

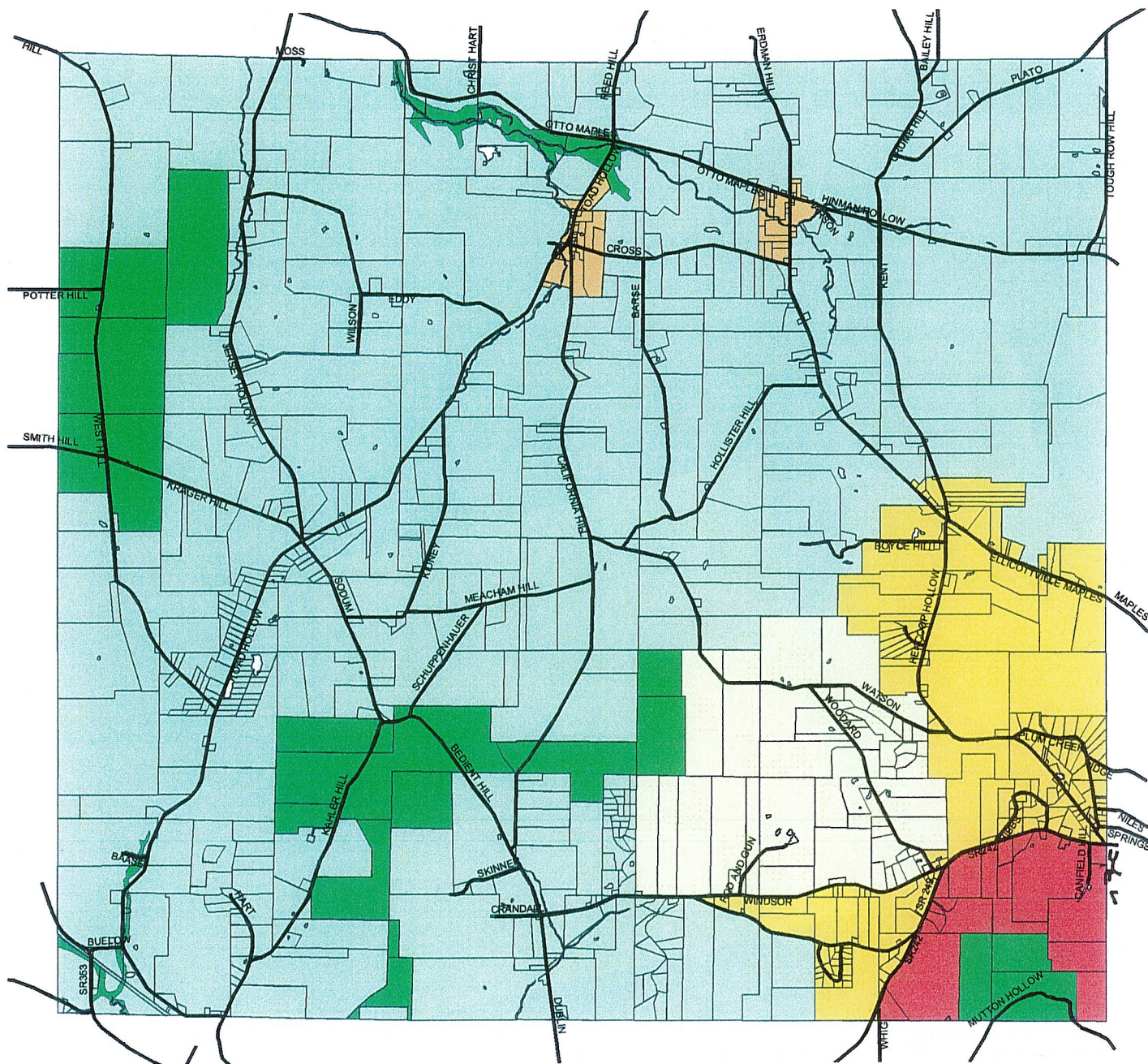
Town of Mansfield Zoning Law

Adopted
September 18, 2006

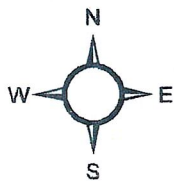
Town of Mansfield

Zoning Map

Adopted: September 2006



1 0.5 0 1 2 Miles



Roads

Parcel Boundaries

A-R Agricultural Residential

R-3 Community Residential

C Conservation

R-4 High Density Residential

R-1 Low Density Residential

R-2 Recreation Residential

Town of Mansfield Zoning Law

**Adopted by the Town Board
September 18, 2006**

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**TOWN OF MANSFIELD
ZONING LAW**

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ARTICLE I ENACTING CLAUSE

Pursuant to the authority conferred by Article 2 of the Municipal Home Rule Law and Article 16 of the Town Law of the State of New York, be it enacted by the Town Board of the Town of Mansfield, County of Cattaraugus, as follows:

“A Local Law to Amend the Town of Mansfield Zoning Ordinance.”

ARTICLE II SHORT TITLE

This Law shall be known and may be cited as "Zoning Law of the Town of Mansfield."

ARTICLE III INTENT AND PURPOSE

For the purposes of:

1. promoting the public health, safety, and general welfare;
2. conserving and protecting property and property values;
3. securing the most appropriate use of land;
4. lessening or avoiding congestion in the public streets and highways;
5. securing safety from fire, flood, panic and other dangers;
6. providing adequate light and air;
7. preventing the overcrowding of land and avoiding undue concentration of people;
8. facilitating the practice of forestry;
9. facilitating the adequate but economical provision of public improvements; and
10. minimizing flood losses in areas subject to periodic inundation

the Town Board of the Town of Mansfield finds it necessary and advisable to regulate the location, size and use of buildings and other structures and the use of land for trade, industry, residences, recreation or other purposes and for such purposes divides the unincorporated area of the Town into districts or zones.

These regulations have been made with reasonable consideration, among other things, as to the character of the district and its peculiar suitability for particular uses, and with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the Town of Mansfield. These regulations have been made in accordance with the Town of Mansfield Comprehensive Plan.

ARTICLE IV DEFINITIONS

Section 4.1 Rules

The following rules shall apply to interpreting the text of this zoning Law:

- (a) Words used in the present tense shall include the future tense.
- (b) Words used in the singular shall include the plural, and words used in the plural shall include the singular.
- (c) Words used in the masculine form shall include the feminine.
- (d) The word "shall" is mandatory. The word "may" is permissive.
- (e) The word "lot" shall include the words "plot," "piece," and "parcel."
- (f) The word "person" shall include an individual, firm, trust, partnership, association or corporation.
- (g) The phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for," and "occupied for."
- (h) The phrases "to erect," "to construct," and "to build" a structure have the same meaning and include the excavation for a structural foundation and the relocation of a structure from one location to another.

Section 4.2 Definitions

Unless specifically defined below, words or phrases used in this Law shall be interpreted so as to give them the meaning they have in common usage, as defined in any standard dictionary.

ABANDONMENT. To cease or discontinue a use.

ACCESSORY STRUCTURE. A building or structure located on the same lot as a principal building, structure, or use and used for purposes customarily incidental to and subordinate to the principal use, building or structure.

ACCESSORY USE. A use on the same lot with, and of a nature customarily incidental and subordinate to, the principal use.

AGRICULTURE. Land that has as its principal use the raising or keeping of livestock, raising of poultry for meat or eggs, aquaculture, the cultivation of fruits, vegetables and similar produce, and/or the growing of crops to produce food or fiber to be consumed directly or indirectly by humans or domestic animals, and necessary accessory structures, such as barns, silos and similar structures. A sod farm is considered to be agriculture. A "greenhouse" is not considered to be "agriculture."

AGRICULTURAL PROCESSING. A building, facility, areas, whether open or enclosed, or any location for the refinement, treatment or conversion of agricultural products where physical, chemical or similar change of an agricultural product occurs. Examples of agricultural processing include, but are not limited to, fruit dehydrators, cold storage houses, hulling operations, and canning, and include all uses customarily incidental thereto. Agricultural processing shall not include manufacturing of secondary products using agricultural products, such as commercial kitchens, bakeries, breweries, woodworking, sawmills and wood processing plants. Agricultural processing shall not include commercial slaughterhouses.

ADULT ENTERTAINMENT USE Whenever used in this local law, the words "adult entertainment use," "adult entertainment establishments," "adult use" or adult uses" apply to the following types of establishments:

Adult Bookstore An establishment which has as a substantial or significant portion of its stock in trade, books, pamphlets, magazines and other periodicals, sculptures, photographs, pictures, slides, videotapes, films, or sound recordings, and which establishment excludes any minor by reason of age.

Adult Entertainment Cabaret A public or private nightclub, bar, juice bar, restaurant or similar establishment which presents topless or bottomless dancers, go-go dancers, waitresses or waiters, strippers, male or female impersonators, exotic dancers, or other similar entertainment, and which establishment excludes any minor by reason of age.

Adult Video Store An establishment having as a substantial or significant portion of its sock in trade, videotapes or films for sale or viewing on premises by use of motion picture devices, video equipment, coin operated devices or other means, and which establishment excludes any minor by reason of age.

Peep Show A theater which presents material in the form of live shows, films, or videotapes viewed from an enclosure for which a fee is charged and which excludes any minor by reason of age.

Massage Establishment Any establishment having a fixed place of business where massages are administered for pay, including but not limited to massage parlors, sauna baths and steam baths. This definition shall not be construed to include a hospital, nursing home, medical clinic, or the office of a physician, surgeon, chiropractor, osteopath, or duly licensed physical therapist or duly licensed massage therapist, or barber shops or beauty salons in which massages are administered only to the scalp, face, neck, or shoulders. This definition shall also exclude health clubs which have facilities for physical exercise such as tennis courts, racquet ball courts or exercise rooms, and which do not receive their primary source of revenue through the administration of massages.

Adult Motel or Hotel A motel or hotel which excludes minors by reason of age or which makes available to its patrons in their rooms films, slide shows, or videotapes, which if presented in a public movie theater would exclude any minor by reason of age.

Adult Theater A theater that customarily presents motion pictures, films, videotapes, or slide shows and that excludes any minor by reason of age.

Body Painting Studio An establishment or business which provides the service of applying paint or other substance, whether transparent or non-transparent, to or on the human body and which excludes any minor by reason of age.

Adult Model Studio Any establishment where, for any form of consideration or gratuity, figure models are provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by persons other than the proprietor, paying such consideration or gratuity and which excludes any minor by reason of age. This provision shall not apply to any school of art which is operated by an individual, firm, association, partnership, corporation or institution, which meets the requirements established in the New York State Education Law for the issuance or conferring of, and is in fact authorized to issue or confer a diploma.

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

APPEAL. A request for a review of the Local Administrator's interpretation of any provision of this Law or a request for a variance.

AREA OF SHALLOW FLOODING. A designated AO or VO zone on a community's Flood Insurance Rate Map (FIRM) with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

AREA OF SPECIAL FLOOD HAZARD. The land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, AI-99, V, VD, VE, or VI-30. It is also commonly referred to as the base flood plain or 100-year flood plain

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

AREA, LOT. The total area within the boundary lines of a lot.

AREA VARIANCE. See "variance, area."

AUTOMOBILE BODY SHOP. A building used for the repairing or painting of the exterior and/or undercarriage of motor vehicle bodies, in conjunction with which there may be towing service and motor vehicle rentals for customers while the motor vehicle is under repair. All work shall be conducted within a wholly enclosed building or buildings.

AUTOMOTIVE REPAIR SHOP. An establishment where repairs to, and servicing, greasing, and adjusting of, automobiles and other motor vehicles may be performed. The sale of motor vehicle fuels and lubricants may be conducted as an accessory use. Towing of disabled vehicles may also be conducted. All storage of accessories and repairing and servicing shall be conducted within a wholly enclosed building or buildings.

AUTOMOBILE SALES ESTABLISHMENTS. A lot, building, or structure where new or used automobiles, trucks, motorcycles, recreational vehicles, boats, snowmobiles, ATVs, and/or other motor vehicles are available for sale.

BASE FLOOD. The flood having a one percent chance of being equaled or exceeded in any given year.

BED AND BREAKFAST ESTABLISHMENT. An owner-occupied single-family dwelling in which there are not more than five rooms available for overnight accommodations to guests for a fee, and which provides breakfast for guests only.

BOARD OF APPEALS. The Zoning Board of Appeals of the Town of Mansfield, County of Cattaraugus, New York.

BREAKAWAY WALLS Any type of walls, whether solid or lattice, and whether constructed of concrete, masonry, wood, metal, plastic, or any other suitable building material which are not part of the structural support of the building and which are so designed as to breakaway, under abnormally high tides or wave action, without damage to the structural integrity of the building on which they are used or any buildings to which they might be carried by flood waters.

BUILDABLE AREA. The space remaining on a lot after compliance with the minimum yard requirements of this zoning Law.

BUILDING. Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals or chattel.

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

BUILDING INSPECTOR. The administrative officer appointed by the Town Board to enforce the provisions of the New York State Uniform Fire Prevention and Building Code.

CAMPGROUND. (1) An area of land or water, used for a range of overnight camping experiences, on which are located two or more cabins, tents, trailers, shelters, houseboats or other accommodations of a design or character suitable for seasonal or other temporary living accommodations, including accessory facilities which support the use, such as administration offices and laundry facilities, but not including the use of manufactured homes on a year round basis; or

(2) Any area that is occupied or intended or designed for occupancy by transients using recreational vehicles, motor homes or vacation trailers, for temporary, recreational overnight lodging; or

(3) Any land, including any building thereon, used for any assembly of persons for what are commonly known as “day camp” purposes, including recreation, arts and crafts, sports, and incidental food service. Types of camps include YMCA campgrounds and summer camp programs.

CEMETERY. Land that is set apart or used as a place for the internment of the dead.

CELL The geographical area serviced by a BTS (base transceiver station).

CERTIFICATE OF ZONING COMPLIANCE A certificate issued by the Code Enforcement Officer that certifies that conditions specified in this zoning Law have been met, that the parcel is properly zoned for the use that is proposed, and that the intended use is allowable. Said certificate shall acknowledge any adjustments to the requirements of this Law granted by the Zoning Board of Appeals or any approvals and conditions of approval granted by the Planning Board. Certificates of Zoning Compliance shall be issued after all necessary construction has been completed and prior to occupancy of the structure.

CHILD CARE FACILITY. An establishment where care is provided for one or more children on a regular basis, for periods of less than 24 hours per day in a place other than the child's own dwelling unit. Programs include those for children who are under the minimum age to attend public school and/or pre-school, after-school and school-vacation care for school-aged children. “Family day care” and “group family day care,” as defined in New York State Social Services Law, Section 390, and which occur in a private dwelling unit, are exempt from these regulations.

CIVIC FACILITY. Buildings, structures, and other facilities owned and/or operated by the Town of Mansfield and/or other public agencies and regularly used for neighborhood meetings and other forms of public assembly, but not including parks.

CODE ENFORCEMENT OFFICER (CEO). The official, appointed by the Town Board, who is responsible for the administration and enforcement of this zoning Law.

COMMERCIAL ESTABLISHMENT. A for-profit use or activity, conducted at a scale greater than a home occupation, involving retail or wholesale marketing of goods or services, for personal and household consumption. The term “commercial establishment” shall not include other activities and land uses defined herein.

COMMERCIAL RECREATION. A for-profit land use, whether indoor or outdoor, intended to provide leisure activities to the public. Types of commercial recreation include, but are not limited to, golf courses, miniature golf courses, skating rinks, tennis courts, health and fitness clubs, swimming pools, snow tubing parks, ATV and snowmobiling facilities, and bowling alleys.

COVERAGE. That percentage of the lot area covered by the building area.

CULTURAL FACILITY. Public libraries, museums, art galleries and other similar community institutions.

DEVELOPMENT. Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

DWELLING UNIT. A building or portion thereof providing complete housekeeping facilities for one family. Each dwelling unit shall have its own sleeping, cooking, and toilet facilities. A dwelling unit is designed for permanent occupancy and shall not be construed to include a hotel, motel or other such use of a transient nature.

DWELLING, SINGLE FAMILY A building that contains one dwelling unit, which is located on an individual lot and which is not attached to any other dwelling unit by any means.

DWELLING, TWO FAMILY. A building that contains two dwelling units.

DWELLING, MULTIPLE FAMILY. A building that contains three or more separate dwelling units.

ELEVATED BUILDING A non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), or shear walls.

EXPANSION TO AN EXISTING MANUFACTURED HOME PARK (OR MANUFACTURED HOME SUBDIVISION) The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, either final site grading or pouring of concrete pads, or the construction of streets).

FACTORY-BUILT HOUSING A factory-built structure designed for long-term residential use. For the purposes of these regulations, factory-built housing consists of three types: modular homes, mobile homes, and manufactured homes.

FAMILY. One or more persons related by blood, adoption, or marriage, living or cooking together as a single housekeeping unit, or not more than four (4) persons in such a unit who are not so related. In the later instance, and in all instances involving unrelated persons, the

principal use and accessory use for boarders, when taken together, shall not be construed as permitting "family use" by more than four (4) unrelated persons, under any circumstances.

FARM STAND. A temporary structure for the display and sale of farm and related produce and/or crafts.

FENCE. A structure constructed for reasons of privacy, security, or aesthetics which is located in such a manner as to separate or divide areas.

FENCE, AGRICULTURAL. A fence erected to enclose an area of land used for agricultural purposes.

FENCE, BARRIER. Any solid fence, which is located near the perimeter of a property.

FINISHED GRADE. See "Grade, finished."

FLOOD OR FLOODING. A general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal waters;
- (2) the unusual and rapid accumulation or runoff of surface waters from any source.

FLOOD BOUNDARY AND FLOODWAY MAP (FBFM). An official map of the Community published by the Federal Emergency Management Agency as part of a riverine Community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood insurance Study.

FLOOD HAZARD BOUNDARY MAP (FHBM). An official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined but no water surface elevation is provided.

FLOOD INSURANCE RATE MAP (FIRM). An official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

FLOOD INSURANCE STUDY. The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Boundary Floodway Map and the water surface elevations of the base flood.

FLOOD PLAIN OR FLOOD PRONE AREAS. A land area adjoining a river, stream, water course or lake which is likely to be flooded.

FLOOD PROOFING. Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

FLOOD PROTECTION ELEVATION. The level and elevation above which a particular use will be considered safe from flooding. Such elevations will be accurately fixed at various points on the Official Map.

FLOODWAY. The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

FLOODWAY FRINGE. The area lying outside of and adjacent to the floodway which may be subject to inundation by the maximum flood or seasonal regional expectancy.

FLOOR AREA. The sum of the horizontal areas of each floor of a building, measured from the interior faces of the exterior walls.

FLOOR AREA, GROSS The sum of the horizontal areas of each floor of a building, measured from the interior faces of the exterior walls.

FORESTRY. The operation of timber tracts, tree farms, forest nurseries, the gathering of forest products or performance of forest services including the development and/or maintenance of a forest or wooded preserve.

FRONTAGE. That part of a lot abutting on a street; except that the ends of incomplete streets, or streets without a turning circle shall not be considered frontage. On curvilinear streets, the arc between the side lot lines shall be considered the lot frontage.

FUNCTIONALLY DEPENDENT USE. A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair. The term does not include long-term storage, manufacture, sales, or service facilities.

FUNERAL HOME. A building used for human funeral services. Such buildings may contain space and facilities for (a) embalming and the performance of other services used in the preparation of the dead for burial; (b) storage of caskets and other related funeral supplies; and (c) the storage of funeral vehicles. A funeral home shall not include facilities for cremation.

GRADE, FINISHED. The elevation at which the finished surface of the surrounding lot meets the walls or supports of a building or structure.

GRADE, NATURAL. The existing grade or elevation of the ground surface that exists or existed prior to man-made alterations, such as grading, grubbing, filling or excavating.

GREENHOUSE. The for-profit growing of plants, shrubs, trees, etc. in an enclosed building.

GUN CLUB. Any public or private organization, whether operated for profit or not, that provides facilities for indoor or outdoor trap, skeet or target shooting.

HABITABLE FLOOR. Any floor usable for living purposes, which includes working, sleeping, eating, cooking or recreation, or a combination thereof. A floor used only for storage purposes is not a "habitable floor".

HIGHEST ADJACENT GRADE. The highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

HOTEL. A building or group of buildings containing sleeping accommodations which are offered for compensation to transient guests. A hotel may or may not include group dining facilities.

HOME OCCUPATION. Any land use or activity undertaken for gain within a dwelling unit, or within a structure that is accessory to the dwelling unit and on the same lot, by the resident or residents thereof. A home occupation is an accessory use, and shall be clearly incidental and secondary to the use of the structure as a residence. Mortuary establishments, stores, eating establishments, tourist homes and manufacturing establishments of any kind shall not be deemed to be home occupations. See also Article IX.

HOUSEHOLD PETS. Animals that are customarily kept for personal use or enjoyment within the home. Household pets shall include, but are not limited to, dogs, cats, rabbits, domestic birds such as parrots and parakeets, domestic mice and rats, and domesticated snakes.

HISTORIC RESOURCE Any historic building, structure, facility, site or district, or prehistoric site that is listed on the State and/or National Registers of Historic Places. Any historic building, structure, facility site or district or prehistoric site that has been proposed by the New York Board on Historic Preservation for a recommendation to the State Historic Preservation Officer for nomination for inclusion in the National Register of Historic Places. Any locally significant historic resource designated pursuant to Article 5-K of the New York State General Municipal Law.

HUNDRED (100) YEAR FLOOD. Has the same meaning as "Base Flood".

JUNKYARD. As defined in the Town of Mansfield Ordinance No. 1-1979, An Ordinance Licensing and Regulating Junk Yards and Dealers in Secondhand Junk and Auto Parts Activities and Businesses, as may be amended from time to time.

KENNEL. Any place where four or more dogs, cats, or other animals over three months of age are kept, raised, sold, boarded, bred shown, or treated.

LIBRARY. A public facility in which literary, musical, artistic, or reference materials such as, but not limited to, books, manuscripts, computers, recordings or films are kept for use by or loaning to patrons of the facility. Such materials are not normally offered for sale.

LIVESTOCK. Poultry, dairy and beef cattle, horses, oxen, sheep, goats, swine and pigs, llamas, bison, ostriches and emus, or any similar domesticated or semi-domesticated animal, but not including household pets.

LOADING AND UNLOADING SPACE, OFF-STREET. An open hard-surfaced area of land other than a street or a public way, the principal use of which is for the standing, loading and unloading of motor vehicles, tractors and trailers to avoid undue interferences with public streets and alleys.

LOT. A parcel of land with frontage on a street or road, whether or not occupied by a building or structure, which is in one ownership.

LOT AREA. See "area, lot."

LOT, CORNER. A lot located at the intersection of, and abutting upon, two or more streets. A corner lot is not a through lot.

LOT COVERAGE. See "coverage."

LOT DEPTH. The horizontal distance between the front and rear lot lines measured in the mean direction of the side lot lines.

LOT LINES. The property lines bounding a lot. The front lot line shall be the right-of-way line of the street or highway giving access to the lot. In the case of a corner lot, the owner may designate either street lot line as the front lot line.

LOT OF RECORD. Any lot which individually or as a part of a subdivision has been officially recorded in the office of the Clerk of Cattaraugus County.

LOT, THROUGH. A lot having frontage on two parallel or approximately parallel streets and which is not a corner lot.

LOT, WIDTH. The mean horizontal distance between the side lot lines measured within the lot boundaries, or the minimum distance between the side lot lines within the buildable area.

LOWEST FLOOR. The lowest level including basement or cellar of the lowest enclosed area. An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Law.

MAJOR STRUCTURE. Anything constructed or erected requiring more than thirty-five (35) square feet of floor area, located on the ground or attached to something having location on the ground.

MANUFACTURED HOME A transportable, factory-built home designed to be used as a year-round single-family dwelling that is manufactured according to the Federal Manufactured Housing Construction and Safety Standards Act of 1974 (42 United States Code Sec. 5401). A manufactured home is sometimes referred to as a "HUD Code home." The term "Manufactured Home" does not include a mobile home or recreational vehicle.

MANUFACTURED HOME PARK A lot under single ownership that is designed for the placement of two or more manufactured homes.

MANUFACTURED HOME SPACE A plot of land within a manufactured home park, designed to accommodate one manufactured home.

MEAN SEA LEVEL. For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

MEDICAL CLINIC. A building or structure where two or more members of the medical profession, physicians, dentists, chiropractors, osteopaths, and/or occupational or physical therapists, provide diagnosis and treatment to the general public without overnight accommodation. A medical clinic may include such uses as reception areas, offices, consultation rooms, x-ray facilities, minor operating rooms and/or a pharmacy, providing that all such uses have access only from the interior of the building.

MOBILE HOME A transportable, factory-built home, designed to be used as a year-round, single family dwelling, built prior to June 15, 1976, the effective date of the Federal Manufactured Housing Construction and Safety Standards Act of 1974. "Mobile home" does not include a recreational vehicle.

MODULAR HOME Factory-built housing that is certified as meeting the New York State Building Code. A modular home is constructed on-site from components that are substantially made and assembled in a factory and that are delivered to a building site, where they are assembled and installed on a permanent foundation.

MOTEL. A building or group of buildings containing sleeping accommodations which are offered for compensation to transient guests. A motel primarily serves transients arriving by automobile, and may provide access to each lodging unit from the outside. A motel may or may not include group dining facilities.

MUSEUM. (1) A site or building having public significance by reason of its architecture of former use or occupancy; and/or

(2) A building serving as a repository for a collection of natural, scientific, or literary objects of interest, or works of art.

A museum is intended to be open to the public for viewing of the collection, with or without an admission charge. A museum may include, as an accessory use, a small gift shop for the retail sale of goods related to the museum displays.

NATIONAL GEODETIC VERTICAL DATUM (NGVD) As corrected in 1929, is a vertical control used as a reference for establishing varying elevations within the flood plain

NEW CONSTRUCTION. Structures for which the "start of construction" commenced on or after the effective date of this Law.

NON-CONFORMING LOT. Any lot, legally existing at the time of enactment of this law, where the area, frontage and/or dimensions do not conform to the provisions of this law.

NON-CONFORMING STRUCTURE. Any structure, legally existing at the time of enactment of this law, which does not meet the regulations on structure size or location on a lot for the district in which such structure is located.

NON-CONFORMING USE. A use of land or structure, legally existing at the time of enactment of this law, which does not conform to the regulations of the district in which it is located, but which complied with applicable regulations at the time the use was established.

NON-PROFIT ORGANIZATION. Any person(s), partnership, association, corporation, or other group whose activities are conducted for unselfish, civic, or humanitarian motives, or for the benefit of others, and not for the gain of any private individual or group. Non-profit organizations may include, but shall not be limited to, patriotic, philanthropic, social service, welfare, benevolent, educational, civic, fraternal, cultural, charitable, scientific, historical, or athletic activities.

NURSING HOME. A facility, whether for-profit or not for-profit, which provides nursing care and related medical services on a 24-hour per day basis to two or more individuals because of illness, disease, or physical or mental infirmity. Does not include hospitals, clinics or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

NURSERY SCHOOL. A privately-owned establishment for two or more children ages two to five, which provides instruction as well as child care.

OFFICE, PROFESSIONAL. See "professional office."

PARK. Any public land available for recreational, educational, cultural or aesthetic use.

PARKING LOT An open area of land, other than a street, used for the temporary parking of two or more motor vehicles and available for public use whether free, for compensation, or as an accommodation for clients or customers or residents, but does not include the storing of impounded or wrecked vehicles.

PARKING, OFF-STREET Space for a motor vehicle on a lot, not on the street right-of-way.

PARKING SPACE An area exclusive of driveways, ramps, or columns, in which one vehicle can be parked.

PERMITTED USE. A use permitted in a zoning district without the need for special administrative review and approval, upon satisfaction of the requirements and standards of this local law.

PERSONAL SERVICE ESTABLISHMENT. A commercial establishment where professional or personal services are provided for gain and where the retail sale of goods, wares, or merchandise is only accessory to the provision of such services, which include but are not limited to the following: barber shops, beauty shops, tailor shops, laundry or dry-cleaning shops, and shoe repair shops.

PLACE OF WORSHIP. A building, such as a church, chapel, temple, synagogue, or mosque, in which persons regularly assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship.

PLANNED UNIT DEVELOPMENT A site upon which residential, commercial recreational, commercial or other land uses or any combination thereof may be authorized in a flexible manner so as to achieve the goals of the Town of Mansfield Comprehensive Plan.

PLANNED UNIT DEVELOPMENT DISTRICT An independent, freestanding zoning district, wherein the zoning regulations need not be uniform for each class or type of land use, but where the use of land shall be in accordance with a preliminary planned unit development plan approved by the legislative body.

PLANNING BOARD. The Planning Board of the Town of Mansfield, Cattaraugus County, New York.

POP-UP TENT CAMPER A camper that pops up and has tent-like fabric sides.

PRINCIPAL STRUCTURE. A building or structure in which the primary use of the lot is conducted.

PRINCIPAL USE. The primary purpose for which a lot is used.

PROFESSIONAL OFFICE. The use of a building, or part thereof, for offices by one or more members of a recognized profession, including a doctor, physician, surgeon, dentist, or such other persons licensed by the state of New York to practice a healing art; lawyer; accountant; architect, planner, or engineer; real estate broker or real estate salesperson; or insurance broker or insurance agent; or similar professions.

PLANNED UNIT DEVELOPMENT. A site upon which residential, commercial, or other land uses or any combination thereof may be authorized in a flexible manner so as to achieve the goals of the Town of Mansfield Comprehensive Plan.

PUBLIC UTILITY. Any person, firm, corporation or municipal department duly authorized under public regulation to furnish to the public electricity, gas, steam, telephone, fiber-optics, transportation, water or sewer.

PUBLIC UTILITY FACILITY. A facility, other than a telecommunication tower or telecommunication antenna, 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, sewerage 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. For purposes of this zoning law, telecommunication towers or telecommunication antennas, defined separately in this law, shall not be governed by the zoning regulations that apply to the broader definition of public utility facilities, but shall be governed by the specific telecommunications facilities regulations of this law.

RECREATION VEHICLE (RV) A vehicle built on a single chassis and designed to be either self propelled or towed by another vehicle. A recreation vehicle is not designed or intended for use as a permanent dwelling, but as temporary living quarters for recreational camping, travel, or seasonal use. This definition includes vehicles such as trailers, campers, and travel trailers and pop-up tent campers. A recreation vehicle is not a manufactured home or a mobile home.

RESTAURANT. A business where food and beverages are prepared and sold to patrons for consumption either on or off the premises, and where food sales constitute more than 80 percent of the gross sales receipts for food and beverages.

SAND AND GRAVEL MINING. A lot or part thereof used for the purpose of extracting stone, sand, gravel or topsoil for sale. Mining does not include the process of grading a lot preparatory to the construction of a building.

SAWMILL. A for-profit commercial establishment where logs are sawn, split, shaved, stripped, planed, or chipped or otherwise processed. A "sawmill" does not include the processing of timber for use on the same lot by the owner or resident of that lot.

SCENIC RESOURCE Any road, highway, lane, district or corridor designated pursuant to Article 49 of the New York State Environmental Conservation Law or any area designated a Scenic Area of Statewide Significance pursuant to New York State's Coastal Management Program (19 NYCRR 602.5).

SCHOOL. A facility, either public or private, that provides a curriculum of elementary and/or secondary academic instruction, including kindergartens, elementary schools, junior high schools, middle schools, and/or high schools.

SIGN Any letter, word, symbol, drawing, picture, design, device, article or object that advertises, calls attention to or indicates any premises, persons, products, businesses or activities, whatever the nature of the material and the manner of composition or construction. The term "sign" shall not include any flag, badge, or insignia of any governmental unit, nor shall it include any item of merchandise normally displayed within a window of a business. The term "sign" shall not include seasonal holiday decorations.

Agricultural Sign - A sign necessarily connected with an agricultural activity, such as the name of a farm, signs identifying specific plantings or seed types, or signs identifying a farm cooperative or an honor, such as "farm of distinction." The sign must be located on the premises that it identifies.

Awning Sign - Any visual message incorporated into an awning attached to a building.

Community Event Sign - A sign advertising an event of community interest.

Copy-Change Sign - A sign on which the visual message may be periodically changed, either manually or electronically. A sign that shows only the time and temperature shall not be construed to be a copy change sign.

Directional Sign - A sign whose message is exclusively limited to guiding the circulation of motorists or pedestrians on a site.

Entry Feature Sign A permanent, on-premises sign that identifies an entrance to a residential subdivision, residential complex or institutional use, or similar establishment.

Freestanding Sign A sign that is attached to, erected on, or supported by some structure (such as a pole, post, or mast) which is placed in or on the ground and which is independent from any building or other structure. A freestanding sign can be a pole sign or a post sign.

Ground Sign A type of sign, independent of a building, in which the entire bottom of the sign is generally in contact with the ground. Ground signs are generally mounted on some type of support, such as a masonry foundation or planter box.

Illuminated Sign Any sign illuminated by electricity, gas or other artificial light either from the interior or exterior of the sign.

Off-premises Sign A sign advertising a use, facility, service, good or product that is not located, sold or manufactured on the same premises as the sign.

On-premises Sign A sign advertising a use, facility, service, good or product that is located, sold or manufactured on the same premises as the sign.

Pole Sign A freestanding sign that is affixed, attached or erected on a pole that is not itself an integral part of or attached to a building or structure.

Post Sign A freestanding sign that is attached or erected on one or two posts or stakes, and that is not attached to a building or structure.

Portable Sign A sign, whether on its own trailer, wheels, or otherwise, designed to be movable and not structurally attached to the ground, a building, a structure or another sign.

Projecting Sign - A sign which is attached to the building wall or structure and which extends horizontally more than fifteen (15) inches from the plane of such wall, or a sign which is perpendicular to the face of such wall or structure.

Roof Sign A sign erected on a roof or a sign that projects above the highest point of the roofline, parapet or fascia of the building.

Snipe Sign An off-premises sign that is tacked, nailed, posted, pasted, glued or otherwise attached to trees, poles, stakes, fences or other objects. Signs placed by a public agency for a public purpose shall not be construed to be snipe signs.

Vehicle Sign A sign that is attached to or painted on a vehicle that is parked on, near, or adjacent to any property, the principal purpose of which is to attract attention to a product sold or business located on the property. A vehicle used for business purposes, and which is driven on a regular basis, that contains a business logo or sign shall not be construed to be a "vehicle sign."

Temporary Sign A sign intended to be displayed for a limited time period.

Wall Sign A sign which is painted on or attached to the outside wall of a building, with the face of the sign in the plane parallel to such wall, and not extending more than fifteen (15) inches from the face of such wall. A wall sign has only one sign face.

Window Sign A sign, visible from a sidewalk, street or other public place, painted or affixed on glass or other window material, or located inside within four feet of the window, but not including graphics in connection with customary window display of products.

SIGN AREA. The entire area within a single, continuous perimeter enclosing all elements which form an integral part of the sign, including any framing, trim or molding. The structure supporting a sign (sign structure) shall be excluded unless the structure is designed in a way to form an integral background for the display. Unless otherwise stated in this zoning Law, each face of a double faced sign can be constructed to the minimum size for sign area in this Law.

SIGN FACE See "sign area."

SPECIAL USE. Any use of land or buildings or both that require special approval from the Planning Board as described herein.

START OF CONSTRUCTION: The first placement of permanent construction of a structure (other than a mobile home) on a site, such as the pouring of slabs or footings or any work beyond the stage of excavation. Permanent construction does not include land preparation, such as

clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory building, such as garages or sheds not occupied as dwelling units or not as part of the main structure. For a structure (other than a mobile home) without a basement or poured footings, the "start of construction includes the first permanent framing or assembly of the structure or any part thereof on its piling or foundation. For mobile homes not within a mobile park or mobile home subdivision, "start of construction" means the affixing of the mobile home on its permanent site. For mobile homes within mobile home parks or mobile home subdivisions, "start of construction" is the date on which the construction of facilities for servicing the site on which the mobile home is to be affixed (including, at a minimum, the construction of streets, either final site grading or the pouring of concrete pads, and installation of utilities) is completed.

STORY. The portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above, then the space between the floor and the ceiling next above it.

STREET A public or private way which affords the principal means of access to abutting properties.

STRUCTURE. Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground.

SUBSTANTIAL IMPROVEMENT. Any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either

(1) before the improvement or repair is started; or

(2) if the structure has been damaged and is being restored, before the damage occurred.

For the purposes of this definition "substantial improvement" is considered to commence when the first alteration of any wall, ceiling, floor or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either:

(1) any project for improvement of a structure to comply with existing state or local building, fire, health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions; or

(2) any alteration of a structure or contributing structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

TELECOMMUNICATION TOWER. A structure on which one or more antenna(s) will be located, that is intended for transmitting and/or receiving radio, television, telephone, wireless or microwave communications for an FCC licensed carrier, but excluding those used exclusively for fire, police and other dispatch communications, or exclusively for private radio and television reception and private citizen's bands, amateur radio and other similar private, residential communications.

TELECOMMUNICATION ANTENNA. A system of electrical conductors that transmit or receive radio frequency waves.

TELECOMMUNICATIONS FACILITY. Any or all of the physical elements of the central cell facility that contains all the receivers, transmitters, and other apparatus needed for cellular or PCS (Personal Communication Services) operation (also known as base transceiver station or BTS).

TOWN BOARD. The Town Board of Mansfield, County of Cattaraugus, New York.

TOWNHOUSE. A single family dwelling unit, with a private entrance, which is part of a structure whose dwelling units are attached horizontally in a linear arrangement, and which has exposed front and rear walls to be used for access, light and ventilation. A townhouse occupies space from the ground to the roof and is attached to one or more other townhouse units by at least one common wall.

USE. The purpose for which land or a structure thereon is designed, arranged or intended, or for which it is occupied, maintained, let or leased.

VARIANCE, AREA. The authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations.

VARIANCE, USE. The authorization by the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.

VETERINARY CLINIC. A building or part thereof used by veterinarians primarily for the purposes of consultation, diagnosis and office treatment of household pets or livestock, but shall not include long-term boarding facilities for animals.

YARD. An unoccupied space, open to the sky, on the same lot with a building or structure.

YARD, FRONT. The yard, which extends across the full width of the lot, between the front lot line and the nearest part of a building or structure.

YARD, REAR. The yard, which extends across the full width of the lot, between the rear lot line and the closest part of the principal building.

YARD, SIDE. The yard, which extends from the front yard to the rear yard, between a side lot line and the nearest wall of the principal building on the lot. If there is no required front yard or rear yard, the side yard shall extend from the front lot line to the rear lot line.

YARD SALE The sale of personal property belonging to the occupants of the dwelling unit on whose premises the sale is conducted. See Article IX of this zoning Law.

ZONING MAP. The map or maps incorporated into this Law as a part hereof, designating zoning districts.

ZONING PERMIT. A permit issued by the Code Enforcement Officer, prior to the issuance of a building permit, which certifies that a proposed structure or use meets all the regulations of this zoning Law.

ARTICLE V GENERAL PROVISIONS

Section 5.1 Interpretation

(A) Uses Prohibited

Any use not specifically permitted in this zoning Law shall be deemed to be prohibited, and shall not be allowed except upon amendment to this Law.

(B) Minimum Requirements

The provisions of this Law shall be held to be the minimum requirements for the promotion of the public health, safety, morals and welfare.

(C) Relationship with other Laws

- (1) Where the conditions imposed by any provision of this Law upon the use of land or buildings, or upon the bulk of buildings are either more restrictive or less restrictive than comparable conditions imposed by any other provision of this Law or any other law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive, or which impose higher standard or requirement, shall govern.
- (2) Portions of this Law have been adopted in response to revisions to the National Flood Insurance Program effective October 1, 1986 and shall supersede all previous laws adopted for the purpose of establishing and maintaining eligibility for flood insurance.

(D) Effect on Existing Agreements

This Law is not intended to abrogate any easement, covenant or any other private agreement, provided that where the regulations of this Law are more restrictive, or impose higher standards or requirements, than such easements, covenants or other private agreements, the regulations of this Law shall govern.

Section 5.2 Application of Regulations

(A) Application

Except as hereinafter provided:

- (1) No structure or land shall hereafter be used or occupied and no structure or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified for the district in which it is located.

- (2) No building shall hereafter be erected or altered to exceed the height, to accommodate or house a greater number of families, to occupy a greater percentage of lot area, or to have narrower or smaller yards, specified herein for the district in which such a building is located.
- (3) No part of a yard or other open space about any building required for the purpose of complying with the provisions of this Law shall be included as a part of a yard or other space similarly required for another building.
- (4) No lot, yard, setback, parking area or other space shall be so reduced in area, dimension or capacity as to make said area, dimension or capacity less than the minimum required under this Law. If already less than the minimum required under this Law, said area, dimension or capacity shall not be further reduced.

(B) Responsibility

The final responsibility for the conforming of buildings, structures and uses to the requirements of this Law shall rest with the owner or owners of such buildings, structures or uses and the property on which they are located.

Section 5.3 Lot area and Dimension

(A) Contiguous Parcels

When two or more parcels of land, each of which lacks adequate area and dimension to qualify for a permitted use under the requirements of the use district in which they are located, are contiguous and are held in one ownership, they shall be used as one zoning lot for such use.

(B) Lots of Record

Any lot of record, which legally existed at the time of the initial adoption of the zoning Law for the Town of Mansfield, or which was legally created under the provisions of any zoning Law that was in effect at the time the lot was created, and which does not meet the requirements for minimum lot width and/or minimum lot size (area) of this zoning Law may be used for a permitted use, without first obtaining an area variance, provided that the minimum setback requirements are not less than 75 (seventy-five) percent of the minimum required dimensions and that maximum lot coverage provisions are not more than 75 (seventy-five) percent of the requirement.

Section 5.4 Access to Public Street

Except as otherwise provided for in this Law, every building shall be constructed or erected upon a lot or parcel of land which abuts upon an existing or plotted street, unless a permanent easement of access to a public street is of record.

ARTICLE VI ESTABLISHMENT OF DISTRICTS

Section 6.1 Districts

For the purpose and provisions of this Law, the Town of Mansfield hereby establishes the following zoning districts:

- C Conservation
- AR Agricultural-Residential
- R-1 Low Density Residential
- R-2 Recreation-Residential
- R-3 Community Residential
- R-4 High Density Residential

Section 6.2 Zoning Map

The locations and boundaries of the aforesaid zoning districts are hereby established on a scaled map, entitled "Town of Mansfield Zoning Map, which is kept on file in the Town Clerk's Office. This map is hereby made a part of this zoning Law and shall have the same force and effect as if the zoning map together with all notations, references and other information shown thereon were fully set forth and described herein.

Section 6.3 Interpretation of District Boundaries

- (A) Dimensions of zoning district boundary lines will be scaled from the Zoning Map and compared with ground distances between definite natural or man-made points, except where specific distances are indicated.
- (B) In the event uncertainty exists regarding the boundaries of any of the zoning districts, the question shall be referred to the Zoning Board of Appeals. Any interpretation of the district boundary lines by the Board of Appeals is final, and may only be altered by amendment to this zoning Law. The Board of Appeals shall consider the following rules in making its determination:
 - (1) The zoning district boundary lines for the Conservation District follow, in some locations, the identified boundary of the Areas of Special Flood Hazard, as delineated by the Federal Emergency Management Agency. Where uncertainty exists, the boundaries established on the Flood Insurance Rate Maps, enumerated on May Index No. 360085B 01-11 dated May 25, 1984, shall be consulted. (Note that man-made structures or natural changes affecting the watercourses may from time to time change the floodplain boundaries. If such changes occur, the Zoning Map should be reviewed and amended, if necessary.)

- (2) Where district boundaries are indicated as approximately following the centerlines or right-of-way lines of streets, highways, railroads, public utility easements, or watercourses, said boundaries shall be construed to be coincident with such lines.
- (3) Where district boundaries are indicated as approximately following the Town of Mansfield boundary line, lot lines, or the projections thereof, said boundaries shall be construed to be coincident with such lines or projections thereof.
- (4) Where district boundaries are indicated as approximately parallel to the Town of Mansfield boundary line, lot lines, right-of-way lines or projections thereof, said boundaries shall be construed to be parallel thereto.

ARTICLE VII

DISTRICT USE AND DIMENSIONAL REGULATIONS

Section 7.1 District Use Regulations

(A) Conservation District (C)

(1) Purpose

The purpose of the conservation district is to protect land that is generally considered to be unsuitable for intensive development because of natural features of the land. This land is primarily land that is located entirely within the Area of Special Flood Hazard, as mapped by the Federal Emergency Management Agency (FEMA). This land is not suitable for development because of the hazard due to potential flooding; however the land is suitable for agriculture and recreational activities that do not require permanent structures. This district also includes reforestation land owned by the State of New York, which is intended to be permanently undeveloped.

(2) Principal Permitted Uses

The principal permitted uses in the Conservation District are shown on Schedule A, District Land Use Regulations.

(3) Permitted Accessory Uses

Permitted accessory uses are those uses that would be customarily incidental to the principal permitted uses in the Conservation District.

(4) Special Permitted Uses

Special Permitted Uses in the Conservation District are shown on Schedule A, District Land Use Regulations. Special Permitted Uses require the issuance of a special use permit by the Town of Mansfield Planning Board.

(5) Dimensional Regulations

The height, setback, lot coverage, minimum lot size and other dimensional regulations are shown on Schedule B, Dimensional Regulations.

(B) Agricultural-Residential District (A-R)**(1) Purpose**

The purpose of the Agricultural-Residential District is to provide an opportunity for both agriculture and for single family residential development that occurs on large lots. Forestry and recreational activities are also encouraged in this district. Land Use activities in this district are intended to be compatible with the Town's Comprehensive Plan goal of retaining the rural character of Mansfield.

(2) Principal Permitted Uses

The principal permitted uses in the Agricultural-Residential District are shown on Schedule A, District Land Use Regulations.

(3) Permitted Accessory Uses

Permitted accessory uses are those uses that would be customarily incidental to the principal permitted uses in the Agricultural-Residential District. These accessory uses include, but are not limited to, private garages, swimming pools and tennis courts for the use of the occupants of a lot and similar facilities.

(4) Special Permitted Uses

Special Permitted Uses in the Agricultural-Residential District are shown on Schedule A, District Land Use Regulations. Special Permitted Uses require the issuance of a special use permit by the Town of Mansfield Planning Board.

(5) Dimensional Regulations

The height, setback, lot coverage, minimum lot size and other dimensional regulations are shown on Schedule B, Dimensional Regulations.

(C) Low Density Residential District (R-1)**(1) Purpose**

The purpose of the Low Density Residential District is to provide an opportunity for moderate density residential development.

(2) Principal Permitted Uses

The principal permitted uses in the Low Density Residential District are shown on Schedule A, District Land Use Regulations.

(3) Permitted Accessory Uses

Permitted accessory uses are those uses that would be customarily incidental to the principal permitted uses in the Low Density Residential District. These accessory uses include, but are not limited to, private garages, swimming pools and tennis courts for the use of the occupants of a lot and similar facilities.

(4) Special Permitted Uses

Special Permitted Uses in the Low Density Residential District are shown on Schedule A, District Land Use Regulations. Special Permitted Uses require the issuance of a special use permit by the Town of Mansfield Planning Board.

(5) Dimensional Regulations

The height, setback, lot coverage, minimum lot size and other dimensional regulations are shown on Schedule B, Dimensional Regulations.

(D) Recreation Residential District (R-2)

(1) Purpose

The purpose of the Recreation Residential District is to provide an opportunity for residential development on relatively small lots.

(2) Principal Permitted Uses

The principal permitted uses in the Recreation Residential District are shown on Schedule A, District Land Use Regulations.

(3) Permitted Accessory Uses

Permitted accessory uses are those uses that would be customarily incidental to the principal permitted uses in the Recreation Residential District. These accessory uses include, but are not limited to, private garages, swimming pools and tennis courts for the use of the occupants of a lot and similar facilities.

(4) Special Permitted Uses

Special Permitted Uses in the Recreation Residential District are shown on Schedule A, District Land Use Regulations. Special Permitted Uses require the issuance of a special use permit by the Town of Mansfield Planning Board.

(5) Dimensional Regulations

The height, setback, lot coverage, minimum lot size and other dimensional regulations are shown on Schedule B, Dimensional Regulations.

(E) Community Residential District (R-3)

(1) Purpose

The purpose of the Community Residential District is to provide an opportunity for residential development on relatively small lots and to accommodate the historical development pattern that has occurred in these hamlet areas.

(2) Principal Permitted Uses

The principal permitted uses in the Community Residential District are shown on Schedule A, District Land Use Regulations.

(3) Permitted Accessory Uses

Permitted accessory uses are those uses that would be customarily incidental to the principal permitted uses in the Community Residential District. These accessory uses include, but are not limited to, private garages, swimming pools and tennis courts for the use of the occupants of a lot and similar facilities.

(4) Special Permitted Uses

Special Permitted Uses in the Community Residential District are shown on Schedule A, District Land Use Regulations. Special Permitted Uses require the issuance of a special use permit by the Town of Mansfield Planning Board.

(5) Dimensional Regulations

The height, setback, lot coverage, minimum lot size and other dimensional regulations are shown on Schedule B, Dimensional Regulations.

(F) High Density Residential District (R-4)

(1) Purpose

The purpose of the High Density Residential District is to accommodate single family homes on relatively small lots, while at the same time providing an opportunity for high density, multiple family and townhouse development.

(2) Principal Permitted Uses

The principal permitted uses in the High Density Residential District are shown on Schedule A, District Land Use Regulations.

(3) Permitted Accessory Uses

Permitted accessory uses are those uses that would be customarily incidental to the principal permitted uses in the High Density Residential District. These accessory uses include, but are not limited to, private garages, swimming pools and tennis courts for the use of the occupants of a lot and similar facilities.

(4) Special Permitted Uses

Special Permitted Uses in the High Density Residential District are shown on Schedule A, District Land Use Regulations. Special Permitted Uses require the issuance of a special use permit by the Town of Mansfield Planning Board.

(5) Dimensional Regulations

The height, setback, lot coverage, minimum lot size and other dimensional regulations are shown on Schedule B, Dimensional Regulations.

Section 7.2 Schedule A: District Use Regulation

	C Conservation District	A-R Agricultural-Residential District	R-1 Low Density Residential District	R-2 Recreation Residential District	R-3 Community Residential District	R-4 High Density Residential District
Permitted Uses	Agriculture Forestry Parks	Agriculture Forestry Single Family Dwellings Two Family Dwellings Manufactured Homes Parks	Agriculture Forestry Single Family Dwellings Two Family Dwellings Manufactured Homes Parks	Agriculture Forestry Single Family Dwellings Two Family Dwellings Manufactured Homes Parks	Agriculture Forestry Single Family Dwellings Two Family Dwellings Manufactured Homes Parks	Single Family Dwellings Two Family Dwellings Parks
Special Permitted Uses	Public Utility Facilities Sand & Gravel Mining	Public Utility Facilities Civic Facilities Greenhouses Cemeteries Home Occupations Nursing Homes Medical Clinics Nursery Schools Child Care Facilities Multiple Family Dwellings Manufactured Home Parks Commercial Recreation Campgrounds Farm Stands Bed and Breakfast Establishments Sawmills Sand & Gravel Mining Junkyards Commercial Establishment Schools, Public and Private Places of Worship Libraries Museums Non-profit Organizations Telecommunications Facilities Professional Offices Adult Entertainment Uses Gun Clubs Automobile sales establishments Automobile Repair Shops Automobile Body Shop Restaurants Veterinary Clinics Agricultural Processing Kennels Funeral home Motel/Hotel	Public Utility Facilities Civic Facilities Home Occupations Bed and Breakfast Establishments Nursing Homes Medical Clinics Nursery Schools Child Care Facilities Commercial Recreation Commercial Establishment Professional Offices Schools, Public and Private Places of Worship Libraries Museums Non-profit Organizations Automobile sales establishments Automobile Repair shops Automobile Body Shop Restaurants	Public Utility Facilities Civic Facilities Home Occupations Bed and Breakfast Establishments Nursing Homes Nursery Schools Child Care Facilities Commercial Recreation Planned Unit Development Schools, Public and Private Places of Worship Libraries Museums Non-profit Organizations Automobile sales establishments Automobile Repair shops Automobile Body Shop Restaurants	Public Utility Facilities Civic Facilities Home Occupations Bed and Breakfast Establishments Nursery Schools Child Care Facilities Farm Stands Commercial Establishments Cemeteries Schools, Public and Private Places of Worship Libraries Museums Non-profit Organizations Restaurants	Public Utility Facilities Civic Facilities Home Occupations Nursery Schools Child Care Facilities Multiple Family Dwellings Townhouses Schools, Public and Private Places of Worship Libraries Museums Non-profit Organizations Restaurants Planned Unit Developments

Section 7.3 Schedule B: Table of Dimensional Regulations

District	Minimum Lot Area	Minimum Lot Width	Minimum Setbacks			Maximum Building Height	Maximum Lot Coverage
			Front	Side	Rear		
C Conservation	No Development on Private Property						
A-R Agricultural-Residential	3 Acres	200 feet	50 feet	15 feet	35 ft. Principal Structure 20 ft. Accessory Structure	35 ft. **	35%
R-1 Low Density Residential	2 Acres	150 feet	50 feet	15 feet	35 ft. Principal Structure 20 ft. Accessory Structure	35 ft **	35%
R-2 Recreation Residential	1 Acre *	100 feet	50 feet	15 feet	35 ft. Principal Structure 20 ft. Accessory Structure	35 ft. **	35%
R-3 Community Residential	1 Acre *	100 feet	35 feet	15 feet	25 ft. Principal Structure 15 ft. Accessory Structure	35 ft. **	35%
R-4 High Density Residential	1 Acre *	100 feet	25 feet	15 feet	25 ft. Principal Structure 15 ft. Accessory Structure	35 ft. **	40%

* Cattaraugus County Health Department may require a larger minimum lot size to accommodate individual sewage disposal and water supply systems

** Agricultural storage facilities are exempted from the height limit. See Section 7.4B. Also see Section 9.13F for height of telecommunications towers.

Section 7.2 Schedule A: District Use Regulation

	C Conservation District	A-R Agricultural-Residential District	R-1 Low Density Residential District	R-2 Recreation Residential District	R-3 Community Residential District	R-4 High Density Residential District
Permitted Uses	Agriculture Forestry Parks	Agriculture Forestry Single Family Dwellings Two Family Dwellings Manufactured Homes Parks	Agriculture Forestry Single Family Dwellings Two Family Dwellings Manufactured Homes Parks	Agriculture Forestry Single Family Dwellings Two Family Dwellings Manufactured Homes Parks	Agriculture Forestry Single Family Dwellings Two Family Dwellings Manufactured Homes Parks	Single Family Dwellings Two Family Dwellings Parks
Special Permitted Uses	Public Utility Facilities Sand & Gravel Mining	Public Utility Facilities Civic Facilities Greenhouses Cemeteries Home Occupations Nursing Homes Medical Clinics Nursery Schools Child Care Facilities Multiple Family Dwellings Manufactured Home Parks Commercial Recreation Campgrounds Farm Stands Bed and Breakfast Establishments Sawmills Sand & Gravel Mining Junkyards Commercial Establishment Schools, Public and Private Places of Worship Libraries Museums Non-profit Organizations Telecommunications Facilities Professional Offices Adult Entertainment Uses Gun Clubs Automobile sales establishments Automobile Repair Shops Automobile Body Shop Restaurants Veterinary Clinics Agricultural Processing Kennels Funeral home Motel/Hotel	Public Utility Facilities Civic Facilities Home Occupations Bed and Breakfast Establishments Nursing Homes Medical Clinics Nursery Schools Child Care Facilities Commercial Recreation Commercial Establishment Professional Offices Schools, Public and Private Places of Worship Libraries Museums Non-profit Organizations Automobile sales establishments Automobile Repair shops Automobile Body Shop Restaurants	Public Utility Facilities Civic Facilities Home Occupations Bed and Breakfast Establishments Nursing Homes Nursery Schools Child Care Facilities Commercial Recreation Planned Unit Development Schools, Public and Private Places of Worship Libraries Museums Non-profit Organizations Automobile sales establishments Automobile Repair shops Automobile Body Shop Restaurants	Public Utility Facilities Civic Facilities Home Occupations Bed and Breakfast Establishments Nursery Schools Child Care Facilities Farm Stands Commercial Establishments Cemeteries Schools, Public and Private Places of Worship Libraries Museums Non-profit Organizations Restaurants	Public Utility Facilities Civic Facilities Home Occupations Nursery Schools Child Care Facilities Multiple Family Dwellings Townhouses Schools, Public and Private Places of Worship Libraries Museums Non-profit Organizations Restaurants Planned Unit Developments

Section 7.4 Dimensional Regulations

A. Table of Dimensional Regulations

Schedule B Table of Dimensional Regulations, contains the minimum lot size, minimum frontage, minimum lot depth, minimum setback requirements, maximum building height and minimum open area requirements for each land use district. This table is hereby declared to be an integral part of this zoning law.

B. Exceptions to Height Regulations

The height limitations contained in the Schedule of District Regulations do not apply to spires, belfries, cupolas, antennas, water tanks, ventilators, chimneys, barns, silos, grain elevators, or any appurtenances usually required to be placed above the roof level and not intended for human occupancy.

C. Reduction in Residential District Minimum Lot Requirements

Minimum lot area requirements in the Residential District may be reduced by 25% if either an approved public sewage treatment system or an approved public water supply system is provided, and by 50% if both approved system are provided. If both are provided, yard dimensions may be decreased by 20%.

D. Accessory Buildings

Accessory buildings may be permitted in all zoning districts except the Conservation District, provided that:

1. The maximum lot coverage provisions are not exceeded
2. The accessory buildings are not located within the required yard setbacks, and
3. They are not erected within five feet of any other building.

E. Required Yard Setbacks to be Open

Where setbacks are required in this law, the yard area within the setbacks shall be construed as permanently maintained open spaces. They shall not be less in depth, or width, or area than the minimum specified, and they shall be, at every point, open and unobstructed from the ground to the sky, except as specifically allowed in these regulations.

F. Minimum Floor Area

All single-family homes, including mobile homes and manufactured homes, shall contain a minimum of 800 square feet of interior gross floor area. The total floor area of all floors of a multi-story residence may be used to meet the minimum requirement.

G. Corner lots

On corner lots, no fence, wall, hedge or other structure or planting interfering with visibility from motor vehicles shall be erected, placed, maintained, continued or permitted within the triangular area formed by the intersecting street lines on such lots and a line drawn between two points thirty feet distant from the intersection, measured along said street lines.

H. Density of Townhouse Development

Where permitted in Schedule A, townhouses and other types of attached single family homes may be constructed at a density not to exceed seven (7) units per acre. Such developments shall comply with the provisions of Section 9.10 of this zoning Law, and with all other applicable standards and regulations.

ARTICLE VIII

NON-CONFORMING BUILDINGS AND USES

Section 8.1 Continuance of Use

- (A) Except as otherwise provided herein, any lawfully established use of a building or land, existing at the time of the enactment of this Law or amendments thereto, may be continued, even though such use does not conform with the provisions of this Law.
- (B) Whenever the boundaries of a zoning district shall be changed so as to transfer an area from one district to another district of a different classification, the provisions of this Section shall also apply to any non-conforming uses that are created by such change in district boundaries.

Section 8.2 Discontinuance of Use

- (A) Whenever any building, structure or land, or part thereof, that is occupied by or is being used as a non-conforming use is changed to or replaced by a use conforming to the provisions of this Law, such premises shall not thereafter be used or occupied by a non-conforming use.
- (B) Whenever a non-conforming use of a building or structure, or part thereof, has been discontinued, as evidenced by vacancy, for a period of six consecutive months, or whenever there is evidence a clear intent on the part of the owner to abandon a non-conforming use, such use shall not, after being discontinued or abandoned, be re-established, and the use of the premises thereafter shall be in conformity with the regulations of the district in which it is located.
- (C) Where no enclosed building is involved, voluntary discontinuance of a non-conforming use for a period of six months shall constitute abandonment, and the property shall not thereafter be used in a non-conforming manner.

Section 8.3 Maintenance, Repairs and Alterations

Normal maintenance and repairs of a non-conforming building or structure are permitted. However, unless changed to a conforming use, such building or structure may not be reconstructed or structurally altered, during its life, to an extent exceeding in aggregate cost more than fifty (50) percent of the market value of the building or structure. (Market value shall be determined by dividing the assessed value by the equalization rate).

Section 8.4 Extension

- (A) A building or structure, which is non-conforming with respect to height and/or setbacks, shall not be enlarged or altered in such manner as to increase any such non-conformity.
- (B) A non-conforming use of land shall not be enlarged or extended to additional land.

Section 8.5 Restoration

- (A) No non-conforming building or structure, which has been damaged by fire, flood or other causes to the extent of more than seventy five (75) percent of its market value (determined by dividing the assessed value by the equalization rate), shall be repaired or rebuilt, except in conformity with the regulations of this zoning Law.
- (B) All damaged buildings or structures must be repaired or razed within a period of twelve months from the date that the damage occurred.

ARTICLE IX SUPPLEMENTARY REGULATIONS

Section 9.1 Application

In addition to all other requirements set forth in this Law, the following supplementary regulations shall apply, as herein specified, in all districts created by this Law, and any subsequent amendments hereto.

Section 9.2 Junkyards

Where Permitted in Section 7.2 of this Law, all junkyards shall conform to the regulations set forth in the Town of Mansfield Ordinance No. 1-1979, An ordinance licensing and regulating junk yards and dealers in secondhand junk and auto parts activities and businesses, as may be amended from time to time.

Section 9.3 Signs

(A) Purpose

The purpose of these sign regulations is to encourage the effective use of signs as a means of communication in the Town of Mansfield, to maintain and enhance the aesthetic environment, to maintain and enhance the Town's ability to attract sources of economic development and growth, to improve pedestrian and traffic safety, and to minimize the possible adverse effect of signs on nearby public and private property.

(B) Permit Required

Except as hereinafter provided, no person shall erect, alter, construct, relocate or cause to be erected, altered, constructed or relocated any sign without first having obtained a Sign Permit issued by the Building Inspector.

(C) Exempt Signs

The following signs shall be allowed in all zoning districts without first obtaining a sign permit, provided they meet the general requirements, standards, and regulations of this local Law.

- (1) Any sign posted by duly constituted public authorities in the performance of their public duties.
- (2) Public road and highway signs.

- (3) Real estate signs, not exceeding six (6) square feet in area and advertising the sale, rental or lease of the premises on which the sign is located. Only one such sign shall be permitted for each street frontage and it shall not be illuminated. All such signs shall be removed within 48 hours after the sale, lease or rental of the premises.
- (4) Historical markers, tablets and statues, memorial signs and plaques; names of buildings and dates of erection when cut into any masonry surface or when constructed of bronze, stainless steel, or similar material; and emblems installed by governmental agencies, religious or nonprofit organizations, not exceeding six (6) square feet.
- (5) Flags and insignia of any government, except when displayed in connection with commercial promotion.
- (6) On-premise directional signs for the convenience of the general public, identifying public parking areas, entrances and exits, fire lanes and no parking zones, and similar site features. On-premise directional signs shall not exceed four (4) square feet per face and six (6) feet in height. Business and personal names shall be allowed on the directional signs, but no advertising messages shall be allowed. On-premise directional signs may be internally illuminated or non-illuminated.
- (7) Non-illuminated warning, private drive, posted or no trespassing signs, not exceeding two (2) square feet per face.
- (8) Agricultural signs not exceeding four (4) square feet.
- (9) One on-premise sign, either freestanding or attached to the building wall, in connection with any residential building in any zoning district, for a permitted professional office, home occupation, or Bed and Breakfast Establishment, provided that the sign not exceed six (6) square feet per sign face. The sign shall be set back a minimum of ten (10) feet from the highway right-of-way line. If illuminated, illumination shall not produce a direct glare beyond the limits of the property line.
- (10) For a residence, one sign indicating the name and address of the occupant of the premises, not to exceed two (2) square feet per sign face. Such sign shall not project above a roofline. It may be mounted on the building wall or be freestanding. Such address sign shall not be permitted if the premises contains a sign for a professional office, home occupation, or Bed and Breakfast Establishment. If illuminated, illumination shall not produce a direct glare beyond the limits of the property line. The sign shall be set back a minimum of fifteen (15) feet from the highway right-of-way line or forty (40) feet from the centerline of the road, whichever is farther.
- (11) Temporary signs, such as signs for political candidates and yard sale signs, whether for commercial, political or private purposes, shall be permitted, subject to the following conditions:
 - (a) No such sign shall exceed thirty-two (32) square feet in area, per sign face.

- (b) No such sign shall obstruct traffic or interfere with the line of sight of persons and vehicles using public streets.
 - (c) Such sign shall not be in place for more than 30 days before the event which is being advertised, and shall be removed within 48 hours after the event being advertised is completed.
 - (d) Such signs shall not be located in the public right-of-way or on other public property.
 - (e) The name and address of the sponsor and the person responsible for removal are identified.
- (12) A place of worship, school, community building or other public building shall be permitted one sign on the premises on which such building is located, provided that the area of such sign does not exceed 15 square feet, and such signs are set back a minimum of 10 feet from the right-of-way line. The sign may contain a bulletin board.
- (13) For new construction or renovation, one sign, not exceeding 32 square feet in area, indicating the project name and the names of the architect, builders, contractor, bank, engineer, participating public and governmental agencies, and similar involved entities, may be erected for a period of 60 days prior to the commencement of construction, plus the construction period. Such sign shall be removed within 30 days of the completion of the construction project.
- (14) Entry Feature Signs: One permanent identification sign may be allowed at the entrance to a permitted subdivision, a residential complex, or an institutional use, provided that the sign does not exceed thirty-two (32) square feet in area and four (4) feet in height. Such sign shall indicate only the name and address of the facility.
- (15) For a multiple-family building, one sign, not to exceed thirty-two (32) square feet in area, maybe used to indicate the name of the development. In addition, temporary "for rent" signs advertising the availability of apartments may be posted. Such "for rent" signs shall not exceed six square feet in area and shall conform to all other requirements for real estate signs, above.
- (16) Signs necessary for the identification, operation or production of a public utility may be erected on the premises of such public utility. Such signs shall conform to the requirements of the district in which the facility is located. Signs in residential districts may not exceed six (6) square feet in area; signs in commercial or industrial districts may not exceed thirty two (32) square feet in area.
- (17) One sign for a Farm Stand, as permitted in this zoning Law, provided that such sign does not exceed 32 square feet per sign face and that the sign is set back at least ten (10) feet from the public right-of-way line.
- (18) Christmas holiday decorations, including lighting, are exempt from the provisions of this Law.

- (19) "Posted" signs, that are displayed in accordance with NYS Department of Environmental Conservation Regulations.

(D) Sign Permit Application Procedure

- (1) Application for a sign permit shall be made in writing on forms provided by the Town of Mansfield. The applicant shall submit two copies of all application materials. The application shall include the following information:
- (a) Name, address and telephone number of the applicant.
 - (b) Name, address and telephone number of the owner of the property, if different than the applicant.
 - (c) Location of the building, structure or land upon which the sign now exists or is to be erected.
 - (d) If a new sign is to be erected, to scale elevation and plan drawings of the proposed shall be provided. This shall include a full description of the placement of the proposed sign, showing its location on the premises, specifically in relation to buildings, structures and property lines.
 - (e) The appearance of the proposed sign should be described. The description should include the colors and materials of the sign; the graphic design, including symbols and letters; the text, copy and/or content of the sign; and the dimensions of the sign, including the area of the sign face and the height of the sign.
 - (f) The method of illumination, if any, and the position of lighting or other extraneous devices, and a copy of the electrical permit related to the electrical connections.
 - (g) Written consent of the owner, or a copy of the contract made with the owner of the property upon which the sign is to be erected, if the applicant is not the owner.
 - (h) The required application fee, if any.
- (2) The Building Inspector shall make a determination on the application for sign permit within 30 days of receipt of a complete application. If the Building Inspector determines that he can issue a sign permit, pursuant to Section 9.3(E) of this Law and further determines that the sign meets all criteria for issuance of the permit, he shall issue the sign permit. If the Building Inspector determines that the proposed sign does not conform to the standards in Section 9.3(E)(1) or Section 9.3(E)(2), the Building Inspector shall refer the application for a sign permit to the Planning Board. The Planning Board shall consider the application within 60 days of receipt of a complete

application.

(E) Issuance of Sign Permit By Building Inspector

- (1) The Building Inspector is hereby authorized to issue a Sign Permit for a freestanding sign or a ground sign, provided the sign conforms to all of the following standards:
 - (a) The sign face does not exceed 12 square feet on each side.
 - (b) The sign does not have more than two sign faces
 - (c) The sign does not contain more than three colors
 - (d) The sign shall be set back a minimum of fifteen (15) feet from the highway right-of-way line or forty (40) feet from the centerline of the road, whichever is farther.
 - (e) There is a minimum of eight feet from the ground to the bottom of the sign. Since ground signs are located on the ground, these types of signs are exempt from this provision.
 - (f) The sign is not internally illuminated.
 - (g) There is not more than one freestanding or ground sign per lot.
- (2) The Building Inspector is hereby authorized to issue a Sign Permit for a wall sign, provided the sign conforms to all of the following standards:
 - (a) The sign face does not exceed 12 square feet.
 - (b) The sign does not contain more than three colors
 - (c) The structure on which the sign is located is set back a minimum of 60 feet from the centerline of the road on which the property is located.
 - (d) The sign is not internally illuminated
 - (e) There is not more than one sign face.
 - (f) The wall sign does not cover, wholly or partially, any window, door, fire escape, or other wall opening.
 - (g) The wall sign does not project beyond the ends or roof of the building. The wall sign is not located on the roof. The wall sign does not project more than one foot from the wall on which it is mounted.

(F) Sign Permits Reviewed by the Planning Board

- (1) Following due consideration, the Planning Board may authorize the Building Inspector to issue a sign permit for the following:
- (2) Freestanding and Ground signs where sign face exceeds 12 square feet on each side, but does not exceed 96 square feet per side, and Freestanding and Ground signs that exceed one or more of the other provisions of Section 9.3(E)(1).
- (3) Wall signs where sign face exceeds 12 square feet in area, but does not exceed 96 square feet, and Wall signs that exceed one or more of the other provisions of Section 9.3(E)(2).
- (4) Projecting Signs. In its review of projecting signs, the Planning Board shall ensure that the sign conforms to the following criteria:
 - (a) No part of a projecting sign shall extend into vehicular traffic areas.
 - (b) Projecting signs shall not extend above the bottom of the second floor of the buildings to which they are attached, or in any case, be higher than twelve (12) feet from the ground to the top of the sign.
 - (c) Projecting signs shall have a minimum clearance for pedestrians of eight (8) feet from the bottom of the sign to the ground.
 - (d) Projecting signs shall have a maximum of two faces and shall have a maximum size of twenty (20) square feet per face.
 - (e) If illuminated, the illumination shall be concentrated upon the area of the sign so as to prevent glare upon the street or adjacent property.
- (5) Awnings. In its review of awning signs, the Planning Board shall ensure that the sign conforms to the following criteria:
 - (a) No sign shall project from an awning.
 - (b) Graphics (lettering and images) may be painted or permanently affixed to the surface of the front and/or sides of the awning.
 - (c) A minimum of eight (8) feet between the bottom of the sign and the ground level (sidewalk) shall be allowed for pedestrian clearance.
 - (d) The sign area of an awning sign shall be determined by drawing an imaginary rectangle that encompasses the entire lettering, graphics and images. The area within this rectangle is the sign face area. Awning sign face area shall not exceed 96 square feet, measured cumulatively over all the sign area on all awnings on a structure.
- (6) Window Signs. The Planning Board may approve window signs that do not occupy more than 15 percent of the area of the window. However, if window signs are proposed, the Planning Board shall evaluate the entire proposed and existing signage of the site and determine the appropriate amount of signage that is necessary to call

attention to the land use occupying the site.

(G) Temporary Signs

A new business enterprise, or a business in a new location, which is awaiting erection of permanent signs, may install temporary signs, not exceeding 32 square feet in area, for a period not to exceed 60 days, or until the installation of the permanent sign, whichever occurs first. Such temporary signs shall meet all construction standards for signs in the Town. The business owner shall obtain a sign permit for the temporary sign from the Building Inspector.

(H) Community Event Signs

Upon approval by the Town Board, temporary signs not exceeding 50 square feet, which announce an event of community interest, excluding political election signs, may be erected no more than thirty (30) days before the event and must be removed within 48 hours of the completion of the event.

(I) General Standards For Signs

All signs erected within the Town of Mansfield shall conform to the following standards:

- (1) A sign, except signs erected by a governmental entity for a public purpose, shall not be attached directly or indirectly to any public light standard, traffic control structure, utility pole, or tree.
- (2) No sign, except signs erected by a governmental entity for a public purpose, shall be placed on public property.
- (3) No sign shall be placed in or project into any street right-of-way.
- (4) Signs shall not be mounted on roofs or extend above the roofline, unless mounted on a parapet wall that extends above the roofline, in which case the sign may not extend above the top of said parapet.
- (5) Double-faced signs shall be constructed so that the perimeter of both faces coincide and are parallel and are not more than 24 inches apart.
- (6) Freestanding signs, other than ground signs, shall not exceed 20 feet in height. Ground signs shall not exceed four (4) feet in height, and shall be placed so as not to impair visibility for motorists.
- (7) If more than one business is located on a property, the signage shall be coordinated between the businesses. Only one freestanding sign shall be allowed per lot, and all businesses shall share the available sign face area.

- (8) No sign shall be illuminated by or contain flashing, intermittent, rotating or moving lights, except to show time and temperature.
- (9) No sign may rotate or have motorized moving parts.
- (10) No sign or part thereof shall contain or consist of banners, posters, pennants, ribbons, streamers, or other similar moving, fluttering or revolving devices. The said devices, as well as strings of lights, shall not be used for the purposes of advertising or attracting attention when not part of a sign.
- (11) No sign erected or maintained in the window of a building, visible from any public or private street or highway, shall occupy more than 15% of the area of said window.
- (12) No sign shall impair or cause confusion of vehicular or pedestrian traffic in its design, color or placement. No sign shall impair visibility for the motorist at a street corner or intersection.
- (13) No sign shall be a hazard or a threat to the health, safety or welfare of the residents of the Town of Mansfield or to any visitors to the Town.

(J) Illumination Standards

- (1) No sign shall contain strobe lights or black lights. No sign shall be illuminated by strobe lights or black lights
- (2) No sign shall be designed or illuminated in such a way that it affects traffic safety.
- (3) Any illuminated sign or lighting device shall employ only lights emitting a light of constant intensity. No sign shall be illuminated by or contain flashing, intermittent, rotating, or moving light or lights.
- (4) In no event shall an illuminated sign or lighting device be so placed or directed so as to permit the beam and illumination therefrom to be directed or beamed upon a public street, highway, sidewalk or adjacent premises so as to cause glare or reflection that may constitute a traffic hazard or nuisance.

(K) Prohibited Signs

All signs not expressly permitted under this zoning Law or expressly exempt from regulation herein are prohibited. Such signs include, but are not limited to:

- (1) Off-premises signs
- (2) Roof signs
- (3) Inflatable signs or tethered balloons

- (4) Snipe signs
- (5) Vehicle signs
- (6) No portable or temporary sign shall be placed on any premises, except as permitted in Section 9.4(G)

(L) Signs approved by Site Plan Review

When the Town of Mansfield Planning Board considers signage as part of an application for Site Plan Review, those signs shall be considered approved when the Site Plan application is approved. However, the applicant will need to obtain a sign permit from the Building Inspector for any such signs, prior to construction or installation of the signs.

During the site plan review process, the Planning Board shall use the criteria in this Section to evaluate any proposed signs. In addition, where more than one sign is proposed, the Planning Board shall ensure that there is a coordinated plan for the location and size of all signs for the entire project area. The Planning Board shall ensure that all signs are architecturally integrated with their surroundings in terms of size, shape, color, texture, and lighting, and that they are complementary to the overall design of the building(s) and entire site.

(M) Replacement

In the event that a sign, which has been lawfully erected prior to the effective date of this Law, does not conform to the provisions and standards of this Law, the sign may remain, pursuant to Article VIII. However, any sign that replaces a sign that is in existence at the time of adoption of this Law, shall conform to all provisions herein.

(N) Removal of Obsolete Signs

If the business or activity, which a sign advertises, either moves or ceases operation, the sign(s) associated with that business or activity shall be removed within 30 days of the last day of operation at that location.

(O) Maintenance

- (1) A sign shall be maintained in a secure and safe condition. If the Building Inspector determines that a sign is not secure, safe or in good repair, written notice of this deficiency shall be given to the owner of record. If the defect is not corrected within the time period specified in the notice, the Building Inspector may revoke the sign permit and/or pursue other enforcement actions, including removing or repairing the sign and assessing the owner for all costs incurred for such service.
- (2) The Building Inspector may cause any sign which is a source of immediate peril to persons or property to be removed immediately and without notice.

- (3) The NYS Building Code may provide other remedies.

(P) Construction Standards

- (1) All signs installed after the effective date of this Law shall have attached to the sign, a name plate giving the sign permit number and the name and address of the owner, person or corporation responsible for the general requirements and maintenance as outlined in this Law.
- (2) All internally illuminated signs shall be constructed in conformance with the current Standards of Underwriters Laboratories, Inc., and certification to that effect shall be provided to the Building Inspector prior to the issuance of a Sign Permit.
- (3) All wiring to free-standing signs shall be underground.
- (4) All signs, including wall-mounted and projecting signs, shall be securely anchored and shall not swing or move in any manner.
- (5) All signs, sign finishes, supports and electric work shall be kept clean, neatly painted, and free from all hazards, such as, but not limited to, faulty wiring, and loose supports, braces, guys and anchors.
- (6) All signs shall be painted and/or fabricated in accordance with generally accepted standards.
- (7) All signs shall conform to the standards of the NYS Building Code that are in effect at the time the Sign Permit is issued.

Section 9.4 Off-Street Parking and Loading Requirements

(A) In all districts in connection with every residential, commercial, industrial, institutional or other use, at any time any building or structure is erected, enlarged or increased in capacity, or when there is a change of use, off-street parking spaces for vehicles shall be provided in accordance with the following requirements. These are minimum requirements; the Planning Board may require additional parking in some cases where the proposed use warrants more parking.

<u>USE</u>	<u>PARKING SPACES REQUIRED</u>
Single Family Dwelling	2 spaces per dwelling unit
Two-family Dwelling	2 spaces per dwelling unit
Multiple Family Dwellings	1.5 spaces per one-bedroom unit 2 spaces per two-bedroom unit 2.5 spaces per three-bedroom unit or greater PLUS one extra space for guest parking for every four units.
Motel/hotel	1 space per guest room, plus 1 space for every 3 employees
Bed and Breakfast Est.	1 space for every guest room, plus 2 spaces for the single-family dwelling
Places of Worship, Theaters, Restaurants,	1 space for every four seats
Places of Assembly	1 space for each 4 persons allowed under the maximum occupancy load
Bowling Alley	4 spaces for each lane
Golf Course	4 spaces for each hole
Swimming pool (for public or member use)	1 space for every 50 sq. ft. of water area
Nursing Home	1 space for every three beds plus one for each two employees on the maximum working shift
Funeral home	1 space for each 75 square feet of floor area in parlors and assembly areas
Nursery School/Child Care Facilities	1 space per employee, plus 2 additional spaces
Professional offices/retail/ Commercial establishments	1 space for every 300 square feet of gross floor area
Other Uses not specified	As may be determined by the Planning Board

(B) General Requirements for Off-Street Parking

- (1) All areas devoted to off-street parking shall be so designed that no automobile is required to back into a street to obtain egress. This provision does not apply to the parking areas serving single-family and two-family dwellings.
- (2) A parking space shall be a minimum of 9 feet wide by 18 feet long, exclusive of parking aisles and driveways, shall be a visibly designated and marked space, and shall be of usable shape and surface. For single-family and two-family dwellings, a driveway may be considered a suitable parking area, and the parking spaces do not need to be marked.

(C) Calculation of Required Parking Spaces

- (1) In the case of a combination of uses, the total requirements for off-street parking spaces shall be the sum of the requirements for the various uses, unless it can be proven that staggered hours of use would permit shared use of parking areas or other modifications warrant a lesser number of off-street parking spaces.
- (2) Whenever a major fraction (more than one-half) of a space is required, a full space shall be provided.

(D) Parking Lots

All parking lots shall meet the following requirements:

- (1) Adequate access shall be provided to all parking spaces. Where a lot does not abut onto a private or public street or access drive, a driveway of not less than 18 feet in width leading to the parking area shall be required. Within the parking lot, the driveway aisles shall be a minimum of 24 feet wide.
- (2) Any lighting that illuminates off-street parking lots, parking areas and driveways shall be located and arranged so that all direct rays of light fall upon the parking area only and not onto any adjoining properties.
- (3) If a parking lot abuts a property in residential use, adequate shielding shall be provided to ensure that the adjacent residents are protected from glare from lighting and from car headlights. In addition, the parking lot shall be set back a minimum of 6 feet from the residential lot line, and this setback shall be landscaped.
- (4) For parking lots providing spaces for more than five automobiles, a minimum four foot wide landscaped buffer strip shall be provided between the public right-of-way and the parking lot.
- (5) To the maximum extent feasible, parking lots shall be placed to the side or rear of the building they are designed to serve, not in the front.

- (6) All parking shall conform to the requirements of the Americans with Disabilities Act (ADA).

(E) Driveway Regulations

- (1) Driveways used for ingress and egress to parking areas shall be clearly visible. Driveways shall be constructed at a 90 degree angle to the street.
- (2) When feasible, driveways shall not be located closer than 30 feet to an intersection of two public rights-of-way.
- (3) The minimum width of a non-residential driveway that provides both ingress and egress shall be 20 feet. The maximum width of such driveway shall not exceed 35 feet.
- (4) Driveways shall be clearly defined. Under no circumstances shall the entire frontage of a lot be used as a driveway. Areas outside of the driveway and paved parking areas shall be landscaped.
- (5) No more than two driveways entering on one street from a single commercial establishment shall be permitted.
- (6) Shared driveways for abutting commercial establishments shall be encouraged. Interconnected parking lots for adjacent commercial developments are encouraged. Cross-access may be provided at the rear of the parking lots.
- (7) Driveways shall have adequate depth to prevent queuing of vehicles onto the main roadway.

(F) Off-Street Loading and Unloading Spaces

Every building having a gross floor area of 10,000 square feet or more and requiring the loading or unloading of trucks, shall provide and maintain at least one off-street loading space or dock plus one additional space for each additional 100,000 square feet of gross floor area or fraction thereof. Each loading space shall be not less than 12 feet in width, 25 feet in length and 14 feet in height, or shall be of a size adequate to accommodate the expected size of the trucks.

Loading docks or spaces shall be located in such a way as not to unreasonably interfere with the movement of people and vehicles on public rights-of-way. Loading spaces or docks shall not be permitted at the front of a building, where the front is visible from a public right-of-way.

Section 9.5 Temporary Buildings

Temporary buildings or trailers, other than buildings or trailers for living purposes, to be used in connection with construction work only, may be permitted in any district during the period that the construction work is in progress, but such temporary buildings shall be removed upon the completion of such work. The Building Inspector shall issue permits for temporary, non-residential buildings; such permits shall be valid for a one year period and may be renewed for an additional period of one year. If a construction project shall continue for a continuous period of more than two years, the Building Inspector shall refer the issuance of the temporary building permit to the Planning Board for its consideration.

Section 9.6 Home Occupations

(A) Purpose

Home occupations provide employment opportunities for residents of the Town of Mansfield, and thus contribute to the economy of the Town. The Town of Mansfield encourages home occupations, which are an accessory use to the residential use of a home, as long as the residential character of the structure and neighborhood does not change.

(B) Standards

Where permitted in Article VII of this Zoning Law, a home occupation shall conform to all the requirements of this Section, and any other applicable regulations of this Zoning Law.

- (1) The home occupation shall be clearly incidental and accessory to the use of the building as a dwelling unit, shall not change the character of the dwelling unit, and shall not have any exterior evidence of such use, except for one sign as permitted in this Law.
- (2) The home occupation shall not occupy more than one-half of the floor area in the residence. The home occupation may be located in an accessory building, such as a shed or a garage, provided that the space occupied in such accessory building is not more than the space equivalent to one-fourth of the floor area of the home. As long as the space limitation is met, the home occupation may be located in both the residence and in an accessory structure.
- (3) There shall not be any outdoor storage or display of material or equipment. All materials and equipment relating to the home occupation shall be stored in a building.
- (4) The home occupation shall not generate electrical interference, dust, noise, odors, smoke or traffic that disturbs the peace, quiet, and enjoyment of others in the area.
- (5) There shall be no retail sales of merchandise, except for goods produced on the premises.

- (6) There shall be no more than one on-premise employee, in addition to the residents of the dwelling unit in which the home occupation is located.
- (7) Adequate on-site parking shall be provided. The Planning Board shall determine the number of parking spaces required. At a minimum, the home occupation shall provide the two required spaces for the single family home; plus one for the employee, if any; plus a number of spaces adequate to accommodate the number of clients/visitors that may be on site at any one time.

(C) Prohibited Home Occupation

The following uses, by the nature of the scale and intensity of the activity, are more suited to a commercial or industrial district and shall not be permitted as home occupations.

- (1) Funeral homes
- (2) Automobile body repair work, including painting of automobiles;
- (3) Repair of automobile, snowmobile or other vehicular engines
- (4) Medical and dental offices
- (5) Retail sale of goods not made on the premises
- (6) Manufacturing
- (7) Restaurants and bars
- (8) Kennels and veterinary clinics
- (9) Adult Uses

Section 9.7 Bed & Breakfast Establishments

Where permitted in Article VII of this Zoning Law, a Bed and Breakfast Establishment shall conform to all the requirements of this Section, and any other applicable regulations of this Zoning Law.

- (1) The owner of the Bed and Breakfast Residence shall reside in the dwelling as his/her/their principal residence.
- (2) Food service may only be provided to overnight guests of the establishment and shall be limited to breakfast meals.
- (3) No more than five rooms may be made available for overnight guests.
- (4) The Bed and Breakfast Establishment shall conform to all requirements of the NYS Building Code.

Section 9.8 Commercial Establishments

(A) Purpose

Commercial establishments provide employment opportunities for residents of the Town of Mansfield and may increase the Town's tax base. In addition, provision of some commercial establishments may provide an opportunity for residents to obtain some goods and services locally. However, commercial establishments within the Town of Mansfield should be carefully evaluated to ensure that the types of commercial establishments that are approved are compatible with the rural character of the community and the neighboring land uses. In addition, the Town does not have, nor does it anticipate developing, municipal water supply and sewerage disposal systems; therefore, commercial establishments should be compatible with the need to provide individual water supply and sewerage disposal systems.

(B) Examples of allowable Commercial Establishments

Where permitted in Article VII of this Law, commercial establishments that are compatible with the community may be permitted, by grant of Special Use Permit, by the Planning Board. Examples of establishments that may be approved, include, but are not limited to, the following:

- (1) Personal service establishments (barber and beauty shops; tailors and dressmakers; and similar establishments)
- (2) Arts and crafts establishments, such as cabinetmaking, pottery, photography, woodworking and similar professions.
- (3) Retail shops
- (4) Grocery stores
- (5) Gas stations
- (6) Wholesale establishments
- (7) Warehousing and Distribution

(C) Size limitation

In order to preserve the traditional rural character and scale of the Town, small scale commercial enterprises are encouraged. In general, commercial establishments that exceed 45,000 square feet for an individual retail store or other business shall not be allowed.

(D) Performance standards

When the Planning Board is reviewing an application for a Commercial Establishment, the Board shall use the following criteria to evaluate the project. These criteria are in addition to the criteria contained in Article XIV, Special Use Permits, which shall also be used to evaluate the proposal.

- (1) Adequate parking is provided to serve the anticipated users of the commercial enterprise and employees.

- (2) Adequate provision for water supply and for sewerage disposal has been made.
- (3) The commercial establishment shall not cause excessive glare, heat, odor, dust, smoke, noise, or physical vibrations that are perceptible beyond the lot lines of the property on which the commercial establishment is located. For purposes of this sub-section, "excessive" shall mean a level of impact that is greater than that which would normally be associated with a residential or commercial activity.
- (4) The commercial establishment shall not generate traffic levels beyond the capacity of the roadway on which the establishment would be located.
- (5) Any outdoor storage would be adequately screened from view from public roads and adjacent uses.
- (6) Landscaped buffering is provided for the adjacent properties, if the Planning Board deems it necessary.

Section 9.9 Adult Entertainment Uses

(A) Purpose

It is recognized that there are some uses, including Adult Entertainment Uses, which, due to their very nature, have serious adverse secondary effects, particularly when located in close proximity to residential neighborhoods and other sensitive land uses. The adverse secondary effects of Adult Entertainment Uses are further heightened by their concentration in any one area, thereby having deleterious effects on adjacent areas. It has been acknowledged by communities across the nation that state and local governments have a special concern in regulating the operation of such businesses under their jurisdiction to ensure that these adverse secondary effects will not contribute to the blighting or downgrading of adjacent neighborhoods nor endanger the well-being of the youth in their communities. The Town of Mansfield Adult Use Study indicated that these effects may occur locally and therefore that the Town should enact provisions to regulate the secondary effects of adult entertainment uses.

The special regulations deemed necessary to control the undesirable secondary effects arising from these enterprises are set forth below. The primary purpose of these controls and regulations is to preserve the integrity and character of residential neighborhoods, to deter the spread of blight, and to protect minors from objectionable characteristics of these Adult Entertainment Uses by restricting their proximity to churches, schools, parks, historic and scenic resources, civic and cultural facilities and residential areas.

The operation of Adult Entertainment Uses may have serious and damaging effects upon their surroundings as a result of their siting and the concentration of these facilities. Special regulations pertaining to these uses are necessary to ensure adverse secondary effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These regulations will help ensure that adverse effects on the public health, safety, comfort, convenience and

general welfare are mitigated.

The development and proliferation of Adult Entertainment Uses without regulation as to siting and concentration may result in the deterioration of residential and business neighborhoods. If placed near schools and other youth-related facilities, Adult Entertainment Uses may adversely affect the welfare of minors residing within the Town of Mansfield.

(B) Location of Adult Entertainment Uses

The following provisions shall apply to Adult Entertainment Uses. These provisions shall be considered to be the minimum standards.

- (1) Adult Entertainment Uses may be permitted by a special use permit granted by the Planning Board, in a zoning district(s) so designated in Article VII of this Law. No special use permit shall be granted unless the Planning Board finds that the Adult Entertainment Use conforms to all the provisions of this section of the zoning Law, in addition to the criteria specified in Article XIV for granting special use permits and to all other applicable provisions of this zoning Law. In the event of any conflict between any such provisions, the more restrictive shall apply.
- (2) No Adult Entertainment Use shall be permitted within one thousand feet of any exterior building wall of any existing residential use.
- (3) No Adult Entertainment Use shall be permitted within one thousand feet of the property line on which any of the following uses are located:
 - (a) A school, nursery school, or day care center;
 - (b) A place of worship
 - (c) A public or private park, playground or public recreation facility, or recreational trail;
 - (d) Historic or scenic resource, civic or cultural facility.
 - (e) The right-of-way of any town, county, New York State or US roadway.
- (4) No more than one Adult Entertainment Use shall be located in the same building or upon the same lot or parcel of land.
- (5) No Adult Entertainment Use shall be located within a five hundred (500) foot radius of another Adult Entertainment Use.
- (6) No Adult Entertainment Use shall be located in any building that is used in whole or in part for a residential use. No residential use may be established in a building that contains an Adult Entertainment Use.
- (7) All building openings, including doors and windows, shall be located, covered or screened in such a manner as to prevent a view into the establishment from any public street, sidewalk or parking area. Such screening shall be done in an aesthetically

appropriate manner.

- (8) All adult uses shall be conducted in an enclosed building. Sound within the building shall not be audible to a person passing by on a public right-of-way.
- (9) All Adult Entertainment Uses shall be operated in a manner that is consistent with the New York State Penal Law relating to exposure, obscenity or lewdness.
- (10) No merchandise or pictures of the products or entertainment on the premises shall be displayed in window areas where they can be viewed from a public street or sidewalk adjacent to the establishment.
- (11) Adequate screening and buffering, to the satisfaction of the Planning Board, shall be provided to minimize the visual impact on adjacent sites of any structure containing an adult use. This may be accomplished by landscaping, fencing or other means approved by the Planning Board.

(C) Sign Regulations

In addition to the sign requirements of Section 9.3 of this zoning Law, the following provisions shall apply to signs erected or maintained in connection with an Adult Entertainment Use. The Planning Board shall review and approve all signage as part of the special use permit application.

- (1) No off-premises signs or freestanding signs shall be permitted.
- (2) Advertisements, displays or promotional materials shall not be shown or exhibited so as to be visible to the public from pedestrian sidewalks or from other public or semi-public areas.
- (3) No more than one business wall sign shall be permitted for an Adult Entertainment Use and such sign shall be permitted only on the front façade.
- (4) No exterior sign associated with an Adult Entertainment Use shall contain any photographic or artistic representation of the human body.
- (5) Signs shall not be illuminated at times during which the business is closed. Light from illuminated signs shall not be permitted to shine onto residential properties or streets, roads or other travelled ways.

Section 9.10 Townhouse Developments

Where permitted in Article VII, Townhouses may be allowed by the grant of a special use permit by the Planning Board. If so allowed, Townhouses shall be developed in accordance with the following regulations.

(A) Access and Parking

- (1) No Townhouse Development shall be constructed so as to provide direct vehicular ingress or egress to individual units from existing Town roads. All Townhouse Developments shall take access from an interior street or streets, which shall have limited access to existing town roads.
- (2) The Planning Board shall review the proposed street widths within a Townhouse Development. The amount of paved area and right of way width to be required may vary depending upon the proposed level of use and the topography of the site. One way streets may be approved to reduce the amount of grading required, as long as emergency vehicle access is not compromised.
- (3) Sidewalks shall connect each unit to the parking area serving that unit. Sidewalks shall connect buildings within the site.
- (4) Shared driveways are permitted, with the recording of appropriate perpetual easements for the shared use.

(B) Minimum Lot Area and Yard Requirements

- (1) Townhouse developments shall contain a minimum of 2 acres.
- (2) No more than seven units per acre shall be permitted. However, units may be clustered in one area of a site that exceeds this density, as long as the average density of the overall development does not exceed seven units per acre.
- (3) In order to promote good design, there are no minimum yard requirements for each individual townhouse unit. The Planning Board will review and establish setbacks for each application. However, the project as a whole must conform to the minimum front yard, rear yard and side yard setbacks in the zoning district in which it is located.

(C) Building Design

- (1) The Townhouse Development shall exhibit consistency in architectural design and materials among all the buildings, structures, and walls on the project site.
- (2) There shall be a separation equal to one-half the average height of the end units between two adjacent rows of townhouses.

- (3) Buildings shall be designed to prevent the appearance of straight, unbroken lines in their horizontal and vertical surface. Variation in roofline and/or building wall, including such architectural techniques as porches and other architectural features that protrude from the building wall are encouraged.
- (a) Buildings that are greater than 60 feet and less than 120 feet in length shall be designed so that there is a prominent shift in the building façade. There shall be a minimum of one shift in façade that totals ten feet. This can be in the form of a ten foot change in building façade alignment, or a ten foot change in roof line height, or a combined change in façade and roof line height totaling ten feet.
 - (b) Buildings that are 120 feet in length or greater shall be designed so that there is at least one prominent shift in the building façade for every 120 foot length of façade. The shift shall be in the form of a fifteen foot change in building façade alignment or a 15 foot change in roof line. A combination of roof line and façade change is encouraged; if this occurs at the same location in the building plane, a 15 foot total change in alignment will be considered as compliance with this section. Fractions of the façade of less than 120 foot increments shall be considered to be one unit; i.e. a building of 150 feet in length would have to have façade changes totally 30 feet either vertically or horizontally.

(D) Landscaping

- (1) A landscaping plan shall be provided as part of each application. Landscaping shall be required around all buildings and parking areas.
- (2) The preservation of existing major trees is encouraged.
- (3) Part of the lot may be left as existing natural vegetation. This area shall be shown on the site plan.

(E) Utilities

- (1) The water supply and sewage disposal systems shall be approved by the appropriate regulatory agencies, in writing, prior to final approval of the project.
- (2) The applicant shall demonstrate that the proposed storm water drainage facilities are adequate. An erosion control and stormwater management plan shall be required.
- (3) All utility lines shall be placed underground.

Section 9.11 Yard Sales

(A) Yard sales are permitted provided that the following conditions are met:

- (1) No items may be offered for sale that have not been owned and used by the occupant of the premises. Multi-family sales are permitted if they are held on the premises of one of the participants.
- (2) No more than three yard sales shall be conducted on any one lot in any one calendar year. Each yard sale shall not be conducted for longer than 4 consecutive days.
- (3) Yard sales shall be conducted during daylight hours only.

(B) Rummage sales, white elephant sales and similar occasional fund-raising activities held by churches and other religious organizations, by clubs or by eleemosynary (charitable), educational or service organizations shall not be construed to be yard sales.

Section 9.12 Fences

Fences are allowed as accessory uses to the primary use of a lot. Where allowable, fences shall conform to the following requirements:

(A) Setback.

Fences shall be set back a minimum of ten (10) feet from the edge of pavement of the road and shall not be located within the road right of way.

(B) Proximity to neighboring properties.

All fences shall be located no closer than two (2) feet from adjacent property lines.

(C) Fire hazard.

Any fence which is positioned in such a manner so as to prohibit reasonable access for fire fighting purposes shall be prohibited.

(D) Finished sides.

The finished sides of all barrier fences must face adjacent properties.

(E) Maintenance.

All fences shall be maintained structurally and visually.

(F) Height.

No fence shall exceed ten (10) feet in height.

(G) Agricultural fences

Any fence used for agricultural purposes is exempt from these regulations regarding fencing.

Section 9.13 Telecommunications Facilities

(A) Intent and Purpose

- (1) The Federal Telecommunications Act ("the Act") was signed into law in February 1996. The passage of the Act, the increased sale of airwave rights and issuance of licenses by the FCC, the increased demand for wireless communication services, and new technology have led to a significant increase in the demand for telecommunications facilities within New York State. The Town of Mansfield has significant concerns over the location of telecommunication facilities within the Town. The 1996 Act preserves the authority of local governments over reasonable non-discriminatory decisions regarding the placement, construction, and modification of telecommunications facilities. It is the Town's intent, through this section of the zoning Law, to use its local authority over telecommunications facilities as provided for by the Federal Telecommunications Act of 1996.
- (2) The purpose of this Section is to set forth a means by which the Town can ensure that the installation of telecommunications facilities proceeds in a fashion that minimizes any adverse impacts while maximizing services and benefits to the community. The Town wants to accommodate the need for telecommunications facilities while regulating their location and number, minimize adverse visual effects through proper design, siting and screening, avoid potential physical damage to adjacent properties, and encourage joint use of such facilities.
- (3) In order to accomplish the purposes enumerated above, the Town encourages the placement of telecommunications antennas on suitable existing structures.
- (4) Telecommunications facilities may be permitted with a grant of special use permit, as permitted in Schedule A of this zoning Law. However, the Town recognizes that circumstances may warrant the placement of a telecommunications facility in another area of the community, which will necessitate an application for a variance.

(B) Review Authority

- (1) The Planning Board is hereby authorized to review and approve, or approve with modifications or disapprove special use permits for telecommunications towers, antennas, and facilities pursuant to this Law. The Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed telecommunications facility, including the use of camouflage of the tower structure and/or antenna to reduce visual impact.
- (2) Except as provided below, no telecommunications tower, antenna or facility shall hereafter be erected, moved, reconstructed, changed or altered and no existing structure shall be modified to serve as a telecommunication facility, except after obtaining a special use permit in conformity with this Law.

- (3) No building permit shall be issued until the applicant provides proof that space on the facility has been leased or will be operated by a provider licensed by the FCC to provide service in the area.

(C) Submission Requirements

All applicants for a special use permit for a telecommunications facility shall submit the following documents and information:

- (1) Special Use Permit Application
- (2) Site Plan Application
- (3) Project Participants

Provide the names, addresses, phone and fax numbers of the following involved parties, as appropriate:

- Landowner of the project site to be purchased or leased
- The service-provider (both the corporate information and a local contact). Include the FCC license number and certificate of need as a public utility
- Engineering consultant
- Other authorized service providers proposing to co-locate on the tower now or in the near future.

Where co-location is proposed, provide the names, addresses and phone numbers of the current owner(s) of the tower, building or structure upon which the co-location was considered or is proposed.

- (4) Site Description

Provide a narrative description of the proposed project site, including:

- Existing site improvements, including access, utilities, and the presence of existing towers, buildings, or other structures.
- Vegetative cover (plant cover types, tree types)
- Slopes
- Soils and depth to bedrock
- Wetland and surface water bodies; floodplains
- Site drainage
- Any special plant and animal habitats contained on the NYSDEC Natural Heritage Program database
- Any historic or archaeological resources on the site and any historic resources adjacent to the site.

Where co-location is proposed, provide to-scale site plans and elevations of the existing tower, building or structure to be used for co-location. Provide plans, elevations, and

details showing the proposed electronic communication facilities and existing antennae located on the tower.

(5) Site Plan

Provide a detailed, labeled, and to-scale site plan that includes the following information. The site plan must be prepared by a qualified professional engineer licensed in the state of New York and must bear the preparer's signature.

- (a) Scale, north arrow, date and name of preparer
- (b) Project site boundaries (if part of a larger parcel, include a map of the larger parcel and the location of the area to be acquired or leased for the project). A copy of an up-to-date property survey must be provided.
- (c) Abutting property owners' names and addresses
- (d) All bodies of water, wetlands, permanent or intermittent streams, floodplains
- (e) Existing and proposed topographic contours at two-foot intervals in and within 200 feet of all proposed areas to be disturbed.
- (f) All existing or proposed structures, buildings, towers, antennas, utility, roads, driveways, guy wires and anchors, parking.
- (g) The location and use of all structures on any adjacent property within fifty feet of the property lines, together with the distance of these structures to any proposed tower.
- (h) Existing vegetation cover types and tree lines
- (i) The proposed limits of vegetation disturbance and/or clearing related to the proposed construction of the site access, tower and accessory structures
- (j) All trees 4 inches or greater in size (diameter at breast height, DBH) to be removed.
- (k) All proposed planting and landscaping.
- (l) All existing and proposed drainage and erosion control and stormwater management facilities.
- (m) The location, nature and extent of any proposed fencing and/or screening
- (n) The location and nature of proposed utility easements, if any.

(6) Construction details

Provide detailed construction plans and elevation of the proposed tower, antennae, equipment shelters (enclosed building, structure, shed, etc.). Show all foundations, piers, structural supports, cross arms, guy wires and anchors, antennae mounting mechanisms and signage. Label the size, material and provide color samples of all towers, antennae and accessory structures. All drawings shall be prepared by a qualified professional engineer licensed to practice in the State of New York, and shall contain his/her signature. Include the following:

- (a) The exact location of any proposed tower.
- (b) The height of any proposed tower.
- (c) A detail of the tower type (monopole, guyed, lattice, etc.).
- (d) The color or colors of the tower.
- (e) The location, type and intensity of any lighting on the tower.

(7) Site access, construction and operation

Describe the type, location and size of any road and/or driveway providing access to the proposed tower site. Describe any proposed temporary or permanent improvements, including any proposed vegetation removal, site drainage, crossing of streams or wetlands and installation of utilities and any impervious surfaces. Provide a grading plan for any new roads, driveways or accessways. Indicate the construction material (i.e. gravel, asphalt, etc.)

(8) Telecommunications data

- (a) Describe the facility and technical, economic and other reasons for the facility and tower design.
- (b) Provide “Before” and “After” propagation studies prepared by a qualified professional engineer, licensed in the state of New York, demonstrating existing signal coverage, contrasted with the proposed signal coverage resulting from the proposed telecommunications facility.
- (c) Provide a “Search Ring” prepared by a qualified professional engineer, licensed in the state of New York, and overlaid on an appropriate background map demonstrating the area within which the telecommunications facility needs to be located in order to provide signal strength and coverage (this meaning adequate coverage as opposed to desired coverage) to the target cell. The applicant must be prepared to explain to the Planning Board why it selected the proposed site, discuss the availability or lack of availability of a suitable structure within the search ring which would have allowed for a co-located antenna(s), and to what extent the applicant explored locating the proposed tower in a more intensive use district.
- (d) Describe how many and what kinds of antennas are proposed.
- (e) Describe how many and what kinds of antennas are possible on the tower.
- (f) Demonstrate that the site can contain on-site substantially all ice-fall or debris from tower failure.
- (g) Describe the fall zone of the proposed tower.
- (h) For any telecommunications facility that will be placed on an existing structure or that will use an existing telecommunications tower, provide a letter certifying that the proposed shared use will not diminish the structural integrity and safety of the existing structure or existing telecommunications tower, and explaining what modifications, if any, will be required in order to certify to the above.

- (9) A letter of intent committing the facility owner to negotiate in good faith for shared use by third parties in the future. This letter shall be filed with the Code Enforcement Officer prior to issuance of a building permit (assuming the telecommunications facility is approved). Failure to abide by the conditions outlined in the letter may be grounds for revocation of the special use permit. This letter shall commit the facility owner and his successors in interest to:
- (a) Respond in a timely comprehensive manner to a request for information from a potential shared-use applicant.
 - (b) Negotiate in good faith for shared-use by third parties.
 - (c) Allowed shared use if an applicant agrees in writing to share charges.
 - (d) Make no more than a reasonable charge for shared use, based on generally accepted accounting principles. The charge may include, but is not limited to, a pro-rate share of the cost, site design, construction and maintenance, financing, return of equity, and depreciation, and all of the costs of adapting the tower or equipment to accommodate a shared user without causing electromagnetic interference.
- (10) Other regulatory permits and approvals

The applicant shall identify all permits or approvals necessary from local, state or federal agencies for this proposed project. Provide copies of written approvals and other permits received, including:

- (a) A copy of Applicant's Federal Communications Commission (FCC) license
- (b) A letter from the Federal Aviation Administration (FAA), stating any requirements that they may have (or lack of any requirements, if none are necessary).
- (c) The applicant shall submit to the Code Enforcement Officer copies of all licenses and permits required by other agencies with jurisdiction over the design, construction, location and operation of its Telecommunications Facility and applicant shall maintain such licenses and permits and provide evidence to the Code Enforcement Officer of renewal or extension thereof when granted.

(11) Environmental Review and Visual Impact Analysis

All applications for telecommunications facilities shall be considered as a Type 1 Action under New York State Environmental Quality Review Act (SEQR) and will require a Full Environmental Assessment Form (EAF) and the Visual Addendum to the EAF. The Planning Board may require submittal of a more detailed visual analysis based on the results of the Visual Addendum which may include a map showing locations from which the facility may be seen, line – of – sight drawings, visual simulations of “before and after” views from viewpoints selected by the Planning Board, assessment of alternative tower designs and color schemes and assessment of the visual impact of the tower base, guy wires, accessory buildings and overhead utility lines from abutting properties and streets.

(12) All required fees.

- (13) Any other material that the Planning Board deems necessary to evaluate the application.

The Planning Board may waive any particular submission requirement(s) it determines unnecessary for review of a particular project.

The Town of Mansfield, at the expense of the applicant, may employ its own consultant to review the findings and conclusions of safety analysis, visual analysis, structural inspection or other pertinent information provided by the applicant.

(D) General Criteria

In order to grant a special use permit for a telecommunications facility, the Planning Board shall find that such facility conforms to all the criteria contained in this sub-section, in addition to the criteria contained in Section 14.3, Special Uses, of this zoning Law:

- (1) Is necessary to provide adequate service to locations that the applicant is not able to serve with existing facilities.
- (2) Conforms to all applicable regulations promulgated by the Federal Communications Commission, Federal Aviation Administration and other federal agencies.
- (3) Is designed and constructed in a manner which minimizes visual impact to the maximum extent practical.
- (4) Is the most appropriate site among those available within the technically feasible area for the location of a telecommunications facility.
- (5) Conforms to the standards contained in this section and in other sections of this zoning Law, unless they are expressly superseded herein. These standards shall be considered the minimum requirements.

Any permit granted under this section shall be valid only for the number and type of antennas in the approval. Any increase in number or change in type of antennas on any existing tower shall be subject to a new application and additional approval by the zoning board.

(E) Co-location

- (1) The shared use of existing telecommunications towers or other structures shall be preferred to the construction of new facilities. Any special use permit application, renewal or modification thereof shall include proof that reasonable efforts have been made to co-locate within an existing telecommunication facility or upon an existing structure within a reasonable distance of the site. The applicant must demonstrate that the proposed telecommunication facility cannot be accommodated on existing telecommunication facilities due to one or more of the following reasons:

- (a) The planned equipment would exceed the structural capacity of existing and approved telecommunication facilities or other structures, considering existing and planned use for those facilities.
 - (b) The planned equipment would cause radio frequency interference with other existing or planned equipment, which cannot be reasonably prevented.
 - (c) Existing or approved telecommunications facilities or other structures do not have space on which proposed equipment can be placed so it can function effectively and reasonably.
 - (d) Other technical reasons make it impracticable to place the equipment proposed by the applicant on existing facilities or structures.
 - (e) The property owner or owner of the existing telecommunication facility or other structure refuses to allow such co-location or requests an unreasonably high fee for such co-location compared to current industry rates.
- (2) The applicant must submit a copy of its policy regarding co-location on the proposed tower with other potential future applicants. Such policy should allow co-location on the proposed tower under the following conditions:
- (a) The new antenna(s) and equipment do not exceed structural loading requirements, interfere with space used or planned to be used by the applicant, nor pose any technical or radio frequency interference with existing equipment;
 - (b) The party desiring to co-locate pays the applicant an appropriate and reasonable sum to co-locate;
 - (c) The party desiring to co-locate has a similar policy of co-location for the applicant.

(F) Visibility and Aesthetics

- (1) Telecommunication Facilities shall be located and buffered to the maximum extent which is practical and technologically feasible to help insure compatibility with surrounding land uses. In order to minimize any adverse aesthetic effect on neighboring properties to the extent possible, the Planning Board may impose reasonable conditions on the applicant. These conditions may include specially designed towers, additional screening, greater setbacks, and improved landscaping to address aesthetic concerns.
- (2) The applicant shall demonstrate that the proposed height for the tower and antenna(s) is the minimum necessary to function satisfactorily. No tower or antenna(s) that is taller than this minimum height shall be approved. In all cases, the maximum height for telecommunication towers permitted under this section, including any antennas or other devices extending above the tower, measured from the ground surface, shall be 150 feet.

- (3) Towers shall be a galvanized finish or painted gray above the surrounding treeline and painted gray, green, black or similar colors designed to blend into the natural surroundings below the surrounding treeline, unless other standards are required by the FAA. Towers should be designed and sited so as to avoid, whenever possible, application of FAA lighting and painting requirements. Accessory uses shall maximize use of building materials, colors, and textures designed to blend with the surrounding area.
- (4) The project shall be designed to blend with the natural and /or man-made surroundings to the maximum extent practicable.
- (5) Structures offering slender silhouettes (i.e. monopoles or guyed tower) may be preferable to freestanding lattice structures except where such lattice structures offer capacity for future shared use. The Planning Board may consider the type of structure being proposed, the surrounding area, and the potential for its effects on migratory and year-round bird populations.
- (6) No outdoor storage of equipment and/or vehicles shall be permitted on the facility site.
- (7) If co-location or the use of existing structures is not feasible, the Planning Board may require the applicant to show that he has made good faith efforts to construct the proposed new tower near existing towers in order to consolidate visual disturbances.

(G) Lighting

Towers shall not be artificially lighted except to assure human safety as required by the Federal Aviation Administration (FAA). The Planning Board may choose the most appropriate lighting and marking plan from the options acceptable by the FAA at that location. The applicant must provide both standard and alternative lighting and marking plans for the board's review. Notwithstanding, an applicant may be required to add FAA-style lighting and marking, if, in the judgment of the Planning Board, such a requirement would be of direct benefit to public safety. Lighting shall not consist of strobe lights, unless specifically mandated by the FAA. When lighting is required, it shall be oriented inward so as not to project onto surrounding property, to the maximum extent feasible.

(H) Fall Zones

Telecommunications facilities shall be constructed so as to minimize potential safety hazards and shall be located in such a manner that if the facility should fall, it will remain within the property boundaries and avoid habitable structures, public streets, utility lines and other telecommunication facilities.

(I) Setbacks

- (1) As a minimum requirement, all Telecommunication Facilities shall comply with all existing setbacks within the zoning district in which they are located. Setbacks shall

apply to all tower parts, including guy wire anchors and to any accessory facilities. Additional setbacks may be required by the Planning Board to contain on-site substantially all icefall or debris from tower failure and/or to preserve the privacy of adjoining property.

- (2) A tower setback may be reduced in the sole discretion of the Planning Board to allow the integration of the tower into an existing structure, such as a church steeple, light pole or similar structure.

(J) Vegetation and Screening

- (1) Existing on-site vegetation shall be preserved to the maximum extent possible, and no cutting of trees exceeding four inches in diameter (measured at breast height) shall take place prior to approval of the special use permit. Clear-cutting of all trees in a single contiguous area shall be minimized to the extent possible.
- (2) The Planning Board may require appropriate vegetative buffering around the fences of the tower base area, accessory structures and the anchor points of guyed towers to buffer their view from neighboring residences, recreation areas, waterways, historic or scenic areas, other properties or public roads.

(K) Access and Parking

An access road, turnaround and a minimum of one parking space shall be provided to assure adequate emergency and service access. The maximum use of existing roads, public or private, shall be made. New road construction shall be consistent with standards for private roads and shall at all times minimize ground disturbance and vegetation cutting. Road grades shall closely follow natural contours to assure minimal visual disturbance and reduce soil erosion potential.

(L) Signage

The use of any portion of a telecommunication facility for signs for promotional or advertising purposes, including, but not limited to company name, phone numbers, banners, streamers, and balloons, is prohibited. A small sign shall identify the ownership of the facility and the telephone number for emergencies. The Planning Board may require the installation of signage with safety information, such as "No trespassing" or "Danger. Keep out."

(M) Security

- (1) Towers, anchor points around guyed towers, and accessory structures shall each be surrounded by fencing not less than eight (8) feet in height or otherwise sufficiently protected from trespassing or vandalism.
- (2) There shall be no permanent climbing pegs within fifteen feet of the ground.

- (3) Motion-activated or staff-activated security lighting around the base of a tower or accessory structure entrance may be provided if such lighting does not project off the site.

(N) Engineering Standards

- (1) All telecommunication facilities shall be built, operated and maintained to acceptable industry standards, including but not limited to, the most recent applicable standards of the Institute of Electric and Electronic Engineers (IEEE) and the American National Standards Institute (ANSI).
- (2) All towers shall be designed by a qualified professional engineer, licensed in the state of New York. Each application must contain a site plan for the facility prepared by said engineer and containing his/her signature.
- (3) Telecommunications facilities may operate only at Federal Communications Commission (FCC) designated frequencies and power levels and/or Environmental Protection Agency (EPA) technical exposure limits. The Planning Board may require that the applicant provide competent documentation to support that maximum allowable frequencies, power levels and exposure limits for radiation will not be exceeded.
- (4) Each application for installation of an antenna shall include a certified statement prepared by a qualified professional engineer, licensed in the state of New York, that states that the installation of the antenna, including reception and transmission functions, will not interfere with the radio or television service enjoyed by adjacent residential and non-residential properties or with public safety telecommunications.
- (5) Every facility shall be inspected, at the owners expense, at least every two (2) years for structural integrity by a qualified professional engineer, who is licensed to practice in the State of New York. A copy of the inspection report shall be promptly submitted to the Code Enforcement Officer. The structural inspection report shall describe the structural integrity of the facility, maintenance issues and repairs needed or made, if any. In the event that the structural inspections indicate structural deficiencies, then the deficiencies must be remedied within the time reasonably set by the Code Enforcement Officer. Failure to make the repairs may result in revocation of the special use permit.

(O) Abandonment and Removal

- (1) All abandoned, obsolete or unused telecommunication facilities/towers shall be removed within twelve (12) months of cessation of use.
- (2) The owner of the telecommunication facility shall annually file a declaration with the Planning Board as to the continuing operation of every facility installed subject to this Zoning Law.

- (3) At the time of submission of the application for a telecommunication facility the applicant shall submit an agreement to remove all antennas, driveways, structures, buildings, equipment sheds, lighting, utilities, fencing, gates, accessory equipment or structures, as well as any tower used as a telecommunication facility if such facility becomes technologically obsolete or ceases to perform its originally intended function for more than twelve consecutive months. Upon removal, the land shall be restored to its previous condition, including but not limited to the seeding of exposed soils.

(P) Revocation of Special Use Permit

The Planning Board shall have the authority to revoke a special use permit, after a public hearing, if the permittee fails to comply with any condition(s) of approval of the special use permit. The public hearing shall be held following the noticing and hearing requirements established in this zoning Law for a special use permit application. If the special use permit is revoked, the telecommunications tower and associated facilities shall be removed within ninety (90) days of notification of the revocation of the permit by the tower operator.

(Q) Expiration of Special Use Permit

The grant of Special Use Permit shall expire if construction of the telecommunications tower, antenna, and/or facility has not been completed within 18 months from the date of approval of the special use permit.

ARTICLE X

MOBILE AND MANUFACTURED HOME REGULATIONS

Section 10.1 Purpose

This Article is intended to regulate and restrict the use of mobile homes, house trailers, vacation/recreation/travel trailers, pop-up campers and similar portable structures in the Town of Mansfield in order to promote the public health, safety, comfort and general welfare of the residents of the Town.

Section 10.2 Manufactured Homes on Individual Lots

- (A) Where permitted in Article VII of this zoning Law, one manufactured/mobile home may be located on an individual single-family lot, subject to obtaining a building permit therefore.
- (B) A manufactured home placed on a single-family lot shall conform to the following requirements:
 - (1) The manufactured home shall be the principal use on the lot. The manufactured home shall conform to all setbacks and other dimensional requirements of the zoning district in which it is located.
 - (2) The manufactured home shall contain a minimum floor area of 800 square feet and shall have a minimum width of twenty (20) feet.
 - (3) The Cattaraugus County Health Department shall approve, in writing, the water supply and sewage disposal systems.
 - (4) The manufactured home shall be installed on a permanent foundation that meets the manufacturer's installation requirements and all state and local codes.
 - (5) All towing apparatus, wheels and exposed chassis shall be removed prior to issuance of an occupancy permit.
 - (6) Skirting or solid material screening the space between the manufactured home floor and the ground shall be installed prior to the issuance of an occupancy permit. All manufactured homes shall be completely skirted in an attractive manner. Materials used for skirting shall provide a finished exterior appearance and shall be similar in character to the material used in the manufactured home.

- (7) If the manufactured home or mobile home is ten (10) years old or older at the time an application is made for a building permit to install it on a lot, the Building Inspector shall inspect the structure to insure that it is suitable for habitation prior to issuing the building permit. If the Building Inspector finds that the manufactured home or mobile home is not suitable for habitation, he/she shall deny the building permit.
- (8) No permanent additions of any kind shall exceed fifty percent (50%) of the original living area of the manufactured/mobile home.
- (9) No more than one (1) manufactured home may be located on one lot, unless a permit has been granted for a Manufactured Home Park.

Section 10.3 Manufactured Home Parks

- (A) Manufactured Home Parks may be located in any zoning district so designated in Article VII of this zoning Law, subject to the grant of a Special Use Permit by the Town of Mansfield Planning Board, as provided herein.

(B) Application Procedures

An application for a special use permit to allow a manufactured home park shall be filed with the Code Enforcement Officer. The application shall be in writing, signed by the applicant and shall include the following:

- (1) Name and address of the applicant and name and address of the property owner, if the applicant is not the property owner.
 - (2) Location of the proposed manufactured home park
 - (3) Legal description of the property on which the applicant proposes to locate a manufactured home park.
 - (4) Plans **stamped by an engineer licensed to practice in the State of York**, showing the number of proposed manufactured home lots, size of lots, rights-of-way and easements, utilities, topography, surface water drainage facilities, the method and plan of garbage disposal and removal, water supply, sewerage disposal and such other information as may be deemed necessary by the Planning Board to allow a thorough review of the application.
- (C) Once the application filed with the Code Enforcement Officer is complete and all supporting documentation required hereby has been furnished to the CEO, the CEO shall notify the applicant and Chairman of the Planning Board in writing that he/she has received a completed application and shall forward the original of such application and supporting documentation to the Planning Board. The Planning Board will consider such application in accordance with the provisions for review of applications for special use permit, which are contained in Article XIV of this Zoning Law.

(D) All manufactured home parks shall conform to the following requirements:

- (1) Manufactured home parks shall be located on a well drained site, properly graded to insure rapid drainage.
- (2) Each Manufactured home shall be located on a Manufactured home space, which shall be a minimum of 5,000 square feet for each such space. Each such space shall be clearly defined and will be a minimum of fifty (50) feet in width for single wide manufactured homes and sixty (60) feet in width for double wide manufactured homes.
- (3) All manufactured homes shall abut upon a driveway or interior road, the easement width for which shall be not less than forty (40) feet and the road surface of which shall be not less than twenty (20) feet. Such drive or interior road shall provide unobstructed access to a public street or highway and no decks, porches, carports and tip-outs shall be constructed or otherwise placed within the road easement.
- (4) There shall be at least a fifteen (15) foot separation between individual manufactured homes, including any permanent structure attached to any manufactured home (such as decks, porches, carports and tip-outs). There shall be at least a 15 foot separation between manufactured homes and any permanent structure in the park.
- (5) Each manufactured home shall be set back a minimum of twenty (20) feet from the street line of any internal street within the manufactured home development.
- (6) No manufactured home shall be located closer than 35 feet to any property line or to any exterior street right-of-way line. A landscaped buffer shall be planted and maintained within this required setback area. A landscape plan for the buffer area shall be approved by the Planning Board. Plantings in the buffer may include evergreen trees, deciduous trees, hedges, etc. Any such plantings shall be arranged around entrances and exits so as not to interfere with site distance and vehicular safety. Fencing may also be required in the buffer area.
- (7) All exposed ground surfaces in any manufactured home development shall be paved, surfaced with crushed stone or similar material, or protected with grass or other ground cover capable of preventing erosion and of eliminating objectionable dust and mud.
- (8) The Cattaraugus County Health Department shall approve, in writing, the water supply and sewage disposal systems. Approval by the County Health Department shall be received prior to the approval of a special use permit
- (9) Adequate garbage storage and collection or disposal facilities, shall be provided.
- (10) Every park shall have a fire protection plan approved by the Fire Department having local jurisdiction.
- (11) Two parking spaces must be provided for each manufactured home.

- (12) Each manufactured home lot may contain not more than one accessory building not exceeding one hundred (100) square feet in size.
- (13) All manufactured homes or mobile homes shall be completely skirted in an attractive manner. Materials used for skirting shall provide a finished exterior appearance and shall be similar in character to the material used in the manufactured home or mobile home. If feasible, the tongue shall be removed. Skirting shall be completed within thirty (30) days of the date the manufactured home or mobile home was placed on the site.
- (14) Each such park shall contain a minimum of five hundred (500) square feet of green space/recreation area for every three (3) manufactured homes in the park. Such area shall remain open for the use of park residents.

(E) Annual Inspection

An annual inspection shall be conducted by the Code Enforcement Officer to insure that all aspects of the conditions of approval of the special use permit are still in compliance. The Code Enforcement Officer shall report his/her findings to the Planning Board. If, upon inspection, it is found that the permit holder has violated any provisions of the grant of special use permit, or any other provisions of this Law, the Planning Board shall have the authority to suspend such permit and to order the manufactured home development closed, after notice has been given to the permit holder and after said permit holder has had the opportunity to appear at a public hearing to be held in accordance with the public hearing requirements in Article XIV of this Law.

Section 10.4 Recreation Vehicles

- (A) Recreation vehicles may be located and used in any residential district in the Town, upon obtaining a permit therefore from the Code Enforcement Officer. Said permit shall be valid for a period of 90 days. Said permit may be renewed by the Code Enforcement Officer for a total period of up to one hundred eighty (180) days in any 365 day period. No additional structures may be attached to recreation vehicles, and no permanent utilities will be allowed to connect to recreation vehicles. The recreation vehicle shall be removed from the premises upon which it was permitted at the end of the permit period. Use of a recreation vehicle as a permanent residence shall not be allowed because of concerns about sanitary facilities, which may cause a public health and safety issue.
- (B) Individual recreation vehicles owned by residents of the Town may be stored on the property of the owner for an unlimited period, provided that no residence is taken therein or business conducted therefrom. Such storage must be off-street, and the vehicle may not be stored in the front yard or in front of a dwelling.

Section 10.5 Dependent Manufactured Homes

Subject to the grant of a Special Use Permit by the Planning Board in accordance with the provisions of Article XIV of this zoning Law, a dependent manufactured home may be located on any lot that contains a single family home as its principal use. A dependent manufactured home shall be considered to be an accessory use of the lot.

A dependent manufactured home is intended for the use of an aged, sick, disabled, or otherwise dependent member of the family that resides in the principal home on the lot. The dependent manufactured home shall be removed within three months of the dependent permanently vacating the manufactured home. Adequate water supply and sewerage disposal services shall be available to the dependent manufactured home.

ARTICLE XI

PROVISIONS FOR FLOOD HAZARD REDUCTION

Section 11.1 Purpose

The Town Board of the Town of Mansfield finds that the potential and/or actual damage from flooding and erosion may be a problem to the residents of the Town of Mansfield and that such damage may include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damage and to achieve the purpose and objectives hereinafter set forth, this Article is adopted.

The purpose of these Flood Plain Area Regulations (ie. Floodway Area and Floodway Fringe Area) is to protect the future health, safety, and welfare of the inhabitants of the Town of Mansfield from hazards due to periodic or intermittent flooding. This shall include the protection of persons and property, the preservation of water quality and the minimizing of expenditures for relief, insurance and flood control projects. This does not imply that areas outside the Areas of Special Flood Hazard or uses permitted within the Areas of Special Flood Hazard will be free from flooding or flood damages.

It is the purpose of this Article to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural flood plains, stream channels, and natural protective barriers which are involved in the accumulation of flood waters;
- (4) control filling, grading, dredging and other development which may increase erosion or flood damages;
- (5) regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;
- (6) qualify for and maintain participation in the National Flood Insurance Program.

Section 11.2 Objectives

The objectives of this Article are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
- (6) to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) to provide that developers are notified that property is in an area of special flood hazard; and
- (8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

Section 11.3 Basis For Establishing The Areas of Special Flood Hazard

The areas of special flood hazard have been identified by the Federal Emergency Management Agency on Flood Insurance Rate Maps enumerated on Map Index No. 360085B 01-11 dated May 25, 1984. The floodway areas delineated by this map are contained in the zoning map as part of the conservation district of the Town of Mansfield. The above documents are hereby, adopted and declared to be a part of this Law and are filed at the Town Clerk's Office.

Section 11.4 Provisions for Flood Hazard Reduction

(A) General Standards

In all areas of special flood hazards the following standards are required:

- (1) Anchoring
 - (a) All new construction and substantial improvements shall be anchored to

prevent flotation, collapse, or lateral movement of the structure.

- (b) All manufactured homes shall be installed using methods and practices that minimize flood damage. Manufactured homes must be elevated and anchored to resist flotation, collapse, or lateral movement. Manufactured homes shall be elevated to or above the base flood elevation or 2 feet above the highest adjacent grade when no base flood elevation has been determined. Methods of anchoring may include, but are not to be limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

(2) Construction Materials and Methods

- (a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
- (b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(3) Utilities

- (a) Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. When designed for location below the base flood elevation, a professional engineer's or architects certification is required;
- (b) All new and replacement water supply system shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (c) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters; and,
- (d) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(4) Subdivision Proposals

- (a) All subdivision proposals shall be consistent with the need to minimize flood damage;
- (b) All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage; and,
- (c) Base flood elevation data shall be provided for subdivision proposals and other proposed developments (including proposals for manufactured home parks and subdivisions) greater than either 50 lots or 5 acres.

(5) Encroachments

- (a) All proposed development in referring situations where no flood elevation data is available (unnumbered A Zones) shall be analyzed to determine the effects on the flood carrying capacity of the area of special flood hazards set forth in section 11.5 (A) (1), Permit Review. This may require the submission of additional technical data to assist in the determination.
- (b) In all areas of special flood hazard in which base flood elevation data is available pursuant to Section 11.5 (A) (2) or Section 11.4 (A) (4) (c) and no floodway has been determined the cumulative effects of any proposed development, when combined with all other existing and anticipated development, shall not increase the water surface elevation of the base flood more than one foot at any point.
- (c) In all areas of the special flood hazard where floodway data is provided or available pursuant to Section 11.5 (A) (2), the requirements of Section 11.4 (D), Floodways, shall apply.

(B) Specific Standards in areas of Special Flood Hazards with Base Flood Elevations

In all areas of special flood hazards where base flood elevation data has been provided as set forth in Section 11.3, Basis for Establishing the Areas of Special Flood Hazards and Section 11.5 (A) (2), Use of Other Base Flood Data, the following standards are required:

(1) Residential Construction

New construction and substantial improvements of any resident structure shall:

- (a) have the lowest floor, including basement or cellar, elevated to or above the base flood elevation;
- (b) have fully enclosed areas below the lowest floor that are subject to flooding designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:
 - i. a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - ii. the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
 - iii. openings may be equipped with louvers, valves, screens or other

coverings or devices provided they permit the automatic entry and exit of floodwaters.

(2) Non-residential construction

New construction and substantial improvements of any commercial, industrial or other non-residential structure, together with attendant utility and sanitary facilities, shall either: have the lowest floor, including basement or cellar, elevated to or above the base flood elevation; or be flood-proofed so that the structure is watertight below the base flood level with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.

- (a) If the structure is to be elevated, fully enclosed areas below the base flood elevation shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed architect or meet the following criteria:
 - i. a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - ii. the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade; and
 - iii. openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters.
- (b) If the structure is to be flood-proofed:
 - i. a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for the construction, and shall certify that the design and methods of construction are in accordance with accepted standards of practice to make the structure watertight with walls substantially impermeable to the passage of water, with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
 - ii. a licensed professional engineer or licensed land surveyor shall certify the specific elevation (in relation to mean sea level) to which the structure is flood-proofed.

- (3) The Local Administrator shall maintain on record a copy of all such certificates noted in this section.

(C) Construction Standards for Areas of Special Flood Hazards without Base Flood Elevations

New construction or substantial improvements of structures including manufactured homes shall have the lowest floor including basement elevated to or above the base flood elevation as may be determined in Section 11.5 (A) (2) or 2 feet above the highest adjacent grade where no elevation data is available.

- (1) New construction or substantial improvements of structures including manufactured homes shall have the lowest floor (including basement) elevated at least 2 feet above the highest adjacent grade next to the proposed foundation of the structure.
- (2) Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically (without human intervention) allow for the entry and exit of floodwaters for the purpose of equalizing hydrostatic flood forces on exterior walls. Designs for meeting this requirement must either be certified by a licensed professional engineer or a licensed architect or meet the following criteria:
 - (a) a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - (b) the bottom of all such openings shall be no higher than one foot above the lowest adjacent finished grade;
 - (c) openings may be equipped with louvers, valves, screens or other coverings or openings provided they permit the automatic entry and exit of floodwaters.

(D) Floodways

Located within areas of special flood hazard are areas designated as floodways (see definition, Article IV). The floodway is an extremely hazardous area due to high velocity flood waters carrying debris and posing additional threats from potential erosion forces. When floodway data is available for a particular site, as provided by Section 11.3 and Section 11.5 (A) (2), all encroachments including fill, new construction, substantial improvements, and other development are prohibited within the limits of the floodway, unless a technical evaluation demonstrates that such encroachments shall not result in any increase in flood levels during the occurrence of the base flood discharge.

Section 11.5 Administration

The Town Board of the Town of Mansfield shall appoint a Local Administrator, who shall be responsible for enforcing this Article regarding areas of Special Flood Hazard. Unless otherwise specified by the Town Board, the Town's Building Inspector shall be assumed to be the Local Administrator.

(A) Duties Related to Flood Hazard Area

The duties of the Local Administrator shall include, but not be limited to:

(1) Permit Application Review

- (a) Review all development permit applications to determine that the requirements of this local law have been satisfied.
- (b) Review all development permit applications to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
- (c) Review all development permit applications to determine if the proposed development adversely affects the area of special flood hazard. For the purposes of this Law, "adversely affects" means physical damage to adjacent properties. An engineering study may be required of the applicant for this purpose.
 - i. If there is no adverse effect, then the permit shall be granted consistent with the provisions of this Law.
 - ii. If there is an adverse effect, then flood damage mitigation measures shall be made a condition of the permit.
- (d) Review all development permits for compliance with the provisions of Section 11.4 (A) (5), Encroachments.

(2) Use of Other Base Flood and Floodway Data

When base flood elevation data has not been provided in accordance with Section 11.3, Basis for Establishing the Areas of Special Flood Hazard, the Local Administrator shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a Federal, State, or other source, including data developed pursuant to Section 11.4 (A) (4), in order to administer Section 11.4 (B) Specific Standards, and Section 11.4 (D) Floodways.

(3) Information to be Obtained and Maintained

- (a) obtain and record the actual elevation, in relation to mean sea level, of the lowest floor, including basement or cellar of all new or substantially improved structures, and whether or not the structure contains a basement or cellar.
- (b) For all new or substantially improved flood-proofed structures:
 - i. obtain and record the actual elevation, in relation to mean sea level, to which the structure has been flood-proofed; and
 - ii. maintain the flood-proofing certifications required by this Law.
- (c) Maintain for public inspection all records pertaining to the provisions of this local law, including variances when granted and Certificates of Compliance.

(4) Alteration of Watercourses

- (a) Notify adjacent communities and the New York State Department of Environmental Conservation prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Regional Director, Federal Emergency Management Agency, Region II, 26 Federal Plaza, New York, NY 10278.
- (b) Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

(5) Interpretation of Firm Boundaries

The Local Administrator shall have the authority to make interpretations when there appears to be a conflict between the limits of the federally identified area of Special Flood Hazard and actual field conditions.

Base flood elevation data established pursuant to Section 11.3 and/or Section 11.5 (A) (2), when available, shall be used to accurately delineate the area of special flood hazards.

The Local Administrator shall use flood information from any other authoritative source, including historical data, to establish the limits of the area of special flood hazards when base flood elevations are not available.

(6) Stop Work Orders

- (a) All flood plain development found ongoing without an approved permit shall be subject to the issuance of a stop work order by the Local Administrator. Disregard of a stop work order shall be subject to the penalties described in Section 12.5 of this Law.

- (b) All flood plain development found non-compliant with the provisions of this law and/or the conditions of the approved permit shall be subject to the issuance of a stop work order by the Local Administrator. Disregard of a stop work order shall be subject to the penalties described in Section 12.5 of this Law.

(7) Inspections

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said inspector to certify that the development is in compliance with the requirements of either the Development Permit or the approved variance.

(8) Certificate of Compliance

- (a) It shall be unlawful to use or occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a Certificate of Compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this Law.
- (b) All other development occurring within the designated flood hazard area will have upon completion a Certificate of Compliance issued by the Local Administrator.

All certifications shall be based upon the inspections conducted subject to Section 11.5 (A) (7) and/or any certified elevations, hydraulic information, flood-proofing, anchoring requirements or encroachment analysis which may have been required as a condition of the approved permit.

(B) Flood Hazard Area Application Stage/Construction Stage

The following information is required where applicable:

- (1) elevation in relation to mean sea level of the proposed lowest floor (including basement or cellar) of all structures.
- (2) elevation in relation to mean sea level to which any non-residential structure will be flood-proofed.
- (3) when required, a certificate from a licensed professional engineer or architect that the utility flood-proofing will meet the criteria in Section 11.4 (A) (3) (a).

- (4) certificate from a licensed professional engineer or architect that the non-residential flood-proofed structure will meet the flood-proofing criteria in Section 11.4 (B).
- (5) description of the extent to which any watercourse will be altered or relocated as a result of proposed development.
- (6) upon placement of the lowest floor, or flood-proofing by whatever means, it shall be the duty of the permit holder to submit to the Local Administrator a certificate of the elevation of the lowest floor, or flood-proofed elevation, in relation to mean sea level. The elevation certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. When flood-proofing is utilized for a particular building, the flood-proofing certificate shall be prepared by or under the direct supervision of a licensed professional engineer or architect and certified by same. Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop-work order for the project unless immediately corrected.

Section 11.6 Variances

- (A) In addition to the criteria for granting variances, which are contained in Article XIII of this Law, the Zoning Board of Appeals shall consider the following criteria before granting a variance for a site that is located in Areas of Special Flood Hazard, which generally are portions of the Conservation District:
- (1) the danger that materials may be swept on to other lands to the injury of others;
 - (2) the danger to life and property due to flooding or erosion damage;
 - (3) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (4) the importance of the services provided by the proposed facility to the community;
 - (5) the necessity to the facility of a waterfront location, where applicable;
 - (6) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (7) the compatibility of the proposed use with existing and anticipated development;

- (8) the relationship of the proposed use to the comprehensive plan and flood plain management program of that area;
- (9) the safety of access to the property in times of flood for ordinary and emergency vehicles;
- (10) the costs to local government and the dangers associated with conducting search and rescue operations during periods of flooding;
- (11) the expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site;
- (12) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges;
- (13) upon consideration of the factors of Section 13.3 and the purposes of this Law, the Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Law;
- (14) the local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

(B) Additional conditions for variances include:

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one acre in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing the criteria in Section 11.6 (A) (1) through (14) have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
- (2) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice that the cost of flood insurance will be commensurate with the increased risk resulting from lowest floor elevation.

ARTICLE XII ADMINISTRATION AND ENFORCEMENT

Section 12.1 General Procedure

(A) General Sequence of Steps

All persons desiring to undertake any new construction, structural alteration, or changes in the use of a building or lot shall apply to the Code Enforcement Officer for a Zoning Permit by filling out the appropriate application form and by submitting the required fee. The Code Enforcement Officer will then either issue or refuse the permit or refer the application to the Zoning Board of Appeals or the Planning Board. After the Zoning Permit has been received by the applicant, he/she may proceed to undertake the action permitted in the Zoning Permit. Upon completion of such action, the applicant shall apply to the Code Enforcement Officer for a Certificate of Zoning Compliance. Upon issuance of the Certificate of Zoning Compliance, the applicant may apply to the Building Inspector for a Certificate of Occupancy, the issuance of which will allow the premises to be occupied.

(B) Zoning Permit Types

Under the term of this zoning Law, the following classes of Zoning Permits may be issued:

- (1) **Permitted Use.** A Zoning Permit for a permitted use may be issued by the Code Enforcement Officer of his own authority.
- (2) **Special Uses.** A Zoning Permit for a Special Use may be issued by the Code Enforcement Officer upon the order of the Planning Board, after a decision on the special use permit application pursuant to Article XIV of this zoning Law.
- (3) **Zoning Permit after an Appeal or a Request For a Variance.** A Zoning Permit may be issued by the Code Enforcement Officer upon the order of the Zoning Board of Appeals, after a decision on the variance request pursuant to Article XIII of this zoning Law.
- (4) **Zoning Permit after Site Plan Review.** A Zoning Permit may be issued by the Code Enforcement Officer upon the order of the Planning Board, after a decision on the site plan application pursuant to Article XIV of this zoning Law.

Section 12.2 Code Enforcement Officer

- (A) This zoning Law shall be enforced by the Code Enforcement Officer, who shall be appointed by the Town Board. No Zoning Permits or Certificates of Zoning Compliance shall be issued by him/her except where all the provisions of this Law have been complied with.
- (B) No building, structure, fence or sign shall be erected, added to, or structurally altered until a Zoning Permit therefore has been issued by the Code Enforcement Officer. Except upon a written order of the Zoning Board of Appeals, no such Zoning Permit or Certificate of Zoning Compliance shall be issued for any building where said construction, addition, or alteration or use therefore would be in violation of any of the provisions of this Zoning Law.

Section 12.3 Zoning Permits

(A) Information Necessary for Application

There shall be submitted with all applications for Zoning Permits two copies of a layout or plot plan drawn to scale showing the actual dimensions of the lot to be built upon, the exact size and location on the lot of the building and accessory buildings to be erected and such other information as may be necessary to determine and provide for the enforcement of this Law.

(B) Public Record

One copy of such layout or plot plan shall be returned when approved by the Code Enforcement Officer, together with the approved Zoning Permit to the applicant. The second copy, along with other application materials, shall become a public record after a Zoning Permit is issued or denied.

(C) Water Supply and Sewage Disposal

All water supply and sewage disposal installation shall conform with the New York State Department of Health and the local County Health Department regulations. No plot plan shall be approved by the Code Enforcement Officer unless such conformity is certified on the plan.

(D) Stormwater Runoff

Drainage affecting adjacent properties shall be considered by the Code Enforcement Officer before issuing a Zoning Permit, including possible runoff to adjacent properties.

(E) Issuance of Permits

It shall be the duty of the Code Enforcement Officer to issue a Permit, provided he is satisfied that all requirements of this Law are satisfied, and that all other reviews and actions, if any called for in this Law have been complied with and all necessary approvals secured therefor.

All Permits shall be issued in duplicate and one copy shall be kept conspicuously on the premises affected and protected from the weather whenever construction work as being performed thereon. No owner, contractor, workman, or other person shall perform any building operation of any kind unless a Permit covering such operation has been displayed as required by this Law, nor shall they perform building operations of any kind after notification of the revocation of said Permit.

(F) Denial of Permits

When the Code Enforcement Officer is not satisfied that the applicant's proposed development will meet the requirements of this Law, he shall refuse to issue a Permit and the applicant may appeal to the Board of Appeals for a reversal of the Code Enforcement Officer's decision.

(G) Expiration of Permit

A Permit shall expire after one year if the applicant fails to implement his application as filed with the Code Enforcement Officer.

(H) Revocation of Permit

If it shall appear, at any time, to the Code Enforcement Officer that the application or accompanying plot is in any material respect false or misleading, or that work is being done upon the premises differing materially from that called for in the application filed with him under existing laws or Laws, he may forthwith revoke the Permit, whereupon it shall be the duty of the person holding the same to surrender it and all copies thereof to the Code Enforcement Officer. After the Permit has been revoked, the Code Enforcement Officer, in his discretion, before issuing the new Permit, may require the applicant to file an indemnity bond in the favor of the Town with sufficient surety conditioned for compliance with his Law and all building laws and ordinances then in force and in a sum sufficient to cover the cost of removing the building if it does not so comply.

Section 12.4 Certificate of Zoning Compliance

(A) General

No land shall be occupied or used and no building hereafter erected, altered or extended shall be used or changed in use until a Certificate of Zoning Compliance shall have been issued by the Code Enforcement Officer, stating that the buildings or proposed use thereof complies with the provisions of this Law.

(B) Application for Certificate of Zoning Compliance

- (1) All Certificates of Zoning Compliance shall be applied for coincident with the application for a Certificate of Occupancy pursuant to the NYS Building Code. The Code Enforcement Officer shall issue the Certificate of Zoning Compliance within ten (10) days after he/she determines that the construction, alteration or use complies with the provisions of this Law.
- (2) The Code Enforcement Officer shall maintain a record of all certificates, and copies shall be furnished upon request to any person having a proprietary or tenancy interest in the building or land affected.

Section 12.5 Violations and Penalties**(A) Enforcement Official**

- (1) Any violation of this Law is an offense punishable by a fine not to exceed the sum of \$250.00. Each week that a violation continues shall constitute a separate offense.
- (2) The Code Enforcement Officer (CEO) is hereby designated as the Town official who is charged with the administration and enforcement of this zoning Law. The CEO is authorized to make inspections of property, to respond to complaints, to issue Notices of Violations and to issue Appearance Tickets, where necessary to enforce the provisions of this zoning law.

(B) Complaints of Violations

- (1) Any person may file a complaint with the Code Enforcement Officer that a violation of this law may have taken place or is allegedly taking place. All complaints shall be in writing and shall specify the property on which the alleged violation has occurred.
- (2) The Code Enforcement Officer shall record and investigate any such written complaint.
- (3) The Code Enforcement Officer may also investigate any alleged violation that he or she has reason to believe has occurred or is occurring.
- (4) The Code Enforcement Officer shall report all alleged violations, his/her investigations and his/her determinations to the Town Board. This report shall be made monthly, or at such interval as the Town Board shall determine.

(C) Inspection

- (1) Whenever a complaint has been filed, or whenever it shall appear that the provisions of this Law are being violated, the Code Enforcement Officer, shall investigate the complaint. Except in cases where the alleged violation is in plain view and/or where no

entry is necessary, or except in cases where an imminent peril exists, the CEO shall obtain approval from an owner, lessee, agent, tenant, or other person with authority, to make an inspection of the property.

- (2) Following the inspection of the property, the Code Enforcement Officer shall file a written report, which details the findings of his/her inspection, with the Town Clerk. If the inspection was the result of a complaint, a copy of the report shall be sent to the person who filed the complaint.

(D) Notice of Violation

- (1) If the Code Enforcement Officer finds that a violation of this Law exists on the property, he/she shall prepare a written Notice of Violation which shall contain the following information:
 - (a) The name of the owner or occupant to whom the Notice is addressed
 - (b) The location of the premises involved in the violation
 - (c) A statement describing the condition of the premises at the time of the inspection, and showing in which way the premises is in violation of this Law.
 - (d) A demand that the violation be remedied to comply with this Law. The Notice shall set a reasonable timeperiod for compliance. (For example, within 15 days of the date of the Notice of Violation.)
 - (e) A statement that a failure to comply with the demand may result in prosecution.
- (2) The Notice of Violation shall be served by personal service or by certified mail, return receipt requested, addressed to the last known address of the property owner or occupant.
- (3) **Extension.** Upon application of the owner or occupant showing reasonable cause, the Code Enforcement Officer may grant an extension of up to thirty days for the owner or occupant to comply with the Notice of Violation.

(E) Appearance Ticket

If, after the expiration of the timeperiod specified in the Notice of Violation, or after the completion of any extension period, the owner or occupant shall fail to comply with the requirements of this law, the Code Enforcement Officer or Town Board may institute enforcement procedures as follows:

- (1) The Code Enforcement Officer is hereby authorized, pursuant to Criminal Procedure Law Section 150.20 (3), to issue an appearance ticket to any person whom the enforcement officer has reason to believe has violated this law, and shall cause such person to appear before the town court.
- (2) After the appearance ticket has been issued, the Code Enforcement Officer shall file an Information and Supporting Deposition with the local justice.

(F) Other Remedies

- (1) In case any building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained; or any building, structure or land is used, or any land is divided into lots, blocks or sites in violation of this Law, the Town Board, in addition, to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use, to prevent the occupancy of said building, structure or land or to prevent any illegal act, conduct, business or use in or about such premises.
 - (2) The Town Board reserves the right to seek a court order to have the violation corrected by the Town. The expense thereof shall be charged to the property so affected by including such expense in the next annual tax levy against the property.
- (G)** The provisions of this Article shall not limit the available procedures for enforcement and remedies provided for under the Town Law of the State of New York or any other law.

Section 12.6 Fees

A schedule of fees for all permits and applications required by this zoning Law shall be established by the Town Board. The Town Board may change the fee schedule from time to time.

Section 12.7 Article Seventy-eight Proceedings

Any person or persons, jointly or severally aggrieved by any decision of the Town Board, Zoning Board of Appeals, the Planning Board or any officer, department, board or bureau of the Town, pursuant to this Zoning Law, may apply to the supreme court for review by a proceeding under Article Seventy-eight of the civil practice law and rules. Such proceeding shall be instituted within thirty days after the filing of a decision of the board in the office of the Town Clerk.

ARTICLE XIII

ZONING BOARD OF APPEALS

Section 13.1 Organization

The Town Board, Town of Mansfield, pursuant to the provisions of the Town Law applicable thereto, shall appoint a Zoning Board of Appeals consisting of five members. The terms of office shall be five years, excepting that the five members first appointed shall serve for terms of one, two, three, four and five years. The Board of Appeals, subject to the provisions of Town Law, shall determine its own rules of procedure. The members of the Board of Appeals shall be removable for cause by the appointing authority upon written charges and after public hearing. Vacancies shall be filled in the same manner as the original for the unexpired term of any member whose term becomes vacant. No member of the Board of Appeals shall hold an elective office in the Town government.

Section 13.2 Powers and Duties

With due consideration for the purpose and intent of this Zoning Law, the Zoning Board of Appeals shall have the power and authority to:

- (1) Hear and determine appeals from and review any order, requirement, decision or determination made by the Code Enforcement Officer charged with the enforcement of this Law.
- (2) Hear and decide all matters referred to it, or upon which it is required to pass under this Law.
- (3) Decide any question involving the interpretation of any provision of this Law, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.
- (4) Hold public hearings and approve or disapprove each application for a use or area variance, as defined in this Law.
- (5) Revoke any decision to grant a variance, after a public hearing, if the owner/applicant fails to comply with any conditions of approval of the original approval. Prior to a public hearing on this issue, the Code Enforcement Officer shall pursue abatement of the failure to comply as a violation in accordance with Article XII of this Law.

Section 13.3 Variances

The Zoning Board of Appeals may issue a variance for any use of structures or lots (use variance) or for any dimensional or physical regulations (area variance) in the Town of Mansfield, provided such variance complies with the general standards set forth in this section and with any applicable special requirements enumerated elsewhere in this Law. Each case shall be determined on its own merits.

(A) Use Variances

- (1) In order for the Zoning Board of Appeals to grant a use variance, the applicant shall show that the applicable zoning regulations and restrictions have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Zoning Board of Appeals that for each and every permitted use under the zoning regulations for the particular district where the property is located:
 - a. The applicant cannot realize a reasonable return, provided that lack of return is substantial, as demonstrated by competent financial evidence; and
 - 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; and
 - c. That the requested use variance, if granted, will not alter the essential character of the neighborhood; and
 - d. That the alleged hardship has not been self-created.
- (2) The Zoning Board of Appeals, in the granting of use variances, shall grant the minimum variance that it shall deem 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.

(B) Area Variances

- (1) In making its determination on an application for an area variance, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the variance were granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider:
 - a. Whether 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. Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance.

- c. Whether the requested area variance is substantial.
 - d. Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
 - e. Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the board, but shall not necessarily preclude the granting of the area variance.
- (2) The Zoning Board of Appeals, in the granting of area variances, shall grant the minimum variance that it shall deem 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.

(C) Imposition of Conditions

- (1) The Zoning 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 zoning Law and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.
- (2) The applicant shall comply with all conditions of approval prior to the issuance of a Certificate of Zoning Compliance. However, the Zoning Board of Appeals may authorize the Code Enforcement Officer to issue a temporary Certificate of Zoning Compliance if a performance bond has been posted in an amount sufficient to guarantee completion of the project as approved. The Board of Appeals shall establish a maximum period of time during which the temporary Certificate of Zoning Compliance is valid. The issuance of a temporary Certificate of Zoning Compliance may be warranted, for example, in cases where the timing of the completion of construction does not allow adequate time to complete all required landscaping prior to the onset of winter weather. In such cases a performance bond is needed to ensure that the proposed development will be built in compliance with the approved special use permit. The sufficiency of such performance bond shall be determined by the Town Board, after consultation with the Board of Appeals, Town Attorney, Code Enforcement Officer, and/or other appropriate parties.

(D) Expiration of Grant of Variance

A variance shall expire within six months of the date of approval, if the applicant fails to obtain the necessary Zoning Permit within that time or if use of the property in accordance with the grant of variance has not been commenced, in cases where construction is not needed. The Zoning Board of Appeals may grant extensions of up to one additional year,

upon written application prior to the expiration of the original variance approval. Applicant shall provide a rational basis as to why he/she was not able to begin the project.

A use variance shall expire if the use of the property in accordance with the grant of variance shall cease continuously for six months.

Nothing in this section shall be construed to prohibit the Zoning Board of Appeals from requiring, as a condition of approval, that a grant of variance be renewed periodically.

Section 13.4 Procedure

(A) Filing of Appeals

- (1) Any party aggrieved by a decision of the Code Enforcement Officer shall file a notice of appeal within sixty (60) days from the date of the filing of any order, requirement, decision, interpretation or determination by the Code Enforcement Officer in the office of the Town Clerk.
- (2) All appeals shall be in writing, on forms prescribed by the Zoning Board of Appeals, and shall specify the grounds for the appeal and the relief sought. Every appeal shall refer to the specific provision of the Law that is involved and shall exactly set forth 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 variance should be granted, as the case may be.
- (3) All appeals shall be filed with the Town Clerk. Upon receipt of the notice of appeal, together with all required application material, the Clerk shall transmit the notice of appeal and application materials to the Zoning Board of Appeals and to the Code Enforcement Officer. The C.E.O. shall transmit to the Zoning Board of Appeals copies of all the papers constituting the record upon which the action appealed from was taken.

(B) Required Application Materials

Any appeal or application for a use or area variance shall contain the information specified below for the corresponding type of application. The Zoning Board of Appeals may require additional information, if a particular application so warrants. The Zoning Board of Appeals may waive any particular application requirement that it deems is not relevant to an individual application.

The applicant shall submit a sufficient number of copies of all required materials to facilitate review by the Zoning Board of Appeals and Town staff, if applicable, in addition to one required public review set of materials. The Chair of the Board of Appeals shall determine the required number of copies.

(1) Appeal from interpretation or determination

Any appeal of the Code Enforcement Office's interpretation of the Zoning Law or other determination shall include the following information:

- (a) The name and address of the applicant.
- (b) The tax map number and the street address of the lot that is the subject of the application, if applicable. The name and address of the owner of the lot in question, if the applicant is not the property owner.
- (c) A description of the interpretation or determination that is being appealed, and a statement explaining why the applicant feels this interpretation or determination is not correct.
- (d) All required fees.

(2) Application for a Use Variance

- (a) The name and address of the applicant.
- (b) The name and address of the owner of the lot that is the subject of the application, if the applicant is not the property owner. If an applicant is applying for a variance on a lot that he/she does not own, the property owner shall also sign the application.
- (c) The tax map number and the street address of the lot that is the subject of the application.
- (d) The zoning classification of the lot and its present use. A description of the proposed use, if different from the current use.
- (e) If construction is proposed, a reasonably accurate description of the present buildings and any other improvements, and the additions or changes intended to be made under this application, indicating the size of such proposed improvements, material and general construction thereof.
- (f) A statement explaining the reasons why the applicant believes the variance should be granted. The applicant should address the four tests itemized in Section 13.3(A) of this Law.
- (g) All required fees.

(3) Application for an Area Variance

- (a) The name and address of the applicant.

- (b) The name and address of the owner of the lot that is the subject of the application, if the applicant is not the property owner. If an applicant is applying for a variance on a lot that he/she does not own, the property owner shall also sign the application.
- (c) The tax map number and the street address of the lot that is the subject of the application.
- (d) The zoning classification of the lot and its present use. A description of the proposed use, if different from the current use.
- (e) A plot plan of the lot, indicating the location and size of the lot and size of the improvements thereon and proposed to be erected thereon. The plot plan shall be drawn to scale, and the dimensions of the lot, buildings and setbacks shall be accurately shown on the plot plan. The plot plan shall generally indicate the types of materials to be used.
- (f) A statement explaining the reasons why the applicant believes the variance should be granted. The applicant should address the five tests itemized in Section 13.3(B) of this Law.
- (g) All required fees.

(C) Request for Interpretation

Any Town board, agency, or official, or any individual, may request an interpretation of any portion of this zoning Law. Such request shall be made in writing and shall detail the specific section of the zoning Law for which clarification or interpretation is requested. The Zoning Board of Appeals shall consider the request for clarification at its next meeting, or the earliest meeting which allows full compliance with all the notification and other public hearing requirements of this Law. The determination of the Board of Appeals shall be filed according to the requirements of this Law.

(D) Public Hearing

- (1) Before acting on any matter, the Zoning Board of Appeals shall hold a public hearing. The public hearing shall be held within 62 days of the date that the complete notice of appeal and application are filed with the Clerk. The Zoning Board of Appeals shall determine when the application is complete.
- (2) Notice of the public hearing shall be published in the following ways:
 - (a) The Town shall publish a notice in a newspaper of general circulation in the Town at least five days prior to the date of the public hearing.
 - (b) For all appeals that meet the requirements contained in Article XVII of this Law (and in Section 239m of NYS General Municipal law), the Zoning Board of

Appeals shall mail notice of such hearing to the Cattaraugus County Planning Board. Such notice shall be mailed at least ten (10) days prior to the public hearing and shall be accompanied by a full statement of the application.

- (c) At least 10 days before the hearing, the Town shall mail notice of the hearing to the applicant.
- (d) At least 10 days before the hearing, the Town shall mail notice of the hearing to property owners of all lots within 500 feet of the lot line of the parcel that is the subject of an application for a use or area variance. The distance shall be measured from the perimeter of the subject lot. Requests for interpretations of the zoning Law are not subject to this noticing provision.

(E) Decision

- (1) The affirmative vote of three members of the Zoning Board of Appeals shall be necessary to reverse any order, requirement, decision or determination of the Code Enforcement Officer or to grant a use variance or area variance. However, if an application is referred to the Cattaraugus County Planning Board pursuant to Section 239m of New York State General Municipal Law, and if the County Planning Board recommends modification or disapproval of an application, the Zoning Board of Appeals shall not act contrary to such recommendation except by a vote of a majority plus one of all the members.
- (2) The Zoning Board of Appeals shall decide upon the appeal within sixty-two (62) days of the public hearing at which the matter was considered. The time within which the board must render its decision may be extended by mutual consent of the applicant and the Board.
- (3) Default denial of appeal. In exercising its appellate jurisdiction only, if an affirmative vote of the majority of all members of the Zoning Board of Appeals is not attained on a motion or resolution to grant a variance or reverse any order, requirement, decision or determination of the Code Enforcement Officer within the 62 day period allowed for a decision, the appeal is denied. The Board of Appeals may amend the failed motion or resolution and vote on the amended motion or resolution within the 62 day period, without being subject to the rehearing process as set forth in subsection 276-a (12) of NYS Town Law.

(F) Filing Of Decisions and Notice To The Applicant

- (1) The Zoning Board of Appeals shall file every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Board of Appeals in the office of the Town Clerk within five (5) business days. Such decisions and determinations shall be a public record.

- (2) A copy of the decision of the Zoning Board of Appeals shall be mailed to the applicant within five (5) business days of the decision. If the application is denied, the notice to the applicant shall state the reasons therefore. If the application is approved with conditions or modifications, the notice to the applicant shall specify all such conditions and modifications.

(G) Abandoned Application

An application will be deemed abandoned and will be denied if there is no activity by the applicant on the application within six (6) months of the date of the initial notice of appeal or from the date that additional material or information is requested by the Zoning Board of Appeals, whichever is later. "No activity" means that the applicant is not diligently providing the Town with information necessary to proceed with review of the application, including materials and/or information that are required by this Law or by the requirements of the State Environmental Quality Review Act.

(H) Rehearing

Whenever the Board, after hearing all the evidence presented upon an application or appeal, under the provisions of this Law, denies the same, the Zoning Board of Appeals shall refuse to hold further hearings on the same or substantially similar application or appeal by the same applicant, his successor, or assign for a period of one (1) year, except upon a motion for rehearing for a determination not previously reheard.

Such rehearing would be allowable only upon a motion initiated by a member of the Zoning Board of Appeals and adopted by the unanimous vote of the members present, but not less than a majority of the members.

(I) Stay of Proceedings

An appeal shall stay all proceedings in furtherance of the action appealed from unless the Building Inspector certifies for the Zoning Board of Appeals, after the notice of appeal shall have been filed, that by reason of facts stated in the certificate, they would, in his opinion, cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals or by the Supreme Court on application, on notice to the Building Inspector and on due cause shown.

Section 13.5 Compliance with State Environmental Quality Review Act

The Zoning Board of Appeals shall fully comply with the provisions of the State Environmental Quality Review Act (SEQRA) prior to acting upon an application for variance, an appeal, or other action.

ARTICLE XIV PLANNING BOARD

Section 14.1 Organization

The Town Board, Town of Mansfield pursuant to the provisions of the Town Law applicable thereto, shall appoint a Planning Board consisting of seven members. The terms of office shall be seven years, excepting that the seven members first appointed shall serve for terms of one, two, three, four, five, six and seven years. Such Planning Board, subject to the provisions of Town Law, shall determine its own rules of procedure. The members of the Planning Board shall be removable for cause by the Town Board upon written charges and after public hearing. Vacancies shall be filled in the same manner as the original for the unexpired term of any member whose term becomes vacant. No member of the Planning Board shall hold an elective office in the Town government.

Section 14.2 Powers and Duties

With due consideration for the purpose and intention of this Zoning Law, the Planning Board shall have the power and authority to:

- (1) Approve, approve with conditions or disapprove each application for a special use, in conformance with the provisions of this Law.
- (2) Approve, approve with conditions, or disapprove each application for site plan review, in conformance with the provisions of this Law.
- (3) Review referrals on Planned Unit Developments from the Town Board in accordance with criteria established in this Law.
- (4) Review referrals on amendments to this Law from the Town Board, in accordance with Article XVI.
- (5) Revoke any decision to grant a special use permit or site plan review application, after a public hearing, if the owner/applicant fails to comply with any conditions of approval of the original approval. Prior to a public hearing on this issue, the Code Enforcement Officer shall pursue abatement of the failure to comply as a violation in accordance with Article XII of this Law.
- (6) Report on any other matter referred to it by the Town Board.

Section 14.3 Special Uses

(A) Purpose

The purpose and intent of the review of Special Uses is to allow the proper integration into the community of uses which may be suitable only under certain conditions and at appropriate locations. Because of their unusual characteristics, or the special characteristics of the area in which they are to be located, special uses require careful consideration so that they may be properly located and conditioned in order to minimize their effect on nearby properties and to comply with the objectives of this zoning Law.

(B) General Standards

The Planning Board shall hear and determine all applications for Special Uses that are so listed in Article VII and elsewhere in this Law. After evaluating the application using the criteria established in this Article and elsewhere in the Law, where applicable, and considering the intent and purpose of this zoning Law, the Planning Board may approve, approve with conditions or disapprove the application for Special Use Permit. If the application is approved, the Planning Board may impose any reasonable conditions related to the project that it feels are necessary to mitigate potential impacts to the neighborhood, to the Town as a whole, or to the environment.

The Planning Board may approve a temporary Special Use permit subject to adequate guarantees that the use covered will be terminated at the end of the period specified or such extension thereof as may be granted by said Board, provided that any such renewal or extension shall be subject to the same procedure specified herein for the original issuance of the special use permit involved.

(C) Criteria for Granting Special Use Permits

When making a decision to approve, approve with conditions, or disapprove a special use permit, the Planning Board shall consider the following criteria. In approving a special use permit, the Planning Board shall find that the proposed project meets all these criteria, or can be modified or conditioned to bring it into compliance with the criteria. In this latter case, the conditions of approval shall be part of the approved special use permit. In making its decision on an application for a special use, the Planning Board shall find that:

- (1) The nature, intensity, size and location of the proposed use is in harmony with the character of the surrounding neighborhood, and the proposed use will not adversely affect the neighborhood.
- (2) The proposed use will not be detrimental to the health, safety, or general welfare of persons residing or working in the neighborhood of such proposed use and will not be detrimental or injurious to the property and improvements in the neighborhood or to the general welfare of the Town.
- (3) The size and location of the site are adequate for the use proposed.

- (4) The proposed use will not generate excessive noise, odor, dust, smoke or vibrations.
- (5) The proposed use will not unduly increase traffic volumes or unduly affect traffic flow or safety for pedestrians or vehicles. The capacity of the existing street system is adequate to handle the anticipated traffic from the proposed project.
- (6) Essential infrastructure, such as water supply and sewerage disposal systems, exist to adequately serve the proposed use or will be provided on-site by the applicant. Adequate provision has been made to regulate stormwater runoff.
- (7) The proposed project is adequately screened from adjacent properties, if screening is appropriate.
- (8) The proposed project conforms to all applicable requirements of this zoning Law.
- (9) The proposed use is in harmony with the zoning Law and will not adversely affect the neighborhood in which it is located.

(D) Procedure

(1) Submission to Planning Board

An applicant for a Special Use Permit shall submit a completed application to the Town Clerk, who shall forward it to the Planning Board.

(2) Application Materials

The application for special use permit shall contain the information and materials listed below. All maps shall include the name of the project, title of drawing, the name and address of the applicant, the person responsible for the preparation of the drawing, a north arrow, scale, and date. The applicant shall submit a sufficient number of copies of all required materials to facilitate review by the Planning Board members and Town staff, in addition to one required public review set of materials. The Chair of the Planning Board shall determine the number of copies that are required.

The application shall contain the following materials:

- (a) A general description of the proposed project, including the nature of the use and the proposed hours of operation.
- (b) The tax map number of the parcel(s) on which the project will occur, and the name of the owner of record of that parcel(s). If the applicant is not the owner of record, the applicant shall provide a written statement from the property owner, giving permission to make the application.

- (c) A plot plan, drawn to scale, showing the size and location of the lot, the location of all buildings on the lot, driveway entrances, parking areas, landscaping and any other proposed features.
- (d) A description of the proposed water supply, sewerage disposal and stormwater drainage facilities.
- (e) Environmental Assessment Form pursuant to the NYS Environmental Conservation Law, Part 617.
- (f) All required fees.
- (g) Any other information that the Planning Board determines is necessary to consider the application.

The Planning Board may, at its discretion, waive any application requirement that it deems is not relevant to a particular application.

(3) Public Hearing

- (a) The Planning Board shall hold a public hearing on the application for special use permit within sixty-two (62) days from the date the complete application is received. The Planning Board shall determine when the application is complete.
- (b) Notice of the public hearing shall be published in a newspaper of general circulation in the Town at least five days prior to the date of the public hearing.
- (c) At least 10 days before the hearing, the Town shall mail notice of the hearing to the applicant.
- (d) For all applications that meet the requirements contained in Article XVII of this Law (and in Section 239m of NYS General Municipal law), the Planning Board shall mail notice of such hearing to the Cattaraugus County Planning Board. Such notice shall be mailed at least ten (10) days prior to the public hearing and shall be accompanied by a full statement of the application.
- (e) At least 10 days before the hearing, the Town shall mail notice of the hearing to property owners of all lots within 500 feet of the lot line of the parcel that is the subject of an application for a special use permit. The distance shall be measured from the perimeter of the subject lot.

(4) Decision

- (a) The Planning Board shall decide on the application within sixty-two (62) days of the date of the close of the public hearing. The time within which the Planning Board shall reach its decision may be extended by mutual consent of the applicant and the Board.
- (b) The concurring vote of a majority of the total membership of the Planning Board shall be necessary to grant a special use permit. However, if an application is referred to

the Cattaraugus County Planning Board pursuant to Section 239m of New York State General Municipal Law and if the County Planning Board recommends modification or disapproval of an application, the Planning Board shall not act contrary to such recommendation except by a vote of a majority plus one of all the members.

(5) Filing Of Decisions and Notice To The Applicant

- (a) The Planning Board shall file a copy of its decision on the application with the Town Clerk within five (5) business days of the date of the decision.
- (b) The Planning Board shall mail a notice of its decision to the applicant within five (5) business days of the date of the decision. If the application is denied, the notice to the applicant shall state the reasons therefore. If the application is approved with conditions or modifications, the notice to the applicant shall specify all such conditions and modifications.

(E) Compliance with Conditions of Approval

- (1) In approving a special use permit, the Planning Board may impose reasonable conditions, which are directly related to the application.
- (2) No Certificate of Zoning Compliance shall be issued until all aspects of the approved special use permit have been completed, including any conditions of approval. However, the Planning Board may authorize the Code Enforcement Officer to issue a Certificate of Zoning Compliance if a Security Agreement has been posted in an amount sufficient to guarantee completion of the project as approved. The sufficiency and type of such Security Agreement shall be determined by the Town Board, after consultation with the Planning Board, Town Attorney, Code Enforcement Officer, and/or other appropriate parties. In general, the preferred form of the Security Agreement shall be in the form of a Letter of Credit, but the Town Board may agree to accept cash deposited to an escrow account or a performance bond.

(F) Abandoned Application

An application will be deemed abandoned and will be denied if there is no activity by the applicant on the application within six (6) months of the initial application date or from the date that additional material or information is requested by the Planning Board, whichever is later. "No activity" means that the applicant is not diligently providing the Town with information necessary to proceed with review of the application, including materials and/or information that are required by this Law or by the requirements of the State Environmental Quality Review Act.

(G) Expiration of Special Use Permit

A Special Use Permit shall expire six months from the date of approval, if the applicant fails to obtain any necessary Zoning Permit, or if use of the property in accordance with the grant of Special Use Permit has not commenced, in cases where construction is not part of the project.

The Planning Board may grant an extension for up to one additional year, upon written application by the applicant prior to the expiration of the Special Use approval. Applicant shall provide a rational basis as to why he/she was not able to begin the project.

A Special Use Permit shall expire if the use of the property in accordance with the grant of a Special Use Permit shall cease continuously for six months.

Nothing in this section shall be construed to prohibit the Planning Board from requiring, as a condition of approval, that a grant of special use permit be renewed periodically.

Section 14.4 Site Plan Review

(A) Purpose

Site Plan Review is a regulatory planning technique which requires municipal approval of the arrangement, layout and design of certain proposed uses, when development occurs on a single parcel of land which is not intended to be subdivided.

The intent of site plan review is to promote the health, safety and general welfare of the Town of Mansfield. A clean, wholesome, attractive environment is important to the health and safety of the inhabitants of the Town, and in addition, such an environment is deemed essential to the maintenance and continued development of the economy of the Town and the general welfare of its inhabitants.

The purpose of this Section is to set forth standards for the review of site plans applying to certain uses and activities. The nature of these uses and activities requires special consideration of their impacts upon surrounding properties, the environment, community character and the ability of the Town to accommodate development.

An additional purpose of this article is to ensure that any new development, substantial redevelopment, or change of use in the Town is in harmony with the character of the Town and to minimize potential conflicts between future development and existing neighboring uses.

(B) Applicability

- (1) Prior to the issuance of a building permit or zoning permit in any zoning district, a project shall require site plan approval in accordance with the provisions of this article. All new land use activities, all special uses, and all substantial redevelopment shall require site plan review and approval, including new structures, new uses, expansions of existing structures, and excavation operations, except those activities specifically exempted below.

- (2) Exempted Uses

The following land use activities are exempted from the requirement for site plan review and approval:

- (a) One-family or two-family dwellings, including ordinary accessory structures and related land use activities. Additions, of any size, to existing one-family and two-family dwellings are also exempt from site plan review.
- (b) Landscaping, gardening or grading that is not intended to be used in connection with a land use reviewable under the provisions of this Section of the Zoning Law
- (c) Ordinary repair or maintenance to existing structures.
- (d) Interior structural alterations.
- (e) Exterior alterations or additions to existing structures that would not increase the square footage of the existing structure by more than twenty-five (25) percent.
- (f) The sale of agricultural produce and temporary structures related to the sale of agricultural produce.
- (g) Signs, except for signs that are included in projects that would otherwise require site plan review.
- (h) Home occupations.
- (i) Accessory structures, including fences, unless the fence or other accessory structure is part of a project that is subject to site plan review.

(C) Authority

The Planning Board of the Town of Mansfield is authorized to approve, approve with conditions, or disapprove site plans. When approving a site plan, the Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to the proposed site plan. Such conditions may include, but are not limited to, controlling the number and location of driveways; requiring fencing, screening, and/or landscaping to protect adjacent properties; requiring landscaping on site; and limiting the number, size, and location of signs.

(D) Criteria for Approving Site Plans

When making a decision to approve, approve with conditions and/or modifications, or disapprove a Site Plan, the Planning Board shall consider the following criteria. In approving a Site Plan, the Planning Board shall find that the project meets all these criteria, or can be modified or conditioned to bring it into compliance with the criteria. In this latter case, conditions of approval or modifications to the proposal shall be part of the approved, modified Site Plan. The Planning Board shall find that:

- (1) The proposed project is consistent with the intent and purposes of this zoning Law and other applicable laws, and conforms to all applicable requirements of this zoning Law.
- (2) The proposed project is compatible with the natural features of the site and with the existing character of the neighborhood.
- (3) Adequate provision has been made for water supply, sewerage disposal and drainage.
- (4) The proposed Site Plan is consistent with the following standards:
 - (a) Location, size, massing, arrangement, and design of the proposed buildings and other structures are compatible with the existing development in the surrounding area, including the compatibility of the proposed architectural features, colors and materials.
 - (b) Adequacy of off-street parking arrangements, both in terms of number of spaces and their arrangement on the lot. If appropriate, pedestrian access and circulation are adequately provided for.
 - (c) Adequacy of the vehicular access to and egress from the site, and adequacy and arrangement of the internal vehicular circulation on the site.
 - (d) Location, arrangement, appearance and sufficiency of off-street loading facilities. Loading docks and doors shall not be permitted at the front of a building, and shall be screened from view.
 - (e) Adequacy, type, and arrangement of trees, shrubs, walls, fencing and other landscaping features that constitute a visual and/or noise buffer between the site and adjacent land uses. The retention of existing major vegetation is encouraged, where feasible.
 - (f) Adequacy of landscaping plan. In general, species that tolerate low maintenance are preferred.
 - (g) Adequacy of the size, design, number, placement and arrangement of signs. Signage shall have a common theme throughout a site.

- (h) Adequacy, location and design of lighting. Lighting shall be designed so that it does not spill over to adjacent properties. The minimum level of lighting for safety and visibility is encouraged.
 - (i) Adequacy of fire lanes and emergency access.
- (5) If the proposed project is located in a floodplain, the proposal conforms to all requirements of Article XI of this Law.

(E) Procedure

(1) Submission to Planning Board

An applicant for Site Plan Review shall submit a completed application to the Town Clerk, who shall present it to the Planning Board.

(2) Application Materials

- (a) The application for site plan review shall contain the information and materials listed below. If a sketch plan conference is held, the necessary application materials will be determined by the Planning Board at that conference. The formal Site Plan that is submitted for approval shall be prepared by and have the signature and seal of a licensed engineer, architect, landscape architect or surveyor, as appropriate. All maps shall include the name of the project, title of the drawing, the name and address of the applicant, the person responsible for the preparation of the drawing, a north arrow, scale, and date. The applicant shall submit a sufficient number of copies of all the required materials to facilitate review by the Planning Board members and staff, in addition to one required public review set of materials. The Chair of the Planning Board shall determine the number of copies necessary.
- (b) The site plan application shall include the following:
 - The name, address, and contact information of the applicant. The tax map number of the parcel(s) on which the project will occur, and the name of the owner of record of that parcel(s). If the applicant is not the owner of record, the property owner shall also sign the application.
 - An area map showing the applicant's entire holdings, including lot size, and existing zoning; all adjacent properties, with tax map numbers; Adjacent streets, roadways and sidewalks.
 - A legal description of the property, including a survey prepared by a licensed land surveyor.
 - Floor plans and elevations showing all architectural features, including materials to be used, colors, type of construction, and exterior dimensions.
 - Grading and drainage plan
 - Description of water supply and sewerage disposal facilities

- Landscaping plan and planting schedule, including location, type and size of existing trees and vegetation, identifying those to be preserved, and the location, type and size of trees, vegetation and other amenities to be provided.
- An Environmental Assessment Form
- All required fees
- A site plan that shows:
 - The location, dimensions, and use of all existing and proposed buildings
 - Means of access and egress
 - All parking facilities and loading areas
 - Physical features intended to protect adjacent land uses, including screening, fencing, landscaping and buffer areas.
 - Existing natural features, such as wetlands, water bodies, watercourses, floodplain areas, and wooded areas.
 - Internal streets, driveways, loading and stacking areas
 - Location of outdoor storage, garbage dumpsters, etc., if any
 - Location and design of outdoor lighting facilities.
 - Location, size and design and type of construction of all proposed signs.

The Planning Board may require any additional information on elements integral to the proposed development that the Board deems is necessary for an adequate assessment of a particular application.

The Planning Board may, at its discretion, waive any application requirement that it deems is not relevant to a particular application.

(3) Sketch Plan Conference

A sketch plan conference may be held between the Planning Board and the applicant prior to the preparation and submission of a formal site plan. The purpose of the sketch plan conference is to enable the applicant to inform the Board of the proposal prior to the preparation of a detailed site plan application. The Planning Board shall review the basic site design concept and advise the applicant as to potential problems and concerns, and generally determine the information to be required for the site plan application.

In order to accomplish these objectives, the applicant should provide the following information at the sketch plan conference:

- (a) A statement and rough sketch showing the locations and dimensions of principal and accessory structures, parking areas, existing and proposed vegetation, and other planned features. In addition, anticipated changes in the existing topography and natural features and, where applicable, measures and features to comply with flood hazard and flood insurance regulations should be shown.

- (b) A sketch or map of the area which clearly shows the location of the site with respect to nearby street rights-of-way, easements, and other pertinent features.
- (c) A topographic or contour map of adequate scale and detail to show site topography, if applicable to the site plan.

(4) Public Hearing

- (a) The Planning Board shall hold a public hearing on the application for site plan review within sixty-two (62) days from the date the complete application is received. The Planning Board shall determine when the application is complete.
- (b) Notice of the public hearing shall be published in a newspaper of general circulation in the Town at least five days prior to the date of the public hearing.
- (c) At least 10 days before the hearing, the Town shall mail notice of the hearing to the applicant.
- (d) For all applications that meet the requirements contained in Article XVII of this Law (and in Section 239m of NYS General Municipal law), the Planning Board shall mail notice of such hearing to the Cattaraugus County Planning Board. Such notice shall be mailed at least ten (10) days prior to the public hearing and shall be accompanied by a full statement of the application.
- (e) At least 10 days before the hearing, the Town shall mail notice of the hearing to property owners of all lots within 500 feet of the lot line of the parcel that is the subject of an application for site plan review. The distance shall be measured from the perimeter of the subject lot.

(5) Decision

- (a) The Planning Board shall decide on the application within sixty-two (62) days of the date of the close of the public hearing. The time within which the Planning Board shall reach its decision may be extended by mutual consent of the applicant and the Board.
- (b) The concurring vote of a majority of the total membership of the Planning Board shall be necessary to approve a site plan application. However, if an application is referred to the Cattaraugus County Planning Board pursuant to Section 239m of New York State General Municipal Law and if the County Planning Board recommends modification or disapproval of an application, the Planning Board shall not act contrary to such recommendation except by a vote of a majority plus one of all the members.

(6) Filing of Decision and Notice to Applicant

- (a) The Planning Board shall file a copy of its decision on the application with the Town Clerk within five (5) business days of the date of the decision.
- (b) The Planning Board shall mail a notice of its decision to the applicant within five (5) business days of the date of the decision. If the application is denied, the notice to the applicant shall state the reasons therefore. If the application is approved with conditions or modifications, the notice to the applicant shall specify all such conditions and modifications.

(F) Compliance with Conditions of Approval

- (1) In approving a special use permit, the Planning Board may impose reasonable conditions, which are directly related to the application.
- (2) No Certificate of Zoning Compliance shall be issued until all aspects of the approved site plan have been completed, including any conditions of approval. However, the Planning Board may authorize the Code Enforcement Officer to issue a Certificate of Zoning Compliance if a Security Agreement has been posted in an amount sufficient to guarantee completion of the project as approved. The sufficiency and type of such Security Agreement shall be determined by the Town Board, after consultation with the Planning Board, Town Attorney, Code Enforcement Officer, and/or other appropriate parties. In general, the preferred form of the Security Agreement shall be in the form of a Letter of Credit, but the Town Board may agree to accept cash deposited to an escrow account or a performance bond.

(G) Abandoned Application

An application will be deemed abandoned and will be denied if there is no activity by the applicant on the application within six (6) months of the initial application date or from the date that additional material or information is requested by the Planning Board, whichever is later. "No activity" means that the applicant is not diligently providing the Town with information necessary to proceed with review of the application, including materials and/or information that are required by this Law or by the requirements of the State Environmental Quality Review Act.

(H) Expiration of Site Plan Approval

Site Plan Approval shall expire six months from the date of approval, if the applicant fails to obtain any necessary Zoning Permit within that time, or if use of the property in accordance with the approved Site Plan has not commenced, in cases where construction is not part of the project. The Planning Board may grant an extension for up to one additional year, upon written

application by the applicant prior to the expiration of the Site Plan Approval. The applicant shall provide a rational basis as to why he/she was not able to begin the project.

Site Plan Approval shall expire if the use of the property in accordance with the approval shall cease continuously for six months.

Section 14.5 State Environmental Quality Review Act

Prior to final action on an application for a Special Use Permit or for Site Plan Review, the Planning Board shall comply with all applicable provisions of the State Environmental Quality Review Act (SEQRA).

ARTICLE XV PLANNED UNIT DEVELOPMENT

Section 15.1 Purpose

The Town of Mansfield hereby finds and determines that

- (A) When coordinated with the Town's Comprehensive Plan, Planned Unit Development can be an effective tool for guiding development in ways that support community goals and priorities.
- (B) Planned Unit Development provides a means by which different land uses within an area covered by a single development plan may be combined to achieve compatibility among such uses. Planned Unit Developments (PUD) provide flexibility in the regulation of land use development in order to:
 - (1) Encourage innovation in land use variety and design, in the layout and type of new structures and in their integration with existing structures
 - (2) Enhance efficiency in the use of land, natural resources, energy, community services and utilities; and
 - (3) Encourage open space preservation and protection of natural resources, historic sites and historic structures

Section 15.2 Authorization

- (A) The Town Board of the Town of Mansfield is hereby authorized to approve, approve with conditions, or disapprove the establishment and simultaneous mapping of one or more Planned Unit Development Districts. If a Planned Unit Development District is approved by the Town Board, it shall be a new zoning district and shall be designated as a Planned Unit Development District on the Town's zoning map. As part of the approval of a Planned Unit Development District, the Town Board shall review and approve a preliminary Planned Unit Development Plan.
- (B) The Planning Board is hereby authorized to review and act on final Planned Unit Development Plans in accordance with the regulations set forth herein. When approving a final Planned Unit Development Plan, the Planning Board shall have the authority to impose such reasonable conditions and restrictions as are directly related to the proposed development. Any final Planned Unit Development Plan that is approved by the Planning Board shall be substantially consistent with the preliminary Planned Unit Development Plan that has been approved by the Town Board.

Section 15.3 Applicability

- (A) A Planned Unit Development may be located in zoning districts so designated in Schedule A of this zoning Law.
- (B) All Planned Unit Developments shall contain a minimum of five (5) acres.
- (C) The maximum number of dwelling units permitted in a Planned Unit Development shall be determined by dividing the total land area of the site by the minimum lot size required for the applicable zoning district. A fraction of a unit greater than one-half shall be rounded up to the nearest whole number. A fraction of a unit of one-half or less shall be rounded down to the nearest whole number.
- (D) Permitted Uses

Planned Unit Developments encourage a mixture of land uses and/or a mix of housing types. Multiple family housing, including apartments, townhouses, and zero lot line development may be allowed. A combination of residential uses and commercial recreation, such as golf courses, ski resorts or similar facilities, may be allowed. Any use permitted in the zoning district in which the parcel is located may be allowed. Other uses that are not specifically permitted in Section 7.2, Table of District Use Regulations may be permitted by the Town Board, provided that they are consistent with the intent and purpose of this Law; and provided that they are consistent with the Town's Comprehensive Plan; and provided that they will not have an injurious or negative impact on adjacent properties, and provided that they meet the criteria in this Article.

Where an application for a Special Use Permit would otherwise be required for a use that is proposed to be part of a Planned Unit Development, the Town Board shall consider that use as part of the entire application for a Planned Unit Development. A separate Special Use Permit application shall not be required.

- (E) Yard and Area Requirements

- (1) The PUD may contain minimum front, side and rear setbacks that may be less than those otherwise required for the zoning district in which the site is located.
 - (2) The PUD may contain lots that have minimum areas and minimum widths that are less than those that would otherwise be required for the zoning district in which the site is located.

- (F) Required Open Space

- (1) Land area saved by the reduction in the minimum lot size must be placed in dedicated open space. The area of dedicated open space must be equivalent to, or more than, the total reduction in lot sizes.

- (2) The required open space may be used for active or passive recreation or to preserve significant scenic or natural features of the site.
- (3) The required open space may be publicly or privately owned.

Section 15.4 Pre-Application Conference

Prior to submitting a formal application, the applicant may meet with the Town Board and the Planning Board to informally discuss the proposed project. At this time the applicant can inform the Boards of the proposal prior to the preparation of a detailed Planned Unit Development application. The Boards can review the basic design concept and advise the applicant as to potential problems and concerns and can generally determine the type of information that would be required for the Planned Unit Development application.

Section 15.5 Procedure

(A) Application

An applicant shall submit a completed application for a Planned Unit Development District and a preliminary Planned Unit Development Plan to the Building Inspector, who shall forward it to the Town Board. The Town Board shall review the application for the Planned Unit Development District and the preliminary Planned Unit Development Plan in consultation with the Planning Board.

(B) Hearing

Within 90 days of receipt of the complete application, the Town Board shall hold a public hearing on the proposed Planned Unit Development District and preliminary Planned Unit Development Plan. Notice of the public hearing and procedures at the public hearing shall be those established in Article XVI, Amendments, of this zoning Law. In addition to the required noticing provisions in Article XVI, the Town Board shall mail a notice of the hearing to the owners of every parcel that is within one hundred (100) feet of all property lines of the subject property at least ten (10) days prior to the public hearing.

At least 30 days prior to the public hearing, the Town Board shall refer the application to the Planning Board for its review and recommendation. The Planning Board shall submit its recommendation prior to or at the public hearing.

(C) Town Board Action

Within 120 days of receipt of the complete application, and after the public hearing, the Town Board shall act to approve, approve with modifications and/or conditions, or deny the application for a Planned Unit Development District and preliminary Planned Unit Development Plan.

- (1) If the application is approved, the Zoning Map shall be amended to show the location of the Planned Unit Development District.

- (2) The Town Board shall notify the applicant and the Planning Board in writing of its determination within five business days of the date of the action.
- (3) The Town Board shall place a copy of the notification on file in the office of the Town Clerk.

(D) Final Planned Unit Development Plan

- (1) Following the establishment and mapping of the Planned Unit Development District, the applicant shall submit a proposed Final Planned Unit Development Plan to the Planning Board. The proposed final plan shall be substantially consistent with the preliminary Planned Unit Development Plan that was approved by the Town Board.
- (2) Within 62 days of the receipt of a complete application for a Final Planned Unit Development Plan, the Planning Board shall act to approve or approve with modifications and/or conditions the Plan. If the Planning Board, in consultation with the Town Board, determines that the proposed Final Planned Unit Development Plan is not consistent with the approved preliminary Planned Unit Development Plan, the Planning Board shall deny the application.
- (3) The Planning Board's determination shall be filed in the office of the Town Clerk within five business days after such decision is rendered, and a copy of the decision shall be mailed to the applicant.

(E) Phasing of Planned Unit Developments

If the applicant intends to complete the Planned Unit Development in phases, that shall be stated as part of the application for a Planned Unit Development District and preliminary Planned Unit Development Plan. Applicant shall submit a phasing plan. The Town Board may act to approve and map the entire Planned Unit Development District and preliminary Planned Unit Development Plan, as well as the phasing plan. The Planning Board shall act to approve the Final Planned Unit Development Plan for one phase at a time, according to the approved phasing plan.

(F) Amendment of Planned Unit Developments

The applicant may apply to the Town Board to amend an approved Planned Unit Development District and preliminary Planned Unit Development Plan. The Town Board and Planning Board shall act on the amendment as if it were an original application, and shall follow all the review procedures stipulated above, including a public hearing and additional review under the NYS Environmental Quality Review Act.

Section 15.6 Application Requirements for Planned Unit Development District and Preliminary Planned Unit Development Plan

(A) Application for Planned Unit Development District

This application shall identify precisely the area to be included within the Planned Unit Development District. The application shall identify all proposed land uses.

(B) The Preliminary Planned Unit Development Plan

The Preliminary Planned Unit Development Plan shall be at a level of detail sufficient to allow the Town Board to evaluate it. The application shall contain the following information and items:

- (1) A map of the existing site, showing the following information:
 - a. a vicinity map, showing the project site in relation to the surrounding area
 - b. scale and north arrow
 - c. site boundaries and dimensions
 - d. location and type of existing vegetation
 - e. The 100 year floodplain and any New York State designated wetlands
 - f. Existing structures and their current uses
 - g. Existing roads and other improvements
 - h. Location of public utilities and utility easements
 - i. Full Environmental Assessment Form (EAF)
 - j. Any other data that may be required by the Town Board
- (2) A map showing the major components of the proposed Planned Unit Development, including:
 - a. Scale and north arrow
 - b. The general location of all proposed buildings.
 - c. General dimensions of lot sizes and setbacks.
 - d. The proposed circulation system, including streets, driveways, and parking facilities, and showing access to the existing street system.
 - e. A general description of proposed drainage systems and runoff control
 - f. Topographic map showing existing topography and, in general, proposed grading of the site.
- (3) A written statement (or maps) containing the following information:
 - a. A general description of the types of landscaping and screening to be provided.
 - b. A statement of how water supply and waste disposal systems will be provided.
 - c. General description of architectural style, height, size and location of buildings.
 - d. A statement of the present and future ownership and tenancy of the Planned Unit Development.
 - e. A development schedule indicating the approximate date when construction of the Planned Unit Development, including any phases of the development, can be expected to begin and to be completed.

- f. A statement of what facilities, if any, shall be offered for dedication to the Town.
- g. A statement of how the open space and/or common areas of the development shall be owned and maintained.

At its discretion, the Town Board may waive the requirement for submittal of one or more of the above listed items.

Section 15.7 Application Requirements for Final Planned Unit Development Plan

The Final Planned Unit Development Plan application shall contain the following items:

(A) A map showing the details of the Planned Unit Development. The plan shall contain sufficient detail to evaluate the land planning, building design, and other features of the proposed Planned Unit Development. The plan shall contain the following information, including:

- (1) scale and north arrow
- (2) Proposed name of the development
- (3) Topography of the site showing existing and proposed contours at no greater than five-foot intervals.
- (4) A complete site plan, as detailed in Section 14.4 of this zoning Law.
- (5) The location and size of all existing and proposed buildings, structures and improvements.
- (6) The architectural style, colors and materials of all buildings, including elevations.
- (7) Maximum height, dimensions, and square footage of all buildings.
- (8) Area and dimensions of all lots proposed to be created as part of the project.
- (9) A landscaping plan
- (10) A complete circulation plan, including streets, driveways, parking areas and walkways.
- (11) Location and dimension of all recreational and open space areas.
- (12) Detailed drainage systems and runoff control
- (13) Detailed description of water supply and sewerage facilities.
- (14) A lighting plan
- (15) Any other information required by the Planning Board.

(B) A written statement containing the following information:

- (1) Offers of dedication, if any, to the Town for streets and other facilities. The Town Board shall act to accept or not accept any offers of dedication.
- (2) Copies of any special agreements, conveyances, restrictions, or covenants which will govern the use, maintenance and continued protection of the Planned Unit Development and its common areas, including the required open space areas.

At its discretion, the Planning Board may waive the requirement for submittal of one or more of the above listed items.

Section 15.8 Standards for Planned Unit Developments

In acting on an application for a Planned Unit Development, the Town Board and the Planning Board shall consider the following design standards. Prior to any approval, the reviewing body shall find that the proposal conforms to all of these standards or that a particular standard is not applicable to the particular application under review.

- (A) Individual lots, buildings, streets, and parking areas shall be designed and located to minimize alteration of the prominent natural features of the site. Natural features include, but are not limited to, streambeds, wooded hillsides and landforms with slopes greater than twenty-five percent (25%).
- (B) Diversity and originality in lot layout and individual building design shall be encouraged to achieve the best possible relationship between the development and the land.
- (C) Individual lots, buildings, and units shall be arranged and situated to relate to each other and to surrounding properties and to decrease the land area devoted to motor vehicle access.
- (D) Individual lots, buildings, units, and parking areas shall be situated to avoid the adverse effects of noise and traffic on the residents of the site and on adjacent sites, and to preserve any solar access to adjacent sites that have solar energy facilities at the time the application is made.
- (E) The design of the Planned Unit Development shall preserve any significant natural, scenic, or historic features of the site.
- (F) The Planned Unit Development shall be in harmony with the general purposes, goals, objectives and standards of the comprehensive plan and this zoning Law.
- (G) The Planned Unit Development shall not adversely affect neighboring property.
- (H) The Planned Unit Development shall have an adequate water supply system and an adequate system for the disposal of sewage, which shall be approved, in writing, by the appropriate governmental agencies.
- (I) Streets and storm water drainage systems shall meet all the appropriate requirements of the Town of Mansfield and New York State Department of Environmental Conservation (DEC).
- (J) The Planned Unit Development shall meet all the parking requirements of this zoning Law. Use of shared parking areas is encouraged.
- (K) The adequacy of the proposed landscaping.
- (L) The adequacy of lighting for the Planned Unit Development and its lack of impact on neighboring properties.

- (M) If new streets are proposed, they should connect into the Town's existing street pattern, to the maximum extent feasible. The number of driveway entrances onto the Town's existing street pattern should be minimized in order to promote traffic safety and flow.
- (N) The adequacy of the internal circulation system.
- (O) Utility lines shall be placed underground.
- (P) The relationship of the proposed development to the one hundred (100) year floodplain, to state designated wetlands and to other geologic hazards.
- (Q) If reductions in lot sizes have been allowed, the Planned Development shall contain the open space required by Section 15.3 (F). The open space may be used for recreational purposes, or it may be used to preserve natural areas or scenic viewsheds. The open space area or areas shall be conveyed in such a manner that they remain permanent open space. The open space area or areas on the parcel may be conveyed to the Town of Mansfield, or it may be held as private open space. In assessing the suitability and usability of the required open space, the Town Board shall use the following criteria:
 - (1) All Planned Unit Developments shall contain open space that is, at least, equivalent in area to the total reduction in lot size.
 - (2) The usability of open space intended for a recreational or public use shall be determined by the size, shape, topography, and location of the open space in relation to the particular use proposed for that site.
 - (3) Open space intended for a recreational or public use shall be easily accessible.
 - (4) Open space shall include irreplaceable natural features, such as, but not limited to, stream beds, significant stands of trees, scenic vistas, and rock outcroppings.
 - (5) The suitability of open space intended for scenic value and purposes shall be determined by its visibility from a significant number of units or buildings or from a significant length of public streets.
 - (6) Open space shall not include areas devoted to public or private streets.

Section 15.9 Ownership and Maintenance of Open Space

- (A) Open space areas may be either public open space or private open space. As used herein, "public open space" means land owned by the Town of Mansfield or some other governmental agency. "Private open space" means lands which shall be owned in common by all of the owners of all of the lots in a Planned Unit Development, lands owned by a

Homeowners Association, or lands owned by a not-for-profit corporation or other similar legal organization.

- (B) If the open space is offered to the Town of Mansfield, the Town Board shall decide whether or not to accept the open space dedication. In making its determination, the Town Board shall consider the intended use of the land, the size and location of the land, the availability of the open space to the public, and the cost of development and/or maintenance of such open space.
- (C) If the open space is not dedicated to the Town of Mansfield, it shall be protected by legal arrangements, satisfactory to the Town Board, sufficient to assure its maintenance and preservation for whatever purpose is intended.
 - (1) Covenants or other legal arrangements shall specify ownership of the open space, the method of maintenance, responsibility for maintenance, maintenance taxes and insurance, compulsory membership and compulsory assessment provisions, guarantees that any association formed to own and maintain open space will not be dissolved without the consent of the Town Board, and any other specifications deemed necessary by the Town Board.
 - (2) In addition, The Town of Mansfield shall be legally empowered to enforce the covenants in the event of failure of compliance. If the Town is required to perform any maintenance work, the Town shall be empowered to place a lien upon the properties in the development until said cost has been repaid to the Town.
 - (3) The covenant shall further require that the developer shall be a member of any association formed to own and maintain the open space; the developer's membership shall continue until all of the lots of record have been sold.

Section 15.10 Expiration of Approval for the Planned Unit Development

Construction of an approved Planned Unit Development shall commence within one year of the approval of a Planned Unit Development and shall continue in accordance with the schedule approved by the Town Board. If construction does not commence within this time period, or if construction does not continue according to the established schedule, the approval of the Planned Unit Development shall expire. An extension of the original approval may be granted by the Town Board, prior to its expiration, upon written application by the developer.

Section 15.11 State Environmental Quality Review Act

Prior to taking final action on an application for Planned Unit Development, the Town Board shall comply with all the requirements of the State Environmental Quality Review Act.

ARTICLE XVI AMENDMENTS

Section 16.1 Town Board may Amend

The Town Board may from time to time, on its own motion, or on petition or on recommendation of the Planning Board, amend, supplement or repeat the regulations and provisions of this Law after public notice and hearings as provided by the Town Law.

Section 16.2 Review by Planning Board

Every such proposed amendment or change whether initiated by the Town Board or by petition, shall be referred to the Planning Board for report thereon. Referral to the Planning Board shall be made thirty (30) days before the public hearing hereinafter provided for. If the Planning Board shall fail to submit such report within thirty (30) days of the date of referral, or within such longer time period as may be established by the Town Board, it shall be deemed that the Planning Board has approved the proposed amendment or change.

Section 16.3 Public Notice and Hearing

The Town Board by resolution adopted at a stated meeting, shall fix the time and place of a public hearing on the proposed amendments, and shall cause notice to be given as follows:

(A) Public Notice

- (1) Notice of a public hearing shall be given by publishing a notice at least ten (10) days in advance of such hearing in a newspaper in general circulation in the Town. Such notice shall state the general nature of the proposed amendment in such reasonable detail as will give adequate notice of its contents, and shall name the place or places where copies of the proposed amendment may be examined.
- (2) In addition, the following notices shall be given, if appropriate:
 - (a) A written notice of any proposed change or amendment affecting property within 500 feet of the boundary of any State Park shall be mailed to the Regional State Park Commission having jurisdiction over such State facility at least ten (10) days prior to the date of such public hearing.
 - (b) A written notice of any proposed change or amendment affecting property within 500 feet of the boundary of any city, village, town, or county, shall be mailed to the clerk of such municipality at least ten (10) days prior to the date of such hearing.

- (c) A written notice of any proposed change or amendment affecting property within 500 feet of the property of any housing authority erecting or owning a housing project authorized under the public housing law shall be mailed to the executive director of such housing authority and to the chief executive officer of the municipality providing financial assistance thereto, at least ten (10) days prior to the date of such hearing.

(B) Public Hearing.

The hearing shall be held at the stated time and place by the town board and shall include within its proceedings:

- (1) The proposed change, amendment or supplement, either in complete or summary form
- (2) An opportunity for all interested persons to be heard in a manner prescribed by the Town Board.

Section 16.4 Adoption

- (A) Any such amendments may be approved by a simple majority vote of the Town Board, except that any such amendment shall require the approval of at least three-fourths of the members of the Town Board in the event such amendment is the subject of a written protest, presented to the Town Board and signed by:
 - (1) The owners of twenty (20) percent or more of the area of land included in such proposed change; or
 - (2) The owners of twenty (20) percent or more of the area of land immediately adjacent to that land included in such proposed change, extending one hundred (100) feet therefrom; or
 - (3) The owners of twenty (20) percent or more of the area of land directly opposite thereto, extending one hundred (100) feet from the street frontage of such opposite land.
- (B) Prior to final action by the Town Board on the proposed amendment, it shall be referred to the Cattaraugus County Planning Board following the provisions of Section 239m of New York State General Municipal Law and Article XVII of this Law. If the County Planning Board recommends modification or disapproval of an amendment, the Town Board shall not act contrary to such recommendation, except by a vote of a majority plus one of all the members.

Section 16.5 Filing Requirements

- (A) Amendments made to this law, excluding any map incorporated therein, shall be entered in the minutes of the Town Board. Such minutes shall describe and refer to any map adopted in connection with the amendment.
- (B) A copy or a summary of the amendment, excluding any map incorporated therein, shall be published once in the official newspaper of the Town. Affidavits of the publication of the summary of the amendment shall be filed with the Town Clerk.
- (C) The Town Clerk shall maintain every map adopted in connection with this zoning law and every amendment thereto. Said documents shall be made available during regular business hours for public inspection.

Section 16.6 Compliance with State Environmental Quality Review Act

Prior to their final action on any amendment to this zoning law, the Town Board shall fully comply with the provisions of the State Environmental Quality Review Act (SEQRA).

ARTICLE XVII REFERRAL

Section 17.1 Proposed Actions Subject to Referral

In accordance with the laws of New York State, the following proposed actions by the Town Board, the Planning Board or the Zoning Board of Appeals shall be referred to the Cattaraugus County Planning Board for its review and recommendation before final action is taken by the local board. These items shall be referred only if they meet the geographic requirements in Section 17.2.

1. Adoption of or amendment to the Comprehensive Plan.
2. Adoption of or amendment to the zoning law.
3. Issuance of special use permits.
4. Approval of site plans.
5. Granting of use or area variances.
6. Any other authorizations which a local board may issue under the provisions of this zoning law.

Section 17.2 Geographic Criteria

The proposed actions set forth in Section 17.1 shall be subject to the referral requirements of this article if they apply to a parcel or lot within five hundred (500) feet of any of the following:

1. The boundary of any city, village or town.
2. The boundary of any existing or proposed county or state park or any other recreation area.
3. The right-of-way of any existing or proposed county or state parkway, thruway, expressway, road or highway.
4. The existing or proposed right-of-way of any stream or drainage channel owned by the county or for which the county has established channel lines.
5. The existing or proposed boundary of any county or state owned land on which a public building or institution is situated.
6. The boundary of a farm operation located in an agricultural district, as defined by Article 25AA of the agriculture and markets law, except that applications for area variances shall not be referred.

ARTICLE XVIII SEPARABILITY

If any part or provision of this Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Law or the application thereof to other persons or circumstances, and the Town Board hereby declares that it would have enacted this Law or the remainder thereof had the invalidity of such provision or application thereof been apparent.

ARTICLE XIX WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this Law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This Law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This Law shall not create liability on the part of the Town of Mansfield, any officer or employee thereof, or the Federal Emergency Management Agency for any flood damages that result from reliance on this Law or any administrative decision lawfully made thereunder.

ARTICLE XX SUPERCESSION

Pursuant to the authority conferred by Article 2 of the Municipal Home Rule Law, this Local Law supersedes all of the provisions of Article 16 of the New York State Town Law, including without limitation the procedural requirements of Section 264, and permits the Town to require Security Agreements in an amount sufficient to guarantee completion of projects, as approved.

ARTICLE XXI EFFECTIVE DATE

This local law shall become effective upon the date of adoption by the Mansfield Town Board. Upon such date, this law shall replace the previous Town of Mansfield Zoning Ordinance, adopted August 7, 1992 and any amendments to said Ordinance made after said date.

ARTICLE XXII TRANSITION PROVISIONS

A. This revised, restated and amended zoning law shall apply to all applications for building permits, site plan approvals, subdivision approvals, special approvals, special Use permits, or any other approval or authorization hereunder, submitted on or after the effective date.

B. If a completed application is submitted prior to the effective date and if such application is diligently prosecuted to conclusion, the application shall be governed by the provisions of the Zoning Law in effect immediately prior to the effective date, unless the applicant elects by written notice accompanying the application or delivered within a reasonable time after submission of the application to be governed by the provisions of this revised, restated and amended Law as in effect on and after the effective date. For the purposes of this section only, an application shall be deemed "completed" if it contains all required information, materials, and fees normally and reasonably required by the appropriate Town official(s) to commence the review process by the appropriate Town official or board. An application shall be deemed "diligently prosecuted to conclusion" if the applicant promptly responds to any inquiries and promptly supplies any additional information reasonably required by the reviewing Town officials and/or boards, appears at all required scheduled public hearings, and otherwise cooperates so as to permit and enable the appropriate Town officials and/or boards to adequately and completely review the application and render a decision on same within a reasonable period of time of its submission, and in any event within nine months of its submission.

C. The Town Board may, with respect to a specific application, if an applicant demonstrates:

- (1) severe, adverse economic impact will result to the applicant if this revised, restated zoning law is applied to the applicant's application because of a substantial expenditure of funds by the applicant prior to the adoption of this revised, restated local law and in reliance upon the provisions of the ordinance in effect prior to the effective date; or
- (2) delay in rendering a decision by the applicable official or board is due to the failure of such official or board to act within a reasonable period of time and not due to any failure or default by the applicant;

extend by no more than four additional months the privilege of having the application be governed by the provisions of the zoning ordinance in effect prior to the effective date, or extend by no more than four additional months the nine-month period within which diligent prosecution of the application must be completed to obtain the benefit of utilizing the pre-effective-date ordinance provisions. An application for extension under this subsection must be made prior to, or within 30 days after, the end of any applicable period by written request to the Town Clerk or Town Supervisor setting forth the requested relief and the grounds for same.