

# **Conservation Commission NOTTINGHAM, NEW HAMPSHIRE**

## **BY-LAWS AND RULES OF PROCEDURE FOR THE TRANSACTION OF BUSINESS Per RSA 676.1**

The Conservation Commission of Nottingham, New Hampshire, as established by Chapter 36-A:1, shall have *such rights, powers, and duties* as are conferred or imposed upon it, by the Residents of Nottingham, *as authorized by Chapter 36-A:1 of the New Hampshire Revised Statutes Annotated, and any amendments. The full versions of the Land Use Statues may be found in the New Hampshire Planning and Land Use Regulation issued by the New Hampshire Office of Energy and Planning; and at <http://www.gencourt.state.nh.us/rsa/html/indexes>.*

### **ARTICLE I - MEMBERS AND VACANCIES**

SECTION 1 – The Conservation Commission will consist of not fewer than three (3) nor more than seven (7) members per RSA 36-A:3. The members of the Commission shall be appointed by the Board of Selectmen upon recommendation by the Commission.

SECTION 2 – Per RSA 673:5, II & III, The term of an appointed Commission member shall be three (3) years. The initial terms of conservation commission members first appointed to the Commission shall be staggered so that no more than three (3) appointments occur annually in the case of a seven (7) member Commission, except when required to fill a vacancy.

SECTION 3 – Per RSA 36-A:3, A Conservation Commission may have any number of alternate members for a term of three (3) years each, appointed in a like manner by the Selectmen, which shall be staggered.

SECTION 4 – Per RSA 36-A:3 Members of the Conservation Commission may also serve on any other municipal board or commission, provided that such multiple memberships does not result in two (2) Commission members serving on the Planning Board.

SECTION 5 – Per RSA 672:7, Vacancies of a Commission member shall be filled by appointment, whether to complete a vacated three year appointment or to serve a complete three year appointment by recommendation from the Conservation Commission to the Selectmen.

SECTION 6 – Each appointed Conservation Commission member, including full and alternate members, shall be sworn in and take an oath of office as required by RSA 42:1.

SECTION 7 – Per RSA 42:8, The Town Clerk shall record and keep on file, the oath and expiration date of each Commission member and alternate. Additionally, a record shall be kept in the Commission Office.

SECTION 8 – Per RSA 673:10, III, A majority of the membership of the Conservation Commission shall constitute the quorum necessary in order to transact business at any meeting/hearing of the Commission. A quorum shall include alternates sitting in place of regular Conservation Commission members.

SECTION 9 – Per RSA 673:11, Whenever a regular member of the Conservation Commission is absent or whenever a regular member disqualifies himself/herself, the Chairperson shall designate an alternate, if one is present, to act in the absent member's place.

SECTION 10 – Commission members and alternates who are unable to attend regularly scheduled/posted meeting/hearings shall inform the Commission members twenty-four (24) hours or as soon as possible, via broadcast email, or the chairperson by phone if possible, before the scheduled meeting/hearing day.

SECTION 11 – Per RSA 673:5 III, An appointed member whose three year term has expired shall continue to serve with voting rights until reappointment or a replacement by the Selectmen and that candidate has taken the oath of office.

SECTION 12 – Members may serve for unlimited consecutive terms upon recommendation by Conservation Commission to the Selectmen for reappointment.

## ARTICLE II – CONSERVATION COMMISSION DUTIES

SECTION 1 – Per RSA 674:1, I, It shall be the duty of every member to be familiar with the Duties, Powers and Authorized Appropriations of Conservation Commissions as established by RSA 36-A:2; RSA 36-A:4; RSA 36-A:4a; and RSA 36-A:5.

SECTION 2 – Per RSA 32-A: The Conservation Commission, through its mission on behalf of the town, shall attend to the “proper utilization and protection of the natural resources and for the protection of watershed resources of said town”. In the execution of these duties the Commission shall/may do the following Per RSA 36-A:2:

1. Shall conduct researches into its local land and water areas and shall seek to coordinate the activities of unofficial bodies organized for similar purposes and may advertise, prepare, print, and distribute books, maps, charts, plans, and pamphlets which, in its judgment, it deems necessary for its work;
2. Shall keep an index of all open space and natural, esthetic or ecological areas within the town as the case may be, with the plan of obtaining information pertinent to proper utilization of such areas, including lands owned by the state or lands owned by the town;
3. Shall keep an index of all marshlands, swamps, and all other wet lands in a like manner and may recommend to the selectmen or to the department of resources and economic development a program for the protection, development or better utilization of all such areas;
4. Shall keep accurate records of its meetings and action (see #8, below), attend to correspondence and shall file an annual report which shall be printed in the annual town report.

5. May appoint such clerks and other employees or subcommittees as it may from time to time require. (See ARTICLE VI)
6. Per RSA 91-A:2: II, Shall post and distribute the meeting agenda for public notice in a timely manner.
7. Per RSA 36-A:5, II and RSA 675-7, For the disbursement of monies from the Town's Conservation Fund, the Conservation Commission shall be authorized by a majority of the Commission to disperse funds for the purpose of CHAPTER 36 –A, CONSERVATION COMMISSIONS, and shall hold a public hearing for such purpose that is posted prior to the hearing at least ten (10) calendar days before such hearing.
8. Per RSA 91-A:2: II, The Commission Secretary shall record and transcribe meeting minutes, and edit those minutes as approved by the Commission members at the next regularly scheduled meeting. Accepted minutes of open public meetings shall be kept for the public's inspection in the Commission's office. Accepted minutes will also be posted on the Commissions page on the town's website at [www.nottingham-nh.gov](http://www.nottingham-nh.gov).

SECTION 3 – Review all major subdivision (as defined by subdivision regs), major site applications as they are submitted to the Planning Board and make recommendation as appropriate.

SECTION 4 –Review all applications impacting wetlands submitted through DES and make recommendations as appropriate.

SECTION 5 – Per RSA 36-A:2 and RSA 36-A:4, inspect all wetland violations and, if founded, report to DES Wetlands Bureau in a timely manner.

SECTION 6 – May participate in all outreach and public education as appropriate.

SECTION 7 – The Nottingham Conservation Commission will continue to monitor the water quality of the North and Little Rivers through the Voluntary River Assessment Program.

SECTION 8 – The Conservation Commission members, when duly authorized by the Commission as a whole, are encouraged to attend training via conferences, workshops, and other like programs as made available by the Office of Energy and Planning, the NH Municipal Association, the NH Association of Conservation Commissions, regional commissions, other conservation groups, and land trusts. The Commission may, by majority vote, authorize the payment of reasonable expenses incident to such attendance.

SECTION 9 – Per RSA 36A:4 II, III, IV The Conservation Commission members and designees in the performance of their functions to gather data, shall not enter private property without obtaining prior landowner permission.

SECTION 10 – The Conservation Commission may, from time to time, recommend to the Planning Board recommendations for the town's Master Plan, amendments to the Zoning Ordinance and edits to the official Town Map(s).

## ARTICLE III - OFFICERS AND THEIR DUTIES

SECTION 1 – Officers of the Conservation Commission shall consist of a Chairperson, Vice-Chairperson and Secretary. The Commission members shall elect the officers.

SECTION 2 – Per RSA 673:9, the term of the officers shall be one (1) year. The Chairperson and officers shall be eligible for reelection.

SECTION 3 – The Chairperson shall preside over all meetings/hearings and have all powers and duties normally conferred by parliamentary usage on that office.

SECTION 4 – The Vice-Chairperson shall perform all the duties of the Chairperson in his/her absence or disability. The Vice-Chairperson shall also perform such duties as required by the CC.

SECTION 5 – The Secretary shall perform all the duties of the Vice-Chairperson in his/her absence or disability. The Secretary shall also perform such duties as required by the Conservation Commission and by RSA 36-A:2.

SECTION 6 – In the absence of the Chairperson, Vice-Chairperson and Secretary, the Conservation Commission members present, by majority vote of a quorum, may select an Acting Chairperson, until such time as the Chairperson, Vice-Chairperson or Secretary is again present. The Acting Chairperson shall perform, in the absence of the Chairperson, Vice-Chairperson and Secretary, such duties as required by the CC.

## ARTICLE IV - ELECTION OF OFFICERS

SECTION 1 – A special meeting of the Conservation Commission shall be scheduled for the third Wednesday in March to elect officers, and for all members to receive updated materials for the performance of their duties. No regular business shall be conducted at this meeting.

SECTION 2 – Candidates for any office receiving a majority vote of the Conservation Commission shall be declared elected. The elected candidate shall take office immediately.

SECTION 3 – Vacancies in offices will be filled at the next regular meeting by the regular election procedure.

SECTION 4 – It shall be the policy of the Conservation Commission to elect officers in accordance with RSA 673:8.

## ARTICLE V - REMOVAL OF MEMBERS

SECTION 1 – Conservation Commission members may be removed in accordance with the provisions in RSA 673:13, II.

SECTION 2 – Conservation Commission members and alternates who miss three (3) or more consecutive meetings/hearings/workshops without notifying at least the Chairperson of the Commission may be subject to removal by recommendation by the Commission members to the Board of Selectmen, in accordance with RSA 673:13.

## ARTICLE VI - OTHER AGENTS OF THE CONSERVATION COMMISSION

SECTION 1 – Per RSA 673:16, I, and 36-A:2, The Conservation Commission may appoint such employees, as it deems necessary for its work. The Conservation Commission may also contract with planners, soil engineers, wetland scientists, surveyors, foresters, and other consultants for such services as it may require.

## ARTICLE VII - COMMITTEES

SECTION 1 – Special purpose and study committees as the Conservation Commission may form, when deemed necessary, in order to conduct its business, shall be created by the Commission and any such committees shall cease to exist when their final report is acted upon by the Commission and/or the Board of Selectmen or at the next annual organizational meeting, whichever is sooner. The Commission recognizes that the citizens of the municipality should be actively involved in directing the growth of the community. The meeting of these committees shall have posted agendas and minutes as prescribed by law.

## ARTICLE VIII – MEETINGS/HEARINGS

SECTION 1 – The Conservation Commission shall meet on the second Monday of each month at 7:00 pm in the Town of Nottingham Municipal Offices unless otherwise specified by the Chairperson.

SECTION 2 – In addition to those required by law, the Conservation Commission may, at its discretion, hold public hearings when it decides that such hearings will be in the public interest.

SECTION 3 – The CC may have additional meetings and/or workshop sessions as needed. The public notice shall specify the general purpose of the meeting.

SECTION 4 – Non-public sessions shall be held only in accordance with RSA 91-A:3.

## ARTICLE IX - CONDUCT OF BUSINESS

SECTION 1 – The order of business at meetings/hearings shall be as follows:

- A. Call to order by the Chairman/Acting Chairman
- B. Consideration of the minutes
- C. Public meetings/hearings and/or proposed projects
- D. Reports from Conservation Commission Agents, advisors, and or committees
- E. Old business
- F. New business
- G. Correspondence
- H. Adjournment

## SECTION 2 – Conflict of Interest

- A. No Conservation Commission member shall participate in deciding or shall sit upon the hearing of any question which the Commission is to decide in a judicial capacity if that member has a direct personal 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. Reasons for disqualification do not include exemption from service as a juror or knowledge of the facts involved gained in the performance of the member's official duties. (Note: CC's are not listed under RSA 673:14)
- B. When uncertainty arises, the Commission shall, upon the request of that member or another member of the Commission, 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, except as provided by local ordinance or by a procedural rule adopted under RSA 676:1.
- C. Once the Commission member has disqualified himself/herself, the disqualification shall be announced by either the Chairperson or Acting Chairperson before the discussion or public hearing. The Commission member disqualified shall leave the Commission table during all deliberations on the matter. The Chairperson shall fill the vacancy by the alternate next in rotation, if one is present. Once the matter has been closed for discussion, the alternate, if one is present, shall step down from the Commission and the regular Commission member shall rejoin the table.
- D. Members shall endeavor to protect their unbiased status to participate in any case before the Commission, by refraining from discussion of any case outside of any public hearings, with any prospective applicant or member of the public, other than staff, while a case may be pending before the Commission.
- E. If any discussion pertaining to any case before the Commission takes place the member should inform the Chairperson at the beginning of the public hearing and prior to any vote being taken. A member may step down anytime.

- F. No member of the Commission shall participate in any information gathering, interviews or site visits on any case without the express permission of the Commission.
- G. All members are encouraged to meet with staff on any case, at any time, and any information gained during these meetings will not constitute a cause for conflict of interest.

SECTION 3 – Actions shall be taken on the basis of a motion duly seconded, made by any Conservation Commission member. The number of votes necessary to transact business shall be a majority of those Commission members present and voting, except that no issue is to be considered passed that receives less than three (3) affirmative votes. Any Commission member may request recording of his/her vote on any issue or withdrawal from consideration on any issue with the reason stated therefore. And at the request of any Commission member, the Chairperson shall call for a recorded roll call vote on any issue.

## ARTICLE X- RULES OF PROCEDURE

SECTION 1 – The conduct of public hearings shall be governed by the following rules:

- A. The Chairperson shall open the hearing and identify the applicant or agent.
- B. The Chairperson shall read the application and report on the manner in which the public and personal notice was given.
- C. Members of the Board may ask questions at any point during the presentation.
- D. Any party to the matter who desires to ask a question of another party must go through the Chairperson.
- E. 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 Board at each hearing.
- F. Each person who speaks shall be required to state her/his name and address and indicate whether he/she is a party to the matter or an agent or counsel to a party to the matter.
- G. The applicant or agent shall be called to present the proposal and those appearing in favor of the proposal shall be allowed to speak.
- H. Those in opposition to the proposal shall be allowed to speak.
- I. Those neither in favor or not in opposition may speak.
- J. Other parties such as representatives of the Town Departments and other Town Boards and Commissions who have an interest in the proposal shall be allowed to present their comments in person or in writing.
- K. The Chairperson shall indicate whether the hearing is closed or adjourned pending the submission of additional material or information or the correction of noted deficiencies.

- L. The Commission shall render a written decision and provide a summary of a public hearing within fourteen days, such decision to be posted at two public locations.

SECTION 2 – Records: The records of the Commission shall be kept by the Secretary and shall be made available for public inspection as required by RSA 91-A: 4.

- A. The minutes of the meetings including the names of the Commission members, persons appearing before the Commission and a brief description of the subject matter shall be open to public inspection as required in RSA 91-A: 4.
- B. An electronic copy of the minutes of each Commission meeting shall be provided to each Commission member and alternate, and will subsequently be posted at the Town of Nottingham Municipal Offices after review and approval by the Commission at the next regularly scheduled meeting.

SECTION 3 – Joint meetings: The Conservation Commission may hold joint meetings and hearings with other “land use boards” including the Zoning Board of Adjustment and Planning Board. Each Board/ Commission shall have discretion whether or not to hold such joint meetings or hearings. Joint meetings shall be held in accordance with RSA 676:2.

- A. Joint business meetings with another local land use board may be held at any time when called jointly by the Chairpersons of the two boards.
- B. A joint public hearing must be a formal public hearing when the subject matter of the hearing is within the responsibilities of the Boards/ Commissions convened.
- C. The Conservation Commission Chairperson shall chair all joint meetings and public hearings when the subject matter involves the Conservation Fund as per RSA 36-A: 5.
- D. The rules of procedure for joint meetings and hearings, the subject matter of which involves the Commission, shall be the same as the rules of procedure for meetings and hearings except that the order of business shall be as follows:
  - 1) Call to order by the Chairperson
  - 2) Introduction of members
  - 3) Explanation for joint meeting
  - 4) Presentation of proposal
  - 5) Adjournment
- E. Each board and commission involved in a joint public hearing makes its own decision, based on its criteria for that particular matter.

SECTION 4 – Site Walks: Conservation Commission members shall only perform site walks and easement monitoring inspections that are scheduled by the vote of the Commission for a specific date and time.



ARTICLE XI – Adoption and Amendment

SECTION 1 – In accordance with RSA 676:1, the *By-Laws and Rules of Procedure* shall be adopted at a regularly scheduled meeting of the Conservation Commission. Once adopted, a copy of the adopted By-Laws and Rules of Procedure shall be placed on file with the Town Clerk.

SECTION 2 – The *By-Laws and Rules of Procedure* may be amended by a majority vote of the Conservation Commission provided that such amendment is read and signed by the Commission at the next regularly scheduled meeting. Once amended, a copy of the amended Bylaws and Rules of Procedure shall be placed on file with the Town Clerk.

SECTION 3 – A statement shall be provided that states “Date Adopted” at the end of the document.

SECTION 4 – A listing shall be provided that states “Date Amended” with a listing of each date it was amended at the end of the document

ARTICLE XII – Authorization

By signing below, the Conservation Commission Members and Alternates swear to have read the *By-Laws and Rules of Procedure for the Transaction of Business* and hereby certifies that he/she has received the most recent copy of CHAPTER 36-A CONSERVATION COMMISSIONS from the New Hampshire Planning and Land Use Regulation, a compilation of statutes relating to the performance of planning and land use regulation by municipalities in new Hampshire.

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Conservation Commission Chairperson

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Conservation Commission Vice Chairperson

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Conservation Commission Secretary

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Conservation Commission Member

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Conservation Commission Member

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Conservation Commission Member

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Conservation Commission Member

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Conservation Commission Alternate

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DATE ADOPTED: March 9, 2015

DATES AMENDED: