



Manchester-By-The-Sea  
Office of the Town Clerk

**PUBLIC NOTICE**

**GENERAL BYLAW**

Please be advised that the amendment to the General Bylaws of the Town of Manchester-by-the-Sea adopted under Article 2 of the Warrant for the Special Town Meeting that convened on November 18, 2024, and adjourned on the same day have been approved by the Attorney General on March 5, 2025, 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](#).

**ZONING BYLAW**

The amendment to the Town of Manchester-By-The-Sea Zoning By-laws adopted under Article 4 of the Warrant for the Special Town Meeting that convened on November 18, 2024 and adjourned on the same day has been approved by the Attorney General on March 5, 2025, and is hereby posted pursuant to Massachusetts General Law, Chapter 40, §32.

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 November 18, 2024.

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](#).

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.

ATTEST:

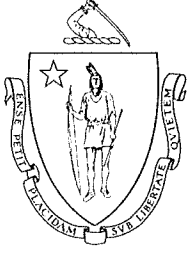
Christine Dixon  
Christine Dixon, Town Clerk



I have served the foregoing document by posting attested copies in 5 public locations as directed by MGL c.40, §32, Town Hall, Library, Post Office, Fire Department and Police Department.

Kevin J. Leahy  
Constable

3-11-2025  
Date



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL

CENTRAL MASSACHUSETTS DIVISION  
10 MECHANIC STREET, SUITE 301  
WORCESTER, MA 01608

ANDREA JOY CAMPBELL  
ATTORNEY GENERAL

(508) 792-7600  
(508) 795-1991 fax  
[www.mass.gov/ago](http://www.mass.gov/ago)

March 5, 2025

Christine Dixon, Town Clerk  
Town of Manchester-by-the-Sea  
10 Central Street  
Manchester-by-the-Sea, MA 01944

**Re: Manchester-by-the-Sea Special Town Meeting of November 18, 2024 –  
Case # 11657  
Warrant Article # 4 (Zoning)  
Warrant Article # 2 (General)**

Dear Ms. Dixon:

**Articles 2 and 4** – We approve Articles 2 and 4, and the map amendments adopted under Article 4, from the Manchester-by-the-Sea November 18, 2024, Special Town Meeting. We will return the approved map to you by regular mail. Our comments on Article 4 are provided below.

**Article 4** - Under 4 the Town amended its zoning by-laws to add a new Section 9.4, "Community Housing Overlay District" ("CHOD") to allow multi-family housing as of right in compliance with G.L. c. 40A, § 3A. See Attorney General v. Town of Milton, 495 Mass. 183, 196 (2025) (General Laws Chapter 40A, Section 3A "creates an affirmative duty for each MBTA community to have a zoning bylaw that allows for at least one district of reasonable size where multifamily housing is permitted as of right."). We approve Article 4 because it does not conflict with state law. See Amherst v. Attorney General, 398 Mass. 793, 795-96 (1986) (requiring inconsistency with state law or the Constitution for the Attorney General to disapprove a by-law).

While we approve Article 4, the Town must also separately obtain the Executive Office of Housing and Livable Communities' ("EOHLC") determination that the Town has complied with Section 3A. See 760 CMR 72.09, "Multi-Family Zoning Requirements for MBTA Communities."<sup>1</sup> We understand that the Town's District Compliance Application is currently under review by EOHLC. See EOHLC "Submission Statuses" at <https://www.mass.gov/info-details/multi-family-zoning-requirement-for-mbta-communities>. We note however, that EOHLC's decision on the Town's application for District Compliance has no impact on the date the by-law amendments have lawful effect. The Attorney General's approval of the by-law amendments pursuant to G.L.

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<sup>1</sup> On January 14, 2025, EOHLC promulgated Emergency Regulations (760 CMR 72.00).  
See <https://www.mass.gov/doc/section-3a-emergency-regulations/download>.

c. 40, § 32 means that the by-law amendments are in effect as of the date of the Town Meeting vote, and can be implemented, once the Town completes the posting/publishing requirements of G.L. c. 40, § 32. Lastly, we offer the following additional comment for the Town's consideration regarding the affordability requirements.

Section 9.4.10, "Affordability Requirements," requires developments within CHOD with five or more dwelling units to provide "not fewer than twenty percent (20%) of housing units constructed" as affordable housing units (as that term is defined in Section 9.4). Because the twenty percent affordability requirement exceeds the thresholds established by EOHLC (ten percent affordable housing units) for as of right zoning under Section 3A, the Town must separately obtain the approval of EOHLC. Specifically, Section 72.04 (1) (b) of EOHLC's Emergency Regulations state:

For purposes of making compliance determinations with G.L. c. 40A, § 3A, EOHLC will consider an affordability requirement to be consistent with As of right zoning as long as the zoning requires not more than ten percent of the units in a project to be Affordable units, and the cap on the income of families or individuals who are eligible to occupy the Affordable units is not less than eighty percent of area median income. EOHLC may, in its discretion, approve a greater percentage of affordable units, or deeper affordability for some or all of the affordable units, in either of the following circumstances:

- a. The affordability requirements applicable in the Multi-family zoning district are reviewed and approved by EOHLC as part of a smart growth district under G.L. c. 40R, or under another zoning incentive program administered by EOHLC; or
- b. The affordability requirements applicable in the Multi-family zoning district are supported by an economic feasibility analysis, prepared for the municipality by a qualified and independent third party acceptable to EOHLC, and using a methodology and format acceptable to EOHLC. The analysis must demonstrate that a reasonable variety of Multi-family housing types can be feasibly developed at the proposed affordability levels, taking into account the densities allowed as of right in the district, the dimensional requirements applicable within the district, and the minimum number of parking spaces required.

The Town should discuss this issue with Town Counsel and EOHLC.

**Note:** Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute.

Very truly yours,  
ANDREA JOY CAMPBELL  
ATTORNEY GENERAL

*Kelli E. Gunagan*

By: Kelli E. Gunagan  
Assistant Attorney General  
Director, Municipal Law Unit  
10 Mechanic Street, Suite 301  
Worcester, MA 01608  
(774) 214-4406

cc: Town Counsel Michele E. Randazzo



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

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At the Special Town Meeting of the registered voters of the Town of Manchester-by-the-Sea, held November 18, 2024 and dissolved the same night, the following action was taken under this article:

### **ARTICLE 2**

To see if the Town will vote to amend the Town's General Bylaw by replacing the entirety of Article XXIII Stormwater Management with a new Article XXIII Stormwater Management as follows; or take any other action relative thereto:

### **ARTICLE XXIII: STORMWATER MANAGEMENT**

#### **SECTION 1 PURPOSE AND INTENT**

The purpose and intent of this bylaw are to:

- A. Protect water resources;
- B. Require practices that mitigate soil erosion and sedimentation and control the volume and rate of stormwater runoff resulting from land disturbance activities;
- C. Promote infiltration and the recharge of groundwater;
- D. Ensure that soil erosion and sedimentation control measures and stormwater runoff control practices are incorporated into the site planning and design process, and are implemented and maintained;
- E. Encourage the use of Low-Impact Development practices such as reducing impervious cover and the preservation of green space and other natural areas, to the maximum extent practicable;
- F. Comply with state and federal statutes and regulations relating to stormwater discharges;
- G. Establish the Town of Manchester-by-the-Sea as the legal authority to ensure compliance with the provisions of this bylaw through inspection, monitoring, and enforcement.

#### **SECTION 2 DEFINITIONS**

**ADMINISTRATIVE LAND DISTURBANCE APPROVAL:** A determination by the Permit Authority that land disturbance activity does not require a Stormwater Management Permit.

**APPLICANT:** Any person, individual, partnership, association, firm, company, corporation, trust, authority, agency, department, or political subdivision, of the Commonwealth or the Federal government to the extent permitted by law requesting a Stormwater Management Permit and/or Administrative Land Disturbance Review for proposed land-disturbance activity.

**LAND-DISTURBING ACTIVITY:** Any activity that causes a change in the position or location of soil, sand, rock, gravel, or similar earth material, including tree cutting, grubbing, clearing, grading or excavation.

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

**PERMIT AUTHORITY:** The Department of Public Works.

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

**STORMWATER MANAGEMENT PERMIT (“SMP” and/or “Permit”):** A permit issued by the Permit Authority, after review of an application, plans, calculations, and other supporting documents, which shows that the proposed project is designed to protect the environment of the Town from the deleterious effects of uncontrolled and untreated stormwater runoff.

### **SECTION 3 AUTHORITY**

A. This bylaw is adopted under authority granted by the Home Rule Amendment of the Massachusetts Constitution, the Home Rule statutes, and pursuant to the regulations of the federal Clean Water Act found at 40 CFR §22.34

B. Nothing in this bylaw is intended to replace the requirements of any other bylaw that has been made or may be adopted by the Town of Manchester-by-the-Sea.

### **SECTION 4 APPLICABILITY**

A. This bylaw shall apply to all activities that result in land disturbance exceeding the threshold established in the regulations promulgated hereunder.

B. Administrative Land Disturbance Review is required for projects that result in the amount of land disturbance described in the regulations promulgated hereunder.

C. Exempt Activities – the regulations promulgated hereunder shall identify certain exempt land disturbance activities.

### **SECTION 5 PERMITS AND PROCEDURES**

A. The procedures for a Stormwater Management Permit and/or Administrative Land Disturbance Review application shall be described in detail in the regulations promulgated hereunder.

B. Waivers.

1. The Permit Authority may waive strict compliance with any requirement of this bylaw or the regulations adopted hereunder, where:

- a. Such action is allowed by federal, state, and local statutes and/or regulations;
  - b. It is in the public interest; and
  - c. It is not inconsistent with the purpose and intent of this bylaw.
2. Any Applicant may submit a written request to be granted such a waiver. Such a request shall be accompanied by an explanation or documentation supporting the waiver request and demonstrating that strict application of the bylaw does not further the purpose or objectives of this bylaw.
- C. Appeals. A decision of the Permit Authority shall be final. Further relief of a decision by the Permit Authority made under this bylaw shall be reviewable in the Superior Court in an action filed within 60 days of the final action taken by the Permit Authority, in accordance with M.G.L. c. 249, §4.

## **SECTION 6 FINAL REPORT**

Upon completion of the work, the Applicant shall submit a report (including certified as-built construction plans) from a Registered Professional Engineer (P.E.), certifying that all erosion and sediment control devices, and approved changes and modifications, have been completed in accordance with the conditions of the approved permit. Any discrepancies should be noted in the cover letter.

## **SECTION 7 CERTIFICATE OF COMPLETION**

The Permit Authority will issue a letter certifying completion upon receipt and approval of the Final Report and/or upon otherwise determining that all work allowed by the permit has been satisfactorily completed in conformance with the permit and this bylaw.

## **SECTION 8 EMPLOYMENT OF OUTSIDE CONSULTANTS**

The Permit Authority may employ outside consultants, at the Applicant's expense to assist in its permit decision, including but not limited to plan review, drainage, and stormwater analysis; to determine conformance with this bylaw and other requirements; and for construction inspection.

## **SECTION 9 PERFORMANCE GUARANTEE**

A. The Permit Authority may require the Applicant to post, before the start of land disturbance activity, a surety bond, irrevocable letter of credit, cash, or other acceptable security as performance guarantee, to be in an amount deemed sufficient by the Permit Authority to ensure that the work will be completed in accordance with the permit. If the project is phased, the Permit Authority may release part of the bond as each phase is completed in compliance with the permit but the bond may not be fully released until the Permit Authority has received the Final Report as required by Section 6 of this bylaw and issued a Certificate of Completion.

B. The regulations promulgated hereunder shall establish reasonable criteria for assessing the Performance Guarantee.

## **SECTION 10 DURATION OF STORMWATER MANAGEMENT PERMIT**

A Stormwater Management Permit is granted for a period of three years from the date of its approval and shall lapse if substantial use or construction has not commenced by such date, except for good cause as shown.

#### **SECTION 11 ENFORCEMENT**

A. Land disturbance activities in excess of the thresholds established in the regulations promulgated hereunder conducted without a Stormwater Management Permit or Administrative Land Disturbance Approval shall constitute a violation of this bylaw. The Permit Authority, or an authorized agent of the Permit Authority, shall enforce this bylaw, regulations, orders, violation notices, and enforcement orders, and may pursue all civil and criminal remedies for such violations.

B. Non-Criminal Disposition. As an alternative to criminal prosecution or civil action, the Town may elect to utilize the non-criminal disposition procedure set forth in M.G.L. c. 40, §21D and General Bylaw Article 1, Section 4, in which case the Permit Authority or its agent shall be the enforcing person. The penalty for the 1st violation shall be \$100.00. The penalty for the 2<sup>nd</sup> violation shall be \$200.00. The penalty for the 3rd and subsequent violations shall be \$300.00. Each day or part thereof that such violation occurs or continues shall constitute a separate offense.

#### **SECTION 12 REGULATIONS**

The Permit Authority shall adopt, and may periodically amend regulations, rules and/or written guidance relating to the terms, conditions, definitions, enforcement, fees, procedures, and administration of this Bylaw by majority vote of the Town of Manchester-by-the-Sea Select Board after conducting a duly noticed public hearing to receive comments pursuant to the Town's public notice requirements. Failure of the Permit Authority to issue such rules, or regulations, or a legal declaration of their invalidity by a court, shall not act to suspend or invalidate the effect of this Bylaw.

Stormwater Management Regulations (Regulations), rules, or guidance shall identify requirements for stormwater permits or approvals required by this Bylaw and be consistent with or more stringent than the relevant requirements of the most recent MS4 General Permit.

#### **SECTION 13 SEVERABILITY**

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

#### **RECOMMENDATION**

The Finance Committee took no position on the article. The Select Board recommended approval.



**MOTION**

Brian Sollosy moved and Jeffrey Delaney seconded the article as printed in the warrant.

**VOTE**

Article 2 was approved with a majority vote; 698 yes, 76 no

A True Copy Attest

Christine Fion  
Town Clerk





## 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 November 18, 2024 and dissolved the same night, the following action was taken under this article:

### ARTICLE 4

To see if the Town will vote to amend the Town of Manchester-by-the-Sea Zoning By-Laws by inserting a new Section 9.4, to create a new Community Housing Overlay District, and to amend Section 2.0 ("Definitions") by inserting the new definitions as presented; and further, to see if the Town will vote to amend the Zoning Map of Manchester-by-the-Sea to accept and incorporate the Community Housing Overlay District Maps, dated October 28, 2024 as part of the Zoning Map of Manchester-by-the-Sea or take any other action relative thereto. The full text of the proposed new Section 9.4, proposed definitions and overlay maps are on file in the Office of the Town Clerk and the Library and are available on the MBTA Zoning page on the Town's website.

### RECOMMENDATION

The Finance Committee, Select Board, and Planning Board recommended approval.

### MOTION

Susan Philbrick moved and Ann Harrison seconded that the Town adopt the article as presented in the warrant and amend the Town's zoning bylaws as stated in the handout at Town Meeting.

### MOTION TO AMEND

Sarah Mellish moved to amend the main motion by adding in line 101 (page 11 of the packet for the meeting) after the word "district" the following: "and no division of a parcel shall increase the maximum number of dwelling units allowed per lot in existence on November 18, 2024." Then section 4 of 9.4.2 would read, "4. **Lot Division.** The division of a parcel of land in any CHOD District shall meet the minimum lot size and frontage requirements of the underlying base zoning district and no division of a parcel shall increase the maximum number of dwelling units allowed per lot in existence on November 18, 2024." Susan Philbrick seconded the motion.

### VOTE ON AMENDMENT

The amendment to Article 4 was approved; 757 yes, 98 no

### VOTE ON MAIN MOTION

Article 4 was approved by majority vote; 636 yes, 214 no

A True Copy Attest

  
Town Clerk



## SECTION 2.0 DEFINITIONS

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

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

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

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

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

**Applicant:** A person, business, or organization that applies for a building permit, Site Plan Review, or Special Permit.

**Area Median Income (AMI):** The median family income for the metropolitan statistical region that includes the Town of Manchester-by-the-Sea, as defined by the U.S. Department of Housing and Urban Development (HUD).

**As of right:** Development that may proceed under the Zoning in place at the time of application without the need for a special permit, variance, zoning amendment, waiver, or other discretionary zoning approval.

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

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

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

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

**Building Coverage:** The maximum area of the lot that can be attributed to the footprint of the buildings (principal and accessory) on that lot. Building Coverage does not include surface parking.

**Building Height:** See Height

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Essential Services:** Services and facilities offered by public utility or governmental agency by the erection, construction, alteration, or maintenance of underground or overhead gas, electrical,

steam, or water transmission or distribution systems and structures, excluding power plants or transfer stations. Facilities necessary for the provisions of essential services include poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm boxes, police call boxes, traffic signals, hydrants, and other similar equipment and accessories in connection therewith.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Parking Space:** An area in a building or on a lot available for parking one motor vehicle, having a width of not less than the area required in section 6.1.2, exclusive of passageways and

driveways appurtenant thereto and with free and unimpeded access to a street over unobstructed passageways or driveways.

**Parking, Structured:** A structure in which vehicle parking is accommodated on multiple stories. Structured Parking does not include surface parking, single-level parking garages, or carports, including solar carports.

**Parking, Surface:** One or more parking spaces without a built structure above the space. A solar panel designed to be installed above a surface parking space does not count as a built structure for the purposes of this definition.

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

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

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

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

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

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

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

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

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

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

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

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

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

**Senior Housing:**

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



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

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

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

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

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

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

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

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

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

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

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

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

**Subsidized Housing Inventory (SHI):** A list of qualified Affordable Housing Units maintained by EOHLC used to measure a community's stock of low-or moderate- income housing for the purposes of M.G.L. Chapter 40B, the Comprehensive Permit Law.



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## SECTION 9.4 COMMUNITY HOUSING OVERLAY DISTRICTS

### 9.4.1 Purpose

The purpose of the Community Housing Overlay Districts (CHOD) is to allow multi-family housing as of right in accordance with Section 3A of the Zoning Act (Massachusetts General Laws Chapter 40A), preserve the character of the Town, minimize the impact on the community, and add options for multi-family housing.

### 9.4.2 Establishment and Applicability

This CHOD is a combination of multiple districts with a total land area of approximately 39.7 acres in size that is superimposed over the underlying zoning district(s) and is shown on the Community Housing Overlay District Maps, Dated October 28, 2024 (Allen to Lincoln District; Beach to Sea St. District; Beaver Dam Rd. District; and Lower Pine St. to Powder House District) and on file in the Office of the Town Clerk (hereinafter “the CHOD Maps”).

1. **Applicability of CHOD.** An applicant may develop multi-family housing located within a CHOD in accordance with the provisions of this Section 9.4.
2. **Underlying Zoning.** The CHOD is an overlay district superimposed on underlying zoning districts. The regulations for use, dimensions, and all other provisions of the Zoning Bylaw governing the respective underlying zoning district(s) shall remain in full force, except for uses allowed as of right or by special permit in the CHOD. Uses that are not identified in Section 9.4 are governed by the requirements of the underlying zoning district(s).
3. **Districts.** The CHOD contains the following four districts and four sub-districts, all of which are shown on the CHOD Maps:
  - a. Lower Pine Street to Powder House District
    - i. Newport and Powder House Sub-district
    - ii. Lower Pine Street Sub-district
  - b. Allen to Lincoln District
  - c. Beach to Sea Street District
    - i. Beach Street Sub-district
    - ii. Sea Street Sub-district
  - d. Beaver Dam Road District
4. **Lot Division.** The division of a parcel of land in any CHOD District shall meet the minimum lot size and frontage requirements of the underlying base zoning district and no division of a parcel shall increase the maximum number of dwelling units allowed per lot in existence on November 18, 2024.

### 9.4.3 Definitions.

For purposes of this Section 9.4, the following definitions shall apply.

1. **Additional Lot Area Per Dwelling unit:** The amount of land required for each

additional housing unit proposed for a parcel of land to be developed into multi-family housing.

2. **Affordable Unit:** A multi-family housing unit that is subject to a use restriction recorded in its chain of title limiting the sale price or rent or limiting occupancy to an individual or household of a specified income, or both.
3. **Affordable Housing:** Housing that contains Affordable Units as defined by this Section 9.4.
4. **Base Lot Size:** The amount of land required for the first multi-family housing unit proposed for a parcel of land to be developed into multi-family housing.
5. **Compliance Guidelines:** Compliance Guidelines for Multi-Family Zoning Districts Under Section 3A of the Zoning Act.
6. **EOHLC:** The Massachusetts Executive Office of Housing and Livable Communities.
7. **Multi-family Housing:** A building with three or more residential dwelling units or two or more buildings on the same lot with more than one residential dwelling unit in each building.
8. **Multi-family Zoning District:** A zoning district, either a base district or an overlay district, in which multi-family housing is allowed as of right.
9. **Residential Dwelling Unit:** A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.
10. **Section 3A:** Section 3A of the Zoning Act.
11. **Sub-district:** An area within the CHOD that is geographically smaller than the CHOD district and differentiated from the rest of the district by use, dimensional standards, or development standards.

#### **9.4.4 Permitted Uses**

1. **Uses Permitted as of Right.** The following uses are permitted as of right within the CHOD.
  - a. Multi-family housing.
  - b. In the CHOD Districts that overlay the General District, non-residential uses allowed as-of-right in the General District may be combined with multi-family housing to create a mixed-use building. Such non-residential uses shall be restricted to the ground floor with the multi-family dwelling units on the upper floors.
2. **Accessory Uses.** The following uses are considered accessory as of right to any of the permitted uses in Section 9.4.4.1.
  - a. Parking, including surface parking and parking within a structure such as an attached or detached above ground or underground parking garage on the same lot as the principal use.
  - b. Customary Home Occupation, as defined by Section 2.0 and Section 4.3.3.

#### 9.4.5 Dimensional Standards

1. **Table of Dimensional Standards.** Notwithstanding anything to the contrary in this Zoning, the dimensional requirements applicable in the CHOD are as follows:

Districts	Lower Pine St. to Powder House		Beach to Sea St.		Allen to Lincoln	Beaver Dam Rd.
Subdistricts	Lower Pine St	Newport & Powder House	Beach St	Sea St		
Minimum Lot Size (SF)	6,000	6,000	6,000	6,000	6,000	217,800
Base Lot Size (1 <sup>st</sup> Unit)	2,000	2,000	2000	2000	2000	4000
Additional lot area per dwelling unit	2,000	2,000	2,000	2,000	2,000	3,000
Maximum dwelling units per lot	5			4		100
Minimum Frontage (ft)	60	60	60	60	60	N/A
Minimum Lot Width (ft)	50	50	50	50	50	N/A
<b>Height - Max</b>						
Stories	2.5	3.5	2.5	2.5	2.5	3.5
Feet	35	45	35	35	35	45
<b>Lot Coverage - Max</b>						
by Structures (%)	40	40	40	40	40	40
by Structures and Impervious Surfaces (Total) (%)	60	70	70	70	70	60
<b>Setbacks - Min</b>						
Front (ft)	15	5	5	10	15	50
Side (ft)	15	10	10	10	15	50
Rear (ft)	15	10	10	10	15	50

2. **Multi-Building Lots.** In the CHOD, lots may have more than one principal multi-family building.
3. **Building Unit Caps.** In the Lower Pine Street Subdistrict, Sea Street Subdistrict, and Allen to Lincoln District no more than three (3) units may be constructed within a single building.
4. **Lot Division.** The division of a parcel of land in any CHOD District shall meet the

minimum lot size and frontage requirements of the underlying base zoning district and no division of a parcel shall increase the maximum number of dwelling units allowed per lot in existence on November 18, 2024.

5. **Accessory Structures.** In the CHOD, Accessory Structures shall be set back from the side and rear lot lines as required in the underlying zoning district. Accessory structures shall be set back an additional ten (10) feet from the required Front setback line. In the Beaver Dam Road subdistrict, Accessory Structures shall be set back no less than fifteen (15) feet from the Side and Rear lot lines and an additional fifteen (15) feet from the required Front setback line. Accessory Structures shall not exceed 25' from the ground or 1 ½ stories.
6. **Exceptions.** Chimneys, ventilators, towers, silos, spires, or other ornamental features of buildings, which features are in no way used for living purposes, may not exceed ten (10") feet above the height limit of the overlay district.
7. **Exceptions: Renewable Energy Installations.** The Site Plan Review Authority or Special Permit Granting Authority may waive the height and setbacks in Section 9.4.5. Dimensional Standards to accommodate the installation of solar photovoltaic, solar thermal, living and other eco-roofs, energy storage, and air-source heat pump equipment. Such installations shall not create a significant detriment to abutters in terms of noise or shadow and must be appropriately integrated into the architecture of the building and the layout of the site. The installations shall not provide additional habitable space within the development.

#### 9.4.6 Off-Street Parking

These parking requirements are applicable to development in the CHOD.

1. **Number of parking spaces.** The following **minimum** numbers of off-street parking spaces shall be permitted by use, either in surface parking or within garages or other structures:

Use	Minimum Spaces
Multi-family – Beaver Dam Road district	2 spaces per Residential Dwelling Unit
Multi-family – all other CHOD districts	1.5 spaces per Residential Dwelling Unit. Fractional spaces shall be rounded up to the next whole number.

2. **Bicycle storage.** For a multi-family development of 25 units or more, the Planning Board may require that adequate bicycle parking/storage be integrated into the structure of the building(s).

#### 9.4.7 Site Plan Review

1. **Applicability.** Site Plan Review is required for any development project proposed under this Section 9.4. An application for Site Plan Review shall be submitted to the

Planning Board for Review under Section 12.6 Site Plan Review.

2. **Procedure and Submission Requirements.** The requirements of Section 12.6.3 Procedure through Section 12.6.12 Appeal shall apply with the addition of the Site Plan Approval requirements below.
3. **Review Requirements.** The application and plans shall be reviewed by the Planning Board for consistency with the purpose and intent of Sections 9.4.4 through 9.4.6, Sections 9.4.8 through 9.4.10, and Section 6.3 Performance Standards for Special Permits and Site Plan Review.
4. **Design Review Committee.** The Planning Board shall appoint a Design Review Committee (DRC) of three members: one member of the Planning Board and two design professionals appointed by a majority of the Planning Board members. If a member is disqualified because of a conflict of interest for a particular project, the Planning Board shall appoint a replacement.
  - a. Members shall be appointed annually.
  - b. Members may be reappointed.
  - c. The Planning Board may remove a member who misses more than 50% of the meetings in a single year or who otherwise fails to participate in the duties of the DRC.
  - d. The DRC shall provide a written advisory opinion to the Planning Board as to whether the application is consistent with Section 9.4.8 General Development Standards and Section 9.4.9. Design Guidelines. Such opinion shall be filed within 35 days of the receipt of the application by the DRC. If the DRC fails to provide such written opinion within said 35 days, the Planning Board shall assume that the DRC has no objection to the application and shall proceed with the Site Plan Review process.
5. **Design Review Process.** All projects subject to site plan review within the CHOD shall follow the following process.
  - a. The Applicant shall provide the following additional information as part of the materials required under Section 12.6.4 Site Plan Requirements:
    - i. **Statement of design intent.** Written narrative describing how the design of the proposed development incorporates the design guidelines in Section 9.4.9 Design Guidelines. The narrative shall include the current use of the site and its condition, the proposed use of the site, and the name of the architect or designer. The narrative shall address the overall design concept; the relationship of the proposed design to the context of the surrounding District (including the architectural form and character, the natural environment, patterns of vehicular and pedestrian access and circulation); the proposed development's contribution to an inviting and safe public realm (including lighting, landscape, signage, and ground-level pedestrian experience); and the contribution of the architectural design to the District (including the contribution of building form and composition, façade form and composition and articulation, and

- materials, color, and lighting).
  - ii. Site plans, building elevations, floor plans, and three-dimensional views of the proposed site. For a project on a site with a grade change of 10% or more, a site section showing the relationship of the building(s) to existing buildings abutting the site shall be required. The relevant design elements specified in Section 9.4.9 shall be identified in these documents.
  - iii. Palette with samples of materials, proposed color scheme, and cut sheets of lighting fixtures and other architectural elements.
6. **Site Plan Approval.** Site Plan approval for uses listed in Section 9.4.4 Permitted Uses shall be granted upon determination by the Planning Board that the requirements and objectives of this by-law have been met. The Planning Board may impose reasonable conditions, at the expense of the applicant, to ensure compliance with Section 12.6 and Section 9.4 of the Zoning By-Laws.
7. **Project Phasing.** An Applicant may propose, in a Site Plan Review submission, that a project be developed in phases subject to the approval of the Planning Board provided that the submission shows the full buildout of the project and all associated impacts as of the completion of the final phase. The Approval for an unbuilt phase will be valid for two years after the issuance of the first occupancy permit for the previous phase. The Planning Board may extend Approval of unbuilt phases for 1-year periods provided that the phase is still in compliance with this By-Law. No project may be phased solely to avoid the provisions of Section 9.4.10 Affordability Requirements. In phased developments with affordable units the type, size, location, and timing of construction shall be reviewed and approved by the Planning Board.

#### 9.4.8 General Development Standards

1. Development standards in the CHOD are applicable to all multi-family housing developments within the CHOD. These standards are components of the Site Plan Review process in Section 12.6 Site Plan Review unless otherwise modified by this Section 9.4.
2. Existing Requirements in the By-laws:
  - a. **Industrial Performance Standards.** Section 5.10 Performance Requirements within the Limited Commercial District shall not apply to the Beaver Dam Road district.
  - b. **Parking.** The requirements of Section 6.1 Off-Street Parking shall apply, with the following exception: the residential parking requirements in Table 6.1 are superseded by Section 9.4.6. Off-Street Parking.
  - c. **Performance Standards.** Section 6.3 Performance Standards for Special Permits and Site Plan Review shall apply to all developments under this Section 9.4 that are required to undergo Site Plan Review. The following components of this section do not apply:
    - i. Section 6.3.3 General Standards, paragraph 9. Fiscal Impact.

- ii. Section 6.3.6 Topographical Changes. The reference to Section 6.4 Earth Removal and Filling shall not indicate a requirement for a Special Permit.
- iii. Section 6.3.9 Aesthetic Standards.
- iv. Section 6.3.12 Fiscal Analysis Standards.
- d. **Other Sections Requiring a Special Permit.** The following sections in the Zoning Bylaws of the Town of Manchester-by-the-Sea require a Special Permit. For the purposes of this Section 9.4, the criteria for granting a Special Permit for each of the Sections below are incorporated into the Planning Board's Site Plan Review Process, as described in Section 9.4.9. The Applicant for a development within the CHOD is not required to apply for a Special Permit for the purposes of the uses listed in Section 9.4.D.
  - i. Section 6.4 Earth Removal and Filling.
  - ii. Section 10.1 Flood Control District.
  - iii. Section 10.3 Ground and Surface Water Resource Overlay Protection Districts.

#### 9.4.9 Design Guidelines

1. **Purpose.** Manchester-by-the-Sea is a town defined by a diverse and heterogeneous architectural context. Despite the heterogeneous nature of the buildings, there is a consistent sense of quality, scale, materiality, and proportion. The purpose of these Design Guidelines is to encourage similar attention to these components in new construction, including extensions and additions. The Town does not encourage replication but rather interpretation and complementary design. In a town with a rich architectural environment, good design will respect and complement the surroundings.
2. **Applicability.** These Design Guidelines apply to all Districts and Subdistricts within the CHOD unless otherwise noted.
3. **Performance Standards.** Section 6.3.9 Aesthetic shall apply to all developments under this Section 9.4 that are required to undergo Site Plan Review.
4. **Building Placement and Relationship to Public Realm**
  - a. **Entries.**
    - i. Building entries shall be clearly expressed by design elements such as a roof overhang, porch, portico, or recessed entryway.
    - ii. Where feasible, entries shall be clearly defined and linked to a paved pedestrian network that includes the public sidewalk.
  - a. **Multiple buildings on a lot.**
    - i. Parking and circulation on the site shall be organized to reduce the amount of impervious surface.
    - ii. A pedestrian network shall connect parking to the entries to all buildings and the buildings to each other.
    - iii. The orientation of multiple buildings on a lot should reinforce the relationships among the buildings. All building façade(s) shall be treated with the same care and attention in terms of entries, fenestration, and materials.



- b. **Corner Lots.** A building on a corner lot shall indicate a primary entrance either along one of the street-facing façades or on the primary corner as an entrance serving both streets.
  - i. Such entries shall be connected to the public sidewalk, if applicable.
  - ii. All façades shall be treated with similar care and attention in terms of entries, fenestration, and materials.
  - iii. Fire exits serving more than one story shall not be located on either of the street-facing façades.
- c. **Infill Lots.** If the adjacent buildings are set back at a distance that exceeds the minimum front yard requirements, infill buildings shall meet the requirements of Section 9.4 5. Dimensional Standards. Otherwise, infill buildings may match the front setback line of either adjacent building or at a point in between the front setback lines of the two buildings to provide consistency along the street.
- d. **Principal Façade and Parking.** Parking shall be subordinate in design and location to the principal building façade.
  - i. **Surface parking.** Surface parking shall be located at the rear or side of the principal building. Parking shall not be located in the setback between the building and any lot line adjacent to the public right-of-way.
  - ii. **Integrated garages.** The principal pedestrian entry into the building shall be more prominent in design and placement than the vehicular entry into the garage.
  - iii. **Parking structures.** Building(s) dedicated to structured parking on the same lot as one or more multi-family buildings or mixed-use development shall be subordinate in design and placement to the multi-family or mixed-use building(s) on the lot.
- e. **Site Lighting.** Lighting fixtures shall be designed to highlight pedestrian paths and building entrances. Site lighting shall use shielded and full cut-off fixtures to prevent glare and sky glow and shall comply with International Dark Sky Standards. The height of fixtures shall be between twelve feet (12 ft.) and seventeen feet (17 ft.), measured from the ground to the light-emitting flat glass of the luminaire.

## **5. Building Massing and Orientation.**

- a. The building façade shall be organized with a base, middle, and top, and the structure shall be expressed using elements such as posts, columns, pilasters, lintels, or bays.
- b. The primary façade shall face the principal street or courtyard unless there is a site-driven reason for a side entry.
- c. Building massing should be scaled similarly to the adjacent context in width, height, and depth. Larger buildings should be modulated or broken up to provide a hierarchy of building elements and a sense of scale. Façades should be interrupted every 30 to 50 ft. along the length of the façade.

## **6. Roofs.**

- a. Roofs of any structure should be limited to fifty feet (50') in ridge length.

Adjacent massing should incorporate a change in direction from the primary roof or be offset vertically or horizontally by a minimum of two (2) feet.

- b. The roof type may be gable end, mansard, hip, or flat. It should be defined by architectural elements appropriate to its style.
- c. Dormers should reflect the context of the adjacent building(s) and should be set back at least three feet (3') from the edges of the primary roof.

**7. Windows.**

- a. Windows on any façade should align vertically and horizontally and respond to symmetries within the District where appropriate.
- b. Windows on upper stories should not be larger than windows on the ground floor.
- c. Windows should generally be taller than they are wide.
- d. Windows should be orientated vertically and be of a consistent size and detail.
- e. If retail is included on the first floor, larger storefront windows and a distinct entry that reflects the local context are encouraged.

**8. Renovation and Expansion of Existing Buildings.**

- a. The preservation of existing structures is encouraged where feasible, especially for buildings that are historically or architecturally significant, including those that are listed or eligible to be listed on the Massachusetts or National Register of Historic Places.
- b. Accurate restoration of original architectural detail is encouraged.
- c. The design of an expansion or addition shall be subordinate to the existing building in terms of massing and scale.
  - i. The principal façade of the expansion or addition shall be set back from the plane of the principal façade of the existing building.
  - ii. The expansion or addition shall not obstruct the visual integrity of the existing structure.
- d. The design of an expansion or addition shall be consistent with traditional architectural styles and development patterns commonly found in New England and in harmony with the original structure in scale, size, style, and materials.
- e. The use of historical details on contemporary structures should be included only when appropriate to the overall design.
- f. The use of dormers and/or other typical architectural elements to create additional space or a partial extra story is strongly encouraged to accommodate the conversion of an existing building to add new dwelling units or to provide additional space within an extension or addition. Such elements should be set back from the principal façade to preserve the form of the original building and allow sunlight to reach the street.

**9. Materials.**

- a. Pervious paving materials are strongly encouraged. The site design shall maximize the use of pervious materials where feasible.
- b. Primary building materials shall reflect the local context and may include shingles, clapboards, cementitious boards, and brick, or materials that represent similar dimensions and textures.

- c. Roof materials shall be asphalt, wood, slate, metal, or other materials of a similar size and scale as appropriate to the architectural style of the building.
- d. Exterior cladding materials shall incorporate trim, including corner boards, rake boards, fascia boards, water tables, window casings, and window sills, appropriate to the building's architectural style.
- e. Exposed foundation walls, greater than three feet (3 ft.) in height, shall have cladding, or landscape cover and not be left as raw exposed concrete.
- f. All façades shall be articulated using shadow lines to emphasize architectural elements such as trim, roof overhangs, recessed windows or entries or soffits, and other projecting or recessed portions of the building volume.
- g. Windows should be divided into a well-considered mullion pattern that reflects the nearby local context or architectural style.

#### **10. Architectural and Landscape Elements.**

- a. The use of natural materials where feasible is strongly encouraged. Natural materials include those with texture and color variation and age over time. Such materials include stone, wood, brick, or copper.
- b. The use of texture and detail to enhance the building design and create more depth to the façade is strongly encouraged. Techniques include the use of shingle pattern variation, bracket detailing, trim, and panel moldings, pronounced eave projections, and column/pilaster capital detailing.
- c. Architectural forms and components that break up a building's massing are strongly encouraged. Such components include porches and other three-dimensional elements.
- d. Landscape elements, such as trees and other plantings, are strongly encouraged to soften the streetscape and create pedestrian zones.

#### **11. Additional Design Guidelines for the Beaver Dam Road District.**

- a. **Purpose.** The purpose of these design guidelines is to ensure that new development shall be of high quality and help form a cohesive neighborhood through construction of compatible building types, inviting streetscapes, and open spaces.
  - i. **Pedestrian Experience.** The Beaver Dam Road District should be highly walkable and have a distinct sense of place and community.
  - ii. **Integration with Nature / Sustainability.** The Beaver Dam Road District should minimize storm-water runoff to be sensitive to the adjacent wetlands and water resources.
  - iii. **Connectivity.** The Beaver Dam Road District should be safe and easy to walk or bike through a variety of paths, sidewalks, and traffic-calmed roadways. While safe and efficient vehicular access is also needed, the Beaver Dam Road District will prioritize pedestrians' needs.
  - iv. **Buildings.** The Beaver Dam Road District may offer a variety of building styles and types, unified by a consistent framework that emphasizes traditional design principles.

#### **b. Relationship of development clusters.**

- i. A development project may have multiple clustered areas. Each area shall be connected with a pedestrian network. Parking may be shared between clustered areas to improve the relationship between clustered areas.
- ii. The density and design of each area may vary, providing a range of building types and pedestrian experiences.

**c. Parking.**

- i. Parking shall be placed out of prominent view and located behind buildings, where feasible.
- ii. Parking lots shall be designed between buildings and open areas. Landscape buffers may include fences, gates, walls, or hedges.

**d. Public Open Spaces.**

- i. Public open spaces shall be designed, landscaped, and furnished to be compatible with or complementary to the character of the development.
- ii. Public open spaces may include plazas, parks, playgrounds, outdoor seating spaces, pedestrian corridors, open spaces left in their natural state, communal parkland, community gardens, and other types of open space intended to foster community cohesiveness and a distinct sense of place.

**e. Connectivity.**

- i. **Construction of access network.** Streets, driveways, and sidewalks shall meet the requirements of the Town of Manchester's Subdivision Rules and Regulations, as amended. Access points to Beaver Dam Road shall accommodate pedestrians and bicyclists.
- ii. **Sidewalk amenities.** Permanent street furniture, including light fixtures, benches, bike racks, trash bins, and recycling receptacles, shall be provided and integrated with street and sidewalk circulation as appropriate for safety and access.
- iii. **Bicycle parking.** Bicycle parking shall be provided at convenient locations, including near building entrances and open spaces. Bike racks shall be durable and support a bike by its frame in two places and accommodate a range of bike shapes and sizes.

**f. Integration with Nature/Sustainability/Resiliency.**

- i. **Plantings and Trees.** All plantings and trees should be species native to eastern North America with the goal of contributing ecological diversity to provide species diversity, adaptability, and habitat. Plants listed on the Massachusetts List of Invasive Plants, as amended, are prohibited. Plants located near streets, driveways, or parking lots should be salt-tolerant.
- ii. **Street Trees.** Street trees shall be provided as required in the Town of Manchester's Subdivision Rules and Regulations, as amended.
- iii. **Permeable paving.** The use of permeable paving systems is strongly encouraged for low-traffic loading (less than 100 vehicles per day) and

low-turning areas, including parking spaces; residential street parking; cart, bicycle, and pedestrian paths; driveways; and emergency-vehicle-access lanes.

- iv. **Stormwater management.** Strategies that demonstrate compliance of the construction activities and the proposed project with the most current versions of the Massachusetts Department of Environmental Protection Stormwater Management Standards, the Massachusetts Stormwater Handbook, Massachusetts Erosion Sediment and Control Guidelines, and, if applicable, additional requirements under the Town's stormwater bylaw and MS4 Permit for projects that disturb more than one acre and discharge to the Town's municipal stormwater system, and an Operations and Management Plan for both the construction activities and ongoing post-construction maintenance and reporting requirement.

**g. Buildings.**

- i. Design that creates a distinct sense of place while working within the framework of traditional building design is strongly encouraged.
- ii. A development consisting of more than one building should include a variety of styles and typologies compatible with traditional New England architecture.
- iii. Reducing the perception of overall massing by building orientation and design is strongly encouraged. Techniques include orienting the narrower side of the building to streets, drives, and open space; the use of architectural components such as the articulation of building bases and varying patterns of fenestration; and the use of elements such as pilasters, columns, cornices, canopies, dormers, shed dormers, and cross gables.
- iv. Canopies, awnings, and porches may be used to reinforce the human scale of the ground-floor façade and protect building entries.
- v. Awnings shall not obscure architectural details by crossing over pilasters or covering windows. Multiple awnings on a single building should be consistent in size, profile, location, material, color and design.
- vi. Additional materials may include clapboard, brick, concrete masonry, wood, cementitious fiber board, manufactured limestone, cast stone, masonry, stone, glass, terra cotta, cellular PVC trim, tile, and sustainable materials. Cementitious stucco may be appropriate when the building façade incorporates additional materials listed above. Materials on the façade that are subject to deterioration (plywood or plastic) are strongly discouraged. Poured-in-place concrete and pre-cast concrete are appropriate as a basic building material with special consideration to form work, pigments, and aggregates that provide texture and depth to surfaces.
- vii. Visible light fixtures shall be consistent with the architectural style of the building.

**12. Waivers.** Upon the Applicant's request and subject to compliance with the Compliance

Guidelines, the Site Plan Review Authority may waive the requirements of this Section 9.4 9. Design Guidelines in the interests of design flexibility and overall project quality and upon a finding of consistency of such variation with the overall purpose and objectives of the CHOD.

#### **9.4.10 Affordability Requirements.**

1. The provisions of Section 9.3 Inclusionary Housing shall apply to developments within the CHOD with the following modifications:
  - a. **Applicability.** This requirement is applicable to all residential developments with five (5) or more dwelling units, whether new construction, substantial rehabilitation, expansion, reconstruction, or residential conversion (Applicable Projects). No project may be divided or phased to avoid the requirements of this section. This paragraph supersedes Section 9.3.3 Applicability.
    - i. Section 9.3.4 Mandatory Provision of Affordable Units and Section 9.3.5 Provision of Affordable Units do not apply to developments within the CHOD.
  - b. **Affordability requirements: Subsidized Housing Inventory.** All units affordable to households earning 80% or less of AMI created in the CHOD under this section must be eligible for listing on EOHLC's Subsidized Housing Inventory.
  - c. **Provision of Affordable Housing.** In Applicable Projects, not fewer than twenty percent (20%) of housing units constructed shall be Affordable Housing Units. For purposes of calculating the number of units of Affordable Housing required within a development project, a fractional unit shall be rounded down to the next whole number. The Affordable Units shall be available to households earning income up to eighty percent (80%) of the AMI. Affordable units shall be constructed on-site. Payment in Lieu of creating affordable units or proposed off site units are not permitted. If EOHLC determines in writing that the Town has not shown this twenty percent (20%) Affordable Housing Unit requirement to be feasible, at least ten percent (10%) of housing units in Applicable Projects, or such greater percentage as approved by EOHLC in writing and filed with the Office of the Town Clerk, shall be Affordable Housing Units.
2. **Development Standards.** Affordable Units shall be:
  - a. Integrated with the rest of the development and shall be compatible in design, appearance, construction, and quality of exterior and interior materials with the other units and/or lots;
  - b. Dispersed throughout the development;
  - c. Located such that the units have equal access to shared amenities, including light and air, and utilities (including any bicycle storage and/or Electric Vehicle charging stations) within the development;
  - d. Located such that the units have equal avoidance of any potential nuisances as [market-rate units] within the development;
  - e. Distributed proportionately among unit sizes; and
  - f. Distributed proportionately across each phase of a phased development.

- g. Occupancy permits may be issued for market-rate units prior to the end of construction of the entire development, provided that occupancy permits for Affordable Units are issued simultaneously on a pro-rata basis.
- 3. **Administration.** The Inspector of Buildings shall be responsible for administering and enforcing the requirements in this section.