



Manchester-By-The-Sea
Office of the Town Clerk
PUBLIC NOTICE
ZONING BYLAW

Please be advised that the amendment to the Zoning Bylaws of the Town of Manchester-by-the-Sea adopted under Article 5 of the Warrant for the Special Town Meeting that convened on June 28, 2023, and adjourned on the same day have been approved by the Attorney General on September 29, 2023, and are hereby posted pursuant to Massachusetts General Law c.40, §32

Copies of the amendments as well as the Attorney General's approval thereof, can be examined at the Office of the Town Clerk (10 Central Street, Manchester-by-the-Sea MA) or on the Town's website, [Bylaws and Regulations | Manchester-by-the-Sea, MA](#).

Pursuant to MGL c. 40, § 32, zoning by-laws and amendments are deemed to have taken effect from the date they were approved by the Town Meeting. With the posting of this notice, these amendments are in effect as of June 28, 2023.

Claims of invalidity of these zoning bylaw amendments, by reason of any defect in the procedure of adoption or amendment, may only be made within ninety (90) days of the date of this posting.

Dianne K. Bucco, MMC/CMMC
Town Clerk

I have served the foregoing document by posting attested copies in 6 public locations as directed by MGL c40, §32, Town Hall, Library, Post Office, Memorial School, Fire Department and Police Department.

Constable

10-04-23
Date



**MANCHESTER-BY-THE-SEA
TOWN MEETING VOTE CERTIFICATION**

At the Special Town Meeting of the registered voters of the Town of Manchester-by-the-Sea, held June 28, 2023 and dissolved the same night, the following action was taken under this article:

ARTICLE 5:

To see if the Town will vote to amend Sections 4, 5, 7, 8, 9, 10, and 11 of the Zoning By-Laws to correct certain scrivener’s errors and omissions, as indicated below, by deleting the strikethrough language, and inserting the underlined language, and to vote further to authorize the Town Clerk to make all clerical changes to the Table of Contents, Appendix, and Index to reflect the amendments and corrections, or take any other action relative thereto.

Per Petition of the Planning Board
The Select Board recommended approval.

MOTION

Christopher Olney moved and Sarah Creighton seconded to amend the Town’s Zoning By-laws by correcting scrivener’s errors and omissions, as detailed in the Special Town Meeting Article 5 handout with new language to be inserted underlined and language to be deleted shown with a strikethrough noting the following additional changes: in Section 9.2.4.2, the reference to 9.2.4.3 should be 9.3.3 and in Section 11.2.3.1, the reference to 5.10 should be 4.2 and further to authorize the Town Clerk to make all clerical changes to the Table of Contents, Appendix, and Index to reflect the amendments and corrections.

SECTION 4.0 USE REGULATIONS	
Section 4.2 (“Table of Allowed Uses, Note 3.c”)	“c. Off-street parking regulations of Section 6.2 <u>6.1</u> of this By-law are met;”

SECTION 5.0 DIMENSIONAL REGULATIONS	
Section 5.1 (“Adequate Frontage”)	“In issuing building permits for construction on lot(s) with frontage considered by the

	<p>Building Inspector to provide impractical vehicular access, or otherwise satisfying only technical and not practical frontage compliance, the Building Inspector shall be empowered to ensure that said lot(s) have access to that portion of the lot(s) to be constructed upon by means of easement or so-called "common driveways" which are, in his opinion and in the opinion of the Planning Board, of adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land, and for the installation of municipal services to serve such land and buildings erected or to be erected thereon and which meet the design standards contained in Section 6.2.8 8.4 of these By-laws.”</p>
<p>Section 5.7 (“Limited Commercial District”)</p>	<p>“Notwithstanding the foregoing provisions of this Section 5.0, the following requirements shall be met in the Limited Commercial District (See also Section 4.4 5.10 <u>Performance Requirements within</u> Limited Commercial District):”</p>

SECTION 7.0 NONCONFORMING USES	
<p>Section 7.3 (“Restoration”)</p>	<p>“Restoration of a nonconforming structure which has been damaged by fire, flood or other casualty or by vandalism may be made without conformance to the provisions of this By-Law or amendment hereto, provided that such restoration shall have commenced within six months of the date the damage was sustained and that such restoration continue through to completion as continuously and expeditiously as is reasonable, and provided</p>

	<p>that the structure as restored shall not exceed 100% of the floor area of the structure immediately prior to the damage unless the Board of Appeals grants a special permit therefor in accordance with Section 7.5 12.5 (Special Permits) after finding that such restoration is not substantially more detrimental or injurious to the neighborhood than the structure immediately prior to such damage.”</p>
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SECTION 8.0 SPECIAL REGULATIONS	
<p>Section 8.1.3 (“Special Permit”)</p>	<p>“No special permit shall be granted by the Planning Board, unless, in its judgment, following input from other municipal boards, departments, agencies and their staff, the Board determines that reasonable measures shall be or already have been taken to comply with the requirements of Section 7.5 12.5 and to:”</p>
<p>Section 8.3.5.1 (“General Requirements and Conditions”)</p>	<p>“All Marijuana Businesses must obtain a special permit and site plan approval from the Planning Board pursuant to the requirements of Section 6.4 6.2 (Signs), 6.9 12.6 (Site Plan Review Special Permit), Section 7.5 12.5 (Special Permits) and the requirements of Section 8.3. The Planning Board may grant a single special permit incorporating the requirements of Sections 6.4 6.2, 6.9 12.6, 7.5 12.5 and 8.3 for a Marijuana Business.”</p>
<p>Section 8.3.5.6 (“General Requirements and Conditions”)</p>	<p>“Signs for all Marijuana Businesses shall, at a minimum, comply with Section 6.4 6.2 of the Zoning By-Law, the provisions of 105 CMR 725.105(L) ("Marketing and Advertising Requirements"), the provisions of 935 CMR</p>

	500 et seq., and the terms and conditions of the special permit issued pursuant to Section 8.3, et seq.”
Section 8.3.6 (“Special Permit Requirements”)	“A Marijuana Business shall be allowed only by Special Permit in accordance with G.L. c. 40A, s. 9; with the requirements of Section 7.5 et seq. 12.5 of the Zoning By-Law, with the terms and conditions of the special permit issued pursuant to Section 8.3, et seq. and with the additional requirements contained in this Section (8.3.6), below.”

SECTION 9.0 SPECIAL RESIDENTIAL REGULATIONS	
Section 9.2.3 (“Applicability”)	“In cases where the Planning Board determines that the site is not suitable for an RCC Development, and where the proposed subdivision of land is for six (6) or more lots, the Planning Board’s special permit powers shall be limited to enforcing the provisions of Section 9.4 9.3 of the Zoning Bylaw.”
Section 9.2.4.2 (“Preliminary (Conventional) Plan/RCC Sketch Plan”)	“If the above-noted forty-five (45) daytime period has lapsed without a written decision being issued by the Planning Board, the applicant may submit a definitive subdivision/ RCC Development plan in accordance with Section 9.4.3 9.2.4.3 9.3.3 of this Bylaw.”
Section 9.2.4.6.a.1 (“Criteria for Special Permit Decision – Findings”)	“1. Upland open space as required by this Bylaw has been provided and generally conforms to the Design Requirements in Section 9.2.8 – Section 9.2.9 of this Bylaw.”
Section 9.2.4.6.a.5 (“Criteria for Special Permit Decision – Findings”)	“5. The provisions of Section 9.4 9.3 of the Zoning Bylaw will be met. The Planning Board’s findings, including the basis of such

	findings, shall be stated in the written decision of approval, conditional approval or denial of the application for special permit.”
Section 9.2.11 (“Affordable Component”)	“As a condition of the grant of any special permit for a RCC Development containing six (6) or more lots or dwelling units, the Planning Board shall ensure compliance with the provisions of Section 9.4 <u>9.3</u> (“Inclusionary Housing”) of the Zoning Bylaw.”
Section 9.2.12 (“Special Permit Requirements”)	“In reviewing an application under this Bylaw, the Planning Board shall rely, to the extent warranted, on the provisions of Section 7.5 <u>12.5</u> of the Zoning Bylaw.”
Section 9.3.4 (“Mandatory Provision of Affordable Units”)	“The Planning Board shall, as a condition of approval of any development referred to in Section 9.2, require that the applicant for special permit approval complies with the obligation to provide affordable housing pursuant to this Bylaw and more fully described in Section 9.4.5: <u>9.3.5.</u> ”
Section 9.3.5.1(b) (“Provision of Affordable Units”)	“(b) Constructed or rehabilitated on a locus different than the one subject to the special permit (see Section 9.10.2 <u>9.3.7</u>);”
Section 9.3.5.1(d) (“Provision of Affordable Units”)	“(d) For non-rental affordable housing units, a cash payment to the Affordable Housing Trust Fund may be made subject to Section 11.1.2 <u>9.3.11</u> of this Bylaw. The applicant may offer, and the Planning Board may accept, any combination of the Section 9.4.5.1(a)-(d) <u>9.3.5.1(a)-(d)</u> requirements provided that in no event shall the total number of units or land area provided be less than the equivalent number or value of affordable units required by this Bylaw.”

<p>Section 9.3.7 (“Provision of Affordable Housing Units Off-Site”)</p>	<p>“As an alternative to the requirements of Section 9.4.5.1(a) <u>9.3.5.1(a)</u>, an applicant subject to the Bylaw may develop, construct or otherwise provide affordable units equivalent to those required by Section 9.4.5 <u>9.3.5</u> off-site.”</p>
<p>Section 9.3.10.4 (“Preservation of Affordability; Restrictions on Resale”)</p>	<p>“4. The Planning Board shall require, as a condition for special permit approval under this Bylaw, that the applicant comply with the mandatory set asides and accompanying restrictions on affordability, including the execution of the deed rider noted in Section 11.1.1. 9.3.10.2. <u>9.3.10.2.</u> The Building Commissioner shall not issue an occupancy permit for any affordable unit until the deed restriction is recorded at the Essex County Registry of Deeds or the Land Court.”</p>
<p>Section 9.3.11 (“Fees in Lieu of Affordable Housing Units”)</p>	<p>“As an alternative to Section 9.4.5 (a) through (e) <u>Section 9.3.5.1 (a) through (d)</u>, an applicant may contribute a cash payment to the Affordable Housing Trust Fund, to be used for the development of affordable housing by the Town or its designees, in lieu of constructing and offering affordable units within the locus of the proposed development or off-site.”</p>
<p>Section 9.3.11.1 (“Calculation of fees-in-lieu of units.”)</p>	<p>“1. Calculation of fees-in-lieu of units. The applicant for development subject to this Bylaw may pay a fee in lieu of the construction of affordable units. For each affordable unit not constructed or provided through one or a combination of the methods specified in 9.4.5 (a) through (e) <u>Section 9.3.5.1 (a) through (d)</u>, the fee shall be an amount equal to the difference between the median sale price for new single-family</p>

	homes built in Manchester-by-the Sea during the preceding three fiscal years, as determined and reported by the Board of Assessors, and the purchase price of a home that is affordable to a qualified purchaser.”
Section 9.3.11.2 (“Schedule of fees in lieu of payments.”)	“2. Schedule of fees in lieu of payments. Fees in lieu of payments shall be paid according to the schedule set forth in Section 6.19.1 (3), above.”

SECTION 10 SPECIAL DISTRICTS	
Section 10.3.1 (“Ground and Surface Water Resource Overlay Protection Districts”)	<p>“10.3.1 By Special Permit from the Planning Board, and limited to the land area west of Pine Street, a/k/a Pipe Line Road, laboratories and establishments devoted to scientific research and development; light manufacturing, assembly and processing of materials related thereto and incidental accessory uses. Such a use will be permitted only if the following conditions, in addition to the requirements specified in Sections 6.9 and 7.5 of the Zoning By Law are met:”</p> <p>(a) The applicant shall prove to the satisfaction of the Planning Board, based in part on the advice of the Conservation Commission, the Board of Health, and the Department of Public Works, that such use and facilities will not adversely affect the environment or public health. These requirements are in addition to those described in Section 5.10 of the Zoning Bylaw.</p> <p>(b) Expenses incurred by the Planning Board in connection with the Special Permit, including the reasonable fees and</p>

	<p>expenses of any consultants retained by the Planning Board, shall be borne by the applicant for the Special Permit.</p> <p>(c) It shall be a condition of any Special Permit granted under this section that the applicant shall file with the Planning Board on an annual basis evidence that all federal, state and town licenses, permits and standards have been obtained or met for handling, use, storage and disposal of any regulated substances as defined in Section 10.3.4.3 of the Zoning Bylaw.</p> <p>(d) In considering the Special Permit application, the Planning Board shall apply relevant design and operating guidelines noted in Section 10.3.6.5 of the Zoning Bylaw, including subsection (f) regarding alterations and expansion. [1997]</p>
<p>Section 10.3.1 (“Findings”)</p>	<p>“10.3.1 10.3.1 Findings:”</p>
<p>Section 10.3.4.1(d) (“Determination of Location within Ground and Surface Water Overlay Protection Districts”)</p>	<p>“Special permits, in accordance with the provisions of this By-Law, Section 7.5 12.5 of the Manchester-by-the-Sea Zoning By-Law and M.G.L. c. 40A, §9, may be granted by the Planning Board to exempt a location from the requirements of this By-Law, provided that the applicant demonstrates that the Ground and Surface Water Resource Overlay Protection District Maps incorrectly identify the location as being within the Ground and Surface Water Resource Overlay Protection District.”</p>
<p>Section 10.3.6.1 (“Special Permits”)</p>	<p>Special Permits: The Special Permit Granting Authority (SPGA) under Section 10.3 of this By-Law shall be the Planning Board. Special permits shall be granted only in conformance</p>

	with this By-Law, Section 7.5 12.5 of the Manchester-by-the-Sea Zoning By-Law, and M.G.L. c. 40A, §9.
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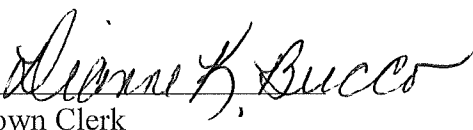
SECTION 11.0 ENERGY REGULATIONS	
Section 11.1.3.3 (“Site Plan Approval Required”)	“LGSPI shall be constructed, installed, used and modified in conformity with a site plan approved by the SPAA in accordance with Section 6.5 12.6 of the Zoning By-Law and the further requirements set forth herein. The requirements set forth herein shall be applied coincident with and in addition to those requirements set forth in Section 6.5 12.6 . The requirements of this section shall take precedence in the event of a direct conflict.”
Section 11.1.3.3.2(a)(ix) (“Required Documents”)	“ix. How land clearing and construction shall be performed in accordance with <u>Article XXIII (“Stormwater Management Special Permit”) of the General Bylaws, and</u> Sections 5.10 and 6.15 of the Zoning By-Law governing storm water discharge, land disturbance, provision for handling toxic or hazardous materials, and post-construction storm water runoff;”
Section 11.1.3.8.3 (“Drainage and Groundwater Protection”)	“An LGSPI shall comply with the requirements set forth in <u>Article XXIII (“Stormwater Management Special Permit”) of the General Bylaws, and</u> Sections 5.10 and 6.15 of the Zoning By-Law, which requirements shall be imposed and conditioned as appropriate through the Site Plan Approval process. No LGSPI shall be required to obtain an independent special permit under either section.”

<p>Section 11.2.3.1 (“Use Regulations”)</p>	<p>“WECFs under these Sections 11.2 and 4.4 <u>5.10</u> 4.2 shall be allowed only in the LCD, and then only upon issuance of a special permit by the Planning Board in accordance with the requirements of the Zoning By-law, including those requirements set forth in Sections 5.7, 5.10, and 7.5 <u>12.5</u>, irrespective of whether the use is a principal or accessory use. Met Towers shall be permitted in the LCD, subject to the issuance of a special permit in conformance with the Zoning By-law and a building permit for a temporary structure.”</p>
<p>Section 11.2.4 (“Special Permit Regulations”)</p>	<p>“The Planning Board shall grant a special permit only if it finds that the proposal complies with the provisions of this Section 11.2 and with Section 7.5 <u>12.5</u> of the Zoning By-Law.</p>

Action

Motion prevailed with more than the required 2/3rds vote; 200 yes, 9, no, 2 abstentions.

A True Copy Attest



 Town Clerk