

## Article V. Planning Board

### § 98-29. Special requirements for specific uses.

These uses shall require site plan approval by the Planning Board. The uses set forth herein shall, in addition to the general zoning restrictions set forth in Chapter 98, comply with the conditions below. Said uses shall be subject to site plan approval, and where noted, special use permit approval, by the Town of Chester Planning Board. See Schedule of Use and Area Requirements:

#### A. ~~Annual membership clubs providing~~ Outdoor recreational facilities.

- ~~(1) Membership clubs shall be conducted as a service to members and not as a business enterprise.~~
- (1) Permitted uses for a membership club include outdoor recreational facility include field or court sports, swimming pools, fitness equipment or training facility, golf course, driving range, batting cages, obstacle course or go-carts located entirely or partially outside private playgrounds, golf clubs with or without restaurant facilities, swimming pools not closer than 150 feet to any lot line, tennis courts and clubhouses.
- (2) Permitted accessory uses may include food service and bar, retail of related sporting goods
- (3) Prohibited uses for a membership club outdoor recreational facilities include the use of any kind of motorized vehicle such as stock cars, go-carts, motorbikes, ATVs, snowmobiles, etc., outdoor firing ranges and outdoor use of firearms, outdoor archery, outdoor paintball facilities and and outdoor public-address systems. Nothing in this prohibition against the use of motorized vehicles shall be construed to forbid the use of motorized equipment such as lawn mowers and the like in the course of maintaining the facility; nor shall it be construed to prohibit the use of motorized golf carts for the use of golfers at golf courses membership club.

#### B. Automotive repair garages.

- (1) The requirements of Subsection J(1) through (5) of § 98-29(J) shall apply if a filling station is included on the site.
- (2) Entrance and exit driveways should be located at least 10 feet from any side or rear property lines. Such driveways shall be so laid out as to avoid the necessity of any vehicles backing across any accessway.

- (3) The area devoted to the outdoor storage of motor vehicles or parts thereof, for any purpose other than daily parking, shall be screened from view of persons on adjacent streets or property by enclosing such areas with a solid opaque fence or wall eight feet high or locating them inside a building.
- (4) Premises shall not be used for sale, rent, or display of automobiles, trailers, mobile homes, boats, or other vehicles.

C. Bed-and-breakfast; bed-and-breakfast inn.

- (1) Room rental shall be for transient usage only. There shall be a limit of not more than 14 consecutive days for the length of stay by any guest.
- (2) Hard-surfaced walkways equipped with low-level lighting shall be provided from the parking spaces to the bed-and-breakfast/bed-and breakfast inn entrance.
- (3) If any outside recreation or any other exterior improvements exist or are planned to be constructed for use of the guest of the bed-and-breakfast/inn, those improvements shall be part of the approved site plan.
- (4) Bed-and-Breakfast as defined by § 98-2 shall be subject to the following restrictions:
  - a. The operator of the bed-and-breakfast establishment shall be an owner of the property and an occupant of the single-family residential dwelling to which the guest rooms are accessory.
  - b. Bed-and-breakfast establishments shall be permitted accessory only to single-family detached dwellings. However, in no case shall bed-and-breakfast establishments be permitted as an accessory use to a single-family detached dwelling having physical access only to a private road. The driveway serving the bed-and-breakfast residence shall have direct physical access to a public road.
  - c. Full vehicular turnaround for the single-family detached dwelling and the bed-and-breakfast residence shall be provided unless the Planning Board waives such turnaround requirement for lots having frontage on an access to a minor street.
  - d. The establishment and operation of the bed-and-breakfast residence shall not alter the appearance of the residence structure as a single-family detached dwelling.

- e. Not more than four bedrooms of the single-family detached dwelling shall be permitted to be used for rental purposes. Upon conversion of any portion of floor area in the single-family residential dwelling to a bed-and-breakfast residence establishment, the dwelling shall retain at least one bedroom for the exclusive use for the owner of the dwelling to which the bed-and-breakfast residence is accessory.
- f. The sanitary and water supply systems serving the dwelling shall be found to be adequate to meet the needs of the dwelling, together with the bed-and-breakfast residence use, and adequate waste enclosures shall be provided to contain the solid waste generated by the use. Water supply quality and quantity testing shall be specified by the Planning Board, performed prior to approval, and the Planning Board shall ensure that septic areas provide for adequate expansion area according to Health Department requirements. Parking shall be provided to meet the residence requirement, together with one additional space for each bed-and-breakfast bedroom, plus adequate restaurant parking for a bed-and-breakfast inn.
- g. In addition to the off-site parking required by § 98-22, there shall be one additional parking space for each bed and breakfast bedroom.
- h. Food service shall be limited to those renting rooms.

(2)(5) Bed-And-Breakfast Inns as defined by § 98-2 shall be subject to the following restrictions:

~~The sanitary and water supply systems serving the dwelling shall be found to be adequate to meet the needs of the dwelling, together with the bed and breakfast residence use, and adequate waste enclosures shall be provided to contain the solid waste generated by the use. Water supply quality and quantity testing shall be specified by the Planning Board, performed prior to approval, and the Planning Board shall ensure that septic areas provide for adequate expansion area according to Health Department requirements. Parking shall be provided to meet the residence requirement, together with one additional space for each bed and breakfast bedroom, plus adequate restaurant parking for a bed and breakfast inn.~~

~~(3) Hard surfaced walkways equipped with low level lighting shall be provided from the parking spaces to the bed and breakfast residence entrance.~~

~~(4) If any outside recreation or any other exterior improvements exist or are planned to be constructed for use of the guest of the bed and breakfast residence, those improvements shall be part of the approved site plan.~~

~~(5)(1) Food service shall be limited to those renting rooms.~~

a. Bed-and-breakfast inns shall not be subject to the limitation on the number of rooms rented and to the owner-occupancy requirements of Bed-and-Breakfasts in Subsection C(1) and (5) above. However, an owner or manager shall be on site at all times.

b. Bed-and-breakfast inns may have full-service restaurants as a permitted accessory use subject to site plan approval.

c. Bed-and-breakfast inns ~~must shall~~ be located fully within a one-mile radius of the Sugar Loaf LB-SL zoning district District with direct access to a state or county highway or Town collector road.

~~d. Bed-and-breakfast inns shall be subject to the requirements of Subsection C(6) through (9) above~~

~~d.~~ The sanitary and water supply systems serving a bed-and-breakfast shall be adequate to serve the premises when fully occupied and in accordance with applicable state and county health requirements.

e. Parking shall comply with the requirements of a hotel or motel as set forth in § 98-22.

D. Building contractor's office and equipment yard.

(1) All open, unenclosed or partially enclosed storage of building contractor's material and/or equipment shall be limited to the side or rear yards of a parcel where allowed, but not within the required side or rear yard setbacks. Such storage areas shall be specifically designated on an approved site plan; and no storage shall take place except in areas specifically approved for such purpose.

(2) The Planning Board may require the storage of some types of building materials within an enclosure if it deems necessary to retain the material on the site or for other appropriate public health, safety and welfare reasons.

- (3) All open or unenclosed storage of material and/or equipment shall be screened so as not to be visible from adjacent parcels or streets. Such screening shall be required to be maintained for the duration of the use.
- (4) Equipment or material may be stored within a fully enclosed structure with no limitations, subject to the building setback requirements.
- (5) No repair or washing of equipment or material shall take place on the site without the express approval of the Planning Board.

#### E. Cemeteries.

- (1) In areas that are not served by central water supplies, interments shall not take place within 100 feet of a property line, or within 200 feet if located above-grade of residentially zoned parcels.
- (2) ~~Provision shall be made to restrict vehicular access~~ shall be restricted during nonbusiness hours.
- (3) Internal site roadways shall be not less than 15 feet wide and finished with a dustless surface.
- (4) Any structures located on the site such as an accessory office or storage, garage and equipment building shall be located a minimum of 50 feet from any property line.

#### F. Religious institution.

- (1) Buildings shall be set back a minimum of 50 feet from any property line.
- (2) All structural as well as nonstructural uses of the property shall be indicated and identified on the site plan. Nonstructural uses, including but not limited to picnic areas, play areas, gathering areas, etc., are required to be shown on the site plan.
- (3) ~~Outdoor public address systems are prohibited.~~ shall comply with the decibel restrictions for the district in which the religious institution is located as set forth in Chapter 66, "Noise Pollution Control."
- (4) Access and circulation.
  - a. ~~Whenever~~ To the greatest extent practicable, primary ingress and egress to and from the lot shall be via the highest service level adjacent road,

such as a county or state highway. Applicant shall demonstrate that sufficient site distance and access for emergency vehicles to enter the site in accordance with the New York State Fire Code.

- b. Access drive(s) shall provide for safe and adequate ingress and egress to and from the site complying with sight distance requirements for municipal road intersections.
- c. Safe and adequate internal vehicular site circulation patterns shall be provided for cars and/or buses if applicable. If a drop-off area is provided near ~~the a~~ building, one-way traffic patterns must be provided for the drop-off area. Internal circulation patterns in the parking lot(s) and around the building shall minimize pedestrian/vehicular conflict.
- d. Traffic flows shall be designed to ensure the least possible impact on neighboring properties and ~~residential~~ streets
- e. Truck deliveries shall not occur anytime between 8:00 p.m. and 7:00 a.m.
- f. Attendance at any services, wedding receptions or other social or religious functions held at religious institution shall be limited to the capacity as determined by the applicable building codes of New York State, as well as the available on-site parking. Such events demanding parking in excess of the available on-site shall require a parking management plan (PMP) to be submitted for approval by the Planning Board as part of the application establishing a religious institution, pursuant to the requirements set forth below. The PMP shall be used to address parking demand during the maximum projected attendance at the maximum building capacity, for holy days or other large, planned events for the particular place of worship making the application. Such PMP shall be provided to the Chester Police Department, the applicable fire department and the office of the Town Clerk. If a PMP is required as part of the special permit process, the applicant shall address the following:
  - i. Designated off-site parking areas. The applicant shall submit a fully executed written agreement between the applicant and one or more providers of a location for off-site parking;
  - ii. The applicant shall indicate implementation of group travel to and from the off-site parking locations by the use of shuttle vehicles;
  - iii. The applicant shall use traffic control measures such as the hiring of an off-duty police officer and/or volunteers to facilitate pedestrian flow, as well as on-site and off-site traffic;

- iv. The applicant shall provide a notification process to notify patrons of the religious institution and others regarding the locations of off-site parking areas to be used;
- e. —
- g. Off-street parking shall be provided at a minimum of one space per five seats, or one space per 100 square feet where fixed seating is not provided.
- (5) All structures and parking shall be screened from adjacent properties by evergreen plantings of sufficient height and diameter. The width of the planting screen shall not be less than 25 feet, and the Planning Board may require a wider buffer to meet this objective.
- (6) Religious institutions and uses shall demonstrate adequate sewer and water capacity to serve the intended use. To the greatest extent practicable, Religious uses should be situated on sites with access to public water and sewer infrastructure.
- (7) The principal building and accessory uses must be on a contiguous site.
- (8) Accessory uses shall be subordinate in area, extent, and purpose to the principal use and may include parish houses, day-care facility, nursery schools, meeting halls, and required parking and loading areas. Day-care facilities shall comply with the requirements set forth in § 98-29(H).
- (8)(9) A school of general instruction established at the site of a religious institution shall not be considered as accessory to the religious institution, but rather as an additional principal use. Where a school and a religious institution are located on the same lot, the cumulative minimum lot area of each principal use shall be satisfied.
- (9)(10) All exterior lighting shall be shielded and/or directed away from residential areas.
- (10)(11) Trash facilities shall be screened from view and designed and located appropriately to minimize potential noise or odor impacts to adjacent residential areas.
- (12) Outdoor activity areas shall be oriented away or sufficiently buffered from adjacent residential areas to prevent disturbance of the peaceful use of such areas by residents.

(11) With the exception of waivers to the New York State Uniform Code over which the Planning Board has no jurisdiction, the Planning Board shall have discretion to waive these conditions but only to the extent necessary if the same place a substantial burden on the religious exercise of a person, religious assembly or institution.

G. Conversion of a single-family home to a two-family dwelling.

- (1) Lot area requirements are 175% of the requirement for a single-family dwelling.
- (2) Conversion of the dwelling shall not impair the appearance of the dwelling as a single-family detached structure, so as to make the building appear incompatible with the appearance of surrounding residential neighborhood.
- (3) A minimum habitable area of 750 square feet shall be provided for each unit.
- (4) Adequate parking, water supply and sanitary disposal must be provided for both units. The location of the existing well and septic system shall be shown on the site plan. Expansion of the septic system and/or a new well may be required if there is evidence that their capacity is not adequate for the units proposed, based upon current engineering and health standards of the Town, county or state.
- (5) Each dwelling unit shall contain its own separate and private bathroom and kitchen facilities wholly within each dwelling unit.

H. Day-care facilities (day-care centers and nursery schools). The following regulations pertain to day-care facilities wherein permitted pursuant to this chapter and subject to Planning Board site plan and special use permit approval; ~~pursuant to § 98-30:~~

- (1) Intent. The Town of Chester finds that our children are a precious natural resource and, as such, deserving of high-quality care and attention, especially during the critical early formative years. In today's economy, many parents are employed outside the home and must provide care for their children. The Town finds that it is in the best interest of the community to promote opportunities for child care and to make certain that such care is regulated to the extent that each child may be free from harm, injury or threat thereof.
- (2) Regulations.

a. Family Day Care Homes and /gGroup family-Family dayDay-care-Care homes Homes as defined herein in § 98-2 shall be a permitted as accessory home occupation as designated on the Schedules of Use and Area Requirements.

i. Such use shall be contained within the home and be clearly incidental and subordinate to the dwelling.

ii. Such use shall not operate in the Town until a valid New York State Department of Social Services license is filed with the Town Code Enforcement Officer.

b. Day-care centers and nursery schools. All day-care centers and nursery schools shall meet the following requirements, which shall be considered as minimum standards, and/or the most recent regulations of the New York State Department of Social Services, whichever shall be the most stringent:

i. Indoor area.

(a) The minimum usable indoor area, excluding hallways, kitchens, bathrooms and offices, shall be 35 square feet per child enrolled.

(b) Such area shall be located on the first or second floor only, as per New York State Department of Social Services Regulations for age group.

(c) No such area shall be permitted in a space that is more than four feet below average finished grade.

ii. Outdoor recreational/play area dimensions.

(a) All day-care centers and nursery schools shall provide at least 200 square feet of outdoor play space per child. The play space shall be located no nearer than 50 feet to any lot line and no nearer than 100 feet to any adjacent residential structure on a slope not to exceed 5%.

(b) Said recreational/play area shall not be located in the front yard; it shall be situated in either the rear or side yard or a combination thereof.

(c) The recreational/play area shall be free from any conditions which are known to be hazardous and/or dangerous to the health and safety of the children using the areas.

(d) The recreational/play area shall be properly fenced, landscaped, buffered and/or screened to prevent adverse impacts to the

surrounding properties. Said screening shall not be required if the facility is located contiguous to a permanent open space area.

- iii. Dropoff/pickup area.
  - (a) Each day-care center defined herein must provide an off-street dropoff/pickup area.
  - (b) The dropoff/pickup area must be completely separated and partitioned off from the on-site recreational/play area.
  - (c) The dropoff/pickup area must provide direct access to the facility.
  - (d) Said dropoff/pickup area must provide one-way traffic flow onto and off the property and/or a separate standing area.
- iv. Off-street parking. There shall be provided one space per five children, plus one space per classroom or staff member, whichever is greater.
- v. Sanitary facilities of one toilet and one washbasin per 15 children shall be provided.
- vi. Each day-care center and nursery school as defined herein must provide for proper heating, ventilation and lighting for the safe and adequate protection of the health of the children. Rooms must be properly screened to protect the children from insects.
- vii. Each day-care center and nursery school as defined herein shall keep all noxious, toxic and/or otherwise harmful equipment and/or chemicals in a separate, locked storage area, an adequate and safe distance from the usable areas inside and outside the facility.
- viii. No portion of a facility as regulated herein shall be located within 300 feet of gas line pumps, underground gas line or oil storage tanks or any other explosive materials.
- ix. No day-care center or nursery school as defined herein shall be located in a private residence unless that portion of the residence where the facility will be operated is designed and used exclusively for children during the hours of operation and/or is completely separate from the living quarters. Such portion of the residence used for day care or

nursery school shall meet all applicable health and building code requirements.

- x. Staff requirements. Staff/child ratios and staff qualifications shall be as specified under 18 NYCRR part 418, as may be amended, 418.12(e) for day-care centers and 8 NYCRR Part 125, as may be amended, for nursery schools.
- xi. Nutrition. Snacks and/or meals shall be provided as per guidelines set forth in 18 NYCRR Part 418, as may be amended, and 8 NYCRR Part 125, as may be amended, for day-care centers and nursery schools, respectively.

(3) Documentation required.

- a. All applications for day-care centers and nursery schools shall include the following information:
    - i. A site plan, including outdoor recreational space, parking areas, dropoff/pickup areas, emergency equipment/vehicle access, screening buffering landscaping and abutting property uses.
    - ii. An interior floor plan, including planned occupancies or uses of all interior areas, with dimensions, entrances/exits, toilets, stairwells, fire/smoke detectors, sprinkler system, etc.
    - iii. Reports from the Town Code Enforcement Officer, Fire Marshal and County Health Department that facilities meet applicable codes.
    - iv. A certificate of insurance evidencing a current effective personal injury liability policy covering the use and operation of the premises as a day-care center or nursery school as per respective New York State requirements.
  - b. All day-care center applications shall show evidence of a licensing by the New York State Department of Social Services and full compliance with the requirements thereunder.
  - c. All nursery school applications shall show evidence of registration with the New York State Department of Education and full compliance with the requirements of 8 NYCRR Part 125.
- I. Fast-food, drive-through and drive-up establishments.

- (1) ~~Compatibility. Before approving any fast-food or drive-up or drive-through establishment, the Planning Board shall consider and regulate the following: shall be subject to the following:~~
- a. Vehicular traffic movements and potential hazards to pedestrian safety. All drive-through aisles shall exit into a parking area or onto a side street and not directly onto Route 17M.
  - b. ~~Proposed signs, lighting, speaker noise where residential properties are located nearby and landscaping. Signs shall be in accordance with § 98-21.~~
  - c. ~~Speakers shall be at a volume that is in accordance with Chapter 66, Noise Pollution Control and shall not adversely impact adjoining residential properties.~~
  - d. ~~Lighting shall be shielded and directed away from residential areas and shall further comply Chapter 69, Outdoor Lighting.~~
  - b.e. Landscaping shall be installed in compliance with this chapter.
  - e.f. Parking shall be adequate for the type of facility proposed, with three additional short-term spaces devoted specifically for pickup or order delays for each drive-up, drive-through, walk-up or pickup window or area inside or outside the building.
  - d.g. Public roads and internal drive aisles shall not be blocked by waiting drive-through traffic.
  - e.h. Parking areas and circulation drives shall be adequately separated so as to avoid conflict between parked cars and waiting drive-through traffic.
  - f.i. Adequate stacking space will be provided for waiting drive-through vehicles such that these vehicles do not interfere with site vehicular or pedestrian circulation.
- (2) Conditions. Any such use shall meet the following conditions of operation:
- a. Provision of sufficient security to prevent the use of the premises as a loitering place during hours of operation.

- b. Provision of adequate facilities and personnel for disposal of trash and other debris.
- c. Provision of continuing maintenance of the exterior of the building and the grounds, including landscaping, signs and policing of litter.

J. Gasoline filling stations.

- (1) The lot area shall be not less than 20,000 square feet and have a minimum frontage along the principal roadway of at least 200 feet.
- (2) No church, school, library, playground or similar place of public assembly shall be within 500 feet of the site.
- (3) All fuel pumps and tanks shall be located at least 25 feet from any building, structure or street line.
- (4) Fuel pump canopies may be located in a required front yard, but shall be located with a front yard setback of at least 25 feet unless otherwise restricted.
- (5) Premises shall not be used for the sale, rent or display of automobiles, trailers, mobile homes, boats or other vehicles.
- (6) Convenience stores located on the same lots as a filling station shall be limited to 1,000 square feet in total area, and larger stores shall require larger minimum lot areas as follows:
  - a. Stores 1,001 to 2,500 square feet in area shall require lots of 30,000 square feet;
  - b. Stores 2,501 to 4,000 square feet in area shall require lots of 40,000 square feet; an
  - c. Stores with drive-throughs shall require lots of 60,000 square feet.
- (7) Diesel fuel pumps shall be no more than 25% of all retail fuel pumps.
- (8) Car wash facilities shall be allowed as part of a filling station. Where car wash facilities are provided, the applicable provisions of § 98-29I as regulating the drive-through element shall apply.

K. Manufacturing, assembling, converting, altering, finishing, cleaning or other processing of products in reference to the LB-SL District. This use shall apply to manufacturing, assembling, converting, altering, finishing, cleaning or other processing of products where goods so produced or processed are to be sold exclusively on the premises, provided that:

- (1) Not more than two employees are engaged in such production or process.
- (2) The area used for the production process shall be fully concealed from any street or residence and shall be not greater in area than 50% of the area devoted to retail use.

L. Motels or hotels.

- (1) ~~One thousand five hundred~~ 1,500 square feet of lot area is required per room.
- (2) Permitted accessory uses include a restaurant or coffee shop not to exceed 10% of the site, an auditorium or conference center, a swimming pool and related facilities for the exclusive use of guests.
- (3) Where the use of conference facilities is not strictly limited to overnight guests, additional parking shall be provided for the conference center as a separate use with not more than 20% credit granted for overlapping parking use.
- (4) Motels or hotels shall permit transient guests only, for stays limited to not more than 14 consecutive nights.

M. Motor vehicle sales garages or dealerships, including repair, service, and sales.

- (1) This category shall include repair, service and sales of the following: automobiles, camper trailers and mobile homes, trucks, boats, ~~and snowmobiles, and the like.~~
- (2) Vehicle lifts or pits, dismantled or wrecked autos, all parts, supplies and major maintenance and servicing shall be located within a fully enclosed building.
- (3) If fuel pumps are to be included at the site, no gas pump shall be within 30 feet of any lot line. Adequate vehicular circulation area shall be provided around the pumps so that a vehicle that is being fueled does not obstruct site circulation.

- (4) Adequate parking shall be provided for vehicles being serviced on the lot at any one time.
- (5) Area(s) to be used for parking and/or displaying vehicles for sale shall be specifically shown on the site plan. In no case shall vehicles for sale be allowed to be parked or displayed so as to impede sight distance or to create any other potentially hazardous condition.
- (6) Car wash facilities may be included with such use solely for maintenance of vehicles being serviced or sold.

N. Planned adult communities.

~~(1) The Planned Adult Community (PAC) District is intended to provide for planned adult communities where permitted in the zoning district tables as a floating zone. In order to be designated as a PAC such a parcel or parcels containing a Planned Adult Community (PAC) a parcel shall contain at least 25 acres and shall be located either on state or county roads or shall have direct access to such roads via new private, Town or village collector roads without traveling through existing residential subdivisions. In order to demonstrate suitable acreage and access a concept plan shall be provided showing roadways, open spaces, housing areas, wetlands, recreation areas and other site features in a broad conceptual fashion adequate for the Town Planning Board to determine suitability of the site for a PAC District. Such properties must also be proven capable of providing central water and sewer services or of being provided with the same. Upon approval of the property rezoning as a PAC by the Town Board, the use would be allowed subject to site plan approval by the Planning Board.~~

~~(2)(1)~~

~~(3)(2)~~ Planned adult communities would be subject to the following conditions:

- a. Age restriction. The PAC shall comply with applicable New York and federal law, as the same may be amended, so that at all times the PAC qualifies as housing for older persons, intended and operated for occupancy by persons 55 years of age or older, as currently provided in 42 U.S.C. § 3607(b)(2)(c). In no event shall any person under the age of 19 permanently occupy a unit in a PAC. However, such age restriction shall not apply to units occupied by one employee of the homeowners' association and his or her household members; units occupied by a householder over age 55 with a dependent child, under age 55, or a spouse or domestic partner under age 55. A deed restriction that enforces the above requirement shall be provided in a form acceptable to the Town

Attorney and shall be included in every deed conveying title to each lot and in a project "offering plan."

- b. Principal permitted uses. In the PAC, no building, structure or premises shall be used or occupied, and no building or part thereof or structure shall be erected or altered unless otherwise provided in this chapter, except for the following uses, which shall be mixed in order to create a variety of housing types:
  - i. Detached single-family dwellings (60% to 90% of the units).
  - ii. Attached single-family dwelling units (0% to 20% of the units).
  - iii. Multiple rental apartment dwelling units (0% to 20% of the units).
  - iv. Accessory uses incidental thereto such as:
    - (a) Facilities for maintenance, administration, gatehouses, garage, off-street parking, utility systems, and recreational amenities or clubhouses, including swimming pools, tennis courts, walking trails and athletic fields.
    - (b) One residence for a resident caretaker or administrator owned by the HOA.
    - (c) Such other facilities and/or buildings as the Planning Board in its discretion shall deem necessary and/or appropriate to the operation and function of the PAC.
    - (d) LB uses. NOTE: If a PAC is of sufficient size (400 units or more) or if it is located on a road adjacent to where the Comprehensive Plan provides for existing or future LB uses, the Town Board may zone an area LB to integrate such uses into the PAC. In the alternative, the Town Board may select from the list of uses in an LB District a limited number of uses to be allowed in a PAC.
    - (e) Condominiums are prohibited in planned adult communities; ownership of single-family attached and detached housing must be fee simple.
- c. Any application for site plan approval herein shall be accompanied by a conceptual site plan showing compliance with the provisions of this chapter. Setbacks and other area and bulk requirements may be varied by

the Planning Board so long as overall density and lot coverage is not increased.

- d. In the PAC, no building, structure or land shall be used, erected, altered, enlarged or maintained unless it is in accordance with the site development plan and its amendments approved by the Planning Board of the Town of Chester as hereinafter prescribed; such site development plan shall meet at least the following minimum requirements:
  - i. Minimum lot area: The minimum area shall be 25 acres. There shall be no limitation on the maximum acreage.
  - ii. Density:
    - (a) A maximum of three detached dwelling units per acre shall be permitted within the SR-2 District.
    - (b) A maximum of six attached single-family townhouses or multiple dwelling units per acre shall be permitted within the SR-2 District.
    - (c) A maximum of six detached dwelling units per acre shall be permitted within the SR-6 District.
    - (d) A maximum of eight attached single-family townhouses or multiple dwelling units per acre shall be permitted within the SR-6 District.
    - (e) In the calculation of density, those existing areas of 5,000 square feet or more having grades of 25% or greater, and areas subject to flooding as depicted on FEMA maps, and delineated federal or state wetlands and their regulated buffers, and water bodies shall not be included in the area of the lot used to calculate permitted density.
  - iii. Building area: Lot coverage for all buildings and structures shall not exceed 25% of the site area used for permitted density calculation.
  - iv. Height:
    - (a) No structure shall exceed 35 feet except: domes; spires, chimneys; skylights; antennas and other similar appurtenances so long as such structure or device does not create a hazard to abutting properties and does not exceed 10% of the roof area.

- (b) Bulky appurtenances such as dumpsters and the like shall be appropriately screened and where practicable, constructed of similar material and design as the buildings.
- v. Setback requirements: No buildings or structure other than entrance gatehouses, walls, fences or signs shall be located within 50 feet of the outer perimeter line of the PAC properties.
- vi. Buffer area requirements shall include:
  - (a) A minimum of 50 feet of natural wooded, revegetated or landscaped area along the side and rear lot lines of the overall site shall be provided. In addition to the fifty-foot buffer, where deemed appropriate by the Planning Board, suitable solid wood fencing (excluding chain link or stockade fencing) or vegetative screening along side and rear property lines shall be required as approved by the Planning Board.
  - (b) Recreational areas and other unimproved areas shall remain in their natural state to the extent practicable or otherwise suitably revegetated and/or landscaped.
  - (c) Bonding requirements in accordance with § 98-19 apply.
- vii. Off-street parking shall be required as provided in § 98-22C(1)(a), except the Planning Board may permit or require land banking to the extent it deems practical or appropriate for additional parking spaces.
- viii. Habitable area: The minimum habitable area of the dwelling units as set forth in this section shall comply with the following requirements:
  - (a) Single-family detached units shall have 1,200 square feet, with no more than three bedrooms.
  - (b) Multiple residences and single-family attached units shall have 1,000 square feet per dwelling unit with no more than two bedrooms.
  - (c) One resident manager's dwelling unit not subject to age restrictions containing not more than three bedrooms per PAC site.
- e. Additional requirements.
  - i. Consideration shall be given in planning walks, ramps and driveways. Gradients of walks shall not exceed 10%; single riser grade changes in

walks shall not be permitted. All outdoor areas available to the residents shall be designed so as to permit residents to move about freely.

- ii. The design and location of all buildings, recreational facilities and other site improvements shall be consistent with the ultimate purpose of achieving pleasant living arrangements for persons 55 years of age or older, and shall contemplate the desires and needs of such persons for privacy, participation in social and community activities and accessibility to all community facilities.
- iii. Adequate facilities and provisions shall be made for the removal of snow, trash and garbage and for the general maintenance of the community which shall be covenanted as a condition of site plan approval. All dumpsters shall be suitably screened and located on permanent platforms, suitably enclosed on at least three sides and located at least 50 feet from any window of a habitable dwelling unit. A suitable maintenance agreement shall be part of the conveyance, which agreement shall be in form and content approved by the Town Attorney.
- iv. All dwelling units shall be air conditioned with individual thermostatic controls for heating and air conditioning.
- v. All dwelling units shall incorporate design features to the maximum extent practical which insure the safety and convenience of the residents, including, but not limited to, provisions of grab-bars, nonscalding faucets, water-impervious nonslip floors, flush thresholds and wheelchair-accessible doorways.
- vi. Washers and dryers shall be installed in individual dwelling units.
- vii. If pets are permitted, specific pet walking areas designed and located so as to prevent nuisance and annoyance or health hazards to the residents and/or abutting property shall be provided.
- viii. Artificial lighting of grounds shall provide illumination sufficient for the convenience and safety of the residents.
- viii-ix. On-site recreation shall be provided and may be in the form of sports courts, swimming pools, walking trails and other active or passive recreation as determined appropriate by the Planning Board.
- ix-x. Site plans and approvals:

- (a) The Planning Board shall review and conduct a public hearing on all applications for development in accordance with the provisions of the site plan regulations.
- (b) Where the proposed site development plan indicates that an area variance is required, the Planning Board shall have jurisdiction to grant or deny such a variance under the Town's clustering provisions.
- (c) The Planning Board shall have architectural and landscape review powers and shall make recommendations prior to approval.
- (d) As all users of the dwellings will have a demand on the Town's recreational facilities, a "money in lieu of parkland" fee to be used for the acquisition and improvement of recreation areas in the Town is required.

x.xi. Homeowners' association required. All PACs shall be required to create a homeowners' association, which shall have dominion over the common areas within the development. Homeowners' association (HOA) rules and regulations shall be reviewed by the Town Attorney, during the plan review process, to determine compliance with Town regulations. Prior to final approval of the site plan, the developer shall obtain such approval, acceptance, or "no action letter" as may be required by the State of New York Department of Law, pursuant to the Martin Act (General Business Law § 352 et seq.) and/or such other laws or regulations as may apply to the offering for sale of common interests in realty. Copies of all submissions and responses, including but not limited to articles of incorporation and bylaws for such homeowners' association, shall be supplied to the Town Attorney.

xi.xii. Where otherwise not modified by this chapter, all other conditions of site plan approval and/or subdivision regulations of the Town shall apply.

xii.xiii. Conservation, recreation, utility or access easements required by the Planning Board or 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 or Planning Board Attorney.

O. ~~Schools, private and public~~ Schools of General Instruction.

(1) Elementary schools (K-3): minimum lot area shall be as outlined per student below.

<u>Number of Students</u>	<u>Acres</u>
<u>0-25</u>	<u>2</u>
<u>26-50</u>	<u>3</u>
<u>51-100</u>	<u>4</u>
<u>For each subsequent 100 additional students</u>	<u>1 additional</u>

(1)(2) Elementary schools (K-6): minimum of four acres for up to 100 students; one additional acre is required for each additional increment of 100 students or fraction thereof.

(2)(3) Secondary schools (7-12) and colleges: minimum of 11 acres for up to 100 students; one additional acre is required for each additional increment of 100 students or fraction thereof.

(3)(4) Access and circulation.

- a. All schools shall provide access drive(s) providing for safe and adequate ingress and egress to and from the site complying with sight distance requirements for municipal road intersections. However, if the Planning Board, in its discretion, shall find that special circumstances in the area of a given site warrant, greater sight distance than the minimum may be required.
- b. Safe and adequate internal vehicular site circulation patterns shall be provided for cars and/or buses if applicable. If a drop\_off area is provided near the building, one-way traffic patterns must be provided for the drop off area. Internal circulation patterns in the parking lot(s) and around the building shall minimize pedestrian/vehicular conflict.

(4)(5) Outdoor play areas and/or fields for various sports shall be provided sufficient to meet the needs of the student body, with playing areas to be located on slopes less than 5%. Said play areas shall be located so as to avoid creating a nuisance to adjoining property owners, and shall incorporate physical separation, screening and other measures for this purpose. No outdoor lighting shall be provided for playing fields without the express approval of the Planning Board upon a finding that such lighting will not create a nuisance nor a harmful visual impact that is inconsistent with the surrounding neighborhood.

(5)(6) All schools shall comply with all applicable requirements of the New York State Uniform Fire Prevention and Building Code.

(6)(7) Schools should be situated on sites that have access to public water and sewer infrastructure.

P. Public utility structures and rights-of-way.

- (1) This shall include but not be limited to transmission towers and rights-of-way as well as structures such as telephone switching boxes. Rights-of-way and lot bulk and setback requirements shall be established by the appropriate approval agency. Where no other agency has established bulk or setback requirements, the Planning Board shall establish the same as it deems reasonable and necessary based on the specific use and the public health and safety requirements appropriate to the same; e.g., if the use is a tower, adequate setbacks shall be provided for safe "fall" zones and for protection from blowing ice.
- (2) Transmission towers, utility poles and towers and water towers, to the extent allowable by law, are subject to the Ridge Preservation Overlay District standards in § 98-26. Any such structure shall be located 1 1/2 times its height from any adjacent nonutility structure as a hazard and safety requirement.

Q. Regulated adult uses.

- (1) These special requirements are intended to regulate uses which, because of their very nature, are recognized as having serious objectionable operations characteristics, particularly when several of them are concentrated under certain circumstances thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. The primary control or regulation is for the purpose of preventing a concentration of these uses in any one area, and the secondary control is for the purpose of preventing such uses from located excessively close to sensitive receptors such as schools and churches.
- (2) Regulated uses; restrictions:

a. Regulated adult uses include, but are not limited to, the following:

- i. Adult bookstore.
- ii. Adult motion-picture theater.
- iii. Adult mini-motion-picture theater.

iv. Adult entertainment cabaret.

(3) Regulated adult uses shall be permitted where indicated in the Schedules of Use and Area Requirements for the Town of Chester zoning districts,<sup>[1]</sup> subject to the following additional restrictions:

- a. No such regulated adult uses shall be allowed within 500 feet of another existing adult use or approved site for such use.
- b. No such regulated adult use shall be located within 500 feet of any existing place of public assembly, park, or public recreation area.
- c. No such regulated adult use shall be located within 500 feet of an existing school or place of worship.

(4) Exterior display prohibited. No regulated adult use shall be conducted in any manner that permits the observation of any material depicting, describing or relating to specified sexual activities or specified anatomical areas from any public way or from any property containing a regulated adult use. This provision shall apply to any display, decoration, sign, show window or other opening.

(5) Severability. If any provision of this chapter or the application of any provision to any item in § 98-29Q is held invalid, the invalidity of that provision or application shall not affect any of the other provisions or the application of those provisions to other items in this chapter, section or paragraph.

R. Self-service storage. Site and design requirements:

(1) Circulation and access. If the site is fenced, the site access drive shall have the fence and its gate set back a minimum of 40 feet from the access road. Internal site circulation lanes shall be adequate in dimensional cross-section, width and turning radii where applicable to provide for the maneuverability of fire trucks. Aisle width shall be a minimum of 23 feet for either one- or two-way traffic flows.

(2) Security. Provision shall be made for adequate site security and access control. If the facility is gated, adequate provision shall be made for access by emergency service providers when the facility is closed. If fencing is provided for access control, in no case shall barbed wire or razor wire fence components be incorporated into the same. Such fence shall not exceed eight feet in height. Notwithstanding the foregoing, the solid rear and/or side wall(s)

of a storage building or buildings may be incorporated into a fence line for purposes of access control subject to Planning Board approval of the exterior finish of the same and other elements in Subsection R(3) below. Solid or decorative brick, stone, architectural tile, masonry or wood walls may be used for fencing and screening purposes. If provided, fences or their equivalent shall meet the minimum setback requirement for the district. The placement of or incorporation of signs or other advertising media on such fences or walls is not permitted unless expressly so approved by the Planning Board pursuant to Subsection R(3) below.

- (3) Aesthetic, screening, landscaping and lighting. Care shall be taken to provide an aesthetically pleasing, well-landscaped and maintained facility and to avoid a monotonous or fortress-like appearance to the extent that the facility may be visible off site. Required yards shall be landscaped with a mix of trees, shrubs of varying sizes and vegetative ground cover as appropriate to the site and as approved by the Planning Board. The color, material and design of structures, including their roof pitch, shall be reviewed by the Planning Board as to their conformity with surrounding structures and community character to the degree said structures are visible to other properties. Security lighting shall be provided on the site, but in no case shall lighting be directed so as to cause a nuisance or hazard to other properties.
- (4) Limits on building length and height.
  - a. Limit on building length: 220 feet.
  - b. Limit on building height: 15 feet for buildings with flat roofs or up to 23 feet for buildings with pitched roofs.
- (5) Limits on storage and use. In no case shall self-service storage facilities permit the storage or maintenance of radioactive, hazardous materials, explosive or controlled substances. The servicing or repair of automotive equipment, tools or machinery and the construction or fabrication of goods or materials shall not take place on the site, either inside or outside the bounds of an individual storage unit. The operation of power tools, spray equipment, compressors and other equipment shall not be permitted as an adjunct to the use or lease of any storage unit. Auctions, garage or tag sales or any other commercial or private sales shall not take place on the site either by lessees of storage units or by the owners or operators of the site. Parking spaces required pursuant to Subsection R(10) below may not be rented as nor used for vehicular storage spaces. No additional parking spaces other than those required pursuant to Subsection R(10) below may be provided for the unenclosed storage of vehicles or items, including but not limited to

automobiles, motorcycles, trucks, trailers, vans, recreational vehicles, campers, boats or watercraft except that, in the event that the applicant can demonstrate that under no circumstances would the above-listed vehicles or items be visible to any other off-site location either by virtue of existing conditions such as topography or other permanent screening or by virtue of proposed permanent screening, such open storage shall be permitted subject to Planning Board approval. Notwithstanding the foregoing, nothing in this subsection shall be construed as permitting the unenclosed storage of wrecked, inoperable or dismantled vehicles at a self-service storage facility.

- (6) Limits on unit size. The maximum size of a storage unit permitted in a self-service storage facility is 600 square feet. In no case shall a single tenant be permitted to rent or lease more than 1,800 square feet in a single, self-service storage facility.
- (7) Drainage. Adequate drainage control measures shall be provided on the site so as to avoid increasing the existing rates of flow off the site. Provision shall be made for protecting the quality of the surface water runoff from the site both during the operation of the site as well as during its construction.
- (8) Signs. The provisions of § 98-21 shall not apply to this use, but signs shall be permitted as follows: a ground-mounted or pole-mounted sign shall be permitted at the entry of the site. If ground-mounted, such sign shall not be located so as to interfere with the visibility of traffic entering or exiting the site. Such sign shall not be higher than 10 feet, as measured from the top of said sign, and shall not exceed 36 square feet in area. In no case shall any signage or other attention-getting devices be mounted to the roofs, doors or sides of any structures on the site nor to the site fence. On-site circulation signs shall be provided as needed with the review and approval of the Planning Board.
- (9) Accessory uses. A leasing office for the purpose of leasing the units within the self-service storage facility may be provided on the site. A manager's apartment may be provided for the use of a resident, on-site manager in addition to an accessory leasing office. The combined total size of the manager's apartment and the leasing office may not exceed 1,200 square feet.
- (10) Parking requirements. Self-service storage facilities shall provide a minimum of one parking space per 100 storage units, in addition to one parking space per 200 square feet of gross office space for the leasing office. Such parking spaces shall be located adjacent to the leasing office. If an on-site manager's apartment is provided, two parking spaces adjacent to said

apartment shall be provided for such use in addition to that required for the remainder of the facility.

- (11) Separation requirements. A self-service storage facility shall be separated from another self-service storage facility by a straight line distance of 1,500 feet.

S. Senior assisted-care facility.

- (1) May be included as part of a senior housing or planned adult community.
- (2) If not part of such a use the project must have direct access to a state or county road and be buffered from surrounding uses in accordance with LB or GC buffer requirement of § 98-19.

T. Senior housing (Affordable senior housing as approved by NYS Division of Housing).

- (1) Purpose. In order to provide a large number of affordable housing opportunities for senior citizens in the Town and to provide adequate review and supervision of development by requiring both conceptual and specific plan approval under the rules for site plan review or the subdivision regulations. The Town Board may authorize senior citizen housing projects based upon the standards and procedures spelled out below.
- (2) Gross density. The Town Board, upon the recommendation of the Planning Board, may authorize the Planning Board to modify those sections of this chapter relative to lot dimensions, building setbacks and density in the further subdivision or site plan of properties when necessary to comply with provisions in this section.
  - a. Senior citizen detached single-family dwelling units may be allowed at a maximum density level of four dwelling units per acre in the SR-2 District and at a maximum density level of eight dwelling units per acre in the SR-6 District.
  - b. Senior citizen multiple-dwelling units and senior assisted-care facilities in an SR-2 or SR-6 District may have the following density levels:
    - i. For efficiency units and partial, assisted-care units: 18 units per acre.
    - ii. For one-bedroom units: 12 units per acre.
    - iii. For two-bedroom units: 10 units per acre.

iv. Units with more than two bedrooms or any combination of more than two rooms which are not a living room, bathroom, dining room or kitchen are not permitted.

c. Maximum size of senior citizen dwelling units and partial, assisted-care units:

i. Efficiency and partial, assisted-care units: 450 square feet.

ii. One-bedroom: 700 square feet.

iii. Two-bedroom: 900 square feet.

(3) Location. This type of housing is distinguished from active adult, planned adult or other over 55 communities in that it is regulated by the NYS Division of Housing and is only for families or individuals on strict limited incomes. Residents must be 60 to apply but the average age is over 70 and their activities are usually limited. As a result, such housing must be located in close proximity to one or more of the following facilities or uses: church, community facility, stores and shops, banks or post office. Close proximity, for the purpose of this section, is deemed to be 1/4 mile as measured in a straight line between properties.

(4) Housing described in this section is regulated by the NYS Division of Housing and shall exist or be designed and constructed for the needs of seniors and is subject to the management or other legal restrictions that require all of the units to be occupied by persons 60 years of age or older. Notwithstanding the foregoing, adults under 60 years of age and children may reside in the units where:

a. The adult is the spouse of a person 60 years of age or older.

b. The adult's presence is essential for the physical care of a person 60 years of age or older.

c. The minor children are residing with their parent, parents or legal guardians where their parent, parents or legal guardian are 60 years of age or older, and the minor children residing therein are under physical or other disability and cannot care for themselves.

d. Housing shall be available first to residents of the Town of Chester.

(5) Assurances for senior citizen and affordable housing projects.

- a. Legal assurances. Each application for a proposed senior citizen or affordable housing development shall be accompanied by appropriate undertakings, deed restrictions, easements and the like, in form and content satisfactory to the Town Attorney, as may be necessary to provide for and assure continued proper future maintenance and ownership responsibilities for all common areas, facilities and utilities within each stage of development or section thereof.
- b. Other assurances. The Planning Board may condition its recommendation of approval upon the applicant obtaining any other necessary approvals from the appropriate Town, county or state agencies having jurisdiction thereof.
- c. Performance bond. The applicant may be required to post a performance bond in an amount sufficient in the opinion of the Town Board and in favor of the Town in the form of a cash payment, surety bond or letter of credit to assure that all ancillary facilities, utilities and common areas shown on the proposed site plan are provided, together with provision for their future maintenance and care. Said performance bond shall be less than five years after full completion as determined by the Town Board.
- d. The applicant shall provide assurances to the Planning Board of an adequate availability of public central water and central sewer services.

(6) The applicant proposing an affordable senior citizen housing development shall assure the Town Board with the necessary market analysis and documentation to the satisfaction of the Town Board that there is an identifiable need for the project proposed.

U. Townhouses on individual lots in fee simple ownership and multiple dwellings.

- (1) Each townhouse dwelling shall be situated on a lot with a minimum width of 20 feet, a front yard depth of 15 feet, a rear yard depth of 30 feet and a lot area of 2,000 square feet. If side yards are provided they shall be at least 15 feet wide.
- (2) No more than six townhouse dwelling units shall be allowed per acre regardless of the number of bedrooms per dwelling. No more than three bedrooms are allowed per dwelling.
- (3) Each townhouse lot shall front on a public or private street.

- (4) There shall be provided on the townhouses or multiple-dwelling site usable open space at the rate of 700 square feet per dwelling unit. For every dwelling unit containing three or more rooms, there shall be provided usable open space for outdoor play area for children at the rate of 100 square feet per dwelling unit. Such outdoor play area for children shall not be less than 25 feet in its least dimension and shall be reserved and maintained by the owner or home association and may be suitably fenced or screen planted. Such outdoor play area for children may be counted as part of the required usable open space per dwelling unit.
- (5) Each principal residential building shall contain no more than eight residences. In any principal building with four or more residences the front and rear facades shall be offset by at least four feet for every two dwellings.
- (6) Townhouse dwelling units with three bedrooms shall not exceed 20% of the total number of dwelling units in a development located in a single project. For the purposes of this section, any rooms other than bathrooms, kitchens, living rooms and an open dining alcove or area shall be considered a bedroom.
- (7) If the rear of any principal building shall be opposite any other principal building, it shall be distant therefrom not less than twice the average height of the opposite bounding walls.
- (8) The side of a principal building, if opposite the side of another principal building, shall be separated therefrom by a distance not less than the average height of the opposite bounding walls.
- (9) Fire-retardant walls constructed of cinder block or similar material approved by the Building Inspector shall be used to fully separate all dwelling units in townhouses and multiple dwelling buildings. Such walls shall extend to the full height of said structure.
- (10) All accessory buildings, carports or garages, if not attached shall be separated from the principal building by at least 25 feet. Recreational buildings and facilities shall be separated by an adequate distance, in the opinion of the Planning Board, so that normal living conditions of the residents are not adversely impacted unless they are part of the building. Depending on the type of activities, buffered, landscaped separations may be required between uses.
- (11) All sites shall ~~be fully landscaped~~ have a landscape plan prepared by a professional landscape architect satisfactory to the Planning Board. ~~And a~~

bond in accordance with § 98-19 ~~for the shall be provided for the installation and guaranteed performance of all landscaping work performed on site to be provided.~~ The bond in an amount recommended by the Town Engineer shall be returned by the Town Board upon recommendation of the Planning Board in whole or in part as work is completed and as guarantee periods expire.

V. Veterinarian's office and/or kennel accessory to a residence.

- (1) No outdoor kennel, runway or exercise pen shall be located within 300 feet of any lot or street line.
- (2) Adequate provisions shall be made for enclosed food storage and proper disposal of fecal matter, so as to avoid promoting water pollution, odors or vermin.

W. Market-rate senior housing.

- (1) Purpose: to provide a variety of market-rate multi-family senior housing opportunities for senior citizens in the Town and to provide adequate review and supervision of developments by requiring both approval of legal age restrictions and site plan approval under the rules for site plan review. The market-rate senior housing uses are intended to be permitted only in those SR-2 and SR-6 Zones located within one-half mile of the Village of Chester and one-half mile of the LB-SL Zone in the Hamlet of Sugar Loaf. In order to be designated as such, a parcel shall be located either on state or county roads or having direct, safe and adequate access to such roads without adversely impacting existing residential developments. Such properties must also be proven capable of providing adequate central water and sewer services or being provided with the same. Such use shall be allowed subject to site plan approval by the Planning Board. The Planning Board shall authorize market-rate senior housing projects based upon the standards spelled out below. Documents required by sSubsection W(13)(b) will be reviewed for such project by the ~~Town~~ Attorney and approved by the Town Board prior to Planning Board approval.

(2) Minimum lot area. The minimum area shall be 10 acres.

(3) Density.

- a. A maximum of eight multiple dwelling units per acre shall be permitted within the SR-2 district.
- b. A maximum of 10 multiple dwelling units per acre shall be permitted within the SR-6 district.

- c. In the calculation of density, only buildable lot area shall be included in the area of the lot used to calculate permitted density.
- (4) Building coverage of a lot. For the purpose of this Subsection W only, all buildings and structures shall not exceed 25% of the site area used for permitting density calculations or the buildable area of a lot.
- (5) Height. No structure shall exceed 40 feet except domes, spires, chimneys, skylights, antennas, and other similar appurtenances so long as such structure or device does not create a hazard to abutting properties and does not exceed 10% of the roof area.
- (6) Setback requirements. No buildings or structures other than entrance gatehouses, walls, fences or signs shall be within 75 feet of the outer perimeter of the property. Buildings shall be no closer to each other than the average height of opposite bounding walls.
- (7) Buffer area and screening requirements shall include:
- a. A minimum of 50 feet of natural wooded, revegetated or landscaped area along the side and rear lot lines of the overall site.
  - b. Suitable solid wood fencing (excluding stockade fencing) or vegetative screening along side and rear property lines where deemed appropriate by the Planning Board.
  - c. Open space and unimproved areas shall remain in their natural state to the extent practicable or otherwise suitably revegetated and/or landscaped.
  - d. Required front yard areas along roads shall be landscaped as required by the Planning Board and no parking shall be allowed in required front yards.
  - e. Bulky appurtenances such as dumpsters and the like, shall be appropriately screened, and, where practical, constructed of a similar material and design as the buildings on the site.
- (8) Allowable accessory uses incidental thereto include facilities for maintenance, administration, gatehouses, garages, off-street parking, utility systems, and recreational amenities or clubhouses, including, but not limited to, swimming pools, tennis courts, and walking trails.

- (9) The number of three-bedroom units in each market-rate senior housing development will be restricted to no more than 20% of the total unit count.
- (10) The market-rate senior housing developments shall provide facilities for public transportation on site, including but not limited to bus stops and pedestrian pathways to adjacent developments, where appropriate.
- (11) The market-rate senior housing projects shall have a minimum of 10% affordable housing units in the total unit count. Residents would be eligible for affordable housing if they make no more than 80% of the median household income in Orange County, as defined by HUD.
- (12) Market-rate senior housing would be subject to the legal restrictions that require all of the units to be occupied by persons 60 years of age or older. Notwithstanding the foregoing, individuals under 60 years of age may reside in the units under the following circumstances:
  - a. The individual is the spouse of a person 60 years of age or older.
  - b. The individual's presence is essential for the physical care of a person 60 years of age or older.
  - c. The individual is related to a person 60 years of age or older and suffers from a physical or mental disability that prevents the individual from caring for himself or herself.
  - d. Children of any age shall not be permitted to reside in the market-rate senior housing projects except as provided for under the preceding Subsection W(12)(c).
- (13) Market-rate senior housing shall be subject to the following restrictions:
  - a. Housing shall be available first to residents of the Town of Chester, then to relatives of residents of the Town of Chester, before it is open to the public.
  - b. Legal assurances. Each application for a proposed senior housing development shall be accompanied by appropriate undertakings, deed restrictions, easements and the like, in form and content satisfactory to the Town Attorney, as may be necessary to provide for and assure continued proper future maintenance and ownership responsibilities of all common

areas, facilities and utilities within each stage of development or section thereof.

- c. Performance bond. The applicant may be required to post a performance bond, in an amount sufficient in the opinion of the Town Board and in favor of the Town, in the form of a cash payment, surety bond or letter of credit to assure that all ancillary facilities, utilities and common areas shown on the proposed site plan are provided, together with provisions for their fixture maintenance and care. Said performance bond shall be for not less than five years after full completion of the project as determined by the Town Board.
- d. Each unit in the senior housing complex would be required to pay a fee in lieu of parkland to the Town of Chester.

X. Mixed use buildings in the LB-SL Zone

(1) It is the intent that the Sugar Loaf hamlet maintain its historic character.

Multiuse buildings in the LB-SL zone shall comply with the following standards:

- a. Multiuse buildings shall have at least one commercial unit. In new construction, such commercial units shall be at least 600 square feet.

Dwelling units shall be located above the floor at grade or to the rear of the building in such a manner that at least one commercial unit has windows and an entrance fronting on the public street. Dwelling units shall have a minimum of 600 square feet of livable space and shall provide parking in accordance with the parking requirements set forth in § 98-22.

b.

**§ 98-30. Site plan approval.**

- A. Intent. The intent of site plan approval is to determine compliance with the objectives of this chapter. The objective is to evaluate various land uses that may cause a conflict between existing and proposed uses or be in conflict with natural site conditions and thereby minimize the adverse effects concerning health, safety and overall welfare of the residents of the community.
- B. Authorization. The power to approve, approve with modification or deny site plans as required by this chapter is vested in the Planning Board. Section 274-a of the Town Law provides the legislative means for the Town Board to authorize ~~herein that~~ the Planning Board to review and approve site plans. Prior to the issuance of a building permit for the construction or expansion or change in the type of use per line item in the Schedules of Use and Area Requirements of District Regulations,<sup>[1]</sup> for any use that requires site plan approval or special use

permit, a site plan and supporting documentation shall be submitted to the Planning Board for its review and approval. In addition, for any use change that will increase water consumption, sewer capacity, parking requirements, or adversely change environmental concerns, such new use shall be subject to new site plan review and approval. The Building Inspector shall consult with the Town Engineer as necessary for interpretation of any "change in the type of use" for the purpose of determining the need for Planning Board site plan review and approval. All site plans shall be prepared by a duly licensed architect or professional engineer.

C. Guiding principles and standards. In authorizing any use, the Planning Board shall take into consideration the public health, safety and general welfare and the comfort and convenience of the public in general and of the residents of the immediate neighborhood in particular, and may attach reasonable conditions and safeguards as a precondition of its authorization. The Planning Board shall consider the following general objectives:

- (1) Such use shall be one which is specifically listed as a use requiring site plan and/or special use permit approval in the district within which such particular site is located.
- (2) For every such use requiring site plan approval, the Planning Board shall determine that such use complies with the provisions of § 98-30D can be fully complied with, as well as all applicable sections of this chapter and all other applicable ordinances and laws.
- (3) All proposed structures, equipment or material shall be readily accessible for fire and police protection.
- (4) The proposed use shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is proposed to be situated and will not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties.
- (5) In addition to the above, in the case of any use located in or directly adjacent to a residential district:
  - a. The location and size of such use, the nature and intensity of operations involved in or conducted in connection therewith, its site layout and its relation to access streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection

therewith will not be hazardous or inconvenient to or incongruous with said residential district or conflict with the normal traffic of the neighborhood.

- b. The location and height of buildings; the location, nature and height of walls and fences; and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings or impair the value thereof.
- D. Uses requiring site plan approval. Site plan approval by the Planning Board shall be required for all uses requiring site plan approval or special permit uses as set forth in the Schedules of Use and Area Requirements Table and all principal permitted uses, except single- and two-family dwellings, prior to the issuance of a building permit by the Building Inspector for the construction or expansion of a building or structure. No building permit shall be issued by the Building Inspector for a use which requires site plan approval except upon authorization of and in conformity with the plans approved by the Planning Board.
- E. Procedure. Application for authorization of a use requiring site plan approval shall be made directly to the Planning Board, in the manner required by the Planning Board with the required fees and escrow payments payable to the Town of Chester.

(1) ~~Process.~~ Presubmission Conference

- a. ~~Sketch plan or presubmission conference.~~ Upon submission of an escrow fee or application fee, a presubmission conference or work session may be scheduled by the Planning Board Chairman with Board consultants and/or members to discuss a proposed project. The purpose of the meeting is to encourage an applicant to consult early and informally with the Planning Board regarding his proposed concept in order to save time and money and to make the most of opportunities for desirable development. Before preparing a concept layout, the applicant may discuss the general requirements as to design of streets, reservation of land, drainage, sewerage, water supply, fire protection and other improvements, as well as procedural matters, at a work session.
- b. ~~At the initial meeting with the Planning Board, the Planning Board may determine if the three-step process of a sketch, preliminary and final plan shall be required and if a public hearing will be required. Such decisions may be delayed to a later meeting.~~

- ~~c. Application may be made for a sketch or preliminary plan subject to the requirements described below. The applicant and/or his representatives may contact the Planning Board office for advice prior to determining which type of submittal may be most appropriate considering the proposed use or change of use. Before preparing a concept layout, the applicant may discuss the general requirements as to design of streets, reservation of land, drainage, sewerage, water supply, fire protection and other improvements, as well as procedural matters, at a work session.~~
- (2) ~~Notice to adjoining landowners. The Planning Board shall have the discretion to require the applicant to~~The Applicant shall notify adjoining property owners within 500 feet of the application at the beginning of the site plan review process to identify potential areas of concern early in the review process before final plans are developed. Such notice shall be in a form prescribed by the Planning Board Secretary and delivered by the U.S. Postal Service via certified mail, return receipt, first class mail. An affidavit of mailing shall be provided.
- (3) ~~Sketch plan submittal requirements. A sketch plan, if prepared, shall be submitted with 11 copies to the Planning Board office at least 14 days prior to a meeting date in accordance with the Planning Board procedures described in the Subdivision Regulations, § 83-15 adopted from time to time, and shall include the following information in as much detail as possible:~~
- ~~a. An area map showing:~~
- ~~i. The applicant's entire holdings, that portion of the applicant's property under consideration for development and any adjacent parcels owned by the applicant.~~
  - ~~ii. All properties, their ownership and uses, subdivisions, streets, zoning districts, easements and adjacent buildings within 300 feet of the applicant's property.~~
- ~~b. A site development plan, including the following:~~
- ~~i. Existing natural features such as water bodies, watercourses, wetlands, wooded areas, individual large trees, flood hazard areas and primary and principal aquifers.~~
  - ~~ii. Zoning districts, certified agricultural districts and school districts.~~

- ~~iii. Special improvement districts (water, sewer, light, fire, drainage and the like).~~
- ~~iv. Easements.~~
- ~~v. All existing man-made features.~~
- ~~vi. All proposed buildings, man-made structures and public improvements.~~
- ~~c. A map of site topography (United States Geological Survey topo map).~~
- ~~d. A soils overlay and such other overlays as may be required by the Planning Board.~~

~~(4)~~(3) Preliminary site plan.

- a. Application. Application for preliminary site plan approval shall be made by submitting (1) the appropriate application form, (2) proposed site plan, (3) Environmental Assessment Form and (4) fees and escrow deposits as set by resolution of the Town Board. The Applicant shall submit the number of copies as set forth in the rules of the Planning Board at least ~~and 11 sets of plans to the Planning Board at least 14 days prior to the next scheduled meeting of the Planning Board, along with an environmental Assessment form (EAF) and required fees. For the purposes of this chapter, the submission date shall be the date of the first regular Planning Board meeting following submission. Applications for site plan approval for apartments and townhouses shall contain a filing fee of \$100, plus an application fee of \$50 per dwelling unit. A filing fee of \$100 for any office/commercial and/or industrial use plus \$50 per 2,000 square feet or portion thereof of any proposed building space shall be required.~~

- ~~(5)~~b. Submittal. The preliminary site plan application shall include the information listed below. The Planning Board may at its discretion waive any preliminary requirements which are clearly not relevant to the proposed use and site.

- ~~a.~~i. An area map showing that portion of the applicant's property under consideration for development, any adjacent parcels owned by the applicant and all properties, their ownership, uses thereon, subdivisions, streets, zoning, school, fire and any other special improvement districts, floodplains, easements and adjacent buildings within 300 feet of the applicant's property.

b.ii. The following information shall be provided:

i.(a) Title of drawing, including the name and address of the applicant, owner of record, developer and seal of engineer or architect and licensed surveyor licensed in the state of New York. All certifications shall be provided in accordance with the New York State Education Law.

ii.(b) North arrow, scale and date.

(c) Boundaries of the project plotted to a scale of not more than 100 feet to one inch.

iii.(d) Tax map reference for site and adjoining properties.

iv.(e) Existing natural features such as primary or principal aquifers, watercourses, water bodies, all wetlands, floodplains, wooded areas and individual large trees with a diameter of eight inches or more as measured three feet above the base of the trunk. Features to be retained should be noted.

~~(a) All federal and state wetlands shall be delineated in the field by the Department of Environmental Conservation (DEC) for state wetlands and in accordance with currently applicable federal standards for federal wetlands. The Planning Board shall have the right to request additional information on wetland boundaries, including, but not limited to, verification by others.~~

~~(b) Disturbance of buffers or wetlands shall only be allowed where federal wetlands are under the federal wetland disturbance limit, where disturbance is essential to provide access to a lot or where a disturbance permit has been issued by the New York State Department of Environmental Conservation and/or the Army Corps of Engineers.~~

~~(c) All federal wetlands shall be provided with a minimum buffer of 25 feet within which all site disturbance shall not be permitted except for clearance of dead trees or man-made debris on-site.~~

~~(d) Wetlands shall be no closer than 100 feet to a septic system drainfield or expansion area.~~

~~(e) In instances where wetlands have not been shown, but are believed to exist due to soils maps or site observations, a wetland delineation shall be required by the~~

~~Planning Board and performed by a qualified wetland delineator acceptable to the Planning Board.~~

~~(f) No structures or buildings shall be erected within 100 feet of the high-water mark of a stream or within 50 feet of an intermittent stream. This separation shall not apply to swales or drainage channels designed for a site. There shall be no site disturbance within 50 feet of the high-water mark of a stream or within 25 feet of an intermittent stream. All development or site disturbance within 100 feet of any stream shall be reviewed with the intent of mitigating any adverse water quality issues that could impact the stream.~~

v.(f) Existing and proposed contours at intervals of two feet of elevation.

vi.(g) Location of proposed land uses and their areas in acres.

vii.(h) Location, floor plans and architectural elevations and finish materials of all existing and proposed structures.

viii.(i) Location of all existing or proposed site improvements, including streets, drains, culverts, retaining walls, fences and easements, whether public or private.

ix.(j) A description of sewage disposal and water systems and the location of such facilities.

x.(k) General landscaping plan, including the location and proposed development of buffer areas and other landscaping, and as may be further regulated within this chapter.

xi.(l) Delineation of the various residential areas, if applicable, indicating for each such area its general extent, description and composition of dwelling unit type and a calculation of the residential density in dwelling units per gross acre for each such area.

xii.(m) Location of all parking and truck-loading areas, with access drives thereto.

xiii.(n) Location, design and size of all signs and lighting facilities.

xiv.(o) The approximate locations and dimensions of areas proposed for neighborhood parks or playgrounds or other permanent open space.

~~xv. Building orientation and site design for energy efficiency.~~

xvi.(p) Location of all energy distribution facilities, including electrical, gas and solar energy and utility telephone and/or cable.

xvii.(q) Grading and erosion control, including plans to prevent ~~t.~~ The pollution of surface water and groundwater by erosion and sedimentation, both during and after construction, including location of control measures. A description of proposed maintenance requirements, practices and schedule as per guidelines set forth in the most recently enacted New York State Department of Environmental Conservation's Erosion and Sediment Control Guidelines for New Development. Erosion control plans to conform to Chapter 78A of the Town of Chester Code

xviii.(r) Location and design for stormwater management facilities. Design criteria and standards shall be as specified in the most recently enacted New York State Department of Environmental Conservation's Stormwater Management Guidelines for New Development and in the Town-adopted stormwater management requirements for MS4 municipalities. All sites having a disturbance of one acre or more shall have drainage reports and plans provided by a licensed professional engineer meeting the DEC SPDES requirements for stormwater quality and quantity runoff and erosion control. Stormwater management facilities to conform to Chapter 78A of the Town of Chester Code.

xix.(s) Drainage report, including supporting design data and copies of computations used as a basis for the design capacities and performance of drainage facilities.

(t) Lighting Plan identifying the location, design, height, intensity and bulb type of all external lighting fixtures. Direction of illumination and methods to eliminate glare onto adjoining properties shall be included and shall comply with Chapter 69, "Outdoor Lighting" in addition to the provisions of this chapter.

xx.(u) The lines and dimensions of all property which is offered or is to be offered for dedication for public use, with the purpose indicated thereon, and of all property that is proposed to be reserved by deed covenant for the common use of the property owners of the development.

(v) Where the applicant wishes to develop his property in stages, a site plan indicating ultimate development, presented for informational purposes.

~~xxi.~~(w) Any areas of the site within an easement or subject to other legal constraint on development

~~e.~~(x) Such additional information that appears necessary for a complete assessment of the project.

(6)(4) Review criteria and general requirements.

- a. The Planning Board's review of the preliminary site plan shall include but is not limited to the following considerations:
  - i. Traffic access. All proposed traffic accessways shall be adequate but not excessive in number, width, grade, alignment and visibility for the estimated traffic to and from the site so as to assure the public safety and to avoid traffic congestion. Vehicular entrances and exits shall be clearly visible from the street and not within 100 feet of the center line of a street which intersects the street upon which said entrance or exit abuts, as measured in a straight line along the curblin and extension thereof of the abutting street.
  - ii. Circulation and parking. Adequate off-street parking and truck loading spaces are provided to prevent the parking in public streets of vehicles of any person connected with or visiting the use and the interior circulation system is adequate to provide safe accessibility to all required off-street parking.
  - iii. Location, arrangement, size and design of buildings, lighting and signs. Buildings shall be sited so not to encroach in areas restricted by easements or other restrictive covenants. The site plan, shall to the greatest extent practicable, avoid siting improvements on steep slopes, wetlands, water bodies, floodplains and the like.
  - iv. Relationship of the various uses to one another and their scale.
  - v. Adequacy, type and arrangement of trees, shrubs and other landscaping constituting a visual and/or noise-deterring buffer between adjacent uses and adjoining lands. All playground and service areas are reasonably screened at all seasons of the year from the view of adjacent residential lots and streets and the general landscaping of the

site is in character with that generally prevailing in the neighborhood. Existing trees over eight inches in diameter shall be preserved to the maximum extent possible.

- vi. Adequacy of water supply, stormwater and sanitary wastewater disposal systems, including those within existing municipal districts.
  - vii. Adequacy of structures, roadways and landscaping in areas susceptible to flooding and ponding and/or erosion.
  - viii. Compatibility of development with natural features of the site and with surrounding land uses.
  - ix. Adequacy of floodproofing and prevention measures consistent with flood hazard prevention district regulations.
  - x. Adequacy of building orientation and site design for energy efficiency. The extent to which the proposed plan conserves energy use and energy resources in the community, including the protection of adequate sunlight for use by solar energy systems.
  - xi. Adequacy of open space for play areas, informal recreation and the retention of natural areas such as wildlife habitats, wetland and wooded areas.
  - xii. Adequacy of pedestrian access, circulation, convenience and safety.
  - xii-xiii. Adequacy of on-site lighting and impact on adjoining properties.
- b. All uses shall be subject to the drainage, soil standards, stormwater pollution prevention plan in accordance with § 98-13 Chapter 78A of the Town of Chester Town Code, street specifications and recreation requirements found in the Subdivision Regulations of the Town of Chester, as now or hereafter adopted.
  - c. Except as herein otherwise provided, all uses requiring site plan approval shall be subject to the same conditions and requirements as are applicable to major subdivisions, including but not limited to improvements, inspection fees and bond requirements, unless such conditions and requirements or any of them are waived by the Planning Board.

- d. In its review of a preliminary site plan, the Planning Board may consult with the Code Enforcement Officer, Fire Commissioners, other local and county officials and its designated private consultants in addition to representatives of federal and state agencies, including but not limited to the Soil Conservation Services, the State Department of Transportation, United States Postal Service and the State Department of Environmental Conservation. The Planning Board is authorized to retain such consultants as it deems necessary for the review of an application including but not limited to engineers, traffic consultants, environmental consultants and planners. The cost of such consultants shall be borne by the Applicant.

~~(7)~~(5) Decision and hearing process: public hearing, determination and scheduling.

- a. Upon the Planning Board's certification that the preliminary site plan application is complete and satisfactory, the Planning Board shall determine if a public hearing is required. If a public hearing is not required, ~~the following actions must be taken prior to a decision which must occur within 62 days from the time of such certification~~ the Planning Board shall render a determination within 62 days of receipt of a completed application unless extended by the mutual consent of the applicant and the Planning Board. Prior to rendering a determination, the Planning Board shall comply with the requirements of the State Environmental Quality Review Act and General Municipal Law § 239-1 and § 239-m. First, a negative declaration under SEQRA must be issued prior to a decision, and second, if required for the site in question, the Orange County Planning Department must be notified under Sections §§ 239-l and 239-m of the General Municipal Law, in accordance with §§ 98-38F and 98-39E of this Zoning Law. Failure of the Planning Board to render a determination in such time frame shall not be considered an approval.
- b. If a public hearing is required, the SEQRA and Orange County Planning Department notifications, as described above, must be addressed prior to, or simultaneously with, the scheduling of a public hearing. A public hearing shall be scheduled within 62 days from the time of such certification. ~~The hearing must be advertised at least once in the official Town-designated newspaper at least 10 days before it is held and by posting notice thereof by certificate of mailing to the owners of the property within 500 feet of the proposed site and to any other persons whom the Board may deem to be particularly affected, said advertisement to be submitted by the applicant and the certification of affected landowners to be made by the applicant and demonstrated to the Board at the time of the public hearing shall be~~

noticed in accordance with § 98-31.2. Any applications for site plan approval located within 500 feet of an adjacent municipality shall be forwarded to the Municipal Clerk of ~~that~~ such municipality at least 10 days prior to said public hearing.

~~(8)~~(6) Notification of decision. Within 62 days of the public hearing at which a preliminary site plan is considered, the Planning Board shall act upon it. The Planning Board's action shall be in the form of a written statement to the applicant stating whether or not the preliminary site plan is approved, approved with modifications or disapproved. A copy of the appropriate minutes of the Planning Board shall be a sufficient report. The Planning Board's statement may include recommendations as to desirable revisions to be incorporated in the final site plan application. If the preliminary layout is disapproved, the Planning Board's statement will contain the reasons for such findings. In such a case, the Planning Board may recommend further study of the proposal and resubmission of the preliminary site plan.

F. Final site plan.

- (1) Application. After receiving approval, with or without modifications, from the Planning Board on a preliminary site plan and approval for all necessary permits from state and county officials, the applicant may submit a final site plan to the Planning Board for its review and approval. However, if more than six months have elapsed between the time of the Planning Board's action on the preliminary site plan and if the Planning Board finds that conditions have changed significantly in the interim; the Planning Board may require a resubmission of the preliminary site plan for further review and possible revisions prior to accepting the proposed final site plan for review.
- (2) Submittal requirements. The final site plan shall conform to the approved preliminary site plan and shall incorporate any revisions or other features that may have been recommended by the Planning Board at the preliminary review. All compliance shall be clearly indicated by the applicant. The final site plan shall also include the following information:
  - a. Grading, drainage and erosion and sedimentation control plans showing all proposed topography at appropriate levels, design calculations and specifications.
  - b. Design and construction materials and limits of improvements not requiring structures, such as parking, loading, drives and outside storage areas.

- c. Location, arrangement and construction design of access drives, egress and roads, including pedestrian and vehicle travel within the site information shall include profiles and cross sections of roadways, drives and sidewalks showing grades, widths and location and size of any utility lines.
- d. Design and construction materials of any water and sewer lines and appurtenances.
- e. Location, design and construction materials for all energy-distribution facilities, including electric, gas and solar energy.
- f. Design and construction materials for any outdoor signs.

g. Landscaping plan and planting schedule.

g-h. Lighting Plan

h-i. Specifications for materials.

i-j. Estimated construction schedule, including any proposed phasing.

j-k. Cash bond or letter of credit as may be required for public improvement and inspection fee(s) and as called for or required in previous approvals.

k-l. Signature of owner representative acknowledged in the manner of recordable instrument.

l-m. All offers of dedication in a form acceptable to the Town and acknowledged by the owner as in a deed of conveyance.

- (3) Public hearing. A public bearing shall be held on the final site plan by the Planning Board within 62 days of its submission. Notice of the hearing shall ~~be published at least once in the official Town newspaper at least 10 days before the hearing and by posting notice thereof by mail to the owners of property abutting the proposed site plan and directly across any adjoining street and to any other persons whom the Board may deem to be particularly affected by the application~~ be in accordance with § 98-31.2. However, when the Planning Board deems the final site plan to be in substantial agreement with an approved preliminary site plan (and modified in accordance with the requirements of the approval given to the preliminary plan if the preliminary plan was approved with modification), the Planning Board may waive the requirement for the public hearing on the final site plan.

(4) ~~Notification of decision~~Decision. Within 62 days of the submission of final site plan, the Planning Board shall render a decision.

- a. Upon approval, the Planning Board and owner shall endorse their approval on a copy of the final site plan and shall forward it to the Building Department of the Town, which may then issue a building permit when the project conforms to all applicable requirements of the Town Code. The Planning Board shall include in its approval a schedule for construction stages, as appropriate.
- b. Upon disapproval, the Planning Board shall so inform the Town Building Department, which shall deny a building permit, The Planning Board shall also notify the applicant, in writing, of its decision and its reasons for disapproval. A copy of the appropriate minutes may suffice for this notice.
- c. Specifications for improvements shown on the site plan shall be those set forth in this chapter and in other chapters of the Town Code or in construction specifications of the Town of Chester.
- d. Before affixing official stamp and signature indicating approval, the Planning Board Chairman shall require that a note appear on the site plan stating that no change, alteration or modification shall be made to the site plan, or in the work undertaken to accomplish the objectives of the site plan, without a resubmission to, and approval by, the Planning Board.
- e. Concurrent with site plan approval, the applicant shall be required to file with the Town Board a performance bond, letter of credit or cash deposit, sufficient to cover the full cost of all improvements and treatment, whether to be dedicated or maintained by the Town or not, as outlined on the site plan. The sufficiency of such bond, letter of credit or deposit shall meet the requirements of the Town Engineer's cost estimate.
- f. Concurrent with site plan approval, the applicant shall be required to provide a cash deposit with the Town for engineering inspection fees. The amount of deposit shall be 5% of the total cost of all improvements and treatment, whether to be dedicated or maintained by the Town or not. The cost of improvements shall be as established in the Town Engineer's estimate of the cost of improvements.
- e.g. Upon submission of the approved site plan, and upon satisfaction of any conditions imposed in such approval, and after review by the appropriate Town departments, agencies and consultants, the Chairman

of the Planning Board shall sign the approved site plan and file one copy with the Planning Board Secretary and one copy with the Building Department. No site plan shall be signed, however, until all fees, bonding, and administrative actions are paid, all offers of dedication, declarations, deeds or easements required by the approval are filed with the Orange County Clerk and proof of said filing submitted to the Planning Board; and the final site plan is reviewed and approved by the Town Engineer

G. Site Improvements.

- (1) No certificate of occupancy or use shall be issued for the site until all the improvements shown on the site development plan, including off-site improvements, have been duly installed and approved
- (2) The site shall be developed in strict conformity with the approved site development plan except a field change may be instituted by the Building Inspector or other appropriate Town consultant, upon request of the applicant in writing and upon approval of the Planning Board. No field change shall be valid unless the requested change has been approved by the Planning Board, and details and/or drawings of the approved field change are to be attached to the approved site development plan.
- (3) Site development shall be subject to subject to the Implementation and compliance inspections and remedies applicable to land disturbance activities § 98-12(E), (H)-(J). Land disturbance shall conform to the approved site plan.
- (4) It shall be the duty of every property owner to maintain his/her property in conformity with the approved site development plan. Failure to do so shall constitute a violation of this chapter.

~~G. Renewal of approval. The Planning Board may require that its approval be periodically renewed. Renewal dates may be stipulated at the time of original approval of the site plan or at such other time as the Planning Board deems necessary. The Planning Board shall notify the Building Inspector, in writing, at least 15 days prior to the date of such renewal for the purpose of inspection of the premises. Such renewal shall be granted following the inspection of the property and may be withheld upon a determination and notice to the property owner by the Building Department to the effect that such conditions as may have been prescribed by the Planning Board in conjunction with the issuance of the original approval have not been or are no longer being complied with. In such cases, a period of 60 days shall be considered adequate for a use to be brought up to original requirements and deemed to be a conforming use in the district in which such use is located, provided that:~~

- ~~(1) The provisions of this chapter under which such approval was granted are still in effect.~~
- ~~(2) Such approval was granted in conformity with the provisions of this chapter.~~

~~(3) Such approval shall be deemed to affect only the lot or portion thereof for which such approval shall have been granted.~~

H. In reviewing the a site plan application, the Planning Board may secure the advice or assistance of one or more expert consultants, including the Town Planning Board's Engineer, as qualified to advise as to whether a proposed use will conform to the requirements of this chapter. The cost of securing the advice or assistance of such expert consultant or consultants shall be paid by the applicant, and the Planning Board may require the applicant to deposit funds in a reasonable amount to assure payment of any consultant, and any surplus shall be returned after the consultant's bill is received and paid in full.

I. Parkland.

(1) Intent and purpose. The purpose of this subsection is to provide for adequate and effective development of parks, playgrounds and recreational facilities. The Town of Chester has conducted an analysis of recreational demands to the year 2010 and has concluded that one large, central Town park recreational facility should be developed to address this demand. In those instances where a proposed park, playground or open space shown on the Town of Chester Future Recreational Needs Report is located in whole or in part in a site plan, the Board shall require that lands comprising approximately 10% of the total area to be developed shall be reserved for said parks, playgrounds or recreational purposes. Such area or areas shall be shown on the site plan in accordance with the requirements specified below. Such area or areas may be dedicated to the Town by the developer if the Town Board accepts such dedication. The required reservation of land for recreational purposes must be specifically located and designated on the site plan.

a. The Board shall not accept dedication of areas of less than three acres. Open spaces of a lesser area may be approved where the total three acres shall be achieved in conjunction with the future development of adjacent lands. Such area or areas may be dedicated to the Town by the developer if the Town Board accepts such dedication.

b. Information to be submitted. In the event that an area to be used for a park or playground is required to be so shown, the developer shall submit, prior to final approval, to the Planning Board three prints, one on Mylar, drawn in ink showing, at a scale of not less than 30 feet to the inch, such area and the following features thereof:

- i. The boundaries of said area, giving lengths and bearings of all straight lines and the radii, lengths, central angles and tangent distances of all curves.
- ii. Existing features such as brooks, ponds, clusters of trees, rock outcrops and structures.
- iii. Existing and, if applicable, proposed changes in grade and contours of said area and of areas immediately adjacent.

(2) Waiver of site plan designation of area for parkland.

- a. In the event that the Planning Board finds that the proposed site plan presents a proper case for requiring a park or parks suitably located for playgrounds or other recreational purposes, but that a suitable park or parks of adequate size to meet the requirement cannot be properly located on such site plan, the Board may require a sum of money in lieu thereof. The Board shall then require as a condition to approval of the site plan a payment to the Town of a fee per unit as set by Town Board resolution from time to time. Such amount shall be paid to the Town Board at the time of final site plan approval, and no site plan shall be signed by the authorized officer of the Planning Board until such payment is made.
- b. In making such determination of suitability, the Board shall assess the size and suitability of lands shown on the site plan which could be possible locations for park or recreational facilities, as well as practical factors, including whether there is a need for additional facilities in the immediate neighborhood.
- c. All such payments shall be held by the Town Board in a special Town Recreation Site Acquisition and Improvement Fund, to be used for the acquisition of land that is suitable for permanent park, playground or other recreational purposes and is so located that it will serve the general population of the Town and shall be used only for park, playground or other recreational land acquisition or improvements. Such money may also be used for the physical improvement of existing parks or recreation area serving the general neighborhood in which the land shown on the site plan is situated, provided that the Town Board finds there is a need for such improvements.
- d. The Board may waive, subject to appropriate conditions, the provision of any or all of such parklands or fees if in its judgment the special circumstances of the particular site plan development are not requisite to

meet the intent of this section or which in its judgment, are inappropriate because of other recreational amenities provided on site or in proximity to the proposed development.

**§ 98-31. Special Use Permits.**

- A. Approval of special use permits. Pursuant to § 274-b of the New York State Town Law, the Town Board of the Town of Chester authorizes the Planning Board to review and decide upon special use permit applications as set forth in this zoning chapter and the Schedules of Use and Area Requirements. The Town Board retains authority to review and decide upon special use permit applications for those special uses which are expressly to be determined by the Town Board as set forth in this Chapter. For purposes of this Article V, the Town Board and the Planning Board are referred to as the “authorized board.”
- B. Objectives. In authorizing a special use permit, the authorized board shall take into consideration the expressed intent of this zoning chapter, the general public health, safety, and welfare, and shall prescribe appropriate conditions and safeguards to ensure the following objectives are achieved:
- (1) The proposed use shall be deemed to be compatible with adjoining properties, and with the natural and built environment of its surrounds.
  - (2) The site is accessible to fire, police, and other emergency vehicles.
  - (3) The use is suitable to its site upon consideration of its scale and intensity in relation to environmentally sensitive features, including, but not limited to, steep slopes, floodplains, wetlands, and watercourses. Adequate screening and separation distances are provided to buffer the use from adjacent properties where the authorized board deems it necessary.
  - (4) The use will not negatively impact ambient noise levels, generate excess dust or odors, release pollutants, generate glare, or cause any other nuisances.
  - (5) Parking shall be sufficient so as to not create a nuisance or traffic hazard on adjacent properties or roads.
  - (6) Vehicular, pedestrian and bicycle circulation, including levels of service and roadway geometry, shall be safe and adequate to serve the use.
  - (7) The location, arrangement, size, operation including hours of operation, and design of the use, including all principal and accessory structures associated with same, shall be compatible with the character of the neighborhood in which it is situated and shall not hinder or negatively impact the use, enjoyment or operation of adjacent properties and uses.
  - (8) Utilities, including stormwater, wastewater, water supply, solid waste disposal and snow removal storage areas, shall be adequate to serve the use.

C. Applicability.

(1) All special uses cited in the Schedules of Use and Area Requirements or identified herein as a special use shall be subject to review and approval of a special use permit in accordance with the standards and procedures set forth in this Chapter.

(2) All special uses and accessory uses thereto shall be subject to site plan review. Such site plan review may be conducted simultaneously as special use permit review.

B. Waiver of standards. As stated within this article, the authorized board, when reasonable, may waive any requirement for the approval, approval with modifications or disapproval of special use permits except where said waiver is specifically not authorized herein. Any such waiver of the standards may only be exercised in the event they are found not to be requisite in the interest of the public health, safety or general welfare or inappropriate to a particular special use permit. No waiver can be granted by implication and any waiver must be granted by specific affirmative vote of the majority of the full membership of the Board based upon findings required herein.

C. Conditions attached to the issuance of special use permits. The authorized board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed special use permit. Upon its granting of said special use permit, any such conditions must be met in connection with the issuance of permits by applicable enforcement agents or officers of the town.

D. Application for area variance. Notwithstanding any provision of law to the contrary, where a proposed special use permit contains one or more features which do not comply with the zoning regulations, application may be made to the zoning board of appeals for an area variance pursuant to section two hundred sixty-seven-b of this article, without the necessity of a decision or determination of an administrative official charged with the enforcement of the zoning regulations.

E. Procedure,

(1) Application for a special use permit shall accompany a site plan application together with the fee as set from time to time by resolution of the Town Board

(2) Public hearing and decision on special use permits. The authorized board shall conduct a public hearing within sixty-two days from the day an application is received on any matter referred to it under this section. Public notice of said hearing shall be printed in a newspaper of general circulation in the town at least five days prior to the date thereof. The authorized board shall decide upon the

application within sixty-two days after the hearing. The time within which the authorized board must render its decision may be extended by mutual consent of the applicant and the board. The decision of the authorized board on the application after the holding of the public hearing shall be filed in the office of the town clerk within five business days after such decision is rendered, and a copy thereof mailed to the applicant.

- (3) In making its decision, the authorized board shall make findings as to each of the objectives set forth in § 98-31(B).
  - (4) Notice to applicant and county planning board or agency or regional planning council. At least ten days before such hearing, the authorized board shall mail notices thereof to the applicant and to the county planning board or agency or regional planning council, as required by section two hundred thirty-nine-m of the general municipal law, which notice shall be accompanied by a full statement of such proposed action, as defined in subdivision one of section two hundred thirty-nine-m of the general municipal law.
  - (5) Compliance with State Environmental Quality Review Act. The authorized board shall comply with the provisions of the State Environmental Quality Review Act under article eight of the Environmental Conservation Law and its implementing regulations.
- F. Existing violation. No special use permit shall be issued for a property known to be in violation of this zoning chapter unless the granting of a special use permit and site plan approval will result in the correction of said violation.
- G. Deemed to be a conforming use. Any use for which a special use permit has been granted shall be deemed to be a conforming use in the district in which it is located, provided that such permit shall be deemed to affect only the lot or portion thereof for which such permit shall have been granted. The expansion of any special use shall require an amendment of the special use permit by the authorized board in accordance with the special use permit application and approval procedures contained herein. For purposes of this section, expansion shall be interpreted to mean an increase in the area allocated to the special use, an increase in development coverage, or an increase in the intensity of use, e.g., an increase in traffic or need for on-site parking.
- H. Expiration of special use permit; extension of special use permit for good cause. A special use permit shall be deemed to have expired if it ceases operation for a time period equal to or greater than 12 consecutive months for any reason, or if construction is not completed within 24 months from the date of issuance. The authorized board may consider extensions of up to six months from the date of issuance for good cause, as determined solely by the authorized board.
- I. Inspections. In connection with the issuance of a special use permit, the authorized board may provide for inspections to be conducted by the Code Enforcement Officer to ensure continued compliance with this zoning chapter and any conditions of the special use permit.

J. Renewal. The authorized board may require that a special use permit be renewed periodically as a condition of special use permit approval. Sixty days prior to the expiration of a special use permit, the applicant shall apply to the Code Enforcement Officer for renewal of the special use permit. The Code Enforcement Officer shall inspect the premises to verify that the conditions of the permit have been met within 15 days following a request for renewal. Upon a finding that there are no violations or noncompliance of the conditions of the special use permit, the Code Enforcement Officer shall so advise the Planning Board and the special use permit shall be renewed by the Planning Board for a time period to be set at its next regular meeting. However, where the Code Enforcement Officer finds that the applicant is not in compliance with the special use permit or that violations exist, then such renewal shall require Board approval and may be granted only following a public hearing. Renewal may be withheld upon a determination by the authorized board that such conditions as may have been prescribed by the authorized board in conjunction with the issuance of the original permit have not been or are being no longer complied with. In such cases, a period of 60 days shall be granted the applicant for full compliance prior to the revocation of said permit.

#### § 98-31.1 Individual standards for special uses.

In addition to the general objectives set forth above, the specific requirements set forth in § 98-29 shall apply to special permit uses and shall supersede any conflicting requirement of this Chapter. -Special permit uses shall meet all other regulations established in this zoning chapter unless superseded by any specific special permit standard.

#### ~~§ 98-xx Building permits for temporary buildings.~~

~~The Planning Board shall have the power to grant a building permit for a period not to exceed one year for a temporary nonconforming building, structure or use incidental to a building or other construction project, including such uses as the storage of building supplies and machinery and a real estate office located on a tract of land where individual properties are being offered for sale, provided that such temporary permit shall be issued only upon written agreement by the owner or his agent to remove such building or structure upon expiration of such permit, and further provided that such permit shall be subject to such reasonable conditions as said Board shall determine to be necessary to protect the public health, safety and welfare of the Town. Such permit may be renewed annually at the discretion of the Board over a period not to exceed three years.~~

§ 98-31.2. Public Hearings

A. A.—Public Hearing. Whenever a public hearing is required to be held by the Planning Board under the Town of Chester Code or state law, the following procedure shall apply:

(1) Public hearing notice. The applicant shall publish notice of the public hearing in the official newspaper not less than five days or more than 30 days prior to the date of the public hearing. The applicant shall mail said notice by first class regular mail with a certificate of mailing from the United States Postal Service not less than 10 days prior to the hearing to owners of property within 500 feet of said property as the names of said owners appear on the last-completed assessment roll of the Village. The form of such notices shall be prescribed by the Planning Board, and the cost of such notice shall be paid by the applicant. The applicant shall submit an affidavit of mailing at the public hearing which shall include a list of the property owners to whom the notice of hearing was sent. The Planning Board may require notices to be sent a greater distance.

(2) Where applications are subject to a Special Use Permit, the applicant shall post a sign on the property which is the subject of the application on or before 15 days prior to the first date of public hearing and shall remove such sign within two days following such hearing. The sign shall be at least 30 inches by 20 inches, consist of sturdy and serviceable material containing a white background with black letters and shall be placed in a location plainly visible from the most commonly traveled street upon which the property fronts but in no case more than 20 feet back from the front lot line. Such sign shall be not more than three feet above the ground and shall read as follows, in legible lettering at least two inches:

“THE USE OF THIS SITE IS PROPOSED TO BE AS FOLLOWS [DESCRIBE PROPOSED USE]”

“THIS MATTER IS SUBJECT TO PUBLIC HEARING AT TOWN HALL ON [GIVE DATE AND TIME]”

(3) Where a Special Use Permit is required for the proposed action, the public hearing on the Special Use Permit shall be coordinated with any hearing on the site plan application to the maximum extent possible.