

## **Items to Move to General Bylaws - proposed**

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

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

### **Summary:**

- Remove the regulation of sections regulating Junk Cars; Curb Cuts; and stormwater management from Zoning.
- Transfer the responsibility for approving curb cuts from the Planning Board to the DPW
- Regulate these issues in the General Bylaws.
- The General Bylaws have broader applicability.
- Stormwater regulations will still apply in Zoning by reference.
- The DPW will have the authority to approve curb cuts which are approved on the basis of safety and drainage.

### **Delete from Zoning**

Delete section 8.5 of Zoning

Delete 6.15 Stormwater Special Permit from the Zoning Bylaw

Delete section 6.2.7 Curb Cuts

### **Junk Cars**

Add the following to section XX of the General Bylaws

#### **Junk Cars**

No person in charge or control of any real estate within the Town, whether as owner, tenant, occupant, lessee or otherwise, shall allow any partially dismantled, nonoperating, wrecked or junked motor vehicles to remain on such property longer than 60 days without a valid windshield sticker, so-called, issued and displayed in accordance with the requirements of Chapter 90, Section 7A of the General Laws as amended, and the rules and regulations of the Registrar of

Motor Vehicles, unless a permit therefor has been obtained from the Zoning Board of Appeals. The Board shall not issue a permit unless it finds that such vehicle on said premises will not constitute a hazard to the safety or welfare of the inhabitants of the Town nor will otherwise nullify or substantially derogate from the intent or purpose of this By-Law. No such permit shall be required for a vehicle in an enclosed building nor for a vehicle on the property of a lawful business or farming enterprise necessary to such operation, or for motor vehicles at the place of business of a holder of a class license under Sections 58 and 59 of Chapter 140 of the General Laws.

### **Curb cuts**

Amend the General Bylaws as

#### **ARTICLE X: POLICE AND OTHER REGULATIONS**

##### **SECTION 45: DRIVEWAY ENTRANCES**

###### **A. Purpose and Intent**

The purpose of this by-law is to promote pedestrian safety, limit potential traffic conflicts, and to control the flow of water onto public ways and neighboring properties.

###### **B. Applicability**

All new and relocated driveway entrances for all land uses shall require a permit issued by the Department of Public Works (DPW). This permit shall be separate and in addition to any building permit or site plan review that may be otherwise required.

###### **C. Regulation of Driveway Entrances**

All driveway entrances shall be located at least 20 feet from the nearest street intersection, 10 feet from the nearest driveway entrance or fire hydrant, and 5 feet from side lot lines, trees, utility poles or street light fixtures. Driveway entrances should be designed to maximize visibility in all directions, to minimize the flow of water onto the public way and adjacent properties. There shall normally be not more than one driveway apron and curb cut per residential lot. Residential uses are encouraged to utilize only one driveway entrance with two being the maximum allowable.

The driveway width as it approaches the driveway entrance shall have a minimum of 8 feet and a maximum of 12 feet in width, with a combined driveway flare area of 5 feet divided on either side of the driveway as needed and a curb return, if applicable, of no more than 3 feet.

If a sidewalk or roadway is constructed or modified, it shall be done in accordance with MAAB/ADA and DPW standards.

The use of pervious materials is encouraged.

###### **D. Administration and Enforcement**

Any curb cuts that do not comply with the criteria defined herein, or in the opinion of the DPW should require special review, may be permitted if a special permit is granted by the Planning Board.

All driveway entrances in existence prior to the adoption of this bylaw shall not require review unless they are substantially modified or relocated. A driveway entrance permit shall expire after 2 years of issuance.

Failure to comply with this by-law shall result in a fine of \$50 per day until the non-compliance is corrected or temporary allowances are granted by the DPW.

### **Storage of Materials**

Amend Section XXX of the General bylaws by adding the following.

#### **Storage of Commercial materials and vehicles**

The building inspector shall allow the following, provide that they are not visible from the public way and do not create a nuisance:

- The storage of building and landscaping materials and equipment;
- Commercial landscaping equipment, materials, supplies;
- Unless garaged on the premises, the overnight parking of commercial vehicles owned or operated by a resident of the premises limited to one commercial vehicle less than 10,000 lbs gvwt
- Storage of recreational vehicles, boats, and trailers within five (5) feet from the property line.

## Stormwater

Add a new Section XX of the General Bylaws as follows

### Stormwater Management Special Permit

[Added 2007] Updated to match 2008 Massachusetts Stormwater Handbook

#### PURPOSE AND INTENT

- A. Regulation of discharges to the municipal separate storm sewer system (MS4) is necessary for the protection of the Town of Manchester-by-the-Sea's water bodies and groundwater, and to safeguard the public health, safety, welfare and the environment. Increased and contaminated stormwater runoff associated with developed land uses and the accompanying increase in impervious surface are major causes of impairment of water quality and flow and contamination of drinking water supplies, erosion of stream channels, alteration or destruction of aquatic and wildlife habitat, and flooding.
- B. This By-Law establishes stormwater management standards for the final conditions that result from development and redevelopment projects, as well as construction activities, to minimize adverse impacts offsite and downstream which would be borne by abutters to development projects and the general public.
- C. The goals and objectives of this By-law are:
  1. To require practices to control the flow of stormwater from new and redeveloped sites into the Town storm drainage system in order to prevent flooding and erosion;
  2. To protect groundwater and surface water from degradation;
  3. To promote groundwater recharge;
  4. To prevent pollutants from entering the Town's municipal separate storm sewer system (MS4) and to minimize discharge of pollutants from the MS4;
  5. To ensure adequate long-term operation and maintenance of structural stormwater best management practices so that they work as designed;
  6. To comply with state and federal statutes and regulations relating to stormwater discharges; and
  7. To establish the Town's legal authority to ensure compliance with the provisions of this By-law through inspection, monitoring, and enforcement.

#### DEFINITIONS

**Alteration of drainage characteristics:** Any activity on an area of land that changes the water quality, force, direction, timing or location of runoff flowing from the area. Such changes include: change from distributed runoff to confined, discrete discharge; change in the volume of runoff from the area; change in the peak rate of runoff from the area; and change in the recharge to groundwater on the area.

**Best management practice (BMP):** An activity, procedure, restraint, or structural improvement that helps to reduce the quantity or improve the quality of stormwater runoff.

**Clearing:** Any activity that removes the vegetative surface cover.

**Development:** The modification of land to accommodate a new use or expansion of use, usually involving construction.

**Disturbance of land:** Any action that causes a change in the position, location, or arrangement of soil, sand, rock, gravel or similar earth materials.

**Grading:** Changing the level or shape of the ground surface. **Grubbing:** The act of clearing land surface by digging up roots and stumps.

**Impervious surface:** Any material or structure on or above the ground that prevents water infiltrating the underlying soil. Impervious surface includes (without limitation) roads, paved parking lots, sidewalks, and rooftops.

**Massachusetts Stormwater Management Policy:** The Policy issued by the Department of Environmental Protection, and as amended, that coordinates the requirements prescribed by state regulations promulgated under the authority of the Massachusetts Wetlands Protection Act G.L. c. 131 § 40 and Massachusetts Clean Waters Act G.L. c. 21 §. 23-56. The Policy addresses stormwater impacts through implementation of performance standards to reduce or prevent pollutants from reaching water bodies and control the quantity of runoff from a site.

**Municipal Separate Storm Sewer System (MS4) or Municipal storm drain system:** The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Manchester-by-the-Sea.

**Operation and Maintenance Plan:** A plan setting up the functional, financial and organizational mechanisms for the ongoing operation and maintenance of a stormwater management system to insure that it continues to function as designed.

**Outfall:** The point at which stormwater flows out from a point source that is a discernible, confined and discrete conveyance into waters of the Commonwealth.

**Outstanding resource waters (ORWs):** Waters designated by Massachusetts Department of Environmental Protection as ORWs. These waters have exceptional sociologic, recreational, ecological and/or aesthetic values and are subject to more stringent requirements under both the Massachusetts Water Quality Standards (314 CMR 4.00) and the Massachusetts Stormwater Management Standards. ORWs include vernal pools certified by the Natural Heritage Program of the Massachusetts Department of Fisheries and Wildlife and Environmental Law Enforcement, all Class A designated public water supplies with their bordering vegetated wetlands, and other waters specifically designated.

**Owner:** A person with a legal or equitable interest in property

**Person:** An individual, partnership, association, firm, company, trust, corporation, agency, authority, department or political subdivision of the Commonwealth or the federal government, to the extent permitted by law, and any officer, employee, or agent of such person.

**Point source:** Any discernible, confined, and discrete stormwater conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, or container from which pollutants are or may be discharged.

**Redevelopment:** Development, rehabilitation, expansion, demolition or phased projects that disturb the ground surface or increase the impervious area on previously developed sites.

**Runoff:** Rainfall, snowmelt, or irrigation water flowing over the ground surface.

**Stormwater management plan:** A plan required as part of the application for a Stormwater Management Permit. See Section 6.15.7.

**Stormwater:** Storm water runoff, snow melt runoff, and surface water runoff and drainage.

**TSS:** Total suspended solids.

### 6.15.3 AUTHORITY

This By-Law is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes and pursuant to the regulations of the federal Clean Water Act found at 40 CFR 122.34.

### APPLICABILITY

- A. No person may undertake a construction activity; including clearing, grading, and excavation; that results in a land disturbance that will disturb equal to or greater than one acre of land or will disturb less than one acre of land but is part of a larger common plan of development that will ultimately disturb equal to or greater than one acre of land draining to the Town's municipal separate storm sewer system without a special permit from the Planning Board.
- B. Activities or land uses that otherwise require a special permit from the Planning Board shall not be required to obtain an independent special permit under to this Section 6.15 provided that the applicable terms, conditions, and requirements of this Section 6.15 are imposed within the special permit issued by the Planning Board.
- C. Exemptions:
  1. Normal maintenance and improvement of land in agricultural use as defined by the Wetlands Protection Act regulation 310 CMR 10.04;
  2. Maintenance of existing landscaping, gardens or lawn areas associated with a single family dwelling;
  3. The construction of fencing that will not substantially alter existing terrain or drainage patterns;
  4. Construction and installation of utilities other than drainage (gas, water, electric, telephone, etc.) which will not alter terrain or drainage patterns;
  5. As authorized in the Phase II Small MS4 General Permit for Massachusetts, storm water discharges resulting from the activities identified in Section 6.15.4 that are wholly subject to jurisdiction under the Wetlands Protection Act and demonstrate compliance with the Massachusetts Storm Water Management Policy as reflected in an Order of Conditions issued by the Conservation Commission are exempt from compliance with this Section 6.15.

6. Large-Scale Ground-Mounted Solar Photovoltaic Installations.

**ADMINISTRATION**

- A. The Planning Board shall administer, implement and enforce this By-Law pursuant to G.L. c.40A s.9 and the special permit regulations of the Zoning By-Law.

**PERMITS AND PROCEDURE**

- A. Filing Application. The site owner or his agent shall file a completed application package for a Stormwater Management Special Permit (SMSP) as follows: one copy (with the filing fee) with the Town Clerk and ten (10) additional copies with the Planning Board (by delivery with the above copy to the Town Clerk). Permit issuance is required prior to any site altering activity. While the applicant can be a representative, the permittee must be the owner of the site. Each copy of the SMSP Application package shall include:
1. a completed Application Form with original signatures of all owners;
  2. a list of abutters, certified by the Assessors Office;
  3. the Stormwater Management Plan and project description as specified in Section 6.15.7 of this By-law;
  4. the Operation and Maintenance Plan as required by Section 6.15.8 of this ByLaw;
- B. Entry. Filing an application for a special permit grants the Planning Board, or its agent, permission to enter the site to verify the information in the application and to inspect for compliance with the resulting special permit
- C. Other Boards. The applicant for a Stormwater Management Special Permit shall deliver a copy of the application package, within three (3) business days of filing the application with the Planning Board, to each of the Board of Health, Conservation Commission and Department of Public Works, and shall file a certificate of such delivery with the Planning Board.
- D. Fee Structure. The Planning Board is authorized to establish an application form and filing fees, and to retain, at the applicant's expense, Registered Professional Engineers, or other professional consultants, to review and advise the Board on any or all aspects of these plans.
- E. Public Hearing. The Planning Board shall hold a public hearing in accordance with G.L. c.40A ss. 9 and 11.
- F. Actions. The Planning Board's action, rendered in writing, shall consist of either:
1. Approval of the Stormwater Management Special Permit Application based upon determination that the proposed plan meets the Standards in Section 6.15.7 and Section 7.5 of this By-law and will adequately protect the water resources of the Town and is in compliance with the requirements set forth in this Section 6.15;
  2. Approval of the Stormwater Management Special Permit Application; subject to any conditions, modifications, or restrictions required by the Planning Board which will ensure that the project meets the Standards in Section 6.15.7 and Section 7.5 of this By-law and adequately protects water resources, set forth in this Section 6.15;
  3. Disapproval of the Stormwater Management Special Permit Application based upon a determination that the proposed plan, as submitted, does not meet the Standards in Section 6.15.7, Section 7.5 of this By-Law or adequately protects water resources, as required herein.

4. Project Completion. At completion of the project, the permittee shall submit as-built record drawings of all structural stormwater controls and best management treatment practices required for the site. The as-built drawing shall show deviations from the approved plans, if any, and be certified by a Registered Professional Engineer.

## STORMWATER MANAGEMENT PLAN

- A. The Stormwater Management Plan shall contain sufficient information for the Planning Board to evaluate the environmental impact, effectiveness, and acceptability of the measures proposed by the applicant for reducing adverse impacts from stormwater. The Plan shall be designed to meet the Massachusetts Stormwater Management Standards as set forth in Part B of this section and DEP Stormwater Management Handbook Volumes I and II. The Stormwater Management Plan shall fully describe the project in drawings, and narrative.
- B. The Plan shall include:
  1. A locus map;
  2. The existing zoning and land use at the site;
  3. The proposed land use;
  4. The location(s) of existing and proposed easements;
  5. The location of existing and proposed utilities;
  6. The site's existing and proposed topography with contours at 2-foot intervals;
  7. The existing site hydrology;
  8. A description and delineation of existing stormwater conveyances, impoundments, and wetlands on or adjacent to the site or into which stormwater flows;
  9. A delineation of 100-year flood plains, if applicable;
  10. Estimated seasonal high groundwater elevation (November to April) in areas to be used for stormwater retention, detention, or infiltration;
  11. The existing and proposed vegetation and ground surfaces with runoff coefficient for each;
  12. A drainage area map showing pre-construction and post-construction watershed boundaries, drainage area, and stormwater flow paths;
  13. A description and drawings of all components of the proposed drainage system including:
    - a. locations, cross sections, and profiles of all brooks, streams, drainage swales, and their method of stabilization;
    - b. all measures for the detention, retention, or infiltration of water;
    - c. all measures for the protection of water quality;
    - d. the structural details for all components of the proposed drainage systems and stormwater management facilities;
    - e. notes on drawings specifying materials to be used and construction specifications; and
    - f. expected hydrology with supporting calculations.
  14. Proposed improvements including location of buildings or other structures, impervious surfaces, and drainage facilities, if applicable;
  15. Timing, schedules, and sequence of development including clearing, stripping, rough grading, construction, final grading, and vegetative stabilization;

16. A maintenance schedule for the period of construction; and
17. Any other information requested by the Planning Board.

C. Standards

Projects shall meet the Standards of the Massachusetts Stormwater Management Policy, which are as follows:

1. No new stormwater conveyances (e.g. outfalls) may discharge untreated stormwater directly to or cause erosion in wetlands or waters of the Commonwealth.
2. Stormwater management systems must be designed so that post-development peak discharge rates do not exceed pre-development peak discharge rates. This Standard may be waived for discharges to land subject to coastal storm flowage as defined in 310 CMR 10.04.
3. Loss of annual recharge to groundwater shall be eliminated or minimized with infiltration measures including environmentally sensitive site design, low impact development techniques, stormwater best management practices, and good operation and maintenance. The annual recharge from the post-development site should approximate the annual recharge rate from the pre-development or existing site conditions based on soil types. This Standard is met when the stormwater management system is designed to infiltrate the required recharge volume as determined in accordance with the Massachusetts Stormwater Handbook.
4. Stormwater management systems shall be designed to remove 80% of the average annual post-construction load of Total Suspended Solids (TSS). It is presumed that this standard is met when:
  - a. Suitable practices for source control and pollution prevention are in a long-term pollution prevention plan and are thereafter implemented and maintained;
  - b. Structural stormwater management best management practices (BMPs) are sized to capture the required water quality volume determined in accordance with the Massachusetts Stormwater Handbook; and
  - c. Pre-treatment is provided in accordance with the Massachusetts Stormwater Handbook.
5. For land uses with higher potential pollutant loads, source control and pollution prevention shall be implemented in accordance with the Massachusetts Stormwater Handbook to eliminate or reduce the discharge of stormwater runoff from such land uses to the maximum extent practicable. If through source control and/or pollution prevention all land uses with higher potential pollutant loads cannot be completely protected from exposure to rain, snow, snow melt, and stormwater runoff; the proponent shall use the specific structural stormwater BMPs determined by the Department to be suitable for such uses as provided in the Massachusetts Stormwater Handbook. Stormwater discharges from land uses with higher potential pollutant loads shall also comply with the requirements of the Massachusetts Clean Waters Act, M.G.L. c. 21, §§ 26-53 and the regulations promulgated thereunder at 314 CMR 3.00, 314 CMR 4.00 and 314 CMR 5.00.
6. Stormwater discharges to critical areas within the Zone II or Interim Wellhead Protection Area of a public water supply and stormwater discharges near or to any other critical area require the use of the specific source control and pollution prevention measures and the specific structural stormwater best management practices determined by the Department to be suitable for managing discharges to such areas as provided in the Massachusetts

Stormwater Handbook. A discharge is near a critical area if there is a strong likelihood of a significant impact occurring to said area, considering site-specific factors. Stormwater discharges to Outstanding Resource Waters and Special Resource Waters shall be removed and set back from the receiving water or wetland and receive the highest and best practical method of treatment. A “storm water discharge” as defined in 314 CMR 3.04(2)(a)1 or (b) to an Outstanding Resource Water or Special Resource Water shall comply with 314 CMR 3.00 and 314 CMR 4.00. Stormwater discharges to a Zone I or Zone A are prohibited unless essential to the operation of a public water supply. Critical areas also include swimming beaches and cold-water fisheries.

7. Redevelopment of previously-developed sites must meet the Stormwater Management Standards only to the maximum extent practicable : Standard 2, Standard 3, and the pretreatment and structural best management practice requirements of Standards 4, 5, and 6. Existing stormwater discharges shall comply with Standard 1 only to the maximum extent practicable. A redevelopment project shall also comply with all other requirements of the Stormwater Management Standards and stormwater management systems must be designed to improve existing conditions.
8. A plan to control construction-related impacts including erosion, sedimentation and other pollutant sources during construction and land disturbance activities (construction period erosion, sedimentation, and pollution prevention plan) shall be developed and implemented.
9. All stormwater management systems must have a long term Operation and Maintenance Plan to ensure that systems function as designed.
10. All illicit discharges to the stormwater management system are prohibited.

When one or more of the Standards cannot be met, an applicant may demonstrate that an equivalent level of environmental protection will be provided.

D. Reporting Requirements

The applicant shall prepare and submit semi-annual reports to the Planning Board for the first two (2) years after issuance of the Certificate of Completion, and annual reports thereafter demonstrating compliance with the terms and conditions of the special permit received from the Planning Board.

## **OPERATION AND MAINTENANCE PLANS**

- A. An Operation and Maintenance Plan (O&M Plan) is required at the time of application for all projects. The O&M Plan shall be designed to ensure that compliance with the Permit, this By-Law and the Massachusetts Surface Water Quality Standards, 314 CMR 4.00 are met in all seasons and throughout the life of the system. The Planning Board shall make the final decision of what maintenance option is appropriate in each situation. The Planning Board will consider natural features, proximity of site to water bodies and wetlands, extent of impervious surfaces, size of the site, the types of stormwater management structures, and potential need for ongoing maintenance activities when making this decision. The O&M Plan shall remain on file with the Planning Board and shall be an ongoing requirement. The O&M Plan shall include:
  1. The name(s) of the owner(s) for all components of the system;
  2. Maintenance agreements that specify:

- a. The names and addresses of the person(s) responsible for operation and maintenance;
  - b. The person(s) responsible for financing maintenance and emergency repairs;
  - c. A Maintenance Schedule for all drainage structures including swales and ponds;
  - d. A list of easements with the purpose and location of each; and
  - e. The signature(s) of the owner(s).
3. Stormwater Management Easement(s):
- a. Stormwater management easements shall be provided by the property owner(s) as necessary for:
    - i. access for facility inspections and maintenance;
    - ii. preservation of stormwater runoff conveyance, infiltration, and detention areas and facilities, including flood routes for the 100- year storm event; and
    - iii. direct maintenance access by heavy equipment to structures requiring regular cleanout.
  - b. The purpose of each easement shall be specified in the maintenance agreement signed by the property owner(s);
  - c. Stormwater management easements are required for all areas used for off-site stormwater control unless a waiver is granted by the Planning Board;
  - d. Easements shall be recorded with the Essex County South Registry of Deeds prior to issuance of a Certificate of Completion by the Planning Board;
  - e. Changes to Operation and Maintenance Plans;
  - f. The owner(s) of the stormwater management system must notify the Planning Board of changes in ownership or assignment of financial responsibility.
- B. The maintenance schedule in the Maintenance Agreement may be amended to achieve the purposes of this by-law by mutual agreement of the Planning Board and the Responsible Parties. Amendments must be in writing and signed by all Responsible Parties. Responsible Parties shall include owner(s), persons with financial responsibility, and persons with operational responsibility.

## **SURETY**

- A. The Planning Board may require the permittee to post a surety bond, irrevocable letter of credit, cash, or other acceptable security before the start of land disturbance or construction activity. The bond shall be in an amount deemed sufficient by the Planning Board to ensure that the work will be completed in accordance with the permit. If the project is phased, the Planning Board may release part of the bond as each phase is completed in compliance with the permit, but the bond may not be fully released until the Board has received the final inspection report as required below and has issued a Certificate of Completion. Where the applicant is simultaneously seeking approval from the Planning Board pursuant to the Subdivision Control Law, the performance bond provisions of G.L. c.41 s.81-U shall supersede the requirements of Section 6.15.9 provided that, in the opinion of the Planning Board, the performance bond so executed includes sufficient protections to the Town for work to be completed pursuant to this Section 6.15.

## **INSPECTIONS**

The Planning Board's representative shall inspect the site at the following stages:

1. Initial Site Inspection:
  - a. prior to approval of any plan;
2. Erosion Control Inspection:
  - a. to ensure erosion control practices are in accord with the filed plan;
3. Bury Inspection:
  - a. prior to backfilling of any underground drainage or stormwater conveyance structures;
4. Final Inspection:
  - a. After the stormwater management system has been constructed and before the surety has been released, the applicant must submit a record plan detailing the actual stormwater management system as installed. The Planning Board's representative shall inspect the system to confirm its "as-built" features. This inspection shall also evaluate the effectiveness of the system in an actual storm. If the inspection finds the system to be adequate, the Planning Board shall issue a Certificate of Completion.
  - b. If the system is found to be inadequate by virtue of physical evidence or operational failure, even though it was built in accordance with the Stormwater Management Plan, it shall be corrected by the permittee before the performance guarantee is released. If the permittee fails to act, the Town may use the surety bond to complete the work.

#### **CERTIFICATE OF COMPLETION**

The Planning Board will issue a letter certifying completion upon receipt and approval of the final inspection reports and/or upon otherwise determining that all work of the special permit has been satisfactorily completed in conformance with the special permit and Section 6.15.

#### **SEVERABILITY**

If any provision, paragraph, sentence, or clause of this By-law shall be held invalid for any reason, all other provisions shall continue in full force and effect.