

The Special Town Meeting of the Town of Manchester-By-The-Sea was called for on Monday November 14, 2022, at 6:30pm at the Manchester Essex Middle High School at 36 Lincoln Street, pursuant to the warrant being duly posted and the return of the Constable being received. The Meeting was managed by several election officials including Lynda W. Taylor, Judith A. Laspesa, Carolyn Kelly, Katherine A. Ryan, Rachael O. Masterson, Elayne Taylor, Elaine C. Persons, Elizabeth A Heisey, Christopher J. Thomas, Kurt A. Melden, Eileen R. Buckley, Elizabeth R. Simonds, Gretchen A. Wood, Joanna Y. Shan, Peter M. Shaw, and Jeffrey Bodmer-Turner. Temporary Assistant Moderator Jay Bothwick and Temporary Assistant Town Clerk Ellen C. Flatley maintained the Meeting in the cafeteria. Five hundred and eighty-six (586) registered voters were checked in and thirty (30) non-residents signed in for the event. A quorum of 100 was reached and the meeting was called to order at 6:59pm. Moderator Alan Wilson waived the reading of the warrant but confirmed it was properly posted. The Meeting rose for the Pledge of Allegiance. The Moderator stated the usual procedural rules.

ARTICLE 1: Appropriation

To see if the Town will vote to appropriate the sum of \$130,000 from the Town's Undesignated Fund Balance (Free Cash) as a supplemental appropriation to the FY23 Legal/Professional Services Account or take any action relative thereto. The supplemental appropriation is needed to help pay for expenses related to the permitting process for the proposed 40B project on Upper School Street.
Per petition of the Select Board

The Select Board and Finance Committee recommended approval.

MOTION

John Round moved the article as printed in the warrant. Ann Harrison seconded the motion.

DISCUSSION

John Round, Select Board member explained the reasoning behind the article. . The \$130,000 is expected to cover the costs for the ZBA process and the appeal to the Housing Advisory Committee. However, decisions of the HAC may be appealed to Superior Court. Should that be the case, and we expect that it will, more money will be needed.

There was no further discussion.

VOTE

Passed with a simple majority (481 yes, 45 no, 9 abstain with approximately 571 voters present)

ARTICLE 2: Appropriation

To see if the Town will vote to appropriate the sum of \$450,000 from the Town's Fire Engine Apparatus Fund for an ambulance re-build or to purchase a new ambulance, or take any other action relative thereto.

Per petition of the Select Board

The Select Board and Finance Committee recommended approval.

Moderator Wilson explained that the decision whether to rebuild or purchase new is the responsibility of the Select Board in consultation with the Fire Chief and the Finance Committee. He asked that any discussion be on the merits of the appropriation and not on the options.

MOTION

Ann Harrison moved the article as printed. Brian Sollosy seconded.

DISCUSSION

Ann Harrison, Select Board member explained that the fire apparatus fund was established to reduce sticker shock when new purchases are needed. When the one Town ambulance goes out for repair, we rely on other Town's mutual aid which potentially adds minutes to response time. Approving this appropriation will help the Fire Department to serve the Town better.

Robert Meahl, 114 Beach Street questioned the bidding process for such purchases and if the Town would proceed with bidding for both options.

Town Administrator **Greg Federspiel** responded that the Town is required to get competitive bids and may even utilize the State's pre-approved bidding program. He stated that the Town would proceed with the bidding process based on the decision of the Select Board.

VOTE

Passed with a simple majority (486 yes, 69 no, 10 abstain with approximately 571 voters present)

ARTICLE 3: Special Act

To see if the Town will vote to petition the General Legislature to adopt a Special Act to permit the Town to recall elected officials and to provide for the process for recall, said Act to read as shown on Appendix A of this petition, a copy of which is attached hereto, or take any other action relative thereto.

Per Citizen's Petition

The Select Board did not recommend approval.

Moderator Wilson made a statement related to the State Conflict of Interest Law, M.G.L. Ch. 268A. He explained that since he is an elected official, if the recall proposal were approved by the meeting and enacted by the Legislature, the recall provision could apply to him. Nevertheless, he said he believed he could fairly and impartially preside over the debate.

Moderator Wilson also explained that a similar recall provision was approved at the annual town meeting in 2005. Senator Bruce Tarr introduced a bill for it to be approved by the Legislature in 2005 and again in 2007, but the bill was never enacted.

MOTION:

Ron Skates of 4 Boardman Avenue moved the article as printed in the warrant and it was seconded from the Meeting.

DISCUSSION

Mr. Skates introduced the article by explaining, this petition will ensure that our elected officials are not able to ignore the votes of the citizens. Many other communities around us and in the State already have a similar bylaw.

Eli Boling of 99 Pleasant Street moved to **amend the motion** as follows; In section 1, replace the text “provided in this act” with the text “herein provided, for reason of lack of fitness, incompetence, neglect of duties, corruption, malfeasance, misfeasance or violation of oath”.

In section 2, increase the number 50 to 200.

In section 2, at the end of the first sentence, insert the text “, including specific facts supporting one or more of the reasons in section 1”.

In section 3, after the text “grounds for recall as stated in the affidavit”, insert the text “, including specific facts supporting one or more of the reasons in section 1”.

In section 4, increase the number 10 percent to 20 percent.

The amendment was seconded by the Meeting.

Mr. Boling said that no matter what the reason is, once started a recall process will be destructive. In his opinion, an elected official should not be removed because someone doesn't like their vote or position on something. The threshold needs to be high, and the reason must be clear.

Becky Jaques, Select Board Chair explained that the Select Board did not recommend the Article as submitted because of its vagueness.

Residents who spoke in favor of the main motion were **Ann Harrison**, 13 Tucks Point Road and **John Keefe**, 8 Victoria Road.

Residents who spoke in favor of the amended motion were **Ann Harrison**, 13 Tucks Point Road, **Christopher Gates**, 19 Desmond Avenue, and **Veronica Matthews**, 202 Beach Street.

Ron Skates felt the amended motion loses its intent which is to make the sure the Select Board listen to the vocal majority.

Hope Watt-Bucci, 2 Putnam Court moved the previous question. The motion was seconded from the floor.

VOTE on ending debate is a 2/3rds majority which prevailed with a Moderators visual count.

VOTE

Mr. Boling's amendment was approved by a majority vote.

The main motion as amended passed with a majority vote (431 yes, 122 no, 14 abstaining with approximately 578 voters present)

APPENDIX A **As Amended** TO CITIZENS PETITION TO SUBMIT A SPECIAL ACT TO RECALL ELECTED OFFICIALS IN THE TOWN OF MANCHESTER-BY-THE-SEA

SECTION 1. Any holder of an office elected solely by the voters of the town of Manchester- by-the-Sea may be recalled and removed from the office by the registered voters of the town as ~~provided in this act~~ **herein provided, for reason of lack of fitness, incompetence, neglect of duties, corruption, malfeasance, misfeasance or violation of oath.**

SECTION 2. Not less than ~~50~~ **200** registered voters of the town of Manchester-by-the-Sea may initiate a recall by filing with the town clerk an affidavit of intent to recall, signed under the penalties of perjury, containing the name of the officer and the office held whose recall is sought and a statement of the grounds of recall **including specific facts supporting one or more of the reasons in section 1**. The town clerk shall immediately forward the recall affidavit to the board of registrars to verify the signatures.

SECTION 3. Within 14 calendar days of receipt of the initial recall affidavit, the board of registrars shall certify to the town clerk a sufficient number of signatures. The town clerk shall, within 3 business days thereafter, deliver to the first 10 signers of the affidavit a formal numbered printed recall petition sheet with the town clerk's

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signature and official seal attached thereto. The blanks shall be dated and addressed to the select board, shall contain the name of the person whose recall is sought, the office from which recall is sought and the grounds for recall as stated in the affidavit including specific facts supporting one or more of the reasons in section 1 and shall demand the election of a successor to the office. The names of the first 10 signers of the initial recall affidavit shall be listed above the voter signature lines and any instructions to signers. A copy of the petition shall be entered in a record book to be kept in the office of the town clerk.

SECTION 4. The recall petition shall be returned and filed with the town clerk and board of registrars not later than 5:00 P.M. 30 calendar days from the date of delivery of the recall petition sheets, or the next business day if the thirtieth day falls on a Saturday, Sunday, or legal holiday. The clerk shall notify the first 10 signers of the final date and hour for filing. The recall petition shall be signed by not less than ~~10~~ 20 per cent of the registered voters of the town of Manchester-by-the-Sea as of the last annual town election and every signature shall include the place of residence of the signer with the street and number. Within 5 business days following the receipt of the signed petition, the town clerk shall submit the recall petition sheets to the board of registrars and the board of registrars shall certify in writing thereon the number of signatures that are names of registered voters in the town as of the date the petition sheet was filed with the town clerk.

SECTION 5. If the total recall petition sheets shall be found and certified by the board of registrars to be sufficient, the town clerk shall submit the certified petition to the select board within 2 business days. The select board shall immediately, and in not more than 5 business days, give written notice of the receipt of the certificate to the elected officer whose recall is being sought. If the officer sought to be removed does not resign within 3 business days thereafter, the select board shall, within 5 business days of the last day upon which the officer must resign under this Section, order a recall election to be held not less than 64 nor more than 90 calendar days from the date of the vote scheduling the election; provided, however, that if any other town election is to occur within 100 calendar days after the date of the vote, the select board may, in its discretion, place the question of recall on the ballot at such other election. If a vacancy occurs in the office sought to be recalled after a recall election has been ordered, but not yet been conducted, the election shall nevertheless proceed as provided in this act.

SECTION 6. An officer sought to be removed may be a candidate to succeed himself in an election to be held to fill the vacancy. The nomination of all candidates, the publication of the warrant for the recall election, and the conduct of the same shall be in accordance with the provisions of law relating to elections.

SECTION 7. The incumbent shall continue to perform the duties of the office until the recall election unless the incumbent resigns. If the incumbent is not recalled, the incumbent shall remain in office for the remainder of the incumbent's unexpired term, subject to recall as before. If recalled in the recall election, the incumbent shall be considered removed from office immediately. The successor, upon qualification, shall hold office during the unexpired term; provided, however, that if such person is not qualified within 10 business days of the recall election, the position shall be deemed vacant and may be filled in accordance with applicable law.

SECTION 8. Ballots used in a recall election shall contain the following question: shall (insert name and office) be recalled from office? Immediately at the right of the proposition, there shall be a designated place for voters to vote for or against the question.

Under the proposition shall appear the word "CANDIDATES" with directions to voters as required by section 42 of chapter 54 of the General Laws. Beneath this, listed alphabetically, shall appear the names of candidates nominated as provided by law.

If a majority of the votes cast on the recall question is in favor of the recall, the elected official shall be recalled and the ballots for the candidates shall be counted. The candidate who received the highest number of votes shall be elected to the office. If a majority of the votes cast on the recall question is in the negative, the votes for candidates to fill the potential vacancy need not be counted.

SECTION 9. An initial recall affidavit shall not be filed against an elected official within 3 months after the official has taken office nor, in the case of an officer subjected to a recall election and not recalled thereby, until at least 3 months have elapsed after the election at which the recall was submitted to the voters.

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SECTION 10. A person who has been recalled from office, or who has resigned from office after the recall petition has been filed with the board of registrars shall not be appointed to any town office, board or committee within 3 years after the recall or resignation.

SECTION 11. This act shall take effect upon its passage.

ARTICLE 4: Zoning By-law Amendment

To see if the Town will vote to amend the Zoning By-laws, by deleting Sections 1, 2, 3 and 4 in their entirety and replacing them with new sections titled, Section 1: Purpose and Authority, Section 2: Definitions, Section 3: Districts, and Section 4: Use Regulations, to provide greater clarity regarding applicability; to add definitions; to clarify differences between sub areas of Residential District D; to provide regulations regarding split lots; to insert a Table of Uses that categorizes by type, district and permit granting authority all allowed principal and accessory uses and clarifies regulations of other accessory uses; or take any other action relative thereto.

Per Petition of the Planning Board

The Select Board recommended approval.

MOTION

Sarah Creighton, vice-chair of the Planning Board made the motion for Article 4 as printed in the voters booklet, including adopting the zoning map of Manchester-by-the Sea as prepared by App Geo dated January 2022, referenced in the text of section 3.2 of the proposed zoning bylaw amendment and to amend the zoning map legend by adding the word “single” before Residential District A, B, C and E. Ron Mastroggiacomo, chair of the Planning Board seconded.

As written in the voter’s booklet:

SECTION 1.0 PURPOSE AND AUTHORITY

1.1 PURPOSE. This Zoning By-law (“this By-law”) has been enacted to promote and protect the public health, safety, convenience, and general welfare of the inhabitants of the Town of Manchester-by-the-Sea and the public generally by:

- Encouraging the most appropriate use of land and water within the Town;
- Preventing overcrowding of land;
- Preventing undue concentration of population on the one hand, and preventing excessive scattering of population on the other;
- Encouraging various lot sizes and housing types for persons of various age and income levels;
- Minimizing traffic hazards and congestion;
- Providing for adequate light, air, and sanitation;
- Reducing hazards from fire, flood, panic, and other dangers;
- Assisting in the economical provision, utilization and expansion for all services provided to the public, including streets, drainage, water supply, sewage disposal, schools, parks and open spaces;
- Preventing blight and pollution of the environment;
- Maintaining and enhancing the natural and historical amenities of Manchester-by-the-Sea;
- Conserving the value of land and buildings;

- Promoting the development of a sustainable coastal community and encourage climate resiliency and adaptation, and
- Implementing the recommendations of the Town's Master Plan as adopted by the Planning Board.

1.2 **AUTHORITY.** This By-law is enacted in accordance with the provisions of the General Laws, Chapter 40A, and any and all amendments thereto, and by Article 89 of the Amendments to the Constitution of the Commonwealth of Massachusetts.

1.3 **SCOPE.** For these purposes, the construction, repair, alteration, reconstruction, height, number of stories, and size of buildings and structures, the size and width of lots, the percentage of lot area that may be occupied, the size of yards, courts, and other open spaces, the density of population, and the location and use of buildings, structures, and land in the Town are regulated as hereinafter provided.

1.4 **APPLICABILITY.** Except as set forth in The Administration and Procedures Section of this By-law or as otherwise provided herein, all buildings or structures hereinafter erected, reconstructed, altered, enlarged, or moved, and the use of all premises in the Town, shall be in conformity with the provisions of this By-law. No building, structure or land shall be used for any purpose or in any manner other than is expressly permitted within the District in which such building, structure or land is located. When the application of this By-law imposes greater restrictions than those imposed by any other regulations, permits, restrictions, easements, covenants, or agreements, the provisions of this By-law shall control.

1.5 **AMENDMENTS.** This By-law may from time to time be changed by amendment, addition, or repeal by the Town in the manner provided in G.L. c. 40A, s.5, and any amendments thereto.

1.5.1 **Change of Zoning Boundary.** If geographic change of a zoning boundary description is proposed, words of boundary description change for insertion in the warrant shall be accompanied by a brief written statement of the nature, extent and location in the Town of the zoning map change proposed, together with three black-line prints of a diagram to scale showing the area to be changed, stating pertinent dimensions in feet.

1.5.2 **Costs.** The costs of publication and of mailing of notice of hearing and the costs of holding such zoning hearing and of making a public record of the proceedings at such hearing if such a record be made, shall be paid by the Planning Board. However, the Planning Board may determine whether a fee to cover such costs shall be required of the zoning amendment proponents.

1.6 **SEVERABILITY.** The invalidity of any section or provision of this By-law shall not invalidate any other section or provision herein.

SECTION 2.0 DEFINITIONS

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

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

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

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

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

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

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

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

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

Building Height: See Height

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

Cemetery: A burial ground; graveyard.

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

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

Commercial Recreation, Outdoors: Golf, swimming, tennis, or other outdoor recreational facility operated as a business for gain.

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

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

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

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

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

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

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

Earth Removal: The following definitions shall apply:

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

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

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

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

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

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

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

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

Floor Area, Gross: The sum of all living areas of a building measured from the exterior faces of the structure excluding unenclosed spaces such as porches and unconditioned spaces such as mechanical rooms and those portions of basements or attics which are not finished and not provided with a heat source.

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

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

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

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

Height of Building: The height of a building is the vertical distance measured from the average grade of the existing ground level adjoining the building at each exterior wall to the highest point of the roof.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Motor Vehicle Light Service Station: A building or premises used for the dispensing, sales or offering for sale of motor fuels directly to users of motor vehicles. Other sales activities and any

repairs shall be activities minor in scope and clearly subordinate to the sale of motor fuels, oils and lubricants.

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

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

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

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

Long-term care facility: An institution licensed by the Department of Public Health as a nursing, convalescent or rest home, charitable home for the aged, hospital or sanitarium pursuant to G.L. c 3, ss. 51 and 71.

Parcel: An area of land in one ownership, with definite boundaries, generally not available for use as the site of one or more buildings without further Zoning relief.

Parking Space: An area in a building or on a lot available for parking one motor vehicle, having a width of not less than the area required in section 6.1.2, exclusive of passageways and driveways appurtenant thereto and with free and unimpeded access to a street over unobstructed passageways or driveways.

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

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

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

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

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

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

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

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

Recreational Club (Commercial, Indoor): A structure for recreational, social or amusement purposes, which may include as an accessory use the consumption of food and drink, including all connected rooms or space with a common means of egress and entrance. Such facilities shall include health clubs or other commercial recreational centers conducted for profit.

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

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

Retail: A facility selling new or used goods to an end user.

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

Senior Housing:

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

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

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

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

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

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

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

Setback: The minimum distance which a building or other structure must be set back from a property boundary.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Wholesale: Sale of goods not at retail.

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

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

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

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

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

SECTION 3.0 DISTRICTS

3.1 ESTABLISHMENT. For the purpose of this By-law, the Town of Manchester-by-the-Sea is hereby divided into the following Zoning Districts, as shown on the Zoning Map(s):

Residential Districts:

Single Residence District A	SRA
Single Residence District B	SRB
Single Residence District C	SRC
Residence District D1	RD1
Residence District D2	RD2
Single Residence District E	SRE

General District GD

Limited Commercial District LCD

3.2 ZONING MAP. The location and boundaries of the Zoning Districts are shown on the map entitled "Zoning Map of Manchester-by-the-Sea" as prepared by AppGeo dated January 2022 or as may be amended.

3.3 ZONING MAP INTERPRETATION. For the purposes of interpretation of the Zoning Map, the following shall apply:

3.3.1 Center Line. Zoning District boundaries which appear to follow streets, railroads, wood roads or brooks shall coincide with the center line thereof.

3.3.2 Lot Line. Zoning District boundaries which appear to follow a property or lot line, the exact location of which is not indicated by means of dimensions shown in figures, shall coincide with the property or lot line.

3.3.3 Parallel. Zoning District boundaries which appear to run parallel to the sidelines of streets shall be regarded as parallel to such lines. Dimensions shown in figures placed upon said map between such boundary lines and sidelines of public or private ways are the distances in feet of such boundary lines from such lines.

3.4 SPLIT LOTS

3.4.1 By Town Boundary. When a lot is situated in part in the Town and in part in an adjacent municipality, the provisions of this By-law shall be applied to the portion of such lot in the Town in the same manner as if the entire lot were situated in the Town.

3.4.2 By Zoning District Boundary. When a lot is transected by a Zoning District boundary, the regulations of this By-law applicable to the larger part of the area of such lot may also by the grant of a special permit from the Planning Board be deemed to govern in the smaller part beyond such Zoning District boundary but only to an extent not more than thirty (30) linear feet in depth beyond such Zoning District boundary. This provision shall not apply in the Residence District D2.

SECTION 4.0 USE REGULATIONS

4.1 PRINCIPAL USES

4.1.1 Applicability of Use Regulations. Except as otherwise provided by law, in each District no building, structure, or land shall be used or occupied except for the purposes permitted as set forth in the accompanying Table of Uses and Parking Regulations. Any principal or accessory use not listed shall be construed to be prohibited.

1. No dwelling shall be erected except on a lot fronting on a street, and there shall be not more than one principal residential building on any lot.

4.1.2 Permitted Uses. In the following Table of Uses, the uses permitted by right in the District shall be designated by the letter (Y). Uses designated (N) shall not be permitted in the District. Those uses that may be permitted by special permit in the District, in accordance with the relevant Sections of this By-law, shall be designated by identification of the Special Permit Granting Authority, which is either:

ZBA	Zoning Board of Appeals
PB	Planning Board
SB	Select Board

4.1.3 Uses Subject to Other Regulations. Uses permitted by right or by special permit shall be subject, in addition to these use regulations, to all other provisions of this By-law.

4.2 TABLE OF USES

See Manchester-by-the-Sea Table of Allowed Uses at the end of Section 4.

4.3 ACCESSORY USES

4.3.1 Permitted Accessory Uses in All Districts. Allowed permitted accessory uses are defined by the Table of Uses. In all the Districts, accessory uses not listed in section 4.3.2 or in the Table of Uses are prohibited.

4.3.2 Non-Residential Accessory Uses. Any use permitted as a principal use is also permitted as an accessory use provided such use is customarily incidental to the main or principal building or use of the land. Any use authorized as a principal use by special permit may also be authorized as an accessory use by special permit provided such use is customarily incidental to the main or principal building or use of the land. Any use not allowed in the district as a principal use is also prohibited as an accessory use except as listed in 4.3.3. Accessory uses are permitted only in accordance with lawfully existing principal uses. In all instances where site plan review and approval are required for a principal use, the addition of any new accessory use to the principal use, where such addition exceeds the thresholds established in Section 12.6 shall also require site plan review and approval.

4.3.3 Residential Accessory Uses. In addition to the accessory uses allowed in the Table of Allowed Uses or that meet the definition of accessory use in Section 2, the following accessory uses are specifically permitted as of right or by special permit in a single or two-family residence whether in or outside a Residence District, as set forth herein:

1. Boarders in Single-Family Dwelling. The renting of rooms and/or furnishing of board to not more than four (4) persons in an owner-occupied single-family dwelling, with common cooking and living facilities, shall be a permitted accessory use.
2. Home Occupation.

4.2 Manchester-by-the-Sea Table of Allowed Uses

The uses permitted by right in the district shall be designated by the letter (Y). Uses not permitted in the District shall be designated (N). Those uses that may be permitted by special permit in the District, in accordance with Sections 6 and 12, shall be designated by identification of the Special Permit Granting Authority, which is either: Zoning Board of Appeals (ZBA) or Planning Board (PB). Uses subject to Board of Health regulations are designated by BOH. Uses permitted by right or by special permit shall be subject, in addition to these use regulations, to all other provisions of the By-law. Notes to the table are found following the Table.

MANCHESTER-BY-THE-SEA
Special Town Meeting - Monday November 14, 2022

USE	Districts							
	A	B	C	D1	D2	E	G	LCD(1)
	Single Residential I	Single Residential I-B	Single Residential I-C	Residential I District 1	Residential I District 2	Single Residential I-P	General	Limited Commercial
A. RESIDENTIAL								
1. One single family detached dwelling	Y	Y	Y	Y	Y	Y	Y	N
2. Two family dwelling	N	N	N	Y	ZBA	N	Y (2)	N
3. Conversion of a one-family dwelling into a two-family dwelling	N	N	N	Y	ZBA /Y (3)	N	Y	N
4. Conversion of an existing dwelling into a three-family dwelling with no increase in gross floor area	N	N	N	N	N	N	Y (4)	N
5. Multifamily dwelling with not more than four dwelling units (with conditions described in note 4 below)	N	N	N	N	N	N	PB (5)	N
6. Residential Conservation Cluster (6)	PB	PB	PB	PB	PB	PB	PB	N
B. COMMUNITY FACILITIES								
1. Use of land or structures for religious purposes	Y	Y	Y	Y	Y	Y	Y	Y
2. Use of land or structures for educational purposes (7)	Y	Y	Y	Y	Y	Y	Y	Y
3. Child Care Center/School Aged Child Care Program	Y	Y	Y	Y	Y	Y	Y	Y
4. Municipal uses including: 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	Y	Y	Y	Y	Y	Y	Y	Y

MANCHESTER-BY-THE-SEA
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USE	Districts							
	A	B	C	D1	D2	E	G	LCD(1)
	Single Residential I	Single Residential I-B	Single Residential I-C	Residential I District 1	Residential I District 2	Single Residential I-F	General	Limited Commercial
6. Charitable or philanthropic use; hospital, nursing care facility, sanitarium	PB	PB	PB	PB	PB	PB	PB	N
7. Community or private club	PB	PB	PB	PB	PB	PB	PB	Y
8. Cemetery, not conducted for profit	PB	PB	PB	PB	PB	PB	PB	N
9. Public utility or public communications building not including a service station or outside storage of supplies	PB	PB	PB	PB	PB	PB	PB	N
C. AGRICULTURAL USES								
1. Non-nuisance agriculture, horticulture and floriculture	Y	Y	Y	Y	Y	Y	Y	Y
2. Greenhouse, nursery uses for horticultural and floricultural purposes	N	N	N	N	N	N	Y	N
3. The raising or keeping of livestock, including poultry, horses, or cows as regulated by the Board of Health.	BOH	BOH	BOH	N	N	BOH	N	BOH
D. COMMERCIAL USES								
1. Business or professional office building; bank or financial institution	N	N	N	N	N	N	Y	Y
2. The office of a doctor, dentist or other member of a recognized profession (8)	Y	Y	Y	Y	Y	Y	Y	N
3. Medical office building for no more than three doctors (9)	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZB A	Y
4. General retail uses	N	N	N	N	N	N	Y	N
5. Personal or general service establishment	N	N	N	N	N	N	Y	N

MANCHESTER-BY-THE-SEA
Special Town Meeting - Monday November 14, 2022

USE	Districts							
	A	B	C	D1	D2	E	G	LCD(1)
	Single Residential I	Single Residential I-B	Single Residential I-C	Residential I District 1	Residential I District 2	Single Residential I-F	General	Limited Commercial
6. Restaurant	N	N	N	N	N	N	Y	N
7. Indoor recreational club or facility	N	N	N	N	N	N	N	Y
8. Printing and publishing establishment	N	N	N	N	N	N	Y	N
10. Yacht storage, construction, and service and related uses	N	N	N	N	N	N	Y	N
11. Fish and shellfish landing, storage, and handling (but not a fish processing or similar plant)	N	N	N	N	N	N	Y	N
12. Wind energy conversion systems	N	N	N	N	N	N	N	PB
13. WECF, Wind Monitoring and Meteorological towers	N	N	N	N	N	N	N	PB
14. Large-scale ground-mounted solar photovoltaic installation (See Section 11.1)	N	N	N	N	N	N	N	Y
15. Public parking or garaging of automobiles not incidental to another permitted use	N	N	N	N	N	N	PB	PB
16. Helicopter landing, storage or parking facility	PB	PB	PB	PB	PB	PB	PB	PB
17. Marijuana business and treatment center	N	N	N	N	N	N	N	PB
18. Adult Entertainment Establishments	N	N	N	N	N	N	N	PB
19. Laboratories, research and development, and related light manufacturing, assembly	N	N	N	N	N	N	N	PB (10)
E. ACCESSORY USES								
1. Up to four-boarders in a single-family dwelling with	Y	Y	Y	Y	Y	Y	Y	Y

MANCHESTER-BY-THE-SEA
Special Town Meeting - Monday November 14, 2022

USE	Districts							
	A	B	C	D1	D2	E	G	LCD(1)
	Single Residential I	Single Residential II B	Single Residential III C	Residential I District 1	Residential I District 2	Single Residential IV F	General	Limited Commercial
common cooking and living facilities (11)								
2. Maintaining on any lot not more than one commercial vehicle	Y	Y	Y	Y	Y	Y	Y	Y
3. Garaging or maintaining of more than 4 automobiles when accessory to a dwelling	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZB A	N
4. Tennis court, or similar court when accessory to a dwelling	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZB A	N
5. Swimming pool accessory to a dwelling as defined in section 4.3.2	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZB A	N
6. Accessory Dwelling Unit (12)	ZBA	ZBA	ZBA	N	N	ZBA	ZB A	N
7. As part of an existing garage, stable or other existing structure, family living quarters for an employee of the owner/occupant (13)	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZB A	N
8. Customary home occupation conducted in a dwelling by a person residing on the premises (14)	Y	Y	Y	Y	Y	Y	Y	N
9. Accessory uses or structure on the same lot with and customarily incidental to a permitted main use on the same premises, including off-street parking	Y	Y	Y	Y	Y	Y	Y	Y
10. Family day care home, large	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZB A	ZBA
11. Family day care home, small	Y	Y	Y	Y	Y	Y	Y	Y
12. Adult social day care	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZB A	ZBA

MANCHESTER-BY-THE-SEA
Special Town Meeting - Monday November 14, 2022

USE	Districts							
	A	B	C	D1	D2	E	G	LCD(1)
	Single Residential I-A	Single Residential I-B	Single Residential I-C	Residential I District 1	Residential I District 2	Single Residential I-F	General	Limited Commercial
F. OTHER								
1 Matters (including the construction or alteration of any structure or the use thereof) all or any part of which is within tideland lying below Mean High Water (per U.S. Geodetic Survey) (15)	N/A	PB	PB	N/A	N/A	PB	PB	N/A

NOTES TO TABLE:

Note 1: Any allowed use within the LC District requires site plan approval from the Planning Board as provided in this By-law.

Note 2: Such alteration or reconstruction shall not include an increase in floor area or volume, except that shed and individual dormers shall not be considered to be an increase in volume.

Note 3: In the D2 district, the conversion of a single-family residence in existence on the lot as of May 6, 1991 to a two-dwelling unit structure and the construction of a two-dwelling unit are permitted, if authorized by a special permit issued by the Zoning Board of Appeals. However, the conversion to a two-dwelling unit of a structure existing on the lot as of May 6, 1991, that does not involve any increase in the size, height or volume of the structure, including the construction of exterior stairways, porches, patios or decks, shall not require a special permit as long as there is compliance with the following criteria.

- a. The units within the structure shall connect with the municipal sanitary sewer;
- b. The new or expanded structure is appropriate in terms of bulk, shape, location on the lot and relationship to abutting properties and existing structures within the immediate and general neighborhood;
- c. Off-street parking regulations of Section 6.2 of this By-law are met;
- d. The converted two-unit structure may not be substantially different in character from the existing building, except in a case where changes in building facade or design would better reflect the overall character of the surrounding neighborhood, and
- e. The resulting structure will be in harmony with the surrounding neighborhood.

Note 4: An existing dwelling which is altered or reconstructed so as to contain no more than three dwelling units. Such alteration or reconstruction shall not include an increase in floor area or volume. Except for shed dormers, individual dormers are not considered to be an increase in volume.

Note 5: A new or enlarged existing dwelling containing not more than 4 dwelling units if authorized by a special permit issued by the Planning Board in accordance with the special permit provisions of this By-law; in addition, the following stated provisions shall also apply. After the

required public hearing, the Planning Board shall find and determine that such dwelling and use, including the site, plans and designs of the dwelling and any accessory buildings, constitute a desirable development in and will not be detrimental to the neighborhood, and subject further to the following conditions:

- a. Each unit shall have independent cooking facilities;
- b. No living quarters shall be located so that the floor elevation is more than 36 inches below the finished exterior grade;
- c. The dwelling and to the extent appropriate any accessory building shall connect with a municipal sanitary sewer;
- d. The density shall not exceed the rate of 15 dwelling units per acre of lot except for a dwelling constructed or enlarged on a lot of less than 12,000 square feet existing on January 25, 1974, and;
- e. Such other conditions and restrictions as the Planning Board may prescribe in the interest of the Town in carrying out the purposes of this By-law.

Note 6: See Section 9.2 for details

Note 7: Not for profit

Note 8: Provided there is no display or advertising except for a small professional sign not over one square foot in area.

Note 9: The offices within a single building for not more than three medical doctors, subject to the following conditions:

- a. The Board of Appeals determines that there is a need in the Town for such offices within a single building, that there is no reasonably available and suitable office space for such doctors within a single building, or land for such a building, in a district other than a Residence District, and that there is adequate and safe off-street parking for doctors and their staffs and patients;
- b. There is no display or advertising except for a small professional sign for each doctor not over one square foot in area;
- c. No more than one building with offices for more than one doctor shall be permitted in the Residence Districts, and
- d. Site plan approval is required by the Planning Board.

Note 10: By Special Permit from the Planning Board, and limited to the land areas west of Pine Street, a/k/a Pipe Line Road, and east of School Street, laboratories and establishments devoted to scientific research and development; light manufacturing, assembly and processing of materials related thereto and incidental accessory uses.

Note 11: Providing there is no sign or display to advertise such use. (But it shall not be permissible to construct or operate overnight camps.).

Note 12: See Section 9.1 for requirements

Note 13: As part of an existing garage, stable or other existing structure approved by special permit of the Zoning Board of Appeals, family living quarters for and to be occupied only by an employee of the owner occupant of the dwelling while such garage, stable or other existing structure, approved by the Zoning Board of Appeals, is an accessory use. Said employee must be employed on the premises.

Note 14: Provided there is no visible display of goods from the street and no exterior advertising, except a sign of not more than two square feet in area and provided such occupation shall not be carried on in an accessory building.

Note 15: For which an application for a state license under G.L. c. 91, s. 18 is required thereunder to be submitted for comments to the Planning Board.

DISCUSSION

Moderator Wilson explained that the Planning Board is split on their recommendations so he will allow both sides 2.5 minutes to share their opinions.

Ron Mastroggiacomo, chair of the Planning Board explained that in 2019 the Town took the advice of the Master Plan Committee and appropriated money to undertake a thorough review of these Bylaws. The Planning Board had the help of one of the State's zoning experts who suggested updates and new ways to organize the By-Laws. The Planning Board recommended these changes after over 100 public meetings, 12 public forums, 2 public hearings, and an Open House where they have heard from the public and deliberated among the Board. The changes to the Zoning Bylaws do **three** things:

First, they make the zoning regulations easier to understand and administer while strengthening the laws.

Second, they clarify and update the rules for making changes to properties that do not fully conform within our existing Zoning requirements which helps our many older buildings that pre-date town zoning regulations.

Third, they provide a path for more diverse housing options in direct response to a recommendation of the 2019 Master Plan.

Christine DeLisio, speaking on behalf of the minority view of the Planning Board felt that the Planning Board proposed too much at one time. She explained that the codification process began as an exercise to cleanup, simplify and bring our current bylaws into compliance. which Articles 4-9 do however, the remainder of the changes will change our current zoning. She would recommend that the Town hit the pause button and gradually introduce Zoning Changes that are in step with the Master Plan, in the future, one at a time.

Sarah Creighton of the Planning Board explained that the changes under this motion clarify the Zoning in three ways.

First, they clarify the authority & purpose of the by-law, consolidate all definitions into one section, and explain how to treat lots that span two districts.

Second, update the Zoning map and clarify District D's two parts-- this is the district along Pine, Pleasant, School streets. No change is made to uses allowed in District D or to the boundaries of any zoning district.

Third, and most importantly, we propose a Use Table to list the allowed and accessory uses for each district and identify the boards having jurisdiction. The table replaces 6 pages of dense and confusing text but does not change the allowed uses.

Residents who spoke in regard to this motion were **Robert Meahl**, 114 Beach Street, **Tim Gates**, 2 Desmond Avenue, **L. Morrison**, 22B Pine Street, **Sheila Hill**, 1 Running Ridge Row, **Steve Hall**, 30 Loading Place Road, **Gar Morse**, 11 Jersey Lane, and **Lorraine Iovanni**, 20A Pine Street. All expressed some issue of confusion and lack of clarity with what is being presented.

There was a brief discussion on private vs. public ways initiated by **Nick White**, 9 Spy Rock Hill Road, and included commentary from special counsel to the Planning Board, **Mark Bobrowski**. **Becky Jaques**, chair of the Select Board expressed the Select Board support of this because it stems from our Master Plan which incorporated and expressed the will and desire of our residents. **Sarah Mellish**, 11 Bennet Street moved the previous question. The motion was seconded from the floor.

Vote on ending debate is a 2/3rd vote and prevailed as declared the Moderator.

Vote

Passed by a 2/3rds vote (389 yes and 133 no with approximately 575 voters)

ARTICLE 5: General By-law Amendment

To see if the Town will vote to amend the General By-laws, by: adding a new Section A3 Junk Cars to Article XIV: Resident Parking; by numbering "Construction Site Activity" as Section 45 of Article X: Police and other Regulations; by adding a new Section 46 Driveway Entrances to Article X: Police and Other Regulations; by adding a new Article XXII: Storage of Commercial Materials and Vehicles; and by adding a new Article XXIII: Stormwater Management Special Permit, to allow regulation by the General By-laws, or take any other action relative thereto.

Per Petition of the Planning Board

The Select Board recommended approval.

MOTION

Sarah Creighton made the motion for Article 5 as printed in the voter's booklet with the following corrections: on page 6 of the motion at line 166 "See Section 6" should be changed to "See Section 7", on page 12 at line 402, subparagraph "e" should be changed to paragraph "4", on page 12 at line 403 subparagraph "f" should be changed to subparagraph "a", paragraph "B" should be changed to subparagraph "b". Ron Mastrogiacomo seconded.

As written in the voter's booklet,

Add a new Section A3 to ARTICLE XIV: RESIDENT PARKING

SECTION A3 JUNK CARS

No person in charge or control of any real estate within the Town, whether as owner, tenant, occupant, lessee or otherwise, shall allow any partially dismantled, nonoperating, wrecked or junked motor vehicles to remain on such property longer than 60 days without a valid windshield sticker, so-called, issued and displayed in accordance with the requirements of Chapter 90, Section 7A of the General Laws as amended, and the rules and regulations of the Registrar of Motor Vehicles, unless a permit therefor has been obtained from the Zoning Board of Appeals. The Board shall not issue a permit unless it finds that such vehicle on said premises will not constitute a hazard to the safety or welfare of the inhabitants of the Town nor will otherwise nullify or substantially derogate from the intent or purpose of this By-law. No such permit shall be required for a vehicle in an enclosed building nor for a vehicle on the property of a lawful business or farming enterprise necessary to such operation, or for motor vehicles at the place of business of a holder of a class license under Sections 58 and 59 of Chapter 140 of the General Laws.

Number "Construction Site Activity" as Section 45 of ARTICLE X: POLICE AND OTHER REGULATIONS

Add a new Section 46 to ARTICLE X: POLICE AND OTHER REGULATIONS
SECTION 46: DRIVEWAY ENTRANCES

A. Purpose and Intent

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

B. Applicability

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

C. Regulation of Driveway Entrances

All driveway entrances shall be located at least 20 feet from the nearest street intersection, 10 feet from the nearest driveway entrance or fire hydrant, and 5 feet from side lot lines, trees, utility poles or street light fixtures. Driveway entrances should be designed to maximize visibility in all directions, and to minimize the flow of water onto the public way and adjacent properties. There shall be not more than one apron and curb cut per residential lot. To avoid reduction of on-street parking, to maintain accessible cross-slopes on public sidewalks, and to minimize vehicle-pedestrian conflicts, residential uses shall utilize only one driveway entrance.

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

If a sidewalk or roadway is constructed or modified, it shall be done in accordance with MAAB/ADA and DPW standards. The use of pervious materials is encouraged.

D. Administration and Enforcement

The owner must submit a Driveway/Entrance Application. Said Application shall be subject to regulations developed by the Planning Board and may be modified from time to time.

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

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

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

Add New ARTICLE XXII STORAGE OF COMMERCIAL MATERIALS AND VEHICLES

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

- The commercial storage of building and landscaping materials and equipment, excluding that from retail establishments;
- Commercial landscaping equipment, materials, supplies;
- Unless garaged on the premises, the overnight parking of commercial vehicles owned or

operated by a resident of the premises limited to one commercial vehicle less than 10,000 pounds of gross vehicle weight

Storage of recreational vehicles, boats, and trailers within five (5) feet from the property line.

Add a new Article XXIII STORMWATER MANAGEMENT SPECIAL PERMIT

SECTION 1 PURPOSE AND INTENT

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

SECTION 2 DEFINITIONS

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

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

Clearing: Any activity that removes the vegetative surface cover.

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

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

Grading: Changing the level or shape of the ground surface.

Grubbing: The act of clearing land surface by digging up roots and stumps.

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

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

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

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

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

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

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

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

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

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

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

Stormwater management plan: A plan required as part of the application for a Stormwater Management Permit. ~~See Section 6~~ See Section 7.

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

TSS: Total suspended solids.

SECTION 3 AUTHORITY

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

SECTION 4 APPLICABILITY

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

SECTION 5 ADMINISTRATION

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

SECTION 6 PERMITS AND PROCEDURE

- A. Filing Application. The site owner or his agent shall file a completed application package for a Stormwater Management Special Permit (SMSP) as follows: one copy (with the filing fee) with the Town Clerk and ten (10) additional copies with the Planning Board (by delivery with the above copy to the Town Clerk). Permit issuance is required prior to any site altering activity. While the applicant can be a representative, the permittee must be the owner of the site. Each copy of the SMSP Application package shall include:
 - 1. a completed Application Form with original signatures of all owners;
 - 2. a list of abutters, certified by the Assessor's Office;
 - 3. the Stormwater Management Plan and project description as specified in Section 7 of this By-law;
 - 4. the Operation and Maintenance Plan as required by Section 8 of this By-law;

- B. Entry. Filing an application for a special permit grants the Planning Board, or its agent, permission to enter the site to verify the information in the application and to inspect for compliance with the resulting special permit
- C. Other Boards. The applicant for a Stormwater Management Special Permit shall deliver a copy of the application package, within three (3) business days of filing the application with the Planning Board, to each of the Board of Health, Conservation Commission and Department of Public Works, and shall file a certificate of such delivery with the Planning Board.
- D. Fee Structure. The Planning Board is authorized to establish an application form and filing fees, and to retain, at the applicant's expense, Registered Professional Engineers, or other professional consultants, to review and advise the Board on any or all aspects of these plans.
- E. Public Hearing. The Planning Board shall hold a public hearing in accordance with G.L. c. 40A, ss. 9 and 11.
- F. Actions. The Planning Board's action, rendered in writing, shall consist of either:
 - 1. Approval of the Stormwater Management Special Permit Application based upon determination that the proposed plan meets the Standards in this By-law Section 7 and Section 12.5 of the Zoning By-laws and will adequately protect the water resources of the Town and is in compliance with the requirements set forth in this this Article XXIII.
 - 2. Approval of the Stormwater Management Special Permit Application; subject to any conditions, modifications, or restrictions required by the Planning Board which will ensure that the project meets the Standards in this By-law Section 6 and Section 12.5 of the Zoning By-law and adequately protects water resources.
 - 3. Disapproval of the Stormwater Management Special Permit Application based upon a determination that the proposed plan, as submitted, does not meet the Standards in this By-Law and Section 6.3 and Section 12.5 of the Zoning By-Laws or adequately protect water resources, as required herein.
 - 4. Project Completion. At completion of the project, the permittee shall submit as-built record drawings of all structural stormwater controls and best management treatment practices required for the site. The as-built drawing shall show deviations from the approved plans, if any, and be certified by a Registered Professional Engineer.

SECTION 7 STORMWATER MANAGEMENT PLAN

- A. The Stormwater Management Plan shall contain sufficient information for the Planning Board to evaluate the environmental impact, effectiveness, and acceptability of the measures proposed by the applicant for reducing adverse impacts from stormwater. The Plan shall be designed to meet the Massachusetts Stormwater Management Standards as set forth in Part B of this section and DEP Stormwater Management Handbook Volumes I and II. The Stormwater Management Plan shall fully describe the project in drawings, and narrative.
- B. The Plan shall include:
 - 1. A locus map;
 - 2. The existing zoning and land use at the site;
 - 3. The proposed land use;
 - 4. The location(s) of existing and proposed easements;

5. The location of existing and proposed utilities;
6. The site's existing and proposed topography with contours at 2-foot intervals;
7. The existing site hydrology;
8. A description and delineation of existing stormwater conveyances, impoundments, and wetlands on or adjacent to the site or into which stormwater flows;
9. A delineation of 100-year flood plains, if applicable;
10. Estimated seasonal high groundwater elevation (November to April) in areas to be used for stormwater retention, detention, or infiltration;
11. The existing and proposed vegetation and ground surfaces with runoff coefficient for each;
12. A drainage area map showing pre-construction and post-construction watershed boundaries, drainage area, and stormwater flow paths;
13. A description and drawings of all components of the proposed drainage system including:
 - a. locations, cross sections, and profiles of all brooks, streams, drainage swales, and their method of stabilization;
 - b. all measures for the detention, retention, or infiltration of water;
 - c. all measures for the protection of water quality;
 - d. the structural details for all components of the proposed drainage systems and stormwater management facilities;
 - e. notes on drawings specifying materials to be used and construction specifications; and
 - f. expected hydrology with supporting calculations.
14. Proposed improvements including location of buildings or other structures, impervious surfaces, and drainage facilities, if applicable;
15. Timing, schedules, and sequence of development including clearing, stripping, rough grading, construction, final grading, and vegetative stabilization;
16. A maintenance schedule for the period of construction; and
17. Any other information requested by the Planning Board.

C. Standards

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

1. No new stormwater conveyances (e.g. outfalls) may discharge untreated stormwater directly to or cause erosion in wetlands or waters of the Commonwealth.
2. Stormwater management systems must be designed so that post-development peak discharge rates do not exceed pre-development peak discharge rates. This Standard may be waived for discharges to land subject to coastal storm flowage as defined in 310 CMR 10.04.
3. Loss of annual recharge to groundwater shall be eliminated or minimized with infiltration measures including environmentally sensitive site design, low impact development techniques, stormwater best management practices, and good operation and maintenance. The annual recharge from the post-development site should approximate the annual recharge rate from the pre-development or existing site conditions based on soil types. This Standard is met when the stormwater management system is designed to

- infiltrate the required recharge volume as determined in accordance with the Massachusetts Stormwater Handbook.
4. Stormwater management systems shall be designed to remove 80% of the average annual post-construction load of Total Suspended Solids (TSS). It is presumed that this standard is met when:
 - a. Suitable practices for source control and pollution prevention are in a long-term pollution prevention plan and are thereafter implemented and maintained;
 - b. Structural stormwater management best management practices (BMPs) are sized to capture the required water quality volume determined in accordance with the Massachusetts Stormwater Handbook; and
 - c. Pre-treatment is provided in accordance with the Massachusetts Stormwater Handbook.
 5. For land uses with higher potential pollutant loads, source control and pollution prevention shall be implemented in accordance with the Massachusetts Stormwater Handbook to eliminate or reduce the discharge of stormwater runoff from such land uses to the maximum extent practicable. If through source control and/or pollution prevention all land uses with higher potential pollutant loads cannot be completely protected from exposure to rain, snow, snow melt, and stormwater runoff; the proponent shall use the specific structural stormwater BMPs determined by the Department to be suitable for such uses as provided in the Massachusetts Stormwater Handbook. Stormwater discharges from land uses with higher potential pollutant loads shall also comply with the requirements of the Massachusetts Clean Waters Act, G.L. c. 21, ss. 26-53 and the regulations promulgated thereunder at 314 CMR 3.00, 314 CMR 4.00 and 314 CMR 5.00.
 6. Stormwater discharges to critical areas within the Zone II or Interim Wellhead Protection Area of a public water supply and stormwater discharges near or to any other critical area require the use of the specific source control and pollution prevention measures and the specific structural stormwater best management practices determined by the Department to be suitable for managing discharges to such areas as provided in the Massachusetts Stormwater Handbook. A discharge is near a critical area if there is a strong likelihood of a significant impact occurring to said area, considering site-specific factors. Stormwater discharges to Outstanding Resource Waters and Special Resource Waters shall be removed and set back from the receiving water or wetland and receive the highest and best practical method of treatment. A “storm water discharge” as defined in 314 CMR 3.04(2)(a)1 or (b) to an Outstanding Resource Water or Special Resource Water shall comply with 314 CMR 3.00 and 314 CMR 4.00. Stormwater discharges to a Zone I or Zone A are prohibited unless essential to the operation of a public water supply. Critical areas also include swimming beaches and cold-water fisheries.
 7. Redevelopment of previously developed sites must meet the Stormwater Management Standards only to the maximum extent practicable: Standard 2, Standard 3, and the pretreatment and structural best management practice requirements of Standards 4, 5, and 6. Existing stormwater discharges shall comply with Standard 1 only to the maximum extent practicable. A redevelopment project shall also comply with all other

requirements of the Stormwater Management Standards and stormwater management systems must be designed to improve existing conditions.

8. A plan to control construction-related impacts including erosion, sedimentation and other pollutant sources during construction and land disturbance activities (construction period erosion, sedimentation, and pollution prevention plan) shall be developed and implemented.
9. All stormwater management systems must have a long-term Operation and Maintenance Plan to ensure that systems function as designed.
10. All illicit discharges to the stormwater management system are prohibited.

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

D. Reporting Requirements

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

SECTION 8 OPERATION AND MAINTENANCE PLANS

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

1. The name(s) of the owner(s) for all components of the system;
2. Maintenance agreements that specify:
 - a. The names and addresses of the person(s) responsible for operation and maintenance;
 - b. The person(s) responsible for financing maintenance and emergency repairs;
 - c. A Maintenance Schedule for all drainage structures including swales and ponds;
 - d. A list of easements with the purpose and location of each; and
 - e. The signature(s) of the owner(s).
3. Stormwater Management Easement(s):
 - a. Stormwater management easements shall be provided by the property owner(s) as necessary for:
 - i. access for facility inspections and maintenance;
 - ii. preservation of stormwater runoff conveyance, infiltration, and detention areas and facilities, including flood routes for the 100- year storm event; and
 - iii. direct maintenance access by heavy equipment to structures requiring regular cleanout.

- b. The purpose of each easement shall be specified in the maintenance agreement signed by the property owner(s);
- c. Stormwater management easements are required for all areas used for off-site stormwater control unless a waiver is granted by the Planning Board;
- d. Easements shall be recorded with the Essex County South Registry of Deeds prior to issuance of a Certificate of Completion by the Planning Board;

~~e. Changes to Operation and Maintenance Plans;~~

~~f. The owner(s) of the stormwater management system must notify the Planning Board of changes in ownership or assignment of financial responsibility.~~

~~B. The maintenance schedule in the Maintenance Agreement may be amended to achieve the purposes of this By-law by mutual agreement of the Planning Board and the Responsible Parties. Amendments must be in writing and signed by all Responsible Parties. Responsible Parties shall include owner(s), persons with financial responsibility, and persons with operational responsibility.~~

4. Changes to Operation and Maintenance Plans;

a. The owner(s) of the stormwater management system must notify the Planning Board of changes in ownership or assignment of financial responsibility.

b. The maintenance schedule in the Maintenance Agreement may be amended to achieve the purposes of this By-law by mutual agreement of the Planning Board and the Responsible Parties. Amendments must be in writing and signed by all Responsible Parties. Responsible Parties shall include owner(s), persons with financial responsibility, and persons with operational responsibility.

SECTION 9 SURETY

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

SECTION 10 INSPECTIONS

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

- 1. Initial Site Inspection:
 - a. prior to approval of any plan.
- 2. Erosion Control Inspection:
 - a. to ensure erosion control practices are in accord with the filed plan.
- 3. Bury Inspection:

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

SECTION 11 CERTIFICATE OF COMPLETION

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

SECTION 12 SEVERABILITY

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

DISCUSSION

Sarah Creighton explained that this motion transfers three provisions from the Zoning Bylaw to the General Bylaws, where they have broader applicability and may be enforced as needed. The General Bylaw governs the daily management of town government and services. By contrast, Zoning regulations are constrained to land uses and permitting of new projects. This motion also fixes an administrative error by renumbering a section of the General Bylaw that is currently unnumbered.

Mary Foley, speaking on behalf of the minority view of the Planning Board addressed the current driveway/curb cuts bylaw. The driveway/curb cut process is a public process through the Planning Board that includes notice to abutters and a public hearing. Ms. Foley believes that the current process works. There is no need to hand this over to the DPW and remove any public notice.

Ms. Foley made a motion to divide the question under Article 5 into two parts; motion 1 to amend the General By-law by adding "Section A3 Junk Cars", and Article XXII, "Storage of Commercial Materials and Vehicles and "Article XXIII Stormwater Management Special Permit" to the General By-law and motion 2 to amend the General By-law by numbering "Construction Site Activity as Section 45 of Article X and adding new "Section 46; Driveway Entrances".

Motion to divide the question was seconded and passed with a majority vote.

Residents **Sandy Rogers**, 82 Old Essex Road, **David Koeplin**, 6 Greenbrier Road, **Marty Flood**, 31 Hickory Hill Road and **Faith Rossi**, 17 Highland Avenue voiced questions on stormwater

management, junk cars and driveways. **Sarah Creighton** and **Chris Olney** both of the Planning Board answered all the questions.

John Keefe, 8 Victoria Road, George **Record**, 1 Pinewood Road, **Caitlin Eppes**, 26 Proctor Street and **Karen Bennet**, 28 Lincoln Street shared sentiments of confusion and the desire to end the Meeting.

After the point of order reminding the meeting of a motion on the floor from **Jeff Bodmer-Turner**, the Meeting went on to vote.

Vote 1

Moderator Wilson explained that the Meeting will now vote on motion 1 of the divided question which included amending the General By-law by adding Junk Cars, Storage of Commercial Materials and Vehicles and Stormwater Management provisions to the General Bylaws.

Passed with a simple majority (346 yes, 121 no, 24 abstain with approximately 517 voters present)

Vote 2

Moderator Wilson explained that the Meeting will now vote on motion 2 of the divided question which included amending the General By-law by numbering “Construction Site Activity” and adding Driveway Entrances.

Passed with a simple majority (228 yes, 226 no, 13 abstain with approximately 517 voters present)

ARTICLE 6: Zoning By-law Amendment

To see if the Town will vote to amend the Zoning By-laws, by deleting Section 8.5 Junk Cars, by deleting Section 6.15 Stormwater Management Special Permit, and by deleting Section 6.2.7 Curb Cuts to allow regulation by the General By-law, provided the amendments to the General By-laws presented under Article 5 are approved by the Attorney General, or take any other action relative thereto.

Per Petition of the Planning Board

The Select Board recommended approval.

MOTION

Sarah Creighton made the motion for Article 6 as printed in the voter’s booklet. Ron Mastrogiacomo seconded.

As written in the voter’s booklet; Amend the Zoning Bylaws by deleting the following sections and their subsections, provided the amendments to the General Bylaws presented in Article 5 are approved by the Attorney General:

Section 8.5 Junk Cars

Section 6.15 Stormwater Management Special Permit

Section 6.2.7 Driveways/Curb Cuts

DISCUSSION

Sarah Creighton explained that having approved the provisions in the previous article to the General Bylaws, we can now delete them from the Zoning Bylaw to avoid the confusion of having them in both.

Residents **Michael Davis**, 11 Highland Avenue and **Mary Palermo**, 2 Parsons Lane questioned the vote and number of voters.

Moderator Wilson explained that several voters have left.

VOTE

Passed with more than 2/3rd majority (333 yes, 105 no, 6 abstain with approximately 466 voters present)

Cathy Bilotta, Select Board member explained to the Meeting that the Town Clerk and team are keeping track of voter attendance between each article, so we have a count of voters present throughout the meeting.

ARTICLE 7: **Zoning By-law Amendment**

To see if the Town will vote to amend the Zoning By-laws, by renumbering Section 7.0 Administration to Section 12.0 Administration and Procedures, and by renumbering Section 6.1 Non-Conforming Uses and its subsections to Section 7.0 Non-Conforming Uses or take any other action relative thereto.

Per Petition of the Planning Board

The Select Board recommended approval.

MOTION

Sarah Creighton made the motion for Article 7 as printed in the voter's booklet. Ron Mastrogiacomo seconded.

As written in the voter's booklet; Amend the Zoning By-laws by renumbering Section 7.0 to Section 12.0 Administration and Procedures
Section 6.1 and its subsections to Section 7.0.

DISCUSSION

Sarah Creighton explained that the motion under Article 7 renubers the Administration and Non-Conforming Use sections. This motion does not make any changes to wording- that will come in subsequent motions.

Residents **Chuck Furlong**, 19 Ocean Street and **John Shane**, 5 Blynman Circle asked to end the Meeting.

VOTE

Passed by a 2/3rds vote (387 yes, 35 no, 9 abstain with approximately 466 voters present)

ADDITIONAL MOTION

Ron Mastrogiacomo, Chair of the Planning Board moved to pass over and do nothing on articles 8-16. Sarah Creighton seconded.

DISCUSSION

Isabella Bates, 2 Masconomo Street stated that the Planning Board does an unbelievable amount of work on our behalf. Although she agreed that what we are being asked to consider is confusing, she asked to honor the Planning Board for their work and consider Article 8.

Amended Motion – Ron Mastrogiacomo then asked to withdraw his previous motion to pass over Articles 8 through 16. Moderator Wilson allowed Mr. Mastrogiacomo to withdraw his motion.

ARTICLE 8: Zoning By-law Amendment

To see if the Town will vote to amend the Zoning By-laws, by deleting Section 6.0 Special Provisions and replacing it with a new Section 6.0 General Regulations to renumber the section; remove redundant sections; create a comprehensive set of special permit and site plan review standards; change special permit and site plan review regulations to performance-based regulations where possible; make other minor modifications; delete site plan special permit requirements in compliance with case law; and, change stormwater regulations to reference those in the General By-law, or take any other action relative thereto.

Per Petition of the Planning Board

The Select Board recommended approval.

MOTION

Chris Olney made the motion for Article 8 as printed in the voter's booklet, with two corrections; on page 19 of the motion, in section 6.4.2 at line 610 subparagraph "e" should be changed to paragraph "5", and on page 20, at line 654, section "6.5.5" should be changed to "6.4.5". Ron Mastrogiacomo seconded.

As written in the voter's booklet; Amend the Zoning By-laws by deleting Section 6.0 Special Provisions and replacing it with new Section 6.0 General Regulations, as follows:

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 6.1: Manchester-by-the-Sea 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 nine (9') feet by eighteen (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 eight (8') feet by sixteen (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.

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

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Table 6.1: Manchester-by-the-Sea Table of Uses and Parking	
USE	Parking Spaces Required
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
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

Table 6.1: Manchester-by-the-Sea Table of Uses and Parking	
USE	Parking Spaces Required
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

6.1.3 Location. Required parking shall be either on the same premises as the activity it serves, or located within three hundred (300') feet of the building entrance on a separate parcel, not separated by a street having right-of-way width of sixty (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 five (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 five (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 (1) parking space with no more than ten (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 By-law. 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 six (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 five (5') feet by twenty (20') feet, attached to or flush to the building.
2. One non-illuminated announcement sign no larger than three (3') feet by three (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 two (2') feet by six (6') feet, located at least fifty (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 (1) square foot for each linear foot of frontage up to a maximum of one hundred (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 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 of this By-law.

6.3.2 Procedures, Rules and Regulations. In addition to the procedures and requirements detailed in Sections 12 of this By-law, 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.

6.3.3 General Standards

1. Lighting. The proposed development shall not produce lighting so as to unreasonably interfere with the use and enjoyment of property within the Town.
2. 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
3. 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.
4. Site Development Standards. To the extent feasible the proposed development shall be located to preserve and enhance the natural features of the site,
5. Pedestrian and Vehicular Access; Traffic Management, Parking. The proposed development shall be designed to maintain safety for pedestrians, bicyclists, and motor vehicle occupants.
6. 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.
7. 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
8. Utilities; Security; Emergency Systems. The proposed development shall be adequately served by public or private utilities, security systems, and emergency systems.
9. 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 minimize lighting cost without decreasing nighttime 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 Inspector of Buildings 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 By-law.
- 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 and viewsheds, 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 and resiliency principles and best practices to protect human and environmental health.

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 should 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 twelve (12") inches 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 as soon as possible 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 eighteen (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 six (6") inches 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 (5) 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 twenty-five thousand (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 twenty-five thousand (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 provides shuttle 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 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 ten (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 ten (10%) percent or more at an intersection that has an accident history of more than five (5) accidents in the last three (3) 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 the minimum number of spaces required under this Zoning By-law. The SPGA may allow a greater number of parking spaces provided the need is supported by a transportation study completed by a qualified transportation planner. 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 sidewalks.
- 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.

6.3.9 Aesthetic Standards. The location, size and design, building materials, and operating characteristics of the proposed development shall be compatible with and shall 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 shall 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 fifty (50') feet 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 forty (40') feet 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 seventy-five (75') feet 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 fifty (50%) percent 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 thirty-six (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 fifty (50%) percent 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 enforced 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 By-law are to regulate earth removal and filling activities associated with land development, promoting responsible site planning practices without preventing the reasonable development of land:

1. 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;
2. 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;
3. 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
4. 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:

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

Each lot within the Single Residence Districts A, B, C, and E, and Residence District D1 and D2, 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 Inspector of Buildings 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 Rules and Regulations Governing the Subdivision of Land in Manchester-by-the-Sea, Massachusetts 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 Inspector of Buildings.

“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 Inspector of Buildings) 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.

2. General: As described in this Section 6.4.2, and except for certain *de minimis* 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 D1 and D2].

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

- a. Authorized Structures/Drives Activities; and/or
- b. Septic Activities; and/or
- c. Utilities Activities; and/or
- d. Green Activities.

4. 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:

- a. Involve within the Setback Area removal of either any portion of any pre-construction exposed ledges or more than five (5’) feet vertically or horizontally of other ledges; and/or
- b. Result in a change in elevation (from the pre-construction elevation) of more than five (5’) feet at any point (otherwise than within the footprint of any structure) within the Setback Area; and/or
- c. Result in the excavation, deposit or removal of more than twenty (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
- d. Disturb more than ten (10%) percent 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:~~

- ~~i. Involve within the Interior Area removal of any portion of any pre-construction exposed ledges; and/or~~
- ~~ii. Result in a change in elevation (from the pre-construction elevation) of more than ten (10’) feet at any point (otherwise than within the footprint of any structure) within the Interior Area; and/or~~

- iii. Result in the excavation, deposit or removal of more than one hundred (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
- iv. Disturb more than thirty (30%) percent of the Interior Area.

5. 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:

- a. Involve within the Interior Area removal of any portion of any pre-construction exposed ledges; and/or
- b. Result in a change in elevation (from the pre-construction elevation) of more than ten (10') feet at any point (otherwise than within the footprint of any structure) within the Interior Area; and/or
- c. Result in the excavation, deposit or removal of more than one hundred (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
- d. Disturb more than thirty (30%) percent 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-laws 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, four and a half (4 ½') feet from the ground, exceeding six (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.

6.4.5

6.5.5 Expenses Incurred:

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

DISCUSSION:

Chris Olney, Planning Board member explained that this motion changes the General Regulations section of the Zoning Bylaw by updating and organizing criteria for site plan review and special permits. The proposed regulation consolidates all criteria needed to review special permits into a single set of standards and removes redundant or conflicting requirements. New criteria are included for lighting standards, promoting bicycle transit, trees and other vegetation, and climate resiliency. The new criteria include new performance standards as well as prescriptive requirements. The proposed standards will be clearer, can be more easily applied to site-specific conditions, and provide increased environmental protection than the current regulations.

Residents who spoke in support of the motion were **Judy Morse**, 11 Jersey Lane, **Axel Magnuson**, 52 Masconomo Street and **Alida Bryant**, 57 Old Essex Road. **Richard Blau**, 25 Harbor Street. **Tim Gates**, 2 Desmond Avenue expressed concerns.

Town Administrator **Greg Federspiel** explained that there are no changes being made about what can be done in any district. This Article proposes an improvement in the eyes of the Planning Board to the standards with which they can review any project.

Denny Hall, 20 Masconomo Street moved the previous question. The motion was seconded from the floor.

Vote to cut off debate passed by a 2/3rds majority declared by the Moderator.

Vote

Passed by a 2/3rds vote (336 yes, 81 no, 11 abstain with approximately 466 voters present)

ADDITIONAL MOTION

Ron Mastrogiacomo moved that the meeting pass over/do nothing/take no action on Articles 9-16. Sarah Creighton seconded the motion.

VOTE

Passed by a majority

ARTICLE 9: Zoning By-law Amendment

To see if the Town will vote to amend the Zoning By-laws, by substituting a new Section 12 Administration for Section 12.0 (as renumbered under Article 7) to clarify administrative requirements; add a section about review of Dover Amendment cases; add a section about reasonable accommodations; and define the make-up and role of the Planning Board, or take any other action relative thereto.

Per Petition of the Planning Board

The Select Board recommends approval.

PASSED OVER/TOOK NO ACTION

ARTICLE 10: Zoning By-law Amendment

To see if the Town will vote to amend the Zoning By-laws, by deleting section 7 (as renumbered under Article 7) replacing it with a new Section 7 Non-Conforming Uses that revises and expands regulations to allow more flexibility in approving modifications or re-uses of properties that are not in compliance with zoning regulations, to allow the Zoning Board of Appeals greater discretion in allowing non-conforming uses that are less detrimental to the Town, or take any other action relative thereto.

Per Petition of the Planning Board

The Select Board recommends approval.

PASSED OVER/TOOK NO ACTION

ARTICLE 11: Zoning By-law Amendment

To see if the Town will vote to amend the Zoning By-laws, by adding a new Section 8.6 Adult Entertainment to provide regulations of such establishments by special permit of the Planning Board, or take any other action relative thereto.

Per Petition of the Planning Board

The Select Board recommends approval.

PASSED OVER/TOOK NO ACTION

ARTICLE 12: Zoning By-law Amendment

To see if the Town will vote to amend the Zoning By-laws, by deleting Section 9.2 Residential Conservation Cluster and replacing it with a new Section 9.2 Residential Conservation Cluster to remove the minimum lot size for residential conservation clusters and specify density bonuses for deeded affordability, open space, or Town amenities, or take any other action relative thereto.

Per Petition of the Planning Board

The Select Board recommends approval.

PASSED OVER/TOOK NO ACTION

ARTICLE 13: Zoning By-law Amendment

To see if the Town will vote to amend the Zoning By-laws, by adding a new Section 9.4. Senior Housing to provide regulations that allow, by special permit, the development and use of alternative housing and nursing care for seniors and to create health care, housing and other supportive services for the senior populations in all Districts, and amending the Table 4.2 Table of Use Regulations adopted under Article 1 of this Town Meeting) to add Senior Housing by Special Permit of the Planning Board in all Districts, or take any other action relative thereto.

Per Petition of the Planning Board

The Select Board recommends approval.

PASSED OVER/TOOK NO ACTION

ARTICLE 14: Zoning By-law Amendment

To see if the Town will vote to amend the Zoning By-laws, by modifying Accessory Use # 6 in Table 4.2 Table of Use Regulations (adopted under Article 4 of this Town Meeting) in Section 4

to “Y/ZBA” in Residential Districts A, B, C, E and the General District; and by deleting Section 9.1 Special Housing Provisions and replacing it with a new Section 9.1 Accessory Dwelling Units or take any other action relative thereto.

Per Petition of the Planning Board

The Select Board recommends approval.

PASSED OVER/TOOK NO ACTION

ARTICLE 15: Zoning By-law Amendment

To see if the Town will modify the Zoning Bylaws by amending section 9.1 of the Zoning By-Laws by:

- 1) Deleting Section 9.1.2 (a) “Except in Single Residential District E, the lot size shall be two (2) times the minimum lot size as determined by zoning regulations.”
- 2) Amending 9.1.2 (b) by deleting “the single family dwelling shall have existed on the lot as of March 1, 1984” and replacing it with “The single family dwelling shall have existed on the lot with an occupancy permit for two (2) or more years.
- 3) Amending 9.1.2 (c) by changing “Off-street parking for at least four(4) vehicles...” to “Off-street parking for at least three (3) vehicles...”
- 4) Re-lettering the remaining subsections (b) through (i)
or take any other action relative thereto.

Per Petition of the Planning Board

The Select Board recommends approval.

PASSED OVER/TOOK NO ACTION

ARTICLE 16: Zoning By-law Amendment

To see if the Town will modify Table 4.2 Table of Use Regulations (adopted under Article 4 of this Town Meeting) of the Zoning Bylaws section E Accessory Uses #7 and Note 13 by inserting “or family member” after “employee”, or take any other action relative thereto.

Per Petition of the Planning Board

The Select Board recommends approval.

PASSED OVER/TOOK NO ACTION

Conclusion

Select Board member, Becky Jaques moved to dissolve the Meeting. Ann Harrison seconded the motion, and it passed by unanimous voice vote.

Moderator Wilson declared the Meeting dissolved at 10:02pm and thanked everyone for coming.