City of Manchester Heritage Commission

By-Laws

Adopted March18, 1998
(Amended on December 19, 2002)

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Article 1 - Authority

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 in accordance with Chapter 674:44-b New Hampshire Revised Statutes Annotated (RSA) and any amendment thereto. In accordance with Section 32.125 of the Ordinances of the City of Manchester, the Heritage Commission shall assume the duties and powers granted to the Historic District Commission by Article XI of the Zoning Ordinance pertaining specifically to the Amoskeag Corporation Housing District and the Amoskeag Millyard Historic District.

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 Terms shall be for three (3) years, commencing the first day of January, and staggered in such a way as to allow appointments each year.

Article 3 - Officers and their Dnties

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 City Planning, a staff member of the City of Manchester Planning 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 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 April. 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 Heritage Commission meetings shall be held at the call of the Chairperson and at such other times as the Commission may determine. Normally, the Commission will hold a business meeting the third Thursday of every month at a time and place designated by the Chairperson unless otherwise specified by the Chairperson prior to the third Thursday. At the very least, the Heritage Commission, in accordance with Section 32.123(I) of the Ordinances of the City of Manchester, shall meet at least four (4) times a year.

5.2 It shall be the duty of the Chairperson to call a special meeting when requested to do so in writing by a majority of the regular members of the Heritage Commission. The notice of such a requested meeting shall specify the purpose(s) of such a meeting and no other business may be considered. Such notice shall be issued in writing not less than five (5) days in advance of such requested special meeting.

5.3 A quorum for all meetings of the Heritage 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. The order of business at all non-special meetings shall include consideration of the minutes of the previous meeting and make provision for items to be brought under consideration but shall also make provision for new business that any member may introduce.

5.5 Actions shall be taken on the basis of a motion duly seconded made by any regular member of the Commission. The number of votes necessary to transact business shall be a majority of those regular members present and voting except that no issue is to be considered passed that received less than three (3) affirmative votes. Any regular member 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, the Chairperson shall call for a recorded roll call vote on any issue.

5.6 All meetings shall be held in accordance with RSA 91-A:2 ("Meetings Open to Public").

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

5.7 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. Review and acceptance of Minutes of previous meeting(s).
3. Old Business.
4. Public Hearing(s) on historic district building permit application(s).
5. Other scheduled agenda items.
6. New business.
7. 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 gives a brief explanation to the applicant(s) and others present of (a) the order in which public hearing cases will be heard, (b) application review process, and (c) the public hearing order of business. The cases for public hearing will be heard in the order they are received by the Planning Department. The Chairperson may make exception when warranted.
2. The first public hearing case is called to order by Chairperson.
3. The Chairperson asks the applicant/agent to stand so that he/she may be identified.
4. The applicant/agent is given an opportunity to present their building permit application and any supporting information.
5. Each Heritage Commission member is given an opportunity to speak or ask questions.
6. The abutters or concerned citizens are given an opportunity to speak. Any written comments from abutters or concerned citizens will be read into the read.
7. Each Heritage Commission member is given a second opportunity to speak or ask questions.
8. The applicant/agent is allowed a rebuttal. The Chairperson may limit the rebuttal as deemed necessary.
9. The Chairperson closes the public hearing for this case.
10. The Heritage Commission begins deliberation on the case.
11. In accordance with RSA 676:9, the Commission shall, within 45 days after the filing of the application (unless the applicant/agent agrees to a longer period of time), approve, or not, the application for Historic District building permit and file with the Superintendent of the Building Department a certificate of approval

or, in the case of disapproval, a notice of disapproval. Failure to file a certificate or notice within the specified period of time shall constitute approval by the Commission.

12. The second public hearing case (if necessary) is called to order by Chairperson.
13. Repeat public hearing order of business items 3-12.

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 meeting on December 19, 2002.

_____, Chairperson
Linda Seabury

_____, 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, to discuss or act upon a matter or matters over which the public body has supervision, control, jurisdiction or advisory power. "Meeting" shall not include:

(a) Any chance meeting or a social meeting neither planned nor intended for the purpose of discussing matters relating to official business and at which no decisions are made; however, no such chance or social meeting shall be used to circumvent to spirit of this chapter;
(b) Strategy or negotiations with respect to collective bargaining; or
(c) Consultation with legal counsel.

II. All public proceedings shall be open to the public, and all persons shall be permitted to attend any meetings of those bodies or agencies. 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 bodies or agencies and a brief description of the subject matter discussed and final decisions, shall be promptly recorded and open to pubic inspection within 144 hours of the public meeting, except as provided in RSA 91-A:6, and shall be treated as permanent records of any body or agency, 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 or shall be printed in a newspaper of general circulation 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 body or agency who shall employ whatever means are 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 body or agency described in RSA 91-A:1-a 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.

ATTACHMENT B
RSA 91-A:3
Nonpublic Sessions

I. (a) Bodies or agencies 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 body or agency 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.

(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 body or agency or any subdivision thereof, or against any member thereof because of his membership in such body or agency, until the claim or litigation has been fully adjudicated or otherwise settled.

(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 body or agency itself or render the proposed action ineffective. 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.