Amended May 27, 2026

Article I. General Provisions

§ 98-1. Purpose.

There is hereby established a new comprehensive zoning plan for the Town of Chester, which plan is set forth in the text and map that constitute this chapter. Said plan is adopted for the purposes set forth in Article 16, §§ 261 and 263, of the Town Law, which, in the interest of the protection and promotion of the public health, safety and welfare, shall be deemed to specifically include the following, among others:

A. The facilitation of the efficient and adequate provision of public facilities and services.
B. To assure adequate sites for residences, industry and commerce.
C. The prevention and reduction of traffic congestion so as to promote efficient and safe circulation of vehicles and pedestrians.
D. The gradual elimination of nonconforming uses.
E. The encouragement of flexibility in the design and development of land in such a way as to promote the most appropriate use of lands, to facilitate the adequate and economical provision of streets and utilities and to preserve the natural and scenic qualities of open lands.
F. The preservation and protection of viable agricultural land, streams, ponding areas, floodplains, reservoirs and watersheds.
G. To assure adequate separation between uses and buildings so as to promote safety, comfort, privacy and the preservation of property values.

§ 98-2. Definitions and word usage.

A. General interpretation. All words used in this chapter in the present tense include the future tense; all words in the plural number include the singular number, and all words in the singular number include the plural number, unless the natural construction of the wording indicates otherwise; the word "building" includes the word "structure"; the words "occupied or used" as applied to any building shall be construed as though followed by the words "or intended, arranged or designed to be occupied or used"; the word "lot" includes the word "plot" or “parcel”; the term "erected" shall be deemed also to include "constructed, reconstructed, altered or moved." The word "may" is permissive; the word "shall" is mandatory and not directory. The word "Town" means the "Town of Chester" in the County of Orange, State of New York. The terms "Town Board," "Board of Appeals" and "Planning Board" mean the respective Boards of said Town.

B. Words and terms. For the purpose of this chapter, certain words and terms herein are defined as follows:

ACCESSORY BUILDING, STRUCTURE OR USE

A permitted subordinate building, structure or use which is clearly incidental to, customarily in connection with and located on the same lot as the principal permitted use. An accessory building attached to a principal building shall be deemed to be part of such principal building in applying the bulk regulations to such building.

ADULT BOOKSTORE

An establishment having a substantial or significant portion of its stock-in-trade books, magazines, films for sale or viewing on premises by use of motion-picture devices or any other coin-operated means, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section devoted to the sale or display of such material.

ADULT ENTERTAINMENT CABARET

A public or private establishment which may or may not be licensed to serve food and/or alcoholic beverages, which features topless dancers, strippers, male or female impersonators or similar entertainers.

ADULT MINI-MOTION-PICTURE THEATER

An enclosed building with a capacity of less than 50 persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

ADULT MOTION-PICTURE THEATER

An enclosed building with a capacity of 50 or more persons used regularly and routinely for presenting material having as a dominant theme material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

AGRICULTURAL ACTIVITY

The activity of an active farm, including grazing and watering livestock, irrigating crops, harvesting crops, using land for growing agricultural products, and cutting timber for sale, but shall not include the operation of a dude ranch, horse shows or similar operation

AGRICULTURE OPERATION, COMMERCIAL

Land and on-premises buildings, equipment, uses, activities, and practices which contribute to the production, preparation, and sale of crops, livestock and livestock

products as a commercial enterprise. Slaughterhouses, concentrated animal feeding operations (e.g., factory farms for high density animal production), the raising of fur-bearing and laboratory animals, timber operations are not permitted as an agricultural use. The production of compost, soil or other biomass products is not an agricultural use but is allowed solely where it is accessory to and a product of the operation of an agricultural use. The clearing of land for an agricultural use is permissible, provided an applicant has first obtained a clearing, filling and grading permit specifically for said purposes and any other permits and approvals from applicable agencies.

AGRI-TOURISM

Agri-tourism is defined as a set of activities that occurs when people link travel with the products, services and experiences of agriculture. Agri-tourism is conducted for the enjoyment or education of the public and primarily promotes the sale, marketing, production, harvesting or use of the products of the farm operation. Examples of agri-tourism include, but are not limited ~~apple~~ produce picking and the like, hayrides, ~~wine trails~~craft wineries, breweries and distillery, farm tours, farm to table dining experiences and farm festivals designed to support on-site farm operations. Craft wineries, breweries, and distilleries have production limited to 250,000 gallons per year for wineries, 75,000 barrels per year for breweries, and 75,000 gallons per year for distilleries.

ALTERATION

A change or rearrangement in the structural parts of a building or an enlargement, whether by extending on the front, rear or a side or by increasing in height, or the moving from one location or position to another.

APPLICANT

A property owner or authorized agent of a property owner who has filed an application for a land development activity with the Town of Chester Planning Board or Building Inspector.

AUTOMOTIVE REPAIR SHOP

An establishment used for the repair, servicing or equipping of automobiles and other vehicles intended for use on the public highways and which may include gasoline sales as an accessory use where permitted but which shall not include the storage, rental, sale or washing of motor vehicles unless otherwise expressly permitted in this chapter. The washing or cleaning of vehicles at an automotive repair shop shall only be permitted as incidental to vehicle repair work.

BANNER

A rectangular piece of cloth, plastic or similar pliable material attached to a building for a limited period of time.

BED-AND-BREAKFAST

A single-family dwelling with bedrooms converted or added to provide up to four guest rooms for transient residents and serving breakfasts for guests only.

BED-AND-BREAKFAST INN

Bed-and-breakfast facility with up to 20 bedrooms converted or added to provide guest rooms and serving meals.

BUILDING

A structure wholly or partially enclosed within exterior walls and a roof, which is designed or intended for use as an enclosure, shelter, protection or support of persons, animals or property.

BUILDING COVERAGE

The percentage of the total area of a lot covered by all buildings, except for open porches, patios, steps and similar appurtenances.

BUILDING-INTEGRATED PHOTOVOLTAIC SYSTEM

A solar energy system that integrates photovoltaic modules and components into the building structure, such as the roof, facade or windows, and which does not alter the relief of the roof.

CELLAR or BASEMENT

A story, the floor of which is more than 1/2 of its story height below the average level of the adjoining ground.

CHANNEL

A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

CLEARING

Any activity that removes the vegetative surface cover.

CLEAR-CUTTING

A method of harvesting where substantially all trees ~~on a site or portion thereof~~on an area of land in excess of 1.0 acre are removed. Clear-cutting is prohibited except where it is associated with land disturbance activities within the limits of disturbance shown clearly on an approved site plan, ~~or~~ subdivision plan, or land disturbance permit.~~.~~

CLUSTER DEVELOPMENT

A residential development that modifies the lot dimensional and area requirements in the Town of Chester Zoning Code for the purpose of providing open space~~a benefit~~ to the Town consistent with the Comprehensive Plan. Cluster developments shall in no case exceed the permitted number of building lots or dwelling units which could be permitted, in the Planning Board's judgment, if the land were subdivided into lots conforming with the minimum lot dimensional area and density requirements of the zoning law applicable to the land in question and conforming to all other applicable requirements. The phrase "all other applicable requirements" means not only all applicable zoning and land use laws and regulations but also any applicable county, state and federal laws, regulations and requirements.

COMMERCIAL HORSE BOARDING OPERATION

An agricultural enterprise, consisting of at least seven acres and boarding at least 10 horses, regardless of ownership, that receives $10,000 or more in gross receipts annually from fees generated either through the boarding of horses or through the production for sale of crops, livestock, and livestock products, or through both such boarding and such production. Under no circumstances shall a commercial horse boarding operation be construed to include operations whose primary on-site function is horse racing. A Commercial Horse Boarding Operation shall comply with the standards set forth for a Commercial Agricultural Operation except as otherwise provided for in the zoning code.

COMMERCIAL INDOOR RECREATION

A business offering sporting or recreational uses such as field or court sports, fitness equipment, ice rink, swimming pool, martial arts, dance or gymnastics studio, bowling alley, billiards, movie theater, mini or virtual golf, go-carts, obstacle course, laser tag, shuffleboard, arcade and similar games all contained within an enclosed building or buildings.

COMMERCIAL VEHICLE

A licensed or unlicensed vehicle of more than one-ton capacity that is issued for the transportation of persons or goods primarily for financial gain. This definition shall be interpreted to include all heavy construction equipment as a commercial vehicle.

COMMUNITY-BASED SIGNAGE

A sign or signs that are placed to commemorate and/or attract attention to a community festival officially recognized by the Town Board.

COURT

An open, unoccupied space, other than a required yard, on the same lot with a building.

CULTURAL FACILITY/CENTER

An establishment for display, performance, or enjoyment of heritage, history or the arts. This use includes but is not limited to museums, libraries and arts performance venues by a public or private entity.

DAY CARE OF CHILDREN

Care provided for three or more children away from their own homes Such care shall be for more than three hours and less than 24 hours per day per child to any child accepted for care therein. The term "day care of children" includes services provided with or without compensation or payment. The following types of day-care facilities are permitted in the Town of Chester subject to the requirements of New York State Social Services Law, the applicable regulations thereto and the requirements of this Zoning Chapter.

DAY-CARE CENTER (FACILITY)

A place, person, association, corporation, institution or agency which is licensed by the New York State Department of Social Services to provide day care, as defined herein, and in which parents, guardians or others responsible for care place children. The name, description or form of the entity which operates a day-care center shall not affect its status as a day-care center.

DAY CARE OF CHILDREN, FAMILY HOME

Licensed day care provided for three to six children away from their own homes for less than 24 hours per day, for compensation or otherwise, for more than five hours per week in a family home in accordance with Social Services Law § 390 et. seq. The term is not intended to include babysitting services of a casual, nonrecurring nature or in the child's own home. The term is also not intended to include cooperative, reciprocative child care by a group of parents in their respective domiciles.

DAY CARE OF CHILDREN, GROUP FAMILY HOME

Care provided for not more than 14 children away from their own homes for more than three hours but less than 24 hours per day in a group family day-care home

as licensed by the New York State Department of Social Services (NYSDSS), which is operated for such purposes for compensation or otherwise. A group family day care home shall comply with the requirements of NY Social Services Law § 390 et seq.

DAY CARE OF SCHOOL-AGE CHILDREN IN A GROUP FAMILY DAY-CARE HOME

Care provided to up to two children over the limits set forth in 8 NYCRR 416.1(b) who are of school age and who are receiving care during non-school hours, including school holidays, vacations and the summer, in accordance with the provisions of 8 NYCRR 416(e). "School-age children" are children under the age of 14 who are in attendance at a public or private school and are in kindergarten or a higher grade.

NURSERY SCHOOL

A program, whether licensed with the New York State Department of Education or not, provided in one or two sessions, each of less than three hours a day, away from a child's home; except family day-care home, group family day-care home or day-care center.

DECK

An outdoor platform attached to the principal structure of a building and built above the natural grade. A deck does not have a roof and is exposed to the elements.

DEDICATION

The deliberate appropriation of property by its owner for general public use.

DEVELOPMENT COVERAGE

The percentage of ground area covered by impervious cover including but not limited to buildings, structures, roof tops, driveways, parking areas, patios, tennis and basketball courts. See also Impervious Cover.

DOG KENNEL

A structure used for the harboring of more than three dogs that are more than six months old or more than 12 dogs that are under six months old. Any dog owner whose dog(s) bear(s) more than one litter of puppies that are of registered pedigree and offered for sale or who provides kennel space for other owners for a fee shall, for the purposes of this chapter, be considered as maintaining a dog kennel and must adhere to all regulations governing the same.

DOMESTIC ANIMAL

Any animal customarily kept by humans for companionship, including but not limited to dogs, cats, birds, rabbits, hamsters, mice, turtles and reptiles. Does not include domesticated farm animals such as fowl, cattle, calves, horses, mules, sheep, goats or other similar kinds of animals.

DUMP

A parcel of land or part thereof used primarily for the disposal, by abandonment, dumping, burial, burning or any other means and for whatever purposes, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof or waste material of any kind.

DWELLING

A building used by one or more families living independently of each other upon the premises. The term "dwelling" shall include mobile homes, provided that they meet all of the requirements of this chapter, the Building Code and all other laws, regulations and ordinances applicable to dwellings.

DWELLING, ATTACHED

A one-family dwelling with two common or party walls separating it from adjacent dwellings on both sides, or one common wall in the case of a dwelling located at the end of a group of attached dwellings, but with no dwellings above or below each other.

DWELLING, MULTIPLE

A building or portion thereof containing more than two dwelling units either side by side or above and below each other.

DWELLING, ONE- OR SINGLE-FAMILY

A detached building containing one dwelling unit only.

DWELLING, TWO-FAMILY

A detached building containing two dwelling units only.

DWELLING UNIT

A building or entirely self-contained portion thereof containing complete housekeeping facilities, including cooking and plumbing facilities, for only one family and having no enclosed space, other than vestibules, entrances or other hallways or porches, or cooking or sanitary facilities in common with any other family. A boardinghouse,

dormitory, motel or other similar structure shall not be deemed to constitute a dwelling unit for the purposes of this chapter.

FAMILY

A single individual, or a group of two or more persons not necessarily related by blood, marriage, or adoption, living, sleeping, cooking and eating in and otherwise occupying one dwelling unit as a single unit and who function as a family with respect to those characteristics that are consistent with the purposes of zoning and use restrictions in residential neighborhoods.

FILL

Inert solid materials including soil (loam, sand and gravel), rock, stone, dredged sediments that comply with the New York State Department of Environmental Conservation (NYSDEC) restricted use soil cleanup objectives for the protection of public health. (NOTE: See NYSDEC, Regulation and Enforcement, Regulations, Chapter IV, Quality Services, Part 375: Environmental Remediation Programs, as may be amended from time to time)

FILM PRODUCTION FACILITY

A building and/or complex of buildings and their improvements and associated back-lot facilities in which films and the like are or are intended to be regularly produced and which contain at least one sound stage.

FLOOR AREA

The sum of the gross horizontal areas of the several floors of a building or dwelling unit. All dimensions shall be measured between exterior faces or walls. In calculating floor area for off-street parking requirements, the floor areas of all principal buildings on a lot shall be considered.

FLOOR AREA RATIO (FAR)

The gross floor area of a dwelling to be regulated herein, divided by the gross lot area. For purposes of this bulk requirement, "gross floor area" shall be the sum of the gross horizontal areas of the stories of a dwelling unit measured to the exterior of the outside faces or walls of buildings, including any livable floor area within any attic, basement or enclosed porches.

FOUNDATION

The supporting structure of a building or structure, including, but not limited to, basements, cellars, basement garages, slabs, sills, posts or frost walls, inclusive of any windows.

FOWL

Birds that are customarily kept and used in the production of meat or eggs and may include any hen, chicken, chick, rooster, cockerel, duck, turkey, pheasant or any of several other usually gallinaceous birds.

GARAGE, PRIVATE

An enclosed space for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted for profit therein nor space therein for more than one car is leased to a nonresident of the premises.

GARAGE, PUBLIC

Any garage, other than a private garage, available to the public, operated for gain and which is used for the storage, repair, rental, greasing, washing, servicing, adjusting or equipping of automobiles or other motor vehicles.

GAS STATION

An establishment used for the retail sale of gasoline or other fuel for vehicles intended for use on the public highways and which may include a convenience retail store containing less than 1,000 square feet of customer floor area, but which shall not include the service or repair of motor vehicles.

GRADING

Excavation or fill of material, including the resulting conditions thereof.

GROSS RESIDENTIAL FLOOR AREA

The sum of the gross floor area of all floors of a residence, measured to the exterior of the outside walls. In calculating the gross floor area of houses for the purpose of calculating floor area ratio (FAR), all floor areas of each floor of all principal and accessory structures on the lot shall be included, except for the portion which may be exempted as provided for in § 98-44. Any interior space with a floor-to-ceiling height in excess of 12 feet shall be counted twice.

GROUND-MOUNTED SOLAR ENERGY SYSTEM

A solar energy system that is anchored to the ground and attached to a pole or other mounting system, detached from any other structure.

HEIGHT

The vertical distance measured from the average elevation of the finished grade, along the facade of the structure having the lowest average elevation, to the highest point of such structure.

HEIGHT, FLOOR-TO-CEILING

The distance between the finished floor and the finished ceiling of an interior space. The distance shall be equal to the length of a theoretical line drawn from the floor to a point of the highest portion of the ceiling directly above it and is perpendicular to the horizontal plane of the floor.

HOME OCCUPATION

Any gainful occupation customarily conducted within a dwelling by the residents thereof, clearly secondary to the use of the dwelling for living purposes and which does not change the character of the structure as a residence. Said activity shall not have more than one nonresident employee and shall not occupy more than 1/2 the ground floor area of the dwellings or its equivalent elsewhere in the dwelling if so used. Permissible home occupations include but are not limited to the following: art studio; dressmaking; offices of a clergyman, lawyer, physician, dentist, architect, engineer or accountant; teaching or tutoring, with musical, dancing and other instruction limited to one pupil at a time. However, home occupations shall not be construed to include uses such as the following: restaurant, clinic or hospital, animal hospital, dog kennel, barbershop, beauty parlor or antique shop.

HOTEL

A building or group of buildings or any part thereof which contains living and sleeping accommodations for transient occupancy, with principal buildings, having ~~has~~ a common exterior entrance or entrances and which may or may not include dining facilities and which group of buildings may also include individual, detached units with separate exterior entrances (e.g. cabins) on the same lot. This term shall not be deemed to include an inn, bed-and-breakfast, boardinghouse or other such accommodations.

IMPERVIOUS COVER

Those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snowmelt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc.). See also Development Coverage.

INFILTRATION

The process of percolating stormwater into the subsoil.

INN

A building containing a single dwelling unit in which more than four and fewer than 15 sleeping rooms are provided by the owner/occupant for compensation, for the accommodation of transient guests with or without meals.

JUNKYARD

Any area of land, including buildings thereon, which is used primarily for the collection, storage and sale of wastepaper, rags, scrap metal or discarded material or for the collection, dismantling, storage or salvaging of machinery or vehicles not in running condition and for the sale of parts thereof.

JURISDICTIONAL WETLAND

An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as "hydrophytic vegetation" and which is regulated by the New York State Department of Environmental Conservation, United States Army Corps of Engineers, or by local law.

LAND DISTURBANCE ACTIVITIES

Any activity which may result in soil erosion from water or wind and the movement of sediments into waters, including, but not limited to, clearing, grading, excavating, transporting, and tilling of land, except that the term shall not include such minor land disturbance activities as: home gardens and individual home landscaping and maintenance work; individual service connections and construction or installation of public utility lines; septic tank lines or drainage fields unless included in an overall plan for land disturbance activity relating to construction of the building to be served; disturbed land areas for commercial or noncommercial uses less than 5,000 square feet in size; installation of fence and sign posts or telephone and electric poles and other kinds of posts and poles; or emergency work to protect life, limb or property. This definition also includes any movement of soil, sand, rock, and other earth materials from one location to another, other than such movement incidental to grading on the same site, where such movement results in the destruction of the vegetative cover either by tracking or the installation or deposition of earth materials to the extent that erosion and sedimentation will result.

LAND DISTURBANCE PERMIT

A permit issued by the Town of Chester for the clearing, filling, excavating, grading or transporting of soils, vegetation, or combination thereof.

LANDOWNER

The legal or beneficial owner of land, including those holding the right to purchase or lease land, or any other person holding proprietary rights in the land.

LARGE-SCALE SOLAR ENERGY SYSTEM

A solar energy system that is capable of producing over 12 kilowatts (kw) per hour and which serves only building(s) and structure(s) on the lot upon which the system is located and may, in addition, serve building(s) and structure(s) on adjacent lots.

LIVESTOCK

Cattle, sheep, horses, goats, and other domestic animals ordinarily raised or used on a farm.

LOT

~~A parcel of land, not necessarily coincident with a lot or lots shown on a map of record, which is or is to be occupied by a building and any of its accessory buildings, or by a group of buildings, together with such open spaces as are required under the provisions of this chapter, having not less than the minimum area and width required by the regulations of the district in which such land is situated and having its principal frontage on a street or on such other means of access as may be determined in accordance with the provisions of state law to be adequate as a condition of the issuance of a building permit for a building on such land. The term "lot" includes the words plot or parcel.~~

One or more contiguous parcels of land united by common interest or use, considered as a unit, designed to be used by one use or structure or by a related group of uses or structures and the accessory uses or structures customarily incident thereto, including such open spaces as are required. A lot may be or may not be the land shown as a single lot on a duly recorded plat or other official record. The term "lot" includes the words plot or parcel.

LOT AREA

The total horizontal area included within lot lines.

LOT AREA, BUILDABLE

An area of a lot which does not contain slopes of 25% or greater for a contiguous area of 2,000 square feet, federal or state wetlands, water bodies, floodplains or restrictive easements which limit use. Minimum lot area identified on the Schedules of Use and Area Requirements to be buildable.

LOT, CORNER

A lot abutting upon two or more streets at their point of intersection or a curved street. A lot abutting a curved street shall be deemed to be a corner lot if the tangents to the curve at the points of intersection of the side lot lines with the street lines intersect at an interior angle of less than 135°.

LOT, FLAG OR REAR

A lot on which the buildable area is located generally to the rear of other lots having frontage on the same road as such lot and having access to the road via a strip of land no greater than 50 feet wide or no less than 25 feet wide for its full length.

LOT LINE

Any boundary of a lot. Any lot line not a rear lot line nor a front lot line shall be deemed to be a side lot line.

LOT LINE, FRONT

The street line at the front of a lot. ~~A corner lot or lot abutting two or more streets shall be considered to front on the street on which it has the least frontage. When a corner lot or lot abutting two or more streets shall have equal frontage on both streets, the owner may elect the street upon which he desires to front.~~

LOT LINE, REAR

That lot line which is most distant from and is most nearly parallel to the front lot line.

LOT WIDTH

The distance between the side lot lines measured at the required minimum front yard depths, or in a case where a building setback line is established by the Planning Board at the time of subdivision approval, which line is farther removed from the front lot line than the minimum front yard depth, at such lines. The width shall be measured along a line, which line is generally parallel to the front lot line. In such case where a front lot line is curved, the dimension of lot width shall be measured along a line which is perpendicular to a line bisecting the lot from front to rear. Every point along a lot width line shall be at least the minimum required distance from the front lot line.

MAINTENANCE AGREEMENT

A legally recorded document which acts as a property deed restriction and which provides for long-term maintenance of stormwater management practices and/or other operational agreements for a parcel or multiple parcels of land.

MANUFACTURING

Any process whereby the nature, size or shape of articles or raw materials is changed or where articles are assembled or packaged in quantity.

MEMBERSHIP CLUB

Premises used by a not-for-profit organization with annual membership dues catering exclusively to members and their guests for social, recreational, athletic, professional, cultural or similar purposes. The members of the organization shall have a financial interest in, and method of control of, the assets and management of the "membership club."

MICRO LIVESTOCK

Animals kept for the production of food or fur which are inherently small. Micro livestock may include but are not limited to rabbits, fowl, bees, miniature varieties of goats and cows. The keeping of bees shall not be limited to numbers as set forth in the Schedule of Use and Area Regulations.

MIXED--USE

A building containing residential uses in addition to nonresidential uses permitted in the zone. Mixed uses will only be allowed in the LB-SL Zoning District and will allow for apartments above or to the rear of businesses within the same building.

MOBILE HOME

Any vehicle mounted on wheels or fitted to be mounted on wheels, movable either by its own power or capable of being drawn by another vehicle and equipped to be used for living or sleeping quarters or so as to permit cooking and which is in excess of 32 feet in length. The term "mobile home" shall include vehicles if mounted on temporary or permanent foundations with wheels removed.

MOTEL

A building or group of buildings containing individual living and sleeping accommodations for hire, each of which is provided with a separate exterior entrance and a parking space and is offered for rental and use principally by motor vehicle travelers. The term "motel" includes, but is not limited to, every type of similar establishment known variously as an "auto court," "motor hotel," "motor court," "motor inn," "motor lodge," "tourist court," "tourist cabins," or "roadside hotel."

NET-METERING

A billing arrangement that allows a solar energy system user to receive credit for excess electricity generated and deliver such excess electricity to the utility grid.

NONCONFORMING BUILDING, STRUCTURE OR USE

Any building, structure or use of any building, structure, lot or land or part thereof lawfully existing at the effective date of this chapter which does not conform to the regulations prescribed for the district in which it is situated.

NONPOINT SOURCE POLLUTION

Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

OFFICE

A place or establishment used for the organizational or administrative aspects of a trade or used in the conduct of a business and not involving the manufacture, storage, display or direct retail sale of goods. This may include, but is not limited to, offices of salesmen, sales representatives, insurance brokers, real estate brokers and persons with similar occupations. The term office may further include an office devoted to a professional service occupation, in which knowledge in some department of science or learning is applied to the affairs of others, either advising or guiding them, or otherwise serving their interest or welfare through the practice of a profession founded on such knowledge. A professional office may include but not be limited to the office of an accountant, architect, consultant, engineer, or attorney.

OPEN SPACE AREAS

Areas where structural development of any kind is permanently restricted by covenant or other device.

OUTDOOR RECREATION FACILITY

A commercial business offering 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. Such use does not include the racing of automobiles, motorcycles or dirt-bikes, camp ground or RV Park.

OUT-OF-SCALE

With regard to a building or any part thereof, the condition of being or appearing to be disproportionately large, bulky, or massive relative to the other buildings in the surrounding neighborhood (particularly, but not limited to, the buildings on contiguous

tax lots) and/or relative to the size of the tax lot upon which the building is situated; also, with regard to any one part of a building (or an addition to a preexisting building), the condition of being or appearing to be disproportionately large, bulky, or massive relative to any other part of the same building (or, in the case of an addition, relative to the preexisting building); with regard to an accessory structure, the condition of being or appearing to be disproportionately large, bulky, or massive relative to the principal structure, the other buildings in the surrounding neighborhood, and/or the size of the tax lot upon which the accessory structure is situated.

PARCEL

Any tract of land united by common interest or use, whether or not divided by a public road and without reference to time of acquisition. Such land divided by a railroad or a divided or limited-access highway shall be deemed separate parcels.

PERSON

Any individual, firm, company, association, society, corporation or group.

PHASING

Clearing or development of a parcel of land in distinct pieces or parts, with the stabilization or development of each piece completed before the clearing of the next parcel for stormwater or erosion protection or for development of the next parcel.

PLANNED ADULT COMMUNITY (PAC)

A residential development which is designed with amenities and features to meet the needs of a specific age group, typically restricted for occupancy to those over the age of 55 years and their household members.

POLLUTANT OF CONCERN

Sediment or a water quality measurement that addresses sediment (such as total suspended solids, turbidity or siltation) and any other pollutant that has been identified as a cause of impairment of any water body that will receive a discharge from the land development activity.

PORCH, ENCLOSED

A structure attached to a building, with a floor, roof, and structural supports, and permanently, seasonally, or temporarily enclosed with solid materials, such as glass or lexan (a clear, durable, hard plastic material). Screens, curtains, or latticework made of wire mesh, cloth, paper, strips of wood or metal, or other similar material, shall not be

considered "solid" for the purpose of this definition. A porch does not need to be heated or insulated to be considered enclosed.

PORCH, UNENCLOSED

A structure attached to a building, which has a floor, a roof and structural supports, but not permanently, seasonally or temporarily enclosed with solid materials such as glass or lexan (a clear, durable, hard plastic material).

PRINCIPAL BUILDING OR USE

The primary purpose for which a lot or building is designed or used or in which the principal use is conducted. In certain cases, ~~more than two~~multiple principal uses may be located in a single building or on a single lot where such uses may operate in harmony with one another. Where more than one principal use is proposed, the cumulative minimum lot dimensions for each use shall be satisfied.

QUALIFIED SOLAR INSTALLER

A person who possesses skills and knowledge related to the construction and operation of solar energy systems, equipment and installations and has received safety training on the hazards involved. Persons who are on the list of eligible solar installers maintained by the New York Energy Research and Development Authority (NYSERDA), or are certified as a solar installer by the North American Board of Certified Energy Practitioners (NABCEP), shall be deemed to be qualified solar installers for the purpose of this definition. Persons who are not on NYSERDA's list of eligible installers or NABCEP's list of certified installers may be deemed to be qualified solar energy installers if the Town Building Inspector, or such other Town officer or employee as the Town Board designates, determines such persons have had adequate training to determine the degree and extent of the hazard, the personal protective equipment and job planning necessary to safely perform the installation. Such training shall include the proper use of special precautionary techniques and personal protective equipment, as well as the skills and techniques necessary to distinguish exposed energized parts from other parts of electrical equipment and to determine the nominal voltage of exposed live parts.

RECHARGE

The replenishment of underground water reserves.

RELIGIOUS INSTITUTION

A church, synagogue, temple, mosque, or other similar ~~facility~~ facilities that ~~is~~ are used for worship by persons of similar beliefs and ~~that is architecturally designed and~~ particularly adapted for the primary use of conducting formal, organized or regularly

scheduled religious services ~~on a regular basis~~or, secondarily for special religious occasions including, but not limited to, funerals, weddings or celebration of life events together with ~~customary~~ accessory uses customarily incidental thereto. Religious institutions shall be subject to a special use permit as set forth in § 98-29 (F) of the Town of Chester Code. Also known as “Place of Worship.”

RESIDENCE

Any building, the principal use of which is for dwelling purposes and not including dwelling units above business uses in the same structure.

RESTAURANT, FAST-FOOD

An establishment where food and/or beverages are sold in a form ready for consumption and where, by design or packaging techniques, all or a significant portion of the consumption can or does take place outside the confines of the building.

RESTAURANT, STANDARD

Any establishment, however designated, whose primary use is preparation and sale of food for consumption to patrons seated within an enclosed building or on the premises. However, a snack bar or refreshment stand at a public or quasi-public community swimming pool, playground, playfield or park operated by the agency or group or an approved vendor operating the recreational facilities and for the convenience of the patrons of the facility shall not be deemed to be a restaurant.

RIDGELINE

The highest elevation of the ground along a hill or series of hills. For the purpose of the Ridge Preservation Overlay District (RPOD), the ridgeline is the highest elevation of the ground along a hill or series of hills visible from viewpoints along the roads or highways specified in the RPOD regulations in § 98-26 (C)(1).

ROOFLINE

That line formed by the facade of a building at the point at which it meets the roof of the building.

SCHOOL, ART, DANCING, MUSIC, THEATER

An institution operated for instruction of art, dancing, music, or theater only.

SCHOOL OF GENERAL INSTRUCTION

Any public or nonpublic school that offers instruction at least five days per week and seven months per year, which include pre-K, kindergarten, elementary, junior high, or

high schools subject to 8 NYCRR Part 100 regulations: or, other schools of religious or specialized training. Dormitories are not included as part of this definition.

SCHOOL, VOCATIONAL

An institution conducting a regularly scheduled curriculum of special study of a trade, commercial or vocational nature with all instruction and curriculum occurring entirely within an enclosed structure.

SEASONAL USE OR STRUCTURE

Buildings or uses not intended for year-round, permanent occupancy

SELF-SERVICE STORAGE FACILITY

A facility containing a structure or structures containing separate, individually leasable or rentable storage spaces of varying sizes.

SENSITIVE AREAS

Groundwater recharge areas, water supply reservoirs and habitats for threatened, endangered or special concern species.

SIGN

Any letter, word, model, banner, pennant, insignia, trade flag, device or representation used as or which is in the nature of an advertisement, attraction or directive.

SIGN AREA or SIGN SURFACE AREA

Includes all faces of a sign measured as follows:

(1) When such sign is on a plate or framed or outlined, all of the area of such plate or the area enclosed by such frame or outlined shall be included.

(2) When such sign consists only of letters, designs or figures engraved, painted, projected or in any manner affixed on a wall, the total area of such sign shall be deemed the area within which all of the matter of which such sign consists may be inscribed.

SIGN, BILLBOARD

A billboard shall constitute an accessory use of property in designated commercial, industrial and planned zoning districts. A billboard is also referenced as an off-premises sign, which advertises or depicts an establishment, service, merchandise, use, entertainment, activity, or product that is not conducted, sold, produced, or furnished upon the lot where the sign is located. A billboard may incorporate the technology

identified herein for a "digital sign." "Digital billboard" shall mean a billboard which incorporates, in whole or in part, a digital sign.

SIGN, BUSINESS

A sign which directs attention to a business or profession conducted upon the property.

SIGN, DIGITAL

A sign that has or appears to contain movement or that appears to change, caused by a method other than physically removing and replacing the sign or its components, whether the real or apparent movement or change is in the display, the sign structure itself, or any other part of the sign. A digital sign often incorporates a technology allowing the sign face to change the image without the necessity of physically or mechanically replacing the sign face or its components. A digital sign may include a rotating, revolving, moving, flashing, blinking, or animated display and any display that incorporates rotating panels, LED lights manipulated through digital input, electronic message centers, or other similar methods or technologies that permit a sign face to present different images or displays.

SIGN, FREESTANDING

A sign not attached to a building or wall, which is supported by one or more poles or braces or which rests on the ground or on a foundation resting on the ground.

SIGN, WALL

A sign painted or attached directly to and parallel to the exterior wall of a building extending no greater than 12 inches from the exterior face of a wall to which it is attached.

SLAUGHTERHOUSE

A United States Department of Agriculture (USDA)-regulated facility where the primary activity is the killing, butchering, or packaging of animals for human consumption.

SMALL-SCALE SOLAR ENERGY SYSTEM

A solar energy system that does not produce more than 12 kilowatts (kw) per hour of energy or a solar thermal system, either of which serves only the building(s) or structure(s) on the lot upon which the system is located.

SOLAR ACCESS

Space open to the sun and clear of overhangs or shade so as to permit the use of a solar energy system.

SOLAR COLLECTOR

A solar photovoltaic cell, module, panel or array or water collector device, which relies upon solar radiation as an energy source for the generation of electricity or transfer of stored heat.

SOLAR ENERGY SYSTEM

Solar collectors, module controls, energy storage devices, heat pumps, heat exchangers and other materials, hardware and equipment necessary to the process by which solar radiation is collected, converted into another form of energy, stored, protected from unnecessary dissipation, and distributed including the solar access necessary for the system to operate as designed and any areas of land that are disturbed or cleared to maintain that solar access, and any accessory or appurtenant structures. Solar energy systems may include solar panel, solar thermal, building integrated photovoltaic and concentrated solar energy systems. For the purpose of this chapter, a solar energy system does not include a solar energy system of four square feet or less.

SOLAR PANEL

A device for the direct conversion of solar energy into electricity.

SOLAR THERMAL SYSTEM

A solar energy system that directly heats water or other liquid using sunlight for such purposes as space heating and cooling, domestic hot water and pool water.

SPECIFIED ANATOMICAL AREAS

For purposes of this chapter, "specified anatomical areas" shall be defined as follows: less than completely and opaquely covered human genitals, pubic region or female breast below a point immediately above the top of the areola or human male genitals in a discernibly turgid state, even if completely and opaquely covered.

SPECIFIED SEXUAL ACTIVITIES

For purposes of this chapter, "specified sexual activities" shall be defined as follows: human genitals in a state of sexual stimulation or arousal, or acts of human masturbation, sexual intercourse or sodomy, or fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

STABILIZATION

The use of practices that prevent exposed soil from eroding.

STOP-WORK ORDER

An order issued by a municipal official or agency which requires that all construction activity on a site be stopped. See also Chapter 50, Fire Prevention and Building Construction.

STORMWATER

Rainwater, surface runoff, snowmelt and drainage.

STORMWATER HOTSPOT

A land use or activity that generates higher concentrations of hydrocarbons, trace metals or toxicants than are found in typical stormwater runoff, based on monitoring studies.

STORMWATER MANAGEMENT

The use of structural or nonstructural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources and the environment.

STORMWATER MANAGEMENT FACILITY

One or a series of stormwater management practices installed, stabilized and operating for the purpose of controlling stormwater runoff.

STORMWATER MANAGEMENT OFFICER

An employee or officer designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices.

STORMWATER MANAGEMENT PRACTICES (SMPs)

Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.

STORMWATER POLLUTION PREVENTION PLAN (SWPPP)

A plan for controlling stormwater runoff and pollutants from a site during and after construction activities.

STORMWATER RUNOFF

Flow on the surface of the ground, resulting from precipitation.

STORY

A space between the surface of any floor and the surface of the next higher floor or, if no floor above it, the space between the surface of any floor and the ceiling immediately above it.

STORY, HALF

A space under a sloping roof which has the line of intersection of the interior faces of the roof structure and main building wall not more than three feet above the top floor level and in which space the floor area with a headroom of five feet or more occupies at least 60% of the total area of the story directly beneath.

STREET

A publicly dedicated right-of-way or a private right-of-way improved to meet Town street specifications for vehicular and pedestrian traffic, which affords the principal means of access to abutting properties.

STREET LINE

The dividing line between a lot and the right-of-way of a street.

STRUCTURE

Any combination of materials forming any construction, the use of which requires permanent location on the ground or attachment to something having permanent location on the ground.

SURFACE WATERS OF THE STATE OF NEW YORK

Lakes, bays, sounds, ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, bodies of surface water, natural or artificial, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within the state or within its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition are not waters of the state. This exclusion applies only to man-made bodies of water which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state.

TIMBER HARVESTING

The felling of trees, including activities related thereto, for lumber, firewood, or clearing of a parcel or a portion of a parcel. Timber harvesting shall not include: (1) the harvesting of trees grown in connection with an Agricultural activity or Commercial Agricultural Operation as defined herein; and (2) the removal of trees pursuant to a final subdivision or site plan approval granted by the Town Planning Board.

TOWNHOUSE or ROW HOUSE

One of a series of attached dwellings containing two- to three-story noncommunicating one-family dwelling units having a common wall between each two adjacent sections. Each dwelling unit is in separate ownership on a separate tax lot fronting on a street.

TRAILER, HOUSE OR CAMPING

Any vehicle, house car, recreation or camping vehicle or other type of portable or mobile vehicle to be used for living or sleeping purposes which is not in excess of 32 feet in length.

TRAVEL TRAILER COURT

Any premises on which are parked three or more trailers or any premises used or held out for the purpose of supplying to the public a parking space for three or more such trailers.

USABLE OPEN SPACE

An unenclosed portion of the ground of a lot which is not devoted to driveways or parking spaces, which is free from structures of any kind and which is available and accessible to all occupants of the building or buildings on said lot for purposes of active or passive outdoor recreation. Said usable open space may include buffer strips and fenced or screen-planted children's play areas.

USE

The purpose for which land or a building is arranged, designed or intended or for which either land or a building is or may be occupied or maintained.

UTILITY-SCALE SOLAR ENERGY SYSTEM

A solar energy system that produces energy primarily for the purpose of off-site sale and consumption.

WATERCOURSE

A permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

WATERWAY

A channel that directs surface runoff to a watercourse or to a public storm drain.

YARD

The area of a lot generally unoccupied by any building and extending along the lot lines and in towards the interior of the lot. Such open space is unoccupied and unobstructed from the ground upward.

YARD, FRONT

An open, unoccupied space within and extending the full width of the lot between the front property line and the building.

YARD, REAR

An open, unoccupied space within and extending the full width of the lot between the building and the rear line of the lot.

YARD, REQUIRED

That portion of a yard regulated by this chapter and as set forth in the Schedule of Use and Area Requirements which shall be left open and unoccupied by any part of a building except as provided herein. The minimum required yard may also be referred to as the minimum setback.

YARD, SIDE

An open, unoccupied space within a lot between the side lot line and the parts of a building nearest to such lot line. Such side yard shall extend from the front yard to the rear yard.

YIELD PLAN

A conventional subdivision plan for the purpose of establishing the maximum number of dwellings or lots to be permitted as part of a cluster subdivision.

Article II. Zoning Districts and Zoning Map

§ 98-3. Designation of zoning districts.

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

AR-.3	Agricultural-Residential District
SR-1	Suburban-Residential District
SR-2	Suburban-Residential District
SR-6	Suburban-Residential District
RO	Residence Office District
LB	Local Business District
LB-SL	Local Business District (Sugar Loaf)
GC	General Commercial District
OP	Office Park District

IP	Industrial Park District
I	Industrial District
AI	Agri-Industry District
FP	Floodplain and Ponding Area Environmental Subdistrict
RPOD	Ridge Preservation Overlay District
PAC	Planned Adult Community Overlay District

§ 98-4. Zoning Map.

The boundaries of said districts are hereby established as shown on the Zoning Map, Town of Chester, dated [date to be inserted upon adoption], which accompanies this chapter and which, with all explanatory matter thereon, is hereby adopted and made a part of this chapter. A copy of said map indicating the latest amendments shall be kept up-to-date in the office of the Town Clerk and Building Inspector for the use and benefit of all the public.

§ 98-5. District boundaries.

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

A. Where district boundaries are indicated as approximately following the center lines of streets, highways, waterways or railroad rights-of-way or of such lines extended, such center lines shall be construed to be such boundaries.

B. Where such boundaries are indicated as approximately following the property lines of parks or other publicly owned lands, such lines shall be construed to be such boundaries.

C. Where such boundaries are indicated as approximately following property lines, such lines shall be construed to be such boundaries.

D. Measurements stated on the Zoning Map are perpendicular or radial distances from street lines measured to the zone district boundary line, which, in all cases where distances are given, are parallel to the street line.

E. In all cases where a district boundary divides a lot in one ownership and more than 50% of the area of such lot lies in the less restricted district, the regulations prescribed by this chapter for the less restricted district shall apply to such portion of the more restricted portion of said lot which lies within 30 feet of such district boundary. For purposes of this section, the more restricted district shall be

deemed that district subject to regulations which prohibit the use intended to be made of said lot or require higher standards with respect to coverage, yards, screening, landscaping and similar requirements.

F. In all cases where a district boundary line is located not farther than 15 feet away from a lot line of record, such boundary line shall be construed to coincide with such lot line.

G. In all cases where dimensions are not shown on the map, the location of boundaries shown on the map shall be determined by the use of the scale appearing thereon.

H. In cases of doubt, the district boundary line shall be determined by the Zoning Board of Appeals of the Town of Chester.

§ 98-6. Effect of establishment of districts.

A. Following the effective date of this chapter:

(1) No building shall be erected, moved, altered, rebuilt or enlarged nor shall any land or building be used, designed or arranged to be used for any purpose or in any manner except in conformity with all regulations, requirements and restrictions specified in this chapter for the district in which such building or land is located.

(2) No yard ~~or,~~ open space or minimum lot area required in connection with any building or use shall be considered as providing a required yard, open space or minimum lot area for any other building or use on the same or any other lot.

(3) No lot shall be formed from part of a lot already occupied by a building or use unless such building, all yards and open space connected therewith, and the remaining lot comply with all requirements prescribed by this chapter for the district in which said lot is located. No building permit shall be issued for the erection of a building on any new lot thus created unless such building and lot comply with all the provisions of this chapter.

B. Nothing contained in this Chapter shall require any change in the plans, construction or designated use of a building complying with the Zoning Ordinance enforced prior to this chapter if the following is found to exist:

(1) A building permit shall have been duly issued and construction shall have been started before the date of first publication of notice of the public hearing on this chapter.

(2) The ground-story framework, including the second tier of beams, shall have been completed within six months of the date of the building permit.

(3) The entire building shall have been completed in accordance with such plans as have been filed with the Building Inspector within one year from the effective date of this chapter.

C. Any use not permitted by this chapter shall be deemed to be prohibited. Any list of prohibited uses contained in any section of this chapter shall not be deemed to be an exhaustive list but has been included for the purposes of clarity and emphasis and to illustrate, by example, some of the uses frequently proposed that are deemed undesirable and incompatible and are thus prohibited.

§ 98-7. Schedules of District Regulations.

The schedules of district regulations entitled “Schedule of Use and Area Requirements” which accompany this chapter are hereby made a part of this chapter.

Article III. Regulations Pertaining to All Districts

§ 98-8. Nonconforming buildings, structures and uses.

The following provisions shall apply to all buildings, structures and uses existing on the effective date of this chapter, which buildings and uses do not conform to the requirements set forth in this chapter, and to all buildings, structures and uses that become nonconforming by reason of any subsequent amendment to this chapter and the Zoning Map which is a part thereof, and to all conforming buildings housing nonconforming uses:

A. Nonconforming uses.

(1) Nonconforming uses may continue indefinitely except as indicated in Subsection C below.

(2) Nonconforming uses shall not be enlarged, extended, reconstructed or placed on a different portion of the lot occupied by such uses as of the effective date of this chapter, nor shall any external evidence of such use be increased by any means whatsoever.

(3) Nonconforming uses shall not be reestablished if such use has been discontinued for any reason for a period of one year or more or has been changed to or replaced by a conforming use. Intent to resume a nonconforming use shall not confer the right to do so.

B. Buildings and structures nonconforming as to bulk requirements and use.

(1) Buildings and structures nonconforming as to bulk requirements and use shall not be moved to another location where such building or structure would also be nonconforming.

(2) Buildings and structures nonconforming as to bulk requirements and use may be restored but not enlarged after damage by fire, accident or force majeure and the nonconforming use reinstated, provided that such restoration or replacement is commenced within six months of the date of destruction and is completed within nine months of the date of issuance of a building permit for such restoration or replacement.

(3) Normal maintenance and repair, alteration, reconstruction or enlargement of a building which does not house a nonconforming use but is nonconforming as to district regulations for lot area, lot width, front, side or rear yards, maximum height and lot coverage or other such regulation is permitted if the same does not increase the degree of or create any new nonconformity with such regulation in such building.

(4) Nothing shall prevent normal maintenance and repair of any building or structure or the carrying out upon the issuance of a building permit of major structural alterations or demolition necessary in the interest of public safety. In granting such a permit, the Building Inspector shall state the reason why such alterations are deemed necessary.

C. Cessation of certain nonconforming uses and structures.

(1) All nonconforming billboards, advertising signs and the structures on which they are located which have been erected in the Town shall be taken down and removed on or before the expiration of three years from the effective date of this chapter, and such lapse of time shall be deemed sufficient to amortize the cost thereof.

(2) All flashing and moving signs shall be terminated and flashing lights on signs shall be removed on or before the expiration of one year from the effective date of this chapter, which period of time is deemed sufficient to amortize the cost of the lighting to be removed or replaced.

(3) All signs which are nonconforming as to size or location on a lot or building shall be removed or relocated and/or decreased in size to conform to the requirements of this chapter on or before the expiration of three years from the effective date of this chapter, which period of time is deemed sufficient to amortize the cost thereof.

(4) Notwithstanding any other provisions of this chapter, any nonconforming outdoor storage of materials, such as but not limited to scrap metal, used lumber or other waste, including burned or dilapidated buildings, trash, rubbish or discarded material or machinery or one or more wrecked, unregistered or partially dismantled vehicles not enclosed within a building, shall, at the expiration of one year from the date of enactment of this chapter, become a prohibited and unlawful use and shall be discontinued, and all such materials shall be removed.

(5) Preexisting digital signs. A digital sign installed prior to the effective date of the amendment to this chapter, is permitted to remain until the sign is replaced; provided, however, such sign shall conform to the requirements of this subsection if these requirements can be complied with without replacing the sign. A preexisting digital sign is required to comply with all sign regulations that were in effect at the time the sign was installed but can upgrade with Planning Board review of condition, location, need and compliance with Town Comprehensive Plan; approval can be conditional if given.

D. Existing Non-conforming lots

(1) Two or more contiguous noncomplying vacant parcels of land in common ownership on or after the effective date of this Zoning chapter shall be deemed to be merged to form one or more lots complying so far as possible to the bulk requirements of the district in which the parcels are located. The lots shall be merged so as to reduce the degree of noncompliance, or to create lots that comply with the bulk requirements applicable to the zoning district within which they are located.

(2) One or more vacant parcels of land that adjoin a noncomplying improved lot in common ownership on or after the effective date of this Zoning chapter and containing a building or structure shall be deemed to be merged with said improved lot to the extent necessary to bring the improved lot into compliance so far as possible. If any remaining vacant parcel(s) constitutes a complying lot, said parcel(s) shall remain a separate lot. Otherwise, the merged lots shall constitute one lot.

(3) Merger shall occur whether such contiguous parcels were under common ownership at the date of adoption of this Zoning chapter or come under common ownership any time thereafter.

(4) No lot so merged, or portion thereof, may be subdivided in any manner that will create or increase the degree of noncompliance.

§ 98-9. Exceptions to district regulations.

A. Existing undersized residential lots of record. Nothing shall prohibit the use of an existing undersized residential lot of record containing less than the prescribed area, width or yard requirements, as specified below, when such lot is owned individually and separate from any adjoining tract at the time of enactment of this subsection, provided that all other provisions of this chapter are met. Yard setback requirements for the following categories of lots must be the minimums specified below:

Minimum Yard Setbacks				
Lot Area (Square Feet)	**Front**	**Side-One**	**Side-Both**	**Rear**
Below 10,000 [1]	25	8	20	30
Below 10,000 [2]	30	10	25	35
10,000 to 14,999 [1]	30	10	25	35
15,000 to 19,999 [1]	30	15	30	35
10,000 to 19,999 [2]	35	15	30	35
20,000 to 29,999	35	15	30	35
30,000 to 39,999	40	25	50	40

40,000 to 79,999	40	30	60	50
80,000 and over	50	30	80	60

NOTES:

[1] With both central water and sewer.

[2] With either central water or central sewer.

B. Height regulations. The height limitations of these regulations may be waived by the Planning Board for the following, provided that such areas do not exceed 10% of the total roof area to which they are a part: flagpole, spire, belfry, chimney, transmission tower or facility, aerial, skylight, water or cooling tower or elevator or stair bulkhead.

C. Yard requirements. The following accessory structures may be located in any required yard:

(1) Chimneys or pilasters.

(2) Open arbor or trellis.

(3) Unroofed steps, patio or terrace no closer than 15 feet to the street line or 10 feet to any side or rear lot line, provided that the building complies with the yard requirements of this chapter. No side or rear yard restrictions are provided for townhouse or attached dwellings.

(4) Awning or movable canopy not to exceed 10 feet in height above the ground level over which it is located.

(5) Retaining wall, fence or masonry wall.

(6) Overhanging roof not in excess of 10% of the required yard setback.

D. Two or more nonconforming, abutting subdivision lots not in separate ownership shall have three years from the date of this subsection to obtain a building permit under the provisions of Subsection A. Any such nonconforming lots in a subdivision granted final approval by the Planning Board more than three years prior to the effective date of this subsection may be required to be resubdivided if current engineering and environmental design criteria for water, sewer, drainage or buildable area cannot be satisfied when a building permit is applied for, for such lot or lots. In such event the Building Inspector may require that the plot be resubmitted to the Planning Board for resubdivision approval in accordance with the applicable provisions of this chapter and of the Town Subdivision Regulations.

E. Any lot in a subdivision approved by the Planning Board after the effective date of this chapter which conforms to the bulk, width and depth requirements of this chapter but which is made nonconforming as to bulk, width and depth by any future amendment of this chapter shall have three years from the effective date of the future amendment or three years from the date of final approval, whichever is sooner, to obtain a building permit under Subsection A. Any subdivision lot for which a permit is applied for after the time periods specified herein shall conform to all the bulk regulations of this chapter and Subsection A shall be inapplicable to such a lot.

F. Any separate lot nonconforming as to bulk which becomes subsequently attached to other adjoining land in the same ownership shall be entitled to the benefit of the provisions of Subsection A only if the total contiguous lot remains nonconforming as to bulk after the lots become attached

G. Flag lots. Flag or rear lots shall only be allowed in the AR-.3 District on unsubdivided parcels, and only two such lots shall be allowed per parcel to be subdivided. Any lot in excess of five acres in said subdivision shall carry a deed restriction prohibiting further subdivision of flag lots on that lot.

H. Construction of accessory buildings and swimming pools may be allowed in the front or side yard, but not within the required minimum yard of such front or side yard, on lots containing five acres or more. However, such accessory structure shall not be visible from the road on which the parcel fronts.

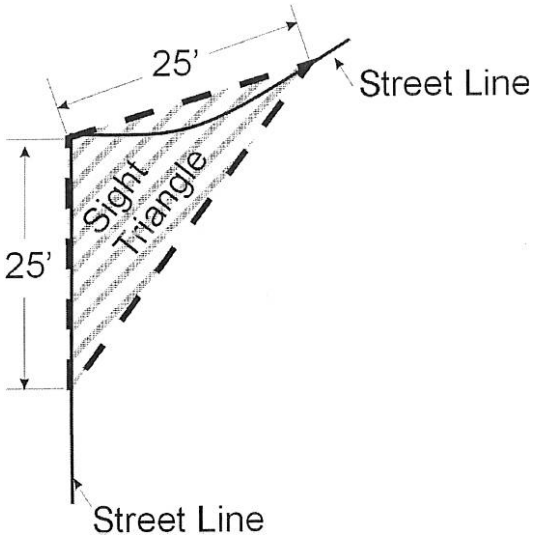
I. Existing undersized lots of record in nonresidential zoning districts. The use of an existing undersized nonresidential lot of record, when such lot is owned individually and separate from any adjoining tract at the time of the enactment of this subsection, may be used for a permitted or special permit use in the zoning district in which it is situated subject to site plan review by the Planning Board.

§ 98-10. Corner lots.

A. On a corner lot, front yards are required on both street frontages; and one yard other than the front yards shall be deemed to be a rear yard; and the other (or others) a side yard(s). The minimum setback for each shall be required.

B. No wall, fence or other structure, and no hedge, shrubbery or other growth taller than three feet shall be erected, installed or maintained within a sight triangle with legs beginning at the intersection of the lots two street lines and proceeding to points along the street line 25 feet distant as shown below. Nor shall the limbs or foliage on any tree obstruct vision or be permitted to grow nearer to the ground

than eight feet where such limbs or foliage overhang or are over or upon land within the triangular area as shown below.



C. The Code Enforcement Officer is hereby empowered to order the removal of any such structure or growth within the triangle which, in his or her opinion causes a danger to traffic or public safety.

§ 98-11. Accessory buildings.

A. A permitted accessory building may be located in any required side or rear yard, provided that:

(1) Such building, except those used for farm purposes, shall not exceed 24 feet in height.

(2) Such building shall be set back at least five feet from any lot line and at least 10 feet from the principal building.

(3) Such building shall not occupy more than 30% of the required side or rear yard.

(4) Such building shall meet all front yard setback requirements for corner lots.
~~(4)~~(5) Accessory buildings shall not be constructed within areas designated as a utility easement.

B. No such building shall project nearer to the front street line than the principal building.

(1) Construction of accessory buildings may be allowed in the front or side yard, but not within the required minimum setback of such front or side yard, on lots containing five acres or more. However, such accessory structure shall not be visible from the road on which the parcel fronts.

C. In all residence districts, a private garage is permitted only on the same lot as a dwelling.

D. No garage in a residential or LB District shall provide storage for more than one motor vehicle for each 25 feet of lot width or major fraction thereof, or more than one vehicle for each 2,500 square feet of lot area or major fraction thereof, nor for more than eight motor vehicles in any case, of which not more than one vehicle may be a commercial vehicle.

E. Accessory living space

(1) Accessory buildings shall have no living space unless expressly authorized by the Zoning Code. Examples include caretaker's or manger's unit or accessory living spaces authorized in the LB-SL District.

F. Customary Residential Accessory Uses include greenhouses, garages, sheds, tool houses, playhouses, wading pools or swimming pools, sports courts all incidental and subordinate to the residential use of the premises and not operated for gain.

98-12. Land Disturbance Activity

A. Land disturbance activities; excavations; soil mining; quarrying. Excavations, soil mining, soil processing, quarrying, blasting and similar activities as a principal use are prohibited. Land disturbance activities, excavations, soil mining, and/or quarrying are hereby prohibited except in conjunction with land development activities associated with a use otherwise allowed as a permitted use or special use in the district within which it is located. Further, any land disturbance activity adversely affecting natural drainage or structural safety of adjoining buildings or lands is hereby prohibited.

B. Administration. The Planning Board is hereby authorized to issue land disturbance permits for activities permitted under this section. Land disturbance permits may only be issued in relation to work to be performed pursuant to an approved subdivision plat, special use permit, or site plan and for a use allowed by right or by special use permit in the district in which the activity is located.

C. Issuance of land disturbance permit.

(1) Except as provided herein, no person shall engage in any land disturbance activity as defined by § 98-2 until a land disturbance permit has been issued by the Planning Board.

(2) Application Submission requirements. An application for a land disturbance permit shall contain the following minimum information.

a. Project plans drawn to a scale of not less than one inch equals 50 feet and duly certified by a New York State licensed landscape architect, professional engineer, architect and/or surveyor, which plans shall include at minimum the following:

i. Existing conditions plan, based upon and including a copy of current property and land survey, showing existing site conditions of the entire subject parcel.

ii. Proposed grading and drainage plan, including:

(a) A site location map at an appropriate scale showing the parcel, surrounding parcels within 300 feet, named area streets and the surrounding zoning designations of the area shown.

(b) Graphic scale and north arrow.

(c) The name and address of the applicant and property owner (if different).

(d) The name, address and telephone number of all plan preparers.

(e) The section, block and lot number of the subject parcel.

(f) Property owner name and address, and section, block and lot numbers of all contiguous parcels, including those located across abutting streets.

(g) Existing and proposed buildings and structures such as drains, culverts, retaining walls, fences, wells, sewage disposal facilities and treatment fields.

(h) Existing and proposed topography based on a ~~two foot~~two-foot contour interval. Plans shall delineate all areas with grades of 15% to 25% and grades of 25% and greater.

(i) A table quantifying the amount of fill and the amount of excavation (cut) proposed, including quantification of cut and fill balancing, as well as an impact assessment associated with the proposed import and/or export and disposal of fill and/or excavated materials.

(j) The limit of proposed disturbance.

(k) The location and identification of existing trees over six inches in diameter measured at breast height. Trees proposed to be removed, disturbed or otherwise protected shall be identified and detailed accordingly.

(l) Existing and proposed drainage.

(m) Controlled Areas (wetlands, watercourses and one-hundred-foot buffer) as defined and regulated by § 98-13.1 on or adjacent to the premises.

(n) Proposed construction vehicular access to the property, including details for maintaining stabilization of said entrance and the prevention of sediments leaving the site or being deposited on adjacent roadways.

iii. Proposed erosion and sedimentation control plan consistent with the standards and requirements set forth in Chapter 78A, “Stormwater Management” of the Code of the Town of Chester.

iv. If applicable, a Stormwater Pollution Prevention Plan (SWPPP)

v. Other proposed plans and details as pertinent to the proposed regulated activity.

b. A narrative description of the proposed regulated activity indicating:

i. Location of subject property and area to be affected.

ii. Environmental impact assessment and description of the existing site and topographic conditions to be disturbed or altered.

iii. Intended purpose of the proposed activity or use and the applicant's interest in the subject property and area to be affected.

iv. Considered alternatives to the proposed activity, and why the proposed regulated activity was chosen instead.

v. The mitigation measures proposed to avoid or reduce related impacts.

c. Such additional information as the Planning Board may deem necessary in order to evaluate the application and related potential impacts thereof.

(3) Standard of Review.

a. Review of application submission materials. The Planning Board shall review the scope of the proposed regulated activity and may request the applicant to submit such additional information in support of the minimum

required application submission materials as set forth in § 98-12C as it deems necessary to determine compliance with this chapter. The Planning Board may consult with the Town planning, engineering or other qualified consultant as deemed appropriate.

b. Conservation Advisory Council referral. The Planning Board shall refer the application to the Chester Conservation Advisory Council, and the Council shall furnish a written report of its findings and comments within 30 days after receipt of such referral.

c. The Planning Board and Conservation Advisory Council and their authorized representatives may enter upon the application property for the purposes of evaluating a proposed application.

d. Notice and public hearing. Notice of public hearing shall be in accordance with § 98-31.2.

e. Permit determination.

   i. Within 62 days of receipt of a complete application or from the close of the public hearing, whichever is later, the Planning Board shall determine if the proposed regulated activity conforms to standards and conditions for approval set forth in this section and shall approve or deny the application.

   ii. Conditions. The Planning Board may impose requirements for the modification of a proposed regulated activity and require conditions or limitations with respect to the conduct of such activity consistent with the declaration of policy contained in this section.

   iii. The Planning Board shall file a copy of its written permit determination with the Town Clerk, Building Inspector and Conservation Advisory Council. Said permit determination shall specify the basis on which an application has been approved or denied and, in the case of the approval of an application, shall set forth any modifications, conditions or limitations which shall be imposed thereon.

f. The applicant and the Planning Board may, by mutual consent, extend the time periods set forth in this subsection.

g. Standards and conditions for approval.

   i. The Planning Board may grant a land disturbance permit if it shall find that the approved activity will not result in the creation of any sharp declivities, pits or depressions, soil erosion or soil fertility problems, depressed land values or create any drainage or sewerage problems

or other conditions which would impair the use of the property in accordance with the provisions of Chapter 98, Zoning, of the Code of the Town of Chester, and that such activity will be in harmony with the general purpose and intent of Chapter 98, Zoning, and this chapter, and if the Planning Board further finds that the permit to be granted is capable of being completed within a reasonable time.

ii. In approving a land disturbance permit, the Planning Board shall ensure the following:

(a) That the premises shall be graded, excavated and/or filled in conformity with a proposed contour plan.

(b) When a change in grade is part of the permit, post development slopes shall not exceed 15% to the horizontal or such lesser slope that the Planning Board may specify as necessary for the public health or safety, soil stability or for the reasonable use of the property after completion of the excavation. The Planning Board may, at its discretion, permit a finished slope to exceed 15% where appropriate.

(c) That no fixed machinery shall be erected or maintained in connection with the activity, and that no construction related building shall be erected on the premises except for temporary shelters for machinery and field offices.

(d) That there shall be no excavation or removal and/or filling within 50 feet of any street or property line, except that where the property to be impacted is considered above street grade at the street line, removal and/or filling may take place at a lesser distance from the street line if approved by the Planning Board.

(e) That after excavation or removal and/or filling, the premises shall be cleared of debris within the time as required by the Planning Board.

(f) That the top layer of arable soil for a depth of six inches shall be appropriately set aside, retained and protected on the premises and shall be respread over the premises, and that a suitable ground cover shall be planted and grown to an erosion-resistant condition upon the completion of the excavation or removal and/or filling in accordance with the approved contour lines, and that such work shall be completed within the time period as required by the Planning Board. The application of mulch and, possibly, jute netting or similar material may be required if the topsoil is deposited in the drier summer months when germination of stabilizing grass or other ground cover seed is difficult.

(g) That, if required by the Planning Board, the area to be impacted or a portion thereof shall be enclosed within a fence of such type,

height and location as the Planning Board may specify.

(h) That the Planning Board may establish a schedule to be followed that includes:

(i) Limitations on the days of the week or hours of the day during which any work may be performed on the premises.

(j) Limitations on the delivery of fill or removal of excavated materials off-site. In no event shall fill or excavated materials be delivered to a site prior to 7:30 a.m. or after 5:00 p.m., nor at any time on Sundays or legal holidays.

(k) Limitations as to the size and type of machinery to be used on the premises.

(l) The place and manner of disposal of excavated and/or removed tree/brush material.

(m) Requirements as to the control of dust, noise, and lighting, if permitted, to prevent results injurious or offensive to the general public.

(n) Installation and maintenance of a construction entrance.

(o) Installation and maintenance of required erosion control.

(p) Daily cleaning of roadways.

(q) That the Planning Board may require the applicant to submit periodic reports, prepared by and bearing the seal of a land surveyor or professional engineer licensed to practice in the State of New York, showing the status and progress of the approved activity, and may require the applicant to pay to the Town an inspection fee in an amount deemed necessary by the Planning Board to defray the cost of inspection of the operation.

(r) That the Planning Board shall determine whether the proposed excavation, grading, removal of topsoil, clay, sand, gravel, rock or other earth materials, dumping, filling or depositing of earth materials is located in an area characterized by a critical environmental area or other environmental conditions, and whether the proposed activity would be appropriate in light of the site and/or environmental conditions.

(s) That excavation, grading, removal of topsoil, clay, sand, gravel, rock or other earth materials or dumping, filling or depositing of earth materials or fill of any kind will not be within the drip line of trees located immediately adjacent to the proposed area of disturbance.

(t) That such activities will be in harmony with the general purposes and intent of this chapter.

(u) That approval shall comply with the permitting requirements, standards and specifications of State Law and the Town's regulations for stormwater management and erosion and sediment control (Chapter 78Aof the Town of Chester Code, entitled “Stormwater Management”).

(v) That the removal and/or impact to existing trees will be necessary and minimal. Existing trees may be important from an historic standpoint as well as for their more pronounced shade, screening, soil stabilization, habitat and fruit and seed production benefits.

iii. The Planning Board may require an applicant to furnish a bond or other security to guarantee completion and/or maintenance of approved regulated activities, subject to the form and manner of execution as approved by the Town Attorney and Town Board prior to action by the Building Inspector.

iv. Mitigation measures. An applicant may be required to prepare and implement a mitigation plan to offset the impacts of the proposed regulated activities. Acceptable mitigation must be provided to minimize impacts to the maximum extent practicable, particularly in regard to impacts on slopes exceeding 15% or greater.

D. Activities exempt from a land disturbance permit:

(1) In connection with the grading (excavation and/or fill activities) of land or the construction and installation of roads, drainage, and other improvements for which subdivision and/or site plan approval have been granted by the Planning Board, and only in accordance with plans as approved by the Planning Board for same.

(2) In connection with a bona fide agricultural activity, provided that the operator shall file with the Building Inspector a written notice of intent to engage in such activity, stating the approximate acreage to be affected, the general location thereof, the use or uses to be made of the land and the methods to be employed. Such notice requirement shall not apply to re-use of existing fields in a manner consistent with the initial notice.

(3) In connection with site and/or landscaping improvements for which a site plan, special use and/or wetland permit are not required, where all the following thresholds are met:

a. The cumulative amount of excavation and/or fill is less than 200 cubic yards within any 12 consecutive calendar months.

b. The area of disturbance does not exceed 0.75 acre (32,670 square feet), provided that the area of disturbance is promptly graded and reseeded or otherwise planted.

c. The area of disturbance does not occur within a required yard area as specified in Chapter 98, Zoning (Schedules of Use and Area Requirements).

d. The proposed finished slope does not exceed 15%.

(4) In connection with the repair or replacement of existing facilities, underground utilities (i.e., water, electric, cable service lines) and existing drainage pipes, resulting in no substantive change to the existing field conditions and topographic elevations of the impacted area.

(5) In connection with remediation work performed in accordance with the most current protocols and regulations of the Orange County Department of Health and/or New York State Health Department.

E. Permit implementation and compliance inspections.

(1) The Town shall periodically inspect the land disturbance activities to ensure compliance with the approved plan and to determine that the measures required in that plan are effective in controlling erosion. The right of entry to conduct such inspections shall be expressly reserved in the permit.

(2) Signed manifest required for fill

a. For each truck delivering fill to a site, there shall be a signed manifest stating the date of delivery, the site of origin of the fill (i.e., original location of fill), the type of fill and a representation that the fill complies with the definition for "fill" as set forth in this chapter.

b. The manifest shall be provided to the Building Department by the landowner on a weekly basis or whenever requested by the Building Department on a more frequent basis.

(3) Independent inspector.

a. At the discretion of the Building Department, the landowner shall hire an independent inspector, who shall either be a duly licensed engineer, soil scientist or representative of a certified testing laboratory, and approved by the Building Department, who shall independently provide the Building Department with a certification that the fill delivered is in compliance with

the requirements of this chapter and complies with the definition of fill as set forth in this chapter.

b. Said certification shall be provided to the Building Department on a weekly basis or whenever requested by the Building Department on a more frequent basis.

c. This subsection shall not be applicable for projects where fill quantities will not exceed 1,000 cubic yards or where the fill material consists solely of road base, trench backfill, subbase bedding, trench material and bedding, run-of-bank fill for septic systems, sand for concrete or bedding materials and dust prevention materials used for horse-riding rinks and paddocks or other commonly used materials for construction, provided said fill complies with the definition of "fill" as set forth in this chapter.

(4) Certificate of compliance upon the completion of all authorized work conducted pursuant to an authorized fill/excavation permit, the permit holder shall request in writing to the Building Inspector for a final inspection thereof.

(5) An as-built plan of completed work, which plan shall be prepared and certified complete by a New York State licensed surveyor, landscape architect and/or professional engineer, may be required as appropriate to determine compliance and/or satisfaction with any conditions of a granted permit.

(6) If all authorized work is complete in accordance with the issued permit and the provisions of this chapter, then a certificate of compliance shall be issued by the Building Inspector.

(7) If the Town determines that the permit holder has failed to comply with the plan, the Code Enforcement Officer shall immediately serve upon the permit holder, by registered or certified mail, or by personal service or by posting on the property in a conspicuous place, a notice to comply. Such notice shall set forth specifically the measures needed to comply and shall specify the time within which such measures shall be completed. If the permit holder fails to comply within the time specified, he may be subject to the revocation of his permit; furthermore, he shall be deemed to be in violation of this chapter and, upon conviction, shall be subject to the revocation of his permit. The remedies as set forth above shall not be the exclusive remedy for a violation of this section, and the Town reserves the right to avail itself of any legal method of terminating activity violative of this provision.

F. Waivers.

(1) The Planning Board may, upon written request by an applicant, waive or modify the required application materials to address the specific instances of

the application under consideration. Any such waiver shall not be automatic, but rather shall only be granted if such required application materials are deemed not applicable to the application under consideration and are not requisite in the interest of public health, safety, and general welfare.

(2) The Planning Board may, upon written request by an applicant, waive the required public hearing, provided all of the following minimum conditions are met:

a. Disturbance associated with the regulated activity will impact an area of less than one acre;

b. The activity will not disturb or impact any areas of slopes of 15% or greater; and

c. The activity will not occur within any minimum required front, side or rear yard area, as set forth in Attachment 2, Schedule of Use and Area Requirements.

G. Permit expiration.

(1) Approval of a land disturbance permit shall expire unless such conditions have been met and final plans as may be required have been submitted for endorsement by the Planning Board Chair and Secretary within 180 days of the date of approval. Failure to timely submit final plans shall result in expiration of the approval, thereby making it null and void.

(2) Approval shall expire unless a certificate of compliance relating thereto has been obtained from the Building Inspector within a time period not to exceed two years from the date of said approval as determined by the Planning Board.

(3) In the event that building construction is not completed and the building permit thereof expires or the land disturbance permit expires, the premises shall be cleared of any rubbish, building materials, or other unsightly accumulations, and any excavation for a building, basement, foundation, utility or otherwise of a depth greater than two feet below grade shall be filled and the topsoil replaced, or all such excavations shall be entirely surrounded by a substantial fence at least six feet high that will effectively block access to the area. Where necessary, suitable gates will be installed and provided with locks. Such clearing, filling and/or fencing shall be completed not later than the expiration date of the building permit.

(4) Extension of permit approval time.

a. An extension of the permit approval time period may be granted by the Planning Board upon a showing of reasonable cause and/or upon determination that the public interest and environment will be best served by not interrupting the activity or use, if commenced.

b. A request for an extension of permit approval shall be submitted in writing a minimum of 45 days prior to the expiration date for which an extension is requested and shall state at minimum the following:

i. The reasons and circumstances for the requested extension.

ii. The reasons why the authorized activity or use has not been initiated or completed within the time frame allowed.

iii. Any changes in the facts or circumstances involved with or affecting the regulated resource area affected by the authorized activity or use, or the property for which the expiring permit was issued.

iv. The status of the authorized activity or use which is the subject of the expiring permit, including a description of the extent of work completed at the time of the extension request and the proposed schedule for completing the remaining authorized work.

H. Remedies

(1) Authority to remove and restore. In addition to other remedies as set forth in this chapter, in the event that the owner, occupant or person in control of such site shall fail to comply with this chapter, the Town shall have the authority, as provided for herein, to enter onto such land and remove such noncomplying fill and restore the land to an appropriate and safe state and charge the cost and expense of such action against the owner and establish a lien against the land in the manner herein provided.

a. Town Board action. Notwithstanding anything stated in this chapter, any owner of land in the Town shall be required to remove the noncomplying fill which exists upon his land and restore the land to an appropriate and safe state when directed to do so by resolution of the Town Board.

b. Notice to be served. Whenever the Town Board shall adopt a resolution requiring the owners of land to remove the noncomplying fill which exists thereon and restore the land to an appropriate and a safe state, the Town Board shall specify the time within which such work shall be completed. Such notice, which shall be sent to the owner by certified mail, return receipt requested, shall set forth, with reasonable certainty, the location at which the condition exists, the material to be removed and the requirement that appropriate restoration measures must be taken. Giving due consideration to the material and the location thereof, the Town shall give the owners no more than 30 days from the date of the mailing of the notice during which actual removal work on such land shall be commenced and no more than 90 days from the date of the mailing of the notice during which removal work and restoration of the land shall be completed. Notice of the adoption of a resolution requiring the work shall be served upon the

owners of the land by certified mail, addressed to either the owners at the address of the land or the last known address of said owners. In removing the noncomplying fill and restoring the land to an appropriate and safe state, the owners shall be required to comply with all laws, rules, regulations, orders and ordinances.

c. Failure to comply. Whenever any notice referred to in this subsection has been mailed, as required, and the owner shall neglect or fail to comply with any of the time periods provided herein, the Town Board shall provide for the removal of such fill and restore grade and further declare the owner's surety bond to be in default and authorize the Town Attorney to call the proceeds of said bond.

d. Manner of assessment of cost. In any case where it shall be necessary for the Town Board to have the work performed due to the owner's failure to comply with the Town Board's resolution, the Town shall be reimbursed for the cost of the work performed or the services rendered (including, without limitation, the cost of professionals employed by the Town) at its direction, from the proceeds of the surety bond, or if said bond is insufficient for said purpose or the Town fails to collect said proceeds for any reason, then by assessment or levy upon the lots or parcels of land where such work was performed or such services rendered. All costs actually incurred by the Town upon each lot or parcel and the charge therefor shall be assessed and collected in the same manner and in the same time as other ad valorem Town charges.

(2) Permit suspension and revocation. Any permit issued pursuant to the provisions of this chapter may be revoked by the Planning Board after notice as issued by the Building Inspector, in writing, and a hearing for noncompliance of any conditions of the resolution of approval for the regulated activity or the doing of any act constituting or creating a nuisance or endangering the life or property of another.

a. Notice. The notice shall describe the offense charged and may either be delivered personally or mailed postage prepaid to the address appearing on the application.

b. Suspension. Any permit granted pursuant to this chapter may be suspended for cause by the Building Inspector for a period not exceeding five days without a hearing. All work under any permit shall be suspended following notice of a hearing to revoke as provided for in this chapter.

I. Offenses. Any person who shall violate any order of the Building Inspector or conditions of a Planning Board resolution of approval, issued under this section, shall be deemed to have committed an offense of this chapter.

J. Penalty. Any person, firm or corporation found guilty of violating any provisions of this subsection shall be subject to any fines set forth in § 50-17 of the Town of Chester Town Code.

§ 98-13. Stormwater runoff

All applicants shall comply with the requirements of Chapter 78A, “Stormwater.”

§ 98-13.1 Wetlands and Watercourses

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 drain field 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.

§ 98-14. Fences and walls.

A. All fences and walls shall conform to corner lot requirements where applicable concerning obstruction of vision (§ 98-10B) and location in front yards of corner lots (§ 98-10A).

B. Fences and walls not exceeding six feet in height shall be permitted in any yard or along the edge of any yard, provided that no fence or wall along the sides or front edge of any front yard shall be over four feet in height for open fences or over three feet in height for solid fences. This section shall not apply to fences or walls approved for buffering or screening by the Planning Board during the site plan approval process.

§ 98-15. Lighting of properties.

A. All lighting shall comply with Chapter 69, “Outdoor Lighting”. Where Chapter 69, “Outdoor Lighting” and this Chapter are inconsistent, the more restrictive provision shall apply.

B. Outdoor light fixtures shall be downward facing and shielded or otherwise covered by a structure to avoid upward light pollution or ’spill’ beyond the property line. Lighting shall be limited to 2.0 foot-candles within off-street parking areas and be designed in a manner that keeps the light entirely on the subject site, away from adjoining properties, and out of the night sky.

C. Floodlighting of residential buildings and front, side and rear yards is permitted. No floodlight, spotlight or other light shall be erected in such a manner that its beam shall be directed in whole or in part toward a street, road or highway or toward adjoining property or in any way or manner that will cause a traffic hazard due to its glare.

D. Lighting of commercial, industrial and residential properties subject to site plan approval.

(1) Outdoor lighting facilities of any kind where the light source is visible from outside the property lines, or where glare extends beyond the property lines or creates public hazards to traffic or public streets are prohibited.

(2) All luminaires for commercial, industrial or multifamily parking areas or private roads and drives shall be pulse-started metal halide cutoff-type shoe box units with a flat glass lens attached to a pole or building on a fixed arm with the flat glass lens oriented parallel to the ground. Lighting in the LB-SL Zones, SR-2 and SR-6 may be regulated using appropriate period lighting as approved by the Planning Board with the intent of preventing sky lighting or light pollution.

§ 98-16. Swimming pools.

No commercial or private swimming pool shall be constructed, installed or maintained on any premises unless it complies with the following provisions:

A. The term "swimming pool" shall mean any permanently constructed variety which will cause the retention of water to a depth of two feet or more below the level of the surrounding land, or an above-surface pool which will cause the retention of water to a depth of two feet or more, designed, used and maintained for swimming or bathing purposes and which is not readily portable.

B. Private pools shall be constructed or installed within the confines of the rear or side yard of a premises.

(1) Construction of swimming pools may be allowed in the front or side yard, but not within the required ~~such~~ front or side yard, on lots containing five acres or more. However, such swimming pool and any accessory structure shall not be visible from the road on which the parcel fronts.

C. The pool shall be located at least 15 feet from any rear or side line of a premises and shall be at least 25 feet away from any septic tank and its fields.

D. No person, membership club or organization shall construct or have constructed a swimming pool without having first applied for and secured approval by the issuance of a permit from the Building Inspector. Upon application for permit, there shall be submitted plans and specifications detailing the pool dimensions, depth, volume in gallons and the distance of the pool from all lot lines and, if any, septic tanks and their fields; a pool fencing proposal shall also accompany these specifications.

E. After issuance of permit, construction or installation shall be accomplished within a sixty-day period; otherwise, the permit will have expired. The Building Inspector may authorize in writing an additional extension period not to exceed 20 days. If construction of a below-surface pool is not completed within the sixty-day period or extension thereof, any excavation shall be completely filled and the surface restored to its original state.

F. All material used in the construction of a swimming pool shall be of durable quality and waterproof and designed so as to facilitate its emptying and cleaning. Filter pumps and other mechanical devices shall be located at least 20 feet away from any adjoining premises so as not to interfere with the comfort, health and safety of the occupant of the adjoining premises.

G. A fence or enclosure of substantial design contiguous to the pool area and not less than 3 1/2 feet in height shall be constructed to completely surround a swimming pool having a depth of two feet or more below ground level. The fence shall be constructed during the sixty-day or extension period. The gate or door opening providing access into the pool area shall be of the same height as the fence or enclosure and shall be equipped with a self-closing and latching device. Any access ladder or steps used in connection with an above-surface-type swimming pool shall be removed when not in use.

H. Any lighting and electrical fixtures, wiring and installation shall be in accordance with the standard practices as required by the National Electric Code.

I. Above-surface pools shall be exempt from the fencing requirement unless the Building Inspector shall determine that safety conditions warrant the installation of complete or partial fencing not to exceed the maximum requirements for below-surface pools. Any appeal from a decision of the Building Inspector on fencing shall be made to the Zoning Board of Appeals and shall follow the procedure required in seeking a variance.

J. If any swimming pool is abandoned or permanently discontinued, the owners of the land upon which it is located shall completely fill the pool area and return the surface to its original state.

K. All swimming pools shall be provided with drainage to a drainage easement or swale or storm drain, but in no case to a sanitary sewer or toward the direction of a septic field. Below-surface pools shall be provided with washed gravel or crushed stone on the exterior of the pool sides where deemed necessary by the Building Inspector for proper drainage.

L. No pool located on a lot which is served by a public or central water system shall have its initial filling or seasonal refilling provided from the central water supply system.

M. Aboveground pools shall be leveled and not located on fill areas.

N. Safety covers capable of being adequately secured shall be required on all pools during normal off-season periods.

§ 98-17. Prohibited uses.

The following are prohibited uses in all districts:

A. Any use which is noxious, offensive or objectionable by reason of the emission of smoke, dust, gas, odor or other form of air pollution, or by reason of the deposit, discharge or dispersal of liquid or solid wastes in any form in a manner or amount

as to cause damage to the soil and streams or to adversely affect the surrounding area, or by reason of the creation of noise, vibration, electromagnetic or other disturbance, or by reason of illumination on or from which such light or light reflection emanates, or which involves any dangerous fire, explosive, radioactive or other hazard, or which causes injury, annoyance or disturbance to any of the surrounding properties or to their owners and occupants, and any other process or use which is unwholesome and noisome and may be dangerous or prejudicial to health, safety or general welfare.

B. Amusement parks and circuses and related activities, except for a temporary period on special license from the Town Board.

C. Junkyards or sanitary landfills, except as established as an official Town facility or duly licensed by the Town Board and Orange County Department of Health.

D. The removal of black dirt, except as part of a farming operation. Black Dirt shall be defined as dark, nutrient rich, extremely fertile soil left over from an ancient glacial lake bottom augmented by decades of past flooding of the Wallkill River.

E. Any building or structure or any part of a drainage or disposal system located within 100 feet of any pond or reservoir, lake or watercourse tributary thereto which is part of any water supply system.

F. No building or structure shall be located within the designated floodways and/or floodplains of Seeley Brook, Trout Brook or Black Meadow Creek or any other floodways/floodplains as designated by the Federal Emergency Management Agency except in conformance with the flood damage prevention requirements as set forth in Chapter 52 “Flood Damage Control” of the Code of the Town of Chester.

G. Travel trailers may not be occupied in any district as a dwelling except in travel trailer courts.

H. Resource recovery operations, including but not limited to reprocessing, recycling, processing and storage of chemical compounds, solvents, industrial wastes and by-products.

Article IV. Regulations Pertaining to Specific Districts

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

No use shall be permitted in the IP or I Districts that does not conform to the following standards of use, occupancy and operation:

A. Industrial wastes. No solid or liquid wastes shall be discharged into any public sewer, private sewage disposal system, stream or on or into the ground except in accordance with the standards approved by the Orange County Health Department or similarly empowered agency.

B. Fire and explosion hazards. All activities involving and all storage of flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and adequate fire-fighting and fire suppression equipment and devices standard in the industry. Burning of waste materials in open fires is prohibited. The relevant provisions of state and local laws shall also apply.

C. Radioactivity or electromagnetic disturbance. No activities shall be permitted which emit dangerous radioactivity beyond the structure in which such activity is situated or electrical disturbance adversely affecting the operation of any equipment other than that of the creator of such disturbance.

D. Glare and heat. No glare or heat shall be produced that is perceptible beyond the boundaries of the lot on which such use is situated.

E. Noise. ~~Noise shall not exceed in intensity, as measured from the boundaries of the lot where such use is situated, the average intensity, occurrence and duration of the noise of street traffic on adjoining streets.~~Noise shall not exceed the standards as set forth in Chapter 66, Noise Pollution Control.

F. Atmospheric effluence. No dust, dirt, smoke, odor or noxious gases shall be disseminated beyond the boundaries of the lot where such use is situated so as to constitute a nuisance.

§ 98-19. Buffer strips and landscaping.

A. A side or rear yard for a nonresidential use in an RO or LB-SL District adjacent to a residential district or a multifamily structure in an SR-6 District adjacent to an AR-.3, SR-1 or SR-2 District shall have a minimum width or depth of 15 feet, which shall be landscaped and free of pavement, and that part nearest the residential district shall be planted with a screen of evergreens having a uniform height of not less than 10 feet above ground level at the time of planting and set in a double staggered row spaced eight feet apart in each row and shall be

properly maintained to afford an effective screen between the two districts. However, smaller trees may be allowed, provided the ten-foot height is made up by a berm designed to the satisfaction of the Planning Board.

B. Unless otherwise directed by the Schedule of Use and Area Requirements, ~~A~~a side or rear yard in an LB or GC District adjacent to a residential district (AR-.3, SR-1, SR-2, or SR-6) shall have a minimum width or depth of 50 feet, of which the first 25 feet nearest the residential district shall be planted with a screen of evergreens having a uniform height of not less than 10 feet above ground level at the time of planting and set in a double staggered row spaced eight feet apart in each row and shall be properly maintained to afford an effective screen between the two districts. However, smaller trees may be allowed, provided the ten-foot height is made up by a berm designed to the satisfaction of the Planning Board. The remaining 25 feet may be used for automobile parking, but may not be used for any structures, including lighting structures.

C. A side or rear yard in an OP, IP or I District adjacent to a residential district (AR-.3, SR-1, SR-2, or SR-6) shall have a minimum width or depth of 200 feet, of which the first 150 feet nearest the residential district shall be planted with a screen of evergreens having a uniform height of not less than 10 feet above ground level at the time of planting and set in a double staggered row spaced eight feet apart in each row and shall be properly maintained to afford an effective screen between the two districts. No plantings shall be required if the 150 feet are heavily wooded or have natural screening. However, smaller trees may be allowed, provided the ten-foot height is made up by a berm designed to the satisfaction of the Planning Board. The remaining ~~1~~50 feet may be used for automobile parking, but may not be used for any structures, buildings or truck parking or maneuvering areas.

D. Where IP, OP or I Districts are located across a street from a residential district (AR-.3, SR-1, SR-2, or SR-6), the front or side yard of a proposed use facing said street shall be landscaped to the satisfaction of the Planning Board, and no vehicles shall be allowed to be parked in the first 150 feet of the front or side yards facing such street.

E. In the LB, GC, OP, IP and I Districts, any use with outdoor storage of materials approved by the Planning Board, which has a front or side yard adjacent to a public street or residential zone, shall be required to screen such material with an appropriate solid fence, excluding chain link or stockade fencing, or landscaping to the satisfaction of the Planning Board. This subsection shall not be construed to allow outdoor storage for any use in these districts unless such storage is specifically allowed as a permitted use or allowed as an accessory use to a permitted use.

F. Where new residential lots are created adjacent to existing non-residential uses, a landscaped buffer designed to the satisfaction of the Planning Board with a minimum depth of 20 feet shall be provided along all lot lines adjacent to such uses. The term adjacent shall include a lot located across a street or road which has a right of way of 50 feet wide or less.

G. Parking areas for uses in all LB, OC, OP, RO, IP and I Districts shall not be located within 20 feet of any front or side lot line facing a street or within 10 feet of any side or rear lot line. Should such use be subject to a larger buffer as set forth in 98-19 (A)-(F), the more restrictive standard shall govern.

H. Parking areas for uses in ~~all~~ the LB-SL District~~s~~ shall not be located within five feet of side, rear or front lot lines.

I. Landscaping for all buffer areas shall be designed by a licensed landscape architect and shall be guaranteed for a period of three years. Thereafter it shall be maintained by the property owner in perpetuity as a condition of approval. A landscape bond for a period of three years shall be provided to the Town in the form of cash or confirmed and irrevocable letter of credit acceptable to the Town Attorney to insure the installation and maintenance of the landscaping. Release of said bond shall be on the recommendation of the Building Inspector or authorized landscape professional designated by the Town.

J. Berms are not to exceed a height of five feet, and trees are to be a minimum height of six feet, but are not to exceed a height of 10 feet at the time of planting.

§ 98-20 RESERVED

§ 98-21. Signs.

All signs not specifically permitted are prohibited.

A. Residence districts.

(1) Signs permitted.

a. Real estate signs not exceeding six square feet in area advertising the sale, rental or lease of the premises on which they are maintained. Such signs shall be distant at least 25 feet from any street line or not more than five feet in front of any building that sets back less than 25 feet from the street line.

b. One nameplate, professional or announcement sign in connection with a residential building, not exceeding two square feet in area.

c. One identification sign not exceeding 20 square feet in area identifying a place of worship, parish house, religious school building, hospital, nursing home, school or apartment building or other uses requiring site plan approval. Such sign shall refer only to the premises upon which it is located. Such sign shall not be located in a required yard unless affixed to the wall of a building, except that in no case need it be located more than 25 feet from the street line. Notwithstanding the above, a bulletin board of a place of worship not more than 12 feet square may be placed no closer than 10 feet to a street line.

(2) Regulations.

a. A ground-mounted sign shall not project more than five feet above the ground.

b. A sign mounted flush on a building shall not project above the roof line.

c. No sign or manufacturer's name shall be displayed on an air conditioner or other installation mounted on a building or structure which is visible from the street or adjoining property.

B. RO and LB Districts.

(1) Permitted signs.

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

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

display area shall only be utilized for the erection of a permitted sign on that part of the store or building which abuts said parking lot.

(2) Prohibited signs.

a. Internally illuminated signs are prohibited.

(3) Regulations.

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

b. In addition to identity and wall signs, gasoline filling stations may have incidental signs indicating services, products, prices, trade information or other information, not including product advertising, which may be attached to the structure or may be listed on one permanently installed sign structure at least 20 feet from any property line.

c. No products or product containers or signs shall be closer to a street line than 20 feet.

C. GC, OP and IP Districts.

(1) Permitted signs.

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

(2) Regulations.

a. Signs may be flat wall signs located anywhere on the surface of the building, but in no case shall they project above the roof line, or ground-mounted signs not to exceed five feet in height and set back at least 10 feet from a street line.

b. Same as § 98-21B(3)(b) and (c) above.

(3) Digital standard.

a. There may be no more than one programmed digital sign on a lot. There may be no more than one automated or interactive digital sign for each business on a lot.

b. A digital sign, other than a digital billboard, may not allow the display or message to change more frequently than once every eight seconds, with a transition period of one second or less. Messages may not contain the appearance of motion or animation. Transitions between messages may contain the appearance of motion or animation.

c. A digital sign must have installed an ambient light monitor, which shall continuously monitor and automatically adjust the brightness level of the display based on ambient light conditions consistent with the terms of this article. Certification must be provided to the Town demonstrating that the sign has been preset to automatically adjust the brightness to these levels or lower. Reinspection and recalibration may be periodically required by the Town at its reasonable discretion, at the owner's expense, to ensure that the specified brightness levels are maintained at all times.

d. Maximum brightness levels for digital signs shall not exceed 5,000 nits or candelas per square meter (cd/m2) when measured from the sign's face at its maximum brightness, during daylight hours. The maximum brightness levels for digital signs shall not exceed 500 nits or candelas per square meter (cd/m2) when measured from the sign's face at its maximum brightness, between sunset and sunrise, as those times are determined by the National Weather Service.

e. Written certification from the sign manufacturer must be provided at the time of application for a sign permit certifying that the light intensity of the sign has been preset not to exceed the illumination levels established by this section, and that the preset intensity level is protected from end user manipulation by password protected software or other approved method.

f. Digital signs may not display messages about goods or services that are not sold and delivered or provided on the premises where the sign is located. The foregoing notwithstanding, a digital sign may display messages about public emergencies and public events.

g. Brightness of digital signs shall be measured as follows:

    i. At least 30 minutes following sunset, a footcandle meter shall be used to obtain an ambient light reading for the location. This is done while

the sign is off or displaying black copy. The reading shall be made with the meter aimed directly at the sign area at the preset location.

ii. The sign shall then be turned on to full white copy to take another reading with the meter at the same location.

iii. If the difference between the readings is 0.2 footcandle or less, the brightness is properly adjusted.

iv. Other requirements. The use, size and location of digital signs, other than digital billboards, must comply with all other relevant regulations and laws of the Town.

D. LB-SL District.

(1) Permitted signs.

a. Any sign permitted in a residential district according to residential district regulations, but only for the same uses that are allowed in the residential district.

b. Flat business signs, which shall not project more than 12 inches beyond the building facade and shall not extend above the roof of the building. The total surface display area of flat business signs shall not exceed in square feet two times the number of linear feet of width of the store or building frontage. However, in the case of a store or building on a corner lot, such square foot display area can allow for a second sign facing the secondary or side street equal to the length of the store or building's side wall in linear feet. Said increased permitted display area shall be used only for the erection of a permitted sign on the length of the building or store which faces the secondary street. Where the premises abuts a parking lot, for that portion of the building which faces the area with parked vehicles, the total display area for the area of the building facing the parking area may be increased by one-half times the number of linear feet of the facade of the store or building which faces the parking area. No additional signage is allowed for an area facing a driveway without parked vehicles. A building facing both a side street and parking area may only increase signage display area by one times the length of the side of the building.

c. Free-standing ground-mounted signs in a fixed position. No signs shall exceed 12 feet in height. Signs may be 10 square feet per side or 40% of the allowed front wall sign per side, whichever is greater, but at the

discretion of the Planning Board under applicable architectural review procedures as provided within the Chester Town Code. If the bottom of the sign is less than seven feet above the ground, a planter or other safety feature must be placed along the base of the sign to prevent people from walking underneath ground-mounted signs. No sign shall be lower than five feet above the ground within five feet of the street right-of-way line.

d. A maximum of two signs per building are permitted. In the case of multiple businesses on a site, a maximum of one sign is permitted per business (not including directory signs) up to a maximum of two signs per building. However, additional signs may be permitted with architectural review by the Planning Board.

(2) Prohibited signs.

a. Internally illuminated signs are prohibited. These would include flashing lights, neon lights, backlighted signs and signs with lights which move more than once a minute.

b. Sandwich board signs located on the ground.

c. Exposed lamps over 10 watts on any sign.

d. Mounted or hanging window signs unless they count as the permitted sign for a business.

(3) Regulations.

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

b. No products or product containers or signs shall encroach in or be located in the county right-of-way.

c. No more than one flag per business shall be displayed during business hours only. Flags must not obstruct views of any other business signs or create a safety hazard. Flags must be a maximum of 10 square feet per side and no multiple flags are allowed on one halyard.

d. One banner per building may be displayed for a total of no more than 60 days during any calendar year. Such banner shall not exceed 25 square

feet. Banners shall be for the purpose of advertising or promoting specific products, activities or events on site or in the LB-SL District.

e. Community-based signage relative to the Sugar Loaf Area activities or to the Town of Chester shall be allowed subject to the authorization of the Town Board.

f. American flags, wind vanes and any products intended for sale are excluded from this code.

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

a. If there are multiple businesses on a site, the size and format of the individual business signs must be consistent. Lettering and coloring may be different for the individual business signs.

b. Architectural review by the Planning Board is required for the frame and header, but once a standard has been established for a site further review is not required.

c. Individual businesses within the site are allowed one wall-mounted or perpendicular sign conforming to the above standards.

(5) Notes and exceptions.

a. All signs in existence prior to adopting this code are grandfathered. Such signs shall be listed by the Code Enforcement Officer within a month of the adoption of this section and maintained in a file in the municipal office.

b. Signs must be maintained and not allowed to deteriorate.

c. Upon reoccupancy of a space that included a nonconforming sign, any new sign must conform to this Code.

d. Any sign now or hereafter existing which advertises a business no longer in operation within the LB-SL Zone shall be removed within 30 days of the closing of that business.

E. Signs permitted in any district. The following signs shall be permitted in any district, unless specifically prohibited elsewhere within this section, and shall not require a permit:

(1) Construction signs which identify the architects, engineers, contractors and other individuals or firms involved with the construction, but not including any advertisement of any product, and signs announcing the character of the building enterprise or the purpose for which the building is intended, during the construction period, to a maximum area of 16 square feet for each industrial or commercial use and to a maximum area of four square feet for each firm in all other districts. The signs shall be confined to the site of the construction and shall be removed within 14 days of the beginning of the intended use of the project.

(2) Real estate signs advertising the sale, rental or lease of the premises or part of the premises on which the signs are displayed, up to a total area of 12 square feet unless otherwise regulated by Subsection A(1)(a) of this section. Such signs shall be removed within 14 days of the sale, rental or lease of the premises.

(3) Political campaign signs announcing the candidates seeking public political office and other data pertinent thereto, up to an area of 32 square feet for each premise. These signs shall be confined within private property and removed within 14 days after the election for which they were displayed.

(4) A sign of the temporary poster type erected for temporary use only and displayed inside a business establishment or affixed to the outside of its show window or on the building which houses such establishment, advertising a special sale for a limited time only of goods, services or entertainment on the premises where displayed, or a similar sign not over three square feet in area advertising some civic event.

(5) Signs directing traffic movement onto a premises, not exceeding two square feet in area for each sign. Horizontal directional signs on and flush with paved areas are exempt from these standards.

(6) Signs of educational, religious, governmental or nonprofit organizations containing general public information, or signs of public, quasi-public, commercial, industrial or real estate development uses giving directions thereto, which uses are located off of and not clearly visible from a highway or other major street. Such signs:

a. Shall require approval of controlling agencies when located on street rights-of-way.

b. Shall not exceed four square feet in area.

c. May be located on a premises other than that on which the use to which the signs refer is located.

d. Shall be limited to three signs per use.

e. Shall be located at least 1,500 feet apart as measured along a street.

F. Signs prohibited in any district.

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

(1) Sign, advertising structure or device erected or maintained adjacent to a state park or parkway.

(2) Signs which contain or are in imitation of an official traffic sign or signal or contain the words "stop," "go slow," "caution," "danger," "warning" or similar words.

(3) Signs or lights which are of a size, location, movement, content, coloring, shape or manner of illumination which may be confused with or construed as a traffic control device or which hide from view any traffic or street sign or signal.

(4) Signs which move in any manner, consist of moving devices, have a major moving part or which may swing or otherwise noticeably move as a result of wind pressure because of the manner of their suspension or attachment.

(5) Billboards and other advertising signs, signs mounted or rooftops and signs which project out from buildings more than one foot.

G. Illumination of signs in any district.

(1) Signs may be internally lighted or illuminated by a hooded reflector unless otherwise prohibited by this code.

(2) No sign shall have blinking, flashing or fluttering lights or other illuminating device which has a changing light intensity, brightness or color.

(3) Exposed reflective-type bulbs and strobe lights or incandescent lamps which exceed 15 watts shall neither be used on the exterior surface of any sign so as to expose the face of the bulb, light or lamp to any public street or adjacent property nor be strung in a series of bulbs.

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

(1) General requirements.

a. Only those existing billboards, installed prior to the effective date of the amendment to this chapter, are permitted in the Town of Chester. Such billboards must be maintained, repaired and upgraded in accordance with the standards set forth herein.

b. Any double-faced billboard having back-to-back surface display areas, no part of which is more than two feet apart, is considered to be a single billboard.

c. Billboard structures having more than one surface display area which are tandem (side by-side) or stacked (one above the other) are considered two billboards and are prohibited.

d. Sphere, spheroid, or similarly shaped billboard (e.g., a ball), shall be prohibited.

e. The installation or use of a billboard is permitted only to the extent authorized by, and subject to, the provisions of the Town Zoning Law as amended from time to time.

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

a. No billboard may be located within 75 feet of a property line adjoining a street or within 30 feet of other property lines.

b. No billboards along NYS Route 17 may be located within 1,000 feet of another billboard (unless preexisting).

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

(3) Billboard surface display area; measurement.

a. The maximum allowable surface display area for a digital billboard is 672 square feet (with a maximum vertical surface of 14 feet) if the property has frontage along NYS Route 17 (Future 1-86). The maximum allowable surface display area for all other billboards at any location is 300 square feet, with a maximum vertical surface of 10 feet.

b. The surface display area of a billboard shall be measured to include the entire area within a regular geometric form or combinations thereof comprising all of the display area of the billboard, including all of the elements of the matter displayed. Frames and structural members, excluding necessary supports or uprights, shall be included in computation of surface display area.

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

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

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

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

(8) Display.

a. The display or message on a digital billboard, of any type, may change no more frequently than once every eight seconds, with a transition period of one second or less. Messages may not contain the appearance of motion or animation. Transitions between messages may contain the appearance of motion or animation.

b. The display or message must otherwise comply with Subsection H(3)(b) and the digital billboard must have installed an ambient light monitor, which shall continuously monitor and automatically adjust the brightness level of the display based on ambient light conditions consistent with terms of this subsection.

c. Maximum brightness levels for billboards shall not exceed 5,000 nits or candelas per square meter (cd/m2) when measured from the sign's face at its maximum brightness, during daylight hours. The maximum brightness levels for digital signs shall not exceed 500 nits or candelas per square meter (cd/m2) when measured from the sign's face at its maximum brightness, between sunset and sunrise, as those times are determined by the National Weather Service. Certification must be provided to the Town Engineer demonstrating that the sign has been preset to automatically adjust the brightness to these levels or lower. Reinspection and recalibration shall be annually required by the Town, in its reasonable discretion, at the owner's expense to ensure that the specified brightness levels are maintained at all times, witnessed by the Town Engineer at the owner's expense.

d. Brightness of digital billboards shall be measured as follows:

i. At least 30 minutes following sunset, a footcandle meter shall be used to obtain an ambient light reading for the location. This is done while the sign is off or displaying black copy. The reading shall be made with the meter aimed directly at the sign area at the preset location.

ii. The sign shall then be turned on to full white copy to take another reading with the meter at the same location.

iii. If the difference between the readings is 0.2 footcandles or less, the brightness is properly adjusted.

(9) Other applicable laws. A billboard must comply with all applicable provisions of federal and state law.

(10) Permitting. Every billboard or modification thereto requires site plan review and approval by the Planning Board. A Town sign permit, by the Building Department, shall be required before installation or modification. Permits shall be reviewed and issued consistent with the terms of this section as well as all other applicable laws of the Town including, without limitation, the Town Zoning Law as amended from time to time. Every applicant for a billboard permit shall file with the application a certificate of insurance, certifying that

the applicant is insured against bodily injury and for property damage arising out of the erection, maintenance, repair, and replacement of the billboard. Each applicant, if the permit is granted, shall be required to maintain said insurance and keep a certificate of insurance currently effective on file with the Town so long as the billboard or billboards are in existence. The certificate shall provide that the Town shall receive 10 days' written notice in case of cancellation of the policy. Any billboard in violation of the insurance requirements of this section shall be removed immediately and the cost of such removal shall be charged against the owner of the billboard. Fees set by Town Board.

(11) The Town may place, at no cost, public service messages up to 5% of the yearly sign time for each sign per year at time chosen by the Town.

(12) Other requirements. Billboards must otherwise comply with all other relevant regulations of the Town. The Town Engineer and the Building Inspector will enforce this subsection.

(13) Fees. The fines for violations of this order shall be up to $1,000 per day as set by the court.

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

A. Permitted accessory parking.

(1) There is no limitation on the number of agricultural vehicles permitted accessory to farm uses.

(2) In residence districts and on residential lots in all districts, licensed automobiles, commercial vehicles under one-ton[1] and motorcycles may be parked on the driveways in the front yard. Utility and recreational camping trailers, recreational camping vehicles and boats (with or without trailers) shall not be parked in front yards.

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

a. In the rear yard only.

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

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

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

d. Appropriately screened from adjoining residential uses and the road system.

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

a. Subject to site plan approval.

b. Minimum lot area: six acres.

c. In the rear yard only.

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

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

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

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

B. Prohibited accessory parking.

(1) In the SR-2 and SR-6 Districts, the following motor vehicles shall not be parked or left standing in any yard area or on a driveway, except for agricultural uses. This subsection shall not be interpreted to prohibit trucks being used in the rendering of a service to a premises.

a. Buses.

b. Commercial vehicles greater than one-ton capacity, including any motor vehicle designed and used primarily for drawing or towing other vehicles or trailers.

c. Recreational vehicles/motor homes exceeding 28 feet in length.

d. Boats, boat trailers, all-terrain vehicles (ATVs), and similar vehicles are allowed in rear yards only, except in planned adult communities (PACs) where they are not allowed in any yard area.

(2) In IP Districts, no off-street parking shall be permitted in the required front yard.

(3) In residence districts, no off-street parking shall be permitted in any front yard except on the driveways of single- and two-family dwellings.

(4) Unregistered, wrecked or partially dismantled motor vehicles of any type or design shall not be permitted to be parked or left standing in any yard area of any district.

(5) In an LB or GC District, no parking shall be permitted within 10 feet of a street line.

C. Required off-street parking.

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

a. Off-street parking for residential uses.

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

	2.00 per three-bedroom unit

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

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

b. Off-street parking for nonresidential uses.

Schedule of Off-Street Parking Space Requirements for Nonresidential Uses	
Use	**Required Spaces**
Animal hospital	1 per 200 square feet of floor area
Auditorium, convention hall, stadium, theater, studio or other place of public assembly	1 per 3 permanent seats or 1 per 40 square feet where fixed seating is not provided
Bowling Alley	3 per alley
Drive-in facility or outdoor sales lot	1 per each 600 square feet of lot area devote to outdoor sales or display. Drive-in facilities will be dealt with in terms of parking requirements based on their principal uses, plus 2 additional spaces for each drive up window
Funeral home	1 per 2 employees, plus 1 per 40 square feet of assembly area floor space
Furniture, appliance or outdoor retail sales	1 per 500 square feet of sales area
Gasoline station, parking garage or repair garage	1 space per each vehicle stored or being serviced at any one period of time plus 5 additional spaces
Golf courses and county club	1 per 2 lockers or other comparable accommodations, plus seating for other facilities provided.
Home occupation or home professional office	3 per office
Hospital	2 per bed
Hotel or motel	1 per guest room, plus one per employee on the largest shift
Industrial, manufacturing or research facility	2 per 3 employees on the two largest consecutive shifts
Nursing home; sanitarium and assisted-care/-living facility	1 per each 3 beds, plus 1 per each 2 employees on the premises at any one time. Assisted living may be treated as

	housing depending on the level of care provided.
Office building	1 per 200 square feet of floor area for the first 20,000 square feet of floor area, and then 1 per 300 square feet of any additional floor area
Place of worship, library and public building	1 per 5 seats or 1 per 100 square feet of floor area where fixed seating is not provided
Professional office of a doctor or dentist, including home office of a doctor of dentist	5 per doctor or dentist
Restaurant, club, eating or drinking place	1 per 4 seats or 1 per 40 square feet of seating area or as required by the Planning Board for restaurants demonstrating greater parking space needs in the judgment of the Planning Board
Retail store, shopping center and personal service establishment*	1 per 150 square feet of sales and/or customer service area
School, elementary (K-8)	2 per classroom, plus 1 per 5 seats in any auditorium or assembly area
School, secondary (9-12)	4 per classroom, plus 1 per 5 seats in any auditorium or assembly area
Warehouse or wholesale establishment	1 per 500 square feet of gross floor area

NOTES:

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

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

a. Required off-street parking spaces may be located elsewhere than on the same lot as the use to which they are is appurtenant, provided that they shall be in the same zone as the use to which they are appurtenant, and further provided that the spaces are not more distant from the principal entrance or entrances to the structure they serve than 500 feet in the case of an LB, LB-SL or SR use, 600 feet in the case of a GC use and 800 feet in the case of a manufacturing or industrial use, and provided that all such spaces, through ownership or permanent easement, shall be under the control of the owner or operator of the use to which such spaces are appurtenant.

b. Non-applicability to existing buildings and uses. In LB-SL Zones, the schedule of off-street parking space requirements provided in Subsection

C(1)(a) and (b) shall not apply to any building, structure or use lawfully in existence at the effective date of this chapter, whether continued as a permitted or nonconforming use of same, whether of the same or to a different owner or different permitted use.

c. Parking for new building or premise construction. Parking for new building or premise construction or alterations so as to expand usable floor area by 3,000 SF or less are exempt from Subsection C(1)(a); or, if over 3,000 SF, parking will be in accordance with the schedule of off-street parking space requirements provided in Subsection C(1)(a) and (b). However, the Planning Board can waive any or all of the requirements for the good of the Town.

D. Computation of spaces.

~~(3)~~(1) Required spaces shall be computed on a basis of 162 square feet per space (nine feet by 18 feet), exclusive of drives or aisles for access or turning movements in said parking areas. Handicap spaces shall be 10 feet by 18 feet or 180 square feet per space, exclusive of drives or aisles for access or turning movements in said parking areas.

~~(4)~~(2) When the number of required spaces results in a fraction, the fraction shall require one parking space.

~~(5)~~(3) Adequate space shall be provided on the lot to permit the placing of automobiles in a position to enter a public street or highway from said parking area in a forward direction.

~~(6)~~(4) If a use is not listed in the Schedules of District Regulations, then the number of required off-street parking spaces becomes the number of spaces required for the use which most nearly approximates the proposed use as interpreted by the Planning Board or as listed for such use in the latest edition of the Institute of Transportation Engineers (ITE) Parking Generation manual.

~~(7)~~(5) When more than one permitted use is located on a premises, the number of required off-street parking spaces becomes the sum of the component requirements. Where it can be conclusively demonstrated that one or more of such uses will be generating a demand for parking spaces primarily during periods when the other use or uses is not or are not in operation the Planning Board may reduce the total parking spaces required for that use with the least requirement.

~~(8)~~(6) Areas which may be computed as the required off-street parking space may include a garage, carport or other area available for parking, other than a street, or a driveway within a front yard of a one- or two-family dwelling, which may be counted as one space.

~~D.~~E. Standards for pavement, maintenance and access.

(1) Off-street parking areas for more than 10 automobiles shall be adequately paved, graded and drained so as to dispose of all surface waters to the satisfaction of the Town Engineer.

(2) All off-street parking spaces within any required parking area shall be clearly marked to show the parking arrangement and movement within said parking area.

(3) All off-street parking areas shall be maintained in good condition. Any shrubs required by this chapter as a buffer for a particular use on the same premises as a parking area, which shrubs are located adjacent to a parking area, shall be protected by a concrete curb, bumper guard or the equivalent, which shall run parallel to said shrubs, be at least five inches in height above the paved surface adjacent to said shrubs and be a sufficient distance therefrom to protect said shrubs from the impact of motor vehicles.

(4) There shall be adequate provision for ingress and egress to all parking spaces. Access to off-street parking areas shall be limited to several well-defined locations at which curb cuts shall be permitted by the Planning Board. Driveways to each of said curb cuts shall be at least 10 feet in width and no more than 20 feet in width in an LB, LB-SL or residential district, for a use requiring five or more spaces. In a GC or industrial district, driveways to each of said curb cuts shall be at least 15 feet in width and no more than 30 feet in width. In no case shall there be permitted unrestricted access along the length of the street or streets upon which the parking area abuts.

~~E.~~F. Required off-street loading.

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

are permitted shall be provided with off-street truck loading spaces in accordance with the following schedule:

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

(2) Shipping or receiving docks for off-street loading facilities shall have adequate access to and from a public street without using said street for maneuvering purposes and shall not be loaded nearer than 200 feet to a residential district.

(3) Required loading spaces shall be at least 12 feet by 33 feet or of a size suitable for their intended purpose as determined by the Planning Board.

§ 98-23. Minimum habitable dwelling space.

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

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

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

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

(1) The minimum clear ceiling height of habitable dwelling spaces shall not be less than seven feet six inches in the first story and not less than seven feet four inches in upper stories.

(2) In computing the dwelling space of half stories or attics, all portions less than five feet in height shall be disregarded.

(3) The floor of a cellar, garage, porch or similar part of an attachment to a dwelling shall not be counted as habitable dwelling space.

(4) In calculating habitable dwelling space, the floor area shall be measured from the outside face or center of the walls enclosing each dwelling and may include all closet space and storage areas contained within the dwelling or apartment unit, but shall not include outside patios, balconies or terraces. In the case of dwelling units above business uses or apartment buildings, utility rooms or interior hallways used jointly by occupants of more than one dwelling unit in such building shall not be included in the measurement of habitable dwelling space.

§ 98-24. (Reserved)

§ 98-25. Cluster developments.

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

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

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

(1) Conformance with the applicable parts of the Town of Chester Comprehensive Plan adopted [date to be inserted upon adoption], and as

may be amended from time to time, and Chapters 83 and 98 of the Town of Chester Code.

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

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

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

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

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

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

(1) Sketch Cluster Plan Review.

a. Prior to the applicant making any formal subdivision submission, an applicant shall submit a sketch cluster plan to the Planning Board, the purpose of which is to demonstrate to the Planning Board whether the provisions of this section shall apply per the criteria set forth in this section.

b. The sketch cluster plan submitted need not be based upon surveyed data, but it should contain the following information:

i. An assessment of existing conditions on the site to be subdivided using available mapping data and/or photographic images. This initial site assessment shall show the approximate area of the project that constitutes sensitive lands as defined in this section (wetlands, hydric soils, floodplains, stream corridors, steep slopes, streams and clusters of mature trees etc.) and the area that might be classified as developable lands.

ii. Information regarding all known restrictions on the use of land, including easements, covenants or zoning district classification.

iii. An estimate of the number of lots and/or units that might be accommodated within the project as well as the bulk requirements that may be applied.

iv. A broad concept plan to indicate any initial ideas about the location of homes, roads, trails, conservation areas, and utilities.

c. The Planning Board shall conduct an initial review and discussion with the applicant to determine whether the requested use of clustering appears appropriate and desirable for the site and possible requirements of the project in relation to standards for street improvements, grading, drainage, sewerage, water supply, fire protection and similar aspects, as well as the availability of existing services and other pertinent information. The Planning Board may request other information it may need in order to determine if the goals listed in this section been addressed and that there are benefits to the Town so that the Planning Board can determine if the plan fulfills the requirements for a clustered subdivision plan.

(2) Yield Plan.

a. If the Planning Board determines that clustering may be appropriate, it shall direct the applicant to prepare a yield plan to determine the number of residential lots and/or dwelling units, as applicable, which can be obtained by subdividing a given parcel.

b. A yield plan shall be prepared in accordance with zoning requirements and conventional lot layouts. Each residential lot, its building envelope and the entire subdivision layout must comply with all applicable laws and regulations affecting the use of land, including Town, county, state and

federal laws and regulations, and all applicable road requirements, including but not limited to cul-de-sac length limit.

c. The yield plan shall comply with the basic requirements for a preliminary plat under the Subdivision Regulations (Chapter 83), although the Planning Board may waive specific requirements if it deems that such items are not necessary for consideration of the site and for the determination of allowable density thereon.

d. The Planning Board shall render a determination of the allowable density based on an acceptable yield plan.

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

(3) Preliminary/Final Plat Review

a. Once the Planning Board has agreed that the conventional or yield plan meets all pertinent requirements, then the Planning Board shall hold a preliminary public information meeting at which the applicant will present both the conventional yield plan and the sketch cluster plan and the public will have an opportunity to ask questions and make comments. The hearing shall be noticed in accordance with § 98-31.2.

b. After the number of residential dwellings or units in a yield plan has been determined, the applicant shall submit a preliminary plat showing the proposed building lots and the open space areas together with other elements as set forth in § 83-30.

c. The Planning Board shall review such preliminary plat in accordance with chapter 83 and the State Environmental Quality Review Act.

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

(1) Preservation of steep slopes

(2) Preservation of ridgelines.

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

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

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

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

(7) Preservation of wetlands, drainage areas and floodplains.

(8) Separation of development from active farmland.

(9) Preservation of cultural resources.

(10) Protection of significant agricultural lands and resources.

(11) Protection of cultural landmarks and resources and their surrounding visual context.

(12) Protection of the rural appearance of Chester.

(13) Preservation of natural assets such as streams, ponds, fields, trees and critical habitat areas.

G. Regulations.

(1) A portion of the required open space may be used for community septic disposal systems, required stormwater management/erosion control facilities, community water supply wells and/or for active or passive recreation at the discretion of the Planning Board.

(2) Clustered developments shall preserve at least 50% of a site's total acreage as restricted or usable open space. This area may include public or common recreational facilities, community septic disposal systems, required stormwater management/erosion control facilities, community water supply wells and/or active or passive recreation at the discretion of the Planning Board.

(3) The Planning Board, in its judgment, shall have the right to reduce minimum lot area requirements for clustered developments in order to achieve increased open space preservation or benefits beyond those required or encouraged by Chapters 83 and 98 of the Town Code and the Town Comprehensive Plan. The floor area limitations set forth in Article X, Floor Area Ratios shall apply. In accordance with § 278(3)(b) of the Town Law, no additional residences may be created and allowed.

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

a. Primary conservation areas are areas that are prohibited by existing law or other regulation from residential or other structural development, e.g., water bodies, streams and floodplains, wetlands and their adjacent areas, and areas that constitute significant barriers to development, such as a slope of 25% or more.

b. Secondary conservation areas are areas that are not included as primary conservation areas but are deemed worthy of protection by the Planning Board. Secondary conservation areas may include passive recreation areas and buffer areas of 50 feet to 100 feet separating development from water bodies, waterways and wetlands, unless such areas are otherwise required to be located in the primary conservation area.

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

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

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

a. The Planning Board shall evaluate the proposed cluster subdivision layout to determine whether the proposed subdivision:

i. Recognizes existing scenic views and vistas; preserves the existing visual character of the site area. This includes protecting the visual character and appearance of the site as viewed from existing public roads, thereby protecting the Town's open rural streetscape. New construction shall be sited to avoid visual prominence, where possible. Where new construction will unavoidably be visually prominent in visually or culturally sensitive areas, such structures shall be designed

and detailed in a manner that is consistent with the appropriate architectural design vernacular. A buffer of at least 50 feet or more, not including access roads, shall be established back from existing roads and lot lines as part of an open space area, and where possible, existing field hedgerows and stone walls shall be preserved.

ii. Preserves active farm fields and open fields wherever possible, particularly when associated with actual or potential agricultural use or culturally or historically significant houses and agricultural structures such as barns. Farm fields shall be preserved for continued use where possible and appropriate.

iii. Provides contiguous open space and/or avoids habitat fragmentation. Open space resulting from the subdivision shall avoid fragmenting habitat to the greatest extent possible, in keeping with the resources identified for protection. Open space areas in contiguous subdivisions shall connect where possible in order to maintain wildlife habitat and corridors. Consideration shall be given to simple methods of maintaining land cover types where deemed beneficial by the Planning Board for visual, aesthetic, or habitat purposes. Maintenance measures shall be identified and implemented.

iv. Minimizes intrusion into wetlands, floodways and floodplains, water bodies and steep slope areas of twenty-five-percent slope or more. Although some intrusion may be necessary in order to obtain road access to the site for building purposes, this should be kept to a minimum. Any pedestrian access that is provided to primary and secondary conservation areas shall also be designed to minimize impacts on these resources.

v. If appropriate and if desired, provides for pedestrian access to and/or within preserved open space areas for property owners within the subdivision. Such access, if provided, does not imply a right of access to the general public unless explicitly so provided.

vi. If appropriate and as may be required by the Planning Board, provides for pedestrian needs along the subdivision access road(s) and street tree plantings located outside of the road right-of-way.

vii. Otherwise achieves the goals set forth in § 98-25C.

b. Open space ownership and maintenance.

i. As an integral part of the clustered development plan, the ownership of any resulting open space area must be determined relative to its intended function and the lot layout. Provisions shall be made to ensure the proper management, maintenance and care of the open space area. Its relationship to the lots, its purpose and habitat or other function within the subdivision shall be considered in this regard, including but not limited to periodic maintenance of septic systems and stormwater/erosion control facilities located in open space areas. If the Board determines that it is visually or culturally important for land to be preserved in field or meadow vegetation, then some minimum level of maintenance needed to preserve the ground cover shall be provided. The open space easement area shall be planned with the objective of minimizing maintenance requirements using suitable native landscape elements. The owner(s) of the open space area(s) shall be responsible for all expenses of maintenance and care.

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

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

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

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

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

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

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

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

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

4. Once established, all responsibility for operation and maintenance of the common areas and facilities shall lie with the HOA.

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

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

established. The amount and period of said bonds shall be determined by the Planning Board, and the form, sufficiency, manner of execution and surety shall be approved by the Town Attorney and the Town Board. In lieu of bonds, the Planning Board may require completion of said facilities prior to completion of a certain percentage of the dwellings in the project.

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

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

(1) Specific regulations.

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

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

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

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

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

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

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

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

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

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

§ 98-26. Ridge Preservation Overlay District.

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

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

C. Restrictions and procedures.

(1) Siting of structures:

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

b. To the maximum extent practicable, structures shall be sited at the lowest feasible elevation in order to be as visually inconspicuous as possible

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

c. Existing vegetation shall be preserved and maintained to the maximum extent practicable and additional landscaping (including but not limited to vegetation and foundation plantings) shall be used to ensure that the structure blends with surrounding land features and vegetation.

d. ~~features~~ Features that provide scenic importance to ridgeline areas should be preserved to a reasonable extent. These features include but are not limited to individual healthy trees within open fields that are at least 18 inches in diameter at breast height (dbh), historic structures, hedgerows, public or private unpaved country roads, and stone walls.

e. Clear-cutting of trees in a single contiguous area shall be prohibited, unless expressly permitted as part of an approval for a site plan or subdivision application.

(2) Procedure.

a. Applications not subject to site plan or subdivision review. The Building Inspector shall review all building permit applications not otherwise subject to Planning Board review for compliance with this section. In the event that the Building Inspector determines that the proposed structure will be visible from Pine Hill Road, Bull Mill Road, Black Meadow Road or a state, county or interstate highway, or otherwise has an adverse visual impact, the Building Inspector shall refer the applicant to the Planning Board for further review pursuant to the process set forth in § 98-26 (C)(2).

i. Any proposal for construction within the RPOD shall include a survey showing the topography of the parcel and indicating the current areas of vegetative cover of type. Such plot plan shall indicate the proposed location and elevation of the structure, all structural and nonstructural accessories thereto, and proposed grading and vegetation clearing.

b. Applications subject to site plan or subdivision review.

c. . The Planning Board shall review applications within the RPOD simultaneously with site plan and/or subdivision review. The Applicant shall submit a survey in conformity with 98-26 (C)(2)(a)(i)

d. Where the Planning Board makes an initial finding that proposed development could result in an adverse visual impact on the RPOD, it shall review and evaluate the following:

i. Soil stability analysis. A soil stability analysis shall be submitted to the approving agency to demonstrate that the construction will not compromise the stability of the terrain (including any man-made structure on site) and certified to that effect by a New York State licensed geotechnical engineer. The approving agency may waive this requirement if the Town Engineer advises the approving agency that it is unnecessary owing to the particular conditions of the site and the nature of the requested approval

ii. Visual impact ~~analysis~~assessment. The visual impact assessment shall include a photographic study taken from designated vantage points or areas along Pine Hill Road, Bull Mill Road, Black Meadow Road or state, county or interstate highways, with the location of the proposed clearing, new structures and its site indicated thereon. Such visual impact analysis may be required to include a verifiable digital photomontage combining an existing conditions photograph with a three-dimensional computer-aided design ("CAD") model of proposed conditions using match points that are in common in both the three-dimensional model and the photograph to create a verifiable visual simulation of the proposal, during leaf-off - no snow conditions, from distances and vantage points as determined appropriate by the approving agency.

iii. Tree survey. A tree survey shall be submitted showing on the site plan the location, type, and diameter of every tree of five or more inches in diameter, measured ~~48 inches~~three feet above the ground that is being proposed to be eliminated. The approving agency may require a photographic record of the vegetative coverage taken from vantage points determined by it to be appropriate given the particular circumstances of the requested approval. In addition, the approving agency may require an inventory of shrubs and plants for purposes of identifying species typically found on the property and determining appropriate compensatory coverage.

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

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

(1) The building design.

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

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

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

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

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

(2) The Planning Board or Building Inspector finds that the proposed work is of a minor nature and is consistent with the standards set forth in this section.

(3) The use involves agricultural operations.

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

A. Purpose. The areas of the Town of Chester which are subject to periodic inundation and ponding, as delineated on the Zoning Map, are designated as floodplain and ponding area subdistricts within the 10 principal districts for the

purposes of protecting human life, preventing material losses and reducing the cost to the public of rescue and relief efforts occasioned by the unwise occupancy of areas subject to floods and ponding.

B. Permitted uses. In the FP Floodplain and Ponding Area Environmental Subdistrict, no structure shall be erected, constructed, reconstructed, altered or moved except as listed below:

(1) Recreational uses.

(2) Conservation areas and wildlife preserves.

(3) Agricultural and commercial agricultural operations, structures and accessory uses thereof.

(4) Utility structures.

(5) Parking facilities.

C. Exceptions.

(1) Notwithstanding the above, the Planning Board, upon finding that an area in an FP District described by an application submitted by an owner or his agent is safe from flooding or ponding, may permit such area to be used in accordance with the regulations, including use, area, bulk and height, specified for the principal district. An applicant applying for such permission shall produce sufficient evidence that the area covered by the application is now actually safe from flooding or ponding. Such evidence shall include an indication that means of vehicular access to the premises from an existing street is safe from flooding and may include engineering surveys and reports. Evidence shall also be submitted that sewage disposal, water supply and surface drainage are adequate to serve the intended use.

(2) Fill and basement or first-floor elevations shall be approved by the Town Engineer.

(3) All development plans for lands located within the Floodplain Subdistrict shall be reviewed by the United States Soil Conservation Service, the Town Engineer and the Orange County Planning Department.

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

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

§ 98-28. Architectural Review Board.

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

A. The Planning Board of the Town of Chester shall act as the Architectural Review Board for the purposes of this chapter. The Architectural Review Board shall review plans and specifications for buildings and alterations as follows:

   (1) In major subdivisions as defined in the subdivision regulations of the Town of Chester.

   (2) Outside such subdivisions except one-family and two-family residences.

B. Architectural Design District. That area designated LB-SL on the Zoning Map of the Town of Chester is hereby established as the Architectural Design District.

C. (Reserved)

D. It shall be the duty of the Architectural Review Board to exercise aesthetic judgment and maintain the desirable character of the LB-SL District and prevent construction, reconstruction, alteration or demolition out of harmony with existing buildings insofar as style, materials, color, line and detail are concerned and thus to prevent degeneration of property, safeguard public health, prevent fire, promote safety and preserve the beauty and character of the district.

E. In addition to the aforementioned powers, the Architectural Review Board shall have the power to:

(1) Retain or employ professional consultants, secretaries, clerks or other such personnel as may be necessary to assist the Review Board in carrying out its duties.

(2) Conduct surveys of buildings for the purpose of determining those of historic and/or architectural significance and pertinent facts about them.

(3) Formulate recommendations concerning the preparation of maps, brochures and historical markers for selected historic and/or architectural sites and buildings.

(4) Cooperate with and advise the governing body and other municipal agencies in matters involving historic and/or architectural sites and buildings.

(5) Advise owners of historic buildings on problems of preservation and restoration.

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

G. Regulated conduct.

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

(2) Exceptions.

a. Nothing contained in this chapter shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature which does not involve a change in design, material, color or the outward appearance thereof.

b. Nothing in this chapter shall be construed to prevent the construction, reconstruction, alteration or demolition of any exterior architectural feature

which the Building Inspector shall determine is required by public safety because of dangerous or unsafe conditions.

c. Nothing contained in this chapter shall be construed to prevent, without additional approvals, minor modifications to previously approved signs which include primarily changes in names of businesses, providing such changes are in the same scale, lettering type and color as that previously approved.

H. Procedure.

(1) Notwithstanding any inconsistent ordinance, local law, code, rule or regulation concerning the issuance of building permits, no change in any exterior architectural feature in the district shall be commenced without a certificate of approval from the Architectural Review Board, nor shall any building permits for such change be issued without such a certificate of approval having first been issued. The certificate of approval required by this subsection shall be in addition to and not in lieu of any building permit that may be required by any ordinance, local law, code, rule or regulation of the Town of Chester.

(2) Application for a certificate of approval shall be made in writing, in duplicate, upon forms prescribed by the Architectural Review Board, to the Board and shall contain the following:

a. Name, address and telephone number of applicant.

b. Location of building, structure or land the exterior architectural features of which are proposed to be changed.

c. Elevations of proposed change.

d. Perspective drawing.

e. Samples of color or materials to be used in the proposed change.

f. Where a proposed change includes a new sign not exempt pursuant to § 98-28G(2)(c), a scale drawing showing the type of lettering, all dimensions and colors; a description of the materials to be used and the method of illumination, if any; and a plan showing the location on the building or property.

I. Issuance of certificate. Within a reasonable time after application is filed, not to exceed 62 days after such filing, or within such further time as the applicant may

in writing allow, the Architectural Review Board shall determine whether the proposed construction, reconstruction or alteration of the exterior architectural feature involved will be appropriate to the preservation of the district for the purposes or this chapter and whether, notwithstanding that it may be inappropriate owing to conditions especially affecting the structure involved but not affecting the district generally, failure to issue a certificate of appropriateness will involve a substantial hardship to the applicant and whether such a certificate may be issued without substantial detriment to the public welfare and without substantial deviation from the intent and purposes of this chapter. In passing upon appropriateness, the Review Board shall consider, in addition to any other pertinent factors, the historical and architectural value and significance, architectural style, general design, arrangement, texture, material and color of the exterior architectural feature involved and the relationship thereof to the exterior architectural features of other structures in the immediate neighborhood.

J. Uniformity of design. In order to avoid monotony of architectural design, no building permit shall be issued for the erection of a dwelling located within an approved major subdivision plat if it is substantially like any neighboring building which is existing or for which a building permit is being concurrently considered.

(1) A building shall be considered neighboring if it fronts on the same street as the building being considered and is the first or second house along the street in either direction or faces the building site being considered from across the street.

(2) In considering those items listed in Subsection J(3) below, buildings shall be considered substantially alike in any dimension for which they differ by less than two feet, except 20 feet for setback differences. Buildings between which the only difference in relative location of elements is end-to-end or side-to-side reversal of elements shall be deemed to be alike in related location of such elements.

(3) Buildings shall be considered substantially alike unless they differ in at least three of the following respects or dimensions:

a. Setback from the street.

b. Relation of a garage visible from the street to the principal building.

c. Gables extended from the main roof visible from the street.

d. A major difference in facing or finishing for the front elevation, such as brick, stone, cedar shakes, aluminum siding, etc.

e. The addition of dormer windows, all visible from the street.

K. In all cases of uses requiring approval by the Architectural Review Board which are outside the Architectural Design District, approval by said Board shall be granted at the time of final subdivision approval, site plan approval or prior to the issuance of a building permit. Application for approval shall be made concurrently with application for the above approvals.

§ 98-28.1. Short-term rentals.

A. Title. This section shall be referred to as "A Local Law Adding Section 98-28.1 to Article IV, Chapter 98, Entitled 'Short-Term Rentals,' to the Town Code of the Town of Chester."

B. Purpose and legislative intent. Due to the increase in tourism over the past years in the Town of Chester and adjacent local areas, there has been an increase in the number of property owners renting to tourists on a short-term basis. Many property owners in the Town of Chester list their properties as short-term rentals on web-based booking sites such as Airbnb or VRBO. These short-term rentals offer many benefits to property owners and residents in the Town of Chester, but also have the potential to create health, safety and quality of life detriments to the community. Accordingly, the purpose and legislative intent of this section is to regulate the use and safety of these short-term rentals so as to further secure and promote the public health, comfort, welfare, safety and peace for residents of the Town of Chester.

C. Authority. This section is adopted pursuant to Article 16 of the New York State Town Law, which expressly grants the Town Board of the Town of Chester authority to adopt local laws for the purposes of promoting the health, safety and welfare of the Town of Chester and its residents. This section is further adopted pursuant to New York Municipal Home Rule Law Article 2, § 10, which grants the Town Board of the Town of Chester the power to protect and enhance the physical environment of the Town of Chester.

D. Definitions.

(1) All of the terminology and definitions contained in this chapter which relate to the nature of sound and the mechanical detection and recordation of sound shall be in conformance with the terminology of the American National Standards Institute or its successor body.

(2) As used in this section, the following terms shall have the meanings indicated:

OWNER-OCCUPIED PROPERTY

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

RESIDENT AGENT

An authorized representative of a property owner or landlord who resides within the designated boundaries of Orange County as defined at the time of the issuance of the permit and all subsequent permit renewals and who shall be contacted for emergencies or other matters that may arise at the short-term rental property. A resident agent must be an individual, not a corporation, limited-liability company or similar entity.

SHORT-TERM RENTAL

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

SHORT-TERM RENTAL PERMIT

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

SHORT-TERM RENTAL PROPERTY

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

A. Regulation of short-term rental properties.

(1) Short-term rentals shall only be permitted in the SR-1, SR-2, LB-SL, and AR-3 residential zones within the Town.

(2) Previously existing short-term rentals. A short-term rental which was in existence and being operated in any other zones prior to the adoption of this chapter shall be permitted to continue to operate under the following conditions:

a. The short-term rental in question possesses a single-family dwelling or legal owner-occupied two-family dwelling;

b. The short-term rental in question meets all other criteria provided for in this chapter;

c. The short-term rental was in existence as of the date of adoption of this chapter;

d. The short-term rental shall be registered with the Town of Chester Building Department within 30 days of the effective date of adoption of this chapter.

(3) Only single-family and legal, owner-occupied two-family dwellings or a mixed-use structure with a valid certificate of occupancy may be used as a short-term rental property.

(4) Orange County hotel and motel occupancy tax. All short-term rentals shall comply with the Orange County hotel and motel occupancy tax (Local Law No. 13 of 2009). An operator of a hotel or motel may be responsible for the collection of tax on occupancy of hotel or motel room rentals. Included in the definition of "hotel/motel rooms" are short-term and/or vacation rentals and properties typically listed on sites such as Airbnb and VRBO.

(5) In the event that a property being used as a short-term rental is located in a development that has an HOA (homeowners' association), written consent from the established HOA must be submitted with the permit application.

(6) All short-term rental properties must be registered with the Town of Chester Building Department within 30 days of the effective date of this article and/or prior to the premises being used as a short-term rental. It shall be the responsibility of the property owner to register any short-term rental property as required by this chapter. Failure to do so shall constitute a violation of these regulations and is subject to the penalties set forth herein.

(7) Clear signage is required to be posted within the short-term rental property to ensure the tenants, guests and invitees understand the local ordinances, occupancy limits, parking and garbage rules and have the number of the local contact.

(8) The property owner is required to maintain a guest registry with contact information which is to be made available to the Town if/when requested.

(9) No additional parking spaces may be added or constructed between the primary residential structure and the street without prior written approval from the Building Inspector.

(10) No advertising or signage is permitted on the property of a short-term rental.

(11) Large gatherings, including, but not limited to, special events and weddings, are prohibited without the issuance of a special use permit from the Building Department. Large gatherings shall be defined as 20 or more people assembling at any given time.

(12) The following terms and conditions shall apply to all short-term rentals:

a. No illegal conduct shall be carried on at the short-term rental property by the property owner, rental tenants, guests or invitees.

b. A tenant of the short-term rental is prohibited from subleasing or other licensing the use or occupancy of any portion of the short-term rental property.

c. The property owner and/or resident agent shall make all tenants aware of the Town's noise ordinance. Any conduct in conflict with this ordinance or which is unreasonable under the circumstances and which disturbs the health, safety, peace, or comfort of the neighborhood or which creates a public nuisance is prohibited.

d. Compliance with all maximum occupancy requirements and restrictions contained in the New York State Building and Fire Code is required and shall be strictly enforced.

e. All garbage, rubbish and/or recyclables shall be stored and placed by the curb on designated removal days consistent with the Town Code and shall not be left stored in public view unless contained within proper containers.

f. No trailers, recreational vehicles, campers, caravans or motor homes are permitted to be used as a short-term rental on real property consisting of less than 20 acres. In the event that a trailer, recreational vehicle, camper, caravan or motor home is situate on property exceeding 20 acres and the property owner desires that the same be used as a short-term rental, the property owner is required to submit a request for site plan approval from the Planning Board.

g. The Building Inspector has the right to determine if and when the property would require fencing or privacy landscaping.

B. Registration of short-term rental properties.

(1) It shall be a violation of this chapter to offer or engage in short-term rentals unless the rental property has been registered with, and a rental permit is

obtained from, the Town of Chester Building Department as provided in this section within 30 days of the effective date of this chapter.

(2) The registration of short-term rental property shall be accomplished by submitting a completed registration application on a form promulgated by the Town Building Department in accordance with the provisions of this section. Such form shall contain a minimum of the following information:

a. The name, address, telephone number and email address of the record owner of the property and any designated resident agency they may designate;

b. The street address and Tax Map number of the rental property;

c. The total number of bedrooms in the rental property;

d. Applicable overnight and daytime occupancy limit of the short-term rental;

e. If the short-term rental property is not served by municipal water and sewer, proof shall be provided that the on-site utilities have been properly maintained and are in conformance with all applicable standards; and

f. The permit application shall be accompanied by proof of liability insurance for the property with policy limits no less than $1,000,000 per occurrence.

(3) Upon submission of an application for a short-term rental permit, the property owner shall contact the Building Inspector to schedule an inspection and pay to the Town a permit fee, as prescribed in the Town's schedule of fees. The Building Inspector shall then conduct an inspection of the short-term rental property to determine whether it complies with the Town Code and all applicable New York State laws, rules, regulations, codes and ordinances, and to verify the occupancy limits of the structure.

(4) Upon completion of an inspection of the short-term rental property and ascertaining that the property meets the Town Code's requirements, the Building Inspector shall issue a registration for the property as a short-term rental and the property will then be eligible to apply for a short-term rental permit.

(5) Registration for short-term rentals shall remain in effect as long as there is no change in the record owner of the short-term rental property. Upon a change in ownership, the new owners of the short-term rental property shall be required to once again register it before offering it for short-term rentals.

(6) In the event that the Building Inspector denies an application to register short-term rental property, the property owner may appeal the denial to the Town Board within 30 days of issuance of notice of the denial to the property owner.

(7) Short-term rental registration may not be transferred to any other person or property or used by anyone other than the person and property to whom it was issued.

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

C. Short-term rental permits.

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

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

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

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

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

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

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

(4) The Building Inspector may also issue a notice of suspension if it is determined any of the information contained within the permit application is false or if the short-term rental property is found at any time to be in violation of the NYS Building Code or other aspect of the Town Code.

(5) Revocation and suspension notices shall be in writing, shall identify the property, shall specify the violation or remedial action to be taken, and shall provide that said violation must be corrected within 10 days from the receipt of said violations unless otherwise extended by the Building Inspector. The property owner or resident agent shall take the remedial action prescribed or may file a written notice of appeal received by hand delivery or certified mail by the end of the identified period of remediation. The revocation or suspension of the short-term rental shall be stayed pending either a decision on the appeal by the Town Board or a finding by the Building Inspector that the remedial action is acceptable to correct the violation.

(6) If more than two violation notices are issued in any twelve-month period, the property owner or registered agent will be suspended from receiving a permit for short-term rental for six months. There will be no deduction or refund of fees.

(7) If the property owner and/or agent continues to operate while under suspension, the Building Inspector has the right to automatically revoke the short-term rental permit and issue an appearance ticket.

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

F. Penalties for offenses.

(1) Violations of this article will constitute a municipal violation and will be subject to applicable penalties under this article. The penalties for violation of this

chapter shall be in addition to any penalties imposed for violations of other provisions of the Town Code and NYS Uniform Fire Prevention, Building Code and Energy Conservation Code.

(2) Conviction of violation of the provisions of this article shall be punishable by fine of not more than $500 per violation and $750 per day for subsequent offenses.

(3) The imposition of penalties herein prescribed shall not preclude the Town or any person from instituting appropriate legal action or proceeding to prevent unlawful short-term rental of a property in violation of this article, including, without limitation, civil actions for injunctive relief to immediately terminate any existing short-term rental occupancy of buildings, land or premises.

Article V. Planning Board

§ 98-29. Special requirements for specific uses.

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. Outdoor recreational facilities.

(1) Permitted uses for 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

(2) Permitted accessory uses may include food service and bar, retail of related sporting goods

(3) Prohibited uses for outdoor recreational facilities include the use of motorized vehicle such as stock cars, motorbikes, ATVs, snowmobiles, etc., outdoor firing ranges and outdoor use of firearms, 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

B. Automotive repair garages.

(1) The requirements of Subsection J(1) through (5) of § 98-29 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 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.

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.

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

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.. 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 shall be located 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. 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) 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) A religious institution is presumed to be in furtherance of the public health, safety and morals of the Town, a presumption which can only be rebutted by a substantial showing that the religious institution, at a particular location, would actually have a net negative impact on the surrounding neighborhood, where it is found that the religious institution imposes, among other potential negative impacts, (a) a significant traffic congestion problem that jeopardizes public safety, based on an analysis of traffic issues including but not limited to sight distance; (b) a substantial adverse effect on surrounding property

values; (c) a significant over-taxation of basic municipal services; and/or (d) a cognizable and substantial fire or other emergency risk.

Where it may be shown that a proposed religious institution will sufficiently detract from the public's health, safety, welfare or morals, an application for a special permit to establish or expand the institution may properly be denied by the Planning Board. In less adverse cases, appropriate restrictions may be imposed in the form of conditions to be attached to the grant of a special permit, limiting either the extent of the religious or educational use itself, or the nature and/or extent of its proposed accessory uses, if any. In any event, such conditions shall be reasonably drawn to counteract the deleterious effects on the public's welfare, but not, by their cost, magnitude or volume, operate indirectly to exclude the religious or educational use altogether.

(2) The total development coverage shall not exceed:

District	Maximum Development Coverage
AR.-3	15%
SR-1	15%
SR-2	30%
SR-6	30%

(3) The use shall have a minimum of 250 feet of frontage on and suitable access to a public road.

~~(5)~~(4) 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.

~~(6)~~(5) Religious institutions shall meet all state requirements for a place of public assembly, including the Fire Prevention and Building Code. The maximum occupancy of a religious institution shall be determined by the maximum allowable occupancy of the main sanctuary or assembly space, pursuant to said code.

~~(7)~~(6) Outdoor public address systems 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.”

~~(8)~~(7) Access and circulation.

a. 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 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 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;

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.

(8) 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.

(9) 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.

~~(10) The principal building and accessory uses must be on a contiguous site.~~

~~(11)~~(10) Accessory uses shall be subordinate in area, extent, and purpose to the principal use and may include but are not limited to parish houses, day-care facility, nursery schools, meeting halls or social halls, administrative offices and required parking and loading areas. Day-care facilities shall comply with the requirements set forth in § 98-29(H). No certificate of occupancy shall be granted to such accessory use, building or structure until the certificate of occupancy for the principal building or use has been granted.

~~(12)~~(11) 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.

(12) All exterior lighting shall be shielded and/or directed away from residential areas.

(13) Kitchen equipment designed for food preparation shall be permitted, in compliance with all plumbing, electrical, fire, health and safety codes. Such equipment shall be utilized only for the preparation of foods to be served on site.

(14) Trash facilities shall be screened from view and designed and located appropriately to minimize potential noise or odor impacts to adjacent residential areas.

(15) 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.

(16) The maximum height of buildings and structures shall not exceed the maximum height set forth in the Schedule of Use and Area requirements (98 Attachment 2) measured from ground level in front of the building or structure. The height limitation shall not apply to church spires, belfries, cupolas, domes, monuments and similar appurtenances that are not used for human occupancy.

(17) The Planning Board may impose such other reasonable requirements to mitigate traffic, safety hazards, drainage, aesthetics or other adverse impacts on adjacent properties or on the surrounding neighborhood.

~~(13)~~(18) 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 places a substantial burden on the religious exercise of a person, religious assembly or institution.

~~F.~~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.

~~G.~~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:

(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 Group Family Day-Care Homes as defined 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, 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.

~~H.~~ I. Fast-food, drive-through and drive-up establishments.

(1) Fast-food or drive-up or drive-through establishment 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. 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.

e. Landscaping shall be installed in compliance with this chapter.

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.

g. Public roads and internal drive aisles shall not be blocked by waiting drive-through traffic.

h. Parking areas and circulation drives shall be adequately separated so as to avoid conflict between parked cars and waiting drive-through traffic.

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.

~~I.~~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.

~~J.~~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.

~~K.~~L. Motels or hotels.

(1) 1,500 square feet of lot area is required per room.

(2) Permitted accessory uses but are not limited to include ~~a~~ restaurants ~~or coffee~~and shops not to exceed 10% of the ~~site~~lot, event venues, an auditorium ~~or,~~ conference center, ~~a~~ swimming pools and related facilities ~~for the exclusive use of guests~~.

(3) Where the use of event and conference facilities is not strictly limited to overnight guests, additional parking shall be provided for ~~the conference center~~such facilities 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. Motel or hotel units shall not contain a kitchen.

(5) Motel or hotel units shall be subject to the Hotel Room Occupancy Tax as set forth in Chapter 87, “Taxation”, Article IX.

(6) Multiple principal buildings and accessory structures and uses may be permitted on a lot provided the site is operated as a single cohesive unit.

(7) Hotels are permitted in the AR-3 District subject to the following:

a. The lot shall have a minimum lot area of 75 gross acres.

b. The maximum building height may be increased to 45 feet or 4 stories provided such structure is located more than 200 feet from the nearest public road.

c. Development coverage shall not exceed 35%.

d. Applicant shall demonstrate the ability to provide adequate sewage disposal and water in accordance with the applicable Department of Health regulations.

e.

~~j.~~ The maximum number of guest rooms shall not exceed 150.

f. Up to 40 percent of guest rooms may be developed as detached units with separate exterior entrances (e.g. cabins) on the same lot.

~~L.~~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, 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.

~~M.~~N. Planned adult communities.

(1) A parcel or parcels containing a Planned Adult Community (PAC) shall contain at least 25 acres of buildable lot area 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 Planning Board to determine suitability of the site for a PAC. Such properties must also be proven capable of providing central water and sewer services or of being provided with the same.

(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 of buildable lot area. 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% of 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.

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.

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.

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.

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

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.

~~N.~~O. Schools of General Instruction.

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

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

(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.

(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.

(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.

(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.

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

(7) Schools of General Instruction shall demonstrate adequate sewer and water capacity to serve the intended use. To the greatest extent practicable, Schools of General Instruction should be situated on sites that have access to public water and sewer infrastructure.

(8) 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 places a substantial burden on the religious exercise of a person, religious assembly or institution.

~~(7)~~

~~O.~~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.

~~P.~~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, 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.

~~Q.~~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.

~~R.~~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.

~~S.~~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.

~~T.~~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 have a landscape plan prepared by a professional landscape architect satisfactory to the Planning Board. A bond in accordance with § 98-19 for the guaranteed performance of all landscaping work 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.

~~U.~~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 mailer, so as to avoid promoting water pollution, odors or vermin.

~~V.~~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 subsection W(13)(b) will be reviewed for such project by the Attorney and approved by the Town Board prior to Planning Board approval.

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

(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 them 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.

~~W.~~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.

b. 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.

§ 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.

~~G.~~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 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, 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.

~~H.~~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 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.

~~(1)~~(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.

~~(2)~~(6) Where two or more principal uses are proposed on a single lot or parcel, the Planning Board shall make a determination that the proposed uses can be operated in harmony with one another.

~~B.~~D. Uses requiring site plan approval. Site plan approval by the Planning Board shall be required for the establishment or conversion of 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. Conversion of a seasonal use to year round use other than a single family dwelling located on a conforming lot shall be subject to site plan approval. 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.

~~C.~~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) Presubmission Conference

a. 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.

(2) Notice to adjoining landowners. The Applicant shall notify 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 first class mail. An affidavit of mailing shall be provided.

(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 14 days prior to the next scheduled meeting of the Planning Board.

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.

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.

ii. The following information shall be provided:

(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.

(b) North arrow, scale and date.

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

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

(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.

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

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

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

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

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

(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.

(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.

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

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

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

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

(q) Grading and erosion control, including plans to prevent 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

(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.

(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.

(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.

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

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

(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 curbline 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 sale 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.

xiii. Adequacy of on-site lighting and impact on adjoining properties.
~~xiii.~~xiv. Adequacy of site design for the avoidance of undue visual impacts.

b. All uses shall be subject to the drainage, soil standards, stormwater pollution prevention plan in accordance with 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.

(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 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 . 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 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 such municipality at least 10 days prior to said public hearing.

(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.

~~D.~~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.

h. Lighting Plan

i. Specifications for materials.

j. Estimated construction schedule, including any proposed phasing.

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.

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

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 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) 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.

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

~~E.~~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.

~~F.~~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.

~~G.~~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 section together with the requirements as identified in § 98-29, “Special Requirements for Specific Uses.” ~~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.

D. 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.

E. 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.

F. 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.

~~G.~~ Procedure~~,~~

~~H.~~G.

(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.

~~I.~~H. 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.

~~J.~~I. 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.

~~K.~~J. 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.

~~L.~~K. 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.

~~M.~~L. 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.

§ 98-31.2. Public Hearings

A. Public Hearing. Whenever a public hearing is required to be held by the Planning Board under the Town of Chester Code or ~~state~~ State L~~l~~aw, 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 Town. 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 or receive a Positive Declaration pursuant to SEQR, 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, consisting 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.

Article VI. Enforcement

§ 98-32. Building permits.

No building in any district shall be erected, reconstructed or restored or structurally altered without a building permit duly issued upon application to the Building Inspector issued pursuant to Chapter 50, Fire Prevention and Building Construction. No building permit shall be issued unless the proposed construction or use is in full conformity with all provisions of this chapter. Any building permit issued in violation of the provisions of this chapter shall be null and void and of no effect without the necessity for any proceedings or revocation or nullification thereof and any work undertaken or use established pursuant to any such permit shall be unlawful.

A. No building permit shall be issued for the construction or alteration of any building upon a lot without access to a street or highway except as stipulated in § 280-a of the Town Law.

B. No building permit shall be issued for any building where the site plan of such building is subject to approval by the Planning Board, except in conformity with the plans approved by said Board.

C. No building permit shall be issued for a building to be used for any Special Use in any district where such use is allowed only by approval of the Planning Board unless and until such approval has been duly granted by the Planning Board.

D. Building permits shall become invalid unless the authorized work is commenced within six months following the date of issuance. Building permits shall expire 12 months after the date of issuance. A building permit which has become invalid or which has expired pursuant to this subsection may be renewed upon application by the permit holder, payment of the applicable fee, and approval of the application by the Building Inspector for up to two one-year extensions.

E. As soon as the foundation of a building or of any addition to an existing building is completed and before framing or wall construction is begun, the Building Inspector may require an accurate survey, signed by the person responsible for said survey, showing the exact location of such foundation with respect to the street line and lot lines of the lot.

§ 98-33. Certificate of occupancy and/or compliance.

A. Certificate of occupancy and or compliance shall be required and shall be issued in accordance with § 50-7 of the Town of Chester Town Code.
B. The following shall be unlawful until a certificate of occupancy shall have been applied for and issued by the Building Inspector:

(1) Occupancy and use of a building erected, reconstructed, restored, structurally altered, moved or any change in use plan existing building.

(2) Occupancy, use or any change in the use of any land.

(3) Any change in use of a nonconforming use.

C. No certificate of occupancy shall be issued for any special use of a building or any land or use requiring site plan approval unless and until such special use permit or site plan approval has been duly granted by the Planning Board, signed by the Planning Board Chairperson. In the event such approval contains conditions, a certificate of occupancy shall not be issued until such conditions are satisfied Every certificate of occupancy for which special use or site plan approval has been granted or in connection with which a variance has been granted by the Board of Appeals shall contain a detailed statement of any condition to which the same is subject.

D. If the proposed use is in conformity with the provisions of this chapter and of all other applicable codes and ordinances,[1] a certificate of occupancy for the use of vacant land, a change of use or for a nonconforming use shall be issued by the Building Inspector within 10 days after receipt of a properly completed application. If a certificate of occupancy is denied, the Building Inspector shall state the reasons in writing to the applicant.

E. A certificate of occupancy shall be deemed to authorize and is required for both initial occupancy and the continuance of occupancy and use of the building or land to which it applies.

F. Upon written request by the owner and upon payment of a fee of $10, the Building Inspector shall, after inspection, issue a certificate of occupancy for any building or use thereof at the time of the adoption of this chapter, certifying such use, or give reasons for disapproval.

G. Certificate of compliance.

(1) Certificates of compliance shall be used to indicate conformance with this chapter and the Uniform Code for installations which require inspection but would not be issued a certificate of occupancy. Such installations include but are not limited to solid-fuel-burning heating appliances and their associated chimneys and flues, swimming pools and their fences, plumbing installations and removal of underground tanks and fire safety inspections.

(2) Certificates of compliance shall be issued by the Building Inspector or Fire Marshal only after inspection which shows that installation is in conformance with this chapter and the Uniform Code.

(3) Certificates of compliance may be revoked when there has been substantial and unauthorized change in conditions which renders or may render the installation not in conformance with this chapter and the Uniform Code.

§ 98-34. Building Inspector.

It shall be the duty of the Building Inspector, who shall be appointed by the Town Board, to interpret and enforce the provisions of this chapter and of all rules, conditions and requirements adopted or specified pursuant thereto. See also Chapter 50, Fire Prevention and Building Construction.

§ 98-35. Penalties for offenses.

A. Violations of this Chapter shall be subject to the procedures and penalties as set forth in § 50-17 of the Town of Chester Town Code.

B. The imposition of penalties herein prescribed shall not preclude the Town or any person from instituting appropriate legal action or proceeding to prevent an unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, or to restrain, correct or abate a violation, or to prevent the illegal occupancy of a building, land or premises.

Article VII. Zoning Board of Appeals

§ 98-36. Establishment and membership.

There shall be a Board of Appeals pursuant to the provisions of § 267 of the Town Law, comprised of seven members, five of whom shall be regular members and two alternate members. Alternate members of the Zoning Board of Appeals shall have all duties and responsibilities set forth in Town Law § 267, Subdivision 11(a), (b) and (c). The term of office of each alternate shall be four years commencing January 1, 2005. In the event an alternate position shall become vacant for any reason, a successor shall be appointed to fill the vacancy until the next January 1, at which time the alternate member shall commence his or her four-year term.

§ 98-37. Powers and duties.

The Board of Appeals shall have all the powers and duties prescribed by law and by this chapter, which are more particularly specified as follows, provided that none of the following provisions shall be deemed to limit any power of the Board that is conferred by law:

A. Interpretation. On appeal from an order, requirement, decision or determination made by an administrative official or on request by any official, board or agency of the Town, to decide any of the following questions:

   (1) Determination of the meaning of any portion of the text of this chapter or of any condition or requirement specified or made under the provisions of this chapter.

   (2) Determination of the exact location of any district boundary shown on the Zoning Map.

B. Variances.

   (1) On appeal from an order, requirement, decision or determination made by the Code Enforcement Officer or on referral of an applicant to the Board by an approving agency acting pursuant to this chapter, the Zoning Board of Appeals is authorized to reverse or affirm, wholly or partly, or vary or modify the strict letter of this chapter where its literal interpretation would cause practical difficulties or unnecessary hardships, as defined in this section, in such manner as to observe the spirit of the chapter, to secure public safety and welfare and to do substantial justice.

      a. Area variances.

         i. The ZBA may grant an area variance in the application of the provisions of this chapter. In making its determination, the Board shall take into consideration the benefit to the applicant if the variance is

granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community of such grant. In making its determination the Board shall consider whether:

(a) An undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;

(b) The benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue, other than an area variance;

(c) The requested area variance is substantial;

(d) The proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district;

(e) The alleged difficulty was self-created, which consideration shall be relevant to the decision of the ZBA but shall not necessarily preclude the granting of the area variance.

ii. The ZBA, in granting area variances, shall grant the minimum variance that it deems necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

b. Use variances.

i. The ZBA may grant a use variance relating to the land for a use not allowed in the zoning district in which the land is located as provided in this chapter. In making its determination, the ZBA shall take into consideration that no use variance shall be granted without a showing by the applicant that applicable zoning regulations and restrictions have caused unnecessary hardship to the applicant. In order to prove unnecessary hardship, the applicant shall demonstrate that for each and every permitted use under this chapter for the district in which the applicant's property is located:

(a) The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;

(b) The alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood;

(c) The requested use variance, if granted, will not alter the essential character of the neighborhood; and

(d) The alleged hardship has not been self-created. The ZBA, in granting use variances, shall grant the minimum variance that it deems necessary and adequate to address the unnecessary hardship proven by the applicant and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

(2) Imposition of conditions. The board of appeals shall, in the granting of both use variances and area variances, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of this Chapter, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

§ 98-38. Procedure.

The powers and duties of the Board of Appeals shall be exercised in accordance with the following procedure:

A. The Board of Appeals shall not decide upon any appeal for a variance or interpretation of this chapter without first holding a public hearing, notice of which hearing and of the substance of the appeal or application shall be given by publication in the official newspaper of the Town at least five days before the date of such hearing. In addition to such published notice, the Board of Appeals shall cause such notice to be mailed at least five days before the hearing to all owners of property which lie adjacent to that owned by the applicant in the immediate area and to all other owners as the Board of Appeals may deem advisable.

(1) The names of said owners shall be taken as they appear on the last completed tax roll of the Town.

(2) Even though due notice shall have been published as above provided and there shall have been complete compliance with the remaining provisions of this section, the failure to give notice in exact conformance herewith shall be deemed to invalidate action taken by the Board of Appeals in connection with the granting of any appeal or variance.

B. All appeals and applications made to the Board of Appeals shall be in writing, on forms prescribed by said Board, and shall be accompanied by a fee of not less than the actual and necessary costs of advertising and holding a public hearing. The Board of Appeals may, at its discretion, return to the applicant part or all of the fee paid by him in the event that his appeal under § 98-37A is partially or

wholly successful. The fee filed in connection with applications under § 98-37B shall not be returnable regardless of disposition of the case by the Board. A review fee shall be paid in accordance with the Schedule of Fees adopted by the Town Board from time to time. The costs of publication and certified mail shall be paid for by the applicant.

C. Each appeal or application shall fully set forth the circumstances of the case. Every appeal or application shall refer to the specific provision of the chapter involved and shall exactly set forth, as the case may be, the interpretation that is claimed or the details of the variance that is applied for and the grounds on which it is claimed that the same should be granted.

D. Notice of hearing to state, county or other officials.

(3) Should any appeal involve either of the two following conditions, the Secretary of the Board of Appeals shall transmit to the designated office or official a copy of the official notice of the public hearing not later than 10 days prior to the date of the hearing.

a. Any change in the boundaries of any district, which change would occur within a distance of 500 feet of any village, town or county or any boundary of a state park or parkway.

b. Any change in the regulations prescribed for any district, any portion of which is located within 500 feet of the boundaries listed in Subsection D(1)(a) above.

(4) The designated official for counties shall be the Clerk of the County Legislature. In villages and Towns, the designated official shall be the Clerk of the municipality. In the case of state parks or parkways, the designated office shall be the Palisades Interstate Park Commission.

E. Prior to the date of any public hearing, the Secretary of the Board of Appeals shall transmit to the Chairman of the Planning Board a copy of any appeal or application, together with a copy of the notice of such hearing The Planning Board may submit to the Board of Appeals an advisory opinion on said appeal or application at any time prior to the rendering of a decision by the Board of Appeals.

~~H.~~F. Should any action by the Board of Appeals involve any of the areas specified in Article VIII, § 98-39E(1)(a) through (f), then the matter shall be referred, prior to final action by the Board of Appeals, to the Orange County

Planning Department in accordance with §§ 239-1 and 239-m of Article 12-B of the General Municipal Law.

~~I.~~G. Every decision of the Board of Appeals shall be recorded in accordance with standard forms adopted by the Board and shall fully set forth the circumstances of the case and shall contain a full record of the findings on which the decision is based. Every decision of said Board shall be by resolution, and each such resolution, together with all documents pertaining thereto, shall be filed in the office of the Town Clerk by case number under one of the following headings: "interpretation" or "variances." Regarding its decision in each case, the Board of Appeals shall notify the Building Inspector, Town Board, Town Planning Board and the Municipal Clerk of any affected municipality given notice of hearing as set forth in Subsection D of this section.

~~J.~~H. All the provisions of this chapter relating to the Board of Appeals shall be strictly construed. Said Board, as a body of jurisdiction, shall act in full conformity with all provisions of law and of this chapter and in strict compliance with all limitations contained therein.

~~K.~~I. Unless otherwise specified, any order or decision of the Zoning Board of Appeals shall expire if a building or occupancy permit for the use is not obtained by the applicant within 6 months from the date the decision is filed in the Town Clerk’s office. Should the application be subject to approval from the Town of Chester Planning Board and/or the Town Board, such expiration window shall run from the date of final Planning Board and/or Town Board approval. In all cases the Zoning Board of Appeals may extend this time for one additional period of 90 days if such extension is warranted by the particular circumstances.

Article VIII. Amendments

§ 98-39. Amendment procedure.

This chapter or any part thereof may be amended, supplemented or repealed, from time to time, by the Town Board on its own motion, upon recommendation by the Planning Board or upon petition. Prior to public hearing, every such proposed amendment shall be referred by the Town Board to the Planning Board for a report. The Town Board shall not take action on any such amendment without such report from the Planning Board unless the Planning Board fails for any reason to render such report within 62 days following the date of such referral.

A. Report of the Planning Board. In making such report on a proposed amendment, the Planning Board shall make inquiry and determination concerning the items specified below:

   (1) Concerning a proposed amendment to or change in text of the chapter:

      a. Whether such change is consistent with the aims and principles embodied in the chapter as to the particular districts concerned.

      b. Which areas, land uses, buildings and establishments in the Town will directly be affected by such change and in what way they will be affected.

      c. The indirect implications of such change in its effect on other regulations.

      d. Whether such proposed amendment is consistent with the aims of the Comprehensive Plan of the Town.

   (2) Concerning a proposed amendment involving a change in the Zoning Map:

      a. Whether the uses permitted by the proposed change would be appropriate in the area concerned.

      b. Whether adequate public school facilities and other public services exist or can be created to serve the needs of any additional residences likely to be constructed as a result of such change.

c. Whether the proposed change is in accord with any existing or proposed plans in the vicinity.

d. The effect of the proposed amendment upon the growth of the Town as envisaged by the Comprehensive Development Plan.

e. Whether the proposed amendment is likely to result in an increase or decrease in the total zoned residential capacity of the Town and the probable effect thereof.

B. Each petition for a zoning amendment shall be accompanied by a fee as set forth on the fee schedule, payable to the Town Clerk upon the filing thereof. Petitions for amendments to the zoning code shall be subject to consultant fees in accordance with Chapter 48, entitled “Fees” of the Town Code No fee shall be required for petitions filed in favor of or against a pending application.

C. By resolution adopted at a meeting of the Town Board, the Town Board shall fix the time and place of a public hearing on the proposed amendment and cause notice thereof to be given in accordance with provisions of § 264 of Article 16 of the Town Law. All notices of public hearing shall specify the nature of any proposed amendment, the land or district affected and the date when and the place where the public hearing will be held. At least 10 days' notice of the time and place of such hearing shall be published in the official newspaper.

D. Notice of hearing to state, county or other officials.

(1) Should any proposed amendment consist of or include either of the two following conditions, the Town Clerk shall transmit to the designated office or official a copy of the official notice of the public hearing not later than 10 days prior to the date of hearing:

a. Any change in the boundaries of any district, which change would occur within a distance of 500 feet of the boundary of any village, town or county or any boundary of a state park or parkway.

b. Any change in the regulations prescribed for any district, any portion of which is located within 500 feet of the boundaries listed in Subsection D(1)(a) above.

(2) The designated official for Orange County shall be the Clerk of the County Legislature. In villages and towns, the designated official shall be the Clerk of the municipality. In the case of state parks or parkways, the designated office shall be the Palisades Interstate Park Commission.

(3) To the extent this provision is inconsistent with Article 12-B of the General Municipal Law, the General Municipal Law shall control.

E. Should any proposed amendment consist of or include any of the following conditions, the Town Clerk shall, prior to final action, refer the proposed amendment to the Orange County Planning Department in accordance with § 239-m of Article 12-B of the General Municipal Law:

(1) Any change in the district classification of or the regulations applying to real property lying within a distance of 500 feet from:

a. The boundary of any village or town.

b. The boundary of any existing or proposed county or state park or other recreation area.

c. The right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway.

d. The right-of-way of any existing or proposed stream or drainage channel owned by the county or for which the county has established channel lines.

e. The boundary of any existing or proposed county- or state-owned land on which a public building or institution is situated.

f. A farm operation located in a County Agricultural District, but not subject to area variances.

F. In the case of protest against any amendment, such amendment shall not become effective except in accordance with the provisions of § 265 of Article 16 of the Town Law.

Article IX. Solar Energy

§ 98-40 Solar Energy Systems.

A. Applicability.

(1) The requirements of this chapter shall apply to all solar energy systems and equipment installed and modified after the effective date of this chapter. Except as provided herein in § 98-40C(2) below, no solar energy system equipment shall be installed, operated or modified except in compliance with this § 98-40.

(2) A solar energy system for which a valid building permit has been issued or, if no building permit was required, for which installation was commenced and diligently pursued prior to the effective date of this chapter shall not be required to meet the requirements of this chapter. However, any modification of such solar system must comply with the requirements of this chapter.

(3) This § 98-40 shall not apply to a solar energy system of four (4) square feet or less in size.

(4) When a solar energy system is limited by this § 98-40 to servicing only the building(s) and structure(s) on the lot upon which the system is located and building(s) and structure(s) on adjacent lots, such limitation shall not be construed to prohibit a net-metering billing arrangement in accordance with law.

B. General permit, inspection and operating requirements.

(1) Application for and issuance of a building permit shall be required prior to installation of a solar energy system.

(2) A solar energy system shall be designed and installed in accordance with all applicable laws, codes and regulations, including but not limited to the New York State Uniform Fire Prevention and Building Code and other State Code provisions.

(3) All solar energy systems installations must be performed by a qualified solar installer.

(4) Prior to operation, electrical connections must be inspected by the Town Building Inspector and by a qualified electrical inspector acceptable to the Town. Any connection to the public utility grid must meet all applicable Town, state, federal and public utility rules and regulations.

(5) All solar energy systems shall be maintained in good working order.

C. Roof-mounted, building-integrated photovoltaic and solar thermal energy systems.

(1) A roof-mounted, building-integrated photovoltaic and solar thermal energy system is permitted as an accessory use and structure in all zoning districts, with a building permit, and subject to the following requirements.

a. A roof-mounted, building-integrated photovoltaic and solar thermal energy system is permitted to serve only the building(s) and structure(s) on the lot upon which system is located.

b. The applicant shall file a New York State unified solar permit (USP) application and pay all fees in order to obtain a building permit.

c. A roof-mounted system may be mounted on any legal principal or accessory building or structure.

d. Roof-mounted solar collectors are subject to the height limitations governing the principal or accessory building or structure to which it is mounted.

e. Solar panels and all accessory equipment for the building-mounted solar energy system shall not extend beyond the edge of the roof nor exceed a height of six inches above the roofline of a residential structure or 36 inches above the highest point of the roof structure of a non-residential structure upon which the panels and equipment are located. The panels shall be set at the same angle as the roof.

f. Solar panels shall not be permitted to be attached to any building or structure which is located on the National Register of Historic Places.

(2) The Building Inspector may refer an application to the Planning Board on recommendation.

D. Small-scale solar energy systems.

(1) A ground-mounted, small-scale solar energy system is a permitted accessory use and structure in all zoning districts on lot with a minimum lot area of at

least one acre, subject to site plan approval by the Planning Board and subject to the following requirements.

a. A ground-mounted small-scale solar energy system is permitted to serve only the building(s) and structure(s) on the lot upon which system is located.

b. A ground-mounted small-scale solar energy system shall not be located closer to the font property line than the principal structure on the lot, unless the applicant applies to, and demonstrates to the satisfaction of, the Planning Board that the proposed location is the only area where the solar energy system can reasonably function, and that appropriate screening to mitigate impacts on adjoining properties is implemented.

c. The solar energy system and related equipment shall not be located within the minimum required front, side and rear yards for the district in which the system is situated.

d. Solar collectors and related equipment shall be substantially screened from view from adjoining properties and public roadways.

e. The height of the solar collectors and mounts shall not exceed 12 feet when oriented at the maximum tilt.

f. The area beneath all solar collectors shall be included in calculating maximum permitted lot coverage limitations. The maximum permitted lot coverage shall be the same as required for the principal permitted structure.

g. The Planning Board shall have discretion to hold a public hearing on a particular site plan application or waive the public hearing requirement.

h. Removal of unused solar energy system and equipment. The applicant and property owner must agree, in writing, to remove the solar energy system and all associated equipment and structures if the solar energy system ceases to be used for its intended purpose for 12 consecutive months. Removal of such unused system, equipment and structures shall be completed within three months thereafter. Land shall be restored with topsoil and grass seed where ground cover has been removed.

E. Large-scale solar energy systems.

(1) A ground-mounted large-scale solar energy system is a permitted accessory use and structure in all zoning districts on lots with a minimum lot area of at least four acres, subject to site plan approval by the Planning Board and subject to the following requirements.

a. A ground-mounted large-scale solar energy system is permitted to serve only the building(s) and structure(s) on the lot upon which system is located and may, in addition, serve building(s) and structure(s) on adjacent lots.

b. A ground-mounted large-scale solar energy system shall not be located closer to the font property line than the principal structure on the lot, unless the applicant applies to, and demonstrates to the satisfaction of, the Planning Board that the front yard is the only area where the solar energy system can reasonably function, and that appropriate screening to mitigate impacts on adjoining properties is implemented.

c. The solar energy system and related equipment shall have a minimum front setback of 100 feet, a minimum side and rear setback of 75 feet in a residential zone and 50 feet in a non-residential zone and in no case shall not be located within the minimum required front, side and rear yards for the district in which the system is situated.

d. Support structures shall be of a color such as dark green, brown or black so as to blend in with the surrounding area.

e. Solar collectors and related equipment shall be substantially screened from view from adjoining properties and public roadways.

f. The height of the solar collectors and mounts shall not exceed 12 feet when oriented at the maximum tilt.

g. The area beneath all solar collectors shall be included in calculating maximum permitted lot coverage limitations. The maximum permitted lot coverage shall be the same as required for the principal permitted structure.

h. All such systems shall be securely fenced.

i. An emergency power shut off location shall be identified on the site plan and coordinated with the fire department.

(2) The Planning Board shall hold a public hearing on all site plan applications for a large-scale solar energy system.

(3) Removal of unused solar energy system and equipment. The applicant and property owner must agree, in writing, to remove the solar energy system and all associated equipment and structures if the solar energy system ceases to be used for its intended purpose for 12 consecutive months. Removal of such unused system, equipment and structures shall be completed within three

months thereafter. Land shall be restored with topsoil and grass seed where ground cover has been removed.

(4) The applicant shall execute and file with the Town Clerk security in a form acceptable to the Town attorney and Planning Board and in the amount sufficient to pay for the cost and expenses of removal of the solar energy system and related equipment and structures and restoration of the site. The amount is subject to the approval of the Planning Board's professional engineer and the Planning Board. The security may be in the form of cash, letter of credit, another instrument acceptable to the Town's attorney and the Town Board, or a combination thereof. The security shall remain in full force and effect until all solar energy system equipment, structures and materials have been properly removed and site restoration is complete.

F. Utility-scale solar energy systems.

(1) A utility-scale solar energy system is permitted as a special permit use in the AR-3 Agricultural-Residential, I-Industrial, IP-Industrial Park and OP - Office Park districts, subject to site plan approval by the Planning Board and subject to the following special conditions and safeguards.

a. The following dimensional requirements shall apply to a utility-scale solar energy system:

Standard	**Requirement**
Lot width	250 feet
Front yard setback Town highway County highway State highway	 100 feet 125 feet 150 feet
Side yard setback (each)	75 feet
Rear yard setback	75 feet
Maximum Building height	35 feet

Standard	Requirement
Maximum height of solar collectors	12 feet
Maximum height of fencing	8 feet

* If the lot or lots of the proposed solar energy system front(s) on two or more streets, then each of those yards shall be deemed the front yard. The required side and rear yard setbacks shall be measured to the visible structural component of the solar energy system nearest the side lot line or rear lot line, respectively.

b. The total area of the solar energy system shall not exceed 20 acres, but in no case shall it exceed 60% of the total lot area.

c. The entire solar energy system shall be enclosed by perimeter fencing at a height of at least seven feet in order to restrict unauthorized access. There shall be a six-inch gap at the bottom of the fencing to allow small wildlife access to and from the site.

d. Solar energy systems shall be situated on sites consisting primarily (i.e., at least 75%) of open fields, brush, small trees (i.e., with trunk diameter of two inches or less measured at four feet above finished grade), or pasture, but not situated on primarily wooded sites. The Planning Board may allow some of the existing trees within the area of the solar energy system to be removed to accommodate the solar energy system. In order to prevent tree clearing in anticipation of a solar energy system installation, this 75% requirement shall apply during the time period commencing two years prior to application for a solar energy system.

e. Appropriate screening shall be provided, as determined by the Planning Board based upon the specific site characteristics, to screen the solar energy system and fencing from residential properties, public roads, private roads and private rights-of-way to the maximum extent practicable. The applicant shall provide a visual analysis to the Planning Board using line-of-sight profiles from public viewing locations determined by the Planning Board.

f. All on-site power lines shall be installed underground unless the applicant demonstrates to the satisfaction of the Planning Board that such underground installation is not practicable given the particular characteristics of the site.

g. Buildings and structures associated with the solar energy system shall, to the maximum extent practicable, use materials, colors such dark green,

brown and black and textures that will blend the facility into the existing environment.

h. Solar panels and equipment shall be designed and sited so as to not reflect glare onto other properties, public road or private roads or rights-of-way, and shall not interfere with traffic or create a hazard.

i. Driveways serving the site shall have safe sight distance and lawful appropriate access for emergency vehicles and equipment. Access to the site shall be reviewed by relevant emergency service providers.

j. The identification of the manufacturer, owner and 24-hour emergency contact on appropriate warning signs, shall be posted at the site, be clearly visible and weather-resistant.

k. The solar energy system and equipment shall be marked in order to provide emergency responders with appropriate warning and guidance with respect to isolating the solar electric service. Materials used for the markings shall be weather resistant. The markings shall be placed adjacent to the main service disconnect in a location clearly visible from where the power lever is located. If any of the standards in this subsection are more stringent than applicable provisions of the New York State Uniform Fire Prevention and Building Code (the State Code), these standards shall be deemed to be guidelines only, and the standards of the State Code shall apply.

l. A utility-scale solar energy system situated within the Ridge Preservation Overlay District shall be subject to heightened review by the Planning Board. In addition, the Planning Board is authorized to apply more restrictive requirements to achieve the objectives of the Ridge Preservation Overlay District.

(2) Application requirements. In addition to the other requirements in this chapter applicable to site plan and special permit applications, the applicant shall submit to the Planning Board the following:

a. If the property of the proposed solar energy system is leased, the written legal consent between all parties, specifying the use(s) of the property for the duration of the project, including easements and other agreements.

b. Equipment specification sheets for all photovoltaic panels, significant components, mounting systems and inverters.

c. A property operation and maintenance plan, which plan shall describe continuing equipment maintenance, property upkeep (e.g., mowing and

trimming) and useful life and replacement schedule for key equipment. The plan shall specify that herbicides shall not be used.

d. A decommissioning plan, in accordance with § 98-40F(3).

(3) Decommissioning and removal.

a. Removal of unused solar energy system and equipment. The applicant and property owner must agree, in writing, to remove the solar energy system and all associated equipment and structures if the solar energy system ceases to be used for its intended purpose for 12 consecutive months. Removal of such unused system, equipment and structures shall be completed within six months thereafter.

b. Decommissioning and removal plan. To ensure the proper removal of utility-scale solar energy system, the applicant shall submit a decommissioning plan for review and approval as part of the special use permit application. The decommissioning plan shall identify the anticipated life of the project, method and process for removing all components of the solar energy system and returning the site to its preexisting condition, and estimated decommissioning costs, including any salvage value. Compliance with this plan shall be made as a condition of the issuance of a special use permit under this section. The decommissioning plan must specify that after the utility-scale solar energy system can no longer be used, it shall be removed by the applicant or any subsequent owner. The plan shall demonstrate how the removal of all infrastructures and the remediation of soil and vegetation shall be conducted to return the parcel to its original state prior to the construction. The plan shall also include an expected timeline for execution. A cost estimate detailing the projected cost of executing the decommissioning plan shall be prepared by a professional engineer or contractor. Cost estimations shall take into account inflation. To secure such removal, the applicant shall provide and maintain a form of financial surety. Such financial surety shall be provided either through a security deposit, escrow account, bond, or in a manner otherwise acceptable to the Town and shall be in an amount to be established by the Town Board upon recommendation from the Town Engineer. The bond amount will be equal to no less than 125% of the decommissioning and reclamation cost for the entire system. The full amount of the financial security shall remain in full force and effect throughout the term of the approval and/or until any necessary site restoration is completed to restore the site to a condition comparable to

that which existed prior to the issuance of the original approval. The Town may periodically review the financial security to determine if any adjustments in the bond amount are required. Removal of utility-scale solar energy system must be completed in accordance with the decommissioning plan. If the utility-scale solar energy system is not decommissioned after being considered abandoned, the municipality may remove the system and restore the property and impose a lien on the property owner to cover these costs incurred by the municipality.

c. Decommissioning and removal security.

   i. The applicant shall execute and file with the Town Clerk security in a form acceptable to the Town attorney and Planning Board and in the amount sufficient to pay for the cost and expenses of removal of the solar energy system and related equipment and structures and restoration of the site. The amount is subject to the approval of the Planning Board's professional engineer and the Planning Board. The security may be in the form of cash, letter of credit, another instrument acceptable to the Town's attorney and the Town Board, or a combination thereof. The security shall remain in full force and effect until all solar energy system equipment, structures and materials have been properly removed and site restoration is complete.

   ii. The amount of security shall be sufficient, during the first five years of operation, to cover: the costs to deconstruct and dispose of all equipment, structures and materials related to the solar energy system; costs to restore the site; and all fees, costs and expenses incurred by the Town to administer and enforce the decommissioning process. Such amount shall be reevaluated every five years thereafter by the Town Engineer and, if necessary, adjusted to reflect prevailing costs and expenses.

   iii. If the amount of the security does not fully cover such fees, costs and expenses ("costs") or if the Town cannot recover adequate proceeds of the security, then the owner or operator of the solar energy system and the property owner shall be jointly and severally, and corporately and personally, liable for the costs not recovered. In addition, the Town may assess such costs against the property, which assessment shall constitute a lien on the property, and which amount may be collected in the same manner as real property taxes.

(4) Equipment and parts maintenance. Any damaged or unused equipment and parts shall be removed from the premises 30 calendar days or kept in a secured, designated storage area. Maintenance equipment, spare parts and petroleum products shall be kept in a secure, designated storage area.

(5) Ownership changes. If owner or operator of the solar energy system changes or the owner of the property changes, the special permit shall remain in effect, and all requirements of this § 98-40 and all conditions and requirements of the special permit shall be binding upon each succeeding owner and operator. However, a change in owner or operator shall not affect the decommissioning security, although a new owner may substitute other security in accordance with § 98-40F(3). A new owner or operator of the solar energy system shall immediately notify the Town Code Enforcement Officer of such changes in ownership or operator.

(6) Modifications: Any and all modifications, additions or deletions to the solar energy system, whether structural or not, shall be subject to prior site plan review and approval by the Planning Board, except routine repairs and maintenance shall not be subject to Planning Board review.

Article X. Floor Area Ratio

§ 98-41. Purpose and applicability.

A. The unique character of residential neighborhoods in the Town of Chester rests on the diversity in the style and design of houses, as well as the general uniformity in the scale of houses located on similarly sized lots in neighborhoods throughout the community. The recent trend of tearing down existing houses and replacing them with larger houses or building large additions to existing houses threatens the appearance and impacts the health, safety, welfare and quality of life in the Town of Chester.

B. It is the intent of this local law to establish a maximum floor area ratio (FAR) for all homes in the Town of Chester. It responds to the desire of residents to enlarge their homes to meet the needs of their families and to preserve the neighborhood character by requiring houses to appear to be of the same or similar scale to others in the neighborhood. It is the further intent of this local law to encourage both new houses and expansions or alterations to existing houses to have a consistent scale with the nearby residences on both sides of the street. The FAR provisions are intended to be applied together with other provisions of the Town of Chester Zoning Code, including the provisions for lot coverage and resource protection.

§ 98-42. Definitions.

The terms as used in this Article shall have the meanings set forth in § 98-2, unless the context or subject matter requires otherwise.

§ 98-43. Maximum floor area ratio.

A. As illustrated below, the maximum permitted floor area ratio (FAR) and resulting maximum residential floor area for houses shall be as follows:

Floor Area Ratio Table 20% for 1 acre scale Town-Wide FAR Table			
Lot Size (Square Feet)	Lot Size (Acres)	Maximum FAR Ratio (%)	Maximum Square Footage Total
3,000	0.069	0.333333	1,000
4,000	0.092	0.297500	1,190
5,000	0.115	0.276000	1,380
6,000	0.138	0.261667	1,570
7,000	0.161	0.251429	1,760
8,000	0.184	0.243750	1,950
9,000	0.207	0.237778	2,140
10,000	0.230	0.233000	2,330
11,000	0.253	0.229091	2,520
12,000	0.275	0.225833	2,710
13,000	0.298	0.223077	2,900
14,000	0.321	0.220714	3,090
15,000	0.344	0.218667	3,280

16,000	0.367	0.216875	3,470
17,000	0.390	0.215294	3,660
18,000	0.413	0.213889	3,850
19,000	0.436	0.212632	4,040
20,000	0.459	0.211500	4,230
21,000	0.482	0.210476	4,420
22,000	0.505	0.209545	4,610
23,000	0.528	0.208696	4,800
24,000	0.551	0.207917	4,990
25,000	0.574	0.207200	5,180
26,000	0.597	0.206538	5,370
27,000	0.620	0.205926	5,560
28,000	0.643	0.205357	5,750
29,000	0.666	0.204828	5,940
30,000	0.689	0.204333	6,130
31,000	0.712	0.203871	6,320
32,000	0.735	0.203438	6,510
33,000	0.758	0.203030	6,700
34,000	0.781	0.202647	6,890
35,000	0.803	0.202286	7,080
36,000	0.826	0.201944	7,270
37,000	0.849	0.201622	7,460
38,000	0.872	0.201316	7,650
39,000	0.895	0.201026	7,840
40,000	0.918	0.200750	8,030
41,000	0.941	0.200488	8,220
42,000	0.964	0.200238	8,410
43,000	0.987	0.200000	8,600
44,000	1.010	0.197977	8,711
45,000	1.033	0.196044	8,822
46,000	1.056	0.194196	8,933
47,000	1.079	0.192426	9,044
48,000	1.102	0.190729	9,155
49,000	1.125	0.189102	9,266
50,000	1.148	0.187540	9,377
51,000	1.171	0.186039	9,488
52,000	1.194	0.184596	9,599
53,000	1.217	0.183208	9,710
54,000	1.240	0.181870	9,821
55,000	1.263	0.180582	9,932
56,000	1.286	0.179339	10,043
57,000	1.309	0.178140	10,154
58,000	1.331	0.176983	10,265
59,000	1.354	0.175864	10,376
60,000	1.377	0.174783	10,487

61,000	1.400	0.173738	10,598
62,000	1.423	0.172726	10,709
63,000	1.446	0.171746	10,820
64,000	1.469	0.170797	10,931
65,000	1.492	0.169887	11,042
66,000	1.515	0.168985	11,153
67,000	1.538	0.168119	11,264
68,000	1.561	0.167279	11,375
69,000	1.584	0.166464	11,486
70,000	1.607	0.165671	11,597
71,000	1.630	0.164901	11,708
72,000	1.653	0.164153	11,819
73,000	1.676	0.162740	11,880
74,000	1.699	0.161365	11,941
75,000	1.722	0.160027	12,002
76,000	1.745	0.158724	12,063
77,000	1.768	0.157455	12,124
78,000	1.791	0.156218	12,185
79,000	1.814	0.155013	12,246
80,000	1.837	0.153838	12,307
81,000	1.860	0.152691	12,368
82,000	1.882	0.151573	12,429
83,000	1.905	0.150482	12,490
84,000	1.928	0.149417	12,551
85,000	1.951	0.148376	12,612
86,000	1.974	0.147360	12,673
87,000	1.997	0.146368	12,734
88,000	2.020	0.145398	12,795
89,000	2.043	0.144449	12,856
90,000	2.066	0.143522	12,917
91,000	2.089	0.142615	12,978
92,000	2.112	0.141728	13,039
93,000	2.135	0.140860	13,100
94,000	2.158	0.140011	13,161
95,000	2.181	0.139179	13,222
96,000	2.204	0.138365	13,283
97,000	2.227	0.137567	13,344
98,000	2.250	0.136786	13,405
99,000	2.273	0.136020	13,466
100,000	2.296	0.135270	13,527
101,000	2.319	0.134535	13,588
102,000	2.342	0.133814	13,649
103,000	2.365	0.132913	13,690
104,000	2.388	0.132038	13,732
105,000	2.410	0.131190	13,775

106,000	2.433	0.130368	13,819
107,000	2.456	0.129570	13,864
108,000	2.479	0.128796	13,910
109,000	2.502	0.128046	13,957
110,000	2.525	0.127318	14,005
111,000	2.548	0.126613	14,054
112,000	2.571	0.125919	14,104
113,000	2.594	0.125265	14,155
114,000	2.617	0.124623	14,207
115,000	2.640	0.124009	14,261
116,000	2.663	0.123422	14,317
117,000	2.686	0.122846	14,373
118,000	2.709	0.122297	14,431
119,000	2.732	0.121639	14,475
120,000	2.755	0.120992	14,519
121,000	2.778	0.120355	14,563
122,000	2.801	0.119730	14,607
123,000	2.824	0.119114	14,651
124,000	2.847	0.118508	14,695
125,000	2.870	0.117912	14,739
126,000	2.893	0.117325	14,783
127,000	2.916	0.116748	14,827
128,000	2.938	0.116180	14,871
129,000	2.961	0.115620	14,915
130,000	2.984	0.115069	14,959
131,000	3.007	0.114504	15,000

NOTE:

No floor area in any residential zone shall exceed 15,000 square feet.

B. Any house which exceeds 15,000 square feet of gross floor area shall be required to obtain a variance from the Zoning Board of Appeals.

§ 98-44. Exemptions from calculation of FAR in residential zones.

A. Decks, patios, unenclosed porches and porticoes.

(1) All space in unroofed structures, such as decks and patios, shall be excluded from the calculation of FAR.

(2) All space in unenclosed porches and porticoes shall be excluded from the calculation of FAR. For the purpose of FAR calculation, "unenclosed" shall mean those porches or porticoes that are open and not permanently, seasonally or temporarily enclosed.

B. Basements, cellars and basement garages. Where exposed exterior wall or walls of basement, cellar or basement garage(s) facing the front yard(s) is less than three feet (measured from the lower of existing grade prior to construction or grade after construction to the bottom of the floor above the basement), the proportionate share of the basement, cellar or basement garage(s) shall be excluded from the calculation of FAR. All of the remaining portions of the floor area basement, cellars or basement garages where the height (as defined herein) of the exterior exposed wall or walls facing the front yard is three feet or more shall be included in FAR.

(1) The proportionate share is defined as the relationship between that portion of the basement, cellar or basement garage(s) with an exposed exterior wall of less than three feet to the entire length to such exterior wall.

C. Attics. Attics shall be calculated as follows:

(1) Attics with access through a drop stair or hatch, with a height of less than seven feet six inches, shall be excluded from the calculation of the FAR.

(2) Attics with access through a drop stair or hatch, with a height of seven feet six inches or greater, shall count as 50% of the FAR.

(3) An unfinished attic, with access from a staircase or door, with a height of less than seven feet six inches, shall count as 50% of the FAR.

(4) Attics, unfinished or finished, with access from a staircase or door, with a height of seven feet six inches or greater, shall count as 100% of the FAR.

(5) A finished attic shall count as 100% of the FAR.

D. Garages. Garages shall be calculated as follows:

(1) On lots measuring 9,999 square feet or less, the lesser of 250 square feet or the total floor area contained within one-story garages, either detached or attached to the principal structure, shall be excluded from the calculation of FAR.

(2) On lots measuring 10,000 square feet or greater, the lesser of 400 square feet or the total floor area contained within one-story garages, either detached or attached to the principal structure, shall be excluded from the calculation of FAR.

(3) In those instances where an additional story is provided above a garage, whether detached or attached to the principal structure, such floor area or the garage floor area, up to the limits set forth herein as defined by lot size, shall be excluded from the calculation of FAR.

(4) Notwithstanding the above, this section shall not apply to basement garages.

§ 98-45. Procedures for floor area ratio review of houses.

A. Upon receipt of a building permit application for a house, or upon submission of an application for site development plan approval or waiver of site development plan approval, the Building Inspector shall determine whether the proposed application exceeds the allowable FAR prescribed under § 98-43.

B. Houses at or below the maximum FAR. If an application does not exceed the maximum FAR, the Building Department shall proceed with the building permit application and/or process the application for site development plan approval or waiver of site development plan approval for consideration by the Planning Board.

C. Residences above the maximum FAR. Applications for building permits, site development plan approval or waiver of site development plan approval for residences whose total floor area exceeds or is seeking approval for an application or permit which will exceed the maximum permitted FAR shall be required to seek a variance from the Zoning Board of Appeals in accordance with Article VII of this chapter. In considering the variance application, the Zoning Board of Appeals shall consider, among other factors, any design guidelines set forth in the Town of Chester Code. The Zoning Board of Appeals may also, at its discretion, refer the application to the Board of Architectural Review, if applicable, for an advisory opinion. Any application for a variance for FAR for a residence or project shall require the submission of the following additional materials, if available, in addition to those required for a building permit:

(1) Elevations (photos, drawings, scale) of the houses on all sides of the subject house, including across the street;

(2) Photographs of neighboring houses, structures and yards within 200 feet on any side of the subject house, including across the street;

(3) Floor area ratios of neighboring houses on lots within 200 feet on either side of the subject house; and

(4) The applicant shall also provide written or verbal testimony addressing the proofs required for variances.

D. Additions to existing structures that exceed allowable FAR. When considering the FAR and out-of-scale components of an application for an addition where the preexisting structure exceeds the allowable FAR as set forth in § 98-43, the Zoning Board of Appeals may, in its discretion, consider the increase of that addition over the existing FAR of the preexisting structure, provided that the resulting structure is not out of scale with the surrounding neighborhood.

§ 98-46. Effective date.

This article shall apply to any application for a building permit that has not been submitted to the Building Department for consideration or processing as of March 15, 2018, or upon such time as the instant local law is filed with the Secretary of State, whichever date is sooner.

Article XI. Battery Energy Storage Systems and Equipment

§ 98-47 Statement of Purpose.

Statement of Purpose. These regulations are adopted to advance and protect the public health, safety, welfare, and quality of life of the Town of Chester by creating regulations for the installation and use of battery energy storage systems and equipment, with the following objectives:

A. To provide a regulatory scheme for the location, construction and operation of battery energy storage systems;

B. To ensure compatible land uses in the vicinity of the areas affected by battery energy storage systems;To mitigate the impacts of battery energy storage systems on environmental resources such as forests, wildlife, and other protected resources; and

C. To create synergy between battery energy storage system development and the Goals and Objectives of the Town's Comprehensive Plan, which call to "maintain and upgrade utilities to create infrastructure that is sustainable for current and future Town residents" and "review and update its Zoning chapter to ensure, where appropriate, that these types of utilities can be used and installed on residential and commercial buildings and properties."

§ 98-48 Definitions.

As used in this Article, the follow terms shall have the meanings as set forth herein. All other terms shall have the meanings as set forth in § 98-2 of this Chapter.

ANSI: American National Standards Institute

BATTERY(IES): A single cell or a group of cells connected together electrically in series, in parallel, or a combination of both, which can charge, discharge, and store energy electrochemically. For the purposes of this law, batteries utilized in consumer products are excluded from these requirements.

BATTERY ENERGY STORAGE MANAGEMENT SYSTEM: An electronic system that protects energy storage systems from operating outside their safe operating parameters and disconnects electrical power to the energy storage system or places it in a safe condition if potentially hazardous temperatures or other conditions are detected.

BATTERY ENERGY STORAGE SYSTEM (BESS): One or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time, not to include a stand-alone 12-volt car battery or an electric motor vehicle For purposes

of this code, a BESS shall exclusively encompass the mechanical and electrical components integral to energy storage and conversion, including but not limited to batteries, inverters, power conditioning systems, control systems, and protective enclosures. This definition specifically excludes civil improvements such as roads, access drives, parking areas, stormwater management and fencing. A battery energy storage system is classified as a Tier 1 or Tier 2 Battery Energy Storage System as follows:

A. Tier 1 Battery Energy Storage Systems have an aggregate energy capacity less than ~~or equal to~~ 600kWh and ~~, if in a room or enclosed area,~~ consist of only a single energy storage system technology.
B. Tier 2 Battery Energy Storage Systems have an aggregate energy capacity greater than 600kWh or are comprised of more than one storage battery technology in a room or enclosed area. Tier 2 Systems are prohibited in the Town of Chester.

CELL: The basic electrochemical unit, characterized by an anode and a cathode, used to receive, store, and deliver electrical energy.

COMMISSIONING: A systematic process that provides documented confirmation that a battery energy storage system functions according to the intended design criteria and complies with applicable code requirements.

DECOMMISSIONING: A systematic process that provides for the removal/proper disposal and reclamation of a battery energy storage system, and its site, at the end of its useful life and/or as the result of damage by fire or other event.

DEDICATED-USE BUILDING: A building that is built for the primary intention of housing battery energy storage system equipment, is classified as Group F-1 occupancy as defined in the International Building Code, as may be amended from time to time, and complies with the following:

A. The building's only use is battery energy storage, energy generation, and other electrical grid-related operations.

B. No other occupancy types are permitted in the building.

C. Occupants in the rooms and areas containing battery energy storage systems are limited to personnel that operate, maintain, service, test, and repair the battery energy storage system and other energy systems.

D. Administrative and support personnel are permitted in areas within the buildings that do not contain a battery energy storage system, provided the following:

(1) The areas do not occupy more than 10 percent of the building area of the story in which they are located.

(2) A means of egress is provided from the administrative and support use areas to the public way that does not require occupants to traverse through areas containing battery energy storage systems or other energy system equipment.

ENERGY CODE: The New York State Energy Conservation Construction Code adopted pursuant to Article 11 of the Energy Law, as currently in effect and as hereafter amended from time to time.

FIRE CODE: The fire code section of the New York State Uniform Fire Prevention and Building Code adopted pursuant to Article 18 of the Executive Law, as currently in effect and as hereafter amended from time to time.

NATIONALLY RECOGNIZED TESTING LABORATORY (NRTL): A U.S. Department of Labor designation recognizing a private sector organization to perform certification for certain products to ensure that they meet the requirements of both the construction and general industry OSHA electrical standards.

NEC: National Electric Code.

NFPA: National Fire Protection Association.

PUBLIC UTILITY FACILITY: A facility, other than a personal wireless service facility or a battery energy storage system, for the provision of public utility services, including facilities constructed, altered or maintained by utility corporations, either public or privately owned, or government agencies, necessary for the provision of electricity, gas, steam, heat, communication, water, sewage collection or other such service to the general public. Such facilities shall include poles, wires, mains, drains, sewers, pipes, conduits, cables, alarms and call boxes and other similar equipment, but shall not include office or administration buildings. Battery energy storage systems (BESS) shall not be deemed to be public utilities under this Code.

~~**NON-DEDICATED-USE BUILDING**: All buildings that contain a battery energy storage system and do not comply with the dedicated-use building requirements.~~

~~**NON-PARTICIPATING PROPERTY**: Any property that is not a participating property.~~

~~**NON-PARTICIPATING RESIDENCE**: Any residence located on non-participating property.~~

~~**OCCUPIED STRUCTURE**: Any building in Occupancy Group A, B, C, D, E, F, I, R, as~~

~~defined in the International Building Code, as may be amended from time to time, including but not limited to residential dwellings (single or multi-family), schools, offices, colleges, industrial uses, retail, daycare facilities, hospitals, correctional facilities, public libraries, theaters, stadiums, hotels, and houses of worship.~~

~~**PARTICIPATING PROPERTY**: A battery energy storage system host property or any real property that is the subject of an agreement that provides for the payment of monetary compensation to the landowner from the battery energy storage system owner (or affiliate) regardless of whether any part of a battery energy storage system is constructed on the property.~~

UNIFORM CODE: the New York State Uniform Fire Prevention and Building Code adopted pursuant to Article 18 of the Executive Law, as currently in effect and as hereafter amended from time to time.

§ 98-49 Applicability.

A. The requirements of this Article shall apply to all battery energy storage systems permitted, installed, or modified in the Town of Chester after the effective date of this Article, excluding general maintenance and repair.

B. Battery energy storage systems that have a valid building permit or have been constructed or installed prior to the effective date of this Article shall ~~not be required to meet the requirements of this Article, except as set forth in subsection C below.~~be considered permitted, nonconforming uses. Such existing battery energy storage systems shall not be expanded, modified or retrofitted in any manner, including, but not limited to, in a manner that increases their energy capacity except in conformity with this Article.

C. Modifications to, retrofits or replacements of an existing battery energy storage system that increase the total battery energy storage system designed discharge duration or power rating shall be subject to this Article.

~~C.~~D. Because battery energy storage system facilities are not "public utilities" in considering any use applications the Town will not apply the public necessity use variance test.

§ 98-50 General Requirements

A. A building permit and an electrical permit shall be required for the installation of all battery energy storage systems.

~~B. Issuance of permits and approvals by the Planning Board shall include review pursuant to the State Environmental Quality Review Act.~~

~~C.~~B. All battery energy storage systems, all Dedicated Use Buildings, and all other buildings or structures that (1) contain or are otherwise associated with a battery energy storage system and (2) subject to the Uniform Code and/or the Energy Code shall be designed, erected, and installed in accordance with all applicable provisions of the Uniform Code, all applicable provisions of the Energy Code, and all applicable provisions of the codes, regulations, and industry standards as referenced in the Uniform Code, the Energy Code, and the Town of Chester Code.

§ 98-51 Requirements for Tier 1 Battery Energy Storage Systems.

Tier 1 Battery Energy Storage Systems shall be permitted in all zoning districts, as an accessory use subject to the Uniform Code and "Battery Energy Storage System Permit." Tier 1 Battery Energy Storage Systems are exempt from site plan review and are Type II actions under the State Environmental Quality Review Act (SEQR). Tier 1 Battery Energy Storage Systems must be serving the principal use located on site.

A. Tier 1 Battery Energy Storage Systems for one or two-family residential dwelling units shall not exceed an aggregate energy capacity of the following:

   (1) Forty (40) kWh within utility closets and storage or utility spaces;

   (2) Eighty (80) kWh in attached or detached garages and detached accessory structures;

   (3) Eighty (80) kWh on exterior walls; or

   (4) Eighty (80) kWh outdoors on the ground.

B. All outdoor Tier 1 Battery Energy Storage Systems shall only be installed within a side or rear yards and meet the minimum lot size and standard setbacks in the zoning district for principal structures. Heights are limited to 6.5 ft for any external battery energy storage systems.

C. All outdoor Tier 1 Battery Energy Storage Systems shall provide a Fire Safety Compliance Plan. Such plan shall document and verify that the system and its associated controls and safety systems are in compliance with the Uniform Code.

D. All outdoor Tier 1 Battery Energy Storage Systems shall not have an area greater than 225 square feet for a single energy storage system, and all systems in the aggregate shall not occupy more than 25% of the area of the required rear or side yard.

§ 98-52 Requirements for Tier 2 Battery Energy Storage Systems

Tier 2 battery energy storage systems are prohibited within all zoning districts in the Town of Chester. Notwithstanding that prohibition, any battery energy storage systems with an aggregate energy capacity greater than 600 kWh or that is comprised of more than one storage battery technology in a room or enclosed area existing within the Town as of January 1, 2025 ("Existing Tier 2 battery energy storage system") shall be considered a legal non-conforming use.

~~Tier 2 Battery Energy Storage Systems are permitted through site plan review by the Planning Board and Special Use Permit review by the Planning Board, and pursuant to § 98, Table 1, Table of District Use Regulations, § 98-30 Site Plan Review and § 98-31 Special Use Permits. In addition to those applicable sections, Tier 2 Battery Energy Storage Systems shall adhere to the standards and requirements set forth below:~~

~~A. Application completeness. An application shall be considered complete when it addresses all matters listed in these regulations including, but not necessarily limited to, (i) compliance with all applicable provisions of the Uniform Code and all applicable provisions of the Energy Code and (ii) matters relating to the proposed battery energy storage system and Floodplain, Utility Lines and Electrical Circuitry, Signage, Lighting, Vegetation and Tree-cutting, Noise, Decommissioning, Site Plan and Development, Special Use and Development, Ownership Changes, Safety, and Permit Time Frame and Abandonment. Applicants shall be advised within ten business days of the completeness of their application or any deficiencies that must be addressed prior to substantive review.~~

§ 98-53 Standards.

A. Utility Lines and Electrical Circuitry. All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and right-of-way.

~~B. Signage.~~

~~(1) Signage shall adhere to the requirements of §98-21.~~

~~(2) The signage shall be in compliance with ANSI Z535 and shall include the type of technology associated with the battery energy storage systems, any special hazards associated, the type of suppression system installed in the area of battery energy storage systems, and 24-hour emergency contact information, including reach-back phone number.~~

~~(3) As required by the NEC, disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible~~

~~warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.~~

~~C. Lighting. Lighting of the battery energy storage systems shall be limited to that minimally required for safety and operational purposes and shall be reasonably shielded and downcast from abutting properties.~~

~~D. Trees and Vegetation. The clearing of vegetation shall be limited to that which is necessary for the construction, operation, and maintenance of the Tier 2 Battery Energy Storage System.~~

~~(1) Areas within ten feet on each side of Tier 2 Battery Energy Storage Systems shall be cleared of combustible vegetation and other combustible growth. Single specimens of trees, shrubbery, or cultivated ground cover such as green grass, ivy, succulents, or similar plants used as ground covers shall be permitted to be exempt provided that they do not form a means of readily transmitting fire.~~

~~(2) Removal of trees should be minimized to the greatest extent possible.~~

~~(3) Battery Energy Storage Systems shall not be sited within any required buffer areas.~~

~~E. Noise. The noise generated from the battery energy storage systems, components, and associated ancillary equipment shall meet the requirements of Chapter 63, Noise Pollution Control. Applicants to submit equipment and component manufacturers noise ratings to demonstrate compliance. The applicant may be required to provide operating sound pressure level measurements from a reasonable number of sampled locations at the perimeter of the battery energy storage system to demonstrate compliance with this standard.~~

§ 98-54 Decommissioning.

A. Decommissioning Plan. For any existing Tier 2 facilities, ~~T~~the ~~applicant~~ property owner shall submit a decommissioning plan within 90 days of adoption of this code, developed in accordance with the Uniform Code, to be implemented upon abandonment and/or in conjunction with removal from the facility. The decommissioning plan shall include:

(1) A narrative description of the activities to be accomplished, including who will perform that activity and at what point in time, for complete physical removal of all battery energy storage system components, structures, equipment, security barriers, and transmission lines from the site;

(2) Disposal of all solid and hazardous waste in accordance with local, state, and

federal waste disposal regulations;

(3) The anticipated life of the battery energy storage system;

(4) The estimated decommissioning costs and how said estimate was determined;

(5) The method of ensuring that funds will be available for decommissioning and restoration;

(6) The method by which the decommissioning cost will be kept current;

(7) The manner in which the site will be restored, including a description of how any changes to the surrounding areas and other systems adjacent to the battery energy storage system, such as, but not limited to, structural elements, building penetrations, means of egress, and required fire detection suppression systems, will be protected during decommissioning and confirmed as being acceptable after the system is removed; and

(8) A listing of any contingencies for removing an intact operational energy storage system from service, and for removing an energy storage system from service that has been damaged by a fire or other event.

B. Decommissioning Fund. The owner and/or operator of the energy storage system, shall continuously maintain a fund or bond payable acceptable by the Town Attorney and in an amount approved by the Planning Board, for the removal of the battery energy storage system for the period of the life of the facility. This fund may consist of a letter of credit from a State of New York licensed-financial institution. All costs of the financial security shall be borne by the applicant.

C. Upon cessation of electricity generation of a battery energy storage system on a continuous basis for 12 months, the Town may notify and instruct the owner and/or operator of the energy storage system to implement the decommissioning plan. The decommissioning plan must be completed within 12 months of notification.

D. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town may, at its discretion, utilize the bond and/or security for the removal of the energy storage system and restoration of the site in accordance with the decommissioning plan.

~~**§ 98-55 Site Plan Application.**~~

~~A Tier 2 Battery Energy Storage System is permitted through site plan review by the~~

Planning Board and Special Use Permit review by the Planning Board, and pursuant to § 98-30 Site Plan, § 98-31 Special Permit, and § 98, Attachment 2 Schedules of Use and Area Requirements. In addition to those applicable sections, Tier 2 Battery Storage System site plan application shall include the following:

A. A one- or three-line electrical diagram detailing the battery energy storage system layout, associated components, and electrical interconnection methods, with all National Electrical Code compliant disconnects and over current devices.

B. Preliminary equipment specification sheets that document the proposed battery energy storage system components, inverters and associated electrical equipment that are to be installed. Final equipment specification sheets shall be submitted prior to the issuance of building permit.

C. Name, address, and contact information of proposed or potential system installer and the owner and/or operator of the battery energy storage system. Such information of the final system installer shall be submitted prior to the issuance of building permit.

D. Name, address, phone number, and signature of the project Applicant, as well as all the property owners, demonstrating their consent to the application and the use of the property for the battery energy storage system.

E. Commissioning Plan. Such plan shall document and verify that the system and its associated controls and safety systems are in proper working condition per requirements set forth in the Uniform Code. Where commissioning is required by the Uniform Code, battery energy storage system commissioning shall be conducted by a New York State (NYS) Licensed Professional Engineer after the installation is complete but prior to final inspection and Certificate of Occupancy. A corrective action plan shall be developed for any open or continuing issues that are allowed to be corrected after commissioning. A report describing the results of the system commissioning and including the results of the initial acceptance testing required in the Uniform Code shall be provided to the Code Enforcement Officer prior to final inspection and approval and maintained at an approved on-site location.

F. Fire Safety Compliance Plan. Such plan shall document and verify that the system and its associated controls and safety systems are in compliance with the Uniform Code.

G. Operation and Maintenance Manual. Such plan shall describe continuing battery energy storage system maintenance and property upkeep, as well as design, construction, installation, testing, and commissioning information and shall meet

all requirements set forth in the Uniform Code.

H. Erosion and sediment control and stormwater management plans prepared to New York State Department of Environmental Conservation standards, if applicable, and to such standards as may be established by the Planning Board.

I. Prior to the issuance of the building permit, but not required as part of the application, engineering documents must be signed and sealed by a NYS Licensed Professional Engineer.

J. Emergency Operations Plan. A copy of the approved Emergency Operations Plan shall be given to the system owner, the local fire department, and local fire code official. A permanent copy shall also be placed in an approved location to be accessible to facility personnel, fire code officials, and emergency responders. The emergency operations plan shall include the following information:

(1) Procedures for safe shutdown, de-energizing, or isolation of equipment and systems under emergency conditions to reduce the risk of fire, electric shock, and personal injuries, and for safe start-up following cessation of emergency conditions.

(2) Procedures for inspection and testing of associated alarms, interlocks, and controls.

(3) Procedures to be followed in response to notifications from the Battery Energy Storage Management System, when provided, that could signify potentially dangerous conditions, including shutting down equipment, summoning service and repair personnel, and providing agreed upon notification to fire department personnel for potentially hazardous conditions in the event of a system failure.

(4) Emergency procedures to be followed in case of fire, explosion, release of liquids or vapors, damage to critical moving parts, or other potentially dangerous conditions. Procedures can include sounding the alarm, notifying the fire department, evacuating personnel, de-energizing equipment, and controlling and extinguishing the fire.

(5) Response considerations similar to a safety data sheet (SDS) that will address response safety concerns and extinguishment when an SDS is not required.

(6) Procedures for dealing with battery energy storage system equipment damaged in a fire or other emergency event, including maintaining contact

information for personnel qualified to safely remove damaged battery energy storage system equipment from the facility.

(7) Other procedures as determined necessary by the Town of Chester to provide for the safety of occupants, neighboring properties, and emergency responders.

(8) Procedures and schedules for conducting drills of these procedures and for training local first responders on the contents of the plan and appropriate response procedures

§ 98-56 Special Use Permit Standards.

The Special Use Permit shall be in compliance with the following standards in addition to those listed in § 98-31, Special Use Permits.

A. Area and Bulk Standards for Tier 2 Battery Energy Storage Systems.

(1) Minimum Lot Size for Large Scale Solar Energy systems shall be four acres.

(2) Minimum front, rear, and side yard setbacks shall be as follows:

a. Occupied Structure Setback: A minimum setback of 400 feet shall be maintained from the nearest wall of any occupied structure on an adjacent parcel not participating in the BESS project. This setback shall be measured from the closest point of the BESS equipment (from the outer edge of equipment including battery containers, inverters, and transformers) to the nearest foundation wall of the non-participating occupied principal structure at the time of application.

b. Dimensional Requirements. Setbacks shall be measured from the property lines of the parcel on which the BESS is located. The following dimensional requirements shall apply to a utility-scale solar energy system:

Standard	**Requirement**

~~Lot Width~~	~~100 feet~~
~~Front Yard Setback~~ ~~Town Highway~~ ~~Country Highway~~ ~~State Highway~~	 ~~100 feet~~ ~~125 feet~~ ~~150 feet~~
~~Side Yard Setback Total~~	~~100 feet~~
~~Side Yard Setback Minimum~~	~~40 feet~~
~~Rear Yard Setback Total~~	~~50 feet~~
~~Building Height~~	~~35 feet~~
~~Maximum Height BESS Enclosure~~	~~15 feet~~
~~Maximum Height of Fencing~~	~~8 feet~~

c. ~~Applicability: In all cases, the BESS shall be located such that it complies with the greater of the two setback distances (Occupied Structure Setback or Property Line Setback) for all applicable sides of the property.~~

d. ~~Maximum lot coverage shall be subject to the maximum lot coverage of the underlying zoning district set forth in Area Tables.~~

B. ~~Fencing Requirements. Tier 2 Battery Energy Storage Systems including all mechanical equipment shall be enclosed by an 8-foot-high fence with a self-locking gate to prevent unauthorized access unless housed in a dedicated-use building and not interfering with ventilation or exhaust ports. In no case shall barbed wire or razor wire be used.~~

C. ~~Screening and Visibility. Tier 2 Battery Energy Storage Systems shall be screened from public roadways and adjacent properties through the use of architectural features, earth berms, landscaping, fencing or other screening methods which harmonize with the character of the subject property and the surrounding area. The screening shall not, however, interfere with the normal operation, ventilation or exhaust ports, or fire safety of the storage system, and the system may need to be revised to allow for adequate screening. Screening shall be maintained for the life of the use. A covenant regarding the maintenance~~

~~of any required screening shall be provided by the applicant.~~

~~D. Coverage. The battery energy storage system shall be included in calculating maximum permitted building coverage for the applicable zoning district.~~

~~E. The Planning Board may retain such technical consultants as it deems necessary to review and advise on application. The cost of such consultants shall be borne by the applicant.~~

~~**§ 98-57 Ownership or Operator Changes.**~~

~~If the owner of the battery energy storage system changes or the owner of the property changes, the special use permit shall remain in effect, provided that the successor owner or operator assumes, in writing, all of the obligations of the special use permit, site plan approval, and decommissioning plan. A new owner or operator of the battery energy storage system shall notify the Code Enforcement Officer in writing of such change in ownership or operator within 30 days of the ownership change. The special use permit and all other local approvals for the battery energy storage system shall become void if a new owner or operator fails to provide written notification to the Code Enforcement Officer in the required timeframe. Reinstatement of a void special use permit will be subject to the same review and approval processes for new applications under this Article.~~

§ 98-58 Safety.

A. Battery Energy Storage Systems and Battery Energy Storage Systems Equipment shall be certified under the applicable electrical and/or building codes as required.

B. Battery energy storage systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department and~~, if the Tier 2 Battery Energy Storage System is located in an ambulance district,~~ the local ambulance service provider.

C. If a Battery Energy Storage System is included as part of a Solar Energy System, both uses shall meet the requirements of any applicable fire prevention and building code when in use and, when no longer used, shall be disposed of in accordance with the laws and regulations of the Town and any applicable federal, state, or county laws or regulations.

~~D. Where deemed necessary by the Planning Board during site plan approval, the Applicant shall ensure emergency access to the Facility Area for local first~~

~~responders by installing an emergency lock box or similar device, in a location subject to approval by the Fire District.~~

~~E.~~D. Battery energy storage systems, components, and associated ancillary equipment shall have required working space clearances, and electrical circuitry shall be within weatherproof enclosures marked with the environmental rating suitable for the type of exposure in compliance with NFPA 70.

§ 98-59 System Certification.

Battery energy storage systems and equipment shall be listed by a Nationally Recognized Testing Laboratory to UL 9540 (Standard for battery energy storage systems and Equipment) with subcomponents meeting each of the following standards as applicable:

A. UL 1973 (Standard for Batteries for Use in Stationary, Vehicle Auxiliary Power and Light Electric Rail Applications),

B. UL 1642 (Standard for Lithium Batteries),

C. UL 1741 or UL 62109 (Inverters and Power Converters),

D. Certified under the applicable electrical, building, and fire prevention codes as required.

E. Alternatively, field evaluation by an approved testing laboratory for compliance with UL 9540 and applicable codes, regulations and safety standards may be used to meet system certification requirements.

§ 98-60 Permit Time Frame and Abandonment.

The battery energy storage system shall be considered abandoned when it ceases to operate consistently for more than one year. If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Town of Chester may, at its discretion, enter the property and utilize the available bond and/or security for the removal of a Tier 2 Battery Energy Storage System and restoration of the site in accordance with the decommissioning plan.

§ 98-61 Enforcement.

Enforcement. Any violation of this Battery Energy Storage System Law shall be subject to the same enforcement requirements, including the civil and criminal penalties, provided for in the zoning or land use regulations of the Town of Chester. See Article VI Enforcement.