

City of Manchester Heritage Commission



By-Laws

Originally adopted on March 18, 1998

And amended on:

December 19, 2002

September 23, 2014

City of Manchester Heritage Commission



By-Laws

Article 1 – Authority and Purpose

- 1.1 The Heritage Commission of Manchester, New Hampshire, shall have such rights, powers and duties as are conferred or imposed upon it by the Board of Mayor and Aldermen as specified at Section 32.120-125 of the City of Manchester Code of Ordinances and Article 7.05 of the City of Manchester Zoning Ordinance.
- 1.2 The purpose of the Heritage Commission shall be to insure the proper recognition, use and protection of Manchester’s resources, primarily man-made, that are valuable for their historic, cultural, aesthetic, or community significance within their natural, built, or cultural context. The Commission is also responsible for reviewing qualifying outdoor building permit applications in the City’s historic districts for their impact on the historic districts.

Article 2 - Composition; Terms of Members

Consistent with RSA 673:4-a and 673:5 and Section 32.122 of the Ordinances of the City of Manchester:

- 2.1 The Heritage Commission shall consist of seven (7) members who shall be appointed by the Mayor with approval by the board of Mayor and Aldermen. Not more than five (5) alternate members may be appointed. See Article 4.1.
- 2.2 Each Heritage Commission member shall be a resident of the City of Manchester.
- 2.3 One (1) Commission member shall be a member of the local governing body.
- 2.4 Members shall serve for three (3) year terms and shall be limited to two (2) consecutive full terms. A full term shall be considered a term of two (2) years or more.

Article 3 - Officers and their Duties

- 3.1 The officers of the Heritage Commission shall consist of a Chairperson and a Vice-Chairperson.
- 3.2 Consistent with RSA 673:8-9, the Chairperson shall be elected by a majority vote of all regular members of the Heritage Commission present at the election meeting for a term of one (1) year. Election shall take place in the month of January. The Chairperson is eligible for re-election.

- 3.3 The Chairperson shall preside over all meetings and hearings, appoint such committees as directed by the Commission and shall affix his/her signature in the name of the Commission. He/she shall also have the powers and duties normally conferred by parliamentary usage of that office and such special duties as are further prescribed in these by-laws. In accordance with Robert's Rules of Order, the Chairperson may make motions and vote on all questions.
- 3.4 The Vice-Chairperson shall be elected by a majority vote of all regular members of the Heritage Commission present at the election meeting for a term of one (1) year. Election shall take place in the month of January. He/she is eligible for re-election.
- 3.5 The Vice-Chairperson shall perform all the duties of the Chairperson in his/her absence or disability and such other and further duties as may from time to time be required or requested by the Heritage Commission.
- 3.6 Vacancies in offices shall be filled at the next regular meeting by regular election procedure.
- 3.7 Conditional upon approval of the Director of the City Planning & Community Development Department, a staff member of the City of Manchester Planning & Community Development Department shall keep the minutes of the Heritage Commission, prepare and distribute the agenda of regular and special meetings, provide notice of meetings to Heritage Commission members, arrange proper and legal notice of hearings and meetings, attend, in coordination with the Chairperson, to the correspondence of the Heritage Commission and perform such other duties as are normally carried out by a Secretary.

In the absence of Planning & Community Development Department staff support, the Heritage Commission shall elect a Clerk to carry out those duties and transactions listed in the paragraph above. The Clerk shall be elected by a majority vote of all regular members of the Heritage Commission present at the election meeting for a term of one (1) year. Election shall take place in the month of January. He/she is eligible for re-election.

Article 4 - Alternate Members

- 4.1 Whenever a regular member of the Heritage Commission is absent or disqualifies him/herself from consideration and action on a matter before the Commission, the Chairperson shall designate an Alternate to act in the member's place. That Alternate shall have all privileges accorded a regular member until the Commission has completed its consideration of a specific matter for which an Alternate has been designated as a result of a disqualification or, in the event of an absence, until the regular member joins or rejoins the Commission or until the meeting is adjourned. The minutes shall note when an Alternate has been designated.

- 4.2 Where there is more than one (1) Alternate present at a Commission meeting, the Chairperson shall designate Alternates to fill vacant positions on a rotational basis or by such other means as he/she shall determine. Alternates shall at all times be able to participate in general discussions of the Commission.

Article 5 - Meetings and Conduct of Business

- 5.1 The Heritage Commission will hold monthly business meetings at the call of the Chairperson at dates, times, and places indicated in the Commission's annual meeting calendar or as otherwise chosen by the Chairperson.
- 5.2 The Heritage Commission will hold special meetings at the call of the Chairperson or when requested by a majority of the Commission's regular members. The notice for a special meeting shall specify its purpose(s) and no other business may be considered.
- 5.3 A quorum for all meetings of the Heritage Commission shall be four (4) regular members which may include Alternates sitting in place of an absent regular member. Whenever a quorum is not present at any meeting, the meeting will be considered adjourned and will be rescheduled to such other time and place as the Chairperson may deem appropriate.
- 5.4 The order of business at all meetings of the Heritage Commission shall be as specified on the agenda and in accordance with Article 8 of these By-Laws and Rules of Procedure.
- 5.5 All Historic District building permit and Section 106 applications intended for Heritage Commission review shall be submitted to the City of Manchester Planning & Community Development Department by 12 p.m. on Wednesday of the week prior to the scheduled meeting date.
- 5.6 No Historic District related building permit application shall be scheduled for official review by the Heritage Commission unless all elements of the application conform to the City of Manchester Zoning Ordinance or, if prior to being placed on a meeting agenda for Heritage Commission review, a variance for a non-conforming proposal has been approved by the Zoning Board of Adjustment.

The Heritage Commission encourages informal preliminary discussion of potential building permit projects prior to submission of an official application for design review. All requests for such discussions must appear on a Commission meeting agenda and must be made in accordance with the submission provision of Section 5.5.

- 5.7 Actions shall be taken on the basis of a motion duly seconded made by any regular member or designated Alternate of the Commission. The number of votes necessary to transact business shall be a majority of those regular members or designated Alternates present and voting except that no issue is to be considered passed that received less than three (3) affirmative votes. Any regular member or designated Alternate may request recording of his/her vote or abstention on any issue or his/her withdrawal from

consideration on any issue with the reason stated therefore, and at the request of any regular member or designated Alternate, the Chairperson shall call for a recorded roll call vote on any issue.

- 5.8** All meetings shall be held in accordance with RSA 91-A:2 (“Meetings Open to Public”) and a notice of the time and place for all meetings shall be posted at least 24 hours, excluding Sundays and legal holidays, prior to such meetings.

See Attachment A for a full copy of RSA 91-A:2.

- 5.9** The Heritage Commission may meet in a non-public session in accordance with RSA 91-A:3 (“Nonpublic Session”). Such a motion shall state the specific purpose(s) which the Commission intends to consider or act upon in non-public session and such purpose(s) shall, in every case, correspond to one or more of the purposes listed at RSA 91-A:3,II.

See Attachment B for a full copy of RSA 91-A:3.

Article 6 - Committees

- 6.1** Special purpose and study committees, as the Heritage Commission may from time to time deem necessary in order to conduct its business, shall be appointed by the Chairperson. Any such committees shall cease to exist when their final report is accepted by the Heritage Commission.

Article 7 - Disqualification of a Member

- 7.1** In accordance with RSA 673:14 (“Disqualification of Member”), no member of the Heritage Commission shall participate in deciding or shall sit upon the hearing of any historic district building permit application if that Commission member has a direct or pecuniary interest in the outcome which differs from the interest of other citizens, or if that member would be disqualified for any cause to act as a juror upon the trial of the same matter in any action at law.
- 7.2** When uncertainty arises as to the application of Article 7.1 to a Heritage Commission member in particular circumstances, the Commission shall, upon the request of that member or another member of the board, vote on the question of whether that member should be disqualified. Any such request and vote shall be made prior to or at the commencement of any required public hearing. Such a vote shall be advisory and non-binding, and may not be requested by persons other than Commission members.
- 7.3** If a member is disqualified or unable to act in any particular case pending before the Commission, the Chairperson shall designate an alternate to act in the member’s place.

Article 8 - Business Meetings - Order of Business

8.1 The order of business at all Heritage Commission business meetings shall be as follows:

1. Call to order by Chairperson and roll call of Heritage Commission members and Alternates.
2. Design Review & associated Public Hearing(s) concerning historic district building permit application(s).
3. Review of Section 106 applications.
4. Other scheduled agenda items.
5. Review of Minutes of previous meeting(s).
6. Old Business
7. New Business
8. Adjourn

Article 9 - Public Hearings

9.1 In addition to those required by law (i.e., any hearing of a historic district building permit application), the Heritage Commission may at its discretion hold public hearings when it decides that such hearings will be in the public interest. The Heritage Commission may, at its discretion and in coordination with other land use boards, hold joint hearings with any other land use board in accordance with RSA 676:2 (“Joint Meetings and Hearings”).

See Attachment C for a full copy of RSA 676:2.

9.2 Notice of such hearings shall be provided in accordance with applicable State statutes.

9.3 A record shall be kept of those speaking before the Heritage Commission at such hearings.

Article 10 - Order of Business for Public Hearings of Historic District Building Permit Applications - Reasonable Decision

10.1 The order of business for Public Hearings of Historic District Building Permit Applications shall be as follows:

1. The Chairperson shall state the essential nature of the application to be reviewed, allow the submission of a Planning & Community Development Department staff report concerning that application, and identify the applicant.
2. The applicant will be given an opportunity to present their building permit application and any supporting information.
3. Each Heritage Commission member is given the opportunity to make comments or ask questions concerning the case at hand.
4. The Chairperson will open the Public Hearing.

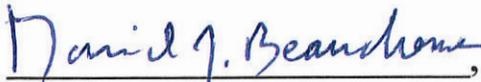
5. Any abutter or concerned citizen who wishes to provide comment or evidence concerning the case at hand is given an opportunity to speak. Any written comments or other evidence from an abutter or concerned citizen will be read into the record.
 6. The Chairperson closes the Public Hearing.
 7. As the Chair deems appropriate, each Heritage Commission member will be allowed added opportunities to make comments or ask questions concerning the case at hand.
 8. As the Chair deems appropriate, the applicant is allowed a rebuttal opportunity. The Chairperson may limit the rebuttal as deemed necessary.
 9. The Heritage Commission deliberates on the information associated with the application and may immediately decide to approve or disapprove of the application. However, the Commission has 45 days from the date of the application submittal to do so and to, also, inform the Director of the Planning & Community Development Department of their decision via a Certificate of Approval or Notice of Disapproval.
- 10.2** In order to make a reasonable decision concerning the merits of any application for a building permit in a Historic District, the Heritage Commission, in accordance with RSA 676:8 (“Issuing Approval for Building Permits”), may request reports and recommendations regarding the feasibility of the applicant’s proposal from the planning board, fire chief, building inspector, health officer and other administrative officials who may possess information concerning the impact of the proposal on the Historic District. The Commission may also seek advice from professional, educational, cultural or other groups or persons as may be deemed necessary for the determination of a reasonable decision.

Article 11 - Amendments

- 11.1** The Heritage Commission may suspend any of these rules by a unanimous vote of the regular members present.
- 11.2** These By-laws and Rules of Procedure may be amended at any regular or special meeting by a two-thirds vote of the entire regular membership of the Heritage Commission.

These are the By-laws and Rules of Procedure for the transaction of business as originally adopted by the City of Manchester Heritage Commission at their meeting on March 18, 1998 and as amended at their meetings on December 19, 2002 and September 23, 2014.


_____, Chairperson
Michael J. Farley


_____, ATTEST
David J. Beauchesne
Planning Department Staff

Attachment A

RSA 91-A:2

Meetings Open to Public

I. For the purpose of this section, a “meeting” shall mean the convening of a quorum of the membership of a public body, as provided in RSA 91-A:1-a, VI, or the majority of the members of such public body if the rules of that body define “quorum” as more than a majority of its members, whether such that all participating members are able to communicate with each other contemporaneously, subject to the provisions set forth in RSA 91-A:2, III, for the purpose of discussing or acting upon a matter or matters over which the public body has supervision, control, jurisdiction or advisory power. A chance, social, or other encounter not convened for the purpose of discussing or acting upon such matters shall not constitute a meeting if no decisions are made regarding such matters. “Meeting” shall also not include:

- (a) Strategy or negotiations with respect to collective bargaining;
- (b) Consultation with legal counsel;
- (c) A caucus consisting of elected members of a public body of the same political party who were elected on a partisan basis at a state general election or elected on a partisan basis by a town or city which has adopted a partisan ballot system pursuant to RSA 669:12 or RSA 44:2; or
- (d) Circulation of draft documents which, when finalized, are intended only to formalize decisions previously made in a meeting; provided, that nothing in this subparagraph shall be construed to alter or affect the application of any other section of RSA 91-A to such documents or related communications].

II. Subject to the provisions of RSA 91-A:3, all meetings, whether held in person, by means of telephone or electronic communication, or in any other manner, shall be open to the public. Except for town meetings, school district meetings and elections, no vote while in open session may be taken by secret ballot. Any person shall be permitted to use recording devices, including, but not limited to, tape recorders, cameras and videotape equipment, at such meetings. Minutes of all such meetings, including names of members, persons appearing before the public bodies and a brief description of the subject matter discussed and final decisions, shall be promptly recorded and open to public inspection not more than 5 business days after meeting, except as provided in RSA 91-A:6, and shall be treated as permanent records of any body or any subordinate body thereof, without exception. Except in an emergency or when there is a meeting of a legislative committee, a notice of the time and place of each such meeting, including a nonpublic session, shall be posted in 2 appropriate places one of which may be the public body’s Internet website, if such exists, or shall be printed in a newspaper of general circulation in the city or town at least 24 hours, excluding Sundays and legal holidays, prior to such meetings. An emergency shall mean a situation where immediate undelayed action is deemed to be imperative by the chairman or presiding officer of the public body, who shall post a notice of the time and place of such meeting as soon as practicable and shall employ whatever further means are reasonably available to inform the public that a meeting is to be held. The minutes of the meeting shall clearly spell out the need for the emergency meeting. When a meeting of a

legislative committee is held, publication made pursuant to the rules of the house of representatives or the senate, whichever rules are appropriate, shall be sufficient notice. If the charter of any city or guidelines or rules of order of any public body require a broader public access to official meetings and records than herein described, such charter provisions or guidelines or rules of order shall take precedence over the requirements of this chapter. For the purposes of this paragraph, a business day means the hours of 8 a.m. to 5 p.m. on Monday through Friday, excluding national and state holidays.

III. A public body may, but is not required to, allow one or more members of the body to participate in a meeting by electronic or other means of communication for the benefit of the public and the governing body, subject to the provisions of this paragraph.

(a) A member of the public body may participate in a meeting other than by attendance in person at the location of the meeting only when such attendance is not reasonably practical. Any reason that such attendance is not reasonably practical shall be stated in the minutes of the meeting.

(b) Except in an emergency, a quorum of the public body shall be physically present at the location specified in the meeting notice as the location of the meeting. For purposes of this subparagraph, an "emergency" means that immediate action is imperative and the physical presence of a quorum is not reasonably practical within the period of time requiring action. The determination that an emergency exists shall be made by the chairman or presiding officer of the public body, and the facts upon which that determination is based shall be included in the minutes of the meeting.

(c) Each part of the meeting required to be open to the public shall be audible or otherwise discernable to the public at the location specified in the meeting notice as the location of the meeting. Each member participating electronically or otherwise must be able to simultaneously hear each other and speak to each other during the meeting, and shall be audible or otherwise discernable to the public in attendance at the meeting's location. Any member participating in such fashion shall identify the persons present in the location from which the member is participating. No meeting shall be conducted by electronic mail or any other form of communication that does not permit the public to hear, read, or otherwise discern meeting discussion contemporaneously at the meeting location specified in the meeting notice.

(d) Any meeting held pursuant to the terms of this paragraph shall comply with all of the requirements of this chapter relating to public meetings, and shall not circumvent the spirit and purpose of this chapter as expressed in RSA 91-A:1.

(e) A member participating in a meeting by the means described in this paragraph is deemed to be present at the meeting for purposes of voting. All votes taken during such a meeting shall be by roll call vote.

ATTACHMENT B
RSA 91-A:3
Nonpublic Sessions

I. (a) Public Bodies shall not meet in nonpublic session, except for one of the purposes set out in paragraph II. No session at which evidence, information or testimony in any form is received shall be closed to the public, except as provided in paragraph II. No public body may enter nonpublic session, except pursuant to a motion properly made and seconded.

(b) Any motion to enter nonpublic session shall state on its face the specific exemption under paragraph II which is relied upon as foundation for the nonpublic session. The vote on any such motion shall be by roll call, and shall require the affirmative vote of the majority of members present.

(c) All discussions held and decisions made during nonpublic session shall be confined to the matters set out in the motion.

II. Only the following matters shall be considered or acted upon in nonpublic session:

(a) The dismissal, promotion or compensation of any public employee or the disciplining of such employee, or the investigation of any charges against him, unless the employee affected (1) has a right to a meeting and (2) requests that the meeting be open, in which case the request shall be granted.

(b) The hiring of any person as a public employee.

(c) Matters which, if discussed in public, would likely affect adversely the reputation of any person, other than a member of the body or agency itself, unless such person requests an open meeting. This exemption shall extend to any application for assistance or tax abatement or waiver of a fee, fine, or other levy, if based on inability to pay or poverty of the applicant.

(d) Consideration of the acquisition, sale or lease of real or personal property which, if discussed in public, would likely benefit a party or parties whose interests are adverse to those of the general community.

(e) Consideration or negotiation of pending claims or litigation which has been threatened in writing or filed against the public body or any subdivision thereof, or against any member thereof because of his membership in such public body, until the claim or litigation has been fully adjudicated or otherwise settled. Any application filed for tax abatement, pursuant to law, with any body or board shall not constitute a threatened or filed litigation against any public body for the purposes of this subparagraph.

(f) Consideration of applications by the adult parole board under RSA 651-A.

(g) Consideration of security-related issues bearing on the immediate safety of security personnel or inmates at the county correctional facilities by county correctional superintendents or their designees.

(h) Consideration of applications by the business finance authority under RSA 162-A:7-10 and 162-A:13, where consideration of an application in public session would cause harm to the applicant or would inhibit full discussion of the application.

III. Minutes of proceedings in nonpublic session shall be kept and the record of all actions shall be promptly made available for public inspection, except as provided in this section. Minutes

and decisions reached in nonpublic session shall be publicly disclosed within 72 hours of the meeting, unless, by recorded vote of 2/3 of the members present, it is determined that divulgence of the information likely would affect adversely the reputation of any person other than a member of the public body itself or render the proposed action ineffective, or pertain to terrorism, more specifically, to matters relating to the preparation for and the carrying out of all emergency functions, developed by local or state safety officials that are directly intended to thwart a deliberate act that is intended to result in widespread or severe damage to property or widespread injury or loss of life. This shall include training to carry out such functions. In the event of such circumstances, information may be withheld until, in the opinion of a majority of members, the aforesaid circumstances no longer apply.

ATTACHMENT C
RSA 676:2
Joint Meetings and Hearings

I. An applicant seeking a local permit may petition 2 or more land use boards to hold a joint meeting or hearing when the subject matter of the requested permit is within the responsibilities of those land use boards. Each board shall adopt rules of procedure relative to joint meetings and hearings, and each board shall have the authority on its own initiative to request a joint meeting. Each land use board shall have the discretion as to whether or not to hold a joint meeting with any other land use board. The planning board chair shall chair joint meetings unless the planning board is not involved with the subject matter of the requested permit. In that situation, the appropriate agencies which are involved shall determine which board shall be in charge.

II. Procedures for joint meetings or hearings relating to testimony, notice of hearings, and filing of decisions shall be consistent with the procedures established by the chapter for individual boards.

III. Every local land use board shall be responsible for rendering a decision on the subject matter which is within its jurisdiction.