

1 **Motion for Article 8**

2
3 **MOTION**

4 **Move to amend the Zoning By-laws by deleting Section 6 and replacing it with new Section**
5 **6, as follows:**

6
7 **SECTION 6.0 GENERAL REGULATIONS**

8 **6.1 OFF-STREET PARKING**

9 **6.1.1 General.**

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

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21 **6.1.2 Number and Dimension of Spaces.** The standards set forth in the Table
22 6.1: Manchester-by-the-Sea Table of Uses and Parking must be met without counting any
23 existing parking necessary for existing activities to meet these requirements. Off-street parking
24 spaces shall be designed with minimum dimensions of nine (9') feet by eighteen
25 (18') feet. In parking areas of more than six (6) spaces, one third of the spaces may be compact
26 car spaces, with minimum dimensions of eight (8') feet by sixteen (16') feet. Parking facilities
27 shared between two or more users are encouraged to minimize excess paving and the size and
28 number of areas devoted to parking. Parking lots and associated improvements shall comply
29 with ADA and the MA Architectural Access Board regulations (521 CMR). Traffic-calming
30 measures such as crosswalks, bike lanes, rumble-strips and landscape islands may be required as
31 necessary. For accessory uses not listed in this table, the required number of parking spaces to
32 accommodate expected demand will be determined by the Inspector of Buildings, with the
33 advice of the Planning Board.

Table 6.1: Manchester-by-the-Sea Table of Uses and Parking	
USE	Parking Spaces Required
A. RESIDENTIAL	
One single-family detached dwelling	2
Two-family dwelling	3
Three-family dwelling	5
Four- family or more dwelling unit	1.5 spaces per unit, rounded up
Residential Conservation Cluster	Same as required for equivalent dwelling unit
Senior Housing	1 for each independent residential unit; .75 for each assisted living unit
B. COMMUNITY FACILITIES	
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
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
Child Care Center/School-Aged Child Care Program	1 space per 10 children maximum rated capacity, plus one space per employee on largest shift
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
Municipal yards and related facilities	Spaces required for each component of the mixed use
Charitable or philanthropic use; Hospital	1 space for each three persons of rated capacity
Community or private club, not conducted for profit	1 space for each three persons of rated capacity
C. AGRICULTURAL	
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
D. COMMERCIAL	
Adult Entertainment Uses	1 space for each three persons of rated capacity
Business or professional office; bank or financial institution	1 space per 300 sq. ft. of gross floor area
Medical office building	1 space per 300 sq. ft. of gross floor area
General retail uses	1 space per 150 sq. ft. of gross sales or service floor area
Personal or general service establishment	1 space per 150 sq. ft. of gross sales or service floor area
Restaurant	1 space for each four persons of rated capacity
Fast-food restaurant	1 space for each four persons of rated capacity
Motor Vehicle Light Service Station	1 space per 100 square feet of area in service bays
Repair or body shop for motor vehicles	1 space for each three persons of rated capacity

Table 6.1: Manchester-by-the-Sea Table of Uses and Parking	
USE	Parking Spaces Required
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
Printing and publishing establishment	1 space for each three employees on duty during normal work period, plus 1 space per each company car or truck
Indoor recreational club or facility operated for profit	1 space for each three persons of rated capacity
Outdoor recreational club or facility operated for profit	1 space for each three persons of rated capacity
Veterinary office or clinic	1 space per 300 sq. ft. of gross floor area
Yacht storage, construction, and service and related uses	1 space for each three employees on duty during normal work period, plus 1 space per each company car or truck
Fish and shellfish landing, storage, and handling (but not a fish processing or similar plant)	1 space for each three employees on duty during normal work period, plus 1 space per each company car or truck
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
Marijuana Business	Parking spaces adequate to accommodate all normal demand as determined by the Inspector of Buildings, with the advice of the Planning Board
E. ACCESSORY USES	
Up to four-boarders in a single-family dwelling	N/A
Garaging or maintaining of more than 4 automobiles when accessory to a dwelling	1 for each vehicle
Accessory Dwelling Unit	1
Family day care home	1 space per 10 children maximum rated capacity, plus one space per employee on largest shift
Adult social day care	1 space per 10 persons maximum rated capacity, plus one space per employee on largest shift

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37 **6.1.3 Location.** Required parking shall be either on the same premises as the activity it serves,
38 or located within three hundred (300') feet of the building entrance on a separate parcel, not
39 separated by a street having right-of-way width of sixty (60') feet or more, and in a Zoning
40 District allowing the activity it serves. Parking is allowed in any driveway serving a single-
41 family or two-family residence, subject to the requirements of this Section.

42 **6.1.4 Backing.** Parking areas for commercial buildings or multi-family properties shall be
43 designed and located so that their use does not involve vehicles backing onto a public way or
44 way utilized for public access.

45 **6.1.5 Setbacks.** Parking is allowed within the driveway for residential uses. No parking
46 area shall be located in the front yard or within five (5') feet of any property line. Parking in any
47 other location may be authorized only by Special Permit from the Planning Board. Any waivers

48 of setback requirements shall be limited to only those situations where the applicant needs a
49 reduction in setback to meet the parking requirements for the proposed use.

50 **6.1.6 Parking Area Plantings.** Landscape treatment around the perimeter and interior of the
51 parking lot is required and shall be used to break up large expanses of pavement and manage
52 excess heat (heat island effect) and stormwater. Parking areas containing five (5) or more
53 parking spaces shall have at least one (1) tree per every five (5) parking spaces, such trees to be
54 located either within the lot or within ten (10') feet of it. Such trees shall be at least two (2")
55 inches trunk diameter, with not less than forty (40) square feet of unpaved soil per tree, in
56 landscape islands with no dimension less than four (4') feet in width. For any
57 parking area having twenty (20) or more spaces, at least five (5%) percent of the interior area
58 shall include landscaping, including trees in landscape islands of at least the dimensions of one
59 (1) parking space with no more than ten (10) contiguous parking spaces between each island.
60 Trees shall be so located as to provide visual relief and sun and wind interruption within the
61 parking area, shade for pedestrian circulation routes, and to assure safe patterns of internal
62 circulation. Trees shall be protected by curbs, bollards, or other barriers sufficient to prevent
63 damage.

64 **6.1.7 Short-Term Bicycle Parking.** To encourage alternative and sustainable modes of
65 transit, adequate parking for bicycles shall be provided for all commercial and multi-family
66 developments and shall be located in a publicly accessible space near pedestrian entrances to the
67 uses they are intended to serve. Short-Term Bicycle Parking shall be intended primarily to serve
68 visitors making trips of up to a few hours to a particular use; however, it may serve other bicycle
69 users as needed.

70 **6.1.8 Special Permit.** The Special Permit Granting Authority, or, if there is none, the Planning
71 Board, may grant a special permit to waive any parking or loading requirement, when such
72 waiver shall result in better design and cause no detriment to the neighborhood

73 **6.2 SIGNS**

74 **6.2.1 General.** Advertising and other signs shall be permitted elsewhere in this By-law. Signs
75 shall also be subject to the applicable provisions of the General By-laws of the Town of
76 Manchester-by-the-Sea.

77 **6.2.2 Flashing, Animated, and Illuminated Signs.** No flashing, animated, or internally
78 illuminated signs shall be permitted in any District. No illuminated sign of any kind shall be
79 permitted in a Residence District.

80 **6.2.3 Real Estate Signs.** A real estate sign not over six (6) square feet in area advertising for
81 sale or rent the property on which it is placed is permitted in any district.

82 **6.2.4 General and Limited Commercial Districts.** In the General District and Limited
83 Commercial District, the following signs are permitted:

- 84 1. One firm name sign for each firm or enterprise located in a building, no larger than
85 five (5') feet by twenty (20') feet, attached to or flush to the building.

86 2. One non-illuminated announcement sign no larger than three (3') feet by three (3')
87 feet, at the entrance or gates of a building.

88 3. One non-illuminated sign for each firm or enterprise located in a building, no larger
89 than two (2') feet by six (6') feet, located at least fifty (50') feet from any street.

90 4. In the General District, in addition to the signs permitted by this Section, one or more
91 signs for advertising a business conducted on the premises is permitted, not projecting
92 above the building on the premises and no larger than one (1) square foot for each linear
93 foot of frontage up to a maximum of one hundred (100) square feet.

94 **6.2.5 Special Permit.** The Special Permit Granting Authority, or, if there is none, the Planning
95 Board, may grant a special permit to waive any signage requirement, when such waiver shall
96 result in better design and cause no detriment to the neighborhood.

97 **6.3 PERFORMANCE STANDARDS FOR SPECIAL PERMITS AND SITE PLAN**
98 **REVIEW**

99 **6.3.1 Purpose.** The following Performance Standards are adopted in order to control the size,
100 scale, and impacts of developments that require a special permit and/or site plan review. A
101 special permit under this Section shall be granted only if the Planning Board or SPGA finds that
102 it is in conformance with this Section generally and with Criteria, Procedure, and Conditions in
103 Sections 12.5 and 12.6 of this By-law.

104 **6.3.2 Procedures, Rules and Regulations.** In addition to the procedures and requirements
105 detailed in Sections 12.5 and 12.6 of this By-law, applicants for special permits or site plan
106 approval shall comply with these Performance Standards. The Planning Board or SPGA may
107 waive any of these procedures or requirements for single-family residences or for multi-family
108 properties of six units or less.

109 **6.3.3 General Standards**

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

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

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

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

- 123 5. Pedestrian and Vehicular Access; Traffic Management, Parking. The proposed
124 development shall be designed to maintain safety for pedestrians, bicyclists, and motor
125 vehicle occupants.
- 126 6. Aesthetics. The location, size and design, building materials, and operating
127 characteristics of the proposed development shall be compatible with abutting properties,
128 with natural and built environment in the area and the surrounding neighborhood.
- 129 7. Landscaping, Walls, and Fences. The proposed development shall provide landscape
130 amenities that contribute to human and environmental health, while providing adequate
131 plantings and screening to mitigate the view of unsightly components of the development
- 132 8. Utilities; Security; Emergency Systems. The proposed development shall be
133 adequately served by public or private utilities, security systems, and emergency systems.
- 134 9. Fiscal Impact. The proposed development shall maintain a positive net fiscal position
135 and social benefit to the Town for the long term.

136 **6.3.4 Outdoor Lighting Standards.** Lighting practices and systems shall (i) reduce light
137 pollution, light trespass and glare in order to preserve and enhance the natural, scenic, and
138 aesthetic qualities of the Town; (ii) conserve energy and decrease lighting cost without
139 decreasing night time safety, security, and productivity; and (iii) preserve the night sky as a
140 natural resource to enhance nighttime enjoyment of property within the Town. The proposed
141 development shall not produce lighting that causes negative impacts such as light trespass, glare,
142 light pollution, or energy waste, in order to protect from intrusion of unwanted light and to
143 preserve and enhance the natural, scenic, and aesthetic qualities of the Town. Glare is not
144 allowed, including within property boundaries. Glare is light that enters the eye directly from
145 light fixtures or indirectly from reflective surfaces that causes visual discomfort or reduced
146 visibility. Lighting practices and systems shall (i) provide sufficient lighting for public safety, (ii)
147 mitigate light trespass, and glare for abutters and the public at large; (iii) conserve energy; and
148 (iv) prevent light pollution and preserve the night sky as a natural resource in order to reduce
149 negative impacts on wildlife and to protect views of the night sky.

- 150 1. Shielding. All outdoor light fixtures shall be shielded so as to meet the goals of this
151 Section.
- 152 2. Light Trespass. All light fixtures shall be located, aimed, and shielded so as to
153 minimize light pollution and light trespass across property boundaries including any
154 buffer zones or setbacks. Lighting shall comply with International Dark Sky Standards.
- 155 3. Light Intensity, Color, and Efficiency. Lighting shall be designed to provide the
156 minimum intensity needed at any particular time with a 0.5-foot candle average
157 maintained. Color temperature shall not exceed 3,500 Kelvin. Lighting shall be LED or
158 approved current technology to minimize energy use.

159 4. Illuminated Surfaces. Area lighting shall be reduced or eliminated outside business
160 hours. The Planning Board or SPGA may require that parking areas be equipped to
161 support shut-off for specific periods of time or unused areas to reduce lighting trespass.

162 5. Flickering and Flashing Lights. No flickering or flashing lights shall be permitted.
163 Processes such as arc welding, which create light flashes shall be confined within
164 buildings or shielded to prevent either direct glare or flashing.

165 6. Searchlights. The operation of laser shows or searchlights for advertising is
166 prohibited.

167 7. Indoor Lighting. Indoor light sources will not be projected outside in a manner to
168 defeat the intent of this Section.

169 8. Outdoor Signs. Outdoor light fixtures used to illuminate an outdoor sign shall be
170 mounted on top of the sign structure or otherwise restricted to prevent up-light and light
171 trespass. Internally illuminated signage is prohibited.

172 9. Height of Fixtures.

173 a. Wall-Mounted Fixtures attached to a building for area lighting shall be
174 mounted no higher than twelve (12') feet above grade;

175 b. Pole-mounted exterior lighting fixture types shall be mounted no higher than
176 fourteen (14') feet above grade for pedestrian walkway lighting and twenty (20')
177 feet above grade for parking lot lighting.

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

183 11. Exemptions

184 a. Lighting within public ways for the purpose of illuminating public ways.

185 b. Lighting for outdoor recreational athletic facilities, with proper controls to
186 minimize glare and light trespass, and automatic shutoff no later than 11:00 pm.

187 c. Lighting in swimming pools and other water features.

188 d. Lighting for public monuments, public art and statuary, flagpoles, or historic
189 buildings at the discretion of the Planning Board or SPGA.

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191 **6.3.5 Noise Standards.** The proposed development shall not unreasonably interfere with
192 the reasonable use and enjoyment of property within the Town as a result of the generation
193 of noise. Practices and systems shall (i) reduce noise pollution in order to preserve and

194 enhance the natural and aesthetic qualities of the Town; (ii) preserve property values; and
195 (iii) preserve neighborhood character. The proposed development shall meet all Town,
196 State, and Federal noise regulations as certified by a professional acoustical engineer if the
197 Inspector of Buildings deems such certification necessary.

198 1. Limitation. No person or entity shall operate or cause to be operated any source of
199 sound in a manner that creates a sound level of 10 dBA above ambient, as set forth in 310
200 CMR 7.10, measured at the property boundary of the receiving land use.

201 2. Hours of Operation. As a condition of any special permit or site plan approval, the
202 SPGA or Planning Board may prohibit or regulate the following circumstances regarding
203 hours of operation.

204 a. The loading, unloading, opening, closing or other handling of boxes,
205 crates, containers, building materials, garbage cans, or other objects or materials
206 for sale or storage or use in a manner that causes a condition of noise pollution at
207 any time but most specifically between the hours of 6:00 P.M. and 8:00 AM.
208 across a real property boundary in any district established under this By-law.

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

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

218 **6.3.6 Topographical Changes and Clearing.** The standards described in Section 6.4 shall
219 apply to all applications for Special Permit or Site Plan Review.

220 **6.3.7 Site Development Standards.** To the maximum extent feasible, the proposed
221 development shall be located and designed to preserve and enhance the natural features and
222 topography of the site, to avoid disturbances to existing healthy mature vegetation and
223 environmentally sensitive areas, to maintain or mimic natural hydrologic conditions, to minimize
224 adverse impacts of development on adjoining properties and the general public, to minimize the
225 alteration of the natural features of the site, to adhere to the principles of resiliency and
226 sustainability and to preserve and enhance scenic points and viewsheds, historic buildings and
227 places, and similar community assets which add value and attractiveness to the development and
228 the Town.

229 1. Land Disturbance. Site/building design shall preserve natural topography outside of
230 the development footprint to reduce unnecessary land disturbance and to preserve natural
231 drainage on the site.

232 2. Replication. Cleared vegetation and alteration of topography shall be replicated with
233 native woodland vegetation planted in disturbed areas as needed to enhance or restore
234 wildlife habitat and pre-development site characteristics.

235 3. Clearing for Utility Trenching. Clearing for utility trenching shall be limited to the
236 minimum area necessary to maneuver a backhoe or other construction equipment. Roots
237 should be cut cleanly rather than pulled or ripped out during utility trenching. Tunneling
238 for utilities installation should be utilized wherever feasible to protect root systems of
239 trees.

240 4. Site Design:

241 a. Placement of buildings, structures, or parking facilities shall not detract from
242 the site's scenic qualities and shall blend with the natural landscape.

243 b. Building sites shall be directed away from the crest of hills, and foundations
244 shall be constructed to take advantage of the natural terrain.

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

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

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

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

267 7. Revegetation. Proper revegetation techniques shall be employed during construction
268 using native plant species, proper seed bed preparation, fertilizer and mulching to protect

269 germinating plants. Revegetation shall occur as soon as possible and shall occur during
270 the planting season appropriate to the selected plant species.

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

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

281 10. Topsoil. A minimum of eighteen (18”) inches of topsoil shall be placed on all
282 disturbed surfaces which are proposed to be planted with trees or other woody plant
283 material. A minimum of six (6”) inches of topsoil shall be placed in lawn or grass areas.

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

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

290 **6.3.8 Pedestrian and Vehicular Access; Traffic Management Standards.** The proposed
291 development and/or redevelopment shall be designed with a forecast for the next five (5) years
292 from the time of application to (i) minimize hazards to public health and safety as a result of
293 traffic; (ii) provide safe access and circulation on the site for expected vehicles, bicyclists,
294 pedestrians, and emergency vehicles; (iii) provide off-site traffic mitigation, where required, to
295 offset the impact of the development; (iv) reduce the traffic impacts of the proposed development
296 on the area and the Town by incorporating traffic management devices; and (v) minimize the
297 impact on scenic roads, historic districts, natural resources, and community
298 character. The development shall not degrade safety for pedestrians, bicyclists, motor vehicle
299 occupants, or property.

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

- 307 2. Driveways. Each development shall be served by an adequate
308 driveway. The Planning Board or SPGA may, in certain circumstances, allow additional
309 driveways as a condition of approval where the access is shared or the project has
310 frontage on two separate streets. All driveways shall be designed to afford adequate sight
311 distance to pedestrians, bicyclists, and motorists exiting to public ways. Improvements
312 may be required on the public way for vehicular turning movements in or out of the site
313 and safe pedestrian access to adjoining sidewalks, paths, walking trails or bikeways.
- 314 3. Curb Cuts. Curb cuts shall be limited to the minimum width for safe entering and
315 exiting as determined by the Planning Board in consultation with Town public safety
316 departments. The location of driveway openings in relation to traffic and to adjacent
317 streets shall provide for the convenience and safety of vehicular and pedestrian
318 movement within the site. The number of curb cuts on state and local roads shall be
319 minimized.
- 320 4. Interior Circulation. The proposed development shall assure safe interior circulation
321 within its site by separating pedestrian, bikeways, and vehicular traffic.
- 322 5. Transportation Plan Approval. The proposed development shall be subject to
323 Transportation Plan approval by the Planning Board or SPGA. The Transportation Plan
324 shall consist of the following information:
- 325 a. A plan showing the proposed parking, loading, and traffic circulation within the
326 site; access and egress points; and other features related to traffic generated by the
327 proposed use.
- 328 b. A traffic study, prepared by a qualified traffic engineer licensed by the
329 Commonwealth of Massachusetts, detailing the expected traffic impacts. For
330 proposed development in excess of twenty-five thousand (25,000) gross square
331 feet, the required traffic study shall substantially conform to the Institute of
332 Transportation Engineers "Traffic Access and Impact Studies for Site
333 Development: A Recommended Practice," latest edition (TIAS). The SPGA shall
334 approve the geographic scope and content of the TIAS. In addition, the applicant
335 shall submit a Transportation Demand Management (TDM) plan tailored to the
336 specific uses and the geographic location of the site.
- 337 c. Proposed mitigation measures, if any, such as left-turn lanes, roadway widening,
338 signage, signalization of intersections.
- 339 d. For proposed development in excess of twenty-five thousand (25,000) square
340 feet of gross floor area, the applicant shall submit a Traffic Management
341 Component (TMC) as part of the Transportation Plan. The TMC shall provide
342 information on the number of expected person trips to and from the site, broken
343 down by various travel modes (e.g., single occupancy vehicle, carpool, walk,
344 bicycle, commuter rail, shuttle bus, etc.). The TMC may also incorporate one or

345 more of the following techniques to reduce the number of single occupancy vehicle
346 trips by employees coming to and departing from the proposed use:

347 (1) Establishment of or contribution to a Traffic Management Association
348 (TMA) within the region, which shall provide shuttle services for
349 employees and other services as may be appropriate;

350 (2) Employee carpools or vanpools sponsored by the employer or the
351 TMA;

352 (3) Subsidized commuter rail passes, provided by the employer, and sold
353 on the site or offered through payroll deduction;

354 (4) Monetary incentives to employees who do not use a parking space;

355 (5) On-site shower facilities and/or bicycle racks for employees who do
356 not drive to work;

357 (6) Other techniques as may be deemed appropriate by the SPGA or
358 Planning Board or its traffic consultant.

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

366 7. Level of Service Maintenance or Improvement.

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

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

376 8. Dangerous Intersections. The Planning Board or SPGA may require mitigation for
377 any net increase in traffic volumes of ten (10%) percent or more at an intersection that
378 has an accident history of more than five (5) accidents in the last three (3) years for which
379 data is available.

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

385 10. Maximum Parking. The maximum parking allowed for a development shall be no
386 more than the minimum number of spaces required under this Zoning By-law.

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

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

393 a. All development and redevelopment shall provide for pedestrian and bicyclist
394 connections on the property, and allow for possible future connections with
395 adjoining properties, where deemed appropriate by the Planning Board or SPGA.

396 b. Pedestrian access shall connect to all building entrances with further connections
397 to local pedestrian arteries.

398 c. All road and intersection widening and new traffic signals or modification of
399 existing traffic signals required as part of a Development or Redevelopment shall
400 include appropriate bicycle and pedestrian accommodation.

401 d. The Planning Board or SPGA may require proposed development and
402 redevelopment to provide sufficient rights-of-way on their properties to
403 accommodate expected needs for bicycle and pedestrian use.

404 e. Sidewalks, crosswalks, walkways, bike racks or other pedestrian access shall be
405 provided to allow access to adjacent properties and between individual businesses
406 within a development.

407 f. If the property abuts a public bikeway/right-of-way, a paved access route to the
408 bikeway may be required.

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

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

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

421 **6.3.9 Aesthetic Standards.** The location, size and design, building materials, and operating
422 characteristics of the proposed development shall be compatible with and shall not adversely
423 affect the livability or appropriate development of abutting properties, with natural and built
424 environment in the area and the surrounding neighborhood.

425 1. Views. Existing scenic viewsheds shall be preserved or enhanced by the proposed
426 development.

427 2. Compatibility with Neighborhood. The location, size and design, building materials,
428 and operating characteristics of the proposed development shall be compatible with and
429 shall not adversely affect the livability or appropriate development of abutting properties,
430 with natural and built environment in the area and the surrounding neighborhood, with
431 consideration to be given to the following:

432 a. harmony in scale, bulk, massing, and density;

433 b. consistency with the goals and objectives of the Master Plan and with any other
434 plan that has been adopted by the Town.

435 **6.3.10 Landscaping, Walls, and Fences**

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

448 2. Street Trees. Street trees are shade trees located along a Road and/or Street. Where
449 existing street trees are more than fifty (50') feet apart on average or do not exist along a
450 Street or Road, the Applicant shall plant street trees. Street Trees shall be placed in a linear
451 fashion along the Right-of-Way or way boundary, at a maximum spacing of forty (40') feet
452 on center. Where the character of the site is predominantly wooded or pastoral, the
453 Applicant may cluster trees informally along the lot line, with a maximum of seventy-five
454 (75') feet between clusters of three or more trees.

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

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

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

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

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

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

480 **6.3.11 Utilities; Security; Emergency System Standards.** The proposed development shall be
481 adequately served by public or private utilities, security systems, and emergency systems.

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

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

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

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

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

496 **6.3.12 Fiscal Analysis Standards.** The SPGA or Planning Board shall require a fiscal analysis
497 of the proposed development to determine the long-term benefit and cost to maintain a positive
498 net fiscal position, giving consideration to revenue estimates and actual growth in municipal
499 service costs induced by the proposed development. The long-term social benefit to the Town
500 shall also be taken into consideration in this analysis.

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

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

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

510 **6.3.13 Waiver of Standards.** The SPGA or Planning Board may, in the course of granting a
511 special permit or site plan approval for nonresidential or multifamily development, waive any of
512 these performance standards where such waiver is not inconsistent with public health and safety,
513 and where such waiver does not derogate from the purposes of this Section because the proposed
514 development will adequately serve the goals and objectives set forth in Section 6.3.1.

515 **6.3.14 Enforcement.** The SPGA or Planning Board may ensure compliance with these
516 performance standards at the application stage by requiring evidence of probable compliance,
517 whether by example of similar facilities or by engineering analysis, verified by technical peer
518 review. In addition, the SPGA or Planning Board may require a monitoring program post permit
519 issuance for compliance purposes for a time period as may be specified in the special permit or
520 site plan approval.

521 **6.4 EARTH REMOVAL AND FILLING**

522 **6.4.1 Purpose:**

523 Purposes of this By-law are to regulate earth removal and filling activities associated with land
524 development, promoting responsible site planning practices without preventing the reasonable
525 development of land:

526 1. Minimize Negative Impacts on the Area. Protect adjoining premises from seriously
527 detrimental uses, including making provisions for stormwater management and surface
528 water drainage, sound and sight buffers, and preservation of views, light, and air;

529 2. Protect public health, safety, and welfare. Promote the convenience and safety of
530 vehicular and pedestrian movement within the site and on adjacent streets. If applicable,
531 this shall include the location of driveway openings, access by emergency vehicles, the
532 arrangement of parking and loading spaces, and provisions for persons with disabilities;

533 3. Be harmonious with the area. Promote land development and site planning practices
534 that are compatible with and reinforce the Town’s scenic character and are harmonious
535 with existing natural landforms; and

536 4. Protect the natural landscape. Ensure that clearing and grading activities will not
537 excessively alter existing landscape, vegetation, water resources or natural systems.

538 **6.4.2 Applicability:**

539 1. Definitions (for purposes of this Section 6.4):

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

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

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

558 “Authorized Structures/Drives Activities” means construction, maintenance or
559 other changes (A) within the layout of any street, or sidelines of any easement for any
560 common driveway on which the lot has frontage, or (B) under the Rules and Regulations
561 Governing the Subdivision of Land in Manchester-by-the-Sea, Massachusetts or this
562 Zoning By-Law within the footprint of buildings and other structures, and sidelines of

563 driveways and turnarounds, authorized (with specific reference to any ledge removal
564 permitted) by either the Planning Board or the Zoning Board of Appeals or (C) within the
565 footprint of a residential building, provided that any excavation does not exceed a depth
566 of fifteen (15') feet from the pre-construction grade and is authorized by a building
567 permit issued by the Inspector of Buildings.

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

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

578 2. General: As described in this Section 6.4.2, and except for certain *de minimis* or
579 excluded activities, a special permit is required from the Planning Board for certain ledge
580 removal and/or other topographical changes or disturbances within the Setback Area or
581 (different criteria) the Interior Area of a lot in the residential zoning districts [Single
582 Residence Districts A, B, C, and E, and Residence District D].

583 3. Exclusions: No such special permit under this Section 6.4 is required for any or all
584 of the following (collectively, the “Excluded Activities”):

585 a. Authorized Structures/Drives Activities; and/or

586 b. Septic Activities; and/or

587 c. Utilities Activities; and/or

588 d. Green Activities.

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

593 a. Involve within the Setback Area removal of either any portion of any pre-
594 construction exposed ledges or more than five (5') feet vertically or horizontally
595 of other ledges; and/or

596 b. Result in a change in elevation (from the pre-construction elevation) of more
597 than five (5') feet at any point (otherwise than within the footprint of any
598 structure) within the Setback Area; and/or

- 599 c. Result in the excavation, deposit or removal of more than twenty (20) cubic
600 yards of earth, clay, sand, gravel and rock within the Setback Area, whether or not
601 any such material so excavated, deposited or removed is relocated elsewhere
602 either within the Setback Area or the lot; and/or
- 603 d. Disturb more than ten (10%) percent of the Setback Area.
- 604 e. Interior Area Special Permits: Topographical changes (other than Excluded
605 Activities) within the Interior Area for any lot in Single Residence Districts A, B,
606 C, and E, and in Residence District D, may not be made without a special permit
607 from the Planning Board (in addition to any Earth Removal Permit which may be
608 required under Article XII of the Town's General By-Law) if such changes:
- 609 i. Involve within the Interior Area removal of any portion of any pre-
610 construction exposed ledges; and/or
- 611 ii. Result in a change in elevation (from the pre-construction elevation) of
612 more than ten (10') feet at any point (otherwise than within the footprint
613 of any structure) within the Interior Area; and/or
- 614 iii. Result in the excavation, deposit or removal of more than one hundred
615 (100) cubic yards of earth, clay, sand, gravel and rock within the Interior
616 Area, whether or not any such material so excavated, deposited or
617 removed is relocated elsewhere either within the Interior Area or the lot;
618 and/or
- 619 iv. Disturb more than thirty (30%) percent of the Interior Area.

620 **6.4.3 Procedure:**

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

629 **6.4.4 Application Requirements:**

630 Plans subject to Special Permit approval under this Section 6.4 shall be prepared by a Registered
631 Architect, Landscape Architect, or Professional Engineer. The lot identification shall include its
632 Assessor's Map and Lot numbers. The site plan for the lot shall be prepared at a scale no greater
633 than 1"=40', and shall show (except as otherwise prescribed or waived by the Planning Board) all
634 existing and proposed contour elevations (at two (2') foot contour line intervals), structures,
635 parking spaces, driveway openings, service areas, facilities for sewage, refuse and other waste

636 disposal and for surface water drainage, wetlands, vernal pools, streams, ponds and other surface
637 water, areas subject to the 100-year flood, and landscape features such as exposed ledges, fences,
638 walls, trees (having a diameter, four and a half (4 ½') feet from the ground, exceeding six (6")
639 inches), planting areas, walks and lighting, both existing and proposed. The site plan also shall
640 show the relation of locus map at a scale not greater than 1"=2,000'. The site plan also shall
641 show all contiguous land owned by the applicant or by the owner of the property, and shall
642 identify all abutters, by name and Assessors Map and Lot numbers. The applicant shall submit
643 such material as may be required by the Planning Board regarding measures proposed to prevent
644 pollution of surface or ground water, soil erosion, increased runoff, changes in groundwater
645 level, and flooding, and regarding design features intended to integrate the proposal into the
646 existing landscape, to preserve the same, to enhance aesthetic, and to screen objectionable
647 features from neighbors.

648 **6.5.5 Expenses Incurred:**

649 Expenses incurred by the Planning Board in connection with an application under this Section
650 6.4, including the reasonable fees and expenses of any consultants retained by the Planning
651 Board, shall be paid by the applicant for such Special Permit.