

Merrimack Conservation Commission Rules of Procedure

Article I: Purpose & Authorization

- A.** Per RSA 36-A:2, the Merrimack Conservation Commission (“Commission”) is established for the proper utilization and protection of the natural resources and for the protection of the watershed resources of the Town of Merrimack.
- B.** The Commission was originally established at the March 3, 1967 town meeting pursuant to RSA36-A. In April 2006, the voters of the Town voted to adopt a Charter that re-established the Commission.

Article II: Duties & Responsibilities

- A.** The Commission shall also 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.
- B.** It shall keep an index of all open space and natural, aesthetic or ecological areas within the Town, 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.
- C.** The Commission shall keep an index of all marshlands, swamps and all other wetlands in a like manner, and may recommend to the Town Council or to the Department of Natural and Cultural Resources a program for the protection, development or better utilization of all such areas.
- D.** The Commission shall keep accurate records of its meetings and actions and shall file an annual report which shall be printed in the annual Town Report.
- E.** The Commission may appoint subcommittees as it may from time to time require. All subcommittees must have at least 1 Commissioner as a member.
- F.** The Commission advises the Planning Board on development projects located within the Town’s Aquifer Conservation District, as required by the Merrimack Zoning Ordinance.
- G.** The Commission may advise the New Hampshire Department of Environmental Services Wetlands Bureau on wetlands permit applications, Per RSA 482-A.

Article III: Powers

- A.** The Commission may receive gifts of money, personal property, real property, and water rights, either within or outside the boundaries of the municipality, by gift, grant, bequest, or devise, subject to the approval of the Town Council, in accordance with RSA 36-A:4.

- B.** The Commission may acquire in the name of the Town, subject to the approval of the Town Council, by purchase, the fee in such land or water rights within the boundaries of the municipality, or any lesser interest, development right, easement, covenant, or other contractual right including conveyances with conditions, limitations, or reversions, as may be necessary to acquire, maintain, improve, protect, or limit the future use of or otherwise conserve and properly utilize open spaces and other land and water areas within the Town, and shall manage and control the same, but the Town or Commission shall not have the right to condemn property for these purposes.
- C.** No commissioner or designee shall enter private property to gather data about the property for use in a wetlands designation, prime wetlands designation, natural resource inventory report or map, or natural heritage map without first obtaining permission of the property owner or agent, or a lawfully issued warrant. Such permission may be oral or written, provided that record is made of oral authorization. If consent for entry is denied, the conservation commission, or designee, may obtain an administrative inspection warrant under RSA 595-B.
- D.** Prior to requesting permission, the commissioner or designee shall notify the landowner of the purpose of the data gathering, the specific features that will be evaluated, the manner in which the data collected will be recorded and distributed, and possible known consequences of the data collection.
- E.** No data gathered by entering property without the permission of the landowner or an administrative warrant shall be used for any purpose other than law enforcement purposes authorized by statute.
- F.** The Commission, in reviewing an application to provide input to any other municipal board, shall not require submission of an application for or receipt of a permit or permits from other state or federal governmental bodies prior to accepting a submission for its review or providing such input.
- G.** The Commission shall provide for the review of Expedited Minimum Impact & Wetlands Permit Applications filed regarding land located in the Town of Merrimack for permitting with the NH Department of Environmental Services, as follows:
 - 1.** Anyone intending to submit an application to the New Hampshire Department of Environmental Services (NHDES) for wetland or shoreland impact in the Town of Merrimack should first meet with the Commission.
 - 2.** The Commission may request that the property owner permit the Commission to walk the site to obtain further information regarding the proposed impacts. If the Commission finds the impacts to be reasonable and as minimally invasive as possible, the Commission may endorse the application, which may be beneficial for the property owner's application to NHDES.
 - 3.** Pursuant to RSA 482-A, any application to NHDES for a wetlands permit must also be submitted to the Town Clerk. Four (4) copies of the permit application, detailed plan and map showing the exact location of the proposed project must be submitted to the Town Clerk. Once the Town Clerk receives the application, the Commission has fourteen (14) days in which to notify NHDES that the Commission would like

additional time to study the matter. Due to this short window in which to consider the merits of the application, if the Commission receives notice of an application to NHDES for a wetlands permit and the applicant has not met with the Commission prior to filing its application with NHDES, the Commission shall immediately send written notification to NHDES that the Commission intends to investigate the permit and requests additional time to do so.

4. Anyone meeting with the Commission to discuss potential impacts to wetlands shall prepare a detailed plan and a map of the site showing the current conditions of the wetland and the proposed impacts.
5. If inclement weather or unusual field conditions prevent the Commission from obtaining relevant information during a site visit (i.e. deep snow coverage that prevents an adequate impact assessment), the Commission may request an applicant to postpone action until an adequate assessment can be made.

Article IV: Membership

- A. The Commission shall consist of a maximum of seven (7) members and three (3) alternate members. One (1) Town Council member shall serve as an ex officio member. All members and alternates shall be appointed by the Town Council and shall be residents of the Town of Merrimack. All members and alternates shall adhere to the oath taken at the time of their appointment and shall conduct themselves in keeping with the oath and these Rules of Procedure.
- B. Six (6) members shall be appointed to a term length of three (3) years, such terms being staggered. No more than one (1) alternate's term shall expire in a single year. One (1) member shall be an ex-officio member appointed annually by the Town Council.
- C. Should a vacancy arise, the Town Council shall appoint someone to fill such vacancy until the remainder of the unexpired term, in accordance with State law and the Town Charter.
- D. The ex-officio member shall have all the rights of regular members of the Commission except the right to hold office (Chair/Vice Chair/Secretary) on the Commission.
- E. Alternate members may be designated by the Chair to serve in place only for an absent or disqualified regular member of the Commission. At no time may an alternate member be seated in place of the ex-officio member; only an alternate ex-officio may be seated in place of the ex-officio, if one is appointed to the Commission by the Town Council.
- F. Alternate members may participate in discussion of any issues before the Commission but do not have voting rights unless seated by the Chair in place of an absent or disqualified member. Alternate members cannot hold office (Chair/Vice Chair/Secretary) on the Commission.
- G. Members of the Commission shall conform to the limitations on multiple memberships as set forth in RSA 36-A:3.
- H. Commission members and alternates may be removed from the Commission for cause pursuant to RSA 36-A:3.

Article V: Elections

- A.** The Chair, Vice Chair, and Secretary shall be elected by a majority vote of the seated members and the ex-officio at the Board's Annual Meeting.
- B.** Only full members, not including the ex-officio member, shall hold office.
- C.** The term for each officer shall be one (1) year or until their successor is duly elected. Officers may be re-elected.
- D.** If the Chair vacates their position or is unable to complete their term, the Vice Chair may serve as Chair for the remainder of the term. If the Vice Chair cannot serve as Chair for whatever reason, the Commission shall elect new officers at the next regularly scheduled meeting to serve until the next Annual Meeting.

Article VI: Officer Responsibilities & Duties

- A.** The Chair shall preside at all meetings and hearings and has the duties normally bestowed upon such officers.
- B.** The Chair shall approve all agendas, prepare Commission correspondence, prepare and present the proposed annual budget to the Community Development Department (for inclusion in their departmental budget) and annual report for approval by the Commission, and any other duties that may be required of the Chair.
- C.** The Vice Chair shall assume the duties of the Chair in the absence of the Chair, as well as any other duties as may be delegated by the Chair from time to time.
- D.** The Secretary shall assume any administrative duties delegated by the Chair or Vice Chair, including but not limited to Commission correspondence, preparation of non-public meeting minutes.

Article VII: Member & Alternate Responsibilities & Duties

- A.** Members and alternate members shall not unilaterally represent the Commission without the knowledge and approval of the Commission. The Commission membership shall work together in establishing and achieving the goals set forth by the Commission as a whole.
- B.** Members shall observe the established goals of the Commission such as natural resource land use, water quality protection, and proper management of Town-owned parcels consistent with the letter and spirit of applicable RSAs, the Town Charter, as well as any Management and/or Stewardship Plans officially adopted by the Commission or the Town of Merrimack for the properties managed by the Commission.
- C.** Members shall establish beneficial relationships with other organizations pertinent to the function and goals of the Commission. Members may be appointed by the Commission to serve on such organizations as representatives of the Commission when appropriate.

- D.** Members shall assist in creating an annual budget and in the gathering of information for the annual report.

Article VIII: Attendance

- A.** Members shall attend all regular and special meetings called by the Chair at the time indicated.
- B.** Members shall review all materials provided in advance of the meeting and shall be prepared to act on all agenda items.
- C.** If any member is unable to attend a meeting, they shall notify the Chair as far in advance of the meeting as possible.
- D.** Absence from five (5) consecutive meetings without notice shall constitute non-interest. The Commission may then vote to recommend to the Town Council that the member be removed from the Commission.
- E.** If an absent member arrives late and an alternate has already been seated in their place, the alternate shall continue to act in place of the tardy member until the agenda item under consideration is completed. Upon the start of the next agenda item, the Chair shall replace the alternate with the member.

Article IX: Meetings

- A.** Regular meetings of the Commission shall be held on the second and fourth Mondays of each month and shall be open to the public, but in no case less than once per month. Meetings are held in the Matthew Thornton Room of Merrimack Town Hall unless otherwise indicated on the posted meeting notice.
- B.** Meetings shall be posted as required by RSA 91-A. Meetings shall not be held on Sundays or legal holidays.
- C.** Site walks may be scheduled periodically at the discretion of the Commission, and shall be posted pursuant to RSA 91-A. Should four (4) or more members attend a site walk, it shall be considered a public meeting subject to the provisions of RSA 91-A. Site walks may be scheduled when, in the Commission's discretion, it is warranted to gather relevant information beyond that which is presented within an application.
- D.** The Commission may occasionally enter into a non-public session in pursuant to RSA 91-A:3.
- E.** A special meeting of the Commission may be called by the Chair, or in the absence of the Chair, the Vice-Chair. All Commission members shall be provided at least forty-eight (48) hours' notice of a special meeting, excluding Sundays and legal holidays. The agenda shall specify the purpose of the meeting and no business shall be discussed other than that for which the special meeting was called.

- F.** The Annual Meeting shall be held at the first regularly scheduled meeting in May of each year. During the Annual Meeting, the Commission shall elect a Chair, Vice Chair & Secretary, and shall review its Rules of Procedure.

Article X: Quorum, Recusal & Disqualification

- A.** Presence of a minimum of four (4) members of the Commission (including regular members, alternates and/or the ex-officio), shall constitute a quorum.
- B.** If any regular Commissioner is absent from a meeting or is recused from sitting on a particular agenda item, the Chair shall formally designate an alternate member to sit in place of the absent/recused member. A designated alternate member shall have the same powers and duties as a regular member in regard to any matter under consideration on which the regular member is unable to act.
- C.** Only alternate members may be seated for absent/recused members in their absence. In the event the ex-officio member is absent, only an alternate ex-officio member may be seated in their place, if one is appointed to the Commission by the Town Council.
- D.** Any Commission member who has a personal or pecuniary interest that differs from that of other citizens in any matter before the Commission shall recuse themselves from voting or speaking on said matter. The member shall notify the Chair prior to the item being discussed by the Commission so that an alternate may be seated in place of the recused member.
- E.** The recused member shall physically separate themselves from the Commission, by sitting in the audience or leaving the meeting room, during the entirety of any discussion on the subject topic.
- F.** If uncertainty arises as to whether a Commission member should recuse themselves, any Commission member may request a non-binding vote on the eligibility of the member to serve on the subject topic. Such vote may only be requested by a sitting member, and shall take place prior to discussion on the subject topic. The final decision on recusal is that particular member's alone.

Article XI: Meeting Procedure

- A.** The following meeting schedule is the standard format for a meeting.
 - a. Call to Order
 - b. Public Hearings
 - c. New Business
 - d. Other Business
 - e. Approval of Minutes
 - f. Non-Public Session
 - g. Adjournment
- B.** The order of agenda items may be adjusted by the Chair prior to, or during, a meeting. Some topics not listed on an agenda may be discussed under Other Business, but action shall not be

taken upon any item before the Commission until they are listed on an agenda in advance of a meeting.

- C. During the meeting, the Chair shall ensure that each speaker clearly identifies themselves for the record. Merrimack resident speakers shall identify themselves by name and address. Nonresident speakers shall identify themselves by name, title and firm/organization they represent.

Article XII: Voting

- A. The Chair should call for a motion to be made on the issue being discussed by a seated member or the ex-officio. A second to such motion may only be made by a seated member or the ex-officio.
- B. A maximum of seven (7) Commission members are authorized to vote at any meeting.
- C. A motion shall carry on the affirmative vote of a majority of the seated members present.
- D. If a vote is not unanimous, the record shall indicate by name those voting in opposition.
- E. A tie vote between members voting in favor and in opposition represents only a failed motion, and the Commission will need to work on a motion that can be crafted in such a way that will net a majority vote. If this is deemed to not be achievable at the current meeting, the Commission should vote to continue the item to its next scheduled meeting.
- F. Abstentions
 - 1. A member should only abstain in circumstances of financial interest in a specific outcome the Commission has jurisdiction over, prejudice, or a conflict of interest. In these instances, recusal from consideration of the subject matter entirely is more appropriate.
 - 2. Commissioners are appointed by the Town Council to make decisions, and they are expected to do so, regardless of the difficulty of the decision. If a commissioner feels like they cannot make a decision, *rather than abstaining from a vote*, the commissioner should make a motion to continue the deliberations to a future date and work to allow for further discussion and submission of information, so that a vote can be made with confidence at the subsequent meetings/public hearings.
 - 3. While not necessary, abstentions on votes for approval of minutes, and on a vote for oneself during the annual meeting for election of officers are permissible.

Article XIII: Finances

- A. The Chair shall authorize expenditures of funds within the approved budget in coordination with the Community Development Department.
- B. Expenditures from any special funds managed by the Commission shall be approved by a majority of the members present at the meeting.

- C. The Chair shall approve invoices prior to their payment by the Town. Approval shall indicate the budget account to be utilized for payment.

Article XIII: Records & Administrative Processes

- A. Minutes of all public and non-public meetings shall be compiled and managed in accordance with RSA 91-A:2. The Commission shall review the minutes and approve them as soon as possible.
- B. Non-public minutes shall be compiled and managed in accordance with RSA 91-A:3.
- C. Subcommittees of the Conservation Commission are also responsible for compiling meeting minutes in accordance with RSA 91-A.
- D. The Commission shall file an annual report to be published in the annual Town Report.
- E. These Rules of Procedure shall be reviewed annually at the annual meeting, and may be amended by a majority vote of the Commission. Any amended Rules of Procedure shall be placed on file with the Town Clerk following adoption by the Commission.