

# **Manchester, New Hampshire Conservation Commission**



## **Bylaws**

**Adopted on December 11, 2013**

**Amended through December 22<sup>nd</sup>, 2022**

## **A. Purpose and Authority**

1. As established by the Manchester, New Hampshire Code of Ordinances, Chapter 32 (Code), the purpose of the Manchester Conservation Commission is to:
  - a. Develop, protect, and promote the City's natural resources;
  - b. Promote awareness of conservation practices and policies throughout the City; and
  - c. Protect the watershed resources of the City.
2. These Bylaws are adopted under the authority of New Hampshire Revised Statutes Annotated (RSA) 36-A, "Conservation Commission," and by the Code.

## **B. Membership**

1. The Manchester Conservation Commission, addressed hereafter as "Commission," shall consist of seven full-time members and two alternate members appointed by the Mayor and approved by the Board of Mayor and Aldermen. Find the full language for Commission composition and terms in Section 32.092 in the City of Manchester Code of Ordinances.
2. All Commission members shall be appointed for three-year terms.
3. A vacancy occurring by other than term expiration shall be filled for the unexpired term in the same manner as an original appointment.

## **C. Officers**

1. The Commission Officers and their duties shall be:
  - a. **Chair:** The Chair shall preside over all meetings and hearings in accordance with Roberts Rules of Order, and shall, with the assistance of the Secretary and City staff, when available, post meeting notices and perform other duties customary to the office.
  - b. **Vice-Chair:** The Vice-Chair shall preside in the Chair's absence and shall have the full powers of the Chair on matters that come before the Commission during the Chair's absence.
  - c. **Secretary:** The Secretary shall be responsible for the maintenance of the Commission minutes and records. The Commission may retain a recording secretary whose records shall be reviewed by the Commission for accuracy.
  - d. **Treasurer:** The Treasurer shall be responsible for recording all property acquired, owned, and dispensed by the Commission. This shall include all funds budgeted to the Commission by the City, funds raised by the Commission, and property acquired by the Commission in the name of the City. The Treasurer shall also record the purposes for which all property is acquired and dispensed.
2. Commission officers shall be elected annually, August of each year, by a majority vote of the Commission.

#### **D. Duties of the Commission**

1. Conduct research into Manchester's local natural resources, watershed areas, and open spaces, and evaluate the uses thereof. (RSA 36-A:2, Code)
2. Keep an index of all open space and natural aesthetic or ecological areas in Manchester including marshlands, swamps and other wetlands. (RSA 36-A:2, Code)
3. Based on the above research and index, prepare a program of conservation and a program of watershed and open-space protection. (RSA 36-A:2, Code)
4. Prepare, adopt, and, from time to time, review and amend a conservation and open space plan for submission to the Planning Board as part of the comprehensive plan for the city. (Code)
5. Advise the Planning Board and other local bodies on conservation matters.
6. Seek to coordinate the activities of unofficial groups involved with the protection of natural or watershed resources. (RSA 36-A:2)
7. Keep accurate records of Commission meetings and actions. (RSA 36-A; RSA 91-A)
8. Manage, protect and properly utilize conservation land. (RSA 36-A:4)
9. Intervene, investigate and make recommendation on Dredge and Fill permits filed with the NH Department of Environmental Services (DES). (RSA 482-A)
10. Prepare reports and maps for local designation of prime wetlands (RSA 482-A:15)
11. Notify the DES of projects adjacent to prime wetlands. (WT 703.01)
12. Manage the City conservation land and forests. (RSA 36-A:4, RSA 31:110-113)
13. Receive, manage and control gifts of money and property for conservation purposes, subject to approval of the Board of Mayor and Aldermen and in the name of the City of Manchester. (RSA 36-A:4)
14. Acquire, manage and control property or property rights for conservation purposes, subject to approval of the Board of Mayor and Aldermen and in the name of the City of Manchester. (RSA 36-A:4)
15. Review and make recommendations to the Planning Board on Sand and Gravel Excavation permits. (RSA 155-E:3)
16. Manage all conservation and open space easements, including maintaining an accurate inventory and periodic visits to properties with easements.

## **E. Committees**

1. The Chair may from time to time appoint subcommittees for any purpose deemed necessary. Each subcommittee shall report to the Commission at each meeting or at such other times as may be requested.

## **F. Meetings**

1. All meetings, including non-public session, shall be held in accordance with RSA 91-A as needed.

2. Regular meetings shall be held monthly at City Hall and will be posted in accordance with RSA 91-A. Regular meetings shall coordinate with the Planning Board's meeting schedule. Please refer to the Planning and Community Development Department calendar for dates.

3. Special meetings may be called by the Chair, or, in his or her absence, the Vice-Chair, or at the request of three Commission members. Public notice and notice to each member shall be given at least 24 hours prior to such meeting, excluding Sundays and legal holidays. The notice shall specify the meeting's purpose.

4. The Commission shall conduct a site visit when, in the Commission's discretion, it is warranted to gather relevant information beyond what is presented in the application. If four or more Commission members attend a site visit, it shall be a public meeting, subject to the requirements of RSA 91-A. Applicants shall be notified in advance of a site visit at which a quorum of the Commission will be present.

5. The Commission may suspend any of its rules during a meeting by majority vote.

## **G. Quorum**

1. A majority of the Commission membership shall constitute a quorum, including alternates sitting in place of regular members. If any regular Commission member is absent from a meeting or hearing or is recused from sitting on a particular application, the Chair shall designate an alternate member to sit in place of the absent or recused member. A designated alternate member shall have the same powers and duties as a regular member in regard to any matter under consideration on which the regular member is unable to act.

2. A motion duly seconded shall be carried by an affirmative hand vote of a majority of the members present.

3. Members are requested to attend all regular meetings and as many other meetings and site visits as they can. Notification of absence should be submitted to the Chair in advance. Pursuant to Section 3.14 of the City of Manchester Charter, if any member of the Commission fails to attend one third of the regularly scheduled meetings during a calendar year or misses four consecutive meetings, the record of attendance shall be reported to the Mayor and Aldermen who, upon a finding of no reasonable explanation for such absences, shall declare the office vacant. Pursuant to RSA 36-A:3, members may also be removed for cause, after a similar reporting to the Mayor and Aldermen and finding of no reasonable explanation for the behavior. Any member reported to the Mayor and Aldermen shall be notified of the report and shall be entitled to a public hearing before the Mayor and Aldermen, if requested.

## **H. Recusal:**

1. Any Commission member who has a personal or pecuniary interest that differs from that of other citizens in any matter before the Commission shall recuse himself or herself from voting or speaking on said matter. The member shall notify the Chair as soon as possible so that an alternate may be identified to fill the recused member's position. Either the Chair or the member should announce the recusal before the discussion or the public hearing on the application begins. The recused member should physically separate himself or herself from the Commission, such as by sitting in the audience, during all deliberations and the public hearing on the matter. If uncertainty arises as to whether a Commission member should recuse himself or herself, the Commission may vote on the question of whether that member should be disqualified. Such vote shall be made at the commencement of any required public hearing. A vote on a question of disqualification shall be advisory and non-binding, and may not be requested by persons other than Commission members.

## **I. Order of Business:**

The following meeting schedule is the standard format for a meeting. It may be adjusted by the Chair prior to, or during, a meeting. Other topics may be added. If any item on this list does not apply to any meeting's agenda, it will not be listed for that meeting.

- a. Call to order
- b. Roll call
- c. Nonpublic Session
- d. Public hearing
- e. New business
- f. Approval of prior meeting minutes
- g. Other business
- h. Adjournment

## **J. Public Hearings**

The conduct of public hearing shall be governed by the following rules:

1. The Chair shall call the hearing into session, identify the applicant or agent and ask for their report on the proposal.
2. The applicant shall present the application to the Commission.
3. The members of the Commission may ask questions at any point during the presentation.
4. Any party to the matter who desires to ask a question of another party must do so through the Chair.
5. Any applicant, abutter, or person with a direct interest in the matter may testify in person or in writing. Other persons may testify as permitted by the Commission at each hearing.
6. Each person who speaks shall be required to state their name, address and indicate whether they are a party in this matter or any agent or counsel to a party in this matter.

7. Other parties such as representatives of City departments and other City boards or commissions who have an interest in the proposal shall be allowed to present their comments in person or in writing.

8. The Chair shall state whether the hearing is closed or adjourned pending the submission of additional material or information or the correction of noted deficiencies. In the case of an adjournment, additional notice is not required if the date, time and place of the continuation is made known at the adjournment.

#### **K. Records**

1. Commission records shall be kept by the Secretary and staff of the Planning and Community Development Department and shall be made available for public inspection within a reasonable time after an inspection request is made, pursuant to RSA 91-A.

2. Minutes of meetings shall include the Commission members' names, persons appearing before the Commission, and a brief description of the subject matter.

#### **L. Staff Support**

1. Pursuant to Chapter 152 of the Code, the staff of the Manchester Planning and Community Development Department may provide support to the Commission, subject to the availability of the Department's resources.

2. Applicants and anyone else with business before the Commission may contact the Department by e-mail at [pcd@manchesternh.gov](mailto:pcd@manchesternh.gov) or by calling (603) 624-6450.

3. The Commission authorizes the Department's staff to correspond with property owners and their agents, governmental agencies, and other entities on the Commission's behalf. This authorization includes providing notices of actions taken by the Commission.

#### **M. Presentation and Submission Requirements**

1. Anyone wishing to appear before the Commission should contact the planning staff at the e-mail address or telephone number listed above.

2. Residents of Manchester, the owners of property in Manchester, and their representatives are encouraged to appear before the Commission prior to engaging in any activity that may impact any of Manchester's natural resources, including rivers, surface water bodies, and wetlands. The Commission strongly recommends that anyone intending to file a permit to the State of New Hampshire for an impact to natural resources in Manchester appear before the Commission prior to filing for a permit.

3. All documents, plans, or other materials that will be used in the presentation to the Commission, or are directly relevant to the presentation, shall be submitted in digital, .pdf format to the Commission's staff support in the Planning and Community Development Department by noon on the Monday that is one week prior to the meeting at which the presentation will occur (10 days in advance). All application materials shall be e-mailed to [pcd@manchesternh.gov](mailto:pcd@manchesternh.gov) with the subject "Application to Conservation Commission." Applicants shall bring eight (8) paper copies of all documents, plans, or other materials to meetings of the Commission for distribution. All plans shall be reduced to 11x17 inches, unless a significant loss of legibility occurs.

## **N. Procedure Specific to Dredge and Fill Applications**

1. The following provisions apply in addition to those provided above.
2. The Commission recommends that anyone intending to submit an application to DES for dredge, fill, or other impacts to wetlands located in Manchester first meet with the Commission. The Commission may be able to assist the applicant in designing a solution with minimal impact to wetlands. The Commission may request that the property owner permit the Commission to walk the wetland site to obtain further information regarding the impacts. If the Commission finds the impacts to be reasonable and as minimally invasive as possible, the Commission may endorse the application, which may be beneficial for the property owner's application to DES.
3. Pursuant to RSA 482-A, any application to DES for a permit to impact wetlands must also be submitted to the City Clerk. Four copies of the permit application, detailed plan, and map showing the exact location of the proposed project must be submitted to the Clerk. Once the Clerk receives the copies of the application, the Commission has fourteen days in which to notify DES that the Commission would like additional time to study the matter. Due to this short window in which to consider the merits of the application, if the Commission receives notice of an application to DES for a wetland permit, and the applicant has not met with the Commission prior to filing its application with DES, the Commission shall immediately send written notification to DES that the Commission intends to investigate the permit and request additional time to do so.
4. Anyone meeting with the Commission to discuss potential impacts to wetlands shall prepare a detailed plan and a map of the site showing the current conditions of the wetland and the proposed impacts.
5. If inclement weather or unusual field conditions prevent the Commission from obtaining relevant information during a site visit (i.e. deep snow coverage that prevents an adequate impact assessment), the Commission may request an applicant to postpone action until an adequate assessment can be made.
6. For applications involving the construction of wetland mitigation areas, the Commission shall impose, or request the appropriate regulatory agency (Planning Board or NH Wetlands Board) to impose the following standard conditions:
  - a. A performance guarantee shall be submitted (letter of credit, bond, etc.) sufficient to cover the costs of constructing and planting the mitigation area.
  - b. Monitoring to continue through three (3) growing seasons. A portion of the performance guarantee will be held during this time to cover replanting and minor site work revisions if necessary.
  - c. Monitoring reports from a qualified wetland scientist shall be submitted to City staff and the Commission. In some cases, the Commission might require an independent firm to monitor construction and planting on behalf of the City, at the applicant's expense.
  - d. Submission of as-built topographic plans and certification that the wetland mitigation area was constructed and planted according to approved plans, before construction of the site begins.

**O. Commissioner Identification**

1. Commissioners shall be issued identification badges upon their swearing in. The badges shall be used solely for purposes of identification when Commissioners are interacting with the public, such as on site visits. Badges shall be returned to the Commission upon the completion of a member's service on the Commission.

**P. Amendments**

1. These Bylaws may be amended by a majority vote of the Commission members. The amended Bylaws shall be filed with the City Clerk.