

## SECTION 6.0 GENERAL REGULATIONS

### 6.1 OFF-STREET PARKING

#### 6.1.1 General.

Purpose: Off-street parking must be provided to service the net increase in parking demand created by new construction, additions or change of use. The regulations governing the design and maintenance of off-street parking facilities are intended to protect the health, safety and welfare of the users of the parking facility and of abutting properties, including pedestrians and motorists. Therefore, the regulations herein provide for internal and perimeter landscaping, planting, walls, fences and other improvements to reduce noise, glare or reflection from autos, lights, fumes and the like, and minimum standards for parking space and aisle dimensions to ensure safe traffic circulation within the parking facility and from entrances and exits. An additional goal of these regulations is to reduce land clearing and environmental harms from impervious surfaces and urban heat island, as well as to control development costs.

**6.1.2 Number and Dimension of Spaces.** The standards set forth in the Table 4: Table of Uses and Parking must be met without counting any existing parking necessary for existing activities to meet these requirements. Off-street parking spaces shall be designed with minimum dimensions of 9 feet by 18 feet. In parking areas of more than six (6) spaces, one third of the spaces may be compact car spaces, with minimum dimensions of 8 feet by 16 feet. Parking facilities shared between two or more users are encouraged to minimize excess paving and the size and number of areas devoted to parking. Parking lots and associated improvements shall comply with ADA and the MA Architectural Access Board regulations (521 CMR). Traffic-calming measures such as crosswalks, bike lanes, rumble-strips and landscape islands may be required as necessary. For accessory uses not listed in this table, the required number of parking spaces to accommodate expected demand will be determined by the Inspector of Buildings, with the advice of the Planning Board.

USE	Parking Spaces Required
<b>A. RESIDENTIAL</b>	
1. One single-family detached dwelling	2
2. Two-family dwelling	3
3. Three-family dwelling	5
4. Four- family or more dwelling unit	1.5 spaces per unit, rounded up
5. Residential Conservation Cluster	Same as required for equivalent dwelling unit
6. Senior Housing	1 for each independent residential unit; .75 for each assisted living unit

<b>B. COMMUNITY FACILITIES</b>	
1. Use of land or structures for religious purposes	1 space per every three seats and/or each 60 inches of permanent bench seating, or, where no fixed bench seats are used, one space per each four persons maximum occupancy
2. Use of land or structures for educational purposes or by a religious sect or denomination, or by a nonprofit educational corporation	1 space for each staff person, plus one space per each five persons of rated capacity in the largest auditorium, plus one space for each student vehicle which can be expected at any time on the premises
3. Child Care Center/School Aged Child Care Program	1 space per 10 children maximum rated capacity, plus one space per employee on largest shift
4. Municipal parks, playgrounds, senior center, offices, fire and police stations, municipal recreational uses, municipal wells, water storage and processing, sewage lift stations, and related building and parking facilities	Spaces required for each component of the mixed use
5. Municipal yards and related facilities	Spaces required for each component of the mixed use
6. Charitable or philanthropic use; Hospital	1 space for each three persons of rated capacity
7. Community or private club, not conducted for profit	1 space for each three persons of rated capacity
<b>C. AGRICULTURAL</b>	
1. Greenhouse and nursery uses on parcels less than five acres or two qualified acres	1 space per 150 sq. ft. of gross sales or service floor area
<b>D. COMMERCIAL</b>	
1. Adult Entertainment Uses	1 space for each three persons of rated capacity
2. Business or professional office; bank or financial institution	1 space per 300 sq. ft. of gross floor area
3. Medical office building with not more than one doctor's office	1 space per 300 sq. ft. of gross floor area
4. Medical office building	1 space per 300 sq. ft. of gross floor area
5. General retail uses	1 space per 150 sq. ft. of gross sales or service floor area

6. Personal or general service establishment	1 space per 150 sq. ft. of gross sales or service floor area
7. Restaurant	1 space for each four persons of rated capacity
8. Fast-food restaurant	1 space for each four persons of rated capacity
9. Motor Vehicle Light Service Station	1 space per 100 square feet of area in service bays
10. Repair or body shop for motor vehicles	1 space for each three persons of rated capacity
11. Motor vehicle or boat sales and service	1 space per each three employees on duty during normal work period, plus 1 space per each company car or truck
12. Printing and publishing establishment	1 space per each three employees on duty during normal work period, plus 1 space per each company car or truck
13. Indoor recreational club or facility operated for profit	1 space for each three persons of rated capacity
14. Outdoor recreational club or facility operated for profit	1 space for each three persons of rated capacity
15. Veterinary office or clinic	1 space per 300 sq. ft. of gross floor area
16. Yacht storage, construction, and service and related uses	1 space per each three employees on duty during normal work period, plus 1 space per each company car or truck
17. Fish and shellfish landing, storage, and handling (but not a fish processing or similar plant)	1 space per each three employees on duty during normal work period, plus 1 space per each company car or truck
18. Large-scale ground-mounted solar photovoltaic installation (See Section 7.1)	Parking spaces adequate to accommodate all normal demand as determined by the Inspector of Buildings, with the advice of the Planning Board
19. Marijuana Business	Parking spaces adequate to accommodate all normal demand as determined by the Inspector of Buildings, with the advice of the Planning Board
<b>E. ACCESSORY USES</b>	
1. Up to four-boarders in a single-family dwelling	N/A
2. Garaging or maintaining of more than 4 automobiles when accessory to a dwelling	1 for each vehicle
3. Accessory Dwelling Unit	1

4. Family day care home, large	1 space per 10 children maximum rated capacity, plus one space per employee on largest shift
5. Family day care home, small	1 space per 10 children maximum rated capacity, plus one space per employee on largest shift
6. Adult social day care	1 space per 10 persons maximum rated capacity, plus one space per employee on largest shift

**6.1.2 Number of Spaces.** The standards set forth in the Table 4: Table of Uses and Parking must be met without counting any existing parking necessary for existing activities to meet these requirements. Off-street parking spaces shall be designed with minimum dimensions of 9 feet by 18 feet. In parking areas of more than six (6) spaces, one third of the spaces may be compact car spaces, with minimum dimensions of 8 feet by 16 feet.

**6.1.3 Location.** Required parking shall be either on the same premises as the activity it serves, or located within 300 feet of the building entrance on a separate parcel, not separated by a street having right-of-way width of 60 feet or more, and in a zoning district allowing the activity it serves. Parking is allowed in any driveway serving a single-family or two-family residence, subject to the requirements of this Section.

**6.1.4 Backing.**—Parking areas for commercial buildings or multi-family properties shall be designed and located so that their use does not involve vehicles backing onto a public way or way utilized for public access.

**6.1.5 Setbacks.** Parking is allowed within the driveway for residential uses. No parking area shall be located in the front yard or within (5') feet of any property line. Parking in any other location may be authorized only by Special Permit from the Planning Board. Any waivers of setback requirements shall be limited to only those situations where the applicant needs a reduction in setback to meet the parking requirements for the proposed use. |

**6.1.6 Parking Area Plantings.** Landscape treatment around the perimeter and interior of the parking lot is required and shall be used to break up large expanses of pavement and manage excess heat (heat island effect) and stormwater. Parking areas containing (5) or more parking spaces shall have at least one (1) tree per every five (5) parking spaces, such trees to be located either within the lot or within ten (10') feet of it. Such trees shall be at least two (2") inches trunk diameter, with not less than forty (40) square feet of unpaved soil per tree, in landscape islands with no dimension less than four (4') feet in width. For any parking area having twenty (20) or more spaces, at least five (5%) percent of the interior area shall include landscaping, including trees in landscape islands of at least the dimensions of one parking space with no more than 10 contiguous parking spaces between each island. Trees shall be so located as to provide visual relief and sun and wind interruption within the parking area, shade for pedestrian circulation

routes, and to assure safe patterns of internal circulation. Trees shall be protected by curbs, bollards, or other barriers sufficient to prevent damage.

6.1.7 **Short-Term Bicycle Parking.** To encourage alternative and sustainable modes of transit, adequate parking for bicycles shall be provided for all commercial and multi-family developments and shall be located in a publicly accessible space near pedestrian entrances to the uses they are intended to serve. Short-Term Bicycle Parking shall be intended primarily to serve visitors making trips of up to a few hours to a particular use; however, it may serve other bicycle users as needed.

6.1.8 **Special Permit.** The Special Permit Granting Authority, or, if there is none, the Planning Board, may grant a special permit to waive any parking or loading requirement, when such waiver shall result in better design and cause no detriment to the neighborhood

## **6.2 SIGNS**

**6.2.1 General.** Advertising and other signs shall be permitted elsewhere in this bylaw. Signs shall also be subject to the applicable provisions of the General By-Laws of the Town of Manchester-by-the-Sea.

**6.2.2 Flashing, Animated, and Illuminated Signs.** No flashing, animated, or internally illuminated signs shall be permitted in any district. No illuminated sign of any kind shall be permitted in a Residence District.

**6.2.3 Real Estate Signs.** A real estate sign not over 6 square feet in area advertising for sale or rent the property on which it is placed is permitted in any district.

**6.2.4 General and Limited Commercial Districts.** In the General District and Limited Commercial District, the following signs are permitted:

1. One firm name sign for each firm or enterprise located in a building, no larger than 5 feet by 20 feet, attached to or flush to the building.
2. One non-illuminated announcement sign no larger than 3 feet by 3 feet, at the entrance or gates of a building.
3. One non-illuminated sign for each firm or enterprise located in a building, no larger than 2 feet by 6 feet, located at least 50 feet from any street.
4. In the General District, in addition to the signs permitted by this Section, one or more signs for advertising a business conducted on the premises is permitted, not projecting above the building on the premises and no larger than one square foot for each linear foot of frontage up to a maximum of 100 square feet.

**6.2.5 Special Permit.** The Special Permit Granting Authority, or, if there is none, the Planning Board, may grant a special permit to waive any signage requirement, when such waiver shall result in better design and cause no detriment to the neighborhood.

### 6.3 PERFORMANCE STANDARDS FOR SPECIAL PERMITS AND SITE PLAN REVIEW

**6.3.1 Purpose.** The following Performance Standards are adopted in order to control the size, scale, and impacts of non-residential and multi-family developments that require a special permit and/or site plan review. A special permit under this Section shall be granted only if the Planning Board or SPGA finds that it is in conformance with this Section generally and with Criteria, Procedure, and Conditions in Sections 12.5 and 12.6 of this By-law.

**6.3.2 Procedures, Rules and Regulations.** In addition to the procedures and requirements detailed in Sections 12.5 and 12.6 of this Bylaw, applicants for special permits or site plan approval shall comply with these Performance Standards. The Planning Board or SPGA may waive any of these procedures or requirements for single-family residences or for multi-family properties of six units or less. |

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#### 6.3.3 General Standards

**A. Lighting.** The proposed development shall not produce lighting so as to unreasonably interfere with the use and enjoyment of property within the Town.

**B. Noise.** The proposed development shall not unreasonably interfere with the reasonable use and enjoyment of property within the Town as a result of the generation of noise

**C. Topographical Standards and Clearing.** The proposed development will not unnecessarily alter the general topography and drainage, will minimize disturbance to natural habitat and ecosystems, and will provide natural buffers along property lines. The standards described in Section 6.4 shall apply to all applications for Special Permit or Site Plan Review.

**D. Site Development Standards.** To the extent feasible the proposed development shall be located to preserve and enhance the natural features of the site,

**E. Pedestrian and Vehicular Access; Traffic Management, Parking.** The proposed development shall be designed to maintain safety for pedestrians, bicyclists, and motor vehicle occupants.

**F. Aesthetics.** The location, size and design, building materials, and operating characteristics of the proposed development shall be compatible with abutting properties, with natural and built environment in the area and the surrounding neighborhood.

**G. Landscaping, Walls, and Fences.** The proposed development shall provide landscape amenities that contribute to human and environmental health, while providing adequate plantings and screening to mitigate the view of unsightly components of the development

**H. Utilities; Security; Emergency Systems.** The proposed development shall be adequately served by public or private utilities, security systems, and emergency systems.

***I. Fiscal Impact.*** The proposed development shall maintain a positive net fiscal position and social benefit to the Town for the long term

**6.3.4 Outdoor Lighting Standards.** Lighting practices and systems shall (i) reduce light pollution, light trespass and glare in order to preserve and enhance the natural, scenic, and aesthetic qualities of the Town; (ii) conserve energy and decrease lighting cost without decreasing night time safety, security, and productivity; and (iii) preserve the night sky as a natural resource to enhance nighttime enjoyment of property within the Town. The proposed development shall not produce lighting that causes negative impacts such as light trespass, glare, light pollution, or energy waste, in order to protect from intrusion of unwanted light and to preserve and enhance the natural, scenic, and aesthetic qualities of the Town. Glare is not allowed, including within property boundaries. Glare is light that enters the eye directly from light fixtures or indirectly from reflective surfaces that causes visual discomfort or reduced visibility. Lighting practices and systems shall (i) provide sufficient lighting for public safety, (ii) mitigate light trespass, and glare for abutters and the public at large; (iii) conserve energy; and (iv) prevent light pollution and preserve the night sky as a natural resource in order to reduce negative impacts on wildlife and to protect views of the night sky.

1. **Shielding.** All outdoor light fixtures shall be shielded so as to meet the goals of this Section.
2. **Light Trespass.** All light fixtures shall be located, aimed, and shielded so as to minimize light pollution and light trespass across property boundaries including any buffer zones or setbacks. Lighting shall comply with International Dark Sky Standards.
3. **Light Intensity, Color, and Efficiency.** Lighting shall be designed to provide the minimum intensity needed at any particular time with a 0.5-foot candle average maintained. Color temperature shall not exceed 3,500 Kelvin. Lighting shall be LED or approved current technology to minimize energy use.
4. **Illuminated Surfaces.** Area lighting shall be reduced or eliminated outside business hours. The Planning Board or SPGA may require that parking areas be equipped to support shut-off for specific periods of time or unused areas to reduce lighting trespass.
5. **Flickering and Flashing Lights.** No flickering or flashing lights shall be permitted. Processes such as arc welding, which create light flashes shall be confined within buildings or shielded to prevent either direct glare or flashing.
6. **Searchlights.** The operation of laser shows or searchlights for advertising is prohibited.
7. **Indoor Lighting.** Indoor light sources will not be projected outside in a manner to defeat the intent of this Section.
8. **Outdoor Signs.** Outdoor light fixtures used to illuminate an outdoor sign shall be mounted on top of the sign structure or otherwise restricted to prevent up-light and light trespass. Internally illuminated signage is prohibited.
9. **Height of Fixtures.**

- a. Wall-Mounted Fixtures attached to a building for area lighting shall be mounted no higher than twelve (12) feet above grade;
- b. Pole-mounted exterior lighting fixture types shall be mounted no higher than fourteen (14) feet above grade for pedestrian walkway lighting and twenty (20) feet above grade for parking lot lighting.

10. Hours of Operation. Except as may be deemed appropriate for site safety or security, all external lighting, including lighting accessory to authorized signs, shall be extinguished one half hour after the facility is closed for the business day. Such lighting may be timed to resume one half hour prior to the arrival of the first employee on the premises. Motion activated lights are encouraged for security purposes.

#### 11. Exemptions

- a. Lighting within public ways for the purpose of illuminating public ways.
- b. Lighting for outdoor recreational athletic facilities, with proper controls to minimize glare and light trespass, and automatic shutoff no later than 11:00 pm.
- c. Lighting in swimming pools and other water features. d. Lighting for public monuments, public art and statuary, flagpoles, or historic buildings at the discretion of the Planning Board or SPGA.

**6.3.5 Noise Standards.** The proposed development shall not unreasonably interfere with the reasonable use and enjoyment of property within the Town as a result of the generation of noise. Practices and systems shall (i) reduce noise pollution in order to preserve and enhance the natural and aesthetic qualities of the Town; (ii) preserve property values; and (iii) preserve neighborhood character. The proposed development shall meet all Town, State, and Federal noise regulations as certified by a professional acoustical engineer if the Building Inspector deems such certification necessary.

- 1. Limitation. No person or entity shall operate or cause to be operated any source of sound in a manner that creates a sound level of 10 dBA above ambient, as set forth in 310 CMR 7.10, measured at the property boundary of the receiving land use.
- 2. Hours of Operation. As a condition of any special permit or site plan approval, the SPGA or Planning Board may prohibit or regulate the following circumstances regarding hours of operation.
  - a. The loading, unloading, opening, closing or other handling of boxes, crates, containers, building materials, garbage cans, or other objects or materials for sale or storage or use in a manner that causes a condition of noise pollution at any time but most specifically between the hours of 6:00 P.M. and 8:00 AM. across a real property boundary in any district established under this Bylaw.

b. Operating or permitting the operation of tools or equipment used in construction, drilling or demolition work between the hours of 6:00 P.M. and 8:00 A.M. on weekdays or Saturday or at any time on Sundays or Holidays so that the sound creates a condition of noise pollution across a real property boundary.

c. The operation of construction devices between the hours 8:00 A.M. and 6:00 P.M. including such items as compressors, jackhammers, bulldozers, cranes, etc., in a manner that causes a condition of noise pollution that could be avoided by the application of best available technology, which might include mufflers where commercially available.

### **6.3.6 Topographical Changes and Clearing**

The standards described in Section 6.4 shall apply to all applications for Special Permit or Site Plan Review.

**6.3.7 Site Development Standards.** To the maximum extent feasible, the proposed development shall be located and designed to preserve and enhance the natural features and topography of the site, to avoid disturbances to existing healthy mature vegetation and environmentally sensitive areas, to maintain or mimic natural hydrologic conditions, to minimize adverse impacts of development on adjoining properties and the general public, to minimize the alteration of the natural features of the site, to adhere to the principles of resiliency and sustainability and to preserve and enhance scenic points, historic buildings and places and similar community assets which add value and attractiveness to the development and the Town.

1. Land Disturbance. Site/building design shall preserve natural topography outside of the development footprint to reduce unnecessary land disturbance and to preserve natural drainage on the site.
2. Replication. Cleared vegetation and alteration of topography shall be replicated with native woodland vegetation planted in disturbed areas as needed to enhance or restore wildlife habitat and pre-development site characteristics.
3. Clearing for Utility Trenching. Clearing for utility trenching shall be limited to the minimum area necessary to maneuver a backhoe or other construction equipment. Roots should be cut cleanly rather than pulled or ripped out during utility trenching. Tunneling for utilities installation should be utilized wherever feasible to protect root systems of trees.
4. Site Design:
  - a. Placement of buildings, structures, or parking facilities shall not detract from the site's scenic qualities and shall blend with the natural landscape.
  - b. Building sites shall be directed away from the crest of hills, and foundations shall be constructed to take advantage of the natural terrain.

c. Sites shall be designed in such a way as to prevent impacts to rare and endangered species and protect wildlife habitat on a site, and to maintain contiguous forested areas.

d. Site design shall be guided by energy conservation and sustainability principles.

5. Archeological or Historical Resources. The SPGA or Planning Board may require applicants to submit the proposed development plan to the Town's Historical Commission and/or the Massachusetts Historical Commission for review and comment regarding possible archaeological or historical resources on the site.

6. Preservation of Existing Vegetation. Priority shall be given to the preservation of existing stands of trees, trees at site perimeter, contiguous vegetation with adjacent sites (particularly existing sites protected through conservation restrictions), and specimen trees. Understory vegetation beneath the dripline of preserved trees shall be retained in an undisturbed state. During clearing and/or construction activities, all vegetation to be retained shall be surrounded by temporary protective fencing or other measures located a minimum of 12" outside of the dripline before any clearing or grading occurs, and maintained until all construction work is completed and the site is cleaned up. Barriers shall be large enough to encompass the essential zone of all vegetation to be protected. All vegetation within the protective fencing shall be retained in an undisturbed state. No staging or stockpiling of construction materials or activities shall occur in tree root protection zones. All work within the root zone of existing trees to be preserved shall be carried out under the direction and supervision of a Certified Arborist.

7. Revegetation. Proper revegetation techniques shall be employed during construction using native plant species, proper seed bed preparation, fertilizer and mulching to protect germinating plants. Revegetation shall occur on cleared sites within seven (7) calendar days of final grading and shall occur during the planting season appropriate to the selected plant species.

8. Limit of Clearing. Development envelopes for structures, driveways, wastewater disposal, lawn areas and utility work shall be designated to limit clearing and grading. In order to minimize the clearing and grading on a site associated with construction activities such as parking of construction vehicles, offices/trailers, stockpiling of equipment/materials, such activities may be limited to areas already planned for permanent structures. Topsoil shall not be stockpiled in areas of protected trees, wetlands, and/or their vegetated buffers.

9. Finished Grade. Finished grades should preserve, match, or blend with the natural contours and undulations of the land to the greatest extent possible. Finished grade shall be no higher than the trunk flare(s) of trees to be retained.

10. Topsoil. A minimum of 18" inches of topsoil shall be placed on all disturbed surfaces which are proposed to be planted with trees or other woody plant material. A minimum of 6" of topsoil shall be placed in lawn or grass areas.

11. Irrigation. The Planning Board or SPGA may require that water for the purpose of irrigation shall be provided by an onsite well, after consultation with the Water Department.

12. Phasing of Development. The Planning Board or SPGA may limit the extent of a site exposed at any one time through phasing of construction operations. Effective sequencing shall occur within the boundaries of natural drainage areas.

**6.3.8 Pedestrian and Vehicular Access; Traffic Management Standards.** The proposed development and/or redevelopment shall be designed with a forecast for the next five years from the time of application to (i) minimize hazards to public health and safety as a result of traffic; (ii) provide safe access and circulation on the site for expected vehicles, bicyclists, pedestrians, and emergency vehicles; (iii) provide off-site traffic mitigation, where required, to offset the impact of the development; (iv) reduce the traffic impacts of the proposed development on the area and the Town by incorporating traffic management devices; and (v) minimize the impact on scenic roads, historic districts, natural resources, and community character. The development shall not degrade safety for pedestrians, bicyclists, motor vehicle occupants, or property.

1. Access. To the extent feasible, access to nonresidential uses and structures shall be provided via one of the following: (i) Access via a common driveway serving adjacent lots or premises; (ii) Access via an existing side street; (iii) Access via a cul-de-sac or loop road shared by adjacent lots or premises. Access via roadways abutting residential districts shall be avoided where possible. Access and egress to a development with frontage on more than one street shall be in a manner that causes the least impact to the surrounding neighborhoods as determined by the Planning Board or SPGA.

2. Driveways. Each development shall be served by an adequate driveway. The Planning Board or SPGA may, in certain circumstances, allow additional driveways as a condition of approval where the access is shared or the project has frontage on two separate streets. All driveways shall be designed to afford adequate sight distance to pedestrians, bicyclists, and motorists exiting to public ways. Improvements may be required on the public way for vehicular turning movements in or out of the site and safe pedestrian access to adjoining sidewalks, paths, walking trails or bikeways.

3. Curb Cuts. Curb cuts shall be limited to the minimum width for safe entering and exiting as determined by the Planning Board in consultation with Town public safety departments. The location of driveway openings in relation to traffic and to adjacent streets shall provide for the convenience and safety of vehicular and pedestrian movement within the site. The number of curb cuts on state and local roads shall be minimized.

4. Interior Circulation. The proposed development shall assure safe interior circulation within its site by separating pedestrian, bikeways, and vehicular traffic.

5. Transportation Plan Approval. The proposed development shall be subject to Transportation Plan approval by the Planning Board or SPGA. The Transportation Plan shall consist of the following information:

- a. A plan showing the proposed parking, loading, and traffic circulation within the site; access and egress points; and other features related to traffic generated by the proposed use.
- b. A traffic study, prepared by a qualified traffic engineer licensed by the Commonwealth of Massachusetts, detailing the expected traffic impacts. For proposed development in excess of 25,000 gross square feet, the required traffic study shall substantially conform to the Institute of Transportation Engineers "Traffic Access and Impact Studies for Site Development: A Recommended Practice," latest edition (TIAS). The SPGA shall approve the geographic scope and content of the TIAS. In addition, the applicant shall submit a Transportation Demand Management (TDM) plan tailored to the specific uses and the geographic location of the site.
- c. Proposed mitigation measures, if any, such as left-turn lanes, roadway widening, signage, signalization of intersections.
- d. For proposed development in excess of 25,000 square feet of gross floor area, the applicant shall submit a Traffic Management Component (TMC) as part of the Transportation Plan. The TMC shall provide information on the number of expected person trips to and from the site, broken down by various travel modes (e.g., single occupancy vehicle, carpool, walk, bicycle, commuter rail, shuttle bus, etc.). The TMC may also incorporate one or more of the following techniques to reduce the number of single occupancy vehicle trips by employees coming to and departing from the proposed use:
  - (1) Establishment of or contribution to a Traffic Management Association (TMA) within the region, which shall provide shuffle services for employees and other services as may be appropriate;
  - (2) Employee carpools or vanpools sponsored by the employer or the TMA;
  - (3) Subsidized commuter rail passes, provided by the employer, and sold on the site or offered through payroll deduction;
  - (4) Monetary incentives to employees who do not use a parking space;
  - (5) On-site shower facilities and/or bicycle racks for employees who do not drive to work;
  - (6) Other techniques as may be deemed appropriate by the SPGA or Planning Board or its traffic consultant.

6. Reduction in Parking. In consideration of the applicant providing one or more of the above measures to reduce vehicular traffic to and from the site, the Planning Board or SPGA may reduce the number of required parking spaces below what would ordinarily be required by Section 6.1 of this By-law. To be considered for such a reduction, the applicant's traffic engineer shall determine and justify the parking demand for the project, as well as reduction in needed parking spaces attributable to each traffic management measure.

7. Level of Service Maintenance or Improvement.

a. If the proposed project will result in an intersection level of service below a rating of LOS D, the applicant may be required to provide detailed plans with a cost estimate (including reconstruction concepts), that when implemented would result in an intersection level of service rating of D or better.

b. If the proposed project will result in a reduction in level-of-service of one letter grade or an increase of 10 seconds of delay to a signalized or unsignalized intersection, the applicant may be required to provide detailed plans with a cost estimate that when implemented would result in a return to existing conditions.

8. Dangerous Intersections. The Planning Board or SPGA may require mitigation for any net increase in traffic volumes of 10% or more at an intersection that has an accident history of more than 5 accidents in the last three years for which data is available.

9. Sight Distance. Acceptable sight distance shall be provided and maintained at all access locations, egress locations, and all intersections affected by the Development. At a minimum, these site distances shall meet the stricter of the Massachusetts Highway Department and American Association of State Highway Transportation Officials standards for safe-stopping sight distances.

10. Maximum Parking. The maximum parking allowed for a development shall be no more than the minimum number of spaces required under this zoning bylaw.

11. Mitigation. The Planning Board or SPGA may require as a condition of any special permit off-site improvements to mitigate the impact of the proposed development. Such improvements include intersection widening and traffic signals or the Traffic Management Component of the Transportation Plan, referenced above.

12. Pedestrian and Bicycle Safety. Pedestrian and bicycle circulation, and the amenities required thereof, on and off site, shall be in accordance with the following requirements:

a. All development and redevelopment shall provide for pedestrian and bicyclist connections on the property, and allow for possible future connections with

adjoining properties, where deemed appropriate by the Planning Board or SPGA.

- b. Pedestrian access shall connect to all building entrances with further connections to local pedestrian arteries.
- c. All road and intersection widening and new traffic signals or modification of existing traffic signals required as part of a Development or Redevelopment shall include appropriate bicycle and pedestrian accommodation.
- d. The Planning Board or SPGA may require proposed development and redevelopment to provide sufficient rights-of-way on their properties to accommodate expected needs for bicycle and pedestrian use.
- e. Sidewalks, crosswalks, walkways, bike racks or other pedestrian access shall be provided to allow access to adjacent properties and between individual businesses within a development.
- f. If the property abuts a public bikeway/ right-of-way, a paved access route to the bikeway may be required.

13. **Location of Parking Areas.** Where feasible, the Planning Board or SPGA may require parking areas to be located to the side or behind buildings so as to provide an appropriate setting for the building within the context of the site and neighborhood and allow parking areas to be shared with adjacent businesses. The Planning Board or SPGA may require alternative studies of parking area layouts. Except where physical constraints, site configuration, or safety considerations preclude strict compliance, all parking must be accessible by driveways to the parking areas of adjacent nonresidential uses and land zoned for nonresidential uses.

14. **Parking in Required Front Setback.** The Planning Board or SPGA may prohibit parking within the required front setback.

15. **Traffic Calming Features.** Traffic calming measures such as crosswalks, bike lanes, rumble strips and landscaped islands may be required.

**6.3.9Aesthetic Standards.** The location, size and design, building materials, and operating characteristics of the proposed development shall be compatible with and will not adversely affect the livability or appropriate development of abutting properties, with natural and built environment in the area and the surrounding neighborhood.

- 1. **Views.** Existing scenic viewsheds shall be preserved or enhanced by the proposed development.
- 2. **Compatibility with Neighborhood.** The location, size and design, building materials, and operating characteristics of the proposed development shall be compatible with and will not adversely affect the livability or appropriate development of abutting properties, with natural

and built environment in the area and the surrounding neighborhood, with consideration to be given to the following:

- a. harmony in scale, bulk, massing, and density;
- b. consistency with the goals and objectives of the Master Plan and with any other plan that has been adopted by the Town.

### **6.3.10 Landscaping, Walls, and Fences**

1. Purpose. This Section is intended to ensure that the proposed development shall, through green infrastructure landscaping practices using vegetation, soils, and natural features: reduce runoff and treat stormwater at its source, promote groundwater recharge, protect water and air quality, provide shade and cooling with canopy trees and plantings to mitigate urban heat island effect, and provide landscape amenities that contribute to human and environmental health. Landscaping shall screen negative impacts from public and private views, shall avoid and/or minimize clearing of trees and mature vegetation, and minimize soil removal and grade change. Proposed landscaping shall require adaptive and drought-tolerant species and prohibit invasive plants. Plantings shall be laid out in informal drifts rather than formal rows and shall undulate with site topography. Planting of native trees, shrubs, and other plants is required in disturbed areas intended for natural re-growth. Site plans must conform with stormwater requirements in General Bylaws.

2. Street Trees. Street trees are shade trees located along a Road and/or Street. Where existing street trees are more than 50' apart on average or do not exist along a Street or Road, the Applicant shall plant street trees. Street Trees shall be placed in a linear fashion along the Right-of-Way or way boundary, at a maximum spacing of 40' on center. Where the character of the site is predominantly wooded or pastoral, the Applicant may cluster trees informally along the lot line, with a maximum of 75' between clusters of three or more trees.

3. Fencing. Fencing up to six (6') feet in height, may be allowed in conjunction with plantings. At least 50% in length of built fences that face a public way shall be softened with plantings. Design and height of such fencing, with accompanying landscaping, shall be subject to the approval of the SPGA or Planning Board.

4. Retaining Walls. Retaining walls shall be constructed to a maximum height of six (6) feet. If site conditions require elevation changes of greater than six (6) feet, retaining walls shall be terraced and landscaped. Any retaining wall greater than 36 inches in height shall be designed by a structural engineer. The face of any retaining walls visible from residential districts shall be designed with textured or natural stone, solid fieldstone or fieldstone veneer or other similar material. At least 50% in length of built walls that face a public way shall be softened with plantings.

5. Berms. The Planning Board or SPGA may require a berm or berms in appropriate circumstances to promote the goals of this Section.

6. Unsightly Uses and Areas. Exposed storage areas, refuse disposal facilities, HVAC, machinery, service areas, truck loading areas, utility buildings and structures and other unsightly uses shall be screened from view from neighboring properties and streets using dense, hardy evergreen plantings, or earthen berms, or wall or tight fence complemented by evergreen plantings.

7. Maintenance. All landscaping features, structures and areas required for buffering or screening shall be properly maintained. Dead shrubs or trees shall be replaced within one growing season as a condition of approval. Green infrastructure systems shall be inspected and maintained to preserve stormwater management functions.

8. Waiver. The Planning Board or SPGA, during the course of special permit or site plan review, may waive any provision of this Section, upon a finding that no substantial detriment shall result.

**6.3.11 Utilities; Security; Emergency System Standards.** The proposed development shall be adequately served by public or private utilities, security systems, and emergency systems.

1. Wastewater Treatment and Disposal. The SPGA or Planning Board may require a report from the Board of Health confirming that the proposed site development provides for wastewater treatment and or disposal in a manner that is consistent with regulations of the Commonwealth of Massachusetts and the Board of Health.

2. Water. There shall be sufficient water capacity to meet the flow demands of the proposed use without causing municipal water flow characteristics off-site to fall below the standards adopted by the Town.

3. Site Security. There shall be a certification by the Police Chief that the petitioner has provided a written plan for site security, which plan has been approved by the Police Chief.

4. Underground. All electrical, cable and telecommunications services shall be installed underground.

5. Fire Alarm System. There shall be sufficient municipal fire alarm system capacity to meet the operating requirements of the proposed site development and use under applicable codes, regulations, and statutes enforce by the Fire Chief.

**6.3.12 Fiscal Analysis Standards.** The SPGA or Planning Board shall require a fiscal analysis of the proposed development to determine the long-term benefit and cost to maintain a positive net fiscal position, giving consideration to revenue estimates and actual growth in municipal service costs induced by the proposed development. The long-term social benefit to the Town shall also be taken into consideration in this analysis.

1. The applicant shall provide an analysis of fiscal costs from the development, including increases in marginal costs, assessment of the capacity of existing municipal facilities to serve the new development, and, by order of magnitude, share of capital costs if improvements are needed.

2. The applicant shall identify an order of magnitude estimate as to the extent to which this development would generate the additional need for town services including responses from police, fire, EMS, schools and affordable housing.

3. The applicant shall provide an estimate of future real estate tax revenue to be generated by the project based on reasonable estimates of assessed value and current tax rates.

**6.3.13 Waiver of Standards.** The SPGA or Planning Board may, in the course of granting a special permit or site plan approval for nonresidential or multifamily development, waive any of these performance standards where such waiver is not inconsistent with public health and safety, and where such waiver does not derogate from the purposes of this Section because the proposed development will adequately serve the goals and objectives set forth in Section 6.3.1.,.

**6.3.14 Enforcement.** The SPGA or Planning Board may ensure compliance with these performance standards at the application stage by requiring evidence of probable compliance, whether by example of similar facilities or by engineering analysis, verified by technical peer review. In addition, the SPGA or Planning Board may require a monitoring program post permit issuance for compliance purposes for a time period as may be specified in the special permit or site plan approval.

## **6.4 Earth Removal and Filling**

### **6.4.1 Purpose:**

Purposes of this bylaw are to regulate earth removal and filling activities associated with land development, promoting responsible site planning practices without preventing the reasonable development of land:

- a) Minimize Negative Impacts on the Area. Protect adjoining premises from seriously detrimental uses, including making provisions for stormwater management and surface water drainage, sound and sight buffers, and preservation of views, light, and air;
- b) Protect public health, safety, and welfare. Promote the convenience and safety of vehicular and pedestrian movement within the site and on adjacent streets. If applicable, this shall include the location of driveway openings, access by emergency vehicles, the arrangement of parking and loading spaces, and provisions for persons with disabilities; and
- c) Be harmonious with the area. Promote land development and site planning practices that are compatible with and reinforce the Town's scenic character and are harmonious with existing natural landforms; and
- d) Protect the natural landscape. Ensure that clearing and grading activities will not excessively alter existing landscape, vegetation, water resources, or natural systems.

### **6.4.2 Applicability:**

- a. Definitions (for purposes of this Section 6.4):

Each lot within the Single Residence Districts A, B, C, and E, and Residence District D, consists of two parts. One part [the “Setback Area”] is that portion of the lot from its exterior boundaries to the lines delimiting its minimum front, side and rear building setbacks as prescribed by Section 5.4. The other part [the “Interior Area”] is the rest of the lot. That portion of the Setback Area of a lot between the lines delimiting its minimum side building setbacks from its front exterior boundaries to the line delimiting its minimum front building setback, all as so prescribed, is the “Central Front Setback Area”; and the remaining portion of the Setback Area is the “Side/Rear Setback Area”.

“Green Activities” means planting, trimming, harvesting, additions, subtractions or other changes of, in or to the trees, shrubs, grass, plants, vegetation or other non-nuisance agricultural, horticultural, floricultural or silvicultural products. Without limitation of the generality of the foregoing, “Green Activities” include the annual addition of up to twelve (12) inches of soil or other material to any area.

“Ledge” means a boulder or rock formation, whether or not cracked or broken into contiguous pieces, (1) which has a volume of three (3) or more cubic yards, or (2) the removal of all or any part of which, in the opinion of the Building Inspector or as proposed by the lot owner, normally would involve either blasting or hoe-ramming. Such Ledge is an exposed ledge if its uncovered surface area is fifty (50) or more square feet.

“Authorized Structures/Drives Activities” means construction, maintenance or other changes (A) within the layout of any street, or sidelines of any easement for any common driveway on which the lot has frontage, or (B) under the Subdivision Rules and Regulations or this Zoning By-Law within the footprint of buildings and other structures, and sidelines of driveways and turnarounds, authorized (with specific reference to any ledge removal permitted) by either the Planning Board or the Zoning Board of Appeals or (C) within the footprint of a residential building, provided that any excavation does not exceed a depth of fifteen (15) feet from the pre-construction grade and is authorized by a building permit issued by the Building Inspector.

“Septic Activities” means construction, maintenance or other changes in a septic system authorized (with specific reference to any ledge removal permitted) after a public hearing by the Board of Health.

“Utilities Activities” means construction, maintenance or other changes in water, gas, sewer, electric, telephone, cable and other utilities installed underground within one or more trenches each not exceeding 4 feet in width (the number and location of such trenches to be as determined by the Planning Board under the Subdivision Rules and Regulations, otherwise by the Building Inspector) extending (a) from the front exterior boundary of the lot through the Center Front Setback Area to structures within the Interior Area, and/or (b) between structures within the lot.

b. General: As described in this Section 6.16.2, and except for certain de minimus or excluded activities, a special permit is required from the Planning Board for certain ledge removal and/or other topographical changes or disturbances within the Setback Area or (different criteria) the

Interior Area of a lot in the residential zoning districts [Single Residence Districts A, B, C, and E, and Residence District D].

c. Exclusions: No such special permit under this Section 6.12 is required for any or all of the following (collectively, the “Excluded Activities”):

- (i) Authorized Structures/Drives Activities; and/or
- (ii) Septic Activities; and/or
- (iii) Utilities Activities; and/or
- (iv) Green Activities.

d. Setback Area Special Permits: Topographical changes (other than Excluded Activities) within the Setback Area for any lot in Single Residence Districts A, B, C, and E, and in Residence District D, may not be made without a special permit from the Planning Board if such changes:

- (1) Involve within the Setback Area removal of either any portion of any pre-construction exposed ledges or more than 5 feet vertically or horizontally of other ledges; and/or
- (2) Result in a change in elevation (from the pre-construction elevation) of more than 5 feet at any point (otherwise than within the footprint of any structure) within the Setback Area; and/or
- (3) Result in the excavation, deposit or removal of more than 20 cubic yards of earth, clay, sand, gravel and rock within the Setback Area, whether or not any such material so excavated, deposited or removed is relocated elsewhere either within the Setback Area or the lot; and/or
- (4) Disturb more than 10% of the Setback Area.

e. Interior Area Special Permits: Topographical changes (other than Excluded Activities) within the Interior Area for any lot in Single Residence Districts A, B, C, and E, and in Residence District D, may not be made without a special permit from the Planning Board (in addition to any Earth Removal Permit which may be required under Article XII of the Town’s General By-Law) if such changes:

- (1) Involve within the Interior Area removal of any portion of any pre-construction exposed ledges; and/or
- (2) Result in a change in elevation (from the pre-construction elevation) of more than 10 feet at any point (otherwise than within the footprint of any structure) within the Interior Area; and/or
- (3) Result in the excavation, deposit or removal of more than 100 cubic yards of earth, clay, sand, gravel and rock within the Interior Area, whether or not any such material so excavated, deposited or removed is relocated elsewhere either within the Interior Area or the lot; and/or

(4) Disturb more than 30% of the Interior Area.

#### **6.4.3 Procedure:**

Special Permits under this Section 6.4 shall be granted only if the Planning Board finds that it is consistent with the purpose and intent outlined in Section 6.4.1 of this Bylaw and in conformance with this Section 6.4 generally and Section 12 of the Manchester-by-the-Sea Zoning By-Law and the requirements of MGL Chapter 40A, Section 9. Each application shall be in the form and number of copies prescribed by the Planning Board, and shall be filed [each with a site plan as proposed for the lot] with the Planning Board by submission to the Town Clerk, together with such filing fee as the Planning Board shall determine. Applicants are encouraged to discuss their proposals informally with the Planning Board prior to filing.

#### **6.4.4 Application Requirements:**

Plans subject to Special Permit approval under this Section 6.4 shall be prepared by a Registered Architect, Landscape Architect, or Professional Engineer. The lot identification shall include its Assessors Map and Lot numbers. The site plan for the lot shall be prepared at a scale no greater than 1"=40', and shall show (except as otherwise prescribed or waived by the Planning Board) all existing and proposed contour elevations (at two (2) foot contour line intervals), structures, parking spaces, driveway openings, service areas, facilities for sewage, refuse and other waste disposal and for surface water drainage, wetlands, vernal pools, streams, ponds and other surface water, areas subject to the 100-year flood, and landscape features such as exposed ledges, fences, walls, trees (having a diameter, 4 1/2 feet from the ground, exceeding 6 inches), planting areas, walks and lighting, both existing and proposed. The site plan also shall show the relation of locus map at a scale not greater than 1"=2,000'. The site plan also shall show all contiguous land owned by the applicant or by the owner of the property, and shall identify all abutters, by name and Assessors Map and Lot numbers. The applicant shall submit such material as may be required by the Planning Board regarding measures proposed to prevent pollution of surface or ground water, soil erosion, increased runoff, changes in groundwater level, and flooding, and regarding design features intended to integrate the proposal into the existing landscape, to preserve the same, to enhance aesthetic, and to screen objectionable features from neighbors.

**6.54**, including the reasonable fees and expenses of any consultants retained by the Planning Board, shall be paid by the applicant for such Special Permit.