

BY-LAWS:

CONSERVATION COMMISSION:

- 1. Name:** The name of this body shall be: The Windham Conservation Commission, hereinafter called the Commission.
- 2. Authority:** The Commission was formed, in accordance with RSA 36-A:1, at the 1968 Windham Annual Town Meeting.
- 3. Purpose:** The purpose of the Windham Conservation Commission, as cited in RSA 36-A, is to provide for the proper utilization and protection of natural resources and for the protection of watershed resources in the town.
- 4. Duties and Functions Relative to Purpose:** The Commission shall have the following duties and perform the following functions:
 - 1) Provide advice and recommendations on conservation matters to other town boards and the state Wetlands Bureau, such as the review of proposed subdivision plans and site plans before the Planning Board, review of applications before the Zoning Board of Adjustment, Dredge & Fill applications and Intent to Cut applications.
 - 2) Conduct research into local land and water areas and seek to coordinate the activities of unofficial bodies organized for similar purposes.
 - 3) Prepare a Conservation Plan (index) which contains an inventory of all open space and other natural, aesthetic, or ecological areas within the town, and information pertinent to proper utilization of such areas, including lands owned by the town and state. The Plan shall include an inventory of all marshlands, swamps, and all other wetlands, and may recommend a program for the protection, development, or better utilization of all such areas. A copy of the Plan shall be forwarded to the Board of Selectmen. The Plan shall be reviewed from time to time and amended as appropriate.
 - 4) Protect open space and fragile areas through the acquisition of interests in land and conservation easements by purchase or gift consistent with RSA 36-A:4. In addition the Commission may assist landowners with the costs of donating conservation easements.
 - 5) Prepare, print, advertise, and distribute books, maps, charts, plans, and pamphlets which, in the judgment of the Commission, are deemed necessary for its work.
 - 6) Keep accurate records of meetings and actions, and file an annual report to be included in the annual town report.
 - 7) Appoint such clerks and other employees or subcommittees as from time to time may be required.
- 5. Membership:** The Commission shall consist of five regular members and up to three alternate members. One member may also be a member of the Windham Planning Board. Members may also serve on other municipal boards and commissions. Members and Alternate Members shall be appointed by the Board of Selectmen, for three year terms or to fill the unexpired term of a vacancy occurring

otherwise than by expiration of a term. Regular appointments shall be made just after the Windham Annual Town Meeting so that the newly elected Selectman may participate in the appointments. Appointments to fill unexpired terms shall be made just after the vacancy occurs. The terms shall be so arranged that the terms of approximately 1/3 of the members shall expire each year. Any member of the Commission may be removed for cause by the Board of Selectmen.

Alternate Members shall join the regular members in all presentations, public hearings, and discussions except that such alternates may not vote on any proposal or motion before the Commission unless so directed by the Chairperson. In the absence of any regular member, the Chairperson shall appoint an alternate to fill the vacancy and that alternate shall then act as a regular member.

In these bylaws, the term member shall include alternate member unless explicitly stated otherwise.

5a. Absences: If a Member cannot attend a scheduled meeting they are required to notify an Officer prior to the meeting. The Chairperson, with the concurrence of the Board, can recommend to the Board of Selectmen removal of any Member that has three (3) unexcused absences within one year.

6. Officers: The regular members shall elect a Chairperson, Vice Chairperson, and Secretary each year during the month of June. Vacancies in these offices shall be filled at the next meeting following the occurrence of the vacancy. The term of office shall be one (1) year or until their successors are elected and qualified by a majority vote on a formal motion. No person may hold an office more than five successive years.

7. Duties of Officers:

- 1) The Chairperson shall be responsible for the organization and direction of the Commission, appointment of members to committees, preparation of the meeting agenda, scheduling of hearings, conducting meetings, and ensuring that the work of the Commission is carried out promptly and competently. The Chairperson shall ensure that meeting notices are posted and shall prepare the annual Commission report. The Chairperson may delegate these duties in order to accomplish the work of the Commission and to provide training for the members
- 2) The Vice Chairperson shall preside at all meetings of the Commission in the absence of the Chairperson and shall perform all duties and have all powers of the Chairperson in case of temporary absence or incapacity of the Chairperson.
- 3) The Secretary shall keep accurate records of the meetings and other proceedings of the Commission as well as any other duties assigned by the Chairperson.

8. Duties of Members: Members shall familiarize themselves with Windham and New Hampshire state land use regulations, and the Handbook for Municipal Conservation Commissions in New Hampshire. They shall serve on standing and ad hoc committees if requested by the chairperson. Members shall strive to attend all meetings and notify the Chairperson in advance when unable to attend a meeting or a scheduled site visit.

9. Conflict of Interest: No member shall participate in a vote or the discussion leading up to a vote if that person has a potential conflict of interest. Any member who has a potential conflict of interest shall disclose that fact to the Commission. A conflict of interest occurs when a member has a direct personal or pecuniary interest in the outcome of a vote which differs from the interest of other citizens.

When uncertainty arises as to the application of the above to a Commission member in particular circumstances, the Commission shall, upon 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.

10. Meetings of the Commission: The Commission shall meet regularly twice a month, or more often depending on the workload. After the election of officers, the Commission shall decide on a place and time for regular meetings and publicize that information in a local newspaper of general circulation. Any change during the year likewise shall be publicized.

11. Public Hearings and Informational Meetings The purpose of a public hearing is to allow the members of the Commission to make a decision based on the most complete information possible. The proposal with supporting arguments shall be presented by the Chairperson. After the presentation, the Chairperson may solicit questions, and then allow comments in favor of the proposal followed by comments against the proposal. The Chairperson may then invite rebuttals. When everyone has had his say, the Chairperson shall close the hearing. The Commission may deliberate and vote following the hearing or wait until the next regular meeting.

An informational meeting is less formal than a public hearing. In the former, a proposal is explained and those present, whether attendees or sponsors of the meeting, are invited to ask questions and engage in a general discussion of the proposal. The reason for holding such a meeting is to ensure that the proposal is completely understood. Modifications may be made to a proposal as a result of the meeting, but the objective usually is not to decide on the merits of the proposal.

12. Quorum: Three members, two of which must be regular members, shall constitute a quorum for the transaction of regular business. A quorum for public hearings and subsequent votes on disbursement of conservation funds shall be three members, two of which must be regular members.

13. Conservation Fund: Pursuant to New Hampshire RSA 36-A:5 II and RSA 41:29, the town treasurer shall have custody of all monies in the conservation fund and shall disburse them only upon order of the Conservation Commission. The disbursement of conservation funds shall be authorized by a majority vote of the Commission members and alternates present qualified to vote. The Commission shall hold a public hearing, with notice in accordance with RSA 675:7, before using money from the conservation fund for purposes of acquiring property or interest in property (such as conservation easements or executory interest in a conservation easement) the Board of Selectmen must approve the expenditures; the Conservation Commission must hold a Public Hearing and the Conservation must vote to expend the Conservation funds.

14. Acceptance of Gifts: Although the receipt of gifts by the Commission is authorized by RSA 36-A:4, the Commission shall vote whether to accept any gift at a regular meeting. The Commission may refuse a gift for any reason, and shall refuse any gift which in the Commission's judgment is discriminatory or self-serving in any way that might be detrimental to the interests of the town.

15. Use of the Conservation Fund: The conservation fund may be used to acquire any interest in real property or right, or to support protection of land for conservation purposes as provided for in RSA 36-A:4. In addition the fund may be used to support the duties and functions relative to the purpose as enumerated in paragraph (4.) not otherwise funded by annual appropriations voted at town meeting. The Commission encourages the donation of both land for conservation purposes and conservation easements on land, and generally will provide some measure of financial support toward the cost of donating land or an easement to the Town of Windham, or to a recognized conservation organization. That support will be to pay all or part of the costs of the town taking ownership of the land or easement (e.g. legal and/or survey costs) or the portion of the costs of a landowner donating land or an easement to a recognized conservation organization that the town would have incurred to obtain such land or easement.

16. Committees: Committees shall be established by vote of the members of the Commission for any purpose deemed necessary for the fulfillment of the purposes of the Commission. Ad hoc committees to investigate specific projects maybe established and appointed by the Chairperson. Each Committee shall report to the Commission at each regular meeting or at such other times as the Commission may require. The standing committee shall be the Land Acquisition Committee.

17. Procedure for Requests from Other Town Boards for Advice or Review: The Commission shall promptly investigate requests from other town boards. The Chairperson shall determine whether the Commission has a legitimate interest in the request, and inform the requester when a reply will be generated. Conversely, the Commission shall advise other town boards if the Commission has an interest in any matter coming before the other board. The Commission will review the matter at a scheduled meeting and draw conclusions on the conservation and environmental impacts. The Chairman may continue the review to a following meeting and schedule a site walk for the purpose of gathering or verifying information. The conclusion and recommendations shall be reported in writing to the other board. The report shall be provided in a timely manner to ensure that the proceedings of the other board are not delayed.

18. Procedures for Wetlands Minimum Impact Expedited Permit Applications:

- 1) Receive application from Town Clerk.
- 2) Check to see if the landowner/contractor has filed the correct application for the work to be done, and that the application is correctly and completely filled out. (Ensure that the copies match the original.) If errors or omissions are not so simple that they can be resolved by a phone call, the application shall be returned the applicant.
- 3) Review the application at a scheduled meeting to make sure the work as outlined is in compliance with the regulations and meets all specifications.

- 4) Make a site visit to see the local conditions and assess how they affect the proposed work. The site visit shall be made by a minimum of three commission members or alternate members. Arrangements should be made with the landowner before making the site visit unless it is known that the landowner is not in residence.
- 5) If all is satisfactory, sign all five copies and return to the Town Clerk. If not satisfactory the matter shall be referred back to the Commission at the next scheduled meeting.
- 6) Every effort should be made to review the application in a timely manner since any delay at the town level is added to the delay at the state level.

19. Procedures for Wetlands Dredge and Fill Permit Applications:

- 1) Receive application from Town Clerk.
- 2) The Commission reviews the application with the Commission at its next regular meeting and may schedule a site visit.
- 3) If the committee wishes to comment on the applications, it shall draft a report and vote to forward the report to the wetlands Bureau.
- 4) During the above procedure, the commission must be mindful of the requirements of RSA 482-A:11 III. If the committee determines that it might want to comment and needs more time for the investigation, it must notify the Wetlands Bureau that it needs more time. That notice must be in their office within fourteen (14) days from the date the application was filed with the Town Clerk. The Wetland Bureau must receive the committee's report within forty (40) days from the date the application was filed with the Town Clerk. Extension of the deadline may be requested.

20. Procedure for Review of Intent-to-cut Applications:

- 1) Check the application for completeness and note the date received by the Board of Selectmen. The report of the investigation must be received by them within ten days.
- 2) Locate the lot on the tax map and a topo map to determine if it is in the Steep Slopes or Shoreland District, and/or if wetlands are involved.
- 3) Assess area of proposed cut for potential damage to the environment and review volume of timber to be harvested.
- 4) Contact owner or logger to get any questions answered.
- 5) Depending on items 2 and 3 above, drive by or walk the lot to determine any potential problems.
- 6) Notify the Board of Selectmen that the investigation is complete and inform them if there are any concerns.

21. Procedure for Review of Earth Excavation Permit Applications:

- 1) Receive copy of the application from the landowner. (State law requires the landowner to submit a copy to the Commission.)
- 2) Ascertain the date and time of the RSA 155-E public hearing from the Chair of the Planning Board.
- 3) Review application for effect on the water table and any potential damage to the environment that would be a byproduct of the excavation. Assess the reclamation plan for short and long term effects on the environment. Review fuel and chemical handling and storage procedures for potential problems.
- 4) Forward comments to the Chair of the Planning Board before the public hearing.

22. Adoption and Amendment of Bylaws:

- 1) Adoption: Upon adoption, the Chairperson shall file a copy of these bylaws with the Town Clerk and provide a copy to the Board of Selectmen.
- 2) Amendment: These bylaws may be amended by majority vote of the regular members of the Commission at a regular meeting. Amendments shall be proposed at least one regular meeting prior to the vote and the final draft of the amendments shall be in the hands of members at least two weeks prior to the vote. After approval of any amendments, the Chairperson shall file a copy of the amended bylaws with the Town Clerk and provide a copy to the Board of Selectmen.

These bylaws were adopted by the Windham Conservation Commission on September 10, 2015.