

Section 2 – Proposed

The Manchester Planning Board has been working for two years to improve the town's Zoning Bylaws to be clearer and remove redundant sections and update to best practices.

A public hearing is scheduled for May 17 at 6:30 via Zoom and will be continued if needed on May 18. Town meeting is scheduled for June 11.

Section 2 proposes:

- The current bylaw contains only a few definitions.
- Some definitions are defined in different sections. Many terms are undefined and are subject to interpretation.
- The definition of lot width is being revised

SECTION 2.0 DEFINITIONS

For the purpose of this Bylaw certain terms and words shall have the following meanings. Words used in the present tense include the future; the singular number includes the plural; the plural the singular; the words "used" or "occupied" include the words "designed," "arranged," "intended," or "offered," to be used or occupied; the words "building," "structure," "lot," "land," or "premises" shall be construed as though followed by the words "or any portion thereof"; and the word "shall" is always mandatory and not merely directory. Terms and words not defined herein but defined in the Subdivision Rules and Regulations shall have the meanings given therein unless a contrary intention clearly appears.

Accessory: A building, structure or use which is subordinate to, and the use of which is customarily incidental to, and is located on the same lot with the principal building, structure or use to which it is accessory.

Accessory Dwelling Unit: A dwelling unit accessory to the principal unit as governed by Section 9.1

Affordable Housing: A dwelling unit available for rental or sale by a low or moderate income household in accordance with the regulations of the Commonwealth's Department of Housing and Community Development and eligible for inclusion on the Subsidized Housing Inventory.

Agriculture: The cultivation of ground for purpose of producing fruits and vegetables for the use of man and beast, or the act of preparing the soil, sowing and planting seeds, dressing plants and removing crops, and includes aquaculture, horticulture, silviculture, viticulture, and raising or feeding of cattle and other livestock.

Assisted Living Residence: A residential development subject to certification by the executive office of elder affairs under G.L. c. 19D and 651 CMR 12.00.

Boarder: An individual other than a family member occupying a dwelling unit who, for consideration, is furnished sleeping accommodations, meals, and may be provided personal care or other services, but excluding guests at a bed and breakfast.

Basement: That part of a building partly underground but having more than one-half of its entire wall area above the level of the adjoining ground. A basement shall be counted as a floor or story if used for business or dwelling purposes.

Building: A structure having a roof (including an awning or similar covering) adapted to permanent or continuous occupancy for assembly, business, education, industrial, institutional, residential or storage purposes. The term "building" shall be construed where applicable as if followed by the words "or portion thereof".

Building Height: See Height

Business or Professional Office: A business establishment, which does not offer a product or merchandise for sale to the public but offers a professional service to the public. However, general or personal service establishments are not to be included in the definition of business offices.

Cemetery (not for profit): A burial ground; graveyard.

Child Care Center: A child care center as that term is defined in G.L. c. 15D, s. 1A.

Commercial Recreation, Indoors: Entertainment and recreational facilities operated as a business for gain, including but not limited to bowling alley, theater, fitness center, or sports arena, provided such use is housed indoors in sound-insulated structure protecting neighborhood from inappropriate noise in any season.

Commercial Recreation, Outdoors: Golf, swimming, tennis, or other outdoor recreational facility.

Contractors Yard: Premises used by a building contractor or subcontractor for storage of equipment and supplies, fabrication of subassemblies, and parking of wheeled equipment.

Drive-In or Drive-Through Establishment: A business establishment that includes service that is provided from a drive-up or drive-through window or other similar arrangement that allows the service of a patron while the patron remains in a vehicle, whether parked or live parked. The term shall include eating establishments and service establishments such as banks, dry cleaners, pharmacies, and the like, and automotive service stations and gasoline stations and the like.

Dwelling: A privately or publicly owned permanent structure containing an enclosure containing sleeping, kitchen and bathroom facilities designed for and used or held ready for use as a permanent residence by one family. The terms "one family," "two family," or "multifamily" dwelling shall not include hotel, lodging house, hospital, membership club, trailer, however mounted, or dormitory or structure solely for transient or overnight occupancy.

Dwelling, Single Family: A dwelling designed for occupancy by one family.

Dwelling, Multifamily: A building containing three or more dwelling units constructed on a single lot, substantially connected to the other with fire separation assemblies such as walls or floors.

Dwelling, Two Family: A building constructed to house two families each occupying a single dwelling unit, with each dwelling unit being substantially connected to the other with fire separation assemblies such as walls or floors.

Dwelling Unit: One or more living or sleeping rooms arranged for the use of one or more individuals living as a single housekeeping unit, with permanent provisions for cooking, living, sanitary, eating, and sleeping facilities.

Earth Removal: The following definitions shall apply:

% Slope: A rise in grade (in feet) over a horizontal distance of one hundred feet.

Best Management Practice (BMP): A structural, non-structural, or vegetative measure which reduces erosion, sediment, peak storm discharge, and/or improves the quality of stormwater runoff as described in the Massachusetts Stormwater Management Handbook.

Earth: Soil, sod, loam, peat, humus, clay, sand, gravel, stone, and ledge.

Electric Charging Station, Level Two: A facility equipped with a compatible cable such as J-1772, for the recharging of the batteries of motor vehicles.

Essential Services: Services and facilities offered by public utility or governmental agency by the erection, construction, alteration, or maintenance of underground or overhead gas, electrical, steam, or water transmission or distribution systems and structures, excluding power plants or transfer stations. Facilities necessary for the provisions of essential services include poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith. Specifically excluded from this definition are municipal, state, or federal services and facilities.

Family: One or more persons occupying a dwelling unit and living as a single, housekeeping unit.

Family Day Care Home, Large: An accessory use as defined in G.L. c. 15D, s. 1A.

Family Day Care Home, Small: An accessory use as defined in G.L. c. 15D, s. 1A.

Floor Area, Gross: The sum of all living areas of a building measured from the exterior faces of the structure excluding unenclosed spaces such as porches and unconditioned spaces such as

mechanical rooms and those portions of basements or attics which are not finished and not provided with a heat source.

Funeral Home: Facility for the conducting of funerals and related activities such as embalming.

General Service Establishment: Shop for lawn mower or small appliance repair, upholstery or furniture repair, bicycle repair person, printer, blacksmith, builder, carpenter, caterer, electrician, lawn mower service person, mason, painter, plumber or roofer.

Grade - Average: The average elevation as taken at twenty-foot intervals around the full perimeter of the building including all attached garages, bays and building extensions.

Greenhouse: A greenhouse shall be defined as a glass or slow burning plastic enclosed building used for cultivating plants.

Height of Building: The height of a building is the vertical distance measured from the average grade of the existing ground level adjoining the building at each exterior wall to the highest point of the roof. The maximum height of a building shall not exceed the distance in feet or the number of stories, whichever is less, as set forth in the Table of Dimensional Requirements for the district in which the building is located.

Home Occupation: Customary home occupations including photographers, artists, home-cooking, dressmaking, millinery, hairdressing, and other similar occupations, by a person resident on the premises.

Hospital: A building providing 24-hour in-patient services for the diagnosis, treatment or other care of human ailments including, where appropriate, a sanitarium, nursing home, and convalescent home.

Hotel: A building or any part of a building containing rooming units without individual cooking facilities for transient occupancy and having a common entrance or entrances. A hotel may include a restaurant, bar or tavern, and accessory recreational facilities. Does not include a motel, boarding house, lodging house, or rooming house.

Impervious Surface: A surface or land covering that prohibits penetration of water into underlying ground layers, as a result, rain and snow are unable to infiltrate into the ground and run off.

Junk Yard: A yard, field or other area used as a place for storage for more than thirty days for three or more unserviceable, discarded, worn-out, or junk motor vehicles. Also a yard, field, or other area used as a place of storage for discarded, worn-out or junk plumbing, heating supplies, household appliances or furniture; and/or discarded, scrapped or junk lumber; and/or old scrap copper, brass, rope, rags, batteries, paper trash, rubber debris, waste, and/or scrap metal.

Kennel: An establishment as defined in G.L. c. 140, s. 137A.

Ledge: refers to contiguous boulder or rock formations, either exposed or underlying unconsolidated ground surface materials such as soil.

Light Manufacturing: Fabrication, assembly, processing, finishing work or packaging

Lot: The whole area of a single parcel of land in one ownership, with definite boundaries, used, or available for use, as the site of one or more buildings. A lot for the purpose of this Zoning By-Law may or may not coincide with a lot of record title.

Lot Area: The horizontal area of a lot. For purposes of Section 5.0 the area of a lot shall not include: (1) The area within the limitation of the street right of way; or (2) tideland lying below Mean High Water (per U.S. Geodetic Survey), except that such tideland shall be included for determining minimum setbacks.

Lot Frontage: The continuous distance between opposing side lot lines where they intersect the street measured along, and following the angle or curve of, the street right of way.

Lot Width: The distance between side property lines of a lot measured parallel to the front property line and being measured at the location of the front property line setback.

Manufacturing: A use engaged in the basic processing and manufacturing of materials, or the manufacture from previously prepared materials, of finished products or parts, including processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution of such products.

Medical Clinic: A facility as defined in 105 CMR 145.020, including a mobile clinic and urgent care facility.

Medical Office: A building designed and used as an office by physicians, dentists, or psychotherapists for the diagnosis and treatment of human patients that does not include overnight care facilities or licensing as a clinic.

Motel: A building or any part of a building containing rooming units without individual cooking facilities for transient occupancy and having a common entrance or entrances. Generally, does not include a restaurant, bar or tavern, or accessory recreational facilities. Does not include a boarding house, lodging house, or rooming house.

Motor Vehicle Hourly Rental Station: A facility at which, by contract, motor vehicles are made available for rent for a period not longer than 24 hours.

Motor Vehicle Light Service Station: A building or premises used for the dispensing, sales or offering for sale of motor fuels directly to users of motor vehicles. Other sales activities and any repairs shall be activities minor in scope and clearly subordinate to the sale of motor fuels, oils and lubricants. No drive-through facilities are permitted without further zoning relief.

Motor Vehicle Repair: A building or use which is designed or intended to be used for the storage, servicing, repair, maintenance, or cleaning of motor vehicle equipment.

Motor Vehicle Sales: Premises for the sale of used or new motor vehicles, including supplying of fuel, oil, lubrication, washing, or repair services, but not to include body work or painting.

Municipal Yards and Facilities: Town yards and related storage facilities for de-icing, sand, construction materials, and the like.

Nonconforming Use or Structure: A lawfully pre-existing use or structure which does not conform to the regulations for the district in which such use or structure exists.

Long-term care facility : An institution licensed by the Department of Public Health as a nursing, convalescent or rest home, charitable home for the aged, hospital or sanitarium pursuant to Sections 51 and 71 of Chapter III, General Laws.

Parking Area: Five (5) or more parking spaces serving a nonresidential or multi-family building.

Personal Service Establishment: A facility providing personal services such as hair salon, barber shop, tanning beds, dry cleaning, print shop, photography studio, and the like.

Personal Wireless Telecommunications Service Facilities: The following definitions shall apply for the purposes of Section 8.1:

Personal Wireless Telecommunication Service: Commercial mobile services, unlicensed wireless services and common carrier wireless exchange access services.

Personal Wireless Telecommunication Service Facilities: Facilities for the provision of personal wireless telecommunication services.

Printing and Publishing: An establishment providing convenient services for printing or photocopying flyers, brochures, photographs, blueprints and the like.

Private club: A facility where the principal purpose is for members of a non-profit organization or group of people organized for a common purpose to meet to pursue common goals, interests and activities, and usually characterized by certain membership qualifications, payment of fees and dues, regular meetings, and a constitution and bylaws.

Public Utility: Electrical, gas, steam, water, communication or public passenger transportation systems and their appurtenances. Excluded from this definition are all personal wireless service facilities.

Qualified Acre: Agricultural land on which the sale of products produced from the agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture use on the parcel annually generates at least \$1,000 per acre based on gross sales dollars in area not zoned for agriculture, aquaculture, silviculture, horticulture, floriculture or viticulture.

Recreational Club (Commercial, Indoor): A structure for recreational, social or amusement purposes, which may include as an accessory use the consumption of food and drink, including

all connected rooms or space with a common means of egress and entrance. Such facilities shall include health clubs (any other?) or other commercial recreational centers conducted for profit.

Residential Conservation Cluster (RCC): A residential development in which the buildings are clustered together with reduced lot sizes and frontage.

Restaurant: A building, or portion thereof, containing tables and/or booths for at least two-thirds (2/3) of its legal capacity, which is designed, intended and used for the indoor sales and consumption of food prepared on the premises, except that food may be consumed outdoors in landscaped terraces, designed for dining purposes, which are adjuncts to the main indoor restaurant facility.

Retail: A facility selling new or used goods to an end user but not otherwise specifically listed in the Table of Use Regulations.

School Aged Child Care Program: A school aged child care program as that term is defined in G.L. c. 15D, s. 1A.

Senior Housing:

Assisted Living Facility: A residential development subject to certification by the Executive Office of Elder Affairs under G.L. c. 19D and 651 CMR 12.00.

Continuing Care Facility: A facility regulated by G.L. c. 93, s. 76.

Independent Living Facility: A facility providing apartments for rent, with optional services on the site for the convenience of residents, including but not limited to transportation, barber/beauty services, sundries for personal consumption, laundry services and other amenities, provided such uses serve primarily the residents and staff of the facility.

Long Term Care Facility: A facility, including a convalescent or nursing home, rest home, infirmary maintained in towns, and charitable homes for the aged, as defined and regulated in 105 CMR 150.001.

Senior Housing: Housing for persons over the age of 55 subject to the Senior Housing Laws, as defined herein.

Senior Housing Facility: An Assisted Living Facility, Continuing Care Facility, Independent Living Facility, or Long Term Care Facility, whether operated as a free-standing facility or in combination with another type of facility on the same lot or adjacent lot in common control.

Senior Housing Laws: Collectively and separately, the Fair Housing Act, 42 USC Section 3607(b), 24 CFR Subtitle B, Ch. 1, Section 100.300 et seq. and G.L. c. 151B, s. 4.

Special Permit: A specific authorized use within this Zoning By-Law that may be granted upon application to the designated special permit granting authority.

Story: That portion of a building contained between any floor and the floor or roof next above it; it does not include either the lowest portion so contained if more than one-half of such portion vertically is below the mean finished grade of the ground adjoining such building, or the uppermost portion so contained if under a sloping roof and not designed or intended to be used for human occupancy.

Story, Half: A floor level with a roof above, the area of which at a height of four (4) feet above this floor level does not exceed two-thirds of the floor level immediately below it.

Street: Any accepted town way, a way established by or maintained under county, state or federal authority, a way established by and constructed according to a subdivision plan approved in accordance with the Subdivision Control Law, and a way determined by the Planning Board to have sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon. A public or private way shall not be deemed to be a street relative to any lot that does not have rights of access to and passage over said way.

Structure: A combination of materials assembled at a fixed location to give support, shelter or utility, including but not limited to, buildings (whether principal or accessory), platforms and decks, swimming pools, tennis or similar courts, satellite dishes of three (3) feet diameter or greater, sheds, shelters, and display signs. The term "structure" shall be construed where applicable as if followed by the words "or portion thereof". The term "structure" shall not include walls or fence.

Swimming Pool: Any constructed pool, located above or below the ground, whether portable or fixed, used or capable of being used for swimming, wading, or bathing purposes. Pools having depth of two feet or more and having a capacity of two hundred cubic feet or more in volume shall be considered structures.

Toxic or Hazardous Materials: Any substance or mixture of such physical, chemical or infectious characteristics as to pose a significant, actual or potential hazard to water supplies, or other hazard to human health, if such substance or mixture were discharged to land or waters of this town, or as defined or regulated by federal or state law.

Veterinary facility or clinic: A place where animals or pets are given medical or surgical treatment and the boarding of animals is limited to short term care incidental to the use.

Warehouse: A building used primarily for the storage of goods and materials, for distribution, but not for sale on the premises.

Warehouse, Mini or Self Storage: Establishment providing individual storage units for long- or short-term rental to persons or businesses.

Wind Energy Conversion Facilities: For the purposes of Section 11.2, the following definitions shall apply:

Distributed Generation: Energy generation that is located at or near the end-user.

Height: The height of a wind turbine measured from grade elevation at the base of the tower to the elevation at the tip of the blade at its highest point.

Nacelle: The frame and housing at the top of the tower that encloses the gearbox and generator and protects them from the weather.

Rotor: The blades and hub of the wind turbine that rotate during turbine operation.

Wind Energy Conversion Facility (WECF): All equipment, machinery and structures utilized in connection with the conversion of wind to electricity. This includes, but is not limited to, all transmission, storage, collection and supply equipment, substations, transformers, site access, service roads and machinery associated with the use.

Wind Monitoring or Meteorological Test Tower (Met Tower): A temporarily installed tower used for supporting anemometer, wind vane and other equipment to assess the wind resource at a predetermined height above the ground.

Wind Turbine: A device that converts kinetic energy of the wind into rotational energy to turn an electrical generator shaft. A wind turbine typically consists of a rotor, nacelle and supporting tower.

Wholesale: Sale of goods not at retail.

Yard: A portion of a lot, upon which the principal building is situated, unobstructed artificially from the ground to the sky, except as otherwise provided herein. A court shall not be considered to be a yard or any part thereof.

Yard, Front: A yard extending for the width of the lot between the front line of the nearest building wall and the front lot line.

Yard, Rear: A yard, except by an accessory structure or accessory use as herein permitted, extending for the full width of the lot between the rear line of the building wall and the rear lot line.

Yard, Side: Yard extending for the full length of a building between the nearest building wall and the side lot line.

Zoning Act: Chapter 40A of the Massachusetts General Laws, as amended by Chapter 808 of the Acts of 1975, and any amendments thereafter.

