

Article IV. Regulations Pertaining to Specific Districts

§ 98-18. Performance standards in IP or I District.

No use shall be permitted in the IP or I Districts that does not conform to the following standards of use, occupancy and operation ~~hereby established as the minimum requirements to be maintained:~~

- A. Industrial wastes. No solid or liquid wastes shall be discharged into any public sewer, private sewage disposal system, stream or on or into the ground except in accordance with the standards approved by the Orange County Health Department or similarly empowered agency.
- B. Fire and explosion hazards. All activities involving and all storage of flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and adequate fire-fighting and fire suppression equipment and devices standard in the industry. Burning of waste materials in open fires is prohibited. The relevant provisions of state and local laws shall also apply.
- C. Radioactivity or electromagnetic disturbance. No activities shall be permitted which emit dangerous radioactivity beyond the structure in which such activity is situated or electrical disturbance adversely affecting the operation of any equipment other than that of the creator of such disturbance.
- D. Glare and heat. No glare or heat shall be produced that is perceptible beyond the boundaries of the lot on which such use is situated.
- E. Noise. Noise shall not exceed in intensity, as measured from the boundaries of the lot where such use is situated, the average intensity, occurrence and duration of the noise of street traffic on adjoining streets.
- F. Atmospheric effluence. No dust, dirt, smoke, odor or noxious gases shall be disseminated beyond the boundaries of the lot where such use is situated so as to constitute a nuisance.

§ 98-19. Buffer strips and landscaping.

- A. A side or rear yard for a nonresidential use in an RO or LB-SL District adjacent to a residential district or a multifamily structure in an SR-6 District adjacent to an AR-.3, SR-1 or SR-2 District shall have a minimum width or depth of 15 feet, which shall be landscaped and free of pavement, and that part nearest the residential district shall be planted with a screen of evergreens having a uniform height of not less than 10 feet above ground level at the time of planting and set in a double staggered row spaced eight feet apart in each row and shall be properly maintained to afford an effective screen between the two districts. However, smaller trees may be allowed, provided the ten-foot height is made up by a berm designed to the satisfaction of the Planning Board.
- B. A side or rear yard in an LB or GC District adjacent to a residential district shall have a minimum width or depth of 50 feet, of which the first 25 feet nearest the residential district shall be planted with a screen of evergreens having a uniform height of not less than 10 feet above ground level at the time of planting and set in a double staggered row spaced eight feet apart in each row and shall be properly maintained to afford an effective screen between the two districts. However, smaller trees may be allowed, provided the ten-foot height is made up by a berm designed to the satisfaction of the Planning Board. The remaining 25 feet may be used for automobile parking, but may not be used for any structures, including lighting structures.
- C. A side or rear yard in an OP, IP or I District adjacent to a residential district shall have a minimum width or depth of 200 feet, of which the first 50 feet nearest the residential district shall be planted with a screen of evergreens having a uniform height of not less than 10 feet above ground level at the time of planting and set in a double staggered row spaced eight feet apart in each row and shall be properly maintained to afford an effective screen between the two districts. No plantings shall be required if the 50 feet are heavily wooded or have natural screening. However, smaller trees may be allowed, provided the ten-foot height is made up by a berm designed to the satisfaction of the Planning Board. The remaining 150 feet may be used for automobile parking, but may not be used for any structures, buildings or truck parking or maneuvering areas.
- D. Where IP, OP or I Districts are located across a street from a residential district the front or side yard of a proposed use facing said street shall be landscaped to the satisfaction of the Planning Board, and no vehicles shall be allowed to be parked in the first 50 feet of the front or side yards facing such street.
- E. In the LB, GC, OP, IP and I Districts, any use with outdoor storage of materials approved by the Planning Board, which has a front or side yard adjacent to a public street or residential zone, shall be required to screen such material with an

appropriate solid fence, excluding chain link or stockade fencing, or landscaping to the satisfaction of the Planning Board. This subsection shall not be construed to allow outdoor storage for any use in these districts unless such storage is specifically allowed as a permitted use or allowed as an accessory use to a permitted use.

- F. Where new residential lots are created adjacent to existing non-residential uses, a landscaped buffer designed to the satisfaction of the Planning Board with a minimum depth of 20 feet shall be provided along all lot lines adjacent to such uses.
- G. Parking areas for uses in all LB, OC, OP, RO, IP and I Districts shall not be located within 20 feet of any front or side lot line facing a street or within 10 feet of any side or rear lot line.
- H. Parking areas for uses in all LB-SL Districts shall not be located within five feet of side, rear or front lot lines.
- I. Landscaping for all buffer areas shall be designed by a licensed landscape architect and shall be guaranteed for a period of three years. Thereafter it shall be maintained by the property owner as a condition of approval. A landscape bond for a period of three years shall be provided to the Town in the form of cash or confirmed and irrevocable letter of credit acceptable to the Town Attorney to insure the installation and maintenance of the landscaping. Release of said bond shall be on the recommendation of the Building Inspector or authorized landscape professional designated by the Town.
- J. Berms are not to exceed a height of five feet, and trees are to be a minimum height of six feet, but are not to exceed a height of 10 feet at the time of planting.

~~§ 98-20. Clustering of one- and two-family homes in SR-6 District.~~

~~Intent. It is the intent of the Town of Chester to provide more flexibility in the design of single- and two-family dwelling unit development in order to promote a variety of dwelling unit types, densities and values within certain guidelines to reduce the potential of significant impacts on community facilities. To accomplish this, a maximum of four dwelling units per buildable acre in combinations of detached single- and two-family dwellings may be approved within the SR-6 District in accordance with the provisions contained herein and as set forth in § 83-15 of the Code of the Town of Chester.~~

~~Specific regulations.~~

~~Each one-family and two-family dwelling unit shall be individually owned and sited upon its own portion of the realty.~~

~~All development proposals shall be serviced by public water and sewer.~~

~~Bedroom mix and restrictions. In order to ensure the intended variety of housing mix and opportunities for various households, the following regulations shall apply to each phase of a project unless otherwise noted. The following bedroom mixes or limits shall be required:~~

~~No single- or two-family dwelling unit shall contain more than four bedrooms.~~

~~No more than 40% of all approved dwelling units shall contain four bedrooms.~~

~~At least 20% of all dwelling units shall contain two bedrooms. This subsection shall be deemed cumulative and shall be satisfied and of no further effect when 20% of all approvable units contain two bedrooms.~~

~~The average number of bedrooms shall not exceed three for the entire project.~~

~~There shall be provided usable open space/recreation lands at the rate of 800 square feet per dwelling unit.~~

~~Parking. In addition to the two parking spaces required per dwelling unit, any cluster development shall provide an additional 1/2 space for each dwelling unit proposed. These spaces shall be provided in overflow parking lot areas that are strategically located throughout the parcel to accommodate visitor parking on site.~~

~~The proposal shall meet only the applicable provisions of § 98-25 as determined by the Planning Board and all other applicable provisions of this chapter. A yield or conventional plan is not required.~~

~~In the event that the developer or builder seeks to phase the construction of units, the parking and open space requirements shall be complete as to the particular phase being implemented prior to issuance of building permits for the next succeeding phase.~~

~~Procedures. Except as hereinabove modified, all development proposals shall meet the procedural requirements of § 83-15 of the Code of the Town of Chester.~~

§ 98-21. Signs.

All signs not specifically permitted are prohibited.

A. Residence districts.

(1) Signs permitted.

- a. Real estate signs not exceeding six square feet in area advertising the sale, rental or lease of the premises on which they are maintained. Such signs shall be distant at least 25 feet from any street line or not more than five feet in front of any building that sets back less than 25 feet from the street line.
- b. One nameplate, professional or announcement sign in connection with a residential building, not exceeding two square feet in area.
- c. One identification sign not exceeding 20 square feet in area identifying a place of worship, parish house, religious school building, hospital, nursing home, private school or apartment building or other uses requiring site plan approval. Such sign shall refer only to the premises upon which it is located. Such sign shall not be located in a required yard unless affixed to the wall of a building, except that in no case need it be located more than 25 feet from the street line. Notwithstanding the above, a bulletin board of a place of worship not more than 12 feet square may be placed no closer than 10 feet to a street line.

(2) Regulations.

- a. A ground-mounted sign shall not project more than five feet above the ground.
- b. A sign mounted flush on a building shall not project above the roof line.
- c. No sign or manufacturer's name shall be displayed on an air conditioner or other installation mounted on a building or structure which is visible from the street or adjoining property.

B. RO and LB Districts.

(1) Permitted signs.

- a. Any sign permitted in a residential district according to residential district regulations.

- b. Flat business signs, which shall not project more than 12 inches beyond the building facade and shall not extend above the roof of the building. The total surface display area of flat business signs shall not exceed in square feet two times the number of linear feet of width of the store or building frontage, except that in the case of a corner lot, such square foot display area may be increased by one times the number of linear feet of the length of the store or building which faces the secondary street. Said increased permitted display area shall be used only for the erection of a permitted sign on the length of the building or store which faces the secondary street. Where the premises abut a parking lot, the total display area may be increased by 1/2 times the number of linear feet of the width of the store or other building fronting on such parking lot. Such increased display area shall only be utilized for the erection of a permitted sign on that part of the store or building which abuts said parking lot.

(2) Prohibited signs.

- a. Internally illuminated signs are prohibited.

(3) Regulations.

- a. No sign of any kind shall be painted or mounted on the side of a building facing an adjoining residence district, nor shall signs of any kind be placed in the side yard or rear yard area adjoining a residence district.
- b. In addition to identity and wall signs, gasoline filling stations may have incidental signs indicating services, products, prices, trade information or other information, not including product advertising, which may be attached to the structure or may be listed on one permanently installed sign structure at least 20 feet from any property line.
- c. No products or product containers or signs shall be closer to a street line than 20 feet.

C. GC, OP and IP Districts.

(1) Permitted signs.

- a. For each establishment, one identity sign for each street frontage, each with a maximum area of one square foot for each linear foot of a building facade which fronts on a street.

(2) Regulations.

- a. Signs may be flat wall signs located anywhere on the surface of the building, but in no case shall they project above the roof line, or ground-mounted signs not to exceed five feet in height and set back at least 10 feet from a street line.
- b. Same as [§ 98-21 Subsection B\(3\)\(b\)](#) and (c) above.

(3) Digital standard.

- a. There may be no more than one programmed digital sign on a lot. There may be no more than one automated or interactive digital sign for each business on a lot.
- b. A digital sign, other than a digital billboard, may not allow the display or message to change more frequently than once every eight seconds, with a transition period of one second or less. Messages may not contain the appearance of motion or animation. Transitions between messages may contain the appearance of motion or animation.
- c. A digital sign must have installed an ambient light monitor, which shall continuously monitor and automatically adjust the brightness level of the display based on ambient light conditions consistent with the terms of this article. Certification must be provided to the Town demonstrating that the sign has been preset to automatically adjust the brightness to these levels or lower. Reinspection and recalibration may be periodically required by the Town at its reasonable discretion, at the owner's expense, to ensure that the specified brightness levels are maintained at all times.
- d. Maximum brightness levels for digital signs shall not exceed 5,000 nits or candelas per square meter (cd/m²) when measured from the sign's face at its maximum brightness, during daylight hours. The maximum brightness levels for digital signs shall not exceed 500 nits or candelas per square meter (cd/m²) when measured from the sign's face at its maximum brightness, between sunset and sunrise, as those times are determined by the National Weather Service.
- e. Written certification from the sign manufacturer must be provided at the time of application for a sign permit certifying that the light intensity of the sign has been preset not to exceed the illumination levels established by this section, and that the preset intensity level is protected from end user manipulation by password protected software or other approved method.

- f. Digital signs may not display messages about goods or services that are not sold and delivered or provided on the premises where the sign is located. The foregoing notwithstanding, a digital sign may display messages about public emergencies and public events.
- g. Brightness of digital signs shall be measured as follows:
 - i. At least 30 minutes following sunset, a footcandle meter shall be used to obtain an ambient light reading for the location. This is done while the sign is off or displaying black copy. The reading shall be made with the meter aimed directly at the sign area at the preset location.
 - ii. The sign shall then be turned on to full white copy to take another reading with the meter at the same location.
 - iii. If the difference between the readings is 0.2 footcandle or less, the brightness is properly adjusted.
 - iv. Other requirements. The use, size and location of digital signs, other than digital billboards, must comply with all other relevant regulations and laws of the Town.

D. LB-SL District.

(1) Permitted signs.

- a. Any sign permitted in a residential district according to residential district regulations, but only for the same uses that are allowed in the residential district.
- b. Flat business signs, which shall not project more than 12 inches beyond the building facade and shall not extend above the roof of the building. The total surface display area of flat business signs shall not exceed in square feet two times the number of linear feet of width of the store or building frontage. However, in the case of a store or building on a corner lot, such square foot display area can allow for a second sign facing the secondary or side street equal to the length of the store or building's side wall in linear feet. Said increased permitted display area shall be used only for the erection of a permitted sign on the length of the building or store which faces the secondary street. Where the premises abuts a parking lot, for that portion of the building which faces the area with parked vehicles, the total display area for the area of the building facing the

parking area may be increased by one-half times the number of linear feet of the facade of the store or building which faces the parking area. No additional signage is allowed for an area facing a driveway without parked vehicles. A building facing both a side street and parking area may only increase signage display area by one times the length of the side of the building.

- c. Free-standing ground-mounted signs in a fixed position. No signs shall exceed 12 feet in height. Signs may be 10 square feet per side or 40% of the allowed front wall sign per side, whichever is greater, but at the discretion of the Planning Board under applicable architectural review procedures as provided within the Chester Town Code. If the bottom of the sign is less than seven feet above the ground, a planter or other safety feature must be placed along the base of the sign to prevent people from walking underneath ground-mounted signs. No sign shall be lower than five feet above the ground within five feet of the street right-of-way line.
- d. A maximum of two signs per building are permitted. In the case of multiple businesses on a site, a maximum of one sign is permitted per business (not including directory signs) up to a maximum of two signs per building. However, additional signs may be permitted with architectural review by the Planning Board.

(2) Prohibited signs.

- a. Internally illuminated signs are prohibited. These would include flashing lights, neon lights, backlighted signs and signs with lights which move more than once a minute.
- b. Sandwich board signs located on the ground.
- c. Exposed lamps over 10 watts on any sign.
- d. Mounted or hanging window signs unless they count as the permitted sign for a business.

(3) Regulations.

- a. No sign of any kind shall be painted or mounted on the side of a building facing an adjoining residence district, nor shall signs of any kind be placed in the side yard or rear yard area adjoining a residence district.

- b. No products or product containers or signs shall encroach in or be located in the county right-of-way.
- c. No more than one flag per business shall be displayed during business hours only. Flags must not obstruct views of any other business signs or create a safety hazard. Flags must be a maximum of 10 square feet per side and no multiple flags are allowed on one halyard.
- d. One banner per building may be displayed for a total of no more than 60 days during any calendar year. Such banner shall not exceed 25 square feet. Banners shall be for the purpose of advertising or promoting specific products, activities or events on site or in the LB-SL District.
- e. Community-based signage relative to the Sugar Loaf Area activities or to the Town of Chester shall be allowed subject to the authorization of the Town Board.
- f. American flags, wind vanes and any products intended for sale are excluded from this code.

(4) Multiple directory signs for multiple businesses on a site.

- a. If there are multiple businesses on a site, the size and format of the individual business signs must be consistent. Lettering and coloring may be different for the individual business signs.
- b. Architectural review by the Planning Board is required for the frame and header, but once a standard has been established for a site further review is not required.
- c. Individual businesses within the site are allowed one wall-mounted or perpendicular sign conforming to the above standards.

(5) Notes and exceptions.

- a. All signs in existence prior to adopting this code are grandfathered. Such signs shall be listed by the Code Enforcement Officer within a month of the adoption of this section and maintained in a file in the municipal office.
- b. Signs must be maintained and not allowed to deteriorate.
- c. Upon reoccupancy of a space that included a nonconforming sign, any new sign must conform to this Code.

- d. Any sign now or hereafter existing which advertises a business no longer in operation within the LB-SL Zone shall be removed within 30 days of the closing of that business.
- E. Signs permitted in any district. The following signs shall be permitted in any district, unless specifically prohibited elsewhere within this section, and shall not require a permit:
- (1) Construction signs which identify the architects, engineers, contractors and other individuals or firms involved with the construction, but not including any advertisement of any product, and signs announcing the character of the building enterprise or the purpose for which the building is intended, during the construction period, to a maximum area of 16 square feet for each industrial or commercial use and to a maximum area of four square feet for each firm in all other districts. The signs shall be confined to the site of the construction and shall be removed within 14 days of the beginning of the intended use of the project.
 - (2) Real estate signs advertising the sale, rental or lease of the premises or part of the premises on which the signs are displayed, up to a total area of 12 square feet unless otherwise regulated by Subsection A(1)(a) of this section. Such signs shall be removed within 14 days of the sale, rental or lease of the premises.
 - (3) Political campaign signs announcing the candidates seeking public political office and other data pertinent thereto, up to an area of 32 square feet for each premise. These signs shall be confined within private property and removed within 14 days after the election for which they were displayed.
 - (4) A sign of the temporary poster type erected for temporary use only and displayed inside a business establishment or affixed to the outside of its show window or on the building which houses such establishment, advertising a special sale for a limited time only of goods, services or entertainment on the premises where displayed, or a similar sign not over three square feet in area advertising some civic event.
 - (5) Signs directing traffic movement onto a premises, not exceeding two square feet in area for each sign. Horizontal directional signs on and flush with paved areas are exempt from these standards.
 - (6) Signs of educational, religious, governmental or nonprofit organizations containing general public information, or signs of public, quasi-public,

commercial, industrial or real estate development uses giving directions thereto, which uses are located off of and not clearly visible from a highway or other major street. Such signs:

- a. Shall require approval of controlling agencies when located on street rights-of-way.
- b. Shall not exceed four square feet in area.
- c. May be located on a premises other than that on which the use to which the signs refer is located.
- d. Shall be limited to three signs per use.
- e. Shall be located at least 1,500 feet apart as measured along a street.

F. Signs prohibited in any district.

The following signs and types of signs shall be prohibited in any district:

- (1) Sign, advertising structure or device erected or maintained adjacent to a state park or parkway ~~in violation of § 675 of the Conservation Law.~~
- (2) Signs which contain or are in imitation of an official traffic sign or signal or contain the words "stop," "go slow," "caution," "danger," "warning" or similar words.
- (3) Signs or lights which are of a size, location, movement, content, coloring, shape or manner of illumination which may be confused with or construed as a traffic control device or which hide from view any traffic or street sign or signal.
- (4) Signs which move in any manner, consist of moving devices, have a major moving part or which may swing or otherwise noticeably move as a result of wind pressure because of the manner of their suspension or attachment.
- (5) Billboards and other advertising signs, signs mounted on rooftops and signs which project out from buildings more than one foot.

G. Illumination of signs in any district.

- (1) Signs may be internally lighted or illuminated by a hooded reflector.

- (2) No sign shall have blinking, flashing or fluttering lights or other illuminating device which has a changing light intensity, brightness or color.
- (3) Exposed reflective-type bulbs and strobe lights or incandescent lamps which exceed 15 watts shall neither be used on the exterior surface of any sign so as to expose the face of the bulb, light or lamp to any public street or adjacent property nor be strung in a series of bulbs.

H. Billboards (allowed in Zones GC, OP, LB, I, IP and AL).

(1) General requirements.

- a. Only those existing billboards, installed prior to the effective date of the amendment to this chapter, are permitted in the Town of Chester. Such billboards must be maintained, repaired and upgraded in accordance with the standards set forth herein.
- b. Any double-faced billboard having back-to-back surface display areas, no part of which is more than two feet apart, is considered to be a single billboard.
- c. Billboard structures having more than one surface display area which are tandem (side by-side) or stacked (one above the other) are considered two billboards and are prohibited.
- d. Sphere, spheroid, or similarly shaped billboard (e.g., a ball), shall be prohibited.
- e. The installation or use of a billboard is permitted only to the extent authorized by, and subject to, the provisions of the Town Zoning Law as amended from time to time.

(2) Spacing. These provisions are applicable to replacement of existing billboards. All distances as provided for in this section shall be measured radially from where the surface display area is visible.

- a. No billboard may be located within 75 feet of a property line adjoining a street or within 30 feet of other property lines.
- b. No billboards along NYS Route 17 may be located within 1,000 feet of another billboard (unless preexisting).

- c. The Planning Board may authorize the relocation of a preexisting billboard upon a finding that such relocation would benefit the Town (e.g., protect view shed or be less visually obtrusive) and that such relocation would not increase the number of billboards otherwise allowed pursuant to the provisions of § 98-21H(2)(b) above.

(3) Billboard surface display area; measurement.

- a. The maximum allowable surface display area for a digital billboard is 672 square feet (with a maximum vertical surface of 14 feet) if the property has frontage along NYS Route 17 (Future 1-86). The maximum allowable surface display area for all other billboards at any location is 300 square feet, with a maximum vertical surface of 10 feet.
- b. The surface display area of a billboard shall be measured to include the entire area within a regular geometric form or combinations thereof comprising all of the display area of the billboard, including all of the elements of the matter displayed. Frames and structural members, excluding necessary supports or uprights, shall be included in computation of surface display area.

(4) Height of billboards. The height of a billboard may not exceed 35 feet above the natural grade of the ground on which the billboard is located.

(5) Illumination. A billboard may be illuminated, provided such illumination is consistent with the requirements for a digital billboard as set forth herein, or is concentrated on the surface of the billboard and is located so as to avoid glare or reflection onto any portion of an adjacent street or highway, the path of oncoming vehicles or any adjacent premises.

(6) Appearance. Except for time and temperature signs or digital billboards as otherwise regulated herein, all billboards must be stationary and may not contain any visible moving parts, alternating or moving messages or have the appearance of having moving parts or messages. (See definition as contained in § 98-2, "Signs, digital").

(7) Construction and maintenance. A billboard shall be constructed in such a fashion that it will withstand all winds of 100 miles per hour, and such shall be certified by a professional engineer or registered architect licensed to practice in the State of New York. A billboard shall be maintained so as to assure proper alignment of structure, continued structural soundness and continued readability of message.

(8) Display.

- a. The display or message on a digital billboard, of any type, may change no more frequently than once every eight seconds, with a transition period of one second or less. Messages may not contain the appearance of motion or animation. Transitions between messages may contain the appearance of motion or animation.
- b. The display or message must otherwise comply with Subsection H(3)(b) and the digital billboard must have installed an ambient light monitor, which shall continuously monitor and automatically adjust the brightness level of the display based on ambient light conditions consistent with terms of this subsection.
- c. Maximum brightness levels for billboards shall not exceed 5,000 nits or candelas per square meter (cd/m²) when measured from the sign's face at its maximum brightness, during daylight hours. The maximum brightness levels for digital signs shall not exceed 500 nits or candelas per square meter (cd/m²) when measured from the sign's face at its maximum brightness, between sunset and sunrise, as those times are determined by the National Weather Service. Certification must be provided to the Town Engineer demonstrating that the sign has been preset to automatically adjust the brightness to these levels or lower. Reinspection and recalibration shall be annually required by the Town, in its reasonable discretion, at the owner's expense to ensure that the specified brightness levels are maintained at all times, witnessed by the Town Engineer at the owner's expense.
- d. Brightness of digital billboards shall be measured as follows:
 - i. At least 30 minutes following sunset, a footcandle meter shall be used to obtain an ambient light reading for the location. This is done while the sign is off or displaying black copy. The reading shall be made with the meter aimed directly at the sign area at the preset location.
 - ii. The sign shall then be turned on to full white copy to take another reading with the meter at the same location.
 - iii. If the difference between the readings is 0.2 footcandles or less, the brightness is properly adjusted.

- (9) Other applicable laws. A billboard must comply with all applicable provisions of federal and state law.
- (10) Permitting. Every billboard or modification thereto requires site plan review and approval by the Planning Board. A Town sign permit, by the Building Department, shall be required before installation or modification. Permits shall be reviewed and issued consistent with the terms of this section as well as all other applicable laws of the Town including, without limitation, the Town Zoning Law as amended from time to time. Every applicant for a billboard permit shall file with the application a certificate of insurance, certifying that the applicant is insured against bodily injury and for property damage arising out of the erection, maintenance, repair, and replacement of the billboard. Each applicant, if the permit is granted, shall be required to maintain said insurance and keep a certificate of insurance currently effective on file with the Town so long as the billboard or billboards are in existence. The certificate shall provide that the Town shall receive 10 days' written notice in case of cancellation of the policy. Any billboard in violation of the insurance requirements of this section shall be removed immediately and the cost of such removal shall be charged against the owner of the billboard. Fees set by Town Board.
- (11) The Town may place, at no cost, public service messages up to 5% of the yearly sign time for each sign per year at time chosen by the Town.
- (12) Other requirements. Billboards must otherwise comply with all other relevant regulations of the Town. The Town Engineer and the Building Inspector will enforce this subsection.
- (13) Fees. The fines for violations of this order shall be up to \$1,000 per day as set by the court.

§ 98-22. Off-street parking and loading facilities.

A. Permitted accessory parking.

- (1) There is no limitation on the number of agricultural vehicles permitted accessory to farm uses.
- (2) In residence districts and on residential lots in all districts, licensed automobiles, commercial vehicles under one-ton¹ and motorcycles may be parked on the driveways in the front yard. Utility and recreational camping

¹The term "one-ton" is intended to mean the classification of vehicles, typically a pickup truck with a 2,000-pound payload and not the weight of the vehicle.

trailers, recreational camping vehicles and boats (with or without trailers) shall not be parked in front yards.

(3) In the AR-.3 and SR-1 Districts, one licensed commercial vehicle over one-ton capacity and agricultural equipment may be parked and/or stored in conformance with the following minimum requirements:

- a. In the rear yard only.
- b. Not within the boundaries of a New York State approved realty subdivision or an open area development or within 200 feet therefrom.
- c. Not within 200 feet of any existing off-site residence.
- d. Appropriately screened from adjoining residential uses and the road system.

(4) Regulations controlling contractors' storage yards in the AR-.3 and SR-1 Districts. Licensed commercial vehicles and/or heavy equipment over one-ton capacity may be parked and/or stored on a residential lot, as accessory to a residential use, in conformance with the following minimum requirements.

a. Subject to site plan approval.

a.b. Minimum lot area: ~~three-six~~ acres.

b.c. In the rear yard only.

e.d. Not to exceed four vehicles or pieces of heavy equipment; no one vehicle or piece of equipment to exceed 20 tons.

d.e. Not within the boundaries of a New York State approved realty subdivision or open area development or within 200 feet therefrom.

e.f. Not within 200 feet of any existing off-site residence.

f.g. Appropriately screened by existing natural terrain and/or vegetation from adjoining residential uses and the road system.

~~g. Meets all appropriate performance standards as set forth in § 98-18.~~

B. Prohibited accessory parking.

- (1) In the SR-2 and SR-6 Districts, the following motor vehicles shall not be parked or left standing in any yard area or on a driveway, except for agricultural uses. This subsection shall not be interpreted to prohibit trucks being used in the rendering of a service to a premises.
 - a. Buses.
 - b. Commercial vehicles greater than one-ton capacity, including any motor vehicle designed and used primarily for drawing or towing other vehicles or trailers.
 - c. Recreational vehicles/motor homes exceeding 28 feet in length.
 - d. Boats, boat trailers, all-terrain vehicles (ATVs), and similar vehicles are allowed in rear yards only, except in planned adult communities (PACs) where they are not allowed in any yard area.
- (2) In IP Districts, no off-street parking shall be permitted in the required front yard.
- (3) In residence districts, no off-street parking shall be permitted in any front yard except on the driveways of single- and two-family dwellings.
- (4) Unregistered, wrecked or partially dismantled motor vehicles of any type or design shall not be permitted to be parked or left standing in any yard area of any district.
- (5) In an LB or GC District, no parking shall be permitted within 10 feet of a street line.

C. Required off-street parking.

- (1) No building or premises shall be built or erected, nor shall any building be altered so as to expand its usable floor area, nor shall the use of any building or premises be expanded or changed, unless there is provided a parking area on the lot upon which the use or structure is located in accordance with the Schedule of Off-Street Parking Space Requirements provided in Subsection C(1)(a) and (b), except as provided in Subsection C(2) below.

a. Off-street parking for residential uses.

Schedule of Off-Street Parking Space Requirements for Residential Uses	
Use	Required Spaces ¹
Single-family and 2-family dwelling unit	2 per dwelling unit
Multiple dwellings and town houses ¹	
One-bedroom unit	1.5 per dwelling unit
Two-bedroom unit	1.75 per dwelling unit
Three-or-more bedroom unit	2 per dwelling unit
Senior Housing ²	
Affordable	1.25 per one-bedroom unit 1.50 per two-bedroom unit
Market-Rate and PAC's	1.50 per one-bedroom unit 1.75 per two-bedroom unit per two-bedroom unit 2.00 per three-bedroom unit

¹ Multifamily visitor parking. All multiple dwelling projects shall provide at least one visitor parking space per four dwellings located in proximity to the dwellings they are intended to serve. Location and number of spaces shall be determined by the Planning Board based on site layout.

² Off-street parking for senior housing projects may be reduced for projects in proximity to community facilities or based on project composition as determined solely by the Planning Board. Such reduction in spaces shall be provided in land-banked spaces for up to 50% of the reduced spaces.

[a.b.](#) Off-street parking for nonresidential uses.

Schedule of Off-Street Parking Space Requirements for Nonresidential Uses	
Use	Required Spaces
Animal hospital	1 per 200 square feet of floor area
Auditorium, convention hall, stadium, theater, studio or other place of public assembly	1 per 3 permanent seats or 1 per 40 square feet where fixed seating is not provided
Bowling Alley	3 per alley
Drive-in facility or outdoor sales lot	1 per each 600 square feet of lot area devote to outdoor sales or display. Drive-in facilities will be dealt with in terms of parking requirements based on their principal uses, plus 2 additional spaces for each drive up window
Funeral home	1 per 2 employees, plus 1 per 40 square feet of assembly area floor space
Furniture, appliance or outdoor retail sales	1 per 500 square feet of sales area

Gasoline station, parking garage or repair garage	1 space per each vehicle stored or being serviced at any one period of time plus 5 additional spaces
Golf courses and county club	1 per 2 lockers or other comparable accommodations, plus seating for other facilities provided.
Home occupation or home professional office	3 per office
Hospital	2 per bed
Hotel or motel	1 per guest room, plus one per employee on the largest shift
Industrial, manufacturing or research facility	2 per 3 employees on the two largest consecutive shifts
Nursing home; sanitarium and assisted-care/-living facility	1 per each 3 beds, plus 1 per each 2 employees on the premises at any one time. Assisted living may be treated as housing depending on the level of care provided.
Office building	1 per 200 square feet of floor area for the first 20,000 square feet of floor area, and then 1 per 300 square feet of any additional floor area
Place of worship, library and public building	1 per 5 seats or 1 per 100 square feet of floor area where fixed seating is not provided
Professional office of a doctor or dentist, including home office of a doctor of dentist	5 per doctor or dentist
Restaurant, club, eating or drinking place	1 per 4 seats or 1 per 40 square feet of seating area or as required by the Planning Board for restaurants demonstrating greater parking space needs in the judgment of the Planning Board
Retail store, shopping center and personal service establishment*	1 per 150 square feet of sales and/or customer service area
School, elementary (K-8)	2 per classroom, plus 1 per 5 seats in any auditorium or assembly area
School, secondary (9-12)	4 per classroom, plus 1 per 5 seats in any auditorium or assembly area
Warehouse or wholesale establishment	1 per 500 square feet of gross floor area

NOTES:

*This number is based on the fact that no large shopping centers are anticipated. Any shopping center in excess of 100,000 square feet could require fewer spaces which shall be allowed by the Planning Board without need for variances.

(2) Parking space location; applicability of space requirements.

- a. Required off-street parking spaces may be located elsewhere than on the same lot as the use to which they are appurtenant, provided that they shall be in the same zone as the use to which they are appurtenant, and further provided that the spaces are not more distant from the principal entrance or entrances to the structure they serve than 500 feet in the case of an LB, LB-SL or SR use, 600 feet in the case of a GC use and 800 feet in the case of a manufacturing or industrial use, and provided that all such spaces, through ownership or permanent easement, shall be under the control of the owner or operator of the use to which such spaces are appurtenant.
- b. Non-applicability to existing buildings and uses. In LB-SL Zones, the schedule of off-street parking space requirements provided in Subsection C(1)(a) and (b) shall not apply to any building, structure or use lawfully in existence at the effective date of this chapter, whether continued as a permitted or nonconforming use of same, whether of the same or to a different owner or different permitted use.
- c. Parking for new building or premise construction. Parking for new building or premise construction or alterations so as to expand usable floor area by 3,000 SF or less are exempt from Subsection C(1)(a); or, if over 3,000 SF, parking will be in accordance with the schedule of off-street parking space requirements provided in Subsection C(1)(a) and (b). However, the Planning Board can waive any or all of the requirements for the good of the Town.

D. Computation of spaces.

- (1) Required spaces shall be computed on a basis of 162 square feet per space (nine feet by 18 feet), exclusive of drives or aisles for access or turning movements in said parking areas. Handicap spaces shall be 10 feet by 18 feet or 180 square feet per space, exclusive of drives or aisles for access or turning movements in said parking areas.
- (2) When the number of required spaces results in a fraction, the fraction shall require one parking space.
- (3) Adequate space shall be provided on the lot to permit the placing of automobiles in a position to enter a public street or highway from said parking area in a forward direction.

- (4) If a use is not listed in the Schedules of District Regulations, then the number of required off-street parking spaces becomes the number of spaces required for the use which most nearly approximates the proposed use as interpreted by the Planning Board or as listed for such use in the latest edition of the Institute of Transportation Engineers (ITE) Parking Generation manual.
- (5) When more than one permitted use is located on a premises, the number of required off-street parking spaces becomes the sum of the component requirements. Where it can be conclusively demonstrated that one or more of such uses will be generating a demand for parking spaces primarily during periods when the other use or uses is not or are not in operation the Planning Board may reduce the total parking spaces required for that use with the least requirement.
- (6) Areas which may be computed as the required off-street parking space may include a garage, carport or other area available for parking, other than a street, or a driveway within a front yard of a one- or two-family dwelling, which may be counted as one space.

E. Standards for pavement, maintenance and access.

- (1) Off-street parking areas for more than 10 automobiles shall be adequately paved, graded and drained so as to dispose of all surface waters to the satisfaction of the Town Engineer.
- (2) All off-street parking spaces within any required parking area shall be clearly marked to show the parking arrangement and movement within said parking area.
- (3) All off-street parking areas shall be maintained in good condition. Any shrubs required by this chapter as a buffer for a particular use on the same premises as a parking area, which shrubs are located adjacent to a parking area, shall be protected by a concrete curb, bumper guard or the equivalent, which shall run parallel to said shrubs, be at least five inches in height above the paved surface adjacent to said shrubs and be a sufficient distance therefrom to protect said shrubs from the impact of motor vehicles.
- (4) There shall be adequate provision for ingress and egress to all parking spaces. Access to off-street parking areas shall be limited to several well-defined locations at which curb cuts shall be permitted by the Planning Board. Driveways to each of said curb cuts shall be at least 10 feet in width and no more than 20 feet in width in an LB, LB-SL or residential district, for a use requiring five or more spaces. In a GC or industrial district, driveways to each

of said curb cuts shall be at least 15 feet in width and no more than 30 feet in width. In no case shall there be permitted unrestricted access along the length of the street or streets upon which the parking area abuts.

F. Required off-street loading.

- (1) No building or premises shall be built or erected, nor shall any building be altered so as to expand its usable floor area for any commercial or industrial use, nor shall the use of any premises be changed, unless there is provided loading space in accordance with the use. Every building or structure, lot or land hereafter put into use for business or industrial purposes or for a hospital and which has an aggregate floor area of 4,800 square feet or more in an I or IP District or 15,000 square feet or more in any other district where such uses are permitted shall be provided with off-street truck loading spaces in accordance with the following schedule:

Aggregate Floor Area Devoted to Such Use (square feet)	Required Number of Off-Street Truck Loading Spaces
4,800 to 25,000 in any and I or IP District	1
15,000 to 25,000 in other districts	1
25,000 to 40,000 in all districts	2
40,001 to 100,000 in all districts	3
Each additional 60,000 in all districts	1 Additional

- (2) Shipping or receiving docks for off-street loading facilities shall have adequate access to and from a public street without using said street for maneuvering purposes and shall not be loaded nearer than 200 feet to a residential district.
- (3) Required loading spaces shall be at least 12 feet by 33 feet or of a size suitable for their intended purpose as determined by the Planning Board.

§ 98-23. Minimum habitable dwelling space.

A. Standards. Minimum habitable dwelling space for all types of dwelling units shall be as shown in the following table:

Use	Minimum Habitable Dwelling Space (square feet)
Single-family dwelling units in the AR-.3 and SR-1 Districts	1,200
Single-family dwelling units in the SR-2 and SR-6 Districts	1,200
Multiple-family dwellings, mixed-use residences, apartments and townhouses	
Efficiency units	400
One-bedroom units	600
Two-bedroom units	800
Three-or-more bedroom units	1,000
Two-family dwellings	1,000
PAC dwellings as described in	See § 98-29N(2)(d)[viii]
Senior housing as described in § 98-29T(2)(c)	See § 98-29T(2)(c)

B. Additions. An addition to an existing dwelling shall be permitted even though the addition does not increase the habitable dwelling space or floor area to meet the minimum habitable dwelling space requirements of the Town of Chester.

C. Measurement of habitable dwelling space. Habitable dwelling space shall be calculated in floor area and shall be subject to the following restrictions:

- (1) The minimum clear ceiling height of habitable dwelling spaces shall not be less than seven feet six inches in the first story and not less than seven feet four inches in upper stories.
- (2) In computing the dwelling space of half stories or attics, all portions less than five feet in height shall be disregarded.
- (3) The floor of a cellar, garage, porch or similar part of an attachment to a dwelling shall not be counted as habitable dwelling space.
- (4) In calculating habitable dwelling space, the floor area shall be measured from the outside face or center of the walls enclosing each dwelling and may include all closet space and storage areas contained within the dwelling or apartment unit, but shall not include outside patios, balconies or terraces. In the case of dwelling units above business uses or apartment buildings, utility

rooms or interior hallways used jointly by occupants of more than one dwelling unit in such building shall not be included in the measurement of habitable dwelling space.

§ 98-24. (Reserved)

§ 98-25. Cluster developments.

A. Authority. Pursuant to § 278 of the Town Law, for the purpose of enabling and encouraging the flexibility of design and the development of land in such a manner as to promote the most appropriate use of land, and to further the goals of the Town of Chester Comprehensive Plan, including preserving the scenic and open quality of the Town's rural landscape and protecting historical and agricultural resources, the Planning Board is authorized to approve cluster developments in the Town subject to the conditions of this section, and as is recited elsewhere in the Town of Chester Code.

B. The Town Board further authorizes the Planning Board to review applications for cluster development simultaneously with the approval of a subdivision plat or plats pursuant to Chapter 83, Subdivision of Land.

C. Purpose of regulations and considerations for approval. The Town Board has adopted these regulations for the purpose of establishing the following considerations on which the approval of clustered subdivisions in the Town of Chester shall be based:

(1) Conformance with the applicable parts of the Town of Chester Comprehensive Plan adopted _____ [date to be inserted upon adoption], and as may be amended from time to time, and Chapters 83 and 98 of the Town of Chester Code.

(2) To help achieve the specific community-wide objectives set forth in the Comprehensive Plan, protecting not only cultural landmarks and resources but also their surrounding visual context, protecting significant agricultural lands and resources, and the rural appearance of the Town of Chester, including the preservation of natural assets such as streams, ponds, fields, trees, and critical habitat areas.

(3) Recognition of desirable standards of subdivision design, including adequate provisions for vehicular traffic, for surface water runoff, and for creating suitable building sites for uses permitted in the applicable zoning district or districts.

(4) Provision for the necessary community facilities to support the contemplated use, such as parks and recreation facilities, school sites, firehouses and off-street parking where appropriate.

(5) Provision of adequate utility services in a way that minimizes adverse visual impacts.

D. Applicability. Within any of the Town's residential zoning districts (AR-.3, SR-1, SR-2, SR-6), the Planning Board may, after sketch plan review, require that a proposed subdivision be clustered in accordance with the procedure set forth herein. In addition, an application may be considered a cluster development upon the request of an applicant.

E. Procedure regulations for cluster development. If a cluster plan is proposed or required, the following procedure shall be employed.

(1) Sketch Cluster Plan Review.

- a. Prior to the applicant making any formal subdivision submission, an applicant shall submit a sketch cluster plan to the Planning Board, the purpose of which is to demonstrate to the Planning Board whether the provisions of this section shall apply per the criteria set forth in this section.
- b. The sketch cluster plan submitted need not be based upon surveyed data, but it should contain the following information:
 - i. An assessment of existing conditions on the site to be subdivided using available mapping data and/or photographic images. This initial site assessment shall show the approximate area of the project that constitutes sensitive lands as defined in this section (wetlands, hydric soils, floodplains, stream corridors, steep slopes, streams and clusters of mature trees etc.) and the area that might be classified as developable lands.
 - ii. Information regarding all known restrictions on the use of land, including easements, covenants or zoning district classification.
 - iii. An estimate of the number of lots and/or units that might be accommodated within the project as well as the bulk requirements that may be applied.
 - iv. A broad concept plan to indicate any initial ideas about the location of homes, roads, trails, conservation areas, and utilities.
- c. The Planning Board shall conduct an initial review and discussion with the applicant to determine whether the requested use of clustering appears appropriate and desirable for the site and possible requirements of the project in relation to standards for street improvements, grading, drainage, sewerage, water supply, fire protection and similar aspects, as well as the availability of existing services and other pertinent information. The

Planning Board may request other information it may need in order to determine if the goals listed in this section been addressed and that there are benefits to the Town so that the Planning Board can determine if the plan fulfills the requirements for a clustered subdivision plan.

(2) Yield Plan.

- a. If the Planning Board determines that clustering may be appropriate, it shall direct the applicant to prepare a yield plan to determine the number of residential lots and/or dwelling units, as applicable, which can be obtained by subdividing a given parcel.
- b. A yield plan shall be prepared in accordance with zoning requirements and conventional lot layouts. Each residential lot, its building envelope and the entire subdivision layout must comply with all applicable laws and regulations affecting the use of land, including Town, county, state and federal laws and regulations, and all applicable road requirements, including but not limited to cul-de-sac length limit.
- c. The yield plan shall comply with the basic requirements for a preliminary plat under the Subdivision Regulations (Chapter 83), although the Planning Board may waive specific requirements if it deems that such items are not necessary for consideration of the site and for the determination of allowable density thereon.
- d. The Planning Board shall render a determination of the allowable density based on an acceptable yield plan.
- e. For the purpose of these cluster regulations, the terms "conventional plan" and "yield plan" shall have the same meaning, and a conventional plan found acceptable to the Planning Board shall serve as the yield plan to determine the total number of lots which will be the basis for the cluster or average density plan.

(3) Preliminary/Final Plat Review

- a. Once the Planning Board has agreed that the conventional or yield plan meets all pertinent requirements, then the Planning Board shall hold a preliminary public information meeting at which the applicant will present both the conventional yield plan and the sketch cluster plan and the public will have an opportunity to ask questions and make comments. The hearing shall be noticed in accordance with § 98-31.2.
- b. After the number of residential dwellings or units in a yield plan has been determined, the applicant shall submit a preliminary plat showing the proposed building lots and the open space areas together with other elements as set forth in § 83-30.4.

c. The Planning Board shall review such preliminary plat in accordance with ~~§ 83-10—§ 83-14~~chapter 83 and the State Environmental Quality Review Act.

F. Goals for the preservation of open space. The following goals, as identified in the Town of Chester Comprehensive Plan, shall guide the preservation of open space within a clustered development:

- (1) Preservation of steep slopes
- (2) Preservation of ridgelines.
- (3) Protection or preservation of habitat for threatened or endangered species or species of special concern.
- (4) Buffering and preservation of cemeteries, historic areas and historic buildings.
- (5) Preservation or enhancement of scenic vistas, specimen trees, tree lines and wooded groves, stone walls, etc., and to expand setbacks from existing roads and developed properties to 100 feet or greater where deemed appropriate.
- (6) Creation of recreation areas, trails or other open space, either public or private.
- (7) Preservation of wetlands, drainage areas and floodplains.
- (8) Separation of development from active farmland.
- (9) Preservation of cultural resources.
- (10) Protection of significant agricultural lands and resources.
- (11) Protection of cultural landmarks and resources and their surrounding visual context.
- (12) Protection of the rural appearance of Chester.
- (13) Preservation of natural assets such as streams, ponds, fields, trees and critical habitat areas.

G. Regulations.

- (1) A portion of the required open space may be used for community septic disposal systems, required stormwater management/erosion control facilities, community water supply wells and/or for active or passive recreation at the discretion of the Planning Board.
- (2) Clustered developments shall preserve at least 50% of a site's total acreage as restricted or usable open space. This area may include public or common recreational facilities, community septic disposal systems, required stormwater management/erosion control facilities, community water supply wells and/or active or passive recreation at the discretion of the Planning Board.
- (3) The Planning Board, in its judgment, shall have the right to reduce minimum lot area requirements for clustered developments in order to achieve increased open space preservation or benefits beyond those required or

encouraged by Chapters 83 and 98 of the Town Code and the Town Comprehensive Plan. The floor area limitations set forth in Article X, Floor Area Ratios shall apply. In accordance with § 278(3)(b) of the Town Law, no additional residences may be created and allowed.

(4) Open space areas would include primary conservation areas and/or secondary conservation areas.

- a. Primary conservation areas are areas that are prohibited by existing law or other regulation from residential or other structural development, e.g., water bodies, streams and floodplains, wetlands and their adjacent areas, and areas that constitute significant barriers to development, such as a slope of 25% or more.
- b. Secondary conservation areas are areas that are not included as primary conservation areas but are deemed worthy of protection by the Planning Board. Secondary conservation areas may include passive recreation areas and buffer areas of 50 feet to 100 feet separating development from water bodies, waterways and wetlands, unless such areas are otherwise required to be located in the primary conservation area.
- c. The permissible number of lots determined by the Planning Board from the acceptable yield plan shall be designed to accommodate the mapped primary and secondary conservation areas to the maximum extent feasible. Area to be developed shall be identified first, followed by access road locations, with the lot line delineation as the last step.
- d. Open space areas shall be designed to be visually accessible and, if appropriate, physically accessible to as many lots within the subdivision as practicable, as well as being visually accessible to the general public. Open space areas shall be maintained in as large a contiguous land area as possible. Open space areas in adjoining subdivisions shall, if possible, be interconnected in order to maximize the habitat value and integrity of the open space. Provision of limited pedestrian access to open space areas may be encouraged within the cluster subdivision unless such use is not compatible with the open space preservation such as agricultural lands, historic resources or other resources that may be adversely affected by such use.

(5) Planning Board evaluation of layout; open space ownership and maintenance.

- a. The Planning Board shall evaluate the proposed cluster subdivision layout to determine whether the proposed subdivision:
 - i. Recognizes existing scenic views and vistas; preserves the existing visual character of the site area. This includes protecting the visual character and appearance of the site as viewed from existing public

roads, thereby protecting the Town's open rural streetscape. New construction shall be sited to avoid visual prominence, where possible. Where new construction will unavoidably be visually prominent in visually or culturally sensitive areas, such structures shall be designed and detailed in a manner that is consistent with the appropriate architectural design vernacular. A buffer of at least 50 feet or more, not including access roads, shall be established back from existing roads and lot lines as part of an open space area, and where possible, existing field hedgerows and stone walls shall be preserved.

- ii. Preserves active farm fields and open fields wherever possible, particularly when associated with actual or potential agricultural use or culturally or historically significant houses and agricultural structures such as barns. Farm fields shall be preserved for continued use where possible and appropriate.
- iii. Provides contiguous open space and/or avoids habitat fragmentation. Open space resulting from the subdivision shall avoid fragmenting habitat to the greatest extent possible, in keeping with the resources identified for protection. Open space areas in contiguous subdivisions shall connect where possible in order to maintain wildlife habitat and corridors. Consideration shall be given to simple methods of maintaining land cover types where deemed beneficial by the Planning Board for visual, aesthetic, or habitat purposes. Maintenance measures shall be identified and implemented.
- iv. Minimizes intrusion into wetlands, floodways and floodplains, water bodies and steep slope areas of twenty-five-percent slope or more. Although some intrusion may be necessary in order to obtain road access to the site for building purposes, this should be kept to a minimum. Any pedestrian access that is provided to primary and secondary conservation areas shall also be designed to minimize impacts on these resources.
- v. If appropriate and if desired, provides for pedestrian access to and/or within preserved open space areas for property owners within the subdivision. Such access, if provided, does not imply a right of access to the general public unless explicitly so provided.
- vi. If appropriate and as may be required by the Planning Board, provides for pedestrian needs along the subdivision access road(s) and street tree plantings located outside of the road right-of-way.
- vii. Otherwise achieves the goals set forth in ~~§ 98-25B(2) and § 98-25C.(8)(a).~~

b. Open space ownership and maintenance.

- i. As an integral part of the clustered development plan, the ownership of any resulting open space area must be determined relative to its intended function and the lot layout. Provisions shall be made to ensure the proper management, maintenance and care of the open space area. Its relationship to the lots, its purpose and habitat or other function within the subdivision shall be considered in this regard, including but not limited to periodic maintenance of septic systems and stormwater/erosion control facilities located in open space areas. If the Board determines that it is visually or culturally important for land to be preserved in field or meadow vegetation, then some minimum level of maintenance needed to preserve the ground cover shall be provided. The open space easement area shall be planned with the objective of minimizing maintenance requirements using suitable native landscape elements. The owner(s) of the open space area(s) shall be responsible for all expenses of maintenance and care.
- ii. All lands designed and designated for open space or other purposes of this section that are not accepted for dedication in fee by the Town shall be owned in fee by individual lot owners, a duly established homeowners' association or land trust or conservation organization approved by the Town Board. If a homeowners' association is formed, it shall be mandatory for all lot owners to be members of the association. Adequate provision shall be made to ensure that such common open space or other areas remain dedicated to their approved use, cannot be further subdivided, are adequately maintained and cannot be abandoned for tax or other reasons by the owner(s). A restrictive covenant shall be placed on all land and must recite all deed restrictions which shall run in favor of the Town of Chester as well as the HOA, land trust or homeowners and shall be approved as to form and content by the Town Attorney and filed with the Orange County Clerk prior to the issuance of a building permit.
- iii. Such open areas shall not be improved or used except as shown on the approved subdivision plan.
- iv. The approved plan shall be filed in the Orange County Clerk's office and shall contain reference to recorded declarations setting forth all covenants and restrictions limiting the use of the property and providing for continuing and proper maintenance of the property, as well as any limitations or requirements imposed on the property as

conditions of authorization and approval of the clustered development plan.

v. A clustered subdivision plan shall show the location and dimensions of building envelopes for the clustered residential lots, showing structural and nonstructural uses, including any open space easements. All applicable setback requirements for houses and accessory structures that are proposed to apply to the resulting clustered lots shall be shown. Locations of wells and septic systems, if applicable, shall be shown, along with driveway and other accessway locations.

c. A cluster development containing a homeowners' association (HOA) shall be organized as follows:

i. The Planning Board, in consultation with its attorney, shall review and approve, or approve with modifications, the certificates of incorporation and bylaws of said HOA and to require whatever conditions are deemed necessary to ensure that the intent and purpose of this chapter are carried out. In the considering of said approval, the Planning Board shall, in part, require the cluster development to meet the following conditions:

1. The HOA shall be established as a not-for-profit corporation operating under recorded covenants through which each lot owner and any succeeding owner is automatically a member and each lot is automatically subject to a charge for a proportionate share of the expenses of the organization's activities. Said proportion of the expenses shall be determined by the tax assessment on each owner's property.
2. Title to all common areas, exclusive of land set aside for public schools, shall be placed in the HOA or definite and acceptable assurance shall be given that it automatically will be so placed within a reasonable period of time to be determined by the Planning Board.
3. Each lot owner shall have equal voting rights in the HOA and shall have the right to the use and enjoyment of the common areas.
4. Once established, all responsibility for operation and maintenance of the common areas and facilities shall lie with the HOA.
5. Dedication of all common areas to the HOA shall be recorded directly on the subdivision plat or by reference on the plat to a dedication in a separately recorded document. Resubdivision of such areas is prohibited. The dedication shall:

6. Grant the title to the common areas to the HOA free of any cloud of implied public dedication.
7. Commit the applicant to convey the common areas to the HOA at the approved time to be determined by the Planning Board.
8. Grant easements of enjoyment over the common areas to the lot owners.
9. Give to the HOA the right to borrow for improvements upon the security of the common areas.
10. Give to the HOA the right to suspend membership rights for nonpayment of assessments or infraction of published rules.
11. Covenants shall be established and filed of record, limiting all lots to residential use and all common lands to open space uses prior to conveyance of any lots. No buildings or structures may be erected on such common lands except as shown on the approved plat.
12. Each deed to each lot sold shall include by reference all recorded declarations, such as covenants, dedications and other restrictions, including assessments and the provision for liens for nonpayment of such.
13. The HOA shall be perpetual; shall purchase insurance; pay taxes; specify in its certificate of incorporation an annual homeowner's fee, provision for assessments and establish that all such charges become a lien on each property in favor of said association. The HOA shall have the right to proceed in accordance with all necessary legal action for the foreclosure and enforcement of liens, and it shall also have the right to commence action against any member for the collection of any unpaid assessment in any court of competent jurisdiction.
14. The applicant shall assume all responsibilities as previously outlined for the HOA until a majority of the dwelling sites are sold, at which time the HOA shall be automatically established.
15. Prior to subdivision or site plan approval or the signing of the plans by the Planning Board Chair, the applicant shall file with the Town Board a performance bond to ensure the proper installation of all public recreation and park improvements shown on the site plan and a maintenance bond to ensure the proper maintenance of all common lands until the HOA is established. The amount and period of said bonds shall be determined by the Planning Board, and the form, sufficiency, manner of execution and surety shall be approved by the Town

Attorney and the Town Board. In lieu of bonds, the Planning Board may require completion of said facilities prior to completion of a certain percentage of the dwellings in the project.

b. Conservation, recreation, utility or access easements required by the Planning Board or the Town Board shall be shown on an approved plan and also filed in the office of the Orange County Clerk as a deed restriction in a form approved by the Town Board or Planning Board.

H. Clustering of one- and two-family homes in SR-6 District.

(1) Specific regulations.

a. All development proposals shall be serviced by public water and sewer.

b. Bedroom mix and restrictions. In order to ensure the intended variety of housing mix and opportunities for various households, the following regulations shall apply to each phase of a project unless otherwise noted. The following bedroom mixes or limits shall be required:

i. No single- or two-family dwelling unit shall contain more than four bedrooms.

ii. No more than 40% of all approved dwelling units shall contain four bedrooms.

iii. At least 20% of all dwelling units shall contain two bedrooms. This subsection shall be deemed cumulative and shall be satisfied and of no further effect when 20% of all approvable units contain two bedrooms.

iv. The average number of bedrooms shall not exceed three for the entire project.

c. There shall be provided usable open space/recreation lands at the rate of 800 square feet per dwelling unit.

d. Parking. In addition to the two parking spaces required per dwelling unit, any cluster development shall provide an additional 1/2 space for each dwelling unit proposed. These spaces shall be provided in overflow parking lot areas that are strategically located throughout the parcel to accommodate visitor parking on site.

e. The proposal shall meet only the applicable provisions of § 98-25 as determined by the Planning Board and all other applicable provisions of this chapter. A yield or conventional plan is not required.

f. In the event that the developer or builder seeks to phase the construction of units, the parking and open space requirements shall be complete as to the particular phase being implemented prior to issuance of building permits for the next succeeding phase.

~~Cluster authority. Pursuant to § 278 of the Town Law, for the purpose of enabling and encouraging the flexibility of design and the development of land in such a manner as to promote the most appropriate use of land, and to further the goals of the Town of Chester Comprehensive Plan, including preserving the scenic and open quality of the Town's rural landscape and protecting historical and agricultural resources, the Planning Board is authorized, subsequent to receipt of a subdivision plat in any of the Town's residential zoning districts, to require and approve a cluster development modifying the applicable provisions of Chapter 98, subject to the following conditions: The Planning Board shall conduct an initial review and discussion with the applicant to determine whether the requested use of clustering appears appropriate and desirable for the site. The Planning Board may request other information it may need in order to determine if the goals listed in § 98-25B above and § 98-25C(8) below have been addressed and that there are benefits to the Town so that the Planning Board can determine if the plan fulfills the requirements for a clustered subdivision plan.~~

~~(1)~~

~~(2) This procedure shall be followed at the discretion of the Planning Board if, in the Board's judgment, the application would benefit the Town. In addition, an applicant may request Planning Board review for a cluster development subject to the same criteria as set forth in this section.~~

~~(3) A cluster development shall in no case result in a permitted number of building lots or dwelling units which exceeds the number that could be permitted, in the Planning Board's judgment, if the land were subdivided into lots conforming to the minimum lot size and all other applicable requirements pertaining to the district or districts in which the land is situated. Where the plat falls within two or more contiguous districts, the Planning Board may approve a cluster development representing the cumulative density as derived from the summing of all units allowed in such districts pursuant to all other applicable requirements and may authorize actual construction to take place in all or any portion of such districts. The phrase "all applicable requirements" means not only all applicable local zoning, schedule of use and area requirements, land use laws and subdivision regulations but also any applicable county, state and federal laws, regulations and requirements.~~

~~(4) As a condition of plat approval, the Planning Board may establish conditions on the ownership, use, and maintenance of such open lands shown on the plat as it deems necessary to assure the natural, scenic, agricultural, open space or other characteristics of such open lands.~~

~~(5) No final plat shall be approved by the Planning Board until such conditions are approved by the Town Board where a Town district, easement, road or utility is involved.~~

~~(6) The plat showing such cluster development may include areas within which structures may be located, the height and spacing of buildings, open spaces and their landscaping, open or enclosed off-street parking spaces, streets, driveways, and any other features that may reasonably be required by the Planning Board.~~

~~(7) In no case shall the provisions of this section be deemed to authorize a change in the permissible use of such lands as provided in Chapter 98 of the Town of Chester Code.~~

~~B. Purpose of regulations and considerations for approval. The Town Board has adopted these regulations for the purpose of establishing the following considerations on which the approval of clustered subdivisions in the Town of Chester shall be based:~~

~~(1) Conformance with the applicable parts of the Town of Chester Comprehensive Plan adopted May 1, 2003, and as may be amended from time to time, and Chapters 83 and 98 of the Town of Chester Code.~~

~~(2) To help achieve the specific community wide objectives set forth in the Comprehensive Plan, protecting not only cultural landmarks and resources but also their surrounding visual context, protecting significant agricultural lands and resources, and the rural appearance of the Town of Chester, including the preservation of natural assets such as streams, ponds, fields, trees, and critical habitat areas.~~

~~(3) Recognition of desirable standards of subdivision design, including adequate provisions for vehicular traffic, for surface water runoff, and for creating suitable building sites for uses permitted in the applicable zoning district or districts.~~

~~(4) Provision for the necessary community facilities to support the contemplated use, such as parks and recreation facilities, school sites, firehouses and off-street parking where appropriate.~~

~~(5) Provision of adequate utility services in a way that minimizes adverse visual impacts.~~

~~C. Procedural regulations for cluster development. If a cluster plan is proposed or required, the following procedure shall be employed:~~

- ~~(1) The applicant shall submit a sketch plan for the proposed site, including the data required for a sketch plan and areas to be preserved, to the Planning Board.~~
- ~~(2) The Planning Board shall conduct an initial review and discussion with the applicant to determine whether the requested use of clustering appears appropriate and desirable for the site. The Planning Board may request other information it may need in order to determine if the goals listed in § 98-25B above and § 98-25C(8) below have been addressed and that there are benefits to the Town so that the Planning Board can determine if the plan fulfills the requirements for a clustered subdivision plan.~~
- ~~(3) If the Planning Board determines that clustering may be appropriate, it shall direct the applicant to prepare a yield plan to determine the number of residential lots and/or dwelling units, as applicable, which can be obtained by subdividing a given parcel. A yield plan shall be prepared in accordance with zoning requirements and conventional lot layouts. Each residential lot, its building envelope and the entire subdivision layout must comply with all applicable laws and regulations affecting the use of land, including Town, county, state and federal laws and regulations, and all applicable road requirements, including but not limited to cul-de-sac length limit. The yield plan shall comply with the basic requirements for a preliminary plat under the Subdivision Regulations (Chapter 83), although the Planning Board may waive specific requirements if it deems that such items are not necessary for consideration of the site and for the determination of allowable density thereon. The Planning Board shall render a determination of the allowable density based on an acceptable yield plan. At this time, the applicant can also submit its sketch cluster plan for the Planning Board's initial review. This sketch cluster plan will also be used for the preliminary public information meeting, as discussed below.~~
- ~~(4) Once the Planning Board has agreed that the conventional or yield plan meets all pertinent requirements, then the Planning Board may hold a preliminary public information meeting at which the applicant will present both the conventional yield plan and the sketch cluster plan and the public will have an opportunity to ask questions and make comments. If a preliminary public information meeting is held, the meeting should be noticed in a paper of general circulation 10 days prior to the meeting, and the Planning Board may require additional notification. The Town Board and all residents within 500 feet of the boundary of the cluster subdivision will be notified of the preliminary public information meeting. Notification will be provided in accordance with the same procedures used for preliminary subdivision approval.~~

~~(5) Upon receipt of acceptable cluster and conventional or yield plans as reviewed to determine conformance with the Town regulations, the Planning Board shall begin SEQRA review with the lead agency establishing process.~~

~~(6) For the purpose of these cluster regulations, the terms "conventional plan" and "yield plan" shall have the same meaning, and a conventional plan found acceptable to the Planning Board shall serve as the yield plan to determine the total number of lots which will be the basis for the cluster or average density plan.~~

~~(7) The Town Board will be an involved agency and will be notified at this time of the alternative plans. The Planning Board would proceed through the SEQRA process and issue a negative declaration or findings statement.~~

~~(8) Goals for preservation of open space.~~

~~(a) The following goals, as identified in the Town of Chester Comprehensive Plan, shall guide the preservation of open space within a clustered development:~~

~~(i) Preservation of steep slopes.~~

~~(ii) Preservation of ridgelines.~~

~~(iii) Protection or preservation of habitat for threatened or endangered species or species of special concern.~~

~~(iv) Buffering and preservation of cemeteries, historic areas and historic buildings.~~

~~(v) Preservation or enhancement of scenic vistas, specimen trees, tree lines and wooded groves, stone walls, etc., and to expand setbacks from existing roads and developed properties to 100 feet or greater where deemed appropriate.~~

~~(vi) Creation of recreation areas, trails or other open space, either public or private.~~

~~(vii) Preservation of wetlands, drainage areas and floodplains.~~

~~(viii) Separation of development from active farmland.~~

~~(ix) Preservation of cultural resources.~~

- ~~(x) Protection of significant agricultural lands and resources.~~
 - ~~(xi) Protection of cultural landmarks and resources and their surrounding visual context.~~
 - ~~(xii) Protection of the rural appearance of Chester.~~
 - ~~(xiii) Preservation of natural assets such as streams, ponds, fields, trees and critical habitat areas.~~
- ~~(b) A portion of the required open space may be used for community septic disposal systems, required stormwater management/erosion control facilities, community water supply wells and/or for active or passive recreation at the discretion of the Planning Board.~~
- ~~(c) Clustered developments shall preserve at least 50% of a site's total acreage as restricted or usable open space. This area may include public or common recreational facilities and those areas cited in Subsection C(8)(b) above.~~
- ~~(d) The Planning Board, in its judgment, shall have the right to reduce minimum lot area requirements for clustered developments in order to achieve increased open space preservation or benefits beyond those required or encouraged by Chapters 83 and 98 of the Town Code and the Town Comprehensive Plan. The benefits and goals of clustering can be found in § 98-25B(2) and C(8)(a). For lots reduced in area by greater than 25% below the required minimum lot area, the Planning Board may impose floor area ratios to prevent excessively large residences on smaller lots. In accordance with § 278(3)(b) of the Town Law, no additional residences may be created and allowed.~~
- ~~(9) Bonus density allowed under the former § 98-25C still applies to those projects where an application was submitted to the Planning Board prior to May 2006.~~
- ~~D. Cluster design criteria. After the number of residential dwellings or units in a yield plan has been agreed upon by the Town of Chester Planning Board, the proposed building lots and the open space areas must be identified and shown on a plan.~~
- ~~(1) Open space areas would include primary conservation areas and/or secondary conservation areas.~~
- ~~(a) Primary conservation areas are areas that are prohibited by existing law or other regulation from residential or other structural development, e.g., water bodies, streams and floodplains, wetlands and their adjacent areas, and~~

~~areas that constitute significant barriers to development, such as a slope of 25% or more.~~

~~(b) Secondary conservation areas are areas that are not included as primary conservation areas but are deemed worthy of protection by the Planning Board. Such areas would include, but not be limited to, those listed in § 98-25C(8)(a). Secondary conservation areas may also include passive recreation areas and buffer areas of 50 feet to 100 feet separating development from water bodies, waterways and wetlands, unless such areas are otherwise required to be located in the primary conservation area.~~

~~(2) The permissible number of lots determined by the Planning Board from the acceptable yield plan shall be designed to accommodate the mapped primary and secondary conservation areas to the maximum extent feasible. Area to be developed shall be identified first, followed by access road locations, with the lot line delineation as the last step.~~

~~(3) Open space areas shall be designed to be visually accessible and, if appropriate, physically accessible to as many lots within the subdivision as practicable, as well as being visually accessible to the general public. Open space areas shall be maintained in as large a contiguous land area as possible. Open space areas in adjoining subdivisions shall, if possible, be interconnected in order to maximize the habitat value and integrity of the open space. Provision of limited pedestrian access to open space areas may be encouraged within the cluster subdivision unless such use is not compatible with the open space preservation such as agricultural lands, historic resources or other resources that may be adversely affected by such use.~~

~~(4) Planning Board evaluation of layout; open space ownership and maintenance.~~

~~(a) The Planning Board shall evaluate the proposed cluster subdivision layout to determine whether the proposed subdivision:~~

~~(i) Recognizes existing scenic views and vistas; preserves the existing visual character of the site area. This includes protecting the visual character and appearance of the site as viewed from existing public roads, thereby protecting the Town's open rural streetscape. New construction shall be sited to avoid visual prominence, where possible. Where new construction will unavoidably be visually prominent in visually or culturally sensitive areas, such structures shall be designed and detailed in a manner that is consistent with the appropriate architectural design vernacular. A buffer of at least 50 feet or more, not including access roads, shall be established back from existing roads and lot lines as part of an open space area, and~~

~~where possible, existing field hedgerows and stone walls shall be preserved.~~

- ~~(ii) Preserves active farm fields and open fields wherever possible, particularly when associated with actual or potential agricultural use or culturally or historically significant houses and agricultural structures such as barns. Farm fields shall be preserved for continued use where possible and appropriate.~~
 - ~~(iii) Provides contiguous open space and/or avoids habitat fragmentation. Open space resulting from the subdivision shall avoid fragmenting habitat to the greatest extent possible, in keeping with the resources identified for protection. Open space areas in contiguous subdivisions shall connect where possible in order to maintain wildlife habitat and corridors. Consideration shall be given to simple methods of maintaining land cover types where deemed beneficial by the Planning Board for visual, aesthetic, or habitat purposes. Maintenance measures shall be identified and implemented.~~
 - ~~(iv) Minimizes intrusion into wetlands, floodways and floodplains, water bodies and steep slope areas of twenty-five percent slope or more. Although some intrusion may be necessary in order to obtain road access to the site for building purposes, this should be kept to a minimum. Any pedestrian access that is provided to primary and secondary conservation areas shall also be designed to minimize impacts on these resources.~~
 - ~~(v) If appropriate and if desired, provides for pedestrian access to and/or within preserved open space areas for property owners within the subdivision. Such access, if provided, does not imply a right of access to the general public unless explicitly so provided.~~
 - ~~(vi) If appropriate and as may be required by the Planning Board, provides for pedestrian needs along the subdivision access road(s) and street tree plantings located outside of the road right-of-way.~~
 - ~~(vii) ——— Otherwise achieves the goals set forth in § 98-25B(2) and § 98-25C(8)(a).~~
- ~~(b) Open space ownership and maintenance.~~
- ~~(i) As an integral part of the clustered development plan, the ownership of any resulting open space area must be determined relative to its intended function and the lot layout. Provisions shall be made to ensure the proper~~

~~management, maintenance and care of the open space area. Its relationship to the lots, its purpose and habitat or other function within the subdivision shall be considered in this regard, including but not limited to periodic maintenance of septic systems and stormwater/erosion control facilities located in open space areas. If the Board determines that it is visually or culturally important for land to be preserved in field or meadow vegetation, then some minimum level of maintenance needed to preserve the ground cover shall be provided. The open space easement area shall be planned with the objective of minimizing maintenance requirements using suitable native landscape elements. The owner(s) of the open space area(s) shall be responsible for all expenses of maintenance and care.~~

~~(ii) All lands designed and designated for open space or other purposes of this section that are not accepted for dedication in fee by the Town shall be owned in fee by individual lot owners, a duly established homeowners' association or land trust or conservation organization approved by the Town Board. If a homeowners' association is formed, it shall be mandatory for all lot owners to be members of the association. Adequate provision shall be made to ensure that such common open space or other areas remain dedicated to their approved use, cannot be further subdivided, are adequately maintained and cannot be abandoned for tax or other reasons by the owner(s). A restrictive covenant shall be placed on all land and must recite all deed restrictions which shall run in favor of the Town of Chester as well as the HOA, land trust or homeowners and shall be approved as to form and content by the Town Attorney and filed with the Orange County Clerk prior to the issuance of a building permit.~~

~~(iii) Such open areas shall not be improved or used except as shown on the approved subdivision plan.~~

~~(iv) The approved plan shall be filed in the Orange County Clerk's office and shall contain reference to recorded declarations setting forth all covenants and restrictions limiting the use of the property and providing for continuing and proper maintenance of the property, as well as any limitations or requirements imposed on the property as conditions of authorization and approval of the clustered development plan.~~

~~(v) A clustered subdivision plan shall show the location and dimensions of building envelopes for the clustered residential lots, showing structural and nonstructural uses, including any open space easements. All applicable setback requirements for houses and accessory structures that are proposed to apply to the resulting clustered lots shall be shown. Locations~~

~~of wells and septic systems, if applicable, shall be shown, along with driveway and other accessway locations.~~

~~E. A cluster development containing a homeowners' association (HOA) shall be organized as follows:~~

~~(1) The Planning Board, in consultation with its attorney, shall review and approve, or approve with modifications, the certificates of incorporation and bylaws of said HOA and to require whatever conditions are deemed necessary to ensure that the intent and purpose of this chapter are carried out. In the considering of said approval, the Planning Board shall, in part, require the cluster development to meet the following conditions:~~

~~(a) The HOA shall be established as a not-for-profit corporation operating under recorded covenants through which each lot owner and any succeeding owner is automatically a member and each lot is automatically subject to a charge for a proportionate share of the expenses of the organization's activities. Said proportion of the expenses shall be determined by the tax assessment on each owner's property.~~

~~(b) Title to all common areas, exclusive of land set aside for public schools, shall be placed in the HOA or definite and acceptable assurance shall be given that it automatically will be so placed within a reasonable period of time to be determined by the Planning Board.~~

~~(c) Each lot owner shall have equal voting rights in the HOA and shall have the right to the use and enjoyment of the common areas.~~

~~(d) Once established, all responsibility for operation and maintenance of the common areas and facilities shall lie with the HOA.~~

~~(e) Dedication of all common areas to the HOA shall be recorded directly on the subdivision plat or by reference on the plat to a dedication in a separately recorded document. Resubdivision of such areas is prohibited. The dedication shall:~~

~~(i) Grant the title to the common areas to the HOA free of any cloud of implied public dedication.~~

~~(ii) Commit the applicant to convey the common areas to the HOA at the approved time to be determined by the Planning Board.~~

~~(iii) Grant easements of enjoyment over the common areas to the lot owners.~~

- ~~(iv) Give to the HOA the right to borrow for improvements upon the security of the common areas.~~
- ~~(v) Give to the HOA the right to suspend membership rights for nonpayment of assessments or infraction of published rules.~~
- ~~(f) Covenants shall be established and filed of record, limiting all lots to residential use and all common lands to open space uses prior to conveyance of any lots. No buildings or structures may be erected on such common lands except as shown on the approved plat.~~
- ~~(g) Each deed to each lot sold shall include by reference all recorded declarations, such as covenants, dedications and other restrictions, including assessments and the provision for liens for nonpayment of such.~~
- ~~(h) The HOA shall be perpetual; shall purchase insurance; pay taxes; specify in its certificate of incorporation an annual homeowner's fee, provision for assessments and establish that all such charges become a lien on each property in favor of said association. The HOA shall have the right to proceed in accordance with all necessary legal action for the foreclosure and enforcement of liens, and it shall also have the right to commence action against any member for the collection of any unpaid assessment in any court of competent jurisdiction.~~
- ~~(i) The applicant shall assume all responsibilities as previously outlined for the HOA until a majority of the dwelling sites are sold, at which time the HOA shall be automatically established.~~
- ~~(j) Prior to subdivision or site plan approval or the signing of the plans by the Planning Board Chair, the applicant shall file with the Town Board a performance bond to ensure the proper installation of all public recreation and park improvements shown on the site plan and a maintenance bond to ensure the proper maintenance of all common lands until the HOA is established. The amount and period of said bonds shall be determined by the Planning Board, and the form, sufficiency, manner of execution and surety shall be approved by the Town Attorney and the Town Board. In lieu of bonds, the Planning Board may require completion of said facilities prior to completion of a certain percentage of the dwellings in the project.~~
- ~~(k) Conservation, recreation, utility or access easements required by the Planning Board or the Town Board shall be shown on an approved plan and~~

~~also filed in the office of the Orange County Clerk as a deed restriction in a form approved by the Town Board or Planning Board.~~

~~F. Role of the Town Board. The Town Board hereby gives authority to the Planning Board to approve cluster developments in the Town of Chester in accordance with § 278 of New York State Town Law. The Town Board, however, retains the right to make decisions and give approvals on the following items, which shall be referred to the Town Board following preliminary plat approval:~~

~~(1) The Planning Board shall inform the Town Board of any Town Board actions required to accomplish the clustered development plan. This would include its future dedication of parkland to the Town or acceptance and review of conservation easements for which the town would be named as a holder of said easement.~~

~~(2) The Town Board may be required to make determinations on limitations regarding the ownership and/or use of the open space land resulting from the clustered development, so that the land shall not become a public burden or nuisance.~~

~~(3) A drainage district could be formed by the Town Board, if deemed necessary.~~

~~(4) Other public districts as may be required based on proposed plans.~~

§ 98-26. Ridge Preservation Overlay District.

A. Purpose and policy. Topography in the Town includes dramatic ridgeline elevations running in a generally northeast to southwest direction. These elevations afford sweeping views of the surrounding countryside, and are in turn prominently visible from many other locations, forming the scenic backdrop that is an important visual element in the Town. Much of the more highly developed land in the Town has been concentrated in valleys, as the higher elevations are rocky and steeply sloped, being difficult to build and access, so that these ridges are sparsely developed and heavily wooded. Although many of these lands are either publicly owned or owned in a manner which preempts structural land uses, not all are so protected. Therefore, the Town has enacted the following regulations in order to protect these important visual and aesthetic resources in the Town.

B. Applicability. The provisions of this section shall apply to all applications for land use development including subdivision, special use permits, site plan approval, zoning variances, zoning amendments, building permits for new residential dwellings, dwelling additions exceeding 300 square feet, and accessory structures exceeding 300 square feet, on any parcel of land lying fully or partially within All lands so designated on the Zoning Map within the AR-.3, SR-1 and SR-2 Districts shall be incorporated within the all lands within the mapped Ridge Preservation Overlay District (RPOD).

C. Restrictions and procedures.

(1) Siting of structures:

a. All structures and associated driveways, gardens, terraces, walls, ponds, patios, and utilities are to minimize to the greatest extent practicable all blasting, chipping, cutting, filling, and mechanical recontouring of the natural terrain, and shall also take advantage of the screening potential of existing vegetation and land features.

b. To the maximum extent practicable, structures shall be sited at the lowest feasible elevation in order to be as visually inconspicuous as possible when viewed from any public roadway, taking into consideration the property owner's interest in achieving reasonable views that the property would otherwise allow balanced against the detriment to the public viewsheds of the Town. To the maximum extent practical, all structures shall step with or follow the natural terrain to minimize regrading. Landscaping may be directed by the approving agency as mitigation for negative impacts on such public viewsheds

- c. Existing vegetation shall be preserved and maintained to the maximum extent practicable and additional landscaping (including but not limited to vegetation and foundation plantings) shall be used to ensure that the structure blends with surrounding land features and vegetation.
- d. features that provide scenic importance to ridgeline areas should be preserved to a reasonable extent. These features include but are not limited to individual healthy trees within open fields that are at least 18 inches in diameter at breast height (dbh), historic structures, hedgerows, public or private unpaved country roads, and stone walls.
- e. Clear-cutting of trees in a single contiguous area shall be prohibited, unless expressly permitted as part of an approval for a site plan or subdivision application.

(2) Procedure.

- a. Applications not subject to site plan or subdivision review. The Building Inspector shall review all building permit applications not otherwise subject to Planning Board review for compliance with this section. In the event that the Building Inspector determines that the proposed structure will be visible from Pine Hill Road, Bull Mill Road, Black Meadow Road or a state, county or interstate highway, or otherwise has an adverse visual impact, the Building Inspector shall refer the applicant to the Planning Board for further review pursuant to [the process set forth in § 98-26 \(C\)\(2\).](#)~~(b).~~
- i. Any proposal for construction within the RPOD shall include a survey showing the topography of the parcel and indicating the current areas of vegetative cover of type. Such plot plan shall indicate the proposed location and elevation of the structure, all structural and nonstructural accessories thereto, and proposed grading and vegetation clearing.
- b. Applications subject to site plan or subdivision review.
 - a. ~~The Building Inspector shall have the power to approve building permit applications for such structures pursuant to this chapter if such use has not already been reviewed and approved by the Planning Board. The Building Inspector will also have the power to refer the application to the Planning Board for further analysis if he so deems necessary.~~
 - c. The power to approve the location and dimensional attributes of structures during the subdivision process in the RPOD is given to the Planning Board. The Planning Board shall review applications within the RPOD simultaneously with site plan and/or subdivision review. The Applicant shall submit a survey in conformity with 98-26 (C)(2)(a)(i)

- d. Where the Planning Board makes an initial finding that proposed development could result in an adverse visual impact on the RPOD, it shall review and evaluate the following:
- i. Soil stability analysis. A soil stability analysis shall be submitted to the approving agency to demonstrate that the construction will not compromise the stability of the terrain (including any man-made structure on site) and certified to that effect by a New York State licensed geotechnical engineer. The approving agency may waive this requirement if the Town Engineer advises the approving agency that it is unnecessary owing to the particular conditions of the site and the nature of the requested approval
 - ii. Visual impact analysis. ~~require a visual impact assessment to evaluate the potential visual impacts of the new structures and to minimize the removal of trees and vegetation in accordance with these regulations and the Subdivision Regulations.~~ The visual impact assessment shall include a photographic study taken from designated vantage points or areas along Pine Hill Road, Bull Mill Road, Black Meadow Road or state, county or interstate highways, with the location of the proposed clearing, new structures and its site indicated thereon. Such visual impact analysis may be required to include a verifiable digital photomontage combining an existing conditions photograph with a three-dimensional computer-aided design ("CAD") model of proposed conditions using match points that are in common in both the three-dimensional model and the photograph to create a verifiable visual simulation of the proposal, during leaf-off - no snow conditions, from distances and vantage points as determined appropriate by the approving agency. The Planning Board may waive any requirements of the Code, including the public hearing requirement, when it determines that such requirements are not relevant to the review of the new structure where the Planning Board determines that the new structure will not be visible from any point along a state, county or interstate highway.
 - i-iii. Tree survey. A tree survey shall be submitted showing on the site plan the location, type, and diameter of every tree of five or more inches in diameter, measured 48 inches above the ground that is being proposed to be eliminated. The approving agency may require a photographic record of the vegetative coverage taken from vantage points determined by it to be appropriate given the particular circumstances of the requested approval. In addition, the approving agency may require an inventory of shrubs and plants for purposes of identifying species typically found on the property and determining appropriate compensatory coverage.

~~(2) Any proposal for construction within the Overlay District shall include a survey showing the topography of the parcel and indicating the current areas of vegetative cover of type. Such plot plan shall indicate the proposed location and elevation of the structure, all structural and nonstructural accessories thereto, and proposed grading and vegetation clearing. Said application shall also include an architectural rendering of the proposed structure, indicating the size and shape of the house, its siding color and material, window locations, size and type and roofing color.~~

(3) Any subdivision or site plan showing a potential structure within the RPOD shall have a note referencing this section of the Code or a note indicating detailed plans and restrictions for specific structures for specific lots that have been approved during the subdivision or site plan process along with the restrictions imposed.

D. In reviewing the visibility and compatibility of proposed structures and lot development, the Planning Board shall consider:

(1) The building design.

(2) The location of the building and nonstructural accessories, and any tree clearing required to locate the same. To the greatest extent practicable, tree clearing performed in order to accommodate such construction shall be minimized and carried out so as to avoid creating a larger or significant discontinuity in the surrounding vegetation cover, particularly avoiding situations where a tree line at the peak of a ridge is interrupted so that the backdrop of sky protrudes through such opening. Structures shall be located at lower elevations in order to avoid piercing the ridgeline.

(3) The building color and visibility/reflectivity of broad expanses of window and/or skylight glass. Structures should be finished with earth-tone or neutral colors in order to blend in with the tree cover and should employ nonreflective glass in order to reduce its prominence.

(4) The planting of appropriate native deciduous and/or evergreen vegetation to screen the structure or its accessories.

E. Waiver. The Planning Board or the Building Inspector may waive some or all of the regulatory requirements of this section where:

(1) The structure or area within the RPOD is situated so that it does not create a significant visual impact that cannot be mitigated.

- (2) The Planning Board or Building Inspector finds that the proposed work is of a minor nature and is consistent with the standards set forth in this section.
- ~~(4)~~(3) The use involves agricultural operations.

§ 98-27. FP Floodplain and Ponding Area Environmental Subdistrict.

- A. Purpose. The areas of the Town of Chester which are subject to periodic inundation and ponding, as delineated on the Zoning Map, are designated as floodplain and ponding area subdistricts within the 10 principal districts for the purposes of protecting human life, preventing material losses and reducing the cost to the public of rescue and relief efforts occasioned by the unwise occupancy of areas subject to floods and ponding.
- B. Permitted uses. In the FP Floodplain and Ponding Area Environmental Subdistrict, no structure shall be erected, constructed, reconstructed, altered or moved except as listed below:
- (1) Recreational uses.
 - (2) Conservation areas and wildlife preserves.
 - (3) Agricultural and commercial agricultural operations, structures and accessory uses thereof.
 - (4) Utility structures.
 - (5) Parking facilities.
- C. Exceptions.
- (1) Notwithstanding the above, the Planning Board, upon finding that an area in an FP District described by an application submitted by an owner or his agent is safe from flooding or ponding, may permit such area to be used in accordance with the regulations, including use, area, bulk and height, specified for the principal district. An applicant applying for such permission shall produce sufficient evidence that the area covered by the application is now actually safe from flooding or ponding. Such evidence shall include an indication that means of vehicular access to the premises from an existing street is safe from flooding and may include engineering surveys and reports. Evidence shall also be submitted that sewage disposal, water supply and surface drainage are adequate to serve the intended use.
 - (2) Fill and basement or first-floor elevations shall be approved by the Town Engineer.
 - (3) All development plans for lands located within the Floodplain Subdistrict shall be reviewed by the United States Soil Conservation Service, the Town Engineer and the Orange County Planning Department.

D. Data necessary for plat approval of lands in the Floodplain Subdistrict:

- (1) Topography, using contours at vertical intervals of not more than two feet to an elevation 10 feet above the Floodplain Subdistrict boundary line. All elevations must be based on United States Geological Survey Datum.
- (2) Finished basement or first-floor elevations for all buildings or uses proposed to be located in the FP Subdistrict.

§ 98-28. Architectural Review Board.

An Architectural Review Board is hereby created for the following purposes: to ensure that the distinctive and historical character of the Architectural Design District shall not be injuriously affected, that the value to the community of those buildings having architectural worth shall not be impaired, that said Architectural Design District be maintained and preserved to promote its use for the education, pleasure and welfare of the citizens of the Town of Chester and others; and in all districts to promote architectural beauty and harmony of building design, prevent the monotony of residential housing in rows of buildings which are identical and unduly similar in design or location in relation to streets, and prevent buildings from being improperly designed and located in relation to land contours, lot lines and street lines.

- A. The Planning Board of the Town of Chester shall act as the Architectural Review Board for the purposes of this chapter. The Architectural Review Board shall review plans and specifications for buildings and alterations as follows:
 - (1) In major subdivisions as defined in the subdivision regulations of the Town of Chester.
 - (2) Outside such subdivisions except one-family and two-family residences.
- B. Architectural Design District. That area designated LB-SL on the Zoning Map of the Town of Chester is hereby established as the Architectural Design District.
- C. (Reserved)
- D. It shall be the duty of the Architectural Review Board to exercise aesthetic judgment and maintain the desirable character of the LB-SL District and prevent construction, reconstruction, alteration or demolition out of harmony with existing buildings insofar as style, materials, color, line and detail are concerned and thus to prevent degeneration of property, safeguard public health, prevent fire, promote safety and preserve the beauty and character of the district.
- E. In addition to the aforementioned powers, the Architectural Review Board shall have the power to:
 - (1) Retain or employ professional consultants, secretaries, clerks or other such personnel as may be necessary to assist the Review Board in carrying out its duties.
 - (2) Conduct surveys of buildings for the purpose of determining those of historic and/or architectural significance and pertinent facts about them.

- (3) Formulate recommendations concerning the preparation of maps, brochures and historical markers for selected historic and/or architectural sites and buildings.
- (4) Cooperate with and advise the governing body and other municipal agencies in matters involving historic and/or architectural sites and buildings.
- (5) Advise owners of historic buildings on problems of preservation and restoration.

F. The Board may, in exercising or performing its powers, duties or functions under this chapter with respect to any improvement, apply or impose, with respect to the construction, reconstruction, alteration, demolition or use of such improvement, determinations or conditions which are more restrictive than those prescribed or made by or pursuant to other provisions of law applicable to such activities, work or use.

G. Regulated conduct.

(1) Application within the LB-SL District. This chapter shall apply to all buildings, structures, outbuildings, walks, fences, steps, topographical features, earthworks, paving and signs. No changes in any exterior architectural feature, including but not limited to construction, reconstruction, alteration, restoration, removal, demolition or painting, shall be made except as hereinafter provided.

(2) Exceptions.

- a. Nothing contained in this chapter shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature which does not involve a change in design, material, color or the outward appearance thereof.
- b. Nothing in this chapter shall be construed to prevent the construction, reconstruction, alteration or demolition of any exterior architectural feature which the Building Inspector shall determine is required by public safety because of dangerous or unsafe conditions.
- c. Nothing contained in this chapter shall be construed to prevent, without additional approvals, minor modifications to previously approved signs which include primarily changes in names of businesses, providing such changes are in the same scale, lettering type and color as that previously approved.

H. Procedure.

- (1) Notwithstanding any inconsistent ordinance, local law, code, rule or regulation concerning the issuance of building permits, no change in any exterior architectural feature in the district shall be commenced without a certificate of approval from the Architectural Review Board, nor shall any building permits for such change be issued without such a certificate of approval having first been issued. The certificate of approval required by this subsection shall be in addition to and not in lieu of any building permit that may be required by any ordinance, local law, code, rule or regulation of the Town of Chester.
- (2) Application for a certificate of approval shall be made in writing, in duplicate, upon forms prescribed by the Architectural Review Board, to the Board and shall contain the following:
 - a. Name, address and telephone number of applicant.
 - b. Location of building, structure or land the exterior architectural features of which are proposed to be changed.
 - c. Elevations of proposed change.
 - d. Perspective drawing.
 - e. Samples of color or materials to be used in the proposed change.
 - f. Where a proposed change includes a new, ~~not previously approved~~ sign or lettering, or modifications to the same except as specified in not exempt pursuant to § 98-28G(2)(c), a scale drawing showing the type of lettering, all dimensions and colors; a description of the materials to be used and the method of illumination, if any; and a plan showing the location on the building or property.
- I. Issuance of certificate. Within a reasonable time after application is filed, not to exceed 62 days after such filing, or within such further time as the applicant may in writing allow, the Architectural Review Board shall determine whether the proposed construction, reconstruction or alteration of the exterior architectural feature involved will be appropriate to the preservation of the district for the purposes of this chapter and whether, notwithstanding that it may be inappropriate owing to conditions especially affecting the structure involved but not affecting the district generally, failure to issue a certificate of appropriateness will involve a substantial hardship to the applicant and whether such a certificate

may be issued without substantial detriment to the public welfare and without substantial deviation from the intent and purposes of this chapter. In passing upon appropriateness, the Review Board shall consider, in addition to any other pertinent factors, the historical and architectural value and significance, architectural style, general design, arrangement, texture, material and color of the exterior architectural feature involved and the relationship thereof to the exterior architectural features of other structures in the immediate neighborhood.

- J. Uniformity of design. In order to avoid monotony of architectural design, no building permit shall be issued for the erection of a dwelling located within an approved major subdivision plat if it is substantially like any neighboring building which is existing or for which a building permit is being concurrently considered.
- (1) A building shall be considered neighboring if it fronts on the same street as the building being considered and is the first or second house along the street in either direction or faces the building site being considered from across the street.
 - (2) In considering those items listed in Subsection J(3) below, buildings shall be considered substantially alike in any dimension for which they differ by less than two feet, except 20 feet for setback differences. Buildings between which the only difference in relative location of elements is end-to-end or side-to-side reversal of elements shall be deemed to be alike in related location of such elements.
 - (3) Buildings shall be considered substantially alike unless they differ in at least three of the following respects or dimensions:
 - a. Setback from the street.
 - b. Relation of a garage visible from the street to the principal building.
 - c. Gables extended from the main roof visible from the street.
 - d. A major difference in facing or finishing for the front elevation, such as brick, stone, cedar shakes, aluminum siding, etc.
 - e. The addition of dormer windows, all visible from the street.
- K. In all cases of uses requiring approval by the Architectural Review Board which are outside the Architectural Design District, approval by said Board shall be granted at the time of final subdivision approval, site plan approval or prior to the issuance of a building permit. Application for approval shall be made concurrently with application for the above approvals.

§ 98-28.1. Short-term rentals.

- A. Title. This section shall be referred to as "A Local Law Adding Section 98-28.1 to Article IV, Chapter 98, Entitled 'Short-Term Rentals,' to the Town Code of the Town of Chester."
- B. Purpose and legislative intent. Due to the increase in tourism over the past years in the Town of Chester and adjacent local areas, there has been an increase in the number of property owners renting to tourists on a short-term basis. Many property owners in the Town of Chester list their properties as short-term rentals on web-based booking sites such as Airbnb or VRBO. These short-term rentals offer many benefits to property owners and residents in the Town of Chester, but also have the potential to create health, safety and quality of life detriments to the community. Accordingly, the purpose and legislative intent of this section is to regulate the use and safety of these short-term rentals so as to further secure and promote the public health, comfort, welfare, safety and peace for residents of the Town of Chester.
- C. Authority. This section is adopted pursuant to Article 16 of the New York State Town Law, which expressly grants the Town Board of the Town of Chester authority to adopt local laws for the purposes of promoting the health, safety and welfare of the Town of Chester and its residents. This section is further adopted pursuant to New York Municipal Home Rule Law Article 2, § 10, which grants the Town Board of the Town of Chester the power to protect and enhance the physical environment of the Town of Chester.
- D. Definitions.
- (1) All of the terminology and definitions contained in this chapter which relate to the nature of sound and the mechanical detection and recordation of sound ~~are shall be~~ in conformance with the terminology of the American National Standards Institute or its successor body.
- (2) As used in this ~~chapter~~section, the following terms shall have the meanings indicated:

OWNER-OCCUPIED PROPERTY

Property which the record owner maintains as his or her domicile.

RESIDENT AGENT

An authorized representative of a property owner or landlord who resides within the designated boundaries of Orange County as defined at the time of the issuance of the permit and all subsequent permit renewals and who shall be contacted for emergencies

or other matters that may arise at the short-term rental property. A resident agent must be an individual, not a corporation, limited-liability company or similar entity.

SHORT-TERM RENTAL

Offering any residential dwelling, or space therein, to persons in exchange for a fee or compensation, whether monetary or otherwise, for a period of less than 30 days, including, but not limited to, rentals provided by such companies as Airbnb and VRBO. Excluded from this definition are month-to-month tenancies, bed-and-breakfasts, and hotels and inns which have valid and approved site plans from the Town of Chester Planning Board.

SHORT-TERM RENTAL PERMIT

A permit granted by the Town Building Department for each use of property for short-term rentals.

SHORT-TERM RENTAL PROPERTY

Any real property which is offered and/or rented for short-term.

A. Regulation of short-term rental properties.

- (1) Short-term rentals shall only be permitted in the SR-1, SR-2, LB-SL, and AR-3 residential zones within the Town.
- (2) Previously existing short-term rentals. A short-term rental which was in existence and being operated in any other zones prior to the adoption of this chapter shall be permitted to continue to operate under the following conditions:
 - a. The short-term rental in question possesses a single-family dwelling or legal owner-occupied two-family dwelling;
 - b. The short-term rental in question meets all other criteria provided for in this chapter;
 - c. The short-term rental was in existence as of the date of adoption of this chapter;
 - d. The short-term rental shall be registered with the Town of Chester Building Department within 30 days of the effective date of adoption of this chapter.
- (3) Only single-family and legal, owner-occupied two-family dwellings or a mixed-use structure with a valid certificate of occupancy may be used as a short-term rental property.

- (4) Orange County hotel and motel occupancy tax. All short-term rentals shall comply with the Orange County hotel and motel occupancy tax (Local Law No. 13 of 2009). An operator of a hotel or motel may be responsible for the collection of tax on occupancy of hotel or motel room rentals. Included in the definition of "hotel/motel rooms" are short-term and/or vacation rentals and properties typically listed on sites such as Airbnb and VRBO.
- (5) In the event that a property being used as a short-term rental is located in a development that has an HOA (homeowners' association), written consent from the established HOA must be submitted with the permit application.
- (6) All short-term rental properties must be registered with the Town of Chester Building Department within 30 days of the effective date of this article and/or prior to the premises being used as a short-term rental. It shall be the responsibility of the property owner to register any short-term rental property as required by this chapter. Failure to do so shall constitute a violation of these regulations and is subject to the penalties set forth herein.
- (7) Clear signage is required to be posted within the short-term rental property to ensure the tenants, guests and invitees understand the local ordinances, occupancy limits, parking and garbage rules and have the number of the local contact.
- (8) The property owner is required to maintain a guest registry with contact information which is to be made available to the Town if/when requested.
- (9) No additional parking spaces may be added or constructed between the primary residential structure and the street without prior written approval from the Building Inspector.
- (10) No advertising or signage is permitted on the property of a short-term rental.
- (11) Large gatherings, including, but not limited to, special events and weddings, are prohibited without the issuance of a special use permit from the Building Department. Large gatherings shall be defined as 20 or more people assembling at any given time.
- (12) The following terms and conditions shall apply to all short-term rentals:
 - a. No illegal conduct shall be carried on at the short-term rental property by the property owner, rental tenants, guests or invitees.

- b. A tenant of the short-term rental is prohibited from subleasing or other licensing the use or occupancy of any portion of the short-term rental property.
- c. The property owner and/or resident agent shall make all tenants aware of the Town's noise ordinance. Any conduct in conflict with this ordinance or which is unreasonable under the circumstances and which disturbs the health, safety, peace, or comfort of the neighborhood or which creates a public nuisance is prohibited.
- d. Compliance with all maximum occupancy requirements and restrictions contained in the New York State Building and Fire Code is required and shall be strictly enforced.
- e. All garbage, rubbish and/or recyclables shall be stored and placed by the curb on designated removal days consistent with the Town Code and shall not be left stored in public view unless contained within proper containers.
- f. No trailers, recreational vehicles, campers, caravans or motor homes are permitted to be used as a short-term rental on real property consisting of less than 20 acres. In the event that a trailer, recreational vehicle, camper, caravan or motor home is situate on property exceeding 20 acres and the property owner desires that the same be used as a short-term rental, the property owner is required to submit a request for site plan approval from the Planning Board.
- g. The Building Inspector has the right to determine if and when the property would require fencing or privacy landscaping.

B. Registration of short-term rental properties.

- (1) It shall be a violation of this chapter to offer or engage in short-term rentals unless the rental property has been registered with, and a rental permit is obtained from, the Town of Chester Building Department as provided in this section within 30 days of the effective date of this chapter.
- (2) The registration of short-term rental property shall be accomplished by submitting a completed registration application on a form promulgated by the Town Building Department in accordance with the provisions of this section. Such form shall contain a minimum of the following information:

- a. The name, address, telephone number and email address of the record owner of the property and any designated resident agency they may designate;
 - b. The street address and Tax Map number of the rental property;
 - c. The total number of bedrooms in the rental property;
 - d. Applicable overnight and daytime occupancy limit of the short-term rental;
 - e. If the short-term rental property is not served by municipal water and sewer, proof shall be provided that the on-site utilities have been properly maintained and are in conformance with all applicable standards; and
 - f. The permit application shall be accompanied by proof of liability insurance for the property with policy limits no less than \$1,000,000 per occurrence.
- (3) Upon submission of an application for a short-term rental permit, the property owner shall contact the Building Inspector to schedule an inspection and pay to the Town a permit fee, as prescribed in the Town's schedule of fees. The Building Inspector shall then conduct an inspection of the short-term rental property to determine whether it complies with the Town Code and all applicable New York State laws, rules, regulations, codes and ordinances, and to verify the occupancy limits of the structure.
- (4) Upon completion of an inspection of the short-term rental property and ascertaining that the property meets the Town Code's requirements, the Building Inspector shall issue a registration for the property as a short-term rental and the property will then be eligible to apply for a short-term rental permit.
- (5) Registration for short-term rentals shall remain in effect as long as there is no change in the record owner of the short-term rental property. Upon a change in ownership, the new owners of the short-term rental property shall be required to once again register it before offering it for short-term rentals.
- (6) In the event that the Building Inspector denies an application to register short-term rental property, the property owner may appeal the denial to the Town Board within 30 days of issuance of notice of the denial to the property owner.
- (7) Short-term rental registration may not be transferred to any other person or property or used by anyone other than the person and property to whom it was issued.

(8) In the event that there is any change in the information provided by a property owner in his application for a short-term rental registration, he/she shall advise the Town Building Department, in writing, of such change no later than 48 hours after such occurrence. Failure to advise the Building Department of a change in the information provided by the property owner in his application shall constitute a violation of this chapter.

C. Short-term rental permits.

(1) Official notification for each instance a short-term rental property is rented must be made to the Town of Chester no less than 24 hours prior, and no more than 30 days prior, to each use of the short-term rental property as a short-term rental. Notification may be made via the Town's website on designated forms or can be made in person simultaneously with applications to register short-term rental property on a form promulgated by the Town of Chester Building Department.

(2) The Building Inspector may deny an application for a short-term rental permit if the application is incomplete or the property otherwise fails to meet the criteria for grant of a short-term rental permit.

(3) Short-term rental permits and inspections must be renewed every year.

D. Suspension or revocation of short-term rental rights.

(1) It is the responsibility of the property owner to comply with all terms and provisions of this article and to ensure that short-term rental tenants, guests and invitees comply with this article and the terms and conditions of the rental permit. Any failure of rental tenants, guests and invitees to comply with this article and the terms and conditions of the short-term rental permit shall be attributed to the failure of the property owner to discharge his or her responsibility to ensure such compliance.

(2) Upon receipt of a complaint or upon his/her own initiative, the Building Inspector may investigate any property for failure to comply with the terms of this article.

(3) If, upon investigation, the Building Inspector determines that a violation of this chapter and/or of the terms and conditions of a short-term rental permit has occurred on the rental property, he/she shall issue a written notice of the violation of the property owner and shall provide a copy of the same to the Town Board.

- (4) The Building Inspector may also issue a notice of suspension if it is determined any of the information contained within the permit application is false or if the short-term rental property is found at any time to be in violation of the NYS Building Code or other aspect of the Town Code.
- (5) Revocation and suspension notices shall be in writing, shall identify the property, shall specify the violation or remedial action to be taken, and shall provide that said violation must be corrected within 10 days from the receipt of said violations unless otherwise extended by the Building Inspector. The property owner or resident agent shall take the remedial action prescribed or may file a written notice of appeal received by hand delivery or certified mail by the end of the identified period of remediation. The revocation or suspension of the short-term rental shall be stayed pending either a decision on the appeal by the Town Board or a finding by the Building Inspector that the remedial action is acceptable to correct the violation.
- (6) If more than two violation notices are issued in any twelve-month period, the property owner or registered agent will be suspended from receiving a permit for short-term rental for six months. There will be no deduction or refund of fees.
- (7) If the property owner and/or agent continues to operate while under suspension, the Building Inspector has the right to automatically revoke the short-term rental permit and issue an appearance ticket.

E. Fees for registration and issuance of permits. The Town Board shall set such application and permit fees as it may find appropriate for short-term rentals by resolution, and such fees shall be listed in the Town's Schedule of Fees.

F. Penalties for offenses.

- (1) Violations of this article will constitute a municipal violation and will be subject to applicable penalties under this article. The penalties for violation of this chapter shall be in addition to any penalties imposed for violations of other provisions of the Town Code and NYS Uniform Fire Prevention, Building Code and Energy Conservation Code.
- (2) Conviction of violation of the provisions of this article shall be punishable by fine of not more than \$500 per violation and \$750 per day for subsequent offenses.
- (3) The imposition of penalties herein prescribed shall not preclude the Town or any person from instituting appropriate legal action or proceeding to prevent

unlawful short-term rental of a property in violation of this article, including, without limitation, civil actions for injunctive relief to immediately terminate any existing short-term rental occupancy of buildings, land or premises.