

1 **Motion for Article 3**

2

3 **Motion:**

4 **Move to amend the Zoning By-laws by deleting Sections 1, 2, 3 and 4 and replacing them**  
5 **with new Sections 1, 2, 3 and 4 as follows:**

6 **SECTION 1.0 PURPOSE AND AUTHORITY**

7 **1.1 PURPOSE.** This Zoning By-law (“this By-law”) has been enacted to promote and  
8 protect the public health, safety, convenience, and general welfare of the inhabitants of the Town  
9 of Manchester-by-the-Sea and the public generally by:

- 10 • Encouraging the most appropriate use of land and water within the Town;
  - 11 • Preventing overcrowding of land;
  - 12 • Preventing undue concentration of population on the one hand, and preventing excessive  
13 scattering of population on the other;
  - 14 • Encouraging various lot sizes and housing types for persons of various age and income  
15 levels;
  - 16 • Minimizing traffic hazards and congestion;
  - 17 • Providing for adequate light, air, and sanitation;
  - 18 • Reducing hazards from fire, flood, panic, and other dangers;
  - 19 • Assisting in the economical provision, utilization and expansion for all services provided  
20 to the public, including streets, drainage, water supply, sewage disposal, schools, parks and  
21 open spaces;
  - 22 • Preventing blight and pollution of the environment;
  - 23 • Maintaining and enhancing the natural and historical amenities of Manchester-by-the-Sea;
  - 24 • Conserving the value of land and buildings;
  - 25 • Promoting the development of a sustainable coastal community and encourage climate  
26 resiliency and adaptation, and
  - 27 • Implementing the recommendations of the Town’s Master Plan as adopted by the Planning  
28 Board.
- 29

30 **1.2 AUTHORITY.** This By-law is enacted in accordance with the provisions of the General  
31 Laws, Chapter 40A, and any and all amendments thereto, and by Article 89 of the Amendments  
32 to the Constitution of the Commonwealth of Massachusetts.

33 **1.3 SCOPE.** For these purposes, the construction, repair, alteration, reconstruction, height,  
34 number of stories, and size of buildings and structures, the size and width of lots, the percentage  
35 of lot area that may be occupied, the size of yards, courts, and other open spaces, the density of  
36 population, and the location and use of buildings, structures, and land in the Town are regulated  
37 as hereinafter provided.

38 **1.4 APPLICABILITY.** Except as set forth in Section 7 or as otherwise provided herein, all  
39 buildings or structures hereinafter erected, reconstructed, altered, enlarged, or moved, and the

40 use of all premises in the Town, shall be in conformity with the provisions of this By-law. No  
41 building, structure or land shall be used for any purpose or in any manner other than is expressly  
42 permitted within the District in which such building, structure or land is located. When the  
43 application of this By-law imposes greater restrictions than those imposed by any other  
44 regulations, permits, restrictions, easements, covenants, or agreements, the provisions of this By-  
45 law shall control.

46 **1.5 AMENDMENTS.** This By-law may from time to time be changed by amendment,  
47 addition, or repeal by the Town in the manner provided in G.L. c. 40A, s.5, and any amendments  
48 thereto.

49 **1.5.1 Change of Zoning Boundary.** If geographic change of a zoning boundary description is  
50 proposed, words of boundary description change for insertion in the warrant shall be  
51 accompanied by a brief written statement of the nature, extent and location in the Town of the  
52 zoning map change proposed, together with three black-line prints of a diagram to scale showing  
53 the area to be changed, stating pertinent dimensions in feet.

54 **1.5.2 Costs.** The costs of publication and of mailing of notice of hearing and the costs of holding  
55 such zoning hearing and of making a public record of the proceedings at such hearing if such a  
56 record be made, shall be paid by the Planning Board. However, the Planning Board may  
57 determine whether a fee to cover such costs shall be required of the zoning amendment  
58 proponents.

59 **1.6 SEVERABILITY.** The invalidity of any section or provision of this By-law shall not  
60 invalidate any other section or provision herein.

61

62

63

64 **SECTION 2.0 DEFINITIONS**

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

74

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

78

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

81

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

85

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

90

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

93

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

97

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

101

102 **Building:** A structure having a roof (including an awning or similar covering) adapted to  
103 permanent or continuous occupancy for assembly, business, education, industrial, institutional,

104 residential or storage purposes. The term "building" shall be construed where applicable as if  
105 followed by the words "or portion thereof".

106  
107 **Building Height:** See Height

108  
109 **Business or Professional Office:** A business establishment which does not offer a product or  
110 merchandise for sale to the public, but offers a professional service to the public. However,  
111 general or personal service establishments are not to be included in the definition of business  
112 offices.

113  
114 **Cemetery:** A burial ground; graveyard.

115  
116 **Child Care Center:** A child care center as that term is defined in G.L. c. 15D, s. 1A.

117  
118 **Commercial Recreation, Indoors:** Entertainment and recreational facilities operated as a  
119 business for gain, including but not limited to bowling alley, theater, fitness center, or sports  
120 arena, provided such use is housed indoors in sound-insulated structure protecting neighborhood  
121 from inappropriate noise in any season.

122  
123 **Commercial Recreation, Outdoors:** Golf, swimming, tennis, or other outdoor recreational  
124 facility operated as a business for gain.

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

127  
128 **Drive-In or Drive-Through Establishment:** A business establishment that includes service  
129 that is provided from a drive-up or drive-through window or other similar arrangement that  
130 allows the service of a patron while the patron remains in a vehicle, whether parked or live  
131 parked. The term shall include eating establishments and service establishments such as banks,  
132 dry cleaners, pharmacies, and the like, and automotive service stations and gasoline stations and  
133 the like.

134  
135 **Dwelling:** A privately or publicly owned permanent structure containing sleeping, kitchen and  
136 bathroom facilities designed for and used or held ready for use as a permanent residence by one  
137 family. The terms "one family," "two family," or "multifamily" dwelling shall not include hotel,  
138 lodging house, hospital, membership club, trailer, however mounted, or dormitory or structure  
139 solely for transient or overnight occupancy.

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

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

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

147

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

151 **Earth Removal:** The following definitions shall apply:

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

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

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

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

159

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

166

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

169

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

171

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

173

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

178

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

180

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

184

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

187

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

190

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

194

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

198

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

202

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

207

208 **Impervious Surface:** A surface or land covering that prohibits penetration of water into  
209 underlying ground layers. As a result, rain and snow are unable to infiltrate into the ground and  
210 run off.

211

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

217

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

219

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

222

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

224  
225 **Lot:** The whole area of a single area of land in one ownership, with definite boundaries, used, or  
226 available for use, as the site of one or more buildings. A lot for the purpose of this Zoning By-  
227 law may or may not coincide with a lot of record title.

228  
229 **Lot Area:** The horizontal area of a lot. For purposes of Section 5.0 the area of a lot shall not  
230 include: (1) The area within the limitation of the street right of way; or (2) tideland lying below  
231 Mean High Water (per U.S. Geodetic Survey), except that such tideland shall be included for  
232 determining minimum setbacks.

233  
234 **Lot Frontage:** The continuous distance between opposing side lot lines where they intersect the  
235 street measured along, and following the angle or curve of, the street right of way.

236  
237 **Lot Width:** The distance between side property lines of a lot measured parallel to the front  
238 property line and being measured at the location of the front property line setback.

239  
240 **Manufacturing:** A use engaged in the basic processing and manufacturing of materials, or the  
241 manufacture from previously prepared materials, of finished products or parts, including  
242 processing, fabrication, assembly, treatment, packaging, incidental storage, sales and distribution  
243 of such products.

244  
245 **Medical Clinic:** A facility as defined in 105 CMR 145.020, including a mobile clinic and  
246 urgent care facility.

247  
248 **Medical Office:** A building designed and used as an office by physicians, dentists, or  
249 psychotherapists for the diagnosis and treatment of human patients that does not include  
250 overnight care facilities or licensing as a clinic.

251  
252 **Motel:** A building or any part of a building containing rooming units without individual  
253 cooking facilities for transient occupancy and having a common entrance or entrances.  
254 Generally, does not include a restaurant, bar or tavern, or accessory recreational facilities.  
255 Does not include a boarding house, lodging house, or rooming house.

256  
257 **Motor Vehicle Hourly Rental Station:** A facility at which, by contract, motor vehicles are  
258 made available for rent for a period not longer than 24 hours.

259  
260 **Motor Vehicle Light Service Station:** A building or premises used for the dispensing, sales or  
261 offering for sale of motor fuels directly to users of motor vehicles. Other sales activities and any  
262 repairs shall be activities minor in scope and clearly subordinate to the sale of motor fuels, oils  
263 and lubricants.

264  
265 **Motor Vehicle Repair:** A building or use which is designed or intended to be used for the  
266 storage, servicing, repair, maintenance, or cleaning of motor vehicle equipment.

267  
268 **Motor Vehicle Sales:** Premises for the sale of used or new motor vehicles, including supplying  
269 of fuel, oil, lubrication, washing, or repair services, but not to include body work or painting.  
270  
271 **Municipal Yards and Facilities:** Town yards and related storage facilities for de-icing, sand,  
272 construction materials, and the like.  
273  
274 **Nonconforming Use or Structure:** A lawfully pre-existing use or structure which does not  
275 conform to the regulations for the District in which such use or structure exists.  
276  
277 **Long-term care facility:** An institution licensed by the Department of Public Health as a  
278 nursing, convalescent or rest home, charitable home for the aged, hospital or sanitarium  
279 pursuant to G.L. c 3, ss. 51 and 71.  
280  
281 **Parcel:** An area of land in one ownership, with definite boundaries, generally not available for  
282 use as the site of one or more buildings without further Zoning relief.  
283  
284 **Parking Space:** An area in a building or on a lot available for parking one motor vehicle,  
285 having a width of not less than the area required in section 6.1.2, exclusive of passageways and  
286 driveways appurtenant thereto and with free and unimpeded access to a street over unobstructed  
287 passageways or driveways.  
  
288  
289 **Personal Service Establishment:** A facility providing personal services such as hair salon,  
290 barber shop, tanning beds, dry cleaning, print shop, photography studio, and the like.  
291  
292 **Personal Wireless Telecommunications Service Facilities:** The following definitions shall  
293 apply for the purposes of Section 8.1:  
294 **Personal Wireless Telecommunication Service:** Commercial mobile services,  
295 unlicensed wireless services and common carrier wireless exchange access services.  
  
296 **Personal Wireless Telecommunication Service Facilities:** Facilities for the provision  
297 of personal wireless telecommunication services.  
298  
299 **Printing and Publishing:** An establishment providing convenient services for printing or  
300 photocopying flyers, brochures, photographs, blueprints and the like.  
301  
302 **Private club:** A facility where the principal purpose is for members of a non-profit  
303 organization or group of people organized for a common purpose to meet to pursue common  
304 goals, interests and activities, and usually characterized by certain membership qualifications,  
305 payment of fees and dues, regular meetings, and a constitution and bylaws.  
306  
307 **Public Utility:** Electrical, gas, steam, water, communication or public passenger transportation  
308 systems and their appurtenances. Excluded from this definition are all personal wireless service  
309 facilities.



310

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

315

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

320

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

323

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

329

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

331

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

334

335 **Senior Housing:**

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

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

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

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

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

349 **Senior Housing Facility:** An Assisted Living Facility, Continuing Care Facility,  
350 Independent Living Facility, or Long Term Care Facility, whether operated as a free-

351 standing facility or in combination with another type of facility on the same lot or  
352 adjacent lot in common control.

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

356  
357 **Setback:** The minimum distance which a building or other structure must be set back from a  
358 property boundary.

359  
360 **Special Permit:** A specific authorized use within this Zoning By-law that may be granted upon  
361 application to the designated special permit granting authority.

362  
363 **Story:** That portion of a building contained between any floor and the floor or roof next above it;  
364 it does not include either the lowest portion so contained if more than one-half of such portion  
365 vertically is below the mean finished grade of the ground adjoining such building, or the  
366 uppermost portion so contained if under a sloping roof and not designed or intended to be used  
367 for human occupancy.

368  
369 **Story, Half:** A floor level with a roof above, the area of which at a height of four (4) feet above  
370 this floor level does not exceed two-thirds of the floor level immediately below it.

371  
372 **Street:** Any accepted Town way; a way established by or maintained under county, state or  
373 federal authority; a way established by and constructed according to a subdivision plan approved  
374 in accordance with the Subdivision Control Law; and a way determined by the Planning Board to  
375 have sufficient width, suitable grades and adequate construction to provide for the needs of  
376 vehicular traffic in relation to the proposed use of the land, and for the installation of municipal  
377 services to serve such land and the buildings erected or to be erected thereon. A public or private  
378 way shall not be deemed to be a street relative to any lot that does not have rights of access to  
379 and passage over said way.

380  
381 **Structure:** A combination of materials assembled at a fixed location to give support, shelter or  
382 utility, including but not limited to, buildings (whether principal or accessory), platforms and  
383 decks, swimming pools, tennis or similar courts, satellite dishes of three (3) feet diameter or  
384 greater, sheds, shelters, and display signs. The term "structure" shall be construed where  
385 applicable as if followed by the words "or portion thereof". The term "structure" shall not  
386 include walls or fence.

387  
388 **Swimming Pool:** Any constructed pool, located above or below the ground, whether portable  
389 or fixed, used or capable of being used for swimming, wading, or bathing purposes. Pools  
390 having depth of two feet or more and having a capacity of two hundred cubic feet or more in  
391 volume shall be considered structures.

392

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

397

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

400

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

403

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

406

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

409

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

410

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

412

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

414

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

415

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

419

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

422

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

425

426 **Wholesale:** Sale of goods not at retail.

427

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

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

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

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

438

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

441

442

443 **SECTION 3.0 DISTRICTS**

444 **3.1 ESTABLISHMENT.** For the purpose of this By-law, the Town of Manchester-by-the-  
445 Sea is hereby divided into the following Zoning Districts, as shown on the Zoning Map(s):

446 Residential Districts:

447	Single Residence District A	SRA
448	Single Residence District B	SRB
449	Single Residence District C	SRC
450	Residence District D1	RD1
451	Residence District D2	RD2
452	Single Residence District E	SRE
453	General District	GD
454	Limited Commercial District	LCD

455

456 **3.2 ZONING MAP.** The location and boundaries of the Zoning Districts are shown on the  
457 map entitled “Zoning Map of Manchester-by-the-Sea” as prepared by AppGeo dated January  
458 2022 or as may be amended.

459 **3.3 ZONING MAP INTERPRETATION.** For the purposes of interpretation of the Zoning  
460 Map, the following shall apply:

461 **3.3.1 Center Line.** Zoning District boundaries which appear to follow streets, railroads, wood  
462 roads or brooks shall coincide with the center line thereof.

463 **3.3.2 Lot Line.** Zoning District boundaries which appear to follow a property or lot line, the  
464 exact location of which is not indicated by means of dimensions shown in figures, shall coincide  
465 with the property or lot line.

466 **3.3.3 Parallel.** Zoning District boundaries which appear to run parallel to the sidelines of streets  
467 shall be regarded as parallel to such lines. Dimensions shown in figures placed upon said map  
468 between such boundary lines and sidelines of public or private ways are the distances in feet of  
469 such boundary lines from such lines.

470 **3.4 SPLIT LOTS**

471 **3.4.1 By Town Boundary.** When a lot is situated in part in the Town and in part in an adjacent  
472 municipality, the provisions of this By-law shall be applied to the portion of such lot in the Town  
473 in the same manner as if the entire lot were situated in the Town.

474 **3.4.2 By Zoning District Boundary.** When a lot is transected by a Zoning District boundary,  
475 the regulations of this By-law applicable to the larger part of the area of such lot may also by the

476 grant of a special permit from the Planning Board be deemed to govern in the smaller part  
477 beyond such Zoning District boundary but only to an extent not more than thirty (30) linear feet  
478 in depth beyond such Zoning District boundary. This provision shall not apply in the Residence  
479 District D2.

480

481

482 **SECTION 4.0 USE REGULATIONS**

483 **4.1 PRINCIPAL USES**

484 **4.1.1 Applicability of Use Regulations.** Except as otherwise provided by law, in each District  
485 no building, structure, or land shall be used or occupied except for the purposes permitted as set  
486 forth in the accompanying Table of Uses and Parking Regulations. Any principal or accessory  
487 use not listed shall be construed to be prohibited.

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

490 **4.1.2 Permitted Uses.** In the following Table of Uses, the uses permitted by right in the  
491 District shall be designated by the letter (Y). Uses designated (N) shall not be permitted in the  
492 District. Those uses that may be permitted by special permit in the District, in accordance with  
493 Section 10.5, shall be designated by identification of the Special Permit Granting Authority,  
494 which is either:

495 ZBA Zoning Board of Appeals

496 PB Planning Board

497 SB Select Board

498

499 **4.1.3 Uses Subject to Other Regulations.** Uses permitted by right or by special permit shall  
500 be subject, in addition to these use regulations, to all other provisions of this By-law.

501 **4.2 TABLE OF USES**

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

503 **4.3 ACCESSORY USES**

504 **4.3.1 Permitted Accessory Uses in All Districts.** Allowed permitted accessory uses are  
505 defined by the Table of Uses. In all the Districts, accessory uses not listed in section 4.3.2 or in  
506 the Table of Uses are prohibited.

507

508 **4.3.2 Non-Residential Accessory Uses.** Any use permitted as a principal use is also permitted  
509 as an accessory use provided such use is customarily incidental to the main or principal building  
510 or use of the land. Any use authorized as a principal use by special permit may also be  
511 authorized as an accessory use by special permit provided such use is customarily incidental to  
512 the main or principal building or use of the land. Any use not allowed in the district as a  
513 principal use is also prohibited as an accessory use except as listed in 4.3.3. Accessory uses are  
514 permitted only in accordance with lawfully existing principal uses. In all instances where site  
515 plan review and approval are required for a principal use, the addition of any new accessory use  
516 to the principal use, where such addition exceeds the thresholds established in Section 12.6 shall  
517 also require site plan review and approval.

518 **4.3.3 Residential Accessory Uses.** In addition to the accessory uses allowed in the Table of  
519 Allowed Uses or that meet the definition of accessory use in Section 2, the following accessory  
520 uses are specifically permitted as of right or by special permit in a single or two-family residence  
521 whether in or outside a Residence District, as set forth herein:

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

525 2. Home Occupation.

526 3. Swimming Pools. The Inspector of Buildings may grant a building permit for a  
527 swimming pool accessory to a residential use subject to the following conditions:

528 a. Lot coverage requirements must be met.

529 b. No swimming pool shall be constructed within the setbacks required for the  
530 principal dwelling as measured from the inside edge of the pool rim to the lot line.

531 c. All swimming pools shall have a fence at least four feet high as required by the  
532 State Building Code that enclose and effectively limit access to the pool.

533 d. All lighting associated with a swimming pool must be directed downward and  
534 must not create light spillage closer to the property line than the setbacks of the  
535 principal dwelling.

536 e. Landscaped fence perimeter to screen visibility from the street is encouraged.

537 f. Any swimming pools that do not satisfy the above criteria a-e may be  
538 constructed only by the issuance of a special permit from the Zoning Board of  
539 Appeals.

540

541



### 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 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.

USE	Districts							
	A	B	C	D1	D2	E	G	LCD(1)
	Single Residential A	Single Residential B	Single Residential C	Residential District 1	Residential District 2	Single Residential E	General	Limited Commercial
<b>A. RESIDENTIAL</b>								
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>B. COMMUNITY FACILITIES</b>								
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
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)
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
<b>C. AGRICULTURAL USES</b>								
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
4. The raising or keeping of livestock, including poultry, horses, or cows as regulated by the Board of Health.	PB	PB	PB	PB	PB	PB	N	N

USE	Districts							
	A	B	C	D1	D2	E	G	LCD(1)
	Single Residential A	Single Residential B	Single Residential C	Residential District 1	Residential District 2	Single Residential E	General	Limited Commercial
<b>D. COMMERCIAL USES</b>								
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	ZBA	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
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)
<b>E. ACCESSORY USES</b>								
1. Up to four-boarders in a single-family dwelling with common cooking and living facilities (11)	Y	Y	Y	Y	Y	Y	Y	Y
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	ZBA	N
4. Tennis court, or similar court when accessory to a dwelling	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	N
5. Swimming pool accessory to a dwelling as defined in section 4.3.2	Y/ZBA	Y/ZBA	Y/ZBA	Y/ZBA	Y/ZBA	Y/ZBA	ZBA	N
6. Accessory Dwelling Unit (12)	ZBA	ZBA	ZBA	N	N	ZBA	ZBA	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	ZBA	N

USE	Districts							
	A	B	C	D1	D2	E	G	LCD(1)
	Single Residential A	Single Residential B	Single Residential C	Residential District 1	Residential District 2	Single Residential E	General	Limited Commercial
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	ZBA	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	ZBA	ZBA
<b>F. OTHER</b>								
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	N/A	N/A	N/A	PB	PB	N/A

543  
544

545 **NOTES TO TABLE:**

546  
547  
548  
549

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

550  
551  
552

**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.

553  
554  
555  
556  
557  
558

**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.

559  
560  
561  
562  
563  
564  
565  
566  
567

- 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.

568  
569  
570  
571

**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.

572  
573  
574

**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

575 determine that such dwelling and use, including the site, plans and designs of the dwelling and any accessory  
576 buildings, constitute a desirable development in and will not be detrimental to the neighborhood, and subject further  
577 to the following conditions:

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

587  
588 **Note 6:** See Section 9.2 for details

589  
590 **Note 7:** Not for profit

591  
592 **Note 8:** Provided there is no display or advertising except for a small professional sign not over one square foot in  
593 area.

594  
595 **Note 9:** The offices within a single building for not more than three medical doctors, subject to the following  
596 conditions:

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

606  
607 **Note 10:** By Special Permit from the Planning Board, and limited to the land areas west of Pine Street, a/k/a Pipe  
608 Line Road, and east of School Street, laboratories and establishments devoted to scientific research and  
609 development; light manufacturing, assembly and processing of materials related thereto and incidental accessory  
610 uses.

611  
612 **Note 11:** Providing there is no sign or display to advertise such use. (But it shall not be permissible to construct or  
613 operate overnight camps.).

614  
615 **Note 12:** See Section 9.1 for requirements

616  
617 **Note 13:** As part of an existing garage, stable or other existing structure approved by special permit of the Zoning  
618 Board of Appeals, family living quarters for and to be occupied only by an employee of the owner occupant of the  
619 dwelling while such garage, stable or other existing structure, approved by the Zoning Board of Appeals, is an  
620 accessory use. Said employee must be employed on the premises.

621  
622 **Note 14:** Provided there is no visible display of goods from the street and no exterior advertising, except a sign of  
623 not more than two square feet in area, and provided such occupation shall not be carried on in an accessory building.

624  
625 **Note 15:** For which an application for a state license under G.L. c. 91, s. 18 is required thereunder to be submitted  
626 for comments to the Planning Board.

627  
628