

Chapter 155

ZONING

[HISTORY: Adopted by the Board of Trustees of the Village of Manorhaven 8-18-1986 by L.L. No. 2-1986 (superseding former Ch. 155, Zoning, adopted 4-18-1950 as Ord. No. XXVII and 11-18-1947 as Ord. No. XXXII, as amended). Amendments noted where applicable.]

GENERAL REFERENCES

Annexation of land — See Ch. 3.
Boats — See Ch. 32.
Sight obstructions — See Ch. 35.
Building construction — See Ch. 38.
Dumps and dumping — See Ch. 57.
Environmental quality review — See Ch. 60.
Excavations — See Ch. 62.
Fees and deposits for zoning applications — See Ch. 64, Art. I.
Fences — See Ch. 65.
Flood damage prevention — See Ch. 72.
Noise — See Ch. 97.
Residential rentals — See Ch. 120.
Subdivision of land — See Ch. 133.
Swimming pools — See Ch. 134.
Waterways — See Ch. 151.

ARTICLE I

Title and Purpose

§ 155-1. Title.

This chapter shall be known as the "Zoning Code of the Incorporated Village of Manorhaven."

§ 155-2. Purpose.

- A. This chapter has been prepared and adopted in accordance with a carefully studied and considered Comprehensive Plan and Local Waterfront Revitalization Program (LWRP) for the Incorporated Village of Manorhaven for the purpose of regulating the location, construction and utilization of buildings and the utilization of land by dividing the land within the Village into districts and prescribing land use regulations for each district. [Amended 2-24-1999 by L.L. No. 1-1999]
- B. This chapter is adopted pursuant to the Village Law of the State of New York for the protection and promotion of the public health, safety, morals and general welfare of the Village within the following objectives:
- (1) To protect the character of the Village's environment areas and the quality and viability of the districts by assuring that future development will be in harmony therewith.
 - (2) To secure safety from fire, panic and other dangers.
 - (3) To provide a guiding pattern of land use and population density which:

- (a) Represents the most appropriate use of land within the Village.
 - (b) Preserves the existing environmental and ecological assets of the land.
 - (c) Recognizes current trends in land use planning and building design.
- (4) To aid in establishing the most efficient relationship between the use of land and buildings and the movement and circulation of traffic.
 - (5) To lessen congestion in the streets.
 - (6) To provide for adequate light, clean air and other amenities.
 - (7) To provide a guide for the effective provision of municipal facilities and services and special district facilities and services.
 - (8) To protect social and economic stability and thus encourage orderly and beneficial development.
 - (9) To protect and conserve present and future property values and the tax base through the promotion of harmonious and enduring neighborhoods, by preventing the construction of inappropriately large or inappropriately small structures in established districts, by preventing monotonous and unsightly uniformity of building development or unsightly structures of incongruous or inappropriate form that might tend to depress surrounding property values, all of which purposes are hereby declared to be legitimate and proper public objectives, clearly in the public interest and in harmony with the broad purposes enumerated in the Village Law.
 - (10) To avoid undue and unique concentration of population.
 - (11) To ensure that the Village's commercial maritime heritage will be maintained and enhanced. [Added 2-24-1999 by L.L. No. 1-1999]
 - (12) To maintain, encourage and promote the development of commercial water-dependent uses that have traditionally been associated with the Village of Manorhaven waterfront and to accommodate water-enhanced commercial uses that are compatible with and supportive of water-dependent uses. [Added 2-24-1999 by L.L. No. 1-1999]
 - (13) To expand and enhance access to a limited deep water resource for commercial and recreational uses, and maximize employment opportunities from water-dependent commerce. [Added 2-24-1999 by L.L. No. 1-1999]
 - (14) To provide waterfront amenities for public enjoyment of the shore. [Added 2-24-1999 by L.L. No. 1-1999]
 - (15) To protect the existing, and where desirable to promote and improve, environmental quality of natural areas and open space. [Added 2-24-1999 by L.L. No. 1-1999]
 - (16) To protect and provide for public visual access to and from Manhasset Bay. [Added 2-24-1999 by L.L. No. 1-1999]

ARTICLE II
Interpretation

§ 155-3. Legislative intent.

It is the intention of the Village Trustees and Mayor, plus other officials, to ensure the health, safety and general welfare of the Village residents. No building or land shall be used, altered or erected except in conformity with the regulations set forth in this chapter as the newly adopted Zoning Code. These regulations shall be the minimum.

§ 155-4. Application.

Nothing herein contained in this chapter shall require any change in plans and specifications, new construction or alteration or stated utilization of a building or site which has had building permit approval and which entire building or site shall be completed within one year of adoption of this chapter. This chapter shall apply to new construction and new alterations for which building permit approval was not obtained prior to the adoption of this chapter and construction and alterations for which building plan approval was obtained prior to the adoption of this chapter but not completed within one year after adoption of this chapter.

**ARTICLE III
Word Usage and Definitions**

§ 155-5. Word usage.

Unless otherwise expressly stated, the following items, for the purpose of this chapter, shall have the meanings herein indicated: Words stated in the present tense shall also mean the future. The singular shall also mean the plural, and the plural includes the singular. The word "person" includes a corporation, partnership or other combination of persons. The word "lot" includes the word "plot" or "parcel." The word "building" includes the word "structure." The word "site" includes all property accessories. The word "shall" is mandatory and not directory and does not indicate mere futurity unless the context clearly so requires. The word "Village" means the Incorporated Village of Manorhaven or the duly designated officer to whose title it relates. The "Village Trustee," "Board of Zoning Appeals," "Planning Board," "Village Attorney," etc., mean, respectively, such officers, employees or boards of the Village of Manorhaven. The terms "occupied" or "used," as applied to any land or building, shall be construed as though followed by the words "or intended, arranged or designed to be occupied or used."

§ 155-6. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

ACCESSORY SITE — A subordinate space outdoors the use of which is customarily incidental to that of the main building or site use on the same lot.

ACCESSORY STRUCTURE — A subordinate building or structure the use of which is customarily incidental to that of the principal building use on the same lot.

ACCESSORY USE — A subordinate use to the primary use assigned to the property and based upon the ability of the property to sustain that accessory use in accordance with the zoning requirements.

ACRE — The complete 43,560 square feet as accepted gross measurement and not the builder's lot

description which could be the net measurement.

ALTERATION — Any change in the supporting members of a building, such as bearing walls, columns, beams, girders or floors, or any other change which is not merely a repair or replacement of an existing part, but which would tend to enlarge or diminish the livable or usable floor area of the structure or any part thereof or cause a change in the location or height of the exterior walls or roof of the structure or make possible a greater intensity of occupancy than is permitted herein. It does not include ordinary repairs.

APARTMENT — A dwelling unit housing a family in a two-family house or apartment house.

APARTMENT HOUSE — A building arranged by design and construction to contain more than two families, regardless of ownership form or real estate home claim.

APPLICANT — A property owner or agent of a property owner who has filed an application for a land development activity. [Added 3-28-2007 by L.L. No. 1-2007]

AREA OF A BUILDING — The total number of square feet of maximum perimeter horizontal surface covered by the principal building and all accessory structures. All measurements shall be made between exterior faces of walls, foundations, piers or other means of support above or below the ground level.

BASEMENT — That space of a building which is partly below grade, which has half or more than half of its height, measured from floor to ceiling, above the average finished grade of the ground adjoining the building.

BUILDING — Any structure, either temporary or permanent, having walls and a roof designed for the shelter of any person, animal, or property, and occupying more than 100 square feet of area. [Amended 3-28-2007 by L.L. No. 1-2007]

- A. **PRINCIPAL BUILDING** — A building in which is conducted the principal use of the lot on which it is situated.
- B. **NONRESIDENTIAL BUILDING** — A building in which is conducted the principal use upon a lot, which use is other than for dwelling purposes.

BUILDING AREA — Same as "area of a building."

BUILDING, ATTACHED — A building connected by one or two walls with another building.

BUILDING COVERAGE — The area of the building in proportion to the area of the lot.

BUILDING, DETACHED — A building entirely separated by open spaces from other buildings.

BUILDING LINE — The line of the exterior wall of a building at ground level adjoining the building.

BUILDING OFFICIAL or **CODE OFFICIAL** — The person(s) appointed by resolution of the Board of Trustees to enforce the provisions of this chapter.

BULKHEAD — Any structure, except a building, positioned parallel to or perpendicular to the shore, the primary function of which is to retain soil or any other material from eroding into a waterway or protect the land from wave damage. [Added 4-25-2001 by L.L. No. 7-2001]

CELLAR — That space of a building which is partly or entirely below grade, which has more than half of its height, measured from floor to ceiling, below the average finished grade of the ground adjoining the building.

CHANNEL — A federally or locally designated navigation access way in the harbor as shown on the Mooring Plan or on United States National Oceanic and Atmospheric Administration (NOAA) charts. [Added 4-25-2001 by L.L. No. 7-2001]

CHARTER SERVICE — A commercial endeavor in which a vessel, or seaplane, is used to transport passengers and/or goods from one specific destination point to another or provides a fishing or recreational excursion and which requires docking/loading facilities, a crew, and is a service for hire. [Added 4-25-2001 by L.L. No. 7-2001]

CLEARING — Any activity that removes the vegetative surface cover. [Added 3-28-2007 by L.L. No. 1-2007]

CLUB, COMMERCIAL MEMBERSHIP — An organization with premises, buildings and facilities catering exclusively to users paying admissions fees or charges, and their guests, for recreational, athletic or related purposes.

CLUB, NONCOMMERCIAL MEMBERSHIP — An organization with premises, buildings and facilities catering exclusively to dues-paying members and their guests for recreational, athletic or related purposes, and excluding commercial admission activities, except as required generally for the membership and purpose of such club. For the purposes of this definition, the terms of any membership shall be not less than 60 days.

CLUSTER DEVELOPMENT — A land development or subdivision in which lot sizes are less than the minimum required by this chapter in the R-3 District and in which the size deficiency is compensated for by reserved common open space sufficient to maintain the overall density of the development or subdivision to that density which would result if all lots were the minimum required size, but could decrease the number of dwelling units in some portions and increase the number of dwelling units in other portions of the property.

COURT — An open and unoccupied space on the same lot and enclosed on at least three sides by walls of a building.

CULTURAL USES — Those uses of the type officially recognized as such by the New York State Department of Education and the New York State Council on the Arts.

CURB LEVEL — The officially established Village, town or county grade of the curb top in front of the midpoint of the lot.

DEDICATION — The deliberate appropriation of property by its owner for general public use. [Added 3-28-2007 by L.L. No. 1-2007]

DEPARTMENT — The New York State Department of Environmental Conservation. [Added 3-28-2007 by L.L. No. 1-2007]

DESIGN MANUAL — The “New York State Stormwater Management Design Manual,” most recent version, including applicable updates, that serves as the official guide for stormwater management principles, methods and practices. [Added 3-28-2007 by L.L. No. 1-2007]

DEVELOPER — A person who undertakes land development activities. [Amended 3-28-2007 by L.L. No. 1-2007]

DISTRICT, MORE RESTRICTED OR LESS RESTRICTED — In this chapter, each district shall be deemed to be more restricted from the districts after it in the chapter, and each district shall be deemed to be less restricted from the districts before it in this chapter.

DOCK — Any permanent or seasonal structure, except a building, connected to a bulkhead or the upland and extending over the water's surface designed to secure vessels and provide access from the shore to a body of water. The term includes the terms "wharves," "piers," "fixed docks," "floating docks" or "floats." [Added 4-25-2001 by L.L. No. 7-2001]

DRAINAGE — The natural watercourse of the watershed and its natural flow, or man-made system.

DWELLING — The terms "dwelling," or "one- or two-family dwelling" shall not include a rooming house, hotel, motel, tourist home or other accommodations.

- A. SINGLE-FAMILY DWELLING — A building arranged, intended or designed for residential use only and for occupancy by one family only and containing only one kitchen.
- B. TWO-FAMILY DWELLING — A building arranged, intended or designed for residential use and for occupancy by two families only, living independently of each other, and having only two kitchens.

EROSION CONTROL MANUAL — The most recent version of the "New York Standards and Specifications for Erosion and Sediment Control" manual, commonly known as the "Blue Book." [Added 3-28-2007 by L.L. No. 1-2007]

EXIT/ENTRANCE — A way of departing from or entering into a building or structure, including doorways, passageways, hallways, corridors, stairways, ramps, fire escapes and other spaces necessary for ingress or egress.

FAMILY [Amended 10-23-1996 by L.L. No. 12-1996]

- A. General.
 - (1) One, two, or three persons occupying a dwelling unit; or
 - (2) Four or more persons occupying a dwelling unit and living together as a traditional family or the functional equivalent of a traditional family.
- B. It shall be presumptive evidence that four or more persons living in a single dwelling unit who are not related by blood, marriage or legal adoption do not constitute the functional equivalent of a traditional family.
- C. In determining whether individuals are living together as the functional equivalent of a traditional family, the following criteria must be present:
 - (1) The group is one which in theory, size, appearance, structure and function resembles a traditional family unit which may include bona fide domestic servants employed at the premises on a full-time basis;

- (2) The occupants must share the entire dwelling, unit and live and cook together as a single housekeeping unit. A unit in which the various occupants act as separate roomers may not be deemed to be occupied by the functional equivalent of a traditional family;
- (3) The group (excluding bona fide domestic servants) shares expenses for food, rent or ownership costs, utilities and other household expenses;
- (4) The premises are being occupied in strict accordance with all applicable health, safety and fire codes.
- (5) The group is permanent and stable. Evidence of such permanency and stability may include:
 - (a) The presence of minor dependent children regularly residing in the household who are enrolled in local schools;
 - (b) Members of the household have the same address for purposes of voter's registration, driver's license, motor vehicle registration and filing of taxes;
 - (c) Members of the household are employed in the area;
 - (d) The household has been living together as a unit for a year or more whether in the current dwelling unit or other dwelling units;
 - (e) Common ownership of furniture and appliances among the members of the household; and
 - (f) The group is not transient or temporary in nature;
- (6) Any other factor reasonably related to whether or not the group is the functional equivalent of a family.

FERRY\SHUTTLE SERVICE — A commercial endeavor in which a vessel, or seaplane, is used to transport passengers and/or goods from one specific destination point to another and which requires docking/loading facilities, a terminal, a crew, and maintains a set schedule. [Added 4-25-2001 by L.L. No. 7-2001]

FLOOR AREA — The interior portion of a building, measured from the exterior of the outside wall to the exterior of the opposite outside wall, including all principal use space, but not including cellars.

FLOOR AREA RATIO (F.A.R.) — The total floor area of all buildings on the lot divided by the total lot area.

FRONT OF STRUCTURE — The face parallel to the road or drive and which contains the main access to the building. If the main entrance is not located in such face, the Code Official may designate which face of the structure is the front.

GARAGE

A. **PRIVATE GARAGE** — An accessory building or part of a main building used mainly for the storage of motor vehicles, for occupants of the building, as an accessory use.

B. **PUBLIC GARAGE** — A building or part thereof, other than a private garage, used for the storage, care or repair of motor vehicles for remuneration, including any sale of motor vehicle accessories, or where any such vehicles are kept for hire; also known as a "filling station" or "motor vehicle repair shop."

GRADE, ESTABLISHED STREET — The elevation of the center line of the street as officially established by state, county, town or Village authorities.

GRADE, FINISHED — The elevation of completed surface of lawns, walks and roads as shown on an approved site plan.

GRADING — Excavation or fill of material, including the resulting conditions thereof. [Added 3-28-2007 by L.L. No. 1-2007]

GROUND AREA — The number of square feet of horizontal surface not covered by the principal building and accessory buildings. All measurements shall be made between exterior faces of walls, foundations, piers or other means of support above or below the ground level.

HEIGHT OF BUILDING — The "height of a building" is measured from the location established for each use district to the highest level of the roof, excluding elevator shafts, enclosures of mechanical equipment, parapets or stairs in commercial and industrial zones.

HOSPITAL — Includes a sanatorium, clinic/rest home, nursing home, convalescent home and any other place for the diagnosis, treatment or other care of ailments on an overnight basis and shall not be permitted in the Village. It does not include a day facility such as a center, clinic, medical group or other use which is permitted in commercial service district with a special use permit.

HOTEL — A building or buildings in which lodgings are provided for persons primarily transient and are offered to the public for compensation and in which ingress and egress to and from all rooms is made through an inside lobby or office, supervised by a person in charge at all times. A "hotel" may include an accessory restaurant or coffee shop or other facilities primarily for the services of hotel guests. Other transient facilities, such as a boatel, motel, motor court, tourist home or other similar use, are included under this term and not permitted under this chapter.

HOUSEBOAT — Any vessel in fact used for residential purposes. [Added 4-25-2001 by L.L. No. 7-2001]

IMPERVIOUS COVER — Those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snow melt and water (e.g., building rooftops, pavement, sidewalks, driveways, etc). [Added 3-28-2007 by L.L. No. 1-2007]

INDUSTRIAL STORMWATER PERMIT — A State Pollutant Discharge Elimination System permit issued to a commercial industry or group of industries which regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies. [Added 3-28-2007 by L.L. No. 1-2007]

INFILTRATION — The process of percolating stormwater into the subsoil. [Added 3-28-2007 by L.L. No. 1-2007]

INTACT PARCEL — A parcel of land not traversed by a street or right-of-way.

JURISDICTIONAL WETLAND — An area that is inundated or saturated by surface water or

groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation. [Added 3-28-2007 by L.L. No. 1-2007]

LAND DEVELOPMENT ACTIVITY — Construction activity including clearing, grading, excavating, soil disturbance or placement of fill that results in land disturbance of equal to or greater than one acre or activities disturbing less than one acre of total land area that is part of a larger common plan of development or sale, even though multiple separate and distinct land development activities may take place at different times on different schedules. [Added 3-28-2007 by L.L. No. 1-2007]

LANDOWNER — The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land. [Added 3-28-2007 by L.L. No. 1-2007]

LINE, LOT — Any boundary line of a lot.

LINE, STREET — The dividing line between the lot and the street.

LIVABLE FLOOR AREA — All horizontal space within the inside of exterior or party walls of the dwelling, exclusive of garages, cellars, heater rooms and crawl space, open or unheated porches and breezeways, but including the area of all heated livable rooms, kitchens and bathrooms, and the area of all attic space having a clear height of at least 5 1/2 feet from finished floor level to pitch of roof rafter and seven feet nine inches from finished floor level to ceiling level over 50% of the area of such attic space shall also be considered and called "habitable space."

LOADING SPACE — Any off-street space available for the loading or unloading of goods, not less than 14 feet wide and 35 feet long, having direct usable access to a street, except that where one such "loading space" has been provided, any additional "loading space" lying alongside, contiguous to and not separated from such first "loading space" need not be wider than 12 feet.

LOCAL WATERFRONT REVITALIZATION PROGRAM (LWRP) — The local program as approved by the New York State Secretary of State pursuant to the Waterfront Revitalization (and Coastal Resources) of Coastal Areas and Inland Waterways Act of 1981 (WRCRA) 1986, as amended (Executive Law Article 42). [Added 4-25-2001 by L.L. No. 7-2001]

LOT — A parcel of land, separately bounded, whether vacant or occupied or to be occupied by a building and its accessory building, together with such open spaces as are required under the provisions of this chapter, having not less than the minimum area and width required by this chapter for a lot in the district in which such land is situated and having street frontage on an improved and dedicated public street equal to the minimum lot width requirements. A lot or lots must be duly recorded. [Amended 3-23-1988 by L.L. No. 2-1988]

- A. **CORNER LOT** — A lot at the junction of and abutting on two or more intersecting streets.
- B. **INTERIOR LOT** — A lot other than a corner lot.
- C. **LOT AREA** — The total horizontal area included within lot lines.
- D. **LOT DEPTH** — The mean horizontal distance between the front and rear lot lines, measured in the general direction of the side lot lines.

- E. LOT WIDTH — The minimum width of a lot, measured perpendicular to the depth of the lot at the minimum zoning setback line established for the district.
- F. REAR LOT LINE — The lot line generally opposite the front lot line. If the "rear lot line" is less than 10 feet in length or if the lot comes to a point at the rear, the "rear lot line" shall be deemed to be a line parallel to the front line, not less than 10 feet long, lying wholly within a lot, and farthest from the front lot line.
- G. LOT COVERAGE — Same as "building coverage."

MAINTENANCE AGREEMENT — A legally recorded document that acts as a property deed restriction, and which provides for long-term maintenance of stormwater management practices. [Added 3-28-2007 by L.L. No. 1-2007]

MARINA — A dock or a commercial mooring area, operated for profit and to which public patronage is invited, providing mooring or docking facilities for boats or vessels within the area of the Village of Manorhaven. [Added 4-25-2001 by L.L. No. 7-2001]

MARINE COMMERCIAL USE — A use permitted by § 155-18 in the Commercial Marine (C-1) District. [Added 4-25-2001 by L.L. No. 7-2001]

MARINE PRESERVATION USE — A use that conserves natural resources and open space in order to provide opportunities for public enjoyment of and education about natural resources. [Added 4-25-2001 by L.L. No. 7-2001]

MARINE RECREATIONAL USE — A use that provides recreational opportunities on lands owned by the government or a not-for-profit corporation, the primary benefit being for the public. [Added 4-25-2001 by L.L. No. 7-2001]

MEAN HIGH TIDE — The mean calculated from the average of the yearly high tides. [Added 6-26-2002 by L.L. No. 3-2002]

MEZZANINE — An intermediate floor between the floor and ceiling of any space that is completely open on at least one side, which provides adequate visibility at its widest side and which does not exceed more than 1/3 of the floor area of the space wherein the "mezzanine" is located.

MIXED USE — A building which has a permitted nonresidential use on the street level and the residential use of the level(s) above. [Added 3-23-2005 by L.L. No. 1-2005]

MOORING — The attachment of a vessel to a pier or dock or other structure or the attachment to the ground or lands underwater by means of tackle so designed that, when such attachment is terminated, some portion of the tackle remains below the surface of the water and is not under the control of the vessel or its operator. [Added 4-25-2001 by L.L. No. 7-2001]

NAVIGABLE WATER DEPTH — A waterway having a depth of at least 4 feet at mean low water as defined by the Nassau County Datum Plane. [Added 4-25-2001 by L.L. No. 7-2001]

NONCONFORMING USE — Use of a building or land which does not conform to the regulations as to use for the district in which it is situated established prior to the adoption of this chapter.

NONPOINT SOURCE POLLUTION — Pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include but not be limited to pollutants

from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources. [Added 3-28-2007 by L.L. No. 1-2007]

NOTICE, WRITTEN — A notification, in writing, delivered in person to the individual or to the parties intended or delivered at or sent by registered or certified mail to the last known business or home address of the person or persons to be notified.

OCCUPIED — As applied to a building or premises, this term shall be construed as though followed by the words "or intended, arranged or designed to be occupied."

OFFICE BUILDING — A building designed and intended to be used for any type of commercial office use for service occupations.

OPEN SPACE — An area of land or water or a combination of land and water on which no principal building or accessory structure building exists, except that "open space" may contain underground structures and improvements related to a primary use or principal use, such as patios, driveways, walks and other features.

PARKING AISLE — An aisle, exclusive of parking space or storage space.

PARKING SPACE — A space which has a width of 10 feet and depth of 20 feet and which is directly accessible and available for the parking of one vehicle from a parking aisle or equivalent access or turning area. It does not include the area to be used for boat or other storage space, except as specifically provided in this chapter.

PEDESTRIAN MALL — An enclosed common area for pedestrian and decorative use, no portion of which shall be used or occupied for sales or business purposes, not including a kiosk.

PERIMETER — The in-water boundary of an area consisting of a series of connected lines on a plan, map, other diagram or chart drawn generally perpendicular and parallel to the shore and that encompasses all related marine structures (dock, bulkheads, pilings, piers, platforms or moorings) that function together to create an area at which vessels may be docked and is a component of an adjacent upland facility or use. Each perimeter will contain a fairway for access purposes to a marine commercial use or marine recreational use. The fairway will be a fifteen-foot buffer area on either side of the dock perimeter line. "Dock perimeter" is the same as perimeter. [Added 4-25-2001 by L.L. No. 7-2001]

PHASING — Clearing a parcel of land in distinct pieces or parts, with the stabilization of each piece completed before the clearing of the next. [Added 3-28-2007 by L.L. No. 1-2007]

PILE or SPILE — An individual or grouping of poles or posts, secured to underwater land, protruding above the water surface, the sole purpose of which is to secure a dock(s), floating docks or other such structure(s) and vessels. The pile or spile should be considered ancillary to the structure(s). [Added 4-25-2001 by L.L. No. 7-2001]

PLATFORM — A horizontal surface structure which extends out from land adjacent to a waterway and cantilevered or held in place by pilings, designed to gain access to a ramp or float. [Added 4-25-2001 by L.L. No. 7-2001]

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

land development activity. [Added 3-28-2007 by L.L. No. 1-2007]

PROJECT — Land development activity. [Added 3-28-2007 by L.L. No. 1-2007]

PUBLIC ACCESS — A physical link between a publicly owned roadway or land and an area adjacent to the shore, as well as access along the shore. Public access facilities include, but are not limited to, shoreline walkways, boat ramps and dock facilities. Public access to coastal lands and water shall be achieved if one or more of the following levels of public access is provided: [Added 4-25-2001 by L.L. No. 7-2001]

- A. Physical access to the shoreline by the general public; or
- B. Physical access to the shoreline by customers or patrons of permitted or special uses.

RAMP — A structure used to gain access from a bulkhead, fixed dock or platform to a float. [Added 4-25-2001 by L.L. No. 7-2001]

RECHARGE — The replenishment of underground water reserves. [Added 3-28-2007 by L.L. No. 1-2007]

RESEARCH AND DEVELOPMENT ESTABLISHMENT — A commercial research use establishment for the design, testing and engineering of products, services and methods, but not for the production of goods or products for sale, and not including the testing of animals.

RESTAURANT — A building or portion thereof used for the preparation and sale of food for consumption within such building under permit from the County Health Department.

REVTMENT — A sloped structure, usually made of stones, built parallel to the shoreline to protect existing land or newly created embankments against erosion by wave action, currents or weather. [Added 4-25-2001 by L.L. No. 7-2001]

RIGHT-OF-WAY — Land over which persons other than the owner have access or passage by foot or vehicle.

ROOMING OR BOARDING HOUSE — A structure or dwelling unit or portion thereof used for transient lodgers or for rental of individual rooms for any period of time to nontransients, which may also have facilities for cooking and serving meals and otherwise conforming to the definition of a "hotel," which is not permitted under this chapter. For these purposes, the rental of individual rooms in a dwelling unit to separate individuals shall constitute a "rooming or boarding house" and is prohibited under the Zoning Code. [Amended 2-28-1996 by L.L. No. 2-1996]

SEDIMENT CONTROL — Measures that prevent eroded sediment from leaving the site. [Added 3-28-2007 by L.L. No. 1-2007]

SENSITIVE AREAS — Cold water fisheries, shellfish beds, swimming beaches, groundwater recharge areas, water supply reservoirs, habitats for threatened, endangered or special concern species. [Added 3-28-2007 by L.L. No. 1-2007]

SIGN — Any device or representation for visual communication used as or which is in the nature of an advertisement, announcement or direction, including any letter, word, model, banner, pennant, insignia or trade flag, but excluding any traffic control devices. It applies to such communication freestanding, affixed or attached to or painted or represented on a structure.

SLIP — The berthing place for a single vessel alongside the shore, dock or structural installation. [Added 4-25-2001 by L.L. No. 7-2001]

SOCIAL CLUB — An entity established pursuant to the provisions of the Not-For-Profit Corporation Law or other similar law which is the owner, lessee or occupant of an establishment operated solely for a recreational, social, patriotic, benevolent or athletic purpose, and not for pecuniary gain, whose membership consists of persons duly admitted thereto in accordance with its bylaws and who pay annual or commuted dues in accordance with such bylaws, such as a noncommercial membership club.

SPDES GENERAL PERMIT FOR CONSTRUCTION ACTIVITIES GP-02-01 — A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to developers of construction activities to regulate disturbance of one or more acres of land. [Added 3-28-2007 by L.L. No. 1-2007]

SPDES GENERAL PERMIT FOR STORMWATER DISCHARGES FROM MUNICIPAL SEPARATE STORMWATER SEWER SYSTEMS GP-02-02 — A permit under the New York State Pollutant Discharge Elimination System (SPDES) issued to municipalities to regulate discharges from municipal separate storm sewers for compliance with EPA established water quality standards and/or to specify stormwater control standards. [Added 3-28-2007 by L.L. No. 1-2007]

STABILIZATION — The use of practices that prevent exposed soil from eroding. [Added 3-28-2007 by L.L. No. 1-2007]

STOP-WORK ORDER — An order issued which requires that all construction activity on a site be stopped. [Added 3-28-2007 by L.L. No. 1-2007]

STORMWATER — Rainwater, surface runoff; snowmelt and drainage. [Added 3-28-2007 by L.L. No. 1-2007]

STORMWATER HOTSPOT — A land use or activity that generates higher concentrations of hydrocarbons, trace metals or toxicants than are found in typical stormwater runoff, based on monitoring studies. [Added 3-28-2007 by L.L. No. 1-2007]

STORMWATER MANAGEMENT — The use of structural or nonstructural practices that are designed to reduce stormwater runoff and mitigate its adverse impacts on property, natural resources and the environment. [Added 3-28-2007 by L.L. No. 1-2007]

STORMWATER MANAGEMENT FACILITY — One or a series of stormwater management practices installed, stabilized and operating for the purpose of controlling stormwater runoff. [Added 3-28-2007 by L.L. No. 1-2007]

STORMWATER MANAGEMENT OFFICER — An employee or officer designated by the municipality to accept and review stormwater pollution prevention plans, forward the plans to the applicable municipal board and inspect stormwater management practices. [Added 3-28-2007 by L.L. No. 1-2007]

STORMWATER MANAGEMENT PRACTICES (SMPs) — Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing flood damage and preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies. [Added 3-28-2007 by L.L. No. 1-2007]

STORMWATER POLLUTION PREVENTION PLAN (SWPPP) — A plan for controlling stormwater runoff and pollutants from a site during and after construction activities. [Added 3-28-2007 by L.L. No. 1-2007]

STORMWATER RUNOFF — Flow on the surface of the ground resulting from precipitation. [Added 3-28-2007 by L.L. No. 1-2007]

STORY — The portion of a building included between the surface of any floor, except the mezzanine or cellar, and the surface of the floor next above it or, if there is no floor above it, the underside of the ceiling or roof surface directly above it. A basement shall be counted as a "story." No basement space shall be used for any principal use purposes unless the height thereof, from finished floor to ceiling, is at least seven feet six inches, and at least five feet thereof is above the average level of the adjacent ground, and unless the window area thereof equals at least 10% of the floor area of such space so used. Such noncomplying space shall be considered a cellar in which no principal use is permitted.

STREET — A public thoroughfare, however designated, which affords the principal means of access to abutting property or buildings.

STRUCTURE

- A. Anything constructed or erected the use of which requires location on the ground or attachment to something having location on the ground, including a tent, solar panel, stand, platform, tower, antenna, tank, bin, well, gate or other form of bulk space.
- B. Anything affixed to or placed upon the Manhasset Bay bottom, including, but not limited to, a pier, wharf, dock, bulkhead, jetty or groin. [Added 4-25-2001 by L.L. No. 7-2001]

SURFACE WATERS OF THE STATE OF NEW YORK — Lakes, bays, sounds ponds, impounding reservoirs, springs, wells, rivers, streams, creeks, estuaries, marshes, inlets, canals, the Atlantic Ocean within the territorial seas of the State of New York and all other bodies of surface water, natural or artificial, inland or coastal, fresh or salt, public or private (except those private waters that do not combine or effect a junction with natural surface or underground waters), which are wholly or partially within or bordering the state or within its jurisdiction. Storm sewers and waste treatment systems, including treatment ponds or lagoons which also meet the criteria of this definition, are not waters of the state. This exclusion applies only to man-made bodies of water which neither were originally created in waters of the state (such as a disposal area in wetlands) nor resulted from impoundment of waters of the state. [Added 3-28-2007 by L.L. No. 1-2007]

TERRACE — A paved yard area, exclusive of driveways, driveway aprons and walks.

UNDERWATER LANDS — Bottom lands of Manhasset Bay and its inlets and coves falling below the mean high tide line. [Added 6-26-2002 by L.L. No. 3-2002]

UPLAND — Lands above the mean high tide line. [Added 6-26-2002 by L.L. No. 3-2002]

UPLAND CHANNEL — A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water. [Added 3-28-2007 by L.L. No. 1-2007]

UPLAND WATERWAY — A channel that directs surface runoff to a watercourse or to the public storm drain. [Added 3-28-2007 by L.L. No. 1-2007]

USE — The specific purpose for which land or a building is designed, arranged or intended or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use nor negate the need for a permit for such use.

VEHICLE, COMMERCIAL — A motor-driven vehicle designed or used for commercial purposes, including the transportation of goods, wares or merchandise or passengers for hire.

VESSEL — Every description of watercraft, floating boat or other floating object used or capable of being used as a means of transportation over the water, other than an aid to navigation or mooring buoy. [Added 4-25-2001 by L.L. No. 7-2001]

WATERCOURSE — A permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water. [Added 3-28-2007 by L.L. No. 1-2007]

WATER-DEPENDENT USE — An activity or use requiring direct access to water which can be conducted only on, in, over or adjacent to Village waterways, which involves, as an integral part of the such activity, the use of waterways, and which therefore cannot be located inland. [Added 4-25-2001 by L.L. No. 7-2001]

WATER-DEPENDENT STRUCTURE — Any structure in, on or over the waterway utilized primarily in connection with a water-dependent use. [Added 4-25-2001 by L.L. No. 7-2001]

WATER-ENHANCED USE — A use that does not require a location on or adjacent to coastal waters to function, but whose location on the waterfront could add to public enjoyment and use of the water's edge, if properly designed and sited. Water enhanced uses are generally of a recreational, cultural, commercial or retail nature. [Added 4-25-2001 by L.L. No. 7-2001]

WATER TAXI — A waterborne vessel, requiring a driver, which transports passengers, upon request and for a fare, from a pick-up point to a destination, both of which are identified by the passengers. The vessel is subject to Coast Guard certification. [Added 4-25-2001 by L.L. No. 7-2001]

WATERWAY — All waters within the geographical limits of the Village of Manorhaven or otherwise subject to its jurisdiction. [Added 4-25-2001 by L.L. No. 7-2001]

WATERWAYS COMMITTEE — The Committee established under Chapter 151 of this Code. [Added 4-25-2001 by L.L. No. 7-2001]

YARD — An open space on the same lot with a building or a group of buildings, which open space lies between the buildings or group of buildings and the nearest lot line and is unoccupied and unobstructed from the ground upward, except as provided in this chapter. In measuring a "yard," the line of a building shall mean a line parallel to the nearest lot line, drawn through the point of a building or the point of a group of buildings nearest to such lot line (exclusive of the respective features specified in this chapter as not to be considered in measuring yard dimensions or as being permitted to extend into any front, side or rear yard, respectively) and the measurement shall be taken at right angles from the line of the building to the nearest lot line.

- A. **FRONT YARD** — A yard extending across the full width of the lot and lying between the front property line and the nearest line of the building.
- B. **REAR YARD** — A yard extending across the full width of the lot and lying between the rear property line of the lot and the nearest line of the building.

- C. SIDE YARD — A yard between the side line of the lot and the nearest line of the building and extending from the front lot line to the rear lot.

ARTICLE IV
Establishment of Districts

§ 155-7. List of districts.

- A. The Village is hereby divided into the following use districts:

- (1) Marine Preservation (MP). [Added 2-24-1999 by L.L. No. 3-1999¹]
- (2) Residential (R-1).
- (3) Residential (R-2).
- (4) Residential (R-3).
- (5) Residential (R-4).
- (6) Commercial Marine (C-1).
- (7) Commercial Office and Services (C-2).
- (8) Commercial Retail and Sales Stores (C-3).
- (9) Marine Recreational (MR). [Amended 2-24-1999 by L.L. No. 2-1999]
- (10) Enterprise (E-1). [Added 3-23-2005 by L.L. No. 1-2005²]
- (11) Governmental Not-For-Profit (G-1).
- (12) Governmental Uses (G-2) - town, Village or other public ownerships.

- B. For the purpose of this chapter, the more restricted district shall be deemed to be that district which is subject to regulations which prohibit the particular use intended to be made of said lot or regulations which require higher standards with respect to setback, care of yards, screening, landscaping and similar requirements. No use shall be permitted in a residential, commercial or industrial district unless expressly authorized herein, whether more or less restrictive.

§ 155-8. Zoning Map established.

The boundaries of the districts are hereby established as shown on the Zoning Map of the Village of Manorhaven, which is adopted and made part of this chapter with all explanatory data thereon.³

§ 155-9. District boundaries.

1. Editor's Note: Former Subsections A(1) through (12) were renumbered as Subsections A(2) through (13) pursuant to this addition.
2. Editor's Note: This local law repealed former Subsection A(10) and (11), Industrial Research (I-2) and Industrial, Light (I-3), respectively, and renumbered former Subsection A(12) and (13) as Subsection A(11) and (12).
3. Editor's Note: The Zoning Map is on file in the office of the Village Clerk.

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

- A. Unless otherwise shown, the district boundary lines shall be construed to coincide with the center lines of streets, alleys, parkways, waterways, rights-of-way or extensions of such lines.
- B. Where such boundary lines are indicated as approximately following the property lines of parks or other publicly owned lands, such lines shall be construed to be such property lines.
- C. Where a district boundary line is located not more than 15 feet from a lot line on record on the effective date of this chapter, such boundary line shall be construed to coincide with such lot line.
- D. Where dimensions are not shown on the map, the location of district boundary lines shown on the map shall be determined by the Board of Zoning and Appeals.
- E. Where the location of a district boundary line is uncertain or disputed, the true location thereof shall be determined by the Board of Zoning and Appeals.

§ 155-10. Applicability of regulations.

- A. No new building shall be erected nor any new or existing building moved, altered, rebuilt or enlarged nor any land or building used, designed or arranged to be used for any purpose or in any manner except in compliance with all the regulations, requirements and restrictions specified in this chapter for the district in which such land or building is located.
- B. No lot, piece or parcel of land in single ownership on the effective date hereof, whether improved or vacant, shall be assembled, divided or subdivided unless each resulting part thereof shall conform to the minimum lot area requirements of this chapter applicable thereto and unless buildings on each part thereof shall conform to the setback, yard, lot area, occupancy and other provisions of this chapter applicable thereto after such division or subdivision. In determining conformity, contiguous land of the grantee of any such part shall be considered.
- C. No yard or open space required in connection with any building or use shall be included as the required yard or open area for any other building on the same or any other lot.

§ 155-11. Establishment of schedules.

- A. Purpose and adoption. To facilitate public understanding of this chapter and for the better administration thereof, the regulations establishing required open spaces, limiting the use of land and buildings and the location, arrangement, height, bulk maximum and minimum size of buildings and other requirements may be set forth in a schedule to be established, which is hereby declared not to be a part of this chapter, and may be amended in the same manner as it may be adopted.
- B. The schedule is to be considered only an interpretive aid and is not to be considered part of this chapter. The provisions of the Zoning Code shall be only those provisions adopted as part of this chapter or as adopted thereafter by local law amending the provisions of this chapter. No amendment of this chapter may be enacted by resolution alone. Wherever the provisions of the schedule and the text of this chapter may conflict, the text of this chapter

shall prevail.

§ 155-11.1. Annexation.

Whenever the boundary line of the Village is changed by annexation of any property or separated property, such property annexed shall immediately take the same zoning restrictions and regulations as that of the abutting property or, if more than one zone, that of the higher zone.

ARTICLE V
Use Regulations

§ 155-12. Residential districts.

- A. No building shall be erected, altered or used nor shall any premises be used for any purpose other than that set forth in this section.
- B. No building permit shall be issued for any use permitted in a district unless the applicant has first obtained building plan and site plan approval as required by law.
- C. No principal waterside use is permitted, including floating homes, boatels, residential barges, residence yachts, houseboats or other such uses used as a primary residence year round.
- D. Permitted principal landside uses shall be limited to the following:
 - (1) R-1: residential one- or two-family detached dwelling units of not more than two units per 4,000 average square feet of lot area.
 - (2) R-2: residential one- or two-family detached dwelling units of not more than two units per 4,000 average square feet of lot area.
 - (3) R-3: residential detached or attached dwelling units conforming to total average density not to exceed one unit per 5,000 square feet and subject to special permit from the Board of Trustees.
 - (4) R-4: residential multiple-dwelling units (existing apartments) shall conform to the density as now existing.

§ 155-13. (Reserved) ⁴

§ 155-13.1. Residential District (R-1). [Added 4-24-1997 by L.L. No. 4-1997]

R-1 residential one-family detached or two-family attached dwelling units shall conform to the following regulations.

- A. The minimum lot area shall be 4,000 square feet. Lots may not be subdivided or assembled without complying with minimum lot areas. Lots, regardless of size, may not have more than one two-family dwelling unit.

⁴. Editor's Note: Former § 155-13, Residential District (R-1), as amended 3-23-1988 by L.L. No. 2-1988 and 6-21-1995 by L.L. No. 5-1995, was renumbered as § 155-13.1 (immediately following this section) 4-24-1997 by L.L. No. 4-1997.

- B. The minimum lot width shall be 40 feet.
- C. The minimum lot depth shall be 100 feet.
- D. On an interior lot, the minimum front yard setback shall be 20 feet or the same as the average front yard setback of the existing buildings within 200 feet on each side of the lot and within the same block front and district, whichever shall be greater. On a corner lot a front yard setback shall be required on each street frontage as follows: The front yard setback on the narrower street frontage shall be a minimum of 20 feet or the same as the average front yard setback of the existing buildings within 200 feet on each side of the lot and within the same block front and district, whichever is greater, and the front yard setback on the other street frontage shall be a minimum of 10 feet, and if the street frontages are equal, each street frontage shall have a minimum front yard setback of 20 feet or the same as the average front yard setback of the existing buildings within 200 feet on each side of the lot and within the same block front and district, whichever is greater.
- E. On an interior lot, the minimum side yard setback shall be six feet, with a minimum aggregate of 14 feet. A corner lot shall have a minimum side yard setback of six feet on the side adjoining the interior lot opposite the front yard having a greater street frontage. The two yards fronting on streets shall be considered front yards, and the remaining yard shall be considered the rear yard.
- F. The minimum rear yard setback shall be 20 feet. [Amended 3-13-2004 by L.L. No. 9-2004]
- G. No building shall exceed two stories or 26 feet in height, measured from the established street grade.
- H. The minimum floor area for each dwelling unit shall be 750 square feet.
- I. In a two-family dwelling located on a lot less than 5,000 square feet in area, at least one of the dwelling units shall not have more than two bedrooms. [Amended 2-15-2001 by L.L. No. 1-2001]
- J. The maximum lot building coverage for a one-family dwelling shall be 28%. The maximum lot building coverage for a two-family dwelling shall be 25%; provided, however, that with respect to conversion of an existing one-family dwelling to a two-family dwelling, where the building lot coverage is 28% or less, the one-family dwelling may be so converted on condition that the building lot coverage not be increased as the result of said conversion, except to the extent that additional on-site parking is required. Building coverage shall include the principal building, including attached or detached porches and decks extending more than two feet above average finished grade and attached or detached garages and all other accessory uses. Moreover, accessory uses other than attached porches and decks extending more than two feet above average finished grade shall occupy no more than 40% of the rear yard area and no more than 40% of the side yard area. In the event that a preexisting, nonconforming dwelling under this subsection is destroyed by fire, flood and/or other like disaster, such dwelling may be reconstructed to the extent of the nonconformity herein, with respect to lot building coverage only. [Amended 9-27-2000 by L.L. No. 6-2000; 2-15-2001 by L.L. No. 1-2001]
- K. The total of building lot coverage and the area occupied by structures, terraces, paved yard

areas, paved driveways and any other impermeable surface shall not exceed 50% of the area of the lot. [Added 2-15-2001 by L.L. No. 1-2001⁵]

- L. Each single-family dwelling unit shall have at least two on-site parking spaces for occupant use, and each two-family dwelling unit shall have at least three on-site parking spaces for occupant use.
- M. No structure or accessory use may be located in the front yard.
- N. No structure or accessory use, other than a detached garage, as permitted, and parking of vehicles (but not commercial vehicles), may be located in a required side yard setback. A detached garage must have a minimum of a three-foot side yard setback and a minimum three-foot rear yard setback. [Amended 3-13-2004 by L.L. No. 9-2004]
- O. Permitted accessory uses shall be limited to play equipment, private auto garages, storage of boats, garden sheds, ground playhouses, tool sheds, fences or walls (under four feet) and aboveground decks extending no higher than two feet above average finished grade. An accessory shed must have a minimum of a three-foot side yard setback and a minimum three-foot rear yard setback. [Amended 2-15-2001 by L.L. No. 1-2001; 3-13-2004 by L.L. No. 9-2004]
- P. Accessory uses, in accordance with Article VIII, with a special use permit from the Board of Zoning and Appeals, shall be limited to:
 - (1) Fences and walls above four feet.
 - (2) Aboveground/in-ground pools.
 - (3) Satellite antennas measuring more than 36 inches in diameter at any point. Satellite dishes of less diameter shall be permitted in accordance with § 155-48.
 - (4) Radio antennas.
 - (5) Cabanas.
 - (6) Basketball, tennis or other courts, with or without fencing.
 - (7) Tree playhouses.
 - (8) Vehicle storage and parking.
 - (9) Boat storage.
- Q. The height of the average grade of the habitable area shall conform to the grades required by the applicable state laws for flood hazard designated areas by the National Flood Insurance Program.

§ 155-14. Residential District (R-2). [Amended 3-23-1988 by L.L. No. 2-1988; 6-21-1995 by L.L. No. 5-1995; 4-24-1997 by L.L. No. 4-1997]

⁵. Editor's Note: This local law repealed former Subsection K, which described when a one-family dwelling may not be converted to a two-family dwelling.

R-2 residential one-family detached or two-family attached dwelling units shall conform to the following regulations.

- A. The minimum lot area shall be 4,000 square feet. Lots may not be subdivided or assembled without complying with minimum lot areas. Lots, regardless of size, may not have more than one two-family dwelling unit.
- B. The minimum lot width shall be 40 feet.
- C. The minimum lot depth shall be 100 feet.
- D. On an interior lot, the minimum front yard setback shall be 20 feet or the same as the average front yard setback of the existing buildings within 200 feet on each side of the lot and within the same block front and district, whichever shall be greater. On a corner lot a front yard setback shall be required on each street frontage as follows: The front yard setback on the narrower street frontage shall be a minimum of 20 feet or the same as the average front yard setback of the existing buildings within 200 feet on each side of the lot and within the same block front and district, whichever is greater, and the front yard setback on the other street frontage shall be a minimum of 10 feet, and if the street frontages are equal, each street frontage shall have a minimum front yard setback of 20 feet or the same as the average front yard setback of the existing buildings within 200 feet on each side of the lot and within the same block front and district, whichever is greater.
- E. On an interior lot, the minimum side yard setback shall be six feet, with a minimum aggregate of 14 feet. A corner lot shall have a minimum side yard setback of six feet on the side adjoining the interior lot opposite the front yard having a greater street frontage. The two yards fronting on streets shall be considered front yards, and the remaining yard shall be considered the rear yard.
- F. The minimum rear yard setback shall be 20 feet if front yard parking is provided or 35 feet if rear or side yard parking is provided.
- G. No building shall exceed two stories or 26 feet in height, measured from the established street grade.
- H. The minimum floor area for each dwelling unit shall be 750 square feet.
- I. In a two-family dwelling located on a lot less than 5,000 square feet in area, at least one of the dwelling units shall not have more than two bedrooms. [Amended 2-15-2001 by L.L. No. 1-2001]
- J. The maximum lot building coverage for a one-family dwelling shall be 28%. The maximum lot building coverage for a two-family dwelling shall be 25%, provided, however, that with respect to conversion of an existing one-family dwelling to a two-family dwelling, where the building lot coverage is 28% or less, the one-family dwelling may be so converted on condition that the building lot coverage not be increased as the result of said conversion, except to the extent that additional on-site parking is required. Building coverage shall include the principal building, including attached or detached porches and decks extending more than two feet above average finished grade and attached or detached garages, and all other accessory uses. Moreover, accessory uses other than attached porches and decks extending more than two feet above average finished grade shall occupy no more than 40%

of the rear yard area and no more than 40% of the side yard area. In the event that a preexisting, nonconforming dwelling under this subsection is destroyed by fire, flood and/or other like disaster, such dwelling may be reconstructed to the extent of the nonconformity herein, with respect to lot building coverage only. [Amended 9-27-2000 by L.L. No. 6-2000; 2-15-2001 by L.L. No. 1-2001]

- K. The total of building lot coverage and the area occupied by structures, terraces, paved yard areas, paved driveways and any other impermeable surface shall not exceed 50% of the area of the lot. [Added 2-15-2001 by L.L. No. 1-2001⁶]
- L. Each single-family dwelling unit shall have at least two on-site parking spaces for occupant use, and each two-family dwelling unit shall have at least three on-site parking spaces for occupant use.
- M. No structure or accessory use may be located in the front yard.
- N. No structure or accessory use, other than a detached garage, as permitted, and the parking of vehicles (but not commercial vehicles), may be located in a required side yard setback. A detached garage must have a minimum of a two-foot side yard setback and a minimum two-foot rear yard setback.
- O. Permitted accessory uses shall be limited to play equipment, private auto garages, storage of boats, garden sheds, ground playhouses, tool sheds, fences or walls (under four feet) and aboveground decks extending no higher than two feet above average finished grade. [Amended 2-15-2001 by L.L. No. 1-2001]
- P. Accessory uses, in accordance with Article VIII, with a special use permit from the Board of Zoning and Appeals, shall be limited to:
 - (1) Fences and walls above four feet.
 - (2) Aboveground/in-ground pools.
 - (3) Satellite antennas measuring more than 36 inches in diameter at any point. Satellite dishes of less diameter shall be permitted in accordance with § 155-48.
 - (4) Radio antennas.
 - (5) Cabanas.
 - (6) Basketball, tennis or other courts, with or without fencing.
 - (7) Tree playhouses.
 - (8) Vehicle storage and parking.
 - (9) Boat storage.
- Q. The grade of all terrain around hillside structures shall be of a pitch and contain such surfaces and subsurface drainage structure that would prohibit erosion of the slope.

⁶. Editor's Note: This local law repealed former Subsection K, which described when a one-family dwelling may not be converted to a two-family dwelling.

- R. The grade of all terrain around hillside structures shall be covered with landscaping and other ground covers to prevent erosion of the slope.
- S. The site of all hillside structures shall not be excavated or filled beyond what is necessary for normal construction of a house.
- T. In addition to all other requirements contained in this chapter and Chapter 38 of this Code, a building permit application must be accompanied by certification from a professional engineer as to the adequacy of the load-bearing capacity for the proposed structure.
- U. In addition to all other requirements contained in this chapter and Chapter 38 of this Code, all structures shall be constructed under the supervision of a professional engineer.

§ 155-15. Residential District (R-3).

R-3 residential cluster development shall conform to the following regulations:

- A. The maximum density shall be one dwelling unit per 5,000 square feet of gross acreage.
- B. The minimum area of the site shall be one acre.
- C. The minimum distance units shall be placed is 20 feet from the public roads or other state, county, town or Village properties.
- D. The maximum allowable total composite building coverage for all housing units and other structures shall be 35%.
- E. The maximum building height shall not exceed 26 feet and two stories in height, as measured from the established street grade adjoining the property.
- F. The minimum distance that all structures shall be set back from all property lines is 50 feet when they abut adjacent residential, commercial or industrial districts.
- G. Each dwelling unit shall have at least two on-site parking spaces, excluding common or club parking, and at least one of such parking spaces shall be enclosed.
- H. No structures or accessory uses shall be permitted in the front yard.
- I. The dwelling units shall be no less than 900 square feet, nor shall they contain more than two bedrooms.
- J. Each dwelling unit shall have public or common parking space for visitor's use at one space per five units if there is no clubhouse and two spaces per five units if there is a clubhouse.
- K. Deed restrictions, in a form approved by the Village, shall be recorded as to the use and operation of open space.
- L. Accessory uses shall be limited to those permitted in R-1 and R-2 Districts.
- M. Existing structures may be incorporated into the overall design, provided that they comply with the regulations in this chapter for new structures.
- N. Every dwelling unit shall have pedestrian access to the waterfront, street, court, walkway or equivalent, designed for public use and resident use.

- O. No building or structure shall contain more than six dwelling units with exterior unit access or 10 dwelling units with interior unit access.
- P. The front yard setback of each building shall be not less than 20 feet from the interior road on which the lot fronts.
- Q. The minimum distance between buildings shall be 40 feet.
- R. The height of the average grade of the habitable areas shall conform to the grades required in the applicable state laws by the National Flood Insurance Program.

§ 155-16. R-4 Zone. [Amended 12-20-2006 by L.L. No. 5-2006]

- A. Multiple-dwelling units shall conform to the following regulations:
 - (1) All multiple dwellings that exist shall be permitted, and any reconstruction or alteration due necessary because of artificial or natural damages shall be permitted in accordance with the regulations of Subsection B of this section.
 - (2) New multiple dwellings shall be permitted only in the R-4 Zoning District, provided the units conform to the regulations in Subsection B of this section and the additional parking requirements of Subsection A(4) herein.
 - (3) This regulation prohibits multiple dwellings in any other zone of the Village.
 - (4) If an existing multiple dwelling is reconstructed or is altered after the adoption of this chapter, on-site parking of two spaces per dwelling unit shall be provided.
- B. All multiple dwellings shall conform to the following regulations:
 - (1) No apartment house shall be more than two stories in height with a maximum height of 28 feet to the highest point, as measured from the established grade of the street adjoining the property.
 - (2) The minimum lot area for an apartment house shall be 1,500 square feet per family and shall not contain more than 20 apartments.
 - (3) The building area shall not exceed 35% of the lot area.
 - (4) Off-street parking facilities sufficient to accommodate one automobile per tenant shall be provided, which may consist of an accessory garage building or a combination of garage buildings and outdoor parking space. At least 50% of such parking facilities shall be garage space.
 - (5) Transient parking space shall also be provided at the rate of one car space for each five tenants; such area devoted to this use shall be considered as not occupied by construction in determining percentages of occupancy of lot area. A parking building shall not exceed 15 feet in height, nor shall it exceed more than one floor.
 - (6) All areas available for off-street parking and access driveways shall be surfaced in accordance with the following specifications: not less than two inches of broken stone after compaction and one inch of bituminous material after compaction.

- (7) The entire parking space area shall be screened from outside view by landscaping property borders, except entrances and exits.
- (8) Each dwelling unit shall contain not less than 600 square feet per family.
- (9) There shall be a rear yard the depth of which shall be not less than 20 feet, and on lots abutting a residence district, a minimum side and/or rear yard of 25 feet abutting said district will be required.
- (10) The front yard setback shall be not less than 20 feet, and there shall be side yard setbacks of not less than six feet on each side.
- (11) On a corner lot, a front yard shall be required on each street, which shall be not less than 20 feet from each street.
- (12) Where residential buildings are grouped on the same lot or plot, the unobstructed open spaces between the exterior walls of such buildings shall be not less than 30 feet.

§ 155-17. Commercial districts.

- A. No building or accessory use shall be erected, altered or used nor shall any premises be used for any purpose other than that set forth in this chapter.
- B. No building permit shall be issued for any use permitted in a district unless the applicant has first obtained building plan and site plan approval as required by law.
- C. Permitted principal uses shall be limited as set forth in §§ 155-18, 155-19 and 155-20.
- D. No building shall be erected to a height in excess of 26 feet or two stories, as measured from the established street grade.
- E. For any of the uses permitted, the minimum building shall not cover less than 600 square feet of ground floor space. The height shall not be less than 1 1/2 stories. A one-story building is acceptable, provided that there is a parapet of at least 2 1/2 feet all around the building or gable. The minimum lot area shall be 4,000 square feet, except for attached row stores for retail trade, which must have a minimum lot area of 2,000 square feet.
- F. The minimum width of the lot for each building, together with the accessory buildings appurtenant thereto, shall be 40 feet, except for attached row stores for retail trade, which must have a minimum width of 20 feet.
- G. The minimum front yard setback shall be five feet.
- H. A corner lot shall have a front yard along its principal frontage.
- I. A corner lot shall have a front yard along its side street frontage of a minimum of five feet.
- J. The minimum rear yard setback shall be 10 feet.
- K. No side yard setback is required unless it abuts a residential district, in which event a minimum side yard setback of 10 feet is required.
- L. The maximum allowable lot coverage shall be 70%.

§ 155-18. Commercial Marine (C-1) District. [Amended 4-25-2001 by L.L. No. 6-2001]

- A. Legislative purpose. The purpose of this section is to:
- (1) Ensure that the character and integrity of Manorhaven's maritime heritage, particularly the concentration of water-dependent uses in the area which is unique to the Village of Manorhaven and the entire Long Island Sound region, will be maintained and enhanced.
 - (2) Maintain, encourage and promote the development of uses that have traditionally been associated with the Village of Manorhaven waterfront and to accommodate water-enhanced commercial uses that are compatible with and supportive of water-dependent uses.
 - (3) Expand, enhance and preserve the public's ability to access a limited deep-water resource for commercial and recreational uses and enjoyment, and maximize employment opportunities from water-dependent commerce.
 - (4) Provide for waterfront amenities for public enjoyment of the shore.
- B. Permitted uses. A building, structure or facility may be used, erected, maintained, repaired or altered, and a lot may be used, for any of the following uses:
- (1) Marina, yacht club or boat launch facilities for docking, mooring, storage or otherwise accommodating waterborne vessels, excluding barges used in or for commercial shipping.
 - (2) Public or private parkland, fishing docks or piers.
 - (3) Charter service, commercial excursion, open party, ferry/shuttle service and water taxi, but not car ferries, ground-effects craft ("hover craft") or high-speed ferries. Any owner/operator shall be required to apply to the Village for a permit for any such service. In connection therewith, where any vessel has a capacity of more than 15 passengers, the owner/operator shall file with the Village its written agreement with the owner of its docking facility providing parking pursuant to § 155-46 hereof. [Amended 2-2-2004 by L.L. No. 1-2004]
 - (4) Commercial fishing operations, including the docking, loading and unloading of fishing boats, equipment for the fishing industry in open lots and the refrigerated storage of fish, but excluding processing or canning facilities.
 - (5) The wholesale or retail sale of marine fuel and oils, provided that the storage tanks for the same comply with Chapter 77, Gasoline and Fuel Oil Storage, of the Code of Manorhaven, and Nassau County/New York State regulations.
 - (6) The manufacture, construction, restoration, repair, service and assembly of vessels, marine-related equipment (including the repair of boating engines and their accessories and electrical equipment, including machine shops predominantly devoted to marine equipment) and incidental light manufacturing related to such activities. Those uses existing as of the effective date of the revision of this section that are conducted outdoors may be continue to be conducted outdoors. Such uses that commence after the effective date of the revision of this section shall be conducted in enclosed buildings.

- (7) Sale (including brokerage) and display of new or used boats, marine supplies; and the sale of engines, parts, marine electronic equipment, fishing supplies and marine sporting equipment for use with or in conjunction with boats.
- (8) Water-dependent aviation, subject to complying with supplemental regulations set forth in § 128-4, Additional standards for certain uses, Subsection B, Marina and waterside uses.
- (9) Restaurants and food and beverage establishment, but not a drive-up, drive-in or drive-through restaurant or eating facility.

C. Accessory uses.

- (1) These accessory uses are permitted as of right at a marina:
 - (a) Restaurant or other eating facility used solely by members of the marina (including transients); laundry and shower for members and ship's chandlery for retail sale of personal supplies and staples; instruction in sailing and boating. Under no circumstances shall a drive-up, drive-in or drive-through restaurant or eating facility be permitted.
 - (b) Other amenities that are accessory to a marina, used solely by members of the marina (including transients); such as swimming pool, tennis court, picnic area, spa, health club and gym, with a special permit from the Board of Zoning Appeals. These amenities shall conform to any applicable off-street parking requirements.
 - (c) Manufacture, construction, restoration, repair, service and assembly of marine structures, including docks, floats, barges and racks.
 - (d) Marine-related events such as races, boat shows, displays and exhibitions of boats and marine equipment, "Blessing of the Fleet" parties and similar special events, only with a permit issued by the Building Department, after submitting an application therefor not less than 14 days prior to the proposed event, the content of which application shall be determined by the Village Clerk.
- (2) The accessory uses listed in Subsection C(3) are permitted when the following criteria are met:
 - (a) The accessory use does not displace any of the land, dock and surface water area committed to existing water-dependent use unless comparable space is available on the same site or within the zoning district on which the water-dependent use can be relocated.
 - (b) Public access to and along the shore shall be provided for patrons.
 - (c) Accessory uses shall not be permitted over surface waters and shall be located inland, away from the water to the maximum extent practicable, so as to provide space immediately abutting the water for water-dependent uses.
- (3) The following accessory uses may be allowed:

- (a) Restaurants, cocktail lounges and other food and beverage establishments, other than those permitted as of right or as accessory uses as of right under Subsection C(1). No drive-ups, drive-ins or drive-throughs shall be permitted. Accessory uses allowed under this subsection shall be permitted only by special permit to be issued by the Board of Appeals.
 - (b) Offices for research labs or facilities related to watercraft development and marine-related educational facilities other than those permitted in Subsection C(1).
 - (c) Sale of fish and shellfish, either at retail or wholesale, subject to special permit to be issued by the Board of Zoning and Appeals.
 - (d) Health clubs, sailing clubs, boat clubs or other marine-related daily admission nonmembership clubs, but not including amusement parks.
 - (e) Rack storage facilities for boats, with site plan approval by the Board of Trustees.
- D. Setbacks in C-1 District. Setbacks shall be as provided in § 155-17. Docks and piers shall be permitted within a setback only if no building is located on them.
- E. Ferry/shuttle service. In the development of commercial ferry/shuttle service the following standards shall be met:
- (1) Public demand for the service and the intended route must be demonstrated.
 - (2) The upland area must be able to accommodate an adequately sheltered terminal site and ferry waiting area.
 - (3) There must be adequate waterside access and dock facilities.
 - (4) The upland area must be able to support the infrastructure and other support facilities, including an adequately sized terminal, public rest rooms and parking area, to accommodate the intended volume of passengers during peak use.
 - (5) It must be demonstrated that there is adequate road access and capacity to handle the volume of vehicular generated traffic during peak usage.
 - (6) All adverse environmental impacts must be mitigated to the maximum extent practicable.

§ 155-19. Commercial Office and Services (C-2) District.

The following uses are permitted in the C-2 District:

- A. Professional uses as licensed by the New York State Department of Education.
- B. Financial uses, such as banks, lending agencies and brokerages.
- C. Business services, such as activities or functions that primarily serve other commerce activities or consumer requirements elsewhere than on the premises. For the purposes of this section, a warehouse or the storing of goods or products for use of a retail store at another location shall not be deemed a business service. [Amended 2-28-1996 by L.L. No. 3-1996]

- D. Medical and other health clinics, with a special use permit from the Board of Zoning and Appeals.
- E. Educational or religious uses chartered by the State Education Department or Secretary of State.

§ 155-20. Commercial Retail and Sales Stores (C-3) District.

The following uses are permitted in the C-3 District:

- A. Restaurants and other eating facilities, with a special use permit from the Board of Zoning and Appeals.
- B. Public assembly places.
- C. Retail stores and shops.
- D. Trade stores.
- E. Clubs for admission, with a special use permit by the Board of Zoning and Appeals.
- F. C-2 uses.

§ 155-20.1. Business Overlay District (BOLD) for mixed use live/work apartments. [Added 5-25-2005 by L.L. No. 7-2005]

- A. Purpose.
 - (1) The proposed BOLD zoning ordinance is designed to make a more livable area, to build community pride, to promote neighborhood and community self-sufficiency and to help retain historic/existing structures instead of replacing them.
 - (2) The following principles guide the BOLD legislation:
 - (a) To promote mixed use development in accordance with the principles of new urbanism.
 - (b) To increase the availability of housing alternatives to meet local needs.
 - (c) To promote the neighborhood and enhance the existing local business community by reducing the need for vehicular traffic and encouraging walking and bicycling.
 - (d) To permit the use of new development standards to create attractive Village settings which will foster economic revitalization in commercial and mass transit-oriented locations.
- B. Application.
 - (1) The BOLD is hereby enacted to include the Business C-1, Business C-2, Business C-3, and E-1 Districts. The new zoning shall not restrict any owners' rights relative to the underlying zoning district. However, if an owner elects to use the BOLD for development purposes, construction shall conform to the regulations as set forth in this section, as well as all other relevant provisions of the Village of Manorhaven Zoning Codes, and New York State Building Codes as well as the Manorhaven Downtown

Business District architectural guidelines. [Amended 6-27-2007 by L.L. No. 7-2007]

- (2) In any existing business zones, the owners will be required to update the interiors of stores, store fronts and signage as per Village proposed elevations.

C. Zoning requirements.

- (1) The BOLD shall apply to all existing retail, food establishments and business uses currently permitted in the Business C-1, Business C-2, Business C-3 and E-1 Zones; and second floor residential apartments presently existing over retail structures.
- (2) Authorization for any uses which would require a special use permit or any existing uses approved with a special use permit shall be required to submit an application to the Board of Zoning Appeals.
- (3) All existing industrial uses, auto body shops, auto repair shops, hardware stores, drycleaners/ laundromats and any uses where toxic chemicals are stored shall not be permitted as part of the BOLD.
- (4) New construction as part of the BOLD shall meet the following requirements:
 - (a) Retail, office and restaurant uses:
 - [1] Minimum lot size 6,000 square feet.
 - [2] Building lot coverage shall be at 25% of the lot.
 - [3] Setback: eight feet rear, eight feet and 10 feet sides (Five feet side is permitted next to traffic lane.), 10 feet front.
 - [4] Off-street parking shall be located in front of store.
 - [5] Height shall neither exceed two stories and/or 26 feet.
 - [6] Flat roofs meeting manufacturers requirements, as well as NYS Building Codes, shall be permitted; provide thirty-inch parapet on three sides which will not be included in height calculations, however the Village encourages the use of sloped or pitched roofs.
 - [7] The site shall be screened with a six-foot high fence on three sides, provide plants or shrubs in front of fence on property side.
 - (b) Residential apartments:
 - [1] Shall be limited to studio and one-bedrooms only.
 - [2] Studio apartments: 600 square feet minimum size.
 - [3] One-bedroom apartments: 750 square feet minimum size.
 - [4] Where there are four apartment units or more, an elevator or handicap lift meeting accessibility codes will be required.

D. Existing uses modified under the BOLD.

- (1) For existing commercial uses with apartments above, on Manorhaven Boulevard and Sintsink Drive East, property owners will be required to bring the interior of the stores and apartments into compliance as per the requirements of the BOLD and the NYS Building Codes within six months from date of approval of the BOLD.
- (2) Commercial uses approved under the BOLD will be required to improve store fronts as per Village proposed elevations and bring the signage into conformity.
- (3) All existing plumbing vents and exhaust vents shall be reviewed and, if necessary, relocated so as not to affect the fresh air envelope around the second floor apartments.
- (4) The first floor preexisting commercial uses shall not be limited by size. The apartments shall be limited to only studio apartments at 600 square feet minimum size, and one-bedrooms at 750 square feet minimum.

E. Off-street parking regulations for new construction.

- (1) The maximum number of retail units shall be limited by the number of available parking spaces that can be provided on site at ground level. Where feasible for developments equal to or larger than 12,000 square feet the Village encourages the developer to locate the parking in the rear of the site to improve the street appearance.
- (2) Parking spaces shall be as follows:
 - (a) Traffic lane shall be a minimum of 20 feet wide.
 - (b) Fifty percent of paved area shall be porous materials.
 - (c) Standard parking spaces approved for the BOLD shall be nine feet wide by 18 feet deep.
 - (d) Accessible parking shall be one standard space next to an indicated accessible aisle eight feet wide by 18 feet deep with approved signage.
 - (e) Loading spaces shall be 15 feet wide by 25 feet deep
 - (f) Dumpster locations shall be a minimum of 10 feet wide by 18 feet deep and screened.
 - (g) Parking requirements for retail /office spaces shall be one space for each 300 square feet of gross floor area in excess of 1,000 square feet.
 - (h) Parking requirements for restaurants are one space for each five seats, one space for each employee and approved with a special use permit by the Board of Zoning Appeals.
 - (i) Parking requirements for live/work apartments shall be one space per unit or as otherwise designated.
 - (j) With the approval of the Board of Trustees, a twenty-five-percent reduction of the live/work apartment parking spaces may be granted where it can be demonstrated that greater than 50% of the retail and business uses at the development will only be open from 9:00 a.m. to 6:00 p.m. during daytime hours.

The live/work spaces can overlap the parking for retail spaces.

- (k) On Manorhaven Boulevard, street parking spaces within 400 feet of the site shall be counted toward residential parking requirements.

F. Open space.

- (1) The open space requirement of 25% of the total retail/apartment space for any live/work apartments in the BOLD may be reduced to a minimum of 15% of the lot area if the development proposal includes the use of porous paving surfaces and other techniques to ensure adequate filtering of contaminants present in stormwater and drainage.
- (2) If it is impossible to provide open space as indicated, then the developer shall contribute 3% of the estimated construction cost to either a designated park/ Village Hall improvement or infrastructure fund.

G. Site plan review.

- (1) All proposed new projects using the BOLD shall be subject to site plan review procedures before the Board of Trustees. The Architectural Review Board shall act as a consulting review agency and make recommendations prior to submittal to the Board of Trustees.
 - (a) The site plan shall be presented in a scale of 1/4 inch = one foot, zero inches, with spot elevations on four corners of the lot and at four corners of the building. Show existing trees to remain and those to be removed. Show proposed parking, site drainage, planting schedule, garbage containment and zoning calculations. Indicate dedicated park area. Submit photos of all adjoining properties and properties across the street.
 - (b) The elements to be included in the site plan for review shall include pathways connecting to adjacent sidewalks, parking areas, sitting areas, a plan for storage areas, lighting, shade trees and other landscaping. The plans shall be reviewed by the Architectural Review Board.
 - (c) Developers are encouraged to have a preliminary meeting with the ARB to discuss new urbanism and live/work apartments with respect to design guidelines.
 - (d) The Architectural Review Board shall review the facade, signage and site plan prior to granting approval.
- (2) Site plan approval. Developers looking to utilize the BOLD shall present plans for site plan approval to the Board of Trustees. Upon review of the plans and recommendations by the ARB, the Board of Trustees, as planning authority, shall review and grant a special use permit.

H. Construction details.

- (1) For new construction, each entrance shall have a lobby of a minimum size of 10 feet by 10 feet, provided with table and lamp and timed electric lighting. The lobby and stair

- hall shall be maintained by the landlord.
- (2) Security. The entrance doors shall be locked and provided with voice activated answering buzzers.
 - (3) Life safety.
 - (a) Hard-wired smoke detectors shall be installed between the apartments and stores and connected to a central station.
 - (b) Each entrance stairs shall have a hard-wired carbon monoxide and smoke detector.
 - (c) Fire alarm pull handle shall be installed in common apartment hall and in the individual stores.
 - (d) If a building is handicap accessible, than a strobe shall be installed in the retail, office, restaurant and access stairs for the apartments.
 - (4) Utilities.
 - (a) Each apartment is to have control of individual heat/AC and hot water.
 - (b) Each apartment shall have individual temperature settings.
 - (c) Each apartment shall have its own electrical panel box.
 - (d) Each apartment shall be wired for cable TV and telephone.
 - (5) Mailboxes shall be located outside the lobby adjacent to the front entrance.

I. Maintenance of properties.

- (1) Snow removal and property maintenance shall be provided by landlord. Snow shall be removed within 12 hours after end of storm.
- (2) Garbage shall be collected from dumpsters behind protective enclosures.
- (3) The landlord shall designate an individual for maintenance who can be contacted by tenants.
- (4) The apartments shall be inspected for compliance by the Building Department under rental housing permit requirements at a minimum of every other year.

§ 155-21. (Reserved) ⁷

§ 155-22. Marine Recreational (MR) District. [Amended 2-24-1999 by L.L. No. 2-1999; 6-26-2002 by L.L. No. 5-2002]

A. Legislative purpose. The purpose of this section is to allow recreational opportunities on

⁷. Editor's Note: Former § 155-21, Industrial districts, was repealed 3-23-2005 by L.L. No. 1-2005. Former § 155-21, Enterprise Waterside Zone (E-2) District, added 9-26-2007 by L.L. No. 8-2007, was repealed 10-16-2008 by L.L. No. 5-2008. This local law also repealed former §§ 155-21.1, Uses in the E-2 District, 155-21.2, Regulations in the E-2 District, and 155-21.3, Design guidelines for E-2 District, added 9-26-2007 by L.L. No. 8-2007, which immediately followed this section.

public lands and private recreational lands both above and below the mean high tide mark. The primary uses on the property shall be water-dependent recreation, open space or parks.

B. Marine recreational uses shall conform to the following:

- (1) Any non-water-dependent recreational uses shall be located away from the water to the maximum extent practicable.
- (2) No structures shall be higher than 26 feet with a maximum of two stories, as measured from the established street grade, nor be erected nearer to any property or street line than a distance of 30 feet.
- (3) The maximum impermeable lot coverage shall be 50%, and no portion of underwater lands shall be used in this calculation.
- (4) Any accessory buildings shall be on the same lot and landward of any principal building.
- (5) Visual access shall be preserved from the public streets through the property to Manhasset Bay or any adjacent inlet, cove or creek opening into the Bay, subject to site plan review.
- (6) Any usage shall meet parking requirements under § 155-46.
- (7) Docks and piers shall be permitted within a setback only if no building is located on them.

C. Permitted upland uses:

- (1) Marine recreational facilities such as: swimming access or beaches, boating facilities for temporary loading and unloading, docking and seasonal storage of dinghies or small nonmotorized vessels and boat ramp for small vessels.
- (2) Parkland and recreational facilities, except for water parks and amusement parks.
- (3) Loading and unloading of commercial fishing boats.
- (4) Commercial excursion, open party, ferry/shuttle, water taxi, and charter boat facilities, but excluding car ferries, ground-effects craft or high-speed ferries.
- (5) Offices, restrooms, and storage facilities for the uses listed above.
- (6) Any usage shall meet parking requirements under § 155-46.

D. Accessory uses.

- (1) The following accessory uses may be permitted:
 - (a) Concession facilities for the sale of food and beverages, and marine-related retail.
- (2) Such accessory uses may be permitted when the following criteria are met:
 - (a) The accessory use does not displace any of the land, dock or water uses committed to water-dependent recreation unless comparable space is available on the same site or within the zoning district in which the recreation is located.

- (b) Public access to and along the shore shall be provided for patrons.
 - (c) Any usage shall meet parking requirements under § 155-46.
- E. Underwater marine recreational uses shall conform to the following:
 - (1) Chapter 151 of this Code, Waterways.
 - (2) Parking requirements under § 155-46.
 - (3) All requirements of and required permits from the U.S. Army Corps of Engineers, the New York State Department of Environmental Conservation and the U.S. Coast Guard.
- F. Permitted underwater uses.
 - (1) Marine recreational facilities such as fishing docks or piers, docks and slips for mooring of recreational vessels, swimming areas or beaches, boating facilities for temporary loading and unloading, docking, and seasonal mooring.

§ 155-23. Enterprise (E-1) District. [Added 3-23-2005 by L.L. No. 1-2005⁸]

- A. Legislative purpose of Enterprise (E-1) District. There is established an Enterprise (E-1) District to facilitate a mixture of commercial, residential, water-dependent, and water-related enterprises to replace the former I-2 and I-3 Districts of the Village and to be compatible with the surrounding residential and C-1 Districts. The existing I-2 and I-3 zoning is clearly inappropriate for the properties in these districts and the Enterprise District will not only benefit these properties but will also benefit and enhance the properties in the surrounding residential and C-1 Districts.
- B. Location of Enterprise District. The Enterprise District shall consist of the I-2 and I-3 Districts of the Village, which are hereby eliminated and, in addition, such area of the Village zoned G-2 immediately adjacent to the I-3 District; however, only to the extent that such property zoned G-2 is not owned by any governmental entity on the date of enactment of this local law.
- C. New York State Department of Environmental Conservation. Any conversion from an existing use, whether permitted or preexisting nonconforming hereunder, to a permitted residential use or a permitted use associated with the consumption of food and/or beverages shall be referred to the New York State Department of Environmental Conservation for such review as it may deem appropriate.

§ 155-24. Uses and regulations in the E-1 District. [Added 3-23-2005 by L.L. No. 1-2005⁹]

- A. Permitted uses. A building, structure or facility may be used, erected, maintained, repaired or altered, and a lot may be used, for any of the following uses:
 - (1) Uses associated with arts and crafts, including painting, sculpting, pottery, ceramics, jewelry-making, giftware and the like, including the creation and sale of such items,

8. Editor's Note: This local law also repealed former § 155-23, Industrial Research (I-2) District, as amended.

9. Editor's Note: This local law also repealed former § 155-24, Industrial, Light (I-3) District, as amended.

except that the use of welding and soldering equipment or kilns shall require a special use permit from the Board of Zoning and Appeals.

- (2) Art instruction classes.
- (3) General office uses.
- (4) Nautical and related research uses.
- (5) Indoor participant sport uses, such as tennis, squash and racquetball courts.
- (6) Outdoor sports uses, such as tennis courts, with a special use permit from the Board of Zoning Appeals.
- (7) Self-storage facilities where the storage of combustible materials is prohibited and trucks serving such facilities shall have a gross weight (GWT) of no greater than 20 tons, with a special use permit from the Board of Zoning and Appeals.
- (8) Marine retail facilities, such as those for the sale and display of new boats, and marine supplies; the sale of marine engines, parts and electronic equipment; and the sale of fishing supplies and marine sporting equipment; outside storage and display of new and used boats for sale to the general public, provided that such storage is an accessory use to a use under this subsection.
- (9) Marine-related educational facilities, such as sailing schools.
- (10) Restaurants and other food and beverage establishments that are either dependent upon marine uses in the C-1 Zone or nondependent, except for drive-ups, drive-ins and drive-throughs, and only with a special use permit from the Board of Zoning and Appeals, excluding separate, freestanding cocktail lounges or bars.
- (11) Indoor manufacture of boats, dependent upon marine uses in the C-1 Zone or nondependent with a special use permit from the Board of Zoning and Appeals.
- (12) Clubs associated with marine recreation that are affiliated with marine uses in the C-1 Zone, such as sailing clubs, health clubs and other daily admission nonmembership clubs, with a special use permit from the Board of Zoning and Appeals.
- (13) Indoor rack storage facilities for boats, dependent upon marine uses in the C-1 Zone or nondependent, with a special use permit from the Board of Zoning and Appeals.
- (14) Indoor marine vessel repairs, dependent upon marine uses in the C-1 Zone or nondependent, with a special use permit from the Board of Zoning and Appeals.
- (15) Professional uses as licensed by the New York State Department of Education.
- (16) Educational or religious uses chartered by the State Education Department or Secretary of State.
- (17) Retail stores and shops.
- (18) Personal service establishments, such as tailors, hairdressers and nail salons, not to include any enterprise which includes massage or tattooing.

- (19) Trade stores.
- (20) Hotels.
- (21) Single-family and two-family residential development, which shall conform to the following regulations:
 - (a) No building permit shall be issued for any use unless the applicant has first obtained building plan and site plan approval as required by law.
 - (b) The maximum density shall be two dwelling units per 5,000 square feet of gross acreage.
 - (c) The minimum distance units shall be located from the public road or other state, county, town or Village properties shall be 20 feet.
 - (d) The maximum allowable total composite lot coverage for all housing units and other structures shall be 28%.
 - (e) The buildings shall not exceed 26 feet and two stories in height, as measured from the established street grade adjoining the property.
 - (f) The minimum front yard and rear yard setbacks shall be 20 feet. The minimum side yard setback shall be 10 feet.
 - (g) Each dwelling unit shall have at least two on-site parking spaces and at least one of such parking spaces shall be enclosed, and there shall be no parking below the established grade.
 - (h) No structures or accessory uses, except for parking, shall be permitted in the front yard.
 - (i) A dwelling unit shall be no less than 900 square feet in floor area.
 - (j) Accessory uses shall be limited to those permitted in the R-1 and R-2 Districts.
 - (k) Existing structures may be incorporated into the overall design, provided that they comply with the regulations in this chapter for new structures.
 - (l) Access to individual units shall be directly from the exterior of the building or structure only.
 - (m) The height of the average grade of the habitable areas shall conform to the grades required in applicable state laws by the National Flood Insurance Program.
 - (n) Buffering from existing commercial uses shall be established by the applicant at the time of development, as required by the Architectural Review Board. If adjacent commercial uses increase hours of use, noise levels, lighting, fumes or other undesirable impacts after development of the residential units and establishment of the approved buffer, additional buffering shall be the responsibility of the commercial use.
- (22) Mixed use, as defined in this chapter, with a special permit from the Board of Zoning and Appeals, and subject to the following provisions:

- (a) The minimum size of the respective dwelling units shall be as follows:
 - [1] Studio, efficiency and one-bedroom dwellings: 800 square feet.
 - [2] Two-bedroom dwellings: 1,100 square feet.
 - [3] Three-bedroom dwellings: 1,400 square feet.
 - (b) Mixed use shall be permitted only in buildings which conform to the New York State Uniform Fire Prevention and Building Code for the proposed mixed use.
 - (c) The residential and nonresidential uses in a mixed use building shall have separate means of access (this is, the entrance/exit for the residential use shall not be through the nonresidential use of the building and vice versa), except that the Board of Zoning and Appeals may, at its discretion, approve the use of a common lobby or plaza.
 - (d) The respective uses of the building shall each be provided with the number of parking spaces required by § 155-46 herein.
 - (e) Residential use shall not be permitted in a building housing a bowling alley or any other use deemed by the Board of Zoning and Appeals to be incompatible with the residential use of the building.
- (23) The conversion of a building existing as of the effective date of this section to residential or mixed use, notwithstanding that the dimensional requirements of § 155-24C(2) through (10) may not be met, with a special permit from the Board of Zoning and Appeals, and subject to the provisions of § 155-24A(22) as applicable.

B. Accessory uses.

- (1) Accessory residential use by an artist or craftsman/woman under Subsections A and B. with a special use permit from the Board of Zoning and Appeals and consistent with the definition of "family" under § 155-6, with a further requirement of one parking space for such accessory residential use. No sublease or assignment of lease shall be permitted.
- (2) Same-site off-street parking in conjunction with uses in the E-1 District.
- (3) Parking lots, garages and parking structures to provide off-site parking for businesses in the adjacent C-1 Zone, subject to site plan review by the Board of Trustees and consistent with the provisions of §§ 155-45 and 155-46. Overnight parking in such parking facilities shall be prohibited. No such parking lot shall be leased or assigned to another entity, and no permit or license for its use shall be issued.
- (4) Signage in accordance with § 155-53 of this chapter.

C. Regulations for nonresidential and mixed uses. Nonresidential and mixed uses in the E-1 District shall conform to the following minimum regulations:

- (1) No building permit shall be issued for any use unless the applicant has first obtained building plan and site plan approval as required by law.

- (2) Buildings shall not exceed 26 feet and two stories in height, as measured from the established street grade adjoining the property.
- (3) Each building shall not cover less than 600 square feet of ground floor space. Building height shall not be less than 1 1/2 stories; notwithstanding the above, a one-story building is permitted, provided that there is a parapet of at least 2 1/2 feet all around the building or gable.
- (4) The minimum lot area shall be 4,000 square feet, except for attached row stores for retail trade, which must have a minimum lot area of 2,000 square feet.
- (5) The minimum width of the lot for each building, together with the accessory buildings appurtenant thereto, shall be 40 feet, except for attached row stores for retail trade which must have a minimum width of 20 feet.
- (6) The minimum front yard setback shall be 20 feet.
- (7) A corner lot shall have a front yard along its principal frontage. A corner lot shall also have a front yard along its side street frontage of a minimum of 10 feet.
- (8) The minimum rear yard setback shall be 10 feet.
- (9) No side yard setback shall be required unless it abuts the residential district or residential use, in which event a minimum side yard setback of 10 feet is required.
- (10) The maximum allowable lot coverage shall be 70%.

D. Design guidelines. It is the objective of these guidelines to establish a general design framework for creating the desired architectural character and scale of buildings in the Enterprise District; to help assure that such areas will be visually attractive and will blend landscaping and structures in a manner which relates harmoniously to the existing and/or planned character of the area; and to create visual interest and variety in the treatment of architectural surfaces.

- (1) Overall site design shall be appropriately related to other existing, proposed, planned and/or future surrounding development and the purposes of this chapter.
- (2) Building and site design shall be planned to enhance the pedestrian experience.
- (3) Buildings shall be harmonious and compatible with other existing, proposed, planned and/or future neighboring structures in terms of the following exterior design elements:
 - (a) The nature and use of surface materials.
 - (b) The spacing and proportion of window and door openings, bays or other aspects of building fenestration.
 - (c) Colors, textures and the general nature of exterior materials and treatment, including building ornament and trim.
 - (d) Treatment, screening and/or enclosure of all utility and mechanical installations.
- (4) Building facades shall present a varied appearance at street level and be designed to give individual identity to each building and/or use, as well as to help achieve the

- planned pedestrian scale.
- (5) Treatment of the sides and rear of proposed buildings shall be in a manner substantially consistent in appearance, amenity and quality of materials to the treatment given to their street frontage.
 - (6) A coordinated landscape, buffering and screening plan shall be prepared, incorporating the landscape treatment of open spaces, internal walkways and parking areas into a cohesive and integrated design, including the use of fences for screening purposes, as deemed appropriate by the approval authority.
 - (7) The coordinated landscape, buffering and screening plan shall include a mix of shade trees and other plant material, such as ground cover and shrubs, with proper regard to factors such as function of area and required maintenance in determining the species, scale and planting pattern.
 - (8) Walkways and other surface areas of paving material internal to projects shall offer a variety of colors and textures which are in harmony with other nearby existing, proposed, planned and/or future buildings and other paved surfaces and shall be safe for pedestrian traffic, including the handicapped.
 - (9) Walkways internal to projects shall be planted with regularly spaced, salt-tolerant shade trees, selected with regard to the scale of the area in which they are located as well as the height and spacing of streetlighting.
 - (10) All landscaping as shown on the approved site plan shall be maintained in a healthy growing condition throughout the duration of the use or uses being served. Any plants not so maintained shall be replaced by the property owner with healthy new plants of comparable size, type and quality at the beginning of the next immediately following growing season.
 - (11) All signage shall be carefully integrated with other site design elements. Signage shall be designed so that it is visible and informative at the pedestrian scale. Signs shall not be mounted above the eaves line of any structure or be placed in or attached to any window.
 - (12) Freestanding project identification signs shall be permitted at certain access drives connecting to the external public road system. Necessary small-scale informational and directional signs shall also be permitted, as required.
 - (13) All exterior lighting shall be of adequate illumination for safety and security purposes. It shall be of such type and location and shall have such shading as will prevent the source of light from being visible from any adjoining streets and properties and shall prevent glare from spilling onto other properties or streets. Lighting shall be limited in its hours of operation, as determined appropriate by the approving authority, and shall be coordinated with building design and landscape plans. The height of lighting fixtures shall be limited so as to be consistent with the planned pedestrian scale of development.
 - (14) All utility, storage, service and parking areas on the site shall be screened by means of landscaping and/or fencing to the extent deemed necessary and practical by the

approval authority, in order to minimize the impact of these areas.

§ 155-25. Governmental, Not-For-Profit (G-1) District.

Educational, spiritual, recreational, cultural and other uses (landside) permitted by this chapter shall conform to the following:

- A. The occupant and owner shall be a member association incorporated as a not-for-profit corporation, filed with the State of New York, or a governmental corporation.
- B. Such uses shall have as their prime purpose service to the members.
- C. No building or part thereof shall be erected within a distance of 30 feet from any property or street line.
- D. Accessory uses permitted in R-1 Districts with a special use permit shall be on the same lot as the principal building and located in the rear yard, plus waterside uses limited to floating museums and floating displays.
- E. No building shall have a height exceeding 26 feet or two stories, as measured from the established street grade.
- F. The maximum lot coverage shall be 70%.
- G. Telecommunications facilities for the benefit of the general public shall be a permitted use. [Added 12-20-2006 by L.L. No. 7-2006]

§ 155-26. Governmental Uses (G-2) District.

G-2 governmental uses shall conform to the following:

- A. Landside uses:
 - (1) The owner shall be a governmental corporation.
 - (2) Such use shall have as its prime purpose a benefit or service to the public, such as parks, wetlands, recreation facilities and marinas.
 - (3) No buildings or facilities shall be higher than 26 feet or two stories, as measured from the established street grade, nor erected nearer to any property or street line than a distance of 30 feet.
 - (4) Accessory buildings shall be on the same lot and to the rear of any principal building.
 - (5) The maximum lot coverage shall be 70%.
- B. Waterside uses, including:
 - (1) Marine travel corridors (channels, fairways, etc.).
 - (2) Marine mooring areas.
 - (3) Marine swimming areas.
 - (4) Marine general aquatics (waterskiing, boating, fishing).

§ 155-26.1. Marine Preservation (MP) District. [Added 2-24-1999 by L.L. No. 3-1999]

- A. Legislative purpose. The purpose of the Marine Preservation District is to conserve natural resources and open space in order to provide opportunities for public enjoyment of and education about natural resources.
- B. Permitted upland uses. [Amended 6-26-2002 by L.L. No. 4-2002]
 - (1) The following uses are permitted in the lands that are above the mean high tide mark in the MP District, provided that natural resources protection is assured:
 - (a) Conservation and restoration of natural resources, particularly those related to wetlands, water quality, living resources and public trust lands;
 - (b) Stormwater and drainage facilities, including retention/detention basins and vegetated buffer areas;
 - (c) Passive recreation and public access and facilities such as footpaths, boardwalks, park benches, nature trails, blinds and scenic overlooks; and
 - (d) Facilities associated with public environmental education.
- C. Accessory uses. Parking is permitted as an accessory use, provided that the scale and location of parking is consistent with:
 - (1) The level of public usage within the MP District; and
 - (2) Protection of natural resources.
 - (3) The maximum lot coverage shall be 30%, and no portion of underwater lands shall be used in this calculation; and [Added 6-26-2002 by L.L. No. 4-2002]
 - (4) Is in compliance with § 155-46, Off-street parking requirements. [Added 6-26-2002 by L.L. No. 4-2002]
- D. Permitted underwater uses. The following uses are permitted in the lands that are underwater in the MP District, provided that natural resources protection is assured: [Added 6-26-2002 by L.L. No. 4-2002]
 - (1) Conservation and restoration of natural resources, particularly those related to wetlands, water quality, living resources and public trust lands; and
 - (2) Passive recreation and public access associated with swimming, recreational fishing and nonmotorized vessels.
- E. Underwater marine recreational uses shall conform to the following: [Added 6-26-2002 by L.L. No. 4-2002]
 - (1) Chapter 151 of this Code, Waterways;
 - (2) Parking requirements under § 155-46;
 - (3) All requirements of and required permits from the U.S. Army Corps of Engineers, the New York State Department of Environmental Conservation and the U.S. Coast Guard.

ARTICLE VI
Bulk Regulations

§ 155-27. Height.

- A. On all buildings where building plans indicate a height limit of 26 feet, the builder must provide the Code Official with a height survey of the foundation footings before construction can continue. [Amended 3-23-1988 by L.L. No. 2-1988]
- B. In order to ensure the compliance with height limits, the builder and his licensed surveyor, in the presence of the Code Official, must take a height survey when the ridge pole is installed.

§ 155-28. Lot area.

For all buildings, the minimum lot area for each principal and accessory use shall be required as specified under Article V, Use Regulations.

§ 155-29. Lot width.

For all buildings, the minimum lot width for each principal and accessory use shall be required as specified under Article V, Use Regulations.

§ 155-30. Front yard space.

- A. For all buildings, the minimum front yard setback for each principal and accessory use shall be required as specified under Article V, Use Regulations.
- B. On any corner lot on which a front yard is required by this chapter, no wall, fence or other structure shall be erected and no hedge, tree, shrub or other structure growth shall be maintained in such a location within the front yard space so as to cause danger to traffic by obstruction of the view.
- C. A through lot shall have a front yard on each frontage.
- D. The space designated as the front yard as required by this chapter shall be left open and clear, except for surface vegetation, and shall not be used for any purpose except for parking space in a residential district other than the front yard along the principal street frontage of a corner lot. [Amended 3-23-1988 by L.L. No. 2-1988]
- E. There shall be no accessory use situated in a front yard, nor shall any front yard be used for the parking or storage of any passenger vehicle not licensed or operable, commercial vehicle, camper, trailer, boat or device of any kind.
- F. The maximum paved area shall not exceed 50% in a residential zone.

§ 155-31. Rear yard space.

For all buildings, the minimum rear yard setback for each principal and accessory use shall be required as specified under Article V, Use Regulations.

§ 155-32. Side yard space.

For all buildings, the minimum side yard setback for each principal and accessory use shall be required as specified under Article V, Use Regulations.

§ 155-33. Courtyard construction.

In a residential district, every living or sleeping room in a dwelling shall have at least one window opening directly either upon a street, a front yard, a side yard or a courtyard. The least dimension of any such court shall be not less than four inches for each foot of the height of the highest wall of such court. Such court shall be open and unobstructed to the sky except for ordinary projections of windowsills, brick courses and other ornamental features to the extent of not more than four inches.

§ 155-34. Roof construction.

- A. In all cases where flat roof construction is used and there is no ridge, there shall be an average air space of 18 inches between the ceiling beams and roof beams, and a parapet wall shall be erected on all sides of the building, such parapet wall to be carried along horizontal lines to a height of not less than six inches above the roof at all points. On flat roof construction with an overhang, it shall not be necessary to erect a parapet wall at that portion of the building where the overhang exists.
- B. Where ridge construction is used, the pitch of the roof shall not be less than four inches to the foot.
- C. Ridge construction must be used in R-1, R-2 and R-3 Residential Districts.

§ 155-35. Appurtenance construction.

Appurtenances on structures which encroach into required yards are hereby permitted as provided in this section only:

- A. Cornices, eaves and gutters projecting not more than 24 inches; chimneys or bay windows not more than six feet in length and projecting not more than 24 inches, provided that there is a minimum six-foot side yard.
- B. One-story covered or uncovered open porches, decks and terraces projecting not more than five feet into the minimum front yard. These cannot be enclosed.
- C. One-story enclosed vestibule not greater than six feet in width and five feet in depth, extending into a minimum front yard.
- D. Covered or uncovered open porches or stoops extending into a side yard, provided that a three-foot side yard is maintained.
- E. Entry stairs on the side of a structure leading to a second story, either open or enclosed, covered or uncovered, are not permitted.

§ 155-36. Accessory structures.

- A. Accessory structures shall not be over 15 feet in height at their highest points. [Amended 3-23-1988 by L.L. No. 2-1988]

- B. All accessory structures shall be located in the side yard or rear yard and shall comply with the applicable side yard and rear yard minimum setback requirements. [Amended 3-23-1988 by L.L. No. 2-1988]
- C. No accessory structure shall be erected within 12 feet of a building used for residential purposes on an adjoining lot.
- D. (Reserved)¹⁰

§ 155-37. Sewage disposal.

All sewer applications and connections shall conform to the Sewer Use Ordinance of the Port Washington Water Pollution Control District.¹¹ No structure shall have installed any other sewerage or disposal system.

§ 155-38. Certain buildings restricted.

Buildings of wood-frame or metal-skin construction shall be prohibited in any commercial or industrial district.

§ 155-39. Use of vacant lots.

Vacant lots shall not be utilized for vehicle or other forms of parking, storage or other activity unless in conformance with this chapter or a special use permit from the Board of Zoning and Appeals.

ARTICLE VII
Nonconforming Uses

§ 155-40. Construction, extension and alterations.

A nonconforming use or building or tract, as defined in § 155-6, may be continued and any nonconforming use and building may be reconstructed or structurally altered and the nonconforming use changed, subject to the following regulations:

- A. A nonconforming building or structure can be altered, extended or enlarged only if such alteration, extension or enlargement does not increase the existing nonconformity.
- B. A nonconforming use may be continued although such use does not conform to the provisions of this chapter, and such use may be extended throughout the premises lawfully acquired previous to the adoption of the chapter or any amendment to this chapter, provided that such extension of use is in conformity with the provisions of this chapter.
- C. A nonconforming use of a building or premises may be changed to a use of the same or higher classification according to the provisions of this chapter.
- D. Whenever a district shall hereafter be changed, any then-existing nonconforming use of a

¹⁰. Editor's Note: Former Subsection D, restricting the erection of accessory structures in rear yards, was repealed 3-23-1988 by L.L. No. 2-1988.

¹¹. Editor's Note: See Ch. 123, Sewers, Art. II, Use.

building or premises in such changed district may be continued or changed to a use of the same or higher classification, provided that there is compliance with all other regulations governing the new use.

- E. Whenever a nonconforming use of a building or premises has been abandoned or changed to a higher classification or to a conforming use, such use shall not thereafter be changed to a use of any other classification unless so zoned.
- F. Discontinuance of any nonconforming use for a period of one year or more terminates such nonconforming use of a structure or premises, and, thereafter, said structure or premises shall not be used except in conformity with the provisions of the chapter.
- G. Any lot held in single and separate fee ownership upon which a building could be legally erected (i.e., a legally buildable lot) on the date of the enactment of this chapter but which is no longer legally buildable because of the size, width or depth requirements of this chapter shall continue to be a legally buildable lot, subject to the provisions of this chapter, with the exception of such size, width or depth dimensions as shall have been substandard at the time of enactment of this chapter.
- H. In the case of any lot which is substandard in area by the terms of this chapter but was once legally buildable and thereafter singly and separately held in fee ownership, the rights acquired or existing therein for the use of said lot as a legally buildable lot shall terminate and become nonexistent and void should said substandard lot merge in fee with any adjoining land or property, thereby creating a larger lot, whether or not such larger lot conforms to the area requirements of this chapter, or thereby enlarging an adjoining lot already conforming to such requirements. Such merger shall be deemed to occur when the same person or persons acquire, obtain or have fee ownership in both lots, whether by purchase, sale, devise, gift or otherwise.

ARTICLE VIII Accessory Uses

§ 155-41. Fences, gates and walls. ¹²

In all districts, fences and walls over four feet may be erected, subject to a special use permit from the Board of Zoning and Appeals, subject to the following restrictions:

- A. On residential property abutting or across from land used for nonresidential purposes, the fence shall be of stockade or other solid construction and may be no more than six feet high. The finished side of the fence shall face outside.
- B. On commercial or industrial property where a fence, gate or wall is set back at least 25 feet from the nearest property line, the height may be no more than eight feet.
- C. On commercial or industrial property abutting or across from land used for residential purposes, the fence shall be of stockade or other solid construction and may be no more than six feet high. The finished side of the fence shall face out.
- D. On residential or other property in conjunction with a tennis court or pool, where a special

¹². Editor's Note: See also Ch. 65, Fences.

use permit has been granted.

§ 155-42. Aboveground/in-ground swimming pools or spas. ¹³

A swimming pool or spa accessory to a one-or-more-family dwelling unit shall conform to the following regulations and shall be subject to a special use permit from the Board of Zoning and Appeals:

- A. A pool (above or below ground) and related nonslip decks, small-mesh fences and secured machinery shall be entirely within the rear yard. No portion thereof shall be closer to the street line than the rear wall the main building.
- B. A pool and related nonslip decks, fences and machinery shall be located not less than 10 feet from side and rear property lines.
- C. A pool and related nonslip decks, fences and machinery shall be completely enclosed by a substantial fence not less than six feet high, with a self-locking, child tamperproof gate.
- D. Machinery used in connection with a pool shall be enclosed in a soundproof structure.
- E. Glare from pool lights shall be shielded from adjacent properties.
- F. Pool size and depth shall conform to National Spa and Pool Institute (NSPI) safety standards for residential pool in effect on the effective date of this chapter.
- G. Pools, spas, etc., shall have required depth markings, lifesaving equipment and user warning signs available, according to NSPI safety standards in effect on the effective date of this chapter.
- H. Pools shall have diving fixtures or places located according to NSPI standards in effect on the effective date of this chapter to avoid hazardous and dangerous conditions.
- I. Pools shall have no adjacent structure potentially accessible for improper diving or other unsafe play.
- J. No public use shall be made of the pool or spa.
- K. Pool installation shall have provision made on the premises for drainage of water from the pool tank.

§ 155-43. Storage and parking of certain vehicles. ¹⁴

- A. No recreational boat, bus, truck, trailer, van, camper, sleeping bus or other vehicle designed or used for living or sleeping shall be parked or stored on or in any front or side yard of any lot located in a residential district of the Village. Such vehicle or boat shall be parked or stored on or in any part of a rear yard of any lot located in a residential district of the Village only with a special use permit from the Board of Zoning and Appeals. Such permit may not be issued unless such parking or storage is not within 10 feet of the rear or side lot lines nor

13. Editor's Note: See also Ch. 134, Swimming Pools.

14. Editor's Note: See also Ch. 148, Vehicles, Use of.

on any portion of a lot where such boat or vehicle is visible from any street abutting the lot on which such boat or vehicle is parked or stored.

- B. No commercial vehicle shall be parked or stored on property located in a residential district in the Village unless enclosed in a private garage, except that such vehicle may be parked for such periods of time as required for the continued performance of any service on or deliveries to said premises.

§ 155-44. Outdoor tennis and other courts.

Outdoor tennis or other courts accessory to a one-or-more-family dwelling unit and commercial and industrial use shall conform to the following restrictions with a special use permit from the Board of Zoning and Appeals:

- A. Outdoor tennis or other courts shall be permitted only on plots of adequate size to conform to the following requirements.
- B. The minimum setback from a street line to an outdoor tennis court shall be 50 feet.
- C. The minimum setback from a property line to an outdoor tennis court shall be 25 feet.
- D. The maximum height of a fence around tennis courts shall be 10 feet.
- E. No more than two courts may be grouped together.
- F. No outdoor tennis courts shall be located within 50 feet of any interior road or in any front yard.
- G. All outdoor tennis courts shall be visually screened from the roads and streets by plant materials.
- H. All lighting of outdoor tennis courts shall be directed away from residential units and roads. No lights shall be permitted to be used between the hours of 10:00 p.m. and 7:00 a.m.

§ 155-45. Parking and loading space.

- A. For every building erected or altered or use established after the effective date of this chapter, there shall be provided on the same premises suitably graded and paved off-street parking and off-street loading areas. Such off-street parking area shall be sufficient to accommodate the number of vehicles customarily used for conveying occupants and visitors to such structure and requiring to be parked during the hours of average maximum use. It is not intended hereby to require provision for abnormal peak loads but for normal average maximum hour requirements. Such off-street parking and off-street loading areas shall conform to the requirements of this chapter.
- B. Such off-street parking and off-street loading space, together with the necessary entrances, exits, passageways, turning areas and landscaped borders shall be deemed to be required open space on the lot on which it is situated and shall not thereafter be encroached upon or reduced in any manner.
- C. In all R-1 or R-2 Residential Districts, there shall be at least two off-street parking spaces for a single-family dwelling and at least three off-street parking spaces for a two-family

dwelling.

- D. In all R-3 Residential Districts, there shall be at least two off-street parking spaces per dwelling unit and off-street common parking spaces, which all shall be one per five dwelling units if there is no clubhouse and two per five dwelling units if there is a clubhouse.
- E. In all commercial districts and industrial districts, off-street parking spaces shall be provided in accordance with § 155-46.
- F. All areas available for off-street parking and access driveways shall be surfaced in accordance with the following specifications: not less than two inches of broken stone after compaction and one inch of premixed bituminous material after compaction; or concrete not less than four inches thick; or, in a residential district, Belgian block or brick not less than four inches thick. [Amended 3-23-1988 by L.L. No. 2-1988]
- G. No part of the parking area shall be used for the storage or abandonment of any article or material.
- H. Parking areas shall be marked with arrows showing flow of traffic, and individual parking spaces.
- I. In a commercial or industrial district, the entire parking space area, except entrances and exits, shall be screened from outside view by landscaping property borders.
- J. In commercial or industrial districts, each off-street parking area shall have an area of not less than 10 feet by 20 feet, with access drives or aisles, in usable shape and condition, not less than 20 feet.
- K. In residential districts, each parking space shall not be less than 10 feet by 20 feet. There shall be adequate ingress and egress to all parking spaces. There shall be provided an access drive not less than 10 feet in width. Curb cuts shall not be more than two and shall not exceed an aggregate amount of 16 feet in width. No single curb cut shall be less than eight feet in width. [Amended 3-23-1988 by L.L. No. 2-1988; 4-24-1997 by L.L. No. 4-1997]
- L. Off-site facilities shall be located in the same district as the use to which they are accessory, with the exception of the uses set forth in § 155-23F, G, I, J, K, L, M and N, only with a special use permit from the Board of Zoning and Appeals, and within a distance of 400 feet thereof. Such off-site facilities must also be in the same ownership as the use to which they are accessory and shall not be sold off or leased for any other use. [Amended 2-2-2004 by L.L. No. 1-2004]
- M. Off-street parking and loading facilities may be provided jointly for separate use, with a special use permit from the Board of Zoning and Appeals, if landscaped open space is substituted and if on-street parking is not generated.

§ 155-46. Off-street parking requirements. [Amended 3-23-1988 by L.L. No. 2-1988; 2-2-2004 by L.L. No. 1-2004]

Off-street parking requirements shall be as follows:

Uses	Minimum Required Off-Street Parking
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Retail stores and shops	1 space for each 300 square feet of gross floor area in excess of 1,000 square feet
Restaurants and other eating places	1 space for each 5 seats of seating capacity, plus 1 space for each employee
Offices, financial institutions, laboratories and computer centers	1 space for each 200 square feet of gross floor area in excess of 1,000 square feet
Educational or religious places	1 space for each 5 seats in an auditorium or 1 for each 17 classroom seats, whichever is greater
Public assembly places	1 space for each 5 persons that can be legally accommodated
Marinas	1 space for each .7 designated slip and mooring or anchorage of a noncommercial vessel under the jurisdiction of the authorized marina. The owner/operator of a charter service, commercial excursion, open party, ferry/shuttle or water taxi service, permitted by the Village under § 155-18B(3), shall be required to apply to the Village for a permit in connection with such service. Where a vessel has a capacity of more than 15 passengers, the owner/operator shall file with the Village its written agreement with the owner of its docking facility providing parking equivalent to one space for every five-passenger capacity increment above said 15. Such parking shall not be used for vehicle or pedestrian circulation space, loading space, present-season boat storage, other storage or parking space, or auxiliary or secondary uses or marina parking, including snack bar parking.
Clubs	1 space for each 3 members, computed on the basis of 40% of membership as provided in an affidavit by the president and secretary of the corporation.
Warehouses	1 space for each 600 square feet of gross floor area
All other industrial uses	1 space for each 300 square feet of gross floor area
Other uses not listed	1 space for each 300 square feet of gross floor area

§ 155-47. (Reserved) ¹⁵

§ 155-48. Satellite antennas. [Amended 6-21-1995 by L.L. No. 5-1995]

- A. A private-use satellite antenna, disc or similar device for the reception of television signals from satellites shall be permitted on the roof or in the yard of any residence, provided that its diameter does not exceed 36 inches at any point.

15. Editor's Note: Former § 155-47, Marine accessory uses, was repealed 4-25-2001 by L.L. No. 6-2001.

- B. No television antenna of a commercial use, or private-use satellite antenna, disc or other device for the reception of television signals from satellites, measuring more than 36 inches in diameter at any point, shall be permitted in any yard or at any other location of any residence without a special use permit from the Board of Zoning and Appeals. An applicant for such special use permit shall specify the size, location, make and other specifications of said device and shall establish that it will not adversely affect any neighbor by reason of its proposed location.

§ 155-49. Radio antennas.

No radio antenna of any type of a commercial use or private use, antenna tower or other device will be permitted without a special use permit from the Board of Zoning and Appeals, with all details specified and proof as not to adversely affect any neighbor.

§ 155-50. Cabanas.

No cabana of a commercial or private use will be permitted without a special use permit from the Board of Zoning and Appeals, with all construction details being submitted, developed and approved and proof as not to adversely affect any neighbor.

§ 155-51. Tree playhouses.

No tree playhouse of a private use will be permitted without a special use permit from the Board of Zoning and Appeals, with all construction details being submitted, reviewed and approved and proof as not to adversely affect any neighbor.

§ 155-52. Hazardous uses.¹⁶

- A. No land or building shall be used or occupied in any manner so as to create dangerous, injurious, noxious, hazardous, fire, explosive, radioactive or other unsafe or unhealthy conditions; noise or vibration, smoke, dust, odor or other form of air pollution; electrical or other disturbances, glare or heat; liquid or solid refuse or wastes; conditions conducive to the breeding of rodents or insects or other dangerous elements in an amount or manner as to adversely affect the surrounding area. All uses of land shall conform to the limitations set forth below and to all applicable laws and regulations of the State of New York and the County of Nassau relating to air pollution, smoke, dust and fumes. The Code Official shall review and approve the certification required by this section.
- B. Vibration. No vibration shall be produced which is transmitted through the ground and is discernible without the aid of instruments at or at any point beyond the lot line; nor shall any vibration produced exceed 1.002g peak, measured at or beyond the lot line using either seismic or electronic vibration measuring equipment. Any use that, in the opinion of the Code Official, has the potential of creating a vibration shall require certifications and data by a professional engineer as to its negative impact before a zoning permit is issued.
- C. Noise. All noise shall be muffled as to intermittence, beat, frequency or shrillness. In no

¹⁶. Editor's Note: See also Ch. 99, Nuisances.

event shall the sound-pressure level of noise radiated continuously from a facility at nighttime exceed, at the lot line, the values given in Table 1 (set out hereafter) in any octave band of frequency. However, where the lot line adjoins or lies within 25 feet of the boundary of a residential district the sound-pressure levels of noise radiated at nighttime shall not exceed, at the lot line, the values given in Table II (set out hereafter) in any octave band of frequency. The sound-pressure level shall be measured with a sound-level meter and an octave-band analyzer that conforms to specifications published by the American Standards Association.

(1) Table I.

- (a) Maximum permissible sound-pressure levels at the lot line for noise radiated continuously from a facility between the hours of 10:00 p.m. and 7:00 a.m.:

Frequency Band (cycles per second)	Sound-Pressure Level (decibels re 0.0002 dyne/cm²)
20 to 75	69
75 to 150	60
150 to 300	56
300 to 600	51
600 to 1,200	42
1,200 to 2,400	40
2,400 to 4,800	38
4,800 to 10,000	35

- (b) If the noise is not smooth and continuous and is not radiated between the hours of 10:00 p.m. and 7:00 a.m., one or more of the corrections in Table III shall be added to or subtracted from each of the decibel levels given above in Table I.

(2) Table II:

- (a) Maximum permissible sound-pressure levels at a lot line for noise radiated continuously from a facility between the hours of 10:00 p.m. and 7:00 a.m. where the lot line adjoins or lies within 25 feet of the boundary of a residential district:

Frequency Band (cycles per second)	Sound-Pressure Level (decibels re 0.0002 dyne/cm²)
20 to 75	65
75 to 150	50
150 to 300	43
300 to 600	38
600 to 1,200	33

1,200 to 2,400	30
2,400 to 4,800	28
4,800 to 10,000	26

(b) If the noise is not smooth and continuous and is not radiated between the hours 10:00 p.m. and 7:00 a.m., one or more of the corrections in Table III which follows shall be added to or subtracted from each of the decibel levels given above in Table II.

(3) Table III:

Type of Operation in Character of Noise	Correction in Decibels
Daytime operation only	Plus 5
Noise source operates less than 20% of any one-hour period	Plus 5
Noise source operates less than 5% of any one-hour period	Plus 5*
Noise source operates less than 1% of any one-hour period	Plus 15*
Noise of implosive character (hammering, etc.)	Minus 5
Noise of periodic character (hum, screech, etc.)	Minus 5

*NOTE: Apply one of these corrections only.

(4) Any use that, in the opinion of the Code Official, has the potential of creating any noise shall require certification and data by a professional engineer as to its negative impact before a zoning permit may be issued.

D. Odors.

- (1) There shall not be discharged or permitted to escape into the atmosphere odors which shall endanger public comfort, repose, health or safety.
- (2) The intensity of dangerous odors shall be determined at the property line adjacent to the source in the manner described in Air Pollution Abatement Manual, Chapter 5, Table III; Manufacturing Chemists Association: Washington, D.C., 1951. Any use that, in the opinion of the Code Official, has the potential of creating any odor shall require certification and data by an accredited testing laboratory.
- (3) Any use that, in the opinion of the Code Official, has the potential of creating any odor shall require certification and data by a professional engineer as to its negative impact before a zoning permit may be issued.

E. Electromagnetic radiation.

- (1) It shall be unlawful to operate any equipment which, as a source of electromagnetic radiation, does not comply with the pertinent current rules and regulations of the Federal Communications Commission or any pertinent laws or regulations of the State

of New York or the County of Nassau.

- (2) If, in the opinion of the Code Official, any equipment is believed to be a potential hazard or nuisance due to electromagnetic radiation, then such equipment shall not be operated without certification by a testing laboratory.
 - (3) All certifications regarding radiation shall indicate the measurements and the interpretation of the field strengths. Certification shall be made by a professional engineer.
 - (4) Any use that, in the opinion of the Code Official, has the potential of creating radiation shall require certification and data by a professional engineer as to its negative impact before a zoning permit may be issued.
- F. Fire and explosion. All activities and all storage of flammable and explosive materials at any place shall be provided with adequate safety and fire-fighting devices required by the Fire Prevention Code of the Village¹⁷ and/or the Nassau County Fire Marshal's office. Any use that, in the opinion of the Code Official, has the potential of creating any fire or explosion shall require data and certification by a professional engineer as to its negative impact before any zoning permit may be issued.
- G. Radioactive materials. The handling of radioactive materials, the discharge of such materials into air and water and the disposal of radioactive wastes shall be in conformance with the applicable regulations of the Nuclear Regulatory Commission, as from time to time amended, and all applicable laws and regulations of the Village of Manorhaven. Any use that, in the opinion of the Code Official, has the potential of creating radiation shall require data and certification by a professional engineer as to its negative impact before any zoning permit may be issued.
- H. Heat. For the purpose of this chapter, "heat" is defined as thermal energy of a radioactive, conductive or convective nature from high temperature processes, such as combustion or welding or otherwise, so as to be in excess of 100° F. at the lot line. There shall be no emission or transmission of heat or heated air discernible at the lot line. Any use that, in the opinion of the Code Official, has the potential of creating any heat shall require data and certification by a professional engineer as to its negative impact before a zone permit is issued.
- I. Glare.
- (1) Direct glare. "Direct glare" is defined, for the purpose of this chapter, as illumination beyond property lines caused by direct or specularly reflected rays from incandescent, fluorescent or arc lighting or from such high-temperature processes as welding or petroleum or metallurgical refining. No such direct glare shall be permitted, with the exceptions that parking areas and walkways may be illuminated by luminaires so hooded or shielded that the maximum angle of the cone of direct illumination shall be 60°, drawn perpendicular to the ground, with the exception that such angle may be increased to 90° if the luminair is less than four feet above the ground. The luminaires shall not be less than 16 feet above ground level, and the maximum illumination at

17. Editor's Note: See Ch. 69, Fire Prevention.

ground level shall not be in excess of three footcandles. All lighting shall require Planning Board approval.

(2) Indirect glare. "Indirect glare" is defined, for the purpose of this Code, as illumination beyond property lines caused by diffuse reflection from a surface such as a wall or roof of a structure. Indirect glare shall not exceed that value which is produced by an illumination of the reflecting surface not to exceed 0.3 footcandle (maximum) and 0.1 footcandle (average). Deliberately induced sky-reflected glare, as by casting a beam upward for advertising purposes, is specifically prohibited. All lighting shall require Planning Board approval.

J. Nonradioactive liquid or solid wastes. There shall be no discharge at any point into any public or private sewage disposal system or stream or into the ground of any liquid or solid materials, except in accordance with applicable regulations of Nassau County. All uses having any such discharge must furnish certification by the County Health Department as to their composition and condition.

K. Trash, garbage and debris. All trash, garbage and debris areas shall be suitably screened as not to be objectionable to neighboring uses. All trash, garbage and debris shall be periodically removed to avoid accumulation. All commercial and industrial uses shall require certification by a suitable collector that a periodic pickup will be implemented. All collection bins shall be identified conspicuously with the name and telephone number of the owner and carter.

§ 155-53. Signs. [Amended 3-23-1988 by L.L. No. 2-1988; 6-27-2007 by L.L. No. 4-2007]

A. Purpose. The Board of Trustees recognizes the highly significant role signage plays in the image the Village presents to residents and visitors alike. The purpose of this section is to improve and perpetuate the attractive nautical appearance and tranquil image of the Village of Manorhaven and to promote and protect public health, welfare and safety by regulating signs of all types. It is intended to create attractive signage to protect property values, to enhance the aesthetic character of buildings and sites, to preserve scenic and natural beauty, to prevent distractions and obstructions that may contribute to traffic accidents, and to limit the use of energy in sign design, construction and operation.

B. Definitions. As used in this section, the following terms shall have the meanings indicated:

SIGN — Any material, structure or device, or part thereof, which shall display or include any letter, word, model, banner, pennant, insignia, device, flag, string of lights, artificial lighting or graphic representation. The flags or insignia of any nation or group of nations or of any governmental agency are expressly excluded from this definition.

SIGN AREA — The area of a sign shall be the area of a rectangle, the sides of which enclose the letters/symbols and shall include the entire sign box, signboard or any background of a different color than the color of the building. Artwork which depicts images that are not architectural features of the building or structure shall be included in the sign area.

SIGN HEIGHT — The height of any sign shall be measured vertically from the average finished grade at the base of the sign. Planters shall not be used to circumvent the intent of this section.

C. Permitted sign defined and regulated.

(1) General.

- (a) Each business establishment shall be permitted a maximum of two signs. Permitted signs may be wall, ground, window or awning. Only one of these permitted signs may be a ground sign. The combined total area of all signs shall not exceed an area of one foot times the width of the storefront of the building and shall not be larger than 16 square feet in the C-1, C-2, C-3 and E-1 Zoning Districts.
 - (b) Permitted signs may identify the person, establishment or the product and/or service available on the premises which contains the sign. All signs shall be an accessory use and permitted only as provided for in this section.
 - (c) Any sign erected or authorized by the Village, town, county, state or other governmental authority, including all signs pertaining to traffic regulations, parking regulations, fire zones and petroleum price signs which are subject to the rules and regulations of the New York State Vehicle and Traffic Law shall be exempt from the provisions of this section, except where maximum size, lettering, color, exact on-site location are not specifically determined by the law permitting the sign.
 - (d) A residential condominium, cooperative, apartment house or two-family dwelling shall be entitled to one directory sign.
- (2) Address sign: a sign containing either the name of the occupants and/or the street address. The sign may not exceed one square foot in area; may be attached to the building or on a post not more than four feet high and set within the property boundaries. No permit is required for residential use nor is any fee required for the street address number required by Chapter 155 of the Code.
- (3) Announcement sign: a temporary sign of a commercial or noncommercial nature not to exceed two weeks. No more than one announcement sign about the same activity shall be permitted. Such sign shall not be larger than 18 inches by 24 inches and may not be placed on the window or outside the building. No permit is required.
- (4) Awning sign: a sign painted on an awning attached to a building.
- (a) The awning shall be made of fire-retardant material. No vinyl or plastic.
 - (b) On the bottom edge of the front of the awning, one row of letters, not higher than six inches covering not more than eight feet in width, or 50% of the awning width, whichever is less.
 - (c) No description of products or services, addresses or telephone numbers are permitted.
 - (d) Awning lettering and graphics shall be debited against the total permitted combined sign area.
 - (e) The minimum height between the sidewalk or ground level and the bottom of the

awning shall be seven feet.

- (f) Awnings may not be backlit.
- (5) Commercial establishments limited to a second floor. Such businesses shall be entitled to one nameplate at the ground floor access, not exceeding two square feet in area and one of the following signs, the area of which shall be deducted from the total permitted combined sign area of the commercial structure on which it is located:
- (a) Not more than one window sign in second floor, or
 - (b) One wall sign affixed to the second floor exterior of the building or structure which faces a public thoroughfare, nonilluminated and not exceeding an area of one foot times the width of the premises actually utilized by the business establishment on that floor.
- (6) Construction sign: a temporary sign at a construction site on which construction is actually taking place identifying the contractor, subcontractor and/or architect with only name and phone number.
- (a) When a construction site has a building permit displayed in full view, two construction signs shall be allowed. Such signs may only contain the name and telephone number of the contractors, subcontractors or architects.
 - (b) The sign area for each sign shall not exceed four square feet. The height of each sign shall not exceed four feet above finished grade or, if there is no finished grade, the sign shall be no higher than four feet above the grade of the street on which the property is located. The sign shall be placed parallel to the street and be set back at least 20 feet from the property line.
 - (c) No permit is needed for a construction sign. However, the Building Inspector shall have the right to remove any illegal construction sign with or without notice.
 - (d) Construction signs shall be removed within five days of the date of the following:
 - [1] Expiration of the building permit.
 - [2] The last day the contractor, subcontractor or architect completes the work for which the contractor, subcontractor or architect was employed.
 - [3] The certificate of occupancy/compliance has been issued.
- (7) Directory sign: a sign containing the name of a business establishment located within a complex or group of commercial establishments which is obscured from the main thoroughfare or the names of the residents of a condominium, cooperative, apartment house or two-family dwelling.
- (a) Where a business establishment within a complex or group of commercial establishments is obscured from ready exposure to a main thoroughfare, one directory ground sign or one directory wall sign may be permitted for such complex.
 - (b) Any business listed on a directory sign shall be entitled to only one other sign,

and the sign area shall be debited from the permitted combined sign area.

- (c) Directory ground sign. The maximum area shall be four square feet. The sign may be double faced and only one side used to compute the sign area. If the distance between the faces at any point on the faces exceeds 12 inches, both faces shall be used to compute the area. The maximum height shall be no more than six feet measured vertically from the average finished grade at the base of the sign, not from any planter. The setback from a property line shall be at least five feet.
 - (d) Directory wall sign. The maximum area shall be two square feet; four square feet for two or more businesses.
- (8) Ground sign: a freestanding sign attached to a structure intended and designed to support the sign and which is embedded in the ground.
- (a) Set back from building. A ground sign shall be permitted only if the building it serves to identify is set back more than 40 feet from the street line and if the sign is located at least 10 feet from the building and set back at least 15 feet from the property line.
 - (b) Size of lettering. Ground signs in the C-1, C-2, C-3 and E-1 Zoning Districts shall not exceed 10 inches in height; in all other zoning districts, 12 inches in height.
 - (c) Area. The maximum area shall not exceed eight square feet in the C-1, C-2, C-3 and E-1 Zoning Districts. Any ground sign may be double-faced and only one face shall be used in computing sign area unless the distance between the faces, at any point on the faces, exceeds 12 inches, in which event, both faces shall be used to determine the sign area.
 - (d) Height shall be measured vertically from the average finished grade at the base of the sign. Planters shall not be used to circumvent the intent of this section. The maximum height shall not exceed six feet. The height of signs placed on corner lots shall be regulated by § 155-53 of the Village Code.
- (9) Hanging sign: a sign projecting from a wall.
- (a) Any business whose main entrance is not located on a through street may have one hanging sign, not to exceed a maximum of four square feet.
 - (b) Such hanging sign shall not project from the structure more than three feet and shall be secured to the structure by a metal bracket.
 - (c) The minimum height between the sidewalk or ground level and the bottom of the sign shall be seven feet.
 - (d) Any business using a hanging sign shall be entitled to only one additional sign, and the square footage of the hanging sign shall be debited against the total permitted combined sign area for the building.
- (10) Home occupation sign: a sign which identifies only the name and/or occupation or profession of one conducting a permitted home occupation or profession in a dwelling. Such sign shall not exceed one square foot in area and shall be set back according to

either the ground sign or wall sign specifications.

- (11) Information sign: a sign which contains information intended exclusively as a public service and of a noncommercial nature, such as the location of facilities designed for public convenience and accommodation, including but not limited to "rest room," "entrance," "exit," "open" or "closed" Such signs shall be one square foot or less in area and contain no commercial copy. No permit is required.
- (12) Landmark sign: an older sign of artistic or historic merit, uniqueness or extraordinary significance to the Village as identified by the Board of Trustees.
- (13) Real estate broker/agent or owner "For Sale" and "For Rent" signs: on-premise signs advertising the property being sold or rented.
 - (a) One "For Sale" or "For Rent" sign is permitted per lot or parcel of land facing a public street or right-of-way.
 - (b) The sign area shall be 12 inches high by 18 inches wide. Such signs may only contain the name and telephone number of a real estate agency/brokerage or owner and the words "For Sale" and/or "For Rent."
 - (c) The sign shall be of single post-and-arm construction. The arm shall not exceed 19 inches in length. The post shall not exceed five feet in length.
 - (d) The maximum sign height shall not exceed four feet above finished grade or four feet above the grade of the street on which the property is located. The sign shall be set back a minimum of 25 feet from the property line and a minimum of 10 feet from the building. The sign shall only be placed parallel to the street.
 - (e) If the "For Sale" and "For Rent" sign is placed on the property by the real estate broker/agent, a written sign consent permitting such sign executed by the property owner shall be filed with the Building Inspector prior to the placement of the sign on the property.
 - (f) The property owner may revoke the consent at any time by filing written revocation with the Building Inspector.
 - (g) If the "For Sale" and/or "For Rent" has been placed upon the property by the real estate agency/brokerage, the real estate agency/brokerage shall remove the sign within five days of the following:
 - [1] The termination date of the consent or the revocation date of the consent.
 - [2] The transfer of title to the property due to a sale.
 - [3] The execution of a rental lease.
 - [4] The removal of the property from the market for rental, sale, or both.
 - (h) If the "For Sale" and/or "For Rent" has been placed upon the property by the owner, the owner shall remove the sign within five days of the following:
 - [1] The transfer of title to the property due to a sale.

[2] The execution of a rental lease.

[3] The removal of the property from the market for rental, sale, or both.

- (i) "Sold" or "In Contract" real estate signs are prohibited in all districts. No owner or real estate agency/brokerage "For Sale" or "For Rent" signs shall be placed on any part of a lot facing the water, golf course or public open space.

(14) Wall sign: a sign which is painted on, incorporated into or affixed parallel to the exterior surface of a building.

(a) Wall signs shall be set in at least one foot from each end of the front wall of the establishment and extend not more than six inches from the surface of that building.

(b) Size of lettering of wall signs in C-1, C-2, C-3 and E-1 Zoning Districts shall not exceed 10 inches in height; in all other zoning districts, the size of the lettering shall not exceed 12 inches in height.

(15) Window sign: any sign which is painted or mounted onto a window pane or which is hung within 12 inches of the window with the purpose or effect of identifying the premises from the sidewalk or street.

(a) Area: a window sign shall not exceed eight inches times the width of the window to which it is attached and shall not exceed more than 25% of the window area, or 10% of the glass area of any required exit door.

(b) Size of lettering height shall be no more than 10 inches high and must be painted on or attached directly and permanently

(c) Non-temporary signs hung inside windows shall be made of clear materials such as Plexiglas with lettering painted on them.

(d) Window signs indicating hours of operation, business affiliations, emergency information and the like (excluding product or service information) are permitted, provided that the aggregate area of all such signs for a single business does not exceed one square foot per entrance and that bright or fluorescent colors not be used.

D. Prohibited signs defined. Any sign not specifically permitted is prohibited and shall be removed within the time specified by the Building Inspector. Prohibited signs shall include but not be limited to:

(1) Illegal signs: signs which have been constructed, erected, installed, placed in use and/or maintained which do not conform to the provisions of this section.

(2) Any sign designated, constructed or located in such a manner so that it is not physically attached to a building or set into the ground in accordance with the Building Code and/or is not in compliance with the provisions of this section.

(3) Any sign of a commercial nature located on a parcel of property used for residential purposes in any residential district, except a permitted home occupation sign.

- (4) Revolving, moving, sound-producing or animated signs, including signs which have the capability of motion in whole or in part, including pinwheels, pennants, balloons and banners. Signs which display temperature and/or time exclusively are permitted.
- (5) Signs utilizing reflective and/or fluorescent paint or reflective and/or fluorescent materials.
- (6) The outlining by direct illumination, including neon lighting, of and affixed to all or any part of the exterior of a building or structure, including but not limited to a gable, roof, side, wall, window, corner or sign, or affixed to the interior part of a window, door, entrance or exit, except for any lighting typically representative of the festive atmosphere limited to a given holiday period, but under no circumstances more than 45 days during a calendar year.
- (7) Signs placed so that they or any part of them project above the eave line of the pitched roof of any building, or the roofline on a gable end, or the top parapet line of the flat roof of any building.
- (8) Any sign painted, erected, affixed or maintained on a light or utility pole, trash container, stone, tree or other natural object or on the face of another sign.
- (9) Signs which cover architectural details, such as, but not limited to, arches, sills, moldings, cornices and transom windows.
- (10) Signs made of paper, cardboard, cloth or similar temporary materials affixed to the glass of windows or doors, except for signs announcing a charitable or nonprofit event.
- (11) Billboards: signs which direct attention to a business, commercial activity, commodity, service or entertainment attraction offered elsewhere than upon the same lot where such signs are displayed or if such activity is only incidentally on such lot.
- (12) Flashing signs: illuminated signs on which the artificial source of light is not maintained stationary or constant in intensity or color at all times.
- (13) Illuminated signs on vending machines or equipment.
- (14) Internally illuminated signs: signs where the source of the illumination is inside the sign and light emanates through the message of the sign, rather than being reflected off the surface of the sign from an external source.
- (15) Mobile signs: signs that are capable of being moved by any means without any structural alterations, including signs on a trailer if said trailer is located in a stationary position on a lot for more than four days and the trailer is in open view of any road or public right-of-way.
- (16) Murals: abstract or pictorial representation, including but not limited to trompe l'oeil and fresco, that is displayed, painted on or affixed to a building, structure, wall or fence.
- (17) Neon signs: signs consisting of tubular arrangement containing a rarefied gas which, when permeated by electric charge, causes the production of light. Exterior neon signs and interior neon signs containing any letter, word, model, banner, pennant insignia,

device, trade flag or graphic representation which are affixed to a window, door, exterior wall or are located within five feet of a window, door, exterior wall or other opening to the exterior.

- (18) Pylon or pole signs: signs attached to a single pole or pylon that is set into the ground.
- (19) Sandwich signs: freestanding signs consisting of two signs attached to each other at the top.
- (20) Triple-faced or triangular faced signs.
- (21) Tubular signs: signs consisting all or in part of a tubular arrangement directly lit by lighting which is a structural part thereof.

E. General standards.

- (1) Design guidelines.
 - (a) Color. In selecting the principal colors for a sign, colors which are in harmony with the general tone of the building should be chosen. The use of muted and earth-tone colors with a matte finish are strongly encouraged.
 - (b) Materials. Sign materials should be consistent with and complement the original construction materials and architectural style of the building on which they are to be displayed. Signs shall be made of wood or metal.
 - (c) Lettering. Lettering styles should complement the style and period of the building on which they appear.
- (2) Sign illumination. Illumination of signs shall be accomplished by means of shielded, direct, external, low-intensity light sources and in such a manner that no glare shall extend beyond the property lines or disturb the vision of passing motorists or constitute a hazard to traffic.
- (3) Maintenance. All signs and the lots on which they are placed shall be maintained in such a manner that said signs are visually unobstructed and plainly legible. Illegible and/or improperly maintained signs, such as, but not limited to, signs that are unsound structurally, unsafe or hazardous to the public, shall be deemed abandoned, shall become prohibited and shall be removed, if necessary, by the Building Inspector and at the owner's expense.
- (4) Nonconforming sign.
 - (a) Legal nonconforming sign. A sign for which a permit was issued by the Village of Manorhaven in the 18 months prior to the enactment of this section. A legal nonconforming sign shall not be reestablished if such sign has been discontinued or abandoned.
 - (b) Nonconforming sign. A sign for which a permit has not been issued and which was constructed, installed and/or placed in use after September 11, 2001, which does not conform to the provisions hereof shall be a nonconforming sign. A nonconforming sign shall either be changed to a conforming sign and a permit

issued or shall be removed.

- (c) Written notice of the nonconforming status of a sign shall be sent by certified mail to the owner of record of the property on which the sign is located. The owner or tenant/occupant shall have the option, upon receipt of the notice, to either remove the sign within 30 days of the date the notice was received or, within 30 days of the date the notice was received, apply to the Zoning Board of Appeals for an extension of time to remove the sign. If an application is filed with the Zoning Board of Appeals for an extension of time to remove the sign, the applicant must establish that the original adjusted capital investment of the sign has not been fully amortized. Any extension by the Board of Appeals shall be for the period necessary for the applicant to fully amortize the original adjusted capital investment. "Original adjusted capital investment," as used herein, is defined as the original cost of the sign, including installation costs less all depreciation previously taken for tax purposes. The original adjusted capital investment shall be amortized at the rate of \$2,000 per year, commencing five years from the date the sign was originally installed.

F. Administration.

(1) Sign permits.

- (a) No sign shall be erected or displayed or any lawfully existing sign moved, altered, redesigned or enlarged until an application has been filed for each sign, an application fee paid to the Village Clerk for each sign and until a permit has been issued by the Building Inspector. Applications shall be on forms prescribed by the Building Inspector.
- (b) Whenever a new building shall be erected or a new business shall be established in a location on which any sign theretofore has been placed, any sign permit previously issued for said sign shall be deemed revoked, and a new application for said sign shall be made to the Building Inspector.
- (c) At a minimum, all applications shall include a plan, in duplicate, showing a scale drawing of proposed sign, specifying dimensions, materials, illumination if any, letter sizes, colors, support systems and location of the proposed sign on the building or land, along with photographs of the building and land. Upon approval, one copy will be returned to the applicant. If the applicant is not the owner of the property, there must be written authorization and plan approval by the owner.
- (d) All signs require Architectural Review Board approval before a permit is issued, except address signs, announcement signs or information signs and "For Sale" or "For Lease" and construction signs if they comply with the provisions hereof. Where there is an application for a sign in a complex of two or more businesses, the Architectural Review Board may request a sign plan for the whole complex.
- (e) Real estate brokers shall apply yearly for a sign permit for all of said real estate brokers' signs which comply with the provisions of this section. The permit shall be effective from May 1 to April 30 of each year.

- (f) Real estate "For Sale" or "For Lease" signs placed on the property by the owner shall require a permit and shall comply with all of the provisions of this section.
 - (g) Permits shall be issued only if the Building Inspector determines the sign complies or will comply with all applicable provisions of this section, including method of attachment and adequate materials, and there is Architectural Review Board approval.
- (2) Sign application fees. A schedule of fees for such permits may be established and amended from time to time by the Board of Trustees.

G. Enforcement.

- (1) The Building Inspector or Code Enforcement Officer is hereby designated to enforce this section.
- (2) Concurrent jurisdiction of Building Inspector. Any power or authority of the Building Inspector hereunder shall be also be subject to exercise by the Code Enforcement Officer; the approval of either shall be sufficient and the act of either shall be equivalent to the act of the other.
- (3) Inspection. Every attached, ground, window or awning sign, upon installation, shall be subject to inspection by the Building Inspector.
- (4) Signs located on public property or rights-of-way may be peremptorily removed by the Building Department, Highway Department or Police Department.
- (5) Any sign which has been ordered removed by the Building Inspector or is abandoned or discontinued shall be removed by the person, firm or corporation responsible for the sign within 10 days of written notice to remove.
- (6) Upon failure to comply with such notice, the Board of Trustees may cause such sign to be removed at the property owner's expense.
- (7) Real estate "For Sale" or "For Rent" signs which do not have a permit or have not had a letter of owner authorization or if the permit or letter of authorization has been revoked or expired, "Sold" or "In Contract" real estate signs and illegal construction signs shall be removed by any Village Enforcement Officer immediately without notice.
- (8) Any sign prohibited by Subsection D hereof or any temporary, announcement or political sign that is in violation of the provisions of this section and which are not permanently affixed to the ground, building or structure shall be removed by any Village Enforcement Officer immediately without notice.

H. Severability. If any section, subsection, phrase, sentence or other portion of this section is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of remaining portions hereof.

I. Interpretation and application. In their interpretation and application, the provisions of this section shall be held to minimum requirements. It is not intended to interfere with or abrogate or annul any other Village regulations or ordinances. Whenever the requirements of

this section are at variance with the requirements of any other lawfully adopted regulation, rule or ordinance, the most restrictive or those which impose the highest standards shall govern.

§ 155-54. Garages. [Amended 3-23-1988 by L.L. No. 2-1988]

A garage erected as accessory to a story-and-one-half building should not be higher than 75% of the height of such main building, and, if erected as accessory to a two-story main building, it shall not be higher than 60% of the height of such main building. The minimum interior dimension of such garage shall be eight feet by 18 feet.

§ 155-55. Air structures.

Buildings supported by air and enclosed or encapsulated with any inflatable or supportable skin, with or without cables, are not permitted.

§ 155-56. Prefabricated or preengineered structures.

- A. Buildings of preengineered or prefabricated metal skins shall be prohibited in any commercial or industrial district.
- B. Buildings of premanufactured use or prior trailers or tractor trailers shall be prohibited in any commercial or industrial district.

**ARTICLE IX
Administration**

§ 155-57. Zoning permits.

The purpose of the zoning permit is to determine compliance with the provisions of this chapter. No person shall submit any application for approval of a site plan or amendment or building plan or amendment or alter the use of any land unless a zoning permit has been issued by the Code Official.

§ 155-58. Code Official.

The provisions of this chapter shall be administered and enforced by the Code Official, except where otherwise provided. The Code Official, except where otherwise provided, shall have the following duties and powers set forth in this section:

- A. The Code Official shall provide information to prospective applicants as to the type of application to be filed and the information to be submitted and shall explain the procedures for filing applications.
- B. The Code Official shall provide form of applications, permits and/or certificates. The form of all applications, permits and certificates to be used by the Code Official under the terms of this chapter shall be approved by the Village Board of Trustees.
- C. The Code Official and any other person designated by the Board of Trustees for such purpose shall enforce the provisions of this chapter and any rules and regulations promulgated in

furtherance thereof.

- D. In the performance of his duties, the Code Official shall have the right to enter any building, premises or land at any reasonable hour. He shall maintain records of all such inspections and of all findings of occupancy and use.
- E. The Code Official shall keep a record of every identifiable complaint of a violation of any of the provisions of this chapter and of the action taken on each such complaint. He shall report thereon, in writing, to the Board of Trustees as required by such Board, but no less than once for each month.
- F. The Code Official shall keep a permanent record, including all pertinent maps and plans, of all applications for zoning permits, building permits and certificates of occupancy.
- G. The Code Official shall make a report to the Village Board of Trustees, in writing, at least once each month, reporting the number and type of permits and certificates issued and listing all reported and continuing violations and the disposition or pending action on such violations.

§ 155-59. General procedures.

Sequence of steps. All construction, alterations or the utilization of premises shall be in conformance with the requirements of this chapter. All persons desiring to undertake such construction, alterations or other changes shall conform to the following general procedure as well as to all other applicable provisions of this chapter.

- A. Application for zoning permit. The applicant shall apply to the Code Official for a zoning permit by completing and filing, in duplicate, an appropriate application, in writing, by payment of the required fee and by submitting, in duplicate, a current survey by a land surveyor, site plan, floor plans and elevation plan with the zoning information required to enable the Code Official to determine compliance with the provisions of this chapter.
- B. Authorization of zoning permit. If the action proposed in the application is in compliance with the regulations contained in this chapter, the Code Official shall issue a zoning permit.
- C. Action in accordance with zoning permit. Upon receipt of the zoning permit, the applicant shall submit site plan(s) for site plan approval by the Planning Board and building plan(s) for building plan approval by the Code Official for the use permitted by the zoning permit.
- D. If the Code Official determines that the proposed use or construction does not conform to the zoning requirements of this chapter, he shall disapprove the application and shall issue a notice of disapproval to the applicant, stating the reason for such disapproval.

§ 155-59.1. Occupancy violations by real estate brokers, agents or salespersons. ¹⁸ [Added 8-18-1993 by L.L. No. 6-1993]

No person acting as a real estate broker, agent or salesperson, whether or not licensed by the State of New York, shall knowingly facilitate the use or occupancy of a detached dwelling or a two- or

¹⁸. Editor's Note: See also Ch. 120, Residential Rentals.

more family attached residence building in a manner which violates the use or occupancy of such dwelling or building which is permitted by the certificate of occupancy, certificate of existing use or zoning permit issued by the Superintendent of Buildings for it or in a manner which violates the permitted use or occupancy of such dwelling or building under the Zoning Code of the Incorporated Village of Manorhaven (Chapter 155 of the Village Code) or the Housing Standards Code (Chapter 82 of the Village Code). A person shall be deemed to facilitate a use or occupancy by, among other things, advertising or listing a dwelling or building, showing a dwelling or building to a prospective user or occupant or otherwise soliciting or encouraging another person to use or occupy a dwelling or building. Upon the conviction of a licensed broker, agent or salesperson for a violation of this section, in addition to the penalties provided for herein, the Village Attorney shall forward a record of such conviction to the New York Department of State's licensing bureau.

§ 155-60. Board of Zoning and Appeals.

A. Creation, selection and organization; establishment and membership.

- (1) There shall be a Board of Zoning and Appeals of five members pursuant to the provisions of the Village Law. The Board of Zoning and Appeals in existence on the effective date of this chapter shall continue. Members of the Board of Zoning and Appeals shall reside within the County of Nassau. [Amended 10-21-2003 by L.L. No. 6-2003]
- (2) The Chairman of said Board or, in his absence, the Deputy Chairman shall have the power to issue subpoenas for the attendance of witnesses and the production of records and may administer oaths.
- (3) The Board of Zoning and Appeals shall have such powers and duties as prescribed by law. In exercising its powers, the Board of Zoning and Appeals may reverse or affirm, in whole or in part, or modify any order, requirement, decision or determination appealed from and make such order, requirement, decision or determination as ought to be made and, to that end, shall have all the powers of the administrative officer from whom the appeal is taken. In taking any action, the Board of Zoning and Appeals may impose such conditions or restrictions as it may find reasonable. [Amended 4-24-1997 by L.L. No. 4-1997; 9-27-2000 by L.L. No. 6-2000]
- (4) Appeals may be taken to the Board of Zoning and Appeals upon submission by any person aggrieved or by any officer, department, board or bureau of the Village affected by any decision of the Code Official. Such appeal shall be taken within 30 days after the filing of such decision by filing with the Board of Zoning and Appeals seven copies of the Board of Zoning and Appeals application, notice of disapproval, survey, site plan, floor plan and elevation plan. The Board of Zoning and Appeals shall thereupon notify the Code Official, who shall forthwith transmit to the Board of Zoning and Appeals all the papers constituting the record upon which the action appealed was taken from.
- (5) An appeal stays all proceedings in furtherance of the action in respect of which the decision appealed was made from, unless the Code Official certifies to the Board of Zoning and Appeals after notice of the appeal shall have been given him that, by reason

of facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed other than by a restraining order from the Board of Zoning and Appeals or a court of appropriate jurisdiction.

- (6) Such notice of appeal shall identify the owner and applicant, the property affected, the nature of the application and the time, date and place of the hearing. Proof of service of such notices, as required in this chapter, shall be filed with the Board of Zoning and Appeals on or before the date of the hearing. The Board of Zoning and Appeals shall, not less than 10 days prior to the hearing date, publish such notice of appeal at least once in the official newspaper of the Village.
- (7) There shall be two alternate members of the Board of Zoning Appeals, who shall be appointed by the Mayor, subject to approval by the Board of Trustees, for terms of two years each, except that the term of one of the alternate members initially appointed shall be one year. Thereafter, the term of each alternate member shall be two years from and after the expiration of the term of their predecessors in office. One alternate member shall be designated at the time of appointment as first alternate member. The other alternate member shall be designated at the time of appointment as second alternate member. The first alternate member shall sit as a member of the Board of Zoning Appeals to hear and determine in those matters before the Board whenever a regular member of the Board shall be disqualified from participating in such matter due to conflict of interest or is unable to participate in hearing and determining such matter due to temporary inability to serve because of illness, absence or disability. In the event that more than one regular member of the Board of Zoning Appeals shall be disqualified or unable to participate in hearing and determining a particular matter for the reasons hereinabove set forth, the second alternate member shall sit as a member of the Board for the purpose of hearing and determining such matter. When so sitting to hear and determine a matter before the Board, each alternate member of the Board shall have the same powers and privileges as a regular member of the Board. [Added 2-28-2001 by L.L. No. 2-2001]

B. Powers and duties. The powers of the Board of Zoning and Appeals shall include those particularly specified herein, provided that none of the following provisions shall be deemed to limit any power of the Board that is otherwise conferred by law.

- (1) Interpretation. On appeal from an order, requirement or determination made by the Code Official or on request of the Planning Board or Board of Trustees, the Board of Zoning and Appeals shall decide any of the following questions:
 - (a) Determination of the meaning or effect of any portion of the text of this chapter of any condition or requirement specified or made under the provisions of this chapter.
 - (b) Determination of the exact location of any district boundary shown on the Zoning Map.
- (2) Variance. The Board of Zoning and Appeals shall authorize, upon written application in specific cases, such variance from the terms of this chapter in accordance with standards set forth in Village Law § 7-712-b. [Amended 4-24-1997 by L.L. No. 4-1997; 9-27-2000 by L.L. No. 6-2000]

(3) Special use permits.

(a) Whenever this chapter authorizes a use by special permit from the Board of Zoning and Appeals, no such permit shall be issued by such Board unless the Board shall first consider the public health, safety and welfare and the comfort and convenience of the public in general and of the residents of the immediate neighborhood in particular. Such Board may prescribe such appropriate conditions and safeguards as may be required in order that the result of this action shall, to the maximum extent possible, further the expressed intent of this chapter and the accomplishment of the following objectives:

[1] That all proposed structures, equipment or material shall be readily accessible to fire and police protection.

[2] That all proposed uses shall be of such location, size and character that, in general, they will be in harmony with the appropriate and orderly development of the district in which they are proposed to be situated and will not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties.

[3] That, in addition to the above, in the case of any use located in or directly adjacent to a residential district:

[a] The location and size of such use, the nature and intensity of operations involved in or conducted in connection therewith, its site layout and its relation to access streets shall be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous or inconvenient to or incongruous with said residential or commercial district or conflict with the normal traffic of the neighborhood and that there will be off-hour or nonpeak traffic ingressing or egressing from the property and that there will be adequate access to it for purposes of fire and safety protection, including traffic control.

[b] The location and height of buildings, the location, nature and height of walls, fences and other accessory uses and the nature and extent of landscaping on the site shall be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings.

[4] That the nature and intensity of such use sought in a residential, commercial or industrial district and the traffic generated by it shall not be hazardous, incongruous or detrimental to the prevailing residential or commercial character of the neighborhood.

[5] That each use in a residential, commercial or industrial district shall be harmonious with the district in which its location is sought, shall not create undue pedestrian or vehicular traffic hazards and shall not include any signs, noise, fumes or lights or other accessory uses without special permit that will hinder normal development of the district or impair the use

enjoyment and value of adjacent land and buildings.

- (b) In granting any such permit, such Board may also:
 - [1] Require any landscaping or other treatments which it deems necessary to protect the value of adjacent properties or to prevent any hindering of the appropriate development of adjacent land.
 - [2] Require that the special use permit is periodically renewed, if not otherwise required by law. Such renewal may be granted only after public notice and hearing and may be granted upon any condition which could have been imposed at the time of granting the original permit. Such renewal may not be denied unless the Board shall determine that such conditions as may have been prescribed by the Board in conjunction with the issuance of the original permit or a prior renewal have not been or are no longer being complied with.
- (c) In making a determination on an application for a special use permit, the Board shall give consideration, among other things, to:
 - [1] The preservation of environmental and ecological assets of the property, including the physical conditions and topography thereof.
 - [2] Whether the character, size, location and design of the proposed use is an appropriate use of land and in harmony with surrounding property.
 - [3] The contribution which the proposed use will make to the proper growth and development of the Village.
 - [4] The impact of the proposed use on vehicular and pedestrian traffic, disposition of stormwater, sewage, garbage and refuse and other municipal services.
 - [5] Whether the proposed use and/or vehicular traffic generated thereby will cause obnoxious gases, odors, smoke, soot, noise, vibration, light or other disturbing emissions and their impact on air quality.
 - [6] Adequacy of public utilities to serve the proposed use and of access thereto by fire and other emergency apparatus.
- (d) If the Board of Zoning and Appeals shall determine that a proposed special use will conform to the general character of the neighborhood to which the proposed use will apply and that the public health, morals, safety and general welfare of such neighborhood will be secure by the granting of such use, subject to the safeguards imposed by the Board, then the Board of Zoning and Appeals shall authorize the issuance of a permit. Such permits may be granted for a temporary period or permanently, as determined by the Board, and, if granted for a temporary period, application for extension of the same will be subject to a public hearing as required in the original application.
- (e) If the Board of Zoning and Appeals finds that the special use proposed and requested in said application will not conform to the general character of the

neighborhood to which the proposed use will apply and that the public health, morals, safety and general welfare of such neighborhood will not be secured by granting such conditional use, then the Board of Zoning and Appeals shall deny such application, anything in this chapter to the contrary notwithstanding.

- (f) If, upon an application for extension of a temporary or special use permit, the Board finds that the applicant has violated the conditions imposed in the granting of the same or if the Board finds that, because of a change in the general character of the neighborhood, the public health, safety, morals and general welfare will be adversely affected by the extension of such special use permit, then the Board of Zoning and Appeals may deny an application for extension of such special use permit, anything in this chapter to the contrary notwithstanding.

C. Applications to Board of Zoning and Appeals. Except as otherwise provided herein, all applications to the Board of Zoning and Appeals shall be filed with the Board Clerk and shall conform to the following procedures and requirements, as well as all other applicable laws:

(1) The application shall be in seven sets and shall include:

- (a) The identity of the applicant as the owner, contract vendee or otherwise. If the applicant is not the owner of the entire parcel, sworn consents of all owners shall be annexed. If the applicant or owner is a partnership or corporation, the names and addresses of all partners, officers and the 10 largest stockholders and directors must be set forth.
- (b) A description of property by section, block and lot designation on the Nassau County Land and Tax Map.
- (c) A statement whether the subject parcel is within 500 feet of a municipal boundary, a proposed or existing county or state park, highway, stream or drainage or navigation channel or of county or state land improved with a public building or site.
- (d) A statement as to the relief requested and the grounds therefor, including any law which authorizes the application.

(2) The application shall be accompanied by the following:

- (a) Seven copies of a current survey by a licensed surveyor, site plan, floor plans, elevation plans and seven copies of an area map showing the subject property, together with the use of all land within 200 feet of any portion of the subject property and the zoning classification thereof. The survey and area map may be combined on one map. [Amended 3-25-1987 by L.L. No. 1-1987]
- (b) Before an application for a variance may be heard by the Board of Zoning Appeals, a complete and accurate list of the names and addresses of the owners of all the lands within a radius of 200 feet of the property affected by such application as appears on the latest completed assessment roll of the County of Nassau shall be submitted simultaneously with the application. The applicant shall send, by registered or certified mail, to each owner shown on said list, not less than 10 nor more than 20 days before the date set for a hearing upon the

application, a notice addressed to such owners, generally, signed by the applicant, identifying the property affected thereby and setting forth the variance requested and the date, hour and place fixed by the Board of Zoning Appeals for the hearing thereon.

- (c) Appeals for the hearing thereon. Before such case may be heard by the Board of Zoning Appeals, the applicant must file with the Clerk of the Board, not later than five days prior to the hearing date, an affidavit of the mailing of such notices as herein provided, said affidavit to be made on forms to be provided by the Board of Zoning Appeals. [Amended 3-25-1987 by L.L. No. 1-1987]
 - (d) Before an application for a special use may be heard by the Board of Zoning Appeals, a complete and accurate list of the names and addresses of owners of all the lands within a radius of 200 feet of the property affected by such application as appears on the latest assessment roll of the County of Nassau shall be submitted simultaneously with the application. The applicant shall send, by registered or certified mail, to each owner shown on said list, not less than 10 nor more than 20 days before the date set for a hearing upon the application, a notice addressed to such owners generally, signed by the applicant, identifying the property affected thereby and setting forth the use requested and the date, hour and place fixed by the Board of Zoning Appeals for the hearing thereon. Before such case may be heard by the Board of Zoning Appeals, the applicant must file with the Clerk of the Board, not later than five days prior to the hearing date, an affidavit of the mailing of such notices as herein provided, said affidavit to be made on forms to be provided by the Board of Zoning Appeals. This provision shall likewise apply to any application for the extension of a temporary or special use. [Amended 3-25-1987 by L.L. No. 1-1987]
 - (e) Fees and deposits required by an applicable law.¹⁹
 - (f) Such environmental statements as may be required by any applicable law.
- (3) In making its determinations on such application, the Board shall give consideration, among other things, to:
- (a) The effect of the relief requested on the adjacent and surrounding property and upon the proper growth and development, safety and development and general welfare of the community.
 - (b) The need for the relief requested to permit a reasonable use of land.
 - (c) The manner in which any hardship caused by this chapter was created.
 - (d) The conformity of the requested relief with the spirit, interest and purposes of this chapter.
- (4) In granting any applications, the Board of Zoning and Appeals may impose conditions and restrictions reasonably necessary to reduce or minimize the effect of the requested

19. Editor's Note: See Ch. 64, Fees and Deposits, Art. I, Land Use and Zoning Applications.

relief on other property and to implement the spirit and purpose of this chapter.

- D. Expiration of relief granted by Zoning Board.
 - (1) If, within one year from the date of a determination by the Board of Zoning and Appeals, substantial construction pursuant thereto or use thereof has not commenced or if, within two years after such date, construction has not been completed, the grant of relief by the Board of Zoning and Appeals shall expire.
 - (2) The Board of Zoning and Appeals may, upon written application and payment of the required fees made before the date of such expiration, without further public hearing, extend the time for such commencement of construction or use and/or completion of construction for an additional period not to exceed six months.

§ 155-61. Site plan review. [Amended 4-25-2001 by L.L. No. 5-2001]

In all districts, approval of an original or amended property development plan (referred to hereinafter as "site plan") shall be required for:

- A. The erection or expansion of all buildings in all districts.
- B. The utilization of vacant or developed land.
- C. Any change in use or intensity of use which will affect the characteristics of the site in terms of off-street parking, loading and unloading, traffic and access, utilities, grading and drainage, substantial change in appearance of a structure (other than routine maintenance, repair, painting, etc.) and other Village services.
- D. Conversion or enlargement of finished cellars or basements.
- E. Where otherwise required in Chapter 155.

§ 155-61.1. Authority. [Added 4-25-2001 by L.L. No. 5-2001]

- A. In accordance with § 10 of the Municipal Home Rule Law, the Village of Manorhaven Board of Trustees enacts this local law to supersede any inconsistent portions of Village Law § 7-725-a for the purposes of responsibility for review of site plans, between itself and the Planning Board. The Village Board of Trustees shall have the authority to review site plans and provide a final decision on any nonresidential or multifamily project (three or more units) located on a lot of .5 or more acres. The Village Board of Trustees shall have the authority to transfer powers of review for any nonresidential or multifamily project (three or more units) located on a lot of .5 or more acres to the Planning Board on an individual basis. The Planning Board shall have the authority to review site plans and provide a final decision on one- and two-family structures and all other projects.
- B. In the following, wherever the word "Board" is used it shall refer to the applicable Board, either the Planning Board or the Village Board of Trustees, unless otherwise indicated.

§ 155-62. Planning Board. [Amended 8-24-1988 by L.L. No. 5-1988; 2-28-2001 by L.L. No. 2-2001; 4-25-2001 by L.L. No. 5-2001]

- A. Creation, selection and organization of the Planning Board.
 - (1) Establishment and membership. There shall be a Planning Board of five members pursuant to the provisions of Village Law § 7-718.
 - (2) There shall be a chairperson designated by the Mayor on a yearly basis. The Village shall employ clerks and a secretary and to pay for their services and such other expenses as may be necessary and proper, not exceeding in all the appropriation that may be made for such Board. The Village shall also employ experts, if deemed necessary to review an application before the Board.
- B. Power and duties.
 - (1) The Planning Board shall have the duty to review and approve, approve with conditions or reject and withhold approval until specific requirements are satisfied, site plans for one- and two-family structures and for any nonresidential or multifamily project (three or more units) located on a lot of less than .5 acres.
 - (2) The Planning Board shall have the duty to review and make recommendations on nonresidential or multifamily site plans to the Village Board of Trustees.

§ 155-63. Site plan review standards. [Amended 3-23-1988 by L.L. No. 3-1988; 4-25-2001 by L.L. No. 5-2001]

- A. In considering and reviewing site plans, the Planning Board and Village Board of Trustees shall take into consideration the public health, safety and welfare, the community maritime character, the impact of the proposed development on regional resources, the comfort and convenience of the public in general and of the residents of the proposed development and of the immediate neighborhood in particular and may prescribe such appropriate conditions and safeguards as may be required in order that the result of its action shall, to the maximum extent possible, further the expressed intent of this chapter and the accomplishment of the following objectives and standards in particular: [Amended 6-27-2001 by L.L. No. 10-2001]
 - (1) That all proposed traffic accessways are adequate but not excessive in number; adequate in width, grade, alignment and visibility; not located too near street corners or other places of public assembly; and other similar safety considerations.
 - (2) That adequate off-street parking and loading spaces are provided in accordance with this chapter and that the interior circulation system is adequate to provide safe accessibility to all required off-street parking lots, including parking for the handicapped, loading bays and building services.
 - (3) That all open space parking and service areas are reasonably landscaped and screened at all seasons of the year from the view of any adjacent residential lots and streets and that the general landscaping of the site is such as to enhance the character of the Village and is in character with that generally prevailing in the neighborhood.
 - (4) That all existing trees over eight inches in caliper, measured three feet above the base of the trunk, are retained, to the maximum extent practicable, and that all other important natural features are properly protected. That the removal of any tree over three inches in caliper measured three feet above the base of the trunk shall require

- replacement with a tree of 1.5 inches to three inches in caliper.
- (5) That the adequacy, type and arrangement of trees, shrubs and other landscaping constitute a visual or noise buffer and that plant selection is suitable for the specific site. Native species of plants shall be utilized where ever possible.
 - (6) That all plazas and other paved areas intended for use by pedestrians use decorative pavements and use plant material so as to prevent the creation of vast expanses of pavement. Preference shall be given to use of permeable, semipermeable and porous materials in paved areas when suitable for the proposed use.
 - (7) That all outdoor lighting is of such nature and so arranged as to preclude the diffusion of glare onto adjoining properties and streets.
 - (8) That the site plan is in conformance with such portions of the Comprehensive Plan of the Village as may be in existence.
 - (9) That the existing and proposed drainage system will afford the best solution to any drainage problems by minimizing erosion and sedimentation, maximizing groundwater infiltration and incorporating other applicable measures so that, to the maximum extent practicable, development shall ensure that there will be no measurable increase in runoff from the site, during or after construction.
 - (10) That development minimize flooding and erosion hazards through nonstructural means and appropriate siting of structures to the extent practicable.
 - (11) That development protect surface waters and ground waters from direct and indirect pollution.
 - (12) That development avoid the destruction, damage or detrimental modification of or interference with natural, scenic, topographic or physical features of the site to the extent practicable.
 - (13) That development be arranged to minimize visual impacts both from and to any waterbodies. This includes the quality and extent of views from public streets, through the property to Manhasset Bay waters.
 - (14) That development promotes, integrates and facilitates open space, recreational and public access to the water, where appropriate and feasible, and shall avoid obstruction of existing public or semipublic access to the waterfront.
 - (15) That the development shall give consideration to the relationship, compatibility, location, arrangement, size and design of lighting and signs with respect to on-site and off-site uses and facilities.

B. Approval procedures.

- (1) The Superintendent of Buildings shall certify on each site plan whether or not such plan meets the requirements of all Zoning Chapter requirements other than those of this chapter regarding site plan review.
- (2) Applications for site plan approval shall be made on forms adopted by the Board for

that purpose. An original and seven copies of the application, together with eight copies of the proposed site plan, floor plan and elevation plans, and a survey which served as the basis for the site plan, and eight copies of an area map showing the subject property, together with the use of all land within 100 feet of any portion of the subject property, and the zoning classification thereof shall be filed with the Village Clerk, together with the fee established by resolution of the Board.

- (3) The Mayor/Chairperson shall schedule the Board's consideration of the applications for site plan review in such a manner as will permit an orderly and expeditious disposition of these applications with due regard for the Boards' other duties and responsibilities. Prior to formal consideration of the application by the Board, the Mayor/Chairperson may direct, or the applicant may request, that a preliminary conference be held wherein the applicant shall meet in person with the Board or such representatives of it as are designated by the Mayor/Chairperson to discuss the site plan submitted so that the necessary subsequent steps may be undertaken with a clear understanding of the Board's requirements in matters relating to a development of the site and recommendations with respect to the plan submitted.
- (4) The Board shall fix a time within 62 days from the day an application for site plan approval is received for a public hearing on the application and give public notice thereof by publication in the official newspaper at least five days prior to the date thereof. At the same time the Village Board of Trustees shall forward the application to the Planning Board for review and recommendations, if the review is before the Village Board of Trustees. The Planning Board will review and make recommendations regarding the site plan in writing and return these to the Village Board of Trustees at least five days prior to the scheduled public hearing. Before an application for a site plan approval may be heard by the Board, a complete and accurate list of the names and addresses of the owners of all the lands within a radius of 100 feet of the property affected by such application, as it appears on the latest completed assessment roll of the County of Nassau, shall be submitted simultaneously with the application. The applicant shall send, by registered or certified mail, to each owner shown on said list, not less than 10 nor more than 20 days before the date set for a hearing upon the application, a notice addressed to such owners generally, signed by the applicant, identifying the property affected thereby and setting forth the use requested and the date, hour and place fixed by the Board for the hearing thereon. Before such application may be heard by the Board, the applicant must file with the Clerk of the Board, not later than five days prior to the hearing date, an affidavit of the mailing of such notices as herein provided, said affidavit to be made on forms to be provided by the Village Board of Trustees. The Board shall act to approve, disapprove or approve with conditions or modifications any such site plan within 62 days after the hearing on the application.
- (5) Following approval of the site plan by the Board, an applicant shall file with the Village Clerk a performance bond, to cover the full cost of any required public improvements, in an amount set by the Board. Such bond shall be satisfactory to the Village Attorney as to form, sufficiency, manner of execution and surety. A period of one year or such other period as the Board may deem appropriate, not to exceed three years, within which such public improvements must be completed shall be set forth in the bond. If the bond is not filed within 45 days of the approval granted in the subsection above, the

site plan shall be deemed disapproved.

- (6) A stormwater pollution prevention plan consistent with the requirements of Article XI of this chapter and Chapter 128, Soil Erosion, shall be required for site plan approval. The SWPPP shall meet the performance and design criteria and standards in Article XI of this chapter. The approved site plan shall be consistent with the provisions of this chapter. [Added 3-28-2007 by L.L. No. 1-2007]

§ 155-64. Site plan data. [Amended 4-25-2001 by L.L. No. 5-2001]

The applicant shall cause a site plan map to be prepared by an architect, landscape architect, civil engineer or surveyor, at a scale of not less than one inch equals 30 feet and not more than one inch equals 10 feet. The site plan shall include the elements listed below unless one or more thereof shall be waived by the Board representatives at a preliminary conference:

A. Legal data:

- (1) The name and address of the owner of record.
- (2) The name and address of the person, firm or organization preparing the map.
- (3) The date, North point and written and graphic scale.
- (4) A sufficient description or information to define precisely the boundaries of the property. All distances shall be in feet and tenths of a foot. All angles shall be given to the nearest 10 seconds or closer. The error of closure shall not exceed one in 10,000.
- (5) The lot lines and owners of all adjoining lands as shown on the latest tax records.
- (6) The locations, widths and purposes of all existing and proposed easements, setbacks, reservations and areas dedicated to public use within or adjacent to the property.
- (7) The locations, names and existing widths of adjacent streets and curblines.
- (8) Record of application and approval status of all necessary permits from federal, state, and county officials.
- (9) A complete outline of existing deed restrictions or covenants applying to the property.
- (10) Existing zoning.

B. Proposed uses and actions. The site plan shall include the following details:

- (1) Location of proposed land and water uses, including all uses not requiring structures, such as outdoor storage and the description of items to be stored and their areas in acres or square feet as appropriate, together with the proposed use, dimensions, height and architectural features of all buildings, fences, walls, signs, structures, tanks, poles, parking and drives and other improvements.
- (2) Approximate locations and dimensions of areas proposed for neighborhood parks, playgrounds or other permanent open space.
- (3) Building orientation and site design for energy efficiency and visual quality.

- (4) A planting plan showing the location of proposed buffer areas, plant selection suitable for the specific site and planting schedule. Native species of plants shall be included in the plan whenever possible.
- (5) Lines and dimensions of all property which is offered, or to be offered, for dedication for public use, with the purpose indicated thereon, and of all property proposed to be restricted by deed covenant for the common use of the property owners of the development.
- (6) Description and location of erosion control measure, including proposed location of sediment sink/settling ponds and interceptor swales.

C. Natural features:

- (1) Existing contours with intervals of five feet or less, referred to a datum satisfactory to the Board.
- (2) Approximate boundaries of any areas subject to flooding or floodplain boundaries as determined by the Federal Emergency Management Act and stormwater overflows.
- (3) Location of existing watercourses, marshes/wetlands, wooded areas, rock outcrops, isolated trees with a caliper of eight inches or more, measured three feet above the base of the trunk, and any other significant existing natural features, and an inventory of all trees with a caliper of three inches or more, measured three feet above the base of the trunk.
- (4) The location of major views to Manhasset Bay from public roads or lands from the site, and from properties within 100 feet of the site, as indicated in the Local Waterfront Revitalization Program.

D. Existing structures and utilities:

- (1) A vicinity sketch and boundary line survey of the site, including the location of any building or structure on land of adjacent property owners within 100 feet of the site.
- (2) Outlines of all structures and location of all uses not requiring structures, such as the location of outdoor storage and description of materials stored.
- (3) Paved areas, sidewalks and vehicular access between the site and public streets.
- (4) Locations, dimensions, grades and flow direction of any existing sewer, culverts and waterlines, as well as other underground and aboveground utilities within and adjacent to the property.
- (5) Other existing development, including fences, landscaping, screening, bulkheads, docks and moorings.

E. Specifications showing:

- (1) The type of pavement and curb or gutter to be laid on the streets shown on the plat.
- (2) The specifications of the material to be used and methods to be adopted in construction of the pavement and curbs and gutters, including drains and underground drainage

- pipes.
- (3) The grades of the street, showing the courses and disposition of surface waters, and the location of drains. This may be shown on a contour map or on the plat.
 - (4) Plantings to be made on shoulders of streets and in parks or public spaces.
 - (5) Water and sewer lines.
 - (6) Electric and telephone lines.

F. Details showing:

- (1) The construction of all streets within the property, by metes and bounds, with relation to other streets and boundary lines of the property.
- (2) The grades of the proposed streets showing the course and disposition of surface waters and drains. This must be shown on an accompanying map.
- (3) The location of sufficient monuments to adequately define the course of the streets.
- (4) The construction for utilities existing and as proposed. Electric and telephone poles shall be along the rear lot lines or underground, insofar as feasible.
- (5) The construction for any park or public access and the manner in which it is to be improved.
- (6) The construction for any accessory and supportive building.

§ 155-65. Time limit on validity of approval. [Amended 4-25-2001 by L.L. No. 5-2001]

Approval of a site plan by the Board shall be valid for a period of six months from the date thereof for the purpose of obtaining a building permit. The approval may be renewed once for six more months. If substantial construction is commenced within the six-month period and diligently prosecuted thereafter, such approval shall be valid until the completion of all proposed improvements on the site or for a period of not more than two additional years.

§ 155-66. Board of Trustees' special use permit.

The procedure set forth in this article for application to the Board of Zoning and Appeals for special use permits shall apply to applications to the Board of Trustees for special use permits for R-3 Districts.

§ 155-67. Enforcement.

This chapter shall be enforced on behalf of the Board of Trustees by the Code Official, who shall carry out the procedure as set forth in this chapter. The Board of Trustees may make and adopt such further rules and regulations as are deemed necessary for the proper enforcement and administration of this chapter.

§ 155-68. Penalties for offenses. [Amended 3-23-1988 by L.L. No. 2-1988; 11-20-1991 by L.L. No. 3-1991; 8-18-1993 by L.L. No. 6-1993; 1-22-1997 by L.L. No. 1-1997]

For any and every violation of any provision of this chapter, the owner, general agent or contractor of a building or premises where such violation has been committed or shall exist, and the lessee or tenant of an entire building or entire premises where such violation has been committed or shall exist, and the owner, general agent, contractor, lessee or tenant of any part of a building or premises in which part such violation has been committed or shall exist, and the general agent, architect, builder, contractor or any other person who knowingly commits, takes part, allows or assists in any such violation or who maintains any building or premises in which any such violation shall exist, shall be guilty of a violation against this chapter, punishable by a fine not exceeding \$1,000 or imprisonment for a period not to exceed 15 days, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine of not less than \$1,000 nor more than \$2,000 or imprisonment for a period not to exceed 15 days, or both; and upon conviction of a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine of not less than \$2,000 nor more than \$3,000 or imprisonment for a period not to exceed 15 days, or both. Each week's continued violation shall constitute a separate additional violation.

§ 155-69. Amendments.

- A. This chapter or any part thereof may be amended, supplemented or repealed from time to time by the Village Board of Trustees, acting on its own motion or upon petition, as provided by law.
- B. Each petition for a zoning amendment shall be accompanied by payment of the applicable fee as prescribed by resolution of the Board of Trustees. If the petition is withdrawn before publication of notice of a public hearing thereon, the fee may be refunded, in whole or in part, at the discretion of the Board of Trustees. No fee shall be required for a petition filed in favor of or against a pending application.
- C. Each such petition shall be in writing and shall contain the items and information required for an application for a special use permit.
- D. Notice of public hearing shall be published and served in the same manner as provided for applications for a special use permit, except that, in the case of an amendment made by the Board of Trustees on its own motion, no notice shall be required except by publication in the official newspaper.

§ 155-70. Severability.

If any section, paragraph, clause or provision of this chapter shall be adjudged invalid by a court of competent jurisdiction, such adjudication shall apply only to the section, paragraph, clause or provision so adjudged, and the rest of this chapter shall remain valid and effective.

§ 155-71. Effect on other laws.

This chapter shall not be deemed to supersede any other law not expressly superseded.

§ 155-72. Conflicts with other provisions.

Wherever possible, the provisions of this chapter shall be read and construed to harmonize with

each other applicable law. However, in the event of irreconcilable conflict between this chapter and any other law, the more restrictive interpretation shall prevail.

§ 155-73. Repealer.

The provisions of the Zoning Code Ordinance of the Village of Manorhaven, as heretofore adopted and amended hereby are repealed.

ARTICLE X
Wireless Communication Facilities
[Added 5-25-2005 by L.L. No. 6-2005]

§ 155-74. (Reserved)

§ 155-75. (Reserved)

§ 155-76. (Reserved)

§ 155-77. (Reserved)

§ 155-78. (Reserved)

§ 155-79. (Reserved)

§ 155-80. Special use permit required.

No transmission and/or reception antennas and/or tower, radio, television and/or telecommunications beacon, radio or television station, including accessory facilities and structures, shall be permitted in the Incorporated Village of Manorhaven unless the applicant has first obtained a special use permit therefor from the Board of Trustees.

§ 155-81. Intent; definitions; standards.

A. Legislative intent. These regulations are in no way intended to prohibit or have the effect of prohibiting the provision of adequate communications systems within the Incorporated Village of Manorhaven. The Board of Trustees hereby determines that it is in the best interests of the residents of the Village to set forth specific regulations establishing standards for the safe provision of the devices specified herein, consistent with applicable federal and state laws, statutes, rules and regulations, in order to:

- (1) Protect the health, safety and welfare of the residents of the Village.
- (2) Protect natural features, aesthetics and the residential character of the neighborhoods within the Village and the efficient and orderly development of land uses from potential adverse impacts.
- (3) Minimize the total number of such devices constructed throughout the Village, within functional limits.

- (4) Promote and encourage joint use of new and existing devices and discourage the erection of such devices for single users.
- (5) Promote and encourage the location of such devices, to the extent possible, in areas where adverse impacts on the surrounding neighborhoods are minimized.
- (6) Promote and encourage the configuration of such devices in a manner that minimizes adverse visual impacts through careful design, siting, landscape screening and innovative camouflaging techniques.
- (7) Promote the ability of providers of services related to such devices to supply such services as effectively and efficiently as possible.
- (8) Prohibit potential damage to adjacent and/or nearby properties from collapse or failure of such devices through adequate engineering and siting requirements.

B. Definitions and word usage.

- (1) Definitions. Unless otherwise stated in the section where the term is used herein, the meanings of terms used in this chapter shall be as stated below:

ACCESSORY FACILITY — Includes any building or other structure which is accessory to the principal use, being subordinate in size, area, extent and purpose to the principal use, and located on the same lot as the principal use.

ANTENNA AND/OR BEACON — Includes any device that incorporates a system of electrical conductors involved in transmitting or receiving radio frequency waves, including but not limited to radio navigation, radio and television frequencies (excluding radar), wireless and microwave communications, generally ranging from 10 hertz to 300,000 megahertz, and/or used in communications that radiate or capture electromagnetic waves, digital signals, analog signals or other communications signals.

COLLOCATION — The use of any communication, transmission and/or reception antennas and/or towers, radio, television and/or telecommunications beacons to carry two or more antennas by two or more service providers.

FAA — The Federal Aviation Administration of the United States.

FCC — The Federal Communications Commission of the United States.

HEIGHT — The distance measured from the finished mean grade of the parcel to the highest point on the tower or other structure, including the base pad and any antenna.

PREEXISTING TOWERS AND ANTENNAS — Includes any and all towers or antennas possessing a valid, current and proper building permit and/or special use permit issued prior to the effective date of this section.

TOWER — Includes any structure designed and constructed primarily for the purpose of supporting one or more antennas for telephone, television, radio and similar communication purposes, including self-supporting lattice towers, guyed towers or monopole towers, radio and television transmission and reception towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures and similar structures, inclusive of the structure and

any support systems appurtenant thereto.

VILLAGE OF MANORHAVEN (THE VILLAGE) — Includes the government of the Incorporated Village of Manorhaven, as well as its various boards, departments, agencies and all other facets of the Village government.

- (2) Word usage. When not inconsistent with the context, the present tense shall include the future, and words used in the plural shall include the singular and vice versa. Furthermore, a masculine pronoun shall include the feminine. "Shall" is mandatory; "may" is permissive.
- C. Exceptions. Nothing herein shall be construed to apply to, prohibit, regulate or otherwise affect the erection, maintenance or utilization of the following uses, including antennas and support structures, which are deemed to be permitted uses and shall not be subject to the issuance of a special use permit:
- (1) Such uses located on property owned, leased or otherwise controlled by the Village, provided that said uses are subject to a license or lease issued by the Board of Trustees.
 - (2) All antennas which are accessory to permitted residential uses and are mounted on the residential dwelling without a tower.
 - (3) Such uses that are licensed to operate as amateur radio stations by the FCC, pursuant to 47 CFR 97.
- D. General provisions.
- (1) Deliberations. The Board of Trustees shall give due consideration to existing land uses and development, environmentally sensitive areas and other appropriate factors in approving the issuance of a special use permit for the siting of communication, transmission and/or reception antennas and/or towers, radio, television and/or telecommunications beacons and radio or television stations.
 - (2) Zoning. Such uses shall only be permitted within the commercial, industrial and governmental zoning districts of the Village, unless special circumstances demonstrate conclusively that a communications system cannot properly function without the location of such a use in a specific residential area.
 - (3) Principal and accessory use. Such uses may be considered either principal or accessory uses, in that a different existing use and/or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot.
 - (4) Inventory. Any application for such uses shall include an inventory of all existing like uses, or sites approved for like uses, that are either within the jurisdiction of the Village or within one mile of the border thereof, including specific information about the location, height and design of each tower, compiled from municipal records by the best efforts of the applicant.
 - (5) Aesthetic requirements. All such uses shall comply with the following requirements, unless otherwise required by the FAA, FCC or other applicable authority:
 - (a) Structures shall be of a neutral color so as to reduce visual obtrusiveness.

- (b) Design of buildings and related structures shall, to the extent practicable, use materials, colors, textures, screening and landscaping that will blend them into the natural setting and surrounding buildings.
 - (c) If an antenna or beacon is installed on a structure other than a tower, it and its supporting electrical and mechanical equipment must be of a neutral color that is identical to or closely compatible with the color of the supporting structure so as to render it as visually unobtrusive as practicable.
 - (d) Lighting. Towers shall not be artificially lighted, except upon the conclusive demonstration of special circumstances, in which case lighting shall be designed to minimize to the maximum extent practicable the resultant disturbance to the surrounding views and properties.
 - (e) Signs. No signs shall be permitted on an antenna or tower.
- (6) Multiple user plans. Service providers submitting a single application for the approval of collocation of such devices for multiple users shall be given priority status in a fast-track review process.
- E. Applications. Applications for special use permits under this article shall include the following:
- (1) Certification, by a professional engineer duly licensed by the State of New York, setting forth that such use meets or exceeds current standard regulations of the FAA, FCC and any other state or federal agency having proper authority.
 - (2) A scaled site plan which meets all the site plan requirements of the Village.
 - (3) Delineation of all setback distances between the proposed use and all adjoining structures and residentially zoned or developed properties.
 - (4) Delineation of all distances from other like uses described in the inventory of existing sites submitted with the application shall be shown on a site plan or map, identifying the type of construction of the existing uses and the owner/operator of any such existing uses, if same can be determined, compiled from municipal records by the best efforts of the applicant.
 - (5) A written description of the application's compliance with all applicable requirements of this section and all applicable federal, state and local laws.
 - (6) A notarized statement by the applicant as to whether construction of the proposed use will accommodate collocation of additional antennas for future users.
 - (7) A description of the suitability or unsuitability of existing like uses, other structures and/or alternative technology that are available in place of the proposed structure and the uses contemplated for the proposed structure.
 - (8) Any other information required by the Board of Trustees.
- F. General review. The Board of Trustees shall consider the following factors in determining whether to issue a special use permit, in addition to any standards for consideration of special

use permit applications set forth in this chapter:

- (1) Height of the proposed structure.
- (2) Proximity of the proposed use to residential structures and residential district boundaries.
- (3) Nature of existing and/or proposed uses on adjacent and nearby properties.
- (4) Site and/or surrounding topography.
- (5) Surrounding tree coverage and foliage.
- (6) Design of the structure, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness.
- (7) Proposed ingress and egress.
- (8) Availability of suitable existing uses or other structures or alternative technologies not requiring the use of new structures.

G. Review of alternatives.

- (1) No application for such a special use permit shall be granted unless the applicant demonstrates to the reasonable satisfaction of the Board of Trustees that no existing use, structure or alternative technology not requiring new construction can accommodate the applicant's proposed use.
- (2) An applicant shall submit any information requested by the Board of Trustees relating to alternatives. Such evidence may consist of any or all of the following:
 - (a) That no suitable existing uses or structures are located within the geographic area which meet the applicant's engineering requirements.
 - (b) That the fees, costs or contractual provisions required by the owner of an existing like use or structure in order to share it, or adapt it for sharing, are unreasonable. Costs exceeding new use development are presumed to be unreasonable.
 - (c) That alternative technologies not requiring the use of towers or structures, such as a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system, are unsuitable. However, the costs of alternative technology that exceed new tower or antenna development shall not necessarily be presumed to render the technology unsuitable.

H. Conditions. The granting of a special use permit herein shall require provision of the following conditions:

- (1) **Setbacks.** All accessory structures shall satisfy minimum zoning district setback requirements in the district in which it is located.
- (2) **Distance between towers.** The required distance between such uses shall be 1,000 feet, measured by drawing or following a straight line between the base of any existing like use and the base of the proposed use, delineated on a map or site plan. Said distance requirement may be reduced by the Board of Trustees only after a finding that a

- specific application merits such a reduction and closer siting of such uses due to reception/transmission limitations caused by topographical interference.
- (3) Security fencing. Such uses shall be surrounded by security fencing as determined by the Board of Trustees and shall be equipped with appropriate anti-climbing devices.
 - (4) Landscaping.
 - (a) All such uses shall be landscaped with a buffer or plant materials sufficient to screen the view of such uses from residential property, consisting of at least one row of mixed evergreen shrubs and trees capable of forming a hedge at least eight feet in height.
 - (b) Existing mature tree growth and natural land forms and topography at the site shall be preserved to the maximum extent possible.
 - (5) Abandonment. Any such use that is not operated for a continuous period of 12 months shall be deemed abandoned, and the owner thereof shall be responsible for removal of all structures within 90 days of the issuance of a notice by the Village declaring the facilities abandoned and directing removal, and upon failure to do so the Village may take such action at the owner's expense.
 - (6) Nonconforming uses. Such uses lawfully existing and operating prior to the effective date of this section shall be permitted as they presently exist, including routine maintenance and reconstruction in like form and height, excluding substantive change, which will require compliance with the requirements of this section.

ARTICLE XI
Stormwater Management and Erosion Control
[Added 3-28-2007 by L.L. No. 1-2007]

§ 155-82. (Reserved)

§ 155-83. Stormwater pollution prevention plan requirement.

No application for approval of a land development activity shall be reviewed until the appropriate board has received a stormwater pollution prevention plan (SWPPP) prepared in accordance with the specifications in this article.

§ 155-84. Contents of stormwater pollution prevention plans.

- A. All SWPPPs shall provide the following background information and erosion and sediment controls:
 - (1) Background information about the scope of the project, including location, type and size of project;
 - (2) Site map/construction drawing(s) for the project at a scale no smaller than one inch equals 100 feet, including a general location map. At a minimum, the site map should show the total site area; all improvements; areas of disturbance; areas that will not be disturbed; existing vegetation; on-site and adjacent off-site surface water(s); wetlands

and drainage patterns that could be affected by the construction activity; existing and final slopes; locations of off-site material, waste, borrow or equipment storage areas; and location(s) of the stormwater discharges(s);

- (3) Description of the soil(s) present at the site;
 - (4) Construction phasing plan describing the intended sequence of construction activities, including clearing and grubbing, excavation and grading, utility and infrastructure installation and any other activity at the site that results in soil disturbance. Consistent with the New York Standards and Specifications for Erosion and Sediment Control (Erosion Control Manual), not more than one acre shall be disturbed at any one time unless pursuant to an approved SWPPP;
 - (5) Description of the pollution prevention measures that will be used to control litter, construction chemicals and construction debris from becoming a pollutant source in stormwater runoff;
 - (6) Description of construction and waste materials expected to be stored on-site with updates as appropriate, and a description of controls to reduce pollutants from these materials, including storage practices to minimize exposure of the materials to stormwater, and spill prevention and response;
 - (7) Temporary and permanent structural and vegetative measures to be used for soil stabilization, runoff control and sediment control for each stage of the project, from initial land clearing and grubbing to project close-out;
 - (8) A site map/construction drawing(s) specifying the location(s), size(s) and length(s) of each erosion and sediment control practice;
 - (9) Dimensions, material specifications and installation details for all erosion and sediment control practices, including the siting and sizing of any temporary sediment basins;
 - (10) Temporary practices that will be converted to permanent control measures;
 - (11) Implementation schedule for staging temporary erosion and sediment control practices, including the timing of initial placement and duration that each practice should remain in place;
 - (12) Maintenance schedule to ensure continuous and effective operation of the erosion and sediment control practice;
 - (13) Name(s) of the receiving water(s);
 - (14) Delineation of SWPPP implementation responsibilities for each part of the site;
 - (15) Description of structural practices designed to divert flows from exposed soils, store flows, or otherwise limit runoff and the discharge of pollutants from exposed areas of the site to the degree attainable; and
 - (16) Any existing data that describes the stormwater runoff at the site.
- B. Land development activities as defined in § 155-6, Definitions, of this chapter and meeting Condition A, B or C below shall also include water quantity and water quality controls

(post-construction stormwater runoff controls) as set forth in Subsection C below as applicable:

- (1) Condition A: Stormwater runoff from land development activities discharging a pollutant of concern to either an impaired water identified on the Department's 303(d) list of impaired waters or a Total Maximum Daily Load (TMDL) designated watershed for which pollutants in stormwater have been identified as a source of the impairment.
- (2) Condition B: Stormwater runoff from land development activities disturbing five or more acres.
- (3) Condition C: Stormwater runoff from land development activity disturbing between one and five acres of land during the course of the project, exclusive of the construction of single-family residences.

C. SWPPP requirements for Conditions A, B and C:

- (1) All information in § 155-84A of this article.
- (2) Description of each post-construction stormwater management practice;
- (3) Site map/construction drawing(s) showing the specific location(s) and size(s) of each post-construction stormwater management practice;
- (4) Hydrologic and hydraulic analysis for all structural components of the stormwater management system for the applicable design storms;
- (5) Comparison of post-development stormwater runoff conditions with predevelopment conditions;
- (6) Dimensions, material specifications and installation details for each post-construction stormwater management practice;
- (7) Maintenance schedule to ensure continuous and effective operation of each post-construction stormwater management practice;
- (8) Maintenance easements to ensure access to all stormwater management practices at the site for the purpose of inspection and repair. Easements shall be recorded on the plan and shall remain in effect with transfer of title to the property;
- (9) Inspection and maintenance agreement binding on all subsequent landowners served by the on-site stormwater management measures in accordance with § 155-86;
- (10) For Condition A, the SWPPP shall be prepared by a landscape architect, certified professional or professional engineer and must be signed by the professional preparing the plan, who shall certify that the design of all stormwater management practices meets the requirements in this article.

D. Other environmental permits. The applicant shall assure that all other applicable environmental permits have been or will be acquired for the land development activity prior to approval of the final stormwater design plan.

E. Contractor certification.

- (1) Each contractor and subcontractor identified in the SWPPP who will be involved in soil disturbance and/or stormwater management practice installation shall sign and date a copy of the following certification statement before undertaking any land development activity: "I certify under penalty of law that I understand and agree to comply with the terms and conditions of the Stormwater Pollution Prevention Plan. I also understand that it is unlawful for any person to cause or contribute to a violation of water quality standards."
 - (2) The certification must include the name and title of the person providing the signature, address and telephone number of the contracting firm; the address (or other identifying description) of the site; and the date the certification is made.
 - (3) The certification statement(s) shall become part of the SWPPP for the land development activity.
- F. A copy of the SWPPP shall be retained at the site of the land development activity during construction from the date of initiation of construction activities to the date of final stabilization.

§ 155-85. Performance and design criteria for stormwater management and erosion and sediment control.

All land development activities shall be subject to the following performance and design criteria:

- A. Technical standards. For the purpose of this article, the following documents shall serve as the official guides and specifications for stormwater management. Stormwater management practices that are designed and constructed in accordance with these technical documents shall be presumed to meet the standards imposed by this article:
 - (1) The New York State Stormwater Management Design Manual (New York State Department of Environmental Conservation, most current version or its successor, hereafter referred to as the Design Manual);
 - (2) New York Standards and Specifications for Erosion and Sediment Control, (Empire State Chapter of the Soil and Water Conservation Society, 2004, most current version or its successor, hereafter referred to as the "Erosion Control Manual").
- B. Equivalence to technical standards. Where stormwater management practices are not in accordance with technical standards, the applicant or developer must demonstrate equivalence to the technical standards set forth in § 155-85A, and the SWPPP shall be prepared by a licensed professional.
- C. Water quality standards. Any land development activity shall not cause an increase in turbidity that will result in substantial visible contrast to natural conditions in surface waters of the State of New York.

§ 155-86. Maintenance, inspection and repair of stormwater facilities.

- A. Maintenance and inspection during construction.
 - (1) The applicant or developer of the land development activity or their representative

shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the applicant or developer to achieve compliance with the conditions of this article. Sediment shall be removed from sediment traps or sediment ponds whenever their design capacity has been reduced by 50%.

- (2) For land development activities as defined in § 155-6 of this chapter and meeting Condition A, B or C in § 155-84B, the applicant shall have a qualified professional conduct site inspections and document the effectiveness of all erosion and sediment control practices every seven days and within 24 hours of any storm event producing 0.5 inch of precipitation or more. Inspection reports shall be maintained in a site logbook.
 - (3) The applicant or developer or their representative shall be on site at all times when construction or grading activity takes place and shall inspect and document the effectiveness of all erosion and sediment control practices.
- B. Maintenance easement(s). Prior to the issuance of any approval that has a stormwater management facility as one of the requirements, the applicant or developer must execute a maintenance easement agreement that shall be binding on all subsequent landowners served by the stormwater management facility. The easement shall provide for access to the facility at reasonable times for periodic inspection by the Village of Manorhaven to ensure that the facility is maintained in proper working condition to meet design standards and any other provisions established by this article. The easement shall be recorded by the grantor in the office of the County Clerk after approval by the counsel for the Village of Manorhaven.
- C. Maintenance after construction. The owner or operator of permanent stormwater management practices installed in accordance with this article shall ensure they are operated and maintained to achieve the goals of this article. Proper operation and maintenance also includes as a minimum, the following:
- (1) A preventive/corrective maintenance program for all critical facilities and systems of treatment and control (or related appurtenances) which are installed or used by the owner or operator to achieve the goals of this article.
 - (2) Written procedures for operation and maintenance and training new maintenance personnel.
 - (3) Discharges from the SMPs shall not exceed design criteria or cause or contribute to water quality standard violations in accordance with § 155-85C.
- D. Maintenance agreements. The Village of Manorhaven shall approve a formal maintenance agreement for stormwater management facilities binding on all subsequent landowners and recorded in the office of the County Clerk as a deed restriction on the property prior to final plan approval. The maintenance agreement shall be consistent with the terms and conditions of Schedule B of this article, entitled "Sample Stormwater Control Facility Maintenance Agreement."²⁰ The Village of Manorhaven, in lieu of a maintenance agreement, at its sole discretion may accept dedication of any existing or future stormwater management facility,

20. Editor's Note: Schedule B is included at the end of this chapter.

provided such facility meets all the requirements of this article and includes adequate and perpetual access and sufficient area, by easement or otherwise, for inspection and regular maintenance.

§ 155-87. Administration and enforcement.

A. Construction inspection.

- (1) The Village of Manorhaven Stormwater Management Officer may require such erosion and sediment control inspections as necessary to determine compliance with this article and may either approve that portion of the work completed or notify the applicant wherein the work fails to comply with the requirements of this article and the stormwater pollution prevention plan (SWPPP) as approved. To obtain inspections, the applicant shall notify the Village of Manorhaven enforcement official at least 48 hours before any of the following as required by the Stormwater Management Officer:
 - (a) Start of construction;
 - (b) Installation of sediment and erosion control measures;
 - (c) Completion of site clearing;
 - (d) Completion of rough grading;
 - (e) Completion of final grading;
 - (f) Close of the construction season;
 - (g) Completion of final landscaping;
 - (h) Successful establishment of landscaping in public areas.
- (2) If any violations are found, the applicant and developer shall be notified in writing of the nature of the violation and the required corrective actions. No further work shall be conducted except for site stabilization until any violations are corrected and all work previously completed has received approval by the Stormwater Management Officer.

B. Stormwater management practice inspections.

- (1) The Village of Manorhaven Stormwater Management Officer is responsible for conducting inspections of stormwater management practices (SMPs). All applicants are required to submit as-built plans for any stormwater management practices located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer.

C. Inspection of stormwater facilities after project completion.

- (1) Inspection programs shall be established on any reasonable basis, including but not limited to routine inspections; random inspections; inspections based upon complaints or other notice of possible violations; inspection of drainage basins or areas identified as higher-than-typical sources of sediment or other contaminants or pollutants; inspections of businesses or industries of a type associated with higher-than-usual

discharges of contaminants or pollutants or with discharges of a type which are more likely than the typical discharge to cause violations of state or federal water or sediment quality standards or the SPDES stormwater permit; and joint inspections with other agencies inspecting under environmental or safety laws. Inspections may include but are not limited to reviewing maintenance and repair records; sampling discharges, surface water, groundwater, and material or water in drainage control facilities; and evaluating the condition of drainage control facilities and other stormwater management practices.

- (2) Inspections may be performed by Village of Manorhaven staff or the Village of Manorhaven may designate an inspector required to have a professional engineer's (PE) license or certified professional in erosion and sediment control (CPESC) certificate, as long as the designated inspector is required to submit a report.

D. Submission of reports.

- (1) The Village of Manorhaven Stormwater Management Officer may require monitoring and reporting from entities subject to this article as are necessary to determine compliance with this article.

E. Right-of-entry for inspection.

- (1) When any new stormwater management facility is installed on private property or when any new connection is made between private property and the public storm water system, the landowner shall grant to the Village of Manorhaven the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection as specified in § 155-87C.

§ 155-88. Performance guarantee.

- A. Construction completion guarantee. In order to ensure the full and faithful completion of all land development activities related to compliance with all conditions set forth by the Village of Manorhaven in its approval of the stormwater pollution prevention plan, the Village of Manorhaven may require the applicant or developer to provide, prior to construction, a performance bond, cash escrow, or irrevocable letter of credit from an appropriate financial or surety institution which guarantees satisfactory completion of the project and names the Village of Manorhaven as the beneficiary. The security shall be in an amount to be determined by the Village of Manorhaven based on submission of final design plans, with reference to actual construction and landscaping costs. The performance guarantee shall remain in force until the surety is released from liability by the Village of Manorhaven, provided that such period shall not be less than one year from the date of final acceptance or such other certification that the facility(ies) have been constructed in accordance with the approved plans and specifications and that a one-year inspection has been conducted and the facilities have been found to be acceptable to the Village of Manorhaven. Per-annum interest on cash escrow deposits shall be reinvested in the account until the surety is released from liability.
- B. Maintenance guarantee. Where stormwater management and erosion and sediment control facilities are to be operated and maintained by the developer or by a corporation that owns or

manages a commercial or industrial facility, the developer, prior to construction, may be required to provide the Village of Manorhaven with an irrevocable letter of credit from an approved financial institution or surety to ensure proper operation and maintenance of all stormwater management and erosion control facilities both during and after construction, and until the facilities are removed from operation. If the developer or landowner fails to properly operate and maintain stormwater management and erosion and sediment control facilities, the Village of Manorhaven may draw upon the account to cover the costs of proper operation and maintenance, including engineering and inspection costs.

- C. Recordkeeping. The Village of Manorhaven may require entities subject to this article to maintain records demonstrating compliance with this article.

§ 155-89. Enforcement; penalties for offenses.

- A. Notice of violation.

- (1) When the Village of Manorhaven determines that a land development activity is not being carried out in accordance with the requirements of this article, it may issue a written notice of violation to the landowner. The notice of violation shall contain:

- (a) The name and address of the landowner, developer or applicant;
- (b) The address when available or a description of the building, structure or land upon which the violation is occurring;
- (c) A statement specifying the nature of the violation;
- (d) A description of the remedial measures necessary to bring the land development activity into compliance with this article and a time schedule for the completion of such remedial action;
- (e) A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
- (f) A statement that the determination of violation may be appealed to the municipality by filing a written notice of appeal within 15 days of service of notice of violation.

- B. Stop-work orders. The Village of Manorhaven may issue a stop-work order for violations of Article XI. Persons receiving a stop-work order shall be required to halt all land development activities, except those activities that address the violations leading to the stop-work order. The stop-work order shall be in effect until the Village of Manorhaven confirms that the land development activity is in compliance and the violation has been satisfactorily addressed. Failure to address a stop-work order in a timely manner may result in civil, criminal, or monetary penalties in accordance with the enforcement measures authorized in this article.
- C. Violations. Any land development activity that is commenced or is conducted contrary to Article XI may be restrained by injunction or otherwise abated in a manner provided by law.
- D. Penalties. The provisions of § 155-68, Penalties for offenses, shall prevail.
- E. Withholding of certificate of occupancy. If any building or land development activity is

installed or conducted in violation of this article, the Stormwater Management Officer may prevent the occupancy of said building or land.

- F. Restoration of lands. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Village of Manorhaven may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

§ 155-90. Fees for services.

The Village of Manorhaven may require any person undertaking land development activities regulated by this article to pay reasonable costs at prevailing rates for review of SWPPPs, inspections, or SMP maintenance performed by the Village of Manorhaven or performed by a third party for the Village of Manorhaven.

§ 155-91. Severability.

If the provisions of this article, section, subsection, paragraph, subdivision or clause of this article shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this article.