

1 **Motion for Article 4**

2
3 **MOTION:**

4 Move to amend the General By-laws as follows :

5 **Add a new Section A3 to ARTICLE XIV: RESIDENT PARKING**

6 **SECTION A3 JUNK CARS**

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

20
21 **Add a new Section 45 to ARTICLE X: POLICE AND OTHER REGULATIONS**

22
23 **SECTION 45: DRIVEWAY ENTRANCES**

24
25 A. Purpose and Intent

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

28
29 B. Applicability

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

33
34 C. Regulation of Driveway Entrances

35 All driveway entrances shall be located at least 20 feet from the nearest street intersection, 10
36 feet from the nearest driveway entrance or fire hydrant, and 5 feet from side lot lines, trees,
37 utility poles or street light fixtures. Driveway entrances should be designed to maximize
38 visibility in all directions, and to minimize the flow of water onto the public way and
39 adjacent properties. There shall normally be not more than one apron and curb cut per

40 residential lot. To avoid reduction of on-street parking, to maintain accessible cross-slopes on
41 public sidewalks, and to minimize vehicle-pedestrian conflicts, residential uses are
42 encouraged to utilize only one driveway entrance, with two entrances being the maximum
43 allowable and requiring Planning Board approval.

44
45 The driveway width as it approaches the driveway entrance shall have a minimum of 8 feet
46 and a maximum of 12 feet in width, with a combined driveway flare area of 5 feet divided on
47 either side of the driveway as needed and a curb return, if applicable, of no more than 3 feet.

48
49 If a sidewalk or roadway is constructed or modified, it shall be done in accordance with
50 MAAB/ADA and DPW standards. The use of pervious materials is encouraged.

51
52 **D. Administration and Enforcement**

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

56
57 All driveway entrances in existence prior to the adoption of this By-law shall not require
58 review unless they are substantially modified or relocated. A driveway entrance permit shall
59 expire after 2 years of issuance.

60
61 Failure to comply with this By-law shall result in a fine of \$50 per day until the non-
62 compliance is corrected or temporary allowances are granted by the DPW.

63
64 **Add New Section ARTICLE XII as follows:**

65 **ARTICLE XXII: STORAGE OF COMMERCIAL MATERIALS AND VEHICLES**

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

- 68 • The commercial storage of building and landscaping materials and equipment, excluding
69 that from retail establishments;
- 70 • Commercial landscaping equipment, materials, supplies;
- 71 • Unless garaged on the premises, the overnight parking of commercial vehicles owned or
72 operated by a resident of the premises limited to one commercial vehicle less than 10,000
73 lbs gvw
- 74 • Storage of recreational vehicles, boats, and trailers within five (5) feet from the property
75 line.

77 **Add a new Article XXIII as follows:**

78 **ARTICLE XXIII: STORMWATER MANAGEMENT SPECIAL PERMIT**

79

80 **SECTION 1 PURPOSE AND INTENT**

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

106 **SECTION 2 DEFINITIONS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

159 **Stormwater management plan:** A plan required as part of the application for a Stormwater
160 Management Permit. See Section 6.

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

162 **TSS:** Total suspended solids.

163 **SECTION 3 AUTHORITY**

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

167 **SECTION 4 APPLICABILITY**

168 A. No person may undertake a construction activity including clearing, grading, and
169 excavation that result in a land disturbance that will disturb equal to or greater than one
170 acre of land or will disturb less than one acre of land but is part of a larger common plan
171 of development that will ultimately disturb equal to or greater than one acre of land
172 draining to the Town's municipal separate storm sewer system without a special permit
173 from the Planning Board.

174 B. Activities or land uses that otherwise require a special permit from the Planning Board
175 shall not be required to obtain an independent special permit under this Article provided
176 that the applicable terms, conditions, and requirements of this Article are imposed within
177 the special permit issued by the Planning Board.

178 C. Exemptions:

179 1. Normal maintenance and improvement of land in agricultural use as defined by
180 the Wetlands Protection Act regulation 310 CMR 10.04;

181 2. Maintenance of existing landscaping, gardens or lawn areas associated with a
182 single-family dwelling;

183 3. The construction of fencing that will not substantially alter existing terrain or
184 drainage patterns;

185 4. Construction and installation of utilities other than drainage (gas, water, electric,
186 telephone, etc.) which will not alter terrain or drainage patterns;

- 187 5. Large-Scale Ground-Mounted Solar Photovoltaic Installations.
188 6. As authorized in the Phase II Small MS4 General Permit for Massachusetts, storm
189 water discharges resulting from the activities identified in this Section that are
190 wholly subject to jurisdiction under the Wetlands Protection Act and demonstrate
191 compliance with the Massachusetts Storm Water Management Policy as reflected
192 in an Order of Conditions issued by the Conservation Commission are exempt
193 from compliance with this Section.

194 **SECTION 5 ADMINISTRATION**

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

197 **SECTION 6 PERMITS AND PROCEDURE**

- 198 A. Filing Application. The site owner or his agent shall file a completed application package
199 for a Stormwater Management Special Permit (SMSP) as follows: one copy (with the
200 filing fee) with the Town Clerk and ten (10) additional copies with the Planning Board
201 (by delivery with the above copy to the Town Clerk). Permit issuance is required prior to
202 any site altering activity. While the applicant can be a representative, the permittee must
203 be the owner of the site. Each copy of the SMSP Application package shall include:
204 1. a completed Application Form with original signatures of all owners;
205 2. a list of abutters, certified by the Assessor's Office;
206 3. the Stormwater Management Plan and project description as specified in Section
207 7 of this By-law;
208 4. the Operation and Maintenance Plan as required by Section 8 of this By-law;
209 B. Entry. Filing an application for a special permit grants the Planning Board, or its agent,
210 permission to enter the site to verify the information in the application and to inspect for
211 compliance with the resulting special permit
212 C. Other Boards. The applicant for a Stormwater Management Special Permit shall deliver a
213 copy of the application package, within three (3) business days of filing the application
214 with the Planning Board, to each of the Board of Health, Conservation Commission and
215 Department of Public Works, and shall file a certificate of such delivery with the
216 Planning Board.
217 D. Fee Structure. The Planning Board is authorized to establish an application form and
218 filing fees, and to retain, at the applicant's expense, Registered Professional Engineers, or
219 other professional consultants, to review and advise the Board on any or all aspects of
220 these plans.
221 E. Public Hearing. The Planning Board shall hold a public hearing in accordance with G.L.
222 c. 40A, ss. 9 and 11.
223 F. Actions. The Planning Board's action, rendered in writing, shall consist of either:
224 1. Approval of the Stormwater Management Special Permit Application based upon
225 determination that the proposed plan meets the Standards in this By-law Section 7
226 and Section 12.5 of the Zoning By-laws and will adequately protect the water

227 resources of the Town and is in compliance with the requirements set forth in this
228 this Article XXIII.

- 229 2. Approval of the Stormwater Management Special Permit Application; subject to
230 any conditions, modifications, or restrictions required by the Planning Board
231 which will ensure that the project meets the Standards in this By-law Section 6
232 and Section 12.5 of the Zoning By-law and adequately protects water resources.
- 233 3. Disapproval of the Stormwater Management Special Permit Application based
234 upon a determination that the proposed plan, as submitted, does not meet the
235 Standards in this By-Law and Section 6.3 and Section 12.5 of the Zoning By-
236 Laws or adequately protect water resources, as required herein.
- 237 4. Project Completion. At completion of the project, the permittee shall submit as-
238 built record drawings of all structural stormwater controls and best management
239 treatment practices required for the site. The as-built drawing shall show
240 deviations from the approved plans, if any, and be certified by a Registered
241 Professional Engineer.

242 **SECTION 7 STORMWATER MANAGEMENT PLAN**

243 A. The Stormwater Management Plan shall contain sufficient information for the Planning
244 Board to evaluate the environmental impact, effectiveness, and acceptability of the
245 measures proposed by the applicant for reducing adverse impacts from stormwater. The
246 Plan shall be designed to meet the Massachusetts Stormwater Management Standards as
247 set forth in Part B of this section and DEP Stormwater Management Handbook Volumes
248 I and II. The Stormwater Management Plan shall fully describe the project in drawings,
249 and narrative.

250 B. The Plan shall include:

- 251 1. A locus map;
- 252 2. The existing zoning and land use at the site;
- 253 3. The proposed land use;
- 254 4. The location(s) of existing and proposed easements;
- 255 5. The location of existing and proposed utilities;
- 256 6. The site's existing and proposed topography with contours at 2-foot intervals;
- 257 7. The existing site hydrology;
- 258 8. A description and delineation of existing stormwater conveyances,
259 impoundments, and wetlands on or adjacent to the site or into which stormwater
260 flows;
- 261 9. A delineation of 100-year flood plains, if applicable;
- 262 10. Estimated seasonal high groundwater elevation (November to April) in areas to be
263 used for stormwater retention, detention, or infiltration;
- 264 11. The existing and proposed vegetation and ground surfaces with runoff coefficient
265 for each;
- 266 12. A drainage area map showing pre-construction and post-construction watershed
267 boundaries, drainage area, and stormwater flow paths;

- 268 13. A description and drawings of all components of the proposed drainage system
269 including:
270 a. locations, cross sections, and profiles of all brooks, streams, drainage
271 swales, and their method of stabilization;
272 b. all measures for the detention, retention, or infiltration of water;
273 c. all measures for the protection of water quality;
274 d. the structural details for all components of the proposed drainage systems
275 and stormwater management facilities;
276 e. notes on drawings specifying materials to be used and construction
277 specifications; and
278 f. expected hydrology with supporting calculations.
279 14. Proposed improvements including location of buildings or other structures,
280 impervious surfaces, and drainage facilities, if applicable;
281 15. Timing, schedules, and sequence of development including clearing, stripping,
282 rough grading, construction, final grading, and vegetative stabilization;
283 16. A maintenance schedule for the period of construction; and
284 17. Any other information requested by the Planning Board.

285 C. Standards

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

- 288 1. No new stormwater conveyances (e.g. outfalls) may discharge untreated stormwater
289 directly to or cause erosion in wetlands or waters of the Commonwealth.
290 2. Stormwater management systems must be designed so that post-development peak
291 discharge rates do not exceed pre-development peak discharge rates. This Standard
292 may be waived for discharges to land subject to coastal storm flowage as defined in
293 310 CMR 10.04.
294 3. Loss of annual recharge to groundwater shall be eliminated or minimized with
295 infiltration measures including environmentally sensitive site design, low impact
296 development techniques, stormwater best management practices, and good operation
297 and maintenance. The annual recharge from the post-development site should
298 approximate the annual recharge rate from the pre-development or existing site
299 conditions based on soil types. This Standard is met when the stormwater
300 management system is designed to infiltrate the required recharge volume as
301 determined in accordance with the Massachusetts Stormwater Handbook.
302 4. Stormwater management systems shall be designed to remove 80% of the average
303 annual post-construction load of Total Suspended Solids (TSS). It is presumed that
304 this standard is met when:
305 a. Suitable practices for source control and pollution prevention are in a long-
306 term pollution prevention plan and are thereafter implemented and
307 maintained;

- 308 b. Structural stormwater management best management practices (BMPs) are
309 sized to capture the required water quality volume determined in accordance
310 with the Massachusetts Stormwater Handbook; and
311 c. Pre-treatment is provided in accordance with the Massachusetts Stormwater
312 Handbook.
- 313 5. For land uses with higher potential pollutant loads, source control and pollution
314 prevention shall be implemented in accordance with the Massachusetts Stormwater
315 Handbook to eliminate or reduce the discharge of stormwater runoff from such land
316 uses to the maximum extent practicable. If through source control and/or pollution
317 prevention all land uses with higher potential pollutant loads cannot be completely
318 protected from exposure to rain, snow, snow melt, and stormwater runoff; the
319 proponent shall use the specific structural stormwater BMPs determined by the
320 Department to be suitable for such uses as provided in the Massachusetts Stormwater
321 Handbook. Stormwater discharges from land uses with higher potential pollutant
322 loads shall also comply with the requirements of the Massachusetts Clean Waters
323 Act, G.L. c. 21, ss. 26-53 and the regulations promulgated thereunder at 314 CMR
324 3.00, 314 CMR 4.00 and 314 CMR 5.00.
- 325 6. Stormwater discharges to critical areas within the Zone II or Interim Wellhead
326 Protection Area of a public water supply and stormwater discharges near or to any
327 other critical area require the use of the specific source control and pollution
328 prevention measures and the specific structural stormwater best management
329 practices determined by the Department to be suitable for managing discharges to
330 such areas as provided in the Massachusetts Stormwater Handbook. A discharge is
331 near a critical area if there is a strong likelihood of a significant impact occurring to
332 said area, considering site-specific factors. Stormwater discharges to Outstanding
333 Resource Waters and Special Resource Waters shall be removed and set back from
334 the receiving water or wetland and receive the highest and best practical method of
335 treatment. A “storm water discharge” as defined in 314 CMR 3.04(2)(a)1 or (b) to an
336 Outstanding Resource Water or Special Resource Water shall comply with 314 CMR
337 3.00 and 314 CMR 4.00. Stormwater discharges to a Zone I or Zone A are prohibited
338 unless essential to the operation of a public water supply. Critical areas also include
339 swimming beaches and cold-water fisheries.
- 340 7. Redevelopment of previously-developed sites must meet the Stormwater
341 Management Standards only to the maximum extent practicable: Standard 2, Standard
342 3, and the pretreatment and structural best management practice requirements of
343 Standards 4, 5, and 6. Existing stormwater discharges shall comply with Standard 1
344 only to the maximum extent practicable. A redevelopment project shall also comply
345 with all other requirements of the Stormwater Management Standards and stormwater
346 management systems must be designed to improve existing conditions.
- 347 8. A plan to control construction-related impacts including erosion, sedimentation and
348 other pollutant sources during construction and land disturbance activities

349 (construction period erosion, sedimentation, and pollution prevention plan) shall be
350 developed and implemented.

351 9. All stormwater management systems must have a long-term Operation and
352 Maintenance Plan to ensure that systems function as designed.

353 10. All illicit discharges to the stormwater management system are prohibited.

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

356 D. Reporting Requirements

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

361 **SECTION 8 OPERATION AND MAINTENANCE PLANS**

362 A. An Operation and Maintenance Plan (O&M Plan) is required at the time of application
363 for all projects. The O&M Plan shall be designed to ensure that compliance with the
364 Permit, this By-Law and the Massachusetts Surface Water Quality Standards, 314 CMR
365 4.00 are met in all seasons and throughout the life of the system. The Planning Board
366 shall make the final decision of what maintenance option is appropriate in each situation.
367 The Planning Board will consider natural features, proximity of site to water bodies and
368 wetlands, extent of impervious surfaces, size of the site, the types of stormwater
369 management structures, and potential need for ongoing maintenance activities when
370 making this decision. The O&M Plan shall remain on file with the Planning Board and
371 shall be an ongoing requirement. The O&M Plan shall include:

- 372 1. The name(s) of the owner(s) for all components of the system;
- 373 2. Maintenance agreements that specify:
- 374 a. The names and addresses of the person(s) responsible for operation and
375 maintenance;
- 376 b. The person(s) responsible for financing maintenance and emergency repairs;
- 377 c. A Maintenance Schedule for all drainage structures including swales and
378 ponds;
- 379 d. A list of easements with the purpose and location of each; and
- 380 e. The signature(s) of the owner(s).
- 381 3. Stormwater Management Easement(s):
- 382 a. Stormwater management easements shall be provided by the property
383 owner(s) as necessary for:
- 384 i. access for facility inspections and maintenance;
- 385 ii. preservation of stormwater runoff conveyance, infiltration, and
386 detention areas and facilities, including flood routes for the 100- year
387 storm event; and

- 388 iii. direct maintenance access by heavy equipment to structures requiring
389 regular cleanout.
- 390 b. The purpose of each easement shall be specified in the maintenance
391 agreement signed by the property owner(s);
- 392 c. Stormwater management easements are required for all areas used for off-site
393 stormwater control unless a waiver is granted by the Planning Board;
- 394 d. Easements shall be recorded with the Essex County South Registry of Deeds
395 prior to issuance of a Certificate of Completion by the Planning Board;
- 396 e. Changes to Operation and Maintenance Plans;
- 397 f. The owner(s) of the stormwater management system must notify the Planning
398 Board of changes in ownership or assignment of financial responsibility.
- 399 B. The maintenance schedule in the Maintenance Agreement may be amended to achieve
400 the purposes of this By-law by mutual agreement of the Planning Board and the
401 Responsible Parties. Amendments must be in writing and signed by all Responsible
402 Parties. Responsible Parties shall include owner(s), persons with financial responsibility,
403 and persons with operational responsibility.

404 **SECTION 9 SURETY**

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

417 **SECTION 10 INSPECTIONS**

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

- 419 1. Initial Site Inspection:
- 420 a. prior to approval of any plan.
- 421 2. Erosion Control Inspection:
- 422 a. to ensure erosion control practices are in accord with the filed plan.
- 423 3. Bury Inspection:
- 424 a. prior to backfilling of any underground drainage or stormwater conveyance
425 structures.
- 426 4. Final Inspection:

- 427 a. After the stormwater management system has been constructed and before the
428 surety has been released, the applicant must submit a record plan detailing the
429 actual stormwater management system as installed. The Planning Board's
430 representative shall inspect the system to confirm its "as-built" features. This
431 inspection shall also evaluate the effectiveness of the system in an actual storm. If
432 the inspection finds the system to be adequate, the Planning Board shall issue a
433 Certificate of Completion.
- 434 b. If the system is found to be inadequate by virtue of physical evidence or
435 operational failure, even though it was built in accordance with the Stormwater
436 Management Plan, it shall be corrected by the permittee before the performance
437 guarantee is released. If the permittee fails to act, the Town may use the surety
438 bond to complete the work.

439 **SECTION 11 CERTIFICATE OF COMPLETION**

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

443 **SECTION 12 SEVERABILITY**

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

446