

## AGENDA

### COMMITTEE ON BILLS ON SECOND READING

January 20, 2004  
Aldermen Lopez, Roy,  
Sysyn, DeVries, O'Neil

5:30 PM  
Aldermanic Chambers  
City Hall (3<sup>rd</sup> Floor)

1. Chairman Lopez calls the meeting to order.
2. The Clerk calls the roll.
3. Chairman Lopez advises that the first purpose of the meeting is organizational in nature, and requests the Clerk to provide a brief overview regarding typical issues addressed by the Committee.

4. Ordinances:

“Amending the Zoning Ordinance of the City of Manchester by amending Section 5.10 Table of Principal Uses by allowing single-family attached (townhouse) dwellings (item A.2) as a permitted use within CBD district (Central Business District).”

“Amending the Zoning Ordinance of the City of Manchester by changing the allowed density of multi-family housing in the Central Business District under ‘Minimum Additional Lot Area for each Unit after the first three units’ from 1,000 square feet to 500 square feet.”

**Ladies and Gentlemen, what is your pleasure?**

5. Ordinances:

“Amending the Zoning Ordinance of the City of Manchester by clarifying Section 4.01 Establishment and Purpose of Districts, subsection (5) Residential Suburban Multifamily District (R-SM) by clarifying the purpose of the district and the minimum size.”

“Amending the Zoning Ordinance of the City of Manchester by extending the R-SM (Residential Suburban Multifamily) zoning district to include the full extent of a parcel of land on Old Wellington Road (TM 645, Lot 10) currently zoned R-1A.”

*(Note: communication in opposition to rezoning of Wellington Road from Tom Coughlin attached.)*

**Ladies and Gentlemen, what is your pleasure?**

### **TABLED ITEMS**

**A motion is in order to remove any of the following items from the table for discussion.**

6. Ordinances:

“Amending the Zoning Ordinance of the City of Manchester by changing the zoning district of property currently zoned IND (General Industrial) to R-SM (Residential Suburban Multifamily) by extending the R-SM zone district on a portion of property identified as TM 478, Lot 8, located on Candia Road.”  
(Tabled 10/14/2003)

“Amending the Zoning Ordinance of the City of Manchester by amending Article 5, Section 5.10, G-6 of the Table of Principal Uses by inserting a “P” in the “IND-General Industrial/Industrial Park” column of item G-6 of the table.”  
(Tabled 10/14/2003)

7. Ordinance:

“Amending the Code of Ordinances of the City of Manchester by creating a new section within Chapter 111: Amusements establishing regulations for noise activities conducted in outdoor concert venues throughout the city and inserting new penalties in Section 111.99: Penalty to enforce these regulations.”  
(Tabled 11/06/2002)

8. Ordinances:

“Amending Chapter 130: General Offenses of the Code of Ordinances of the City of Manchester by repealing Section 130.10 Tattooing in its entirety.”  
(Tabled 07/16/2002)

“Amending the Zoning Ordinance of the City of Manchester to include a new use group category for Tattoo Parlors, inserting changes to Table 5.10, adding supplementary regulations for tattoo parlors, and providing for location restrictions so as to prohibit such parlors within 600 feet from each other and not less than 500 feet from a Residential or Civic Zone.”  
(Tabled 07/16/2002)

9. If there is no further business, a motion is in order to adjourn.

City of Manchester  
New Hampshire

*In the year Two Thousand and Four*

AN ORDINANCE

“Amending the Zoning Ordinance of the City of Manchester by amending Section 5.10 Table of Principal Uses by allowing ‘single-family attached (townhouse) dwellings (item A.2) as a permitted use within CBD district (Central Business District).”

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester,  
as follows:

By the Board of Mayor and Aldermen of the City of Manchester, as follows:

SECTION I.) Amending the Zoning Ordinance of the City of Manchester by amending Article 5, Section 5.10, A-2 of the Table of Principle Uses by inserting a “P” in the “CBD – Central Business District” column of item A-2 of the table.

SECTION II.) Amending the Zoning Ordinance of the City of Manchester by amending Article 8, Section 8.01, by inserting “CBD” on the second line of the chart under ‘Zoning district’ so that the Minimum Lot Size for the first three (3) Units of single family townhouse dwellings in the CBD will be 5,000 square feet and the Minimum Additional Lot Area for each Unit after the first three (3) Units will be 1,500 square feet.

SECTION III.) Resolve this ordinance shall take effect upon passage.

City of Manchester  
New Hampshire

*In the year Two Thousand and Four*

AN ORDINANCE

“Amending the Zoning Ordinance of the City of Manchester by changing the allowed density of multi-family housing in the Central Business district under ‘Minimum Additional Lot Area for each Unit after the first three units’ from 1,000 square feet to 500 square feet.”

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester,  
as follows:

SECTION I.) Amending the Zoning Ordinance of the City of Manchester by amending Article 8, Section 8.04, so that the ‘Minimum Additional Lot Area for each Unit after the first three (3) Units’ for multifamily dwellings in the CBD is changed from 1,000 square feet to 500 square feet.

SECTION II.) Resolve this ordinance shall take effect upon passage.

[Manchester Planning and Economic Development Department]

November 14, 2003

The Honorable Robert Baines  
Board of Mayor and Aldermen  
1 City Hall Plaza  
Manchester, NH 03101

Re: Request for Rezoning

Dear Mayor Baines and Board of Aldermen:

This letter is submitted on behalf of the Department of Planning and Economic Development for an Amendment to the Zoning Ordinance of the City of Manchester. We request that certain provisions relating to the Central Business District ("CBD") be amended for the reasons set forth herein:

1. Provisions to Be Amended – The proposed amendments to the Zoning Ordinance are as follows:

a. Amend Table of Principal Uses, Section 5.10 to make Single Family Attached (Townhouse) Dwellings a permitted use in the CBD.

b. Amend Section 8.01 by adding "CBD" in the chart under zoning district which amendment will provide for a minimum lot size for Single Family Attached (Townhouse) Dwellings in the CBD of 5,000 square feet for the first three (3) units and an additional minimum lot size of 1,500 square feet for each unit after the first three (3) units. (Note: this is the same density permitted for townhouses in the R-3 district.)

c. Amend Section 8.4 by changing the table so that in the CBD the minimum additional lot area for each multi family unit after the first three (3) units is reduced from 1,000 square feet to 500 square feet. (Note: this is the same density as currently permitted for elderly housing.)

2. The Purpose and Intent of Proposed Amendment – These proposed amendments to the Zoning Ordinance will allow housing flexibility within the CBD which flexibility will encourage residential development within the CBD and provide a mechanism for greater variety in housing units. By allowing townhouse development within the CBD, housing alternatives which are appropriate in various sections of the CBD can be developed. For

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example, townhouse development will be appropriate where the units front on a scenic area such as a park or the river.

3. **Impact of Proposed Amendment** – The proposed zoning amendments will have little or no adverse impact upon municipal services or municipal facilities. Allowing townhouses in the CBD will enhance the livability of the neighborhoods. In fact, there are relatively few areas where townhouses are likely to be constructed in the CBD but the zoning change gives a developer the flexibility where townhouses would be appropriate. Likewise, the increased density for multi family residential development also gives development flexibility within the CBD, is more consistent with existing residential uses, and will not adversely impact the City's infrastructure. This additional flexibility will contribute to an increase in the real estate tax base of the City. The CBD presently allows multi family residences and the change proposed here, taken together with all of the other requirements of the Zoning Ordinance, will increase the number and variety of residential unit types available within the CBD without adverse consequences to the City.

4. **Impact on Zoning District** – Attached to this letter is a portion of the Zoning Map showing the CBD. The proposed changes are limited solely to the CBD district.

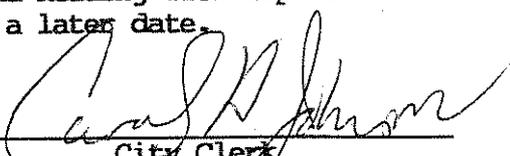
Thank you for your consideration of these proposed Amendments. Since these Amendments have a direct impact on the river front development, I would request that the Board of Mayor and Aldermen set a date for a Public Hearing as soon as possible, consistent with the requirements of RSA 675:7 and solicit input from appropriate City Departments. Your attention to this matter is greatly appreciated and the Planning and Economic Development Department is ready to provide any advice or comments that you may request.

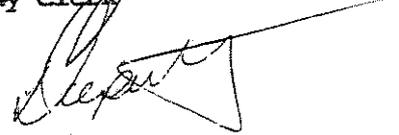
Very truly yours,

Robert S. MacKenzie  
Director of Planning and Economic Development

November 18, 2003.  
In Board of Mayor and Aldermen.

On motion of Alderman O'Neil, duly seconded by Alderman Garrity, it was voted to refer same to a Public Hearing to be scheduled by the City Clerk at least 30 days following notification to the Planning Board, Building Department and City Solicitor for review; and to the Committee on Bills on Second Reading with reports to be made at a later date.

  
\_\_\_\_\_  
City Clerk



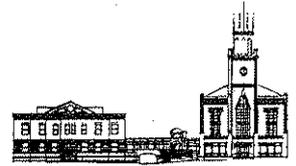


Robert S. MacKenzie, AICP  
Director

# CITY OF MANCHESTER

## Planning and Community Development

Planning  
Community Improvement Program  
Growth Management



Staff to:  
Planning Board  
Heritage Commission  
Millyard Design Review Committee

December 10, 2003

Honorable Board of Mayor and Aldermen  
City Hall  
One City Hall Plaza  
Manchester, New Hampshire 03101

*re: Technical Review of Four Proposed Zoning Changes*

Honorable Board Members:

In accordance with the new procedures on rezoning requests, I am providing a report on the technical merits of four proposed changes. These include: 1) allowing townhouses in the CBD district; changing the density of housing in the CBD district; 3) clarifying the intent of the 10 acre minimum for the R-SM district; and 4) rezoning the balance of the City-owned "Old Wellington Road parcel" to R-SM.

From a technical standpoint, the first three changes are in order and may be forwarded to hearing. The fourth item – Old Wellington Road – would only be technically correct after Board approval of item 3. Provided that this is understood and that the Board would act on item 3 prior to item 4, the fourth item should also be submitted to the same hearing.

It should be noted that the first three items are wording changes that do not require "courtesy letters" to abutters, while the fourth item is a map change that should have abutter notice. I would also note that the Building Department, Solicitor's Office and the Planning Board have been notified of these proposed changes.

Technical comments on the proposed changes:

- 1) Townhouses in the CBD district. The recent change to the Arena Overlay allows townhouses to be constructed in that portion of the downtown. It would be appropriate to consider extending this allowance to the entire CBD district.
- 2) Changing the density of housing in the CBD. Until 2001 when the revised Zoning Ordinance came into effect, there were no limitations on the density of housing on downtown lots. A somewhat arbitrary number of one unit per 1,000 square feet was selected in the 2001 ordinance. In reviewing that number against Wall Street Towers (the only high rise residential built in the downtown in the last couple of decades), it was determined that the 2001 number would allow less than one half the units than was actually built. It would be appropriate to consider changing the number from 1,000 square feet per unit to 500 square feet per unit.
- 3) When the R-SM was first developed and recodified in the 2001 Zoning, a minimum acreage of 10 acres was stipulated to insure that new zonings were not infills on small lots. It was the intent of this original ordinance that each district be at least 10 acres, not that an addition to an existing district be

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at least 10 acres. The proposal would clarify the wording of the ordinance to reflect the original intent.

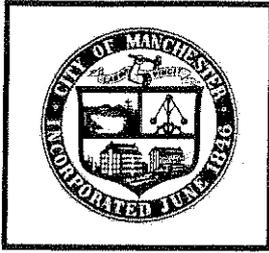
- 4) The "Old Wellington Road site" composes an area of 9.6 acres just east of I-93 and is City owned. Most of the site is zoned R-SM, while a small part is zoned R-1A. As part of the proposal to sell this property, it is the obligation of the Board to rezone the smaller portion so that the entire parcel would be R-SM. It should be noted that change 3 above would have to be considered and adopted by the Board prior to action on this provision.

If you have any questions, I will be available at your meeting.

Sincerely,



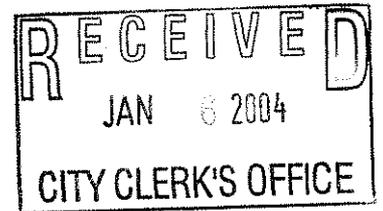
Robert S. MacKenzie, AICP  
Director of Planning & Community Development



*City of Manchester Planning Board*  
c/o City of Manchester Planning & Community Development Dept.  
One City Hall Plaza  
Manchester, New Hampshire 03101  
603-624-6450  
Fax (603-624-6529)

December 30, 2003

Honorable Board of Mayor and Aldermen  
Manchester City Hall  
One City Hall Plaza  
Manchester, NH 03101



*Re: Zoning Ordinance Amendments/Zoning Map Amendment*

Honorable Board Members:

At our last Planning Board meeting of December 18, 2003, members of the Planning Board engaged in a lengthy discussion of four proposed amendments to both the Zoning Ordinance and the Zoning Map. It is our understanding that these items are pending before your Board and are scheduled for a public hearing on January 13, 2004. The Board would like to offer the following comments on the proposed changes:

Townhouses in the CBD. The majority of the Board members felt that offering more housing opportunities in the downtown was a positive move. Adding townhouses to the mix of multi-family units is appropriate. In general, Board members feel that the more people that live in Manchester's downtown, the better. To that end, allowing townhouses in the CBD increases the flexibility of residential options.

Density of housing in the CBD. Many of the comments above can also be applied to this proposed change. The Board accepts the concept that residential densities will be greater in the downtown. Using Wall Street Towers as an example of the densities that could be accomplished with this proposed change, the Board is in favor of this change. The Board recognizes that as the cost of land keeps increasing, developers need to secure a certain number of units to make an investment worthwhile to them, and ultimately, to the City of Manchester.

Clarification of minimum acreage, R-SM district. This item did not generate a lot of discussion, although the Board understands the reason for the clarification and supports the change.

4

Map revision for City-owned parcel on Old Wellington Road. This particular proposal generated a great deal of discussion. In general, the Board is supportive of the expansion of the R-SM district to include the entire City-owned parcel. However, in addition to this map revision, the Board feels that the parcels on either side of this lot, on the southeasterly side of Old Wellington Road between I-93 and Karatzas Avenue, should also be re-zoned from R-1A to R-SM. The Board feels that *not* including these parcels would make the requested map revision appear to be spot zoning. The parcel immediately adjacent (southwesterly) to the City-owned parcel is Lot 1 and also City-owned (Steven's Pond land). The parcels northeasterly of the City-owned parcel are in private ownership. Consistent with other zoning district boundaries, the Board would like to see the R-SM district line follow the center of Old Wellington Road and not the property lines.

For the record, please note that while Planning Board member Robert Stephen participated in discussions relative to proposed zoning changes in the CBD, he recused himself from all discussions/recommendations regarding the Old Wellington Road property in order to avoid any potential conflict of interest.

Thank you for allowing the Planning Board to comment on these proposed changes pending before the Board of Mayor and Aldermen.

Sincerely,



Joan Bennett, Chair  
Manchester Planning Board

City of Manchester  
New Hampshire

*In the year Two Thousand and Four*

AN ORDINANCE

“Amending the Zoning Ordinance of the City of Manchester by clarifying Section 4.01 Establishment and Purpose of Districts, subsection (5) Residential Suburban Multifamily District (R-SM) by clarifying the purpose of the district and the minimum size.”

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

SECTION I.) Amending the Zoning Ordinance of the City of Manchester by clarifying Article 4, Section 4.01, Establishment and Purpose of Districts, subsection A.5. Residential Suburban Multifamily District (R-SM) by deleting the following sentence: “Therefore, it is hereby established that an area of not less than 10 acres shall be considered as the minimum tract area required for the consideration of any future rezoning proposal that would create or expand an R-SM district in order to fulfill the intent of the district to create planned neighborhoods.”

and by replacing that sentence with the following sentence: “An R-SM district shall be at least 10 acres in area.”

SECTION II.) Resolved, that this amendment shall take effect upon passage.

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City of Manchester  
New Hampshire

In the year Two Thousand and <sup>Four</sup>

AN ORDINANCE

"Amending the Zoning Ordinance of the City of Manchester by extending the R-SM (Residential Suburban Multifamily) zoning district to include the full extent of a parcel of land on Old Wellington Road (TM 645, Lot 10) currently zoned R-1A."

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

SECTION I.) "Amending the Zoning Ordinance of the City of Manchester by extending the R-SM (Residential Suburban Multifamily) zoning district to include the full extent of a parcel of land on Old Wellington Road (TM 645, Lot 10) currently zoned R-1A", and being more particularly bounded and described as follows:

Beginning at a point on the southerly right-of-way line of Old Wellington Road, said point also being on the property line between TM 645, Lot 10 and TM 645A, Lot 1;

Thence, southeasterly along the property line of TM 645, Lot 10 and TM 645A, Lot 1 a distance of approximately 210 feet to a point, said point also being the zone boundary line of the R-1A (Residential One Family) and the R-SM (Residential Suburban Multifamily) zoning districts, prior to this amendment;

Thence, southwesterly along the zone boundary line between the R-1A (Residential One Family) and the R-SM (Residential Suburban Multifamily) zoning districts, prior to this amendment, a distance of approximately 230 feet, to a point;

Thence, southerly along the zone boundary line between the R-1A (Residential One Family) and the R-SM (Residential Suburban Multifamily) zoning districts, prior to this amendment, a distance of approximately 270 feet, to a point;

Thence, westerly along the zone boundary line between the R-1A (Residential One Family) and the R-SM (Residential Suburban Multifamily) zoning districts, prior to this amendment, a distance of approximately 375 feet, to a point;

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City of Manchester  
New Hampshire

*In the year Two Thousand and Four*

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BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

Thence, northwesterly along the property line of TM 645, Lot 10 and other land of the City of Manchester, a distance of approximately 275 feet, to a point, said point also being on the right-of-way of Old Wellington Road;

Thence, northeasterly along the property line of TM 645, Lot 10 and the right-of-way of Old Wellington Road, a distance of approximately 375 feet, to a point, said point also being the point of beginning;

Said description to include a portion of TM 645, Lot 10 and consisting of approximately 2.88 acres of land.

SECTION II. Resolve this ordinance shall take effect upon passage.

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Robert S. MacKenzie, AICP  
Director

# CITY OF MANCHESTER

## Planning and Community Development

Planning  
Community Improvement Program  
Growth Management



Staff to:  
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December 10, 2003

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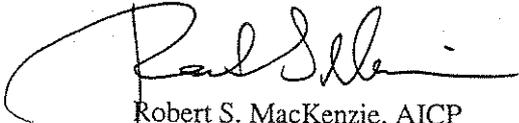
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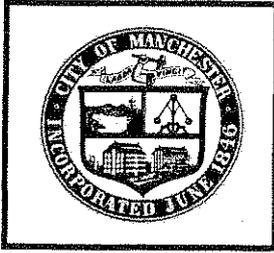
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Robert S. MacKenzie, AICP  
Director of Planning & Community Development

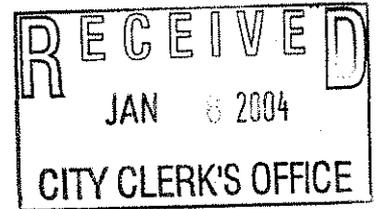
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December 30, 2003

Honorable Board of Mayor and Aldermen  
Manchester City Hall  
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Manchester, NH 03101



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For the record, please note that while Planning Board member Robert Stephen participated in discussions relative to proposed zoning changes in the CBD, he recused himself from all discussions/recommendations regarding the Old Wellington Road property in order to avoid any potential conflict of interest.

Thank you for allowing the Planning Board to comment on these proposed changes pending before the Board of Mayor and Aldermen.

Sincerely,



Joan Bennett, Chair  
Manchester Planning Board

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**Tom Coughlin**  
**605 Old Wellington Road**  
**Manchester, NH 03104**

January 15, 2004

To the Committee of Alderman of Bills on second reading:

Ladies and Gentlemen:

My name is Tom Coughlin and you may remember that I spoke at the public hearing on January 13<sup>th</sup>, 2004, regarding the proposed zoning changes on Old Wellington Road. I am not sure of the administrative procedure in order to request another hearing for purposes of clarification and effects regarding this rezoning. Therefore, I am writing this letter and request that you discuss my concerns listed below prior in order to decide if additional information and stipulations should be put forth.

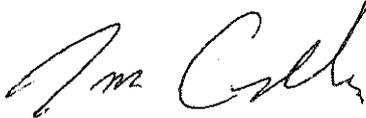
First, I feel that the Board was misled by Dick Anagnost's comments on the 13<sup>th</sup>. He stated that "we did reach an agreement with all of the abutters, which was submitted for the record and they came out in support of the original sale of this property". This is not factual. The main abutter, and the person most impacted by this decision, Henry Bourgeois, owns 4 of the 5 houses that abut this property. He never spoke with Mr. Anagnost nor has he ever approved the sale of the property. Mr. Bourgeois, who also happens to be the ex Highway commissioner is willing to testify to this.

Second, as I stated on Tuesday the 13<sup>th</sup>, I consider this "spot zoning". This zoning change currently impacts only this property. However, Mr. Anagnost owns the abutting property, as he stated, and could easily consolidate this land. If you change the zoning we have no assurance that the proposed plan of 90 units will actually happen. Mr. Anagnost could easily resubmit another plan that would call for 150+ units. I would request that prior to rezoning that a restrictive covenant be put in the deed that stipulates that only 90 units can be built on this property and that consolidation of the abutting property, if this ever happened, would preclude from additional units being build on this land.

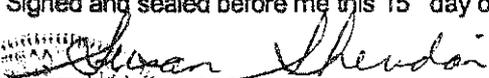
Third, Robert McKenzie displayed a map of this property and the surrounding properties. I know that my property of 605 Old Wellington Road and it appeared that most of Mr. Bourgeois properties, plus a third set of properties adjacent to my house should also be rezoned. In order to protect our downside risk, I would request that it be stipulated that our properties be rezoned at the same time, if in fact the committee changes the zoning on the city property.

Unfortunately we were not afforded the due process that we should have been and therefore I am required to write this letter at the last moment. Thank you very much for taking the time to read this. Please call me at home at 626-1358 if you have any questions.

Sincerely,



Signed and sealed before me this 15<sup>th</sup> day of January, 2004

  
Susan Sheridan-Notary Public  
My Commission Expires: 12-13-07



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# City of Manchester New Hampshire

*In the year Two Thousand and Three*

## AN ORDINANCE

Amending the Zoning Ordinance of the City of Manchester by changing the zoning district of property currently zoned IND (General Industrial) to R-SM (Residential Suburban Multifamily) by extending the R-SM zone district on a portion of property identified as TM 478, Lot 8, located on Candia Road.

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

SECTION I., Amending the Zoning Ordinance of the City of Manchester by changing the zoning district of property currently zoned IND (General Industrial) to R-SM (Residential Suburban Multifamily) by extending the R-SM zone district on a portion of property identified as TM 478, Lot 8, located on Candia Road, and being more particularly bounded and described as follows:

Beginning at a point located at the southeasterly corner of the herein described property, at the intersection of TM 478, Lot 2, TM 727, Lots 24B & 33, also being the northeast corner of the R-SM (Residential Suburban Multifamily) and the IND (General Industrial) districts, prior to this amendment;

Thence, in a westerly direction along the property line of TM 478, Lot 2 & TM 478, Lot 8, also being the zone boundary line of the R-SM (Residential Suburban Multifamily) and IND (General Industrial) districts, prior to this amendment, a distance of approximately 357 feet, to a point;

Thence, in a southerly direction along the property line of TM 478, Lot 2 & TM 478, Lot 8, also being the zone boundary line of the R-SM (Residential Suburban Multifamily) and IND (General Industrial) districts, prior to this amendment, a distance of approximately 522 feet, to a point;

Thence, in a westerly direction along the property line of TM 478, Lot 2 & TM 478, Lot 8, also being the zone boundary line of the R-SM (Residential Suburban Multifamily) and IND (General Industrial) districts, prior to this amendment, a distance of approximately 343 feet, to a point;

Thence, in a northerly direction along the property line of TM 478, Lot 8A & TM 478, Lot 8, also being the zone boundary line of the R-1B (Residential One Family) and IND (General Industrial) districts, prior to this amendment, a distance of approximately 630 feet, to a point;

Thence, in a easterly direction across TM 478, Lot 8 along a metes and bound line described as North 59 degrees, 31 minutes, and 52 seconds East, also being the new zone boundary line of the R-SM (Residential Suburban Multifamily) and IND (General Industrial) districts, after this amendment, a distance of approximately 465 feet, to a point;

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City of Manchester  
New Hampshire

*In the year Two Thousand and Three*

AN ORDINANCE

Amending the Zoning Ordinance of the City of Manchester by changing the zoning district of property currently zoned IND (General Industrial) to R-SM (Residential Suburban Multifamily) by extending the R-SM zone district on a portion of property identified as TM 478, Lot 8, located on Candia Road.

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

Thence, in a southerly direction along the property line of TM 727, Lots 24 D, 24 C, 24 B & TM 478, Lot 8, also being the new zone boundary line of the R-SM (Residential Suburban Multifamily) and IND (General Industrial) districts, after this amendment, a distance of approximately 579 feet, to a point, said point also being the point of beginning.

Said description to include a 7.6 acre portion of TM 478, Lots 8.

SECTION II. Resolve this ordinance shall take effect upon passage.

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City of Manchester  
New Hampshire

*In the year Two Thousand and Three*

AN ORDINANCE

"Amending the Zoning Ordinance of the City of Manchester by amending Article 5, Section 5.10, G-6 of the Table of Principal Uses by inserting a "P" in the "IND - General Industrial/Industrial Park" column of item G-6 of the table."

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

SECTION I.) Amending the Zoning Ordinance of the City of Manchester by amending Article 5, Section 5.10, G-6 of the Table of Principal Uses by inserting a "P" in the "IND - General Industrial/Industrial Park" column of item G-6 of the table.

SECTION II. Resolve this ordinance shall take effect upon passage.

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Robert S. MacKenzie, AICP  
Director

# CITY OF MANCHESTER

## Planning and Community Development

Planning  
Community Improvement Program  
Growth Management



Staff to:  
Planning Board  
Heritage Commission  
Millyard Design Review Committee

### Memorandum

To: Committee on Bills on Second Reading

From: Robert S. MacKenzie *RS*  
Director of Planning

Date: October 8, 2003

re: Proposed Rezoning of property on Candia Road

This request is actually composed of two parts. First, the rezoning of a portion of land from IND to R-SM on a property on the south side of Candia Road and east of I-93. Second is a text change to the ordinance that would allow drive-thru windows for restaurants in the IND district.

With respect to the map change, our staff has not had time to discuss the issues related to this. The Board may want additional information on school impacts and possible traffic. It would be my opinion, however, that the configuration of the property – particularly the southern one third – lends itself better to residential than industrial. This is because the site tucks in behind existing residential areas and certain industrial uses in this location would be disruptive of the neighborhood.

A question was also raised on whether the rezoning request complies with the 10 acre limitation of the Zoning Ordinance for R-SM zones. We are preparing a letter to the City Solicitor on this issue.

With respect to the drive-thru provision, it is our opinion that if the Board is inclined to allowing the proposed uses, that this change would be far more preferable than changing the zoning of the larger area to a commercial district. If this change were made I would note that additional changes might be required in order to avoid an anomaly in the ordinance.

I will be available at your next meeting should you have questions.

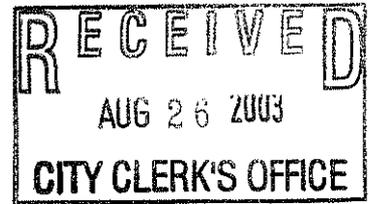
One City Hall Plaza, Manchester, New Hampshire 03101  
Phone: (603) 624-6450 FAX: (603) 624-6529  
E-mail: [planning@ci.manchester.nh.us](mailto:planning@ci.manchester.nh.us)  
[www.ci.manchester.nh.us](http://www.ci.manchester.nh.us)

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A T T O R N E Y S   A T   L A W

nlazos@slvlaw.com



August 25, 2003

VIA Hand Delivery

Board of Mayor and Aldermen  
c/o Manchester City Clerk  
City Hall  
One City Hall Plaza  
Manchester, NH 03101

**RE: Rezone a Portion of Land of Candia Realty, LLC known as  
Tax Map 478, Lot 8 From Industrial to R-SM. And Amend  
Section 5.10 of the Zoning Ordinance.**

Ladies and Gentlemen:

This attached Petition for an amendment to the Manchester Zoning Ordinance is being made at the request of my client, Candia Realty, LLC. to rezone a portion of the existing Industrial zoned land located on Candia Road containing approximately 7.6 acres (as more specifically described in the Petition) from Industrial to Residential Suburban Multifamily (R-SM). This Petition will effectively extend the existing R-SM Zone south of the Property (which currently contains the Eastgate Apartment Complex) north to include approximately three fourths (3/4) of the Property owned by Candia Realty, LLC. The Property also abuts an existing R-1B Residential Zone to the west. In addition, we request an amendment of the Table of Uses of the Ordinance to permit Drive Through Service for restaurants allowed in the Industrial Zone.

We have already discussed this request with Robert Mackenzie of the Planning Department.

We request that the Petition be included in the proposed public hearing for other Zoning Amendments scheduled for the end of September.

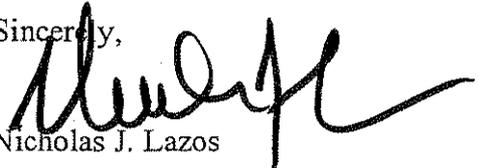
STEBBINS, LAZOS & VAN DER BEKEN  
PROFESSIONAL ASSOCIATION

The Daily Mirror Building  
66 Hanover Street, Suite 301  
Manchester, NH 03101  
Telephone (603) 627-3700  
Facsimile (603) 641-8900

F:\Lazos\clients\Dunkin Donuts\Manchester Candia Rd\Zoning\lt Manchester City Clerk zoning.doc

Thank you for your attention to this matter. If you should need any further information please feel free to call me. We also enclose a check for \$300.00 as required by the Ordinance.

Sincerely,

  
Nicholas J. Lazos

cc: Robert Mackenzie

cc: Client

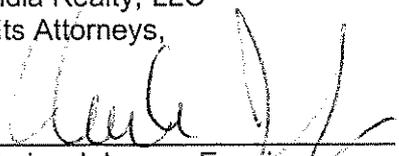
## To the Honorable Board of Mayor and Aldermen of the City of Manchester:

The Undersigned respectfully represents that for the accommodation of the public there is occasion for amending the zoning district applicable to a portion of a 10.94 acre parcel located on Candia Road and known as Map 478, Lot 8 (more particularly described on the attached Exhibit A) (the "Premises") from the current Industrial Zone (Ind) to the Residential Suburban Multifamily (R-SM) support of this Petition offers the following:

1. Map 478 Lot 8 is currently zoned Industrial and abuts the existing R-SM Zone to the south and the R-1B Residential Zone to the west. The purpose of this Petition is to extend the R-SM Zone north to include that portion of the property described in Exhibit A attached hereto and on the attached proposed Development Plan..
2. Petitioner also requests that Section 5.10 G. 6 of the Table of Principal Uses of the Zoning Ordinance amended by inserting a "P" in the "IND General Industrial/Industrial Park" column of said Item G. 6 of the Table.

The Petitioner, therefore respectfully requests that the Honorable Board of Mayor and Aldermen grant this Petition.

Sincerely,  
Candia Realty, LLC  
By Its Attorneys,



Nicholas J. Lazos, Esquire  
Stebbins, Lazos & Van Der Beken, PA  
66 Hanover Street  
Manchester, NH 03101

The land known as Tax Map 748, Lot 8, Candia Road, Manchester, Hillsborough County, New Hampshire, as shown on a plan entitled "TM 748 Lot 8, Dunkin Donuts, Candia Road, Manchester, NH, Development Plan" dated July 2003 Scale 1" = 50' by CLD Consulting Engineers and further described as follows:

Beginning at a point located at the southeasterly most corner of the herein described tract and the intersection of Lots 478/2, 727/33 and 727/24; thence,

- 1) North 64° 20' 22" West along Lot 478/2, a distance of 15.03 feet to a point; thence
- 2) North 74° 33' 02" West along Lot 478/2, a distance of 135.65 feet to a point; thence
- 3) North 71° 42' 43" West along Lot 478/2, a distance of 35.86 feet to a point; thence
- 4) North 77° 55' 43" West along Lot 478/2, a distance of 33.73 feet to a point; thence
- 5) North 74° 36' 15" West along Lot 478/2, a distance of 137.20 feet to a point; thence
- 6) South 03° 10' 10" West along Lot 478/2, a distance of 131.39 feet to a point; thence
- 7) South 02° 21' 39" West along Lot 478/2, a distance of 97.72 feet to a point; thence
- 8) South 02° 26' 58" West along Lot 478/2, a distance of feet 16.81 feet to a point; thence
- 9) South 02° 40' 57" West along Lot 478/2, a distance of 104.82 feet to a point; thence
- 10) South 01° 51' 33" West along Lot 478/2, a distance of 64.95 feet to a point; thence
- 11) South 04° 12' 50" West along Lot 478/2, a distance of 47.55 feet to a point; thence
- 12) South 00° 14' 17" West along Lot 478/2, a distance of 59.62 feet to a point; thence
- 13) North 79° 11' 20" West along Lot 478/2, a distance of 189.46 feet to a point; thence
- 14) North 71° 45' 20" West along Lot 478/2, a distance of 153.89 feet to a point at the southwest corner; thence

- 15) North 05° 05' 36" East along Lot 478/8A, a distance of 450.75 feet to a point; thence
- 16) North 03° 59' 37" East along Lot 478/8A, a distance of 92.09 feet to a point; thence
- 17) North 03° 22' 31" East along Lot 478/8A, a distance of 87.79 feet to a point at the northwest corner of the herein described tract; thence,
- 18) North 59° 31' 52" East along New Lot 478/8B, a distance of 354.19 feet to a point; thence
- 19) Along a curve with a radius of 57.00, a length of 116.17 feet to a point; thence
- 20) North 64° 43' 25" East, a distance of feet 52.48 to a point; thence
- 21) South 25° 16' 35" East along Lot 727/24C, a distance of feet 12.34 to a point; thence
- 22) South 25° 51' 57" East along Lot 727/24C, a distance of feet 246.35 to a point; thence
- 23) South 24° 54' 39" East along Lot 727/24C, a distance of feet 106.86 to a point; thence
- 24) South 24° 44' 34" East along Lot 727/24B, a distance of feet 109.38 to a point; thence
- 25) South 18° 19' 43" East along Lot 727/24B, a distance of feet 16.97 to the point of beginning.

All distances are approximate.

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## MEMORANDUM

This Memorandum as required by Article 16 of the City of Manchester's Zoning Ordinance is in support of the application by Candia Realty, LLC related to Map 478, Lot 8 on Candia Road, Manchester, New Hampshire ("Premises") to amend the zoning map to extend the existing Residential Suburban Multifamily Zone (R-SM) to include the southerly eight (8) acre portion of the Premises.

1. The description of the portion of the Premises to be rezoned is attached hereto in the form of an Exhibit A and a proposed Development Plan.
2. The purpose and intent of the proposed amendment is to amend the zoning map to include the Rezoned Area within the R-SM Zone.
3. The existing zoning district is Industrial but The Premises abuts an existing R-SM Zone to the south and an existing R-1B zone to the west.
4. Impact on District and Adjacent Neighborhoods.

The change in zoning classification will result in a land use which is consistent with the existing uses and will be zoned in a manner consistent with abutting properties. The new zoning classification will have no effect on the adjacent properties since it will reflect and extend existing uses and appropriate uses for the Rezoned Area. The Rezoned Area will serve as a buffer between the R-1B Zoned Area and the Industrial Area to the east. The current use of the Premises will continue until such time as the Premises may be sold.

5. The proposed amendment will have a very beneficial impact on the City's economy, environment and municipal services. The proposed extension of the Suburban Multifamily Zone will provided needed apartment housing for the City and will retain a significant amount of open space. In addition, this extended R-SM Zone creates a buffer zone between the single family area to the west and the developed industrial area to the east. Any future development of the property will require approval from and review by the Manchester Planning Board which will include traffic studies, modified driveways and site plan review to address any possible impacts.

The proposed amendment of the Table of Uses of the Ordinance to permit drive through service in the Industrial Zone is consistent with the permitted uses in the Industrial Zoned areas. The drive through service enhances the convenience and accessibility of smaller restaurants which are already permitted by right in the Industrial Zone. In the present case, drive through service is already permitted in the "Wendy's Restaurant" located directly across Candia Road.

6. Attached is a list of all abutters, addresses and tax map numbers.

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Petition to ReZone  
Candia Road Lot 478/8  
Manchester, New Hampshire  
List of Abutters

Owners of record as of 7-31-03 4:00 P.M.

**Lot 478/2**

Eastgate Apartment Associates Limited Partnership  
540 N. Commercial Street  
Manchester, NH 03101-1146

**Lot 478/8A**

City of Manchester  
Tax Collector  
908 Elm Street  
Manchester, NH 03101

**Lot 893/1**

Wendy's Old Fashioned Hamburgers  
P.O. Box 256  
4288 W. Dublin Granville Rd  
Dublin, Ohio 43017

**Lot 893/2**

Wendy's Old Fashioned Hamburgers  
P.O. Box 256  
4288 W. Dublin Granville Road  
Dublin, Ohio 43017

\*\*\*\*Former owner James A. Spring

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**Lot 727/24D**

Extra Space Northern Investment LLC  
2795 Cottonwood Portway #400  
Salt Lake City, UT 84121

\*\*\* Former owner Safeloc Storage

**Lot 272/24C**

Normand J. Campeau  
449 Hayward Street  
Manchester, NH 03103

**Lot 727/24B**

Robert Buckley, Trustee  
385 King Street  
Hanover, MA 02339

Add'l owner

Josephine Buckley as Trustee  
Buckley Manchester Realty Trust

**Lot 272/33**

Duryco LLC  
C/o DRC Realty LLC  
720 E. Industrial Park Dr. #1  
Manchester, NH 03109



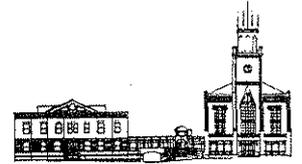


Robert S. MacKenzie, AICP  
Director

# CITY OF MANCHESTER

## Planning and Community Development

Planning  
Community Improvement Program  
Growth Management



Staff to:  
Planning Board  
Heritage Commission  
Millyard Design Review Committee

TO: City Clerk  
FROM: City Planning Dept. *TLH*  
DATE: Sept. 5, 2003

RE: Short title for zoning amendments requested for property located on Candia Road, TM 478, Lot 8 by Candia Realty, LLC

Listed below are the short titles for two requests to the Board of Mayor and Aldermen. One description represents a map change, while the second represents a text change.

Amending the Zoning Ordinance of the City of Manchester by changing the zoning district of property currently zoned IND (General Industrial) to R-SM (Residential Suburban Multifamily) by extending the R-SM zone district on a portion of property identified as TM 478, Lot 8, located on Candia Road.

Amending the Zoning Ordinance of the City of Manchester by amending Article 5, Section 5.10, G-6 of the Table of Principal Uses by inserting a "P" in the "IND – General Industrial/Industrial Park" column of item G-6 of the table.

6

# City of Manchester New Hampshire

In the year Two Thousand and Two

## AN ORDINANCE

“Amending the Code of Ordinances of the City of Manchester by creating a new section within Chapter 111: Amusements establishing regulations for noise activities conducted in outdoor concert venues throughout the city and inserting new penalties in Section 111.99: Penalty to enforce these regulations.”

Page 1 of 7

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

- I. Amend the Code of Ordinances by deleting §§ 111.65 through 111.70: Dances; Dance Halls; Assembly in its entirety and inserting new §§ 111.65 through 111.73: Dances; Dance Halls; Assembly. New language to the sections appear in bold (**bold**). Previous language from the sections that remain unchanged appear in regular type.

DANCES; DANCE HALLS; ASSEMBLY

### § 111.65 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**A-WEIGHTED SOUND PRESSURE.** The sound pressure level as measured with a sound level meter using the A-weighting network. The standard notation is dB(A) or dBA.

**DANCE HALL.** Any location, other than a food-service establishment as defined by § 117.01 of this title, which permits or permits to occur, dancing. This definition shall not include a public or private school licensed by the state or the city for the purpose of conducting regular dancing classes or dance courses of study as its regular and recurrent business activity.

**DECIBEL.** A logarithmic unit of measure often used to measure magnitudes of sound. The symbol is dB.

**ENTERTAINMENT PLACE OF ASSEMBLY.** A room or space in which provision is made for the occupancy or assembly of 100 or more persons for entertainment purposes. For the purpose of this definition such room or space shall include any occupied connecting rooms, space, or area on the same level or in the same story, or in a story or storied above or below, where entrance is common to the rooms, space, or areas. An entertainment place of assembly shall be classified in either two classifications, Class I or Class II. A Class I entertainment place of assembly shall apply to non-profit organizations that do not receive exemptions pursuant to § 110.08(C) of this Code. Class II entertainment places of assembly shall include all other applicants.

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# City of Manchester New Hampshire

In the year Two Thousand and **TWO**

## AN ORDINANCE

"Amending the Code of Ordinances of the City of Manchester by creating a new section within Chapter 111: Amusements establishing regulations for noise activities conducted in outdoor concert venues throughout the city and inserting new penalties in Section 111.99: Penalty to enforce these regulations."

Page 2 of 7

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

**NOISE.** Any sound that exceeds the standards set forth in this chapter, annoys or disturbs a reasonable person of normal sensibilities, or causes or tends to cause any adverse psychological or physiological effect on humans.

**SOUND.** An oscillation in pressure, stress, particle displacement and particle velocity which induces auditory sensation.

**SOUND LEVEL METER.** An apparatus for the measurement of sound levels. The sound level meter shall be of a design and have the characteristics of a Type 2 or better instrument as established by the American National Standards Institute.

### § 111.66 LICENSE REQUIRED.

(A) No person shall own or operate a dance hall or entertainment place of assembly within the city unless a license shall first be obtained from the City Clerk.

(B) No person shall conduct or allow to be conducted any entertainment or public dancing which is an isolated or occasional event, and which is not part of the regular and recurrent business activity of the owner or operator of the room or space within the city unless a license shall first be obtained from the City Clerk.

(C) (1) Notwithstanding any other licensing ordinance, a duly licensed Class I and Class II restaurant in the city may allow dancing and entertainment upon obtaining an annual restaurant dance and entertainment license from the city.

(2) The application for a restaurant dance and entertainment license shall be made to the City Clerk upon forms to be determined by the City Clerk, the licensee shall be liable for any applicable police officer's fee and the license shall expire annually on April 30.

Penalty, see § 111.99

*Cross-reference:*

Business license fees, see § 110.20

# City of Manchester New Hampshire

*In the year Two Thousand and Two*

## AN ORDINANCE

“Amending the Code of Ordinances of the City of Manchester by creating a new section within Chapter 111: Amusements establishing regulations for noise activities conducted in outdoor concert venues throughout the city and inserting new penalties in Section 111.99: Penalty to enforce these regulations.”

Page 3 of 7

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

### § 111.67 POLICE ATTENDANCE AT FUNCTION.

When it is determined after investigation by the Chief of Police to be necessary to preserve order, protect the health, safety, and welfare of the citizens of the city, or to help avoid traffic-related problems, public disturbance, or public nuisance, all establishments required to be licensed under this subchapter shall be required to hire an off-duty police officer or officers during those hours the Chief of Police deems appropriate. The Chief of Police may suspend the requirement after investigation as he deems appropriate, but his requirement may be reinstated following receipt of complaints and investigation by the Chief of Police.

### § 111.68 MINORS TO BE ACCOMPANIED BY PARENT OR GUARDIAN.

Minors under the age of 17 years shall not be admitted to a dance hall unless accompanied by parent or guardian or under the supervision of school authorities.  
Penalty, see § 111.99

### § 111.69 RESTRICTED AREAS AT DANCES.

No person attending a public dance shall enter any room designated for the use of the opposite sex.  
Penalty, see § 111.99

### § 111.70 CURFEW AT DANCES.

(A) No public dancing shall be permitted between the hours of 2:00 a.m. and 2:00 p.m. on Sunday, 1:00 a.m. and 12:00 p.m. on Monday, or 2:00 a.m. and 12:00 p.m. Tuesday, Wednesday, Thursday, Friday, and Saturday.

(B) No exhibit of natural or artificial curiosities, theatrical performances, or other shows shall be permitted between the hours of 2:00 a.m. and 9:00 a.m. on Sunday, 1:00 a.m. and 9:00 a.m. on Monday, or 2:00 a.m. and 9:00 a.m. Tuesday, Wednesday, Thursday, Friday, and Saturday.  
Penalty, see § 111.99

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# City of Manchester New Hampshire

*In the year Two Thousand and Two*

## AN ORDINANCE

"Amending the Code of Ordinances of the City of Manchester by creating a new section within Chapter 111: Amusements establishing regulations for noise activities conducted in outdoor concert venues throughout the city and inserting new penalties in Section 111.99: Penalty to enforce these regulations."

Page 4 of 7

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

### § 111.71 NOISE ACTIVITIES; PURPOSE.

The purpose of this section is to establish standards that will eliminate and reduce unnecessary noise at outdoor venues throughout the city which may be physically harmful or otherwise detrimental to individuals and the community in the enjoyment of life, property and the conduct of business.

(A) No person shall conduct an event that involves the amplification of sound or speech above sixty (60) dB(A) for the purpose of presenting a musical selection, show, performance or concert at an outdoor venue within the limits of the city of Manchester without obtaining a noise permit issued by the Office of the City Clerk.

(B) The following general guidelines shall apply to the issuance of a noise permit. These guidelines are not all inclusive as other criteria may be established that is reasonable and prudent to protect the public or limit the anticipated detrimental impact of the events noise upon the community:

(1) All outdoor venues shall have a curfew of 10:00 p.m. Any event which exceeds this curfew shall be assessed the penalty identified in §111.99(C)(4) for each fifteen (15) minute period beyond this curfew.

(2) The Office of the City Clerk shall not grant a permit to conduct noise at level greater than 100dB(A) to be measured one hundred feet (100') from the noise source.

(3) Any sound board or mix position present at an event shall be placed at one hundred feet (100') from the noise source.

(4) The Office of the City Clerk may require any applicant to be monitored for sound levels to ensure compliance with this chapter. Monitoring may be conducted by a representative of the City or an independent third party using an appropriate sound level meter. In the event of third party monitoring, all expenses associated with the sound monitoring shall be assumed by the applicant.

(5) In granting a license, the Office of the City Clerk may impose additional conditions or stipulations it deems necessary and proper to preserve the intent of this chapter.

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# City of Manchester New Hampshire

*In the year Two Thousand and Two*

## AN ORDINANCE

"Amending the Code of Ordinances of the City of Manchester by creating a new section within Chapter 111: Amusements establishing regulations for noise activities conducted in outdoor concert venues throughout the city and inserting new penalties in Section 111.99: Penalty to enforce these regulations.

Page 5 of 7

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

(6) Should an application for a noise permit be denied, the applicant can appeal the decision to the Committee on Administration/Information Systems of the Board of Mayor and Aldermen.

### § 111.72 PERMIT FEES.

Each application for a noise permit shall include an application fee of two hundred dollars (\$200.00) cash, money order or bank check made payable to the City of Manchester.

### § 111.73 PROHIBITED CONDUCT.

The following conduct is prohibited:

(A) Provide any false or inaccurate information to any City board, committee, commission or any employee of the City of Manchester, in an attempt to deceive or otherwise avoid compliance with this ordinance.

(B) Hinder, obstruct, delay, resist, interfere, or attempt to interfere with any authorized persons while in the performance of their duties under this ordinance.

(C) Emit or cause to be emitted any noise which exceeds the established limits in §111.71(B)(2) of this chapter.

(D) Violate any subsection of §111.71 of this chapter.

(E) Conduct an event that involves the amplification of sound or speech above sixty (60) dBA for the purpose of presenting a musical selection, show, performance

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# City of Manchester New Hampshire

In the year Two Thousand and Two

## AN ORDINANCE

"Amending the Code of Ordinances of the City of Manchester by creating a new section within Chapter 111: Amusements establishing regulations for noise activities conducted in outdoor concert venues throughout the city and inserting new penalties in Section 111.99: Penalty to enforce these regulations."

Page 6 of 7

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

**or concert at an outdoor venue in the city of Manchester without obtaining a license from the Office of the City Clerk pursuant to § 111.71(A).**

- II. Amend the Code of Ordinances by deleting language within §111.99: Penalty as stricken (-----) and inserting new language as bolded (**bold**). Portions of §111.99: Penalty that remain unchanged appear in regular type.

### § 111.99 PENALTY.

(A) Any person who shall fail to comply with any of the provisions of this chapter or who shall violate any of the provisions set forth herein, **unless a penalty is specified elsewhere**, shall be subject to the penalties as set forth in § 10.99 of this code of ordinances.

(B) (1) Any person who commits an act prohibited or made unlawful by §§ 111.40 through ~~111.55~~ **111.73** of this chapter or fails to perform any act required by such subchapter shall be guilty of a violation. Each act of violation, **or in the case of continuous violation**, every day upon which any such violation shall occur shall constitute a separate offense. In addition, if the court finds for the city, the city shall recover its costs of suit including reasonable experts' fees, attorney fees, and necessary investigative costs. Parties held responsible for violations of §§ 111.40 through ~~111.55~~ **111.73** shall include corporate officers, partners, or owners as identified on the business license application or as may be otherwise identified by the ~~Police Department~~ **City** as a result of any related investigation.

(2) The Police Department is hereby authorized to seize any amusement device located within the city in contravention of any of the provisions of §§ 111.40 through 111.55. Upon such seizure the Police Department shall notify the owner of the seized devices, or the person in whose place of business the amusement device was placed, of such seizure and the reason therefor. The Police Department shall hold any such seized devices for a period of not less than ten days from the date of the required notification to the owner or operator of the premises. During this period the owner or operator may redeem any such machine by correcting the violation of this division which led to such seizure. Any amusement devices which are so seized and which are not redeemed within the ten-day period described in this division (B)(2) shall become the property of the city. Costs for transportation and storage charges will be billed to the

# City of Manchester New Hampshire

In the year Two Thousand and Two

## AN ORDINANCE

"Amending the Code of Ordinances of the City of Manchester by creating a new section within Chapter 111: Amusements establishing regulations for noise activities conducted in outdoor concert venues throughout the city and inserting new penalties in Section 111.99: Penalty to enforce these regulations."

Page 7 of 7

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

owner of any amusement devices seized and must be paid before the release of the devices from city storage. The city will be held harmless for any damage occurring during the act of confiscation, transportation, and storage of each device.

(C) Violations of § 111.73 Prohibited Conduct shall follow the penalty schedule below:

**(1) FIRST OFFENSE:**

The licensee or his representative shall be informed of the noise ordinance and corrective measures to achieve compliance. This shall constitute an official warning and should be accomplished in writing if possible.

**(2) SECOND OFFENSE:**

A citation shall be issued to the licensee or his representative in the amount of two hundred and fifty dollars (\$250.00).

**(3) THIRD OFFENSE:**

A citation shall be issued to the licensee or his representative in the amount of five hundred dollars (\$500.00).

**(4) FOURTH AND SUBSEQUENT OFFENSES:**

A citation shall be issued to the licensee or his representative in the amount of one thousand dollars (\$1000.00).

III. These ordinances shall take effect upon passage.

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City of Manchester  
New Hampshire

*In the year Two Thousand and TWO*

AN ORDINANCE

“Amending Chapter 130: General Offenses of the Code of Ordinances of the City of Manchester by repealing Section 130.10 Tattooing in its entirety.”

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

- I. Amend Chapter 130: General Offenses of the Code of Ordinances of the City of Manchester as enacted on October 2, 1962 by repealing Section 130.10 Tattooing in its entirety.
- II. This ordinance shall take effect upon passage.

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# City of Manchester New Hampshire

In the year Two Thousand and Two

## AN ORDINANCE

"Amending the Zoning Ordinance of the City of Manchester to include a new use group category for Tattoo Parlors, inserting changes to Table 5.10, adding supplementary regulations for tattoo parlors, and providing for location restrictions so as to prohibit such parlors within 600 feet from each other and not less than 500 feet from a Residential or Civic Zone."

BE IT ORDAINED, By the Board of Mayor and Aldermen of the City of Manchester, as follows:

Amending the Zoning Ordinance of the City of Manchester by revising Sec. 5.10 and Article 8 as follows:

1. Section 5.10 Table of Principal Uses. Under use H-6 Services – Personal, Business, and Repair add number 12 Tattoo Parlors, and insert a "P" in the column labeled "CBD" Central Business District, and insert a dash (-) in all other zoning district columns; also add reference number 8.06 in the Supplementary Regulations Column.
2. Article 8 Supplementary Regulations for Specific Uses, Section 8.06 - delete the title "[Reserved]" and replace it with the following:  
  
8.06 Tattoo Parlors  
  
A. Location Restrictions. Tattoo parlors shall be subject to all regulations, requirements and restrictions for the zone in which the tattoo parlor is permitted and shall be subject to the following distance requirements:
  1. No tattoo parlor shall be permitted within 600 feet of another tattoo parlor, and no other tattoo parlor shall be permitted within a building, premise, structure or any other facility that contains another tattoo parlor;
  2. No tattoo parlor shall be permitted within 500 feet of any Residential or Civic zoning district boundary line.  
B. Measure of Distance. The distancing requirements above shall be measured in a straight line, without regard to intervening structures, from the property line of any site above (unless otherwise specified) to the closest exterior wall of the tattoo parlor.
3. Change Table of Contents, Article 8, Section 8.06 by deleting the title "[Reserved]" and replacing it with "Tattoo Parlors".

This ordinance shall take effect upon passage.

