

1 **Motion for Article 11**

2 **MOTION :**

3 **Move to amend the Zoning By-laws by deleting Section 9.2 Conservation Cluster and**
4 **inserting the following:**

5
6 **9.2 RESIDENTIAL CONSERVATION CLUSTER**

7 **9.2.1 Purpose.** The purpose of this Section 9.2 is to:

- 8 1. Allow for greater flexibility and creativity in the design of residential developments.
- 9 2. Encourage the permanent preservation of open space, agricultural and forestry land,
10 other natural resources including water bodies and wetlands, and historical and
11 archeological resources.
- 12 3. Maintain the Town’s traditional character and land use pattern
- 13 4. Encourage screening of new residential development from the Town’s roads, open
14 spaces and scenic areas.
- 15 5. Protect scenic vistas from the Town’s roadways and other public places.
- 16 6. Facilitate the construction and maintenance of streets, utilities and public services in a
17 more economical and efficient manner.
- 18 7. Protect existing and potential municipal water supplies.
- 19 8. Encourage a less sprawling and more efficient form of development that consumes
20 less open land and conforms to existing topography and natural features better than a
21 conventional subdivision.
- 22 9. Minimize the total amount of disturbance on the site.
- 23 10. Preserve open space areas for active and passive recreational use, including the
24 provision of neighborhood parks and trails.
- 25 11. Encourage the provision of diverse housing opportunities and the integration of a
26 variety of housing types. especially smaller dwellings, that are compatible with the
27 community’s character and serve the needs of people of various income levels.
- 28 12. Further the goals and policies of the Manchester-by-the-Sea Master Plan.
- 29
- 30 13. Encourage more sensitive reuse of qualifying sites within the RD1, RD2 and G
31 Districts so that redevelopment in all residential districts is integrated with surrounding
32 uses and promotes compact, pedestrian-friendly neighborhoods with shared open space.

33 **9.2.2 Definitions.** See “Residential Conservation Cluster” in Section 2.

34 **9.2.3 Applicability.** In accordance with the following provisions, a Residential Conservation
35 Cluster may be created, whether a subdivision or not, from any parcel or set of contiguous
36 parcels with at least two times the minimum lot area required in the District.

37 **9.2.4 Procedures.** A Residential Conservation Cluster may be authorized upon the issuance of a
38 special permit by the Planning Board, and shall be subject to the procedures and performance
39 standards of the Special Permit requirements as set forth in this bylaw. Applicants shall also file
40 a development plan conforming to the requirements for a preliminary plan as set forth in the
41 Rules and Regulations Governing the Subdivision of Land in Manchester-by-the-Sea,
42 Massachusetts..

43 **9.2.5 Design Process.** Each development plan shall follow the design process outlined below.
44 When the development plan is submitted, applicants shall be prepared to demonstrate to the
45 Planning Board that this Design Process was considered in determining the layout of proposed
46 streets, house lots, and contiguous open space.

47 1. Understanding the Site. The first step is to inventory existing site features, taking care
48 to identify sensitive and noteworthy natural, scenic and cultural resources on the site, and
49 to determine the connection of these important features to each other.

50 2. Evaluating Site Context. The second step is to evaluate the site in its larger context by
51 identifying physical (e.g., stream corridors, wetlands), transportation (e.g., road and
52 bicycle networks), and cultural (e.g., recreational opportunities) connections to
53 surrounding land uses and activities.

54 3. Designating the Contiguous Open Space. The third step is to identify the contiguous
55 open space to be preserved on the site. Such open space should include the most sensitive
56 and noteworthy resources of the site, and, where appropriate, areas that serve to extend
57 existing neighborhood open space networks or create new shared open space as a
58 neighborhood amenity.

59 4. Location of Development Areas. The fourth step is to locate building sites, streets,
60 parking areas, paths and other built features of the development. The design should
61 include a delineation of private yards, public streets and other areas, and shared
62 amenities, so as to reflect an integrated community, with emphasis on consistency with
63 the Town’s historical development patterns.

64 5. Lot Lines. The final step is simply to draw in the lot lines (if applicable).

65 **9.2.6 Modification of Lot Requirements.** The Planning Board encourages applicants for
66 Residential Conservation Cluster to modify lot size, shape, and other dimensional requirements
67 for lots within a Residential Conservation Cluster, subject to the following limitations:

68 1. Lots having reduced area or frontage shall not have frontage on a street other than a
69 street created by the Residential Conservation Cluster; provided, however, that the

70 Planning Board may waive this requirement where it is determined that such reduced
71 lot(s) are consistent with existing development patterns in the neighborhood.

72 2. At least 50% of the required side and rear yards required in the District shall be
73 required in the Residential Conservation Cluster.

74 **9.2.7 Maximum Number of Dwelling Units.** The maximum number of dwelling units allowed
75 in a Residential Conservation Cluster shall not exceed the number of dwelling units which could
76 reasonably be expected to be developed upon the site under a conventional plan in full
77 conformance with all zoning, subdivision regulations, health regulations, wetlands regulations
78 and other applicable requirements (the “Maximum Number”). The proponent shall have the
79 burden of proof with regard to the design and engineering specifications for such conventional
80 plan.

81 **9.2.8 Density Bonus.** The Planning Board may award a density bonus to increase the number of
82 dwelling units beyond the Maximum Number. The density bonus for the Residential
83 Conservation Cluster shall not, in the aggregate, exceed 20% of the Maximum Number.
84 Computations shall be rounded to the lowest number. A density bonus may be awarded in the
85 following circumstances:

86 1. For each additional ten percent (10%) of the site over the open space required below
87 and set aside as contiguous open space, a bonus of one dwelling unit or ten (10%) percent
88 of the Maximum Number may be awarded.

89 2. Where the Planning Board determines that the applicant has offered significant
90 amenities to the Town, including but not limited to infrastructure improvements,
91 equipment, or technical assistance, or the preservation of land outside the Residential
92 Conservation Cluster, a bonus of one dwelling unit to 10% the Maximum Number may
93 be awarded.

94 3. Affordable Component. The Planning Board may also award a density bonus of a
95 minimum of one unit or 10% of the total number of permitted units in the Cluster as long
96 as this unit or units are set aside as affordable to households with incomes at or below
97 60% of Area Median Income as defined by the US Department of Housing and Urban
98 Development. The restriction shall be in perpetuity and approved as to form by legal
99 counsel to the Planning Board to ensure that the dwellings units will count on the
100 Commonwealth’s Subsidized Housing Inventory, and a right of first refusal upon the
101 transfer of such restricted units shall be granted to the Manchester Affordable Housing
102 Trust for a period not less than 120 days after notice thereof.

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104 **9.2.9 Basic Affordable Component.** As a condition of the grant of any special permit for a
105 Residential Conservation Cluster, a minimum of (10%) of the total number of dwelling units
106 (i.e., the Maximum Number of dwelling units, plus any Density Bonus units) shall be restricted
107 in perpetuity. The restriction shall be approved as to form by legal counsel to the Planning Board
108 to ensure that the dwellings units will count on the Commonwealth’s Subsidized Housing

109 Inventory, and a right of first refusal upon the transfer of such restricted units shall be granted to
110 the Manchester Affordable Housing Trust for a period not less than 120 days after notice thereof.
111 Fractions of a lot or dwelling unit shall be rounded up to the nearest whole number, such that a
112 development proposing six (6) dwelling units shall require one affordable unit, a development
113 proposing eleven (11) dwelling units shall require two affordable units and so on.

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115 **9.2.10 Types of Buildings.** The Residential Conservation Cluster may consist of the following
116 types of dwellings: Single-family in all eligible districts, Two-family in the RD1 and RD2, and
117 Three-family in the G District. Dwellings that are attached with a shared fire wall may be
118 allowed by special permit.

119 **9.2.11 Roads.** The principal roadway(s) serving the site shall be designed to conform with the
120 standards of the Town where the roadway is or may be ultimately intended for dedication and
121 acceptance by the Town. Private ways shall be adequate for the intended use and vehicular traffic
122 and shall be maintained by an association of unit owners or by the Applicant.

123 **9.2.12 Parking.** Each dwelling unit shall be served by two (2) off-street parking spaces. Parking
124 spaces in front of garages may count in this computation. The Planning Board may reduce this
125 requirement in pedestrian-friendly locations near mass transit such as parcels in the RD1, RD2
126 and G Districts.

127 **9.2.13 Contiguous Open Space.** A minimum of 20% of the parcel shown on the development
128 plan shall be contiguous open space. Any proposed contiguous open space, unless conveyed to
129 the Town or its Conservation Commission, shall be subject to a recorded restriction enforceable
130 by the Town, providing that such land shall be perpetually kept in an open state, that it shall be
131 preserved for exclusively agricultural, horticultural, educational or recreational purposes, and
132 that it shall be maintained in a manner which will ensure its suitability for its intended purposes.

133 1. The percentage of the contiguous open space which is wetlands shall not normally
134 exceed the percentage of the tract which is wetlands; provided, however, that the
135 applicant may include a greater percentage of wetlands in such open space upon a
136 demonstration that such inclusion promotes the purposes set forth in Section 9.2.1, above.
137 In no case shall the percentage of contiguous open space which is wetlands exceed fifty
138 (50%) of the tract.

139 2. The contiguous open space shall be used for conservation, historic preservation and
140 education, outdoor education, recreation, park purposes, agriculture, horticulture,
141 forestry, or for a combination of these uses, and shall be served by suitable access for
142 such purposes.

143 3. The contiguous open space shall remain unbuilt upon, provided that the Planning
144 Board may permit up to 10% of such open space to be paved or built upon for structures
145 accessory to the dedicated use or uses of such open space, pedestrian walks, and
146 bikepaths.

147 4. Underground utilities to serve the Residential Conservation Cluster site may be located
148 within the contiguous open space and shall be located so as to avoid disturbance to the
149 most sensitive and noteworthy natural resources within the contiguous open spaces.

150 5. For the purpose of calculating open space in sites developed in condominium
151 ownership, shared common areas, including landscaped areas, yards, gardens and the
152 like, shall be considered open space so long as such areas are not reserved for the
153 exclusive use of any single owner or unit.

154 **9.2.14 Ownership of the Contiguous Open Space.** The contiguous open space shall, at the
155 Applicant’s election, be conveyed to

- 156 1. The Town or its Conservation Commission;
- 157 2. A nonprofit organization, the principal purpose of which is the conservation of open
158 space and any of the purposes for such open space set forth above; or
- 159 3. A corporation or trust owned jointly or in common by the owners of lots within the
160 Residential Conservation Cluster. If such corporation or trust is utilized, ownership
161 thereof shall pass with conveyance of the lots in perpetuity. Maintenance of such open
162 space and facilities shall be permanently guaranteed by such corporation or trust which
163 shall provide for mandatory assessments for maintenance expenses to each lot. Each such
164 trust or corporation shall be deemed to have assented to allow the Town to perform
165 maintenance of such open space and facilities, if the trust or corporation fails to provide
166 adequate maintenance, and shall grant the Town an easement for this purpose. In such
167 event, the Town shall first provide fourteen (14) days written notice to the trust or
168 corporation as to the inadequate maintenance, and, if the trust or corporation fails to
169 complete such maintenance, the town may perform it. Each individual deed, and the deed
170 or trust or articles of incorporation, shall include provisions designed to effect these
171 provisions. Documents creating such trust or corporation shall be submitted to the
172 Planning Board for approval, and shall thereafter be recorded.

173 9.2.15 Buffer Areas. A buffer area of 25 feet shall be provided at the perimeter of the property
174 where it abuts residentially zoned or occupied properties, except for driveways necessary for
175 access and egress to and from the site. No vegetation in this buffer area will be disturbed,
176 destroyed or removed, except for normal maintenance. The Planning Board may waive the buffer
177 requirement (i) where the land abutting the site is the subject of a permanent restriction for
178 conservation or recreation; or (ii) where the land abutting the site is held by the Town for
179 conservation or recreation purposes; or (iii) where the site is located in the RD1, RD2 and G
180 Districts and the underlying side and rear setback requirements for such districts are observed; or
181 (iv) the Planning Board determines that a smaller buffer will suffice to accomplish the objectives
182 set forth herein.

183 **9.2.16 Stormwater Management.** Stormwater management shall be consistent with the
184 requirements for subdivisions set forth in the Rules and Regulations of the Planning Board and
185 the General By-laws.

186 **9.2.17 Condominium or Homeowners' Association.** In order to maintain and repair any
187 common areas or the required open space, the developer shall create a condominium
188 homeowner's association. The documents establishing such association shall be approved as to
189 form by Town Counsel. This requirement may be waived by the Planning Board if appropriate.

190 **9.2.18 Decision.** The Planning Board may approve, approve with conditions, or deny an
191 application for a Residential Conservation Cluster after determining whether the Residential
192 Conservation Cluster better promotes the purposes of Section 9.2.1 of this Residential
193 Conservation Cluster By-law than would a conventional subdivision development of the same
194 locus.

195 **9.2.19 Relation to Other Requirements.** The submittals and permits of this section shall be in
196 addition to any other requirements of the Subdivision Control Law or any other provisions of this
197 By-law.

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