any landowner or tenant, with the permission of such landowner.
  - (a) Objectives. In evaluating the special exception application, the Zoning Hearing Board shall consider compliance with the expressed criteria contained in the applicable regulations of Article IV and the following objectives:
    - [1] The community development objectives as stated in § 149-3 of this chapter.
    - [2] The promotion, protection and facilitation of one or more of the following: the public health, safety, morals, general welfare, coordinated and practical community development, proper density of population, civil defense, disaster evacuation, airports and national defense facilities, the provisions of adequate light and air, police protection, vehicle parking, loading spaces, transportation, water, sewage, schools, public grounds and other public requirements.
    - [3] The prevention of one or more of the following: overcrowding of land, blight, danger and congestion in travel and transportation, potential for loss of health, life or property from fire, flood, panic or other dangers.
    - [4] Consideration for the character of the municipality, its various parts and the suitability of the various parts for particular uses and structures.
  - (b) Conditions. In granting special exception approval, the Zoning Hearing Board may require that such special exception permits be periodically renewed. Such renewal may be withheld upon determination of the Zoning Hearing Board, after a public hearing, that such conditions as may have been prescribed in conjunction with the issuance of the original permit have not been or are no longer being complied with. In such cases, a period of 60 days shall be granted the owner to achieve full compliance, prior to revocation of the special exception permit. Said special exception permit and any stipulations set forth therein shall run with the property, regardless of ownership.

- (c) Effect of special exception approval. Upon receipt of special exception approval, such use as set forth in the application shall be deemed a permitted use on the affected property, and the owner may then proceed to comply with Chapter 128, Subdivision and Land Development, zoning permit and other applicable regulations.<sup>15</sup> [Amended 10-10-2005 by Ord. No. 2005-47]

#### § 149-46. Time limitations for appeals.

The time limitations for raising certain issues, and filing certain proceedings, with the Zoning Hearing Board shall be the following:

- A. No person shall be allowed to file any proceeding with the Zoning Hearing Board later than 30 days after any application for development, preliminary or final, has been approved by an appropriate Borough officer, agency or body if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that he had no notice, knowledge or reason to believe that such approval had been given. If such person has succeeded to his interest, after such approval, he shall be bound by the knowledge of his predecessor in interest.
- B. The failure of anyone, other than the landowner, to appeal from an adverse decision on a preliminary plan, or from an adverse decision by the Zoning Officer, on a challenge to the validity of this chapter or Zoning Map, shall preclude an appeal from a final approval, except in the case where the final submission substantially deviates from the approved tentative or preliminary approval.

#### § 149-47. Stay of proceedings.

Upon filing of any appeal, any challenge to the validity of this chapter or Zoning Map, or any special exception or variance application, and during its pendency before the Zoning Hearing Board, all land development pursuant to any challenged ordinance, order or approval of the Zoning Officer or any agency or body, and all official action thereunder, shall be stayed unless the Zoning Officer, or any other appropriate agency or body, certifies to the Zoning Hearing Board facts indicating that such stay would cause imminent peril to life or property. In such case, the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Zoning Hearing Board, or by the court having jurisdiction of zoning appeals, on petition, after notice to the Zoning Officer or other appropriate agency or body. When an application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Zoning Hearing Board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post bond as a condition to continuing the proceedings before the Zoning Hearing Board. The question of whether or not such petition should be granted, and the amount of the bond, shall be within the discretion of the court.

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15. Editor's Note: Original Subsection E, which followed this subsection, regarding unified appeals, was repealed 7-14-1997 by Ord. No. 1997-12.

ARTICLE IX  
**Administration and Enforcement**

**§ 149-48. Designation of Zoning Officer; enforcement.**

- A. Appointment and powers. For the administration of this chapter, a Zoning Officer, who may not hold any elective office in the municipality, shall be appointed by the Borough Council. The Zoning Officer shall administer this chapter in accordance with its literal terms and shall not have the power to permit any construction, or any use or change of use, which does not conform to this chapter. He shall issue all zoning permits, use certificates and, at the direction of the Zoning Hearing Board, special exceptions and variances. He shall accept the registration of nonconforming uses and notices concerning the same. **[Amended 10-10-2005 by Ord. No. 2005-47]**
- B. Enforcement.
- (1) It shall be the duty of the Zoning Officer to enforce the provisions of this chapter, and of all rules, conditions and requirements, adopted or specified pursuant thereto.
  - (2) The Zoning Officer, or his duly authorized assistant(s), shall have the right to enter any building or enter upon any land, at any reasonable hour, as necessary in the execution of their duties, provided that:
    - (a) The Zoning Officer shall notify the owner and tenant before conducting any inspection.
    - (b) The Zoning Officer, or his duly authorized assistant(s) shall display identification, signed by the Council, upon commencing an inspection.
    - (c) Inspections shall be commenced in the presence of the owner or his representative or tenant, except where the same have refused or avoided such meeting.
- C. Records. The Zoning Officer shall maintain records, open to the public, of:
- (1) All applications for certificates of occupancy and building and zoning permits, along with plans submitted therewith, as well as final certificates and permits. **[Amended 10-10-2005 by Ord. No. 2005-47]**
  - (2) All complaints of violations of the provisions of this chapter, as well as action taken as a result of such complaints.
- D. Reports. The Zoning Officer shall submit to the Borough Council, for insertion in the Council's minutes, a written report, summarizing, for the month, all zoning permits and certificates of occupancy issued by him, as well as complaints of violations and action taken as a result of such complaints. **[Amended 10-10-2005 by Ord. No. 2005-47]**

**§ 149-49. Zoning permits. [Amended 7-14-1997 by Ord. No. 1997-12; 10-10-2005 by Ord. No. 2005-47]**

No building or structure (as defined in this chapter, but also including all patios, driveways, walks, parking areas and similar items) in any district shall be erected, added on to, reconstructed (exterior) or structurally altered without a zoning permit, duly issued upon application to the Borough, except routine maintenance (see definitions<sup>16</sup>). No zoning permit shall be issued unless the proposed construction or use is in full conformity with all the provisions of this chapter. Any zoning permit improperly issued or issued in violation of the provisions of this chapter shall be null and void and of no effect, without the necessity for any proceedings or revocation or nullification thereof. Any work undertaken or use established pursuant to any such void permit shall be unlawful.

- A. Application. Every application for a zoning permit shall contain the following information, and be accompanied by the required fee and by a plot plan drawn to scale and signed by the person responsible for such drawing:
- (1) The actual shape, dimensions, radii, angles and area of the lot on which the building is proposed to be erected, or of the lot on which it is situated, if an existing building.
  - (2) The exact size and locations on the lot of the proposed building or buildings, or alteration of an existing building, and of other existing buildings on the same lot.
  - (3) The dimensions of all yards in relation to the subject building, and the distances between such building and any other existing buildings on the same lot.
  - (4) The existing and intended use of all buildings, existing or proposed, the use of land and the number of dwelling units the building is designed to accommodate.
  - (5) Such topographic or other information, with regard to the building, the lot and neighborhood lots, as may be necessary to determine that the proposed construction will conform to the provisions of this chapter.
- B. Street access required. No zoning permit shall be issued for the construction or alteration of any building upon a lot, without access to a street or highway.
- C. Plot plan. No zoning permit shall be issued for any building where the plot plan of such building is subject to approval by the Borough, except in conformity with the plans approved by the Borough.
- D. Special exception approval. No zoning permit shall be issued for a building to be used for any special exception in any district where such use is allowed only by approval of the Zoning Hearing Board, unless and until such approval has been duly granted by the Zoning Hearing Board.
- E. Forms. The zoning permit application, and all supporting documentation, shall be made in triplicate. On the issuance of a zoning permit, the Zoning Officer or other designated Borough official shall return one copy of all filed documents to the applicant.

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16. Editor's Note: See § 149-6B.

- F. Issuance or denial of permit. The Zoning Officer or other designated Borough official shall either issue or deny a zoning permit within 10 days after the filing of a complete and prepared application. If a zoning permit is denied, the Zoning Officer or other designated Borough official thereupon shall state, in writing to the applicant, the reasons for such denial.
- G. Expiration of permit. Every zoning permit, whether permitted by special exception, variance or other method, shall expire if the work authorized has not commenced within three months after the date of issuance and has not been completed within 12 months from the date of issuance. If no zoning amendments or other codes or regulations affecting subject property have been enacted in the interim, the Borough may authorize, in writing, after the applicant has requested in writing, the extension of the above period of an additional six months, following which no further work is to be undertaken without a new zoning permit.
- H. Commencement of construction. As soon as the excavation of a building, or of any addition to an existing building, is staked out, and before first-story framing or wall construction is begun, the Zoning Officer shall be notified to confirm compliance with applicable setback regulations stated on the zoning permit application. Construction shall not proceed until approval of compliance has been issued by the Zoning Officer.

**§ 149-50. Certificate of occupancy.**

- A. Occupancy or change of use. The following shall be unlawful until a certificate of occupancy shall have been applied for and issued by the Borough:
  - (1) Occupancy or use of a building erected, reconstructed, restored, altered, moved or any change in use of existing buildings.
  - (2) Occupancy, use or any change in the use of the land.
  - (3) Any change in the use of nonconforming uses.
  - (4) Any change in the occupancy of any premises other than residential uses.
- B. Special exception approval. No certificate of occupancy shall be issued where special exception was required, unless and until such special exception approval has been duly granted by the Zoning Hearing Board. Every certificate of occupancy involving a special exception or site plan approval, or in connection with which a variance has been granted by the Zoning Hearing Board, shall contain a detailed statement of every condition required by the Zoning Hearing Board.
- C. Forms. On a form furnished by the Borough, application for a certificate of occupancy for a new building, or for an existing building which has been altered, shall be made after the erection of such building or part thereof has been completed in conformity with the provisions of this chapter and, in the case of a new building, shall be accompanied by an accurate plot plan or, if not available, by a survey showing the location of all buildings as built.

- D. Issuance or denial of certificate. If the proposed use is in conformity with the provisions of this chapter, and of all other applicable codes and ordinances, a certificate of occupancy for the use of vacant land, or for a change of use of a nonconforming use, shall be issued by the Zoning Officer, within 15 days after receipt of a properly completed application. If a certificate of occupancy is denied, the Borough thereupon shall state the reasons, in writing, to the applicant.
- E. Authorization. A certificate of occupancy shall be deemed to authorize, and is required for, both initial occupancy and the continuance of occupancy and use of the building or land to which it applies.
- F. Conformity to chapter. Upon written request by the owner, and upon fee payment, the Zoning Officer shall, after inspection, issue a certificate of occupancy for any building or use thereof, or of land, existing at the time of the adoption of this chapter, certifying such use, whether or not the use and the building conform to the provisions of this chapter.
- G. Borough records. A record of all certificates of occupancy shall be kept by the Borough, and copies shall be furnished on request to any agency of the Borough or to any person having a proprietary or tenancy interest in the building or land affected.

**§ 149-51. Amendments. [Amended 7-14-1997 by Ord. No. 1997-12]**

This chapter, or any part thereof, may be amended, supplemented or repealed, from time to time, by the Borough Council on their own motion, or upon recommendation by the Borough Planning Commission. In the case of an amendment other than that prepared by the Planning Commission, the Borough Council shall submit each such amendment to the Planning Commission at least 30 days prior to the hearing on such proposed amendment for the Planning Commission to report thereon. The Borough Council shall not take action on any such amendment without such report from said Commission, unless said Commission fails, for any reason, to render such report within 30 days after its next regularly scheduled meeting following the date of such referral.

- A. Report of the Borough Planning Commission. In making such report on a proposed amendment, the Commission shall make inquiry and determination concerning the items specified below:
  - (1) Concerning a proposed amendment to or change in the text of this chapter:
    - (a) Is such change consistent with the aims and principles embodied in this chapter, as to the particular districts concerned.
    - (b) Which areas, land uses, buildings and establishments in the Borough will be affected directly by such change, and in what way will they be affected.
    - (c) The indirect implications of such change, in its effect on other regulations.
    - (d) Is such proposed amendment consistent with the aims of the Comprehensive Plan of the Borough.
  - (2) Concerning a proposed amendment involving a change in the Zoning Map:

- (a) Are the uses permitted by the proposed change appropriate in the area concerned.
  - (b) Do adequate public school facilities and other public services exist or can they be created to serve the needs of any additional residences likely to be constructed as a result of such change.
  - (c) Is the proposed change in accord with existing or proposed plans in the vicinity.
  - (d) The effect of the proposed amendment upon the growth of the Borough as envisaged by the Comprehensive Plan.
- B. Referral to County Planning Commission. The Borough Council shall refer the proposed amendment to the County Planning Commission at least 30 days prior to the public hearing.
- C. Referral to other agencies. Should any proposed amendment consist of or include either of the two following conditions, the Borough Council shall transmit to the appropriate office or official a copy of the official notice of the public hearing not later than 20 days prior to the date of the hearing:
  - (1) Any change in the boundaries of any district, which change would occur within a distance of 500 feet of the boundary of any Borough, city, township, or county; or of any boundary of state or federal lands or other similar public recreation area; or of any federal highway or state legislative route.
  - (2) Any change in the regulations, prescribed for any district, any portion of which is located within 500 feet of the boundaries listed in Subsection C(1) above.
- D. Council's public hearing. By resolution, adopted at a meeting of the Borough Council, the Borough Council shall fix the time and place of a public hearing on the proposed amendment, and cause notice thereof to be given by a publication in a newspaper of general circulation in the Borough as defined by this chapter. All notices of public hearings shall specify the nature of the proposed amendment, the land or district affected; and the date when, and the place where, the public hearing will be held.
- E. Council's action. The Borough Council shall act to approve or disapprove said amendment within 90 days after the date of said public hearing.
- F. Protest. In the event that any proposed amendment is protested by at least 20% of the owners of the land area proposed to be changed or protested by at least 20% of the owners abutting the linear periphery of the land area proposed to be changed, such amendment shall not become effective except by a three-fourths majority vote of the Borough Council.
- G. Curative amendment procedure. A landowner who desires to challenge, on substantive grounds, the validity of this chapter and Zoning Map, or any provision thereof which prohibits or restricts the use or development of land in which he has an interest, may submit a curative amendment to the Borough Council with a written request that his

challenge and proposed amendment be heard and decided as provided by Section 916.1 of the Pennsylvania Municipalities Planning Code, as amended.<sup>17</sup>

**§ 149-52. Appeals. [Amended 7-14-1997 by Ord. No. 1997-12]**

Any person aggrieved or affected by provision of this chapter or decision of the Zoning Officer may appeal in the manner set forth in the Pennsylvania Municipalities Planning Code, Act 247, as amended.<sup>18</sup>

**§ 149-53. Fees.**

The Borough Council shall by resolution establish fees for all applications, permits and appeals provided for by this chapter to defray the costs of advertising, mailing notices, processing, inspecting and copying applications, permits and certificates of occupancy. The Fee Schedule shall be available from the Zoning Officer or Borough Secretary for inspection.

**§ 149-54. Violations and penalties.**

- A. Penalties. Violation of any provision or requirement of this chapter, or misrepresentation of any statement, plan, application, permit or certificate involving the provisions of this chapter shall be punishable as set forth in 53 P.S. § 10617.2. Each day that a violation is continued may constitute a separate offense. The latest amendment to the Pennsylvania Municipalities Planning Code shall control the violations and penalties. A person, authorized by Borough Council, may bring whatever actions are required to enforce this chapter. **[Amended 7-14-1997 by Ord. No. 1997-12]**
- B. Offenders. The owner, general agent or contractor of a building, premises or part thereof where such a violation or misrepresentation has been committed, or does exist, shall be guilty of such an offense.
- C. Co-offenders. Any agent, contractor, architect, builder, corporation, tenant, lessee or other person who commits, takes part or assists in such violation or misrepresentation shall also be subject to such prosecution.
- D. Enforcement remedies. In case any building, structure or land is, or is proposed to be, erected, constructed, reconstructed, altered, converted, maintained or used in violation of any ordinance enacted under present or prior enabling laws, the Borough Council or a person authorized thereby may institute, in the name of the municipality, any appropriate action or proceeding to prevent, restrain, correct or abate such building, structure or land, or to prevent, in or about such premises, any act, conduct, business or use constituting a violation, in addition to other remedies.

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17. Editor's Note: See 53 P.S. § 10916.1.

18. Editor's Note: See 53 P.S. § 10101 et seq.

**§ 149-55. Interpretation.**

In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements adopted for the promotion of the public health, safety, morals, comfort, convenience and general welfare. Except where specifically provided to the contrary, it is not intended by this chapter to repeal, abrogate, annul or in any way to impair or interfere with any rules, regulations or permits previously adopted or issued of which shall be adopted or issued pursuant to law relating to the use of buildings, structures, shelter or premises; nor is it intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of a building or premises, or requires larger open spaces than are imposed or required by any other statute, ordinance, rule, regulation or permit, or by any easement, the provisions of this chapter shall control.

ZONING

149 Attachment 1

Borough of Manchester

Chart A  
Permitted Temporary Signs

Sign Type	Maximum Number Permitted	Maximum Area Permitted (square feet)	Minimum Setback from Right-of-Way (feet)	Maximum Height Attached	Maximum Height Freestanding (feet)	Maximum Projection from Building (Attached Sign) (inches)	Zones Permitted
T-1, Signs identifying architects, engineers, contractors, or others engaged in construction work on the premises where their work is proceeding. (Sign to be removed within 15 days of completion of work or occupancy of the building, whichever comes first.)	1 per each separate firm involved in work on the site	12 per sign	10	Height of building	10	12	All
T-2, Real estate signs on individual properties that are for sale, rent or lease, or which have been sold, rented or leased. (Signs to be removed within 15 days of sale, rent or lease agreement.)	1 per street frontage of the lot	6 per sign	10 or building face	Height of building	10	12	All
T-3, Signs announcing proposed housing developments, apartment complexes, or commercial, industrial or other nonresidential development. (Signs to be removed upon 75% completion of development or within two years of erection of the sign whichever occurs first.)	1 per street frontage of the lot	32 per sign	25 or building face	Height of building	10	12	Where use is permitted and development approved

MANCHESTER CODE

<b>Sign Type</b>	<b>Maximum Number Permitted</b>	<b>Maximum Area Permitted (square feet)</b>	<b>Minimum Setback from Right-of-Way (feet)</b>	<b>Maximum Height Attached</b>	<b>Maximum Height Freestanding (feet)</b>	<b>Maximum Projection from Building (Attached Sign) (inches)</b>	<b>Zones Permitted</b>
T-4, Signs advertising the temporary sale of agricultural and horticultural products raised on property from which it is being sold. (To be displayed only when products are on sale; not to exceed 15 days after cessation of sales operations.)	1 per lot	12 per sign	10 or building face	Height of building	6	12	All
T-5, Temporary directional signs. (Not to exceed one week of placement.)	No limit	2	3	Height of building	3	12	All, with permission of landowner on which sign is placed. Not on traffic or utility poles.
T-6, Signs announcing grand openings, new ownership, change of use, etc., on the site of the permitted use. (Signs shall be removed after seven days.)	1 per lot (attached or freestanding)	20 per sign	30 or building face	Height of building	10	12	Where use is permitted
T-7, Signs for a political election. (Signs shall be removed by the political party or candidate within 15 days following the primary or general election to which they refer.)	No limit	16	10 or building face	Height of building	10	12	All, with the permission of landowner on which sign is placed. Not on traffic or utility poles

ZONING

<b>Sign Type</b>	<b>Maximum Number Permitted</b>	<b>Maximum Area Permitted (square feet)</b>	<b>Minimum Setback from Right-of-Way (feet)</b>	<b>Maximum Height Attached</b>	<b>Maximum Height Freestanding (feet)</b>	<b>Maximum Projection from Building (Attached Sign) (inches)</b>	<b>Zones Permitted</b>
T-8, Temporary signs announcing a special civic event not normally associated with a location or a location's use. (Does not include yard/garage sales or special business promotion sales.)							
T-8A, On the site of the event. (Not to exceed 30 days and sign shall be removed within 15 days following the conclusion of the event.)	1 per frontage	20 per sign	10 or building face	Height of building	10	12	All
T-8B, On a location away from the site of the event. (Not to exceed 90 days' placement and must be removed immediately following the event.)	No limit	6 per sign	10 or building face	Height of building	10	12	All, with the permission of landowner on which sign is placed. Not on traffic or utility poles