

# SALEM CONSERVATION COMMISSION

## Bylaws / Rules of Procedure

### Purpose and Authority

1. The purpose of the Salem Conservation Commission is to protect the watershed resources, and promote the proper utilization and protection of natural resources within the Town of Salem.
2. These rules of procedure are adopted under the authority of New Hampshire Revised Statutes Annotated (RSA) 36-A, "Conservation Commissions".

### Membership

1. The Salem Conservation Commission shall consist of seven members appointed by the Board of Selectmen. The Selectmen shall designate one selectman as an ex-officio member with power to vote.
2. Two alternate members, appointed by the Board of Selectmen, may serve on the Conservation Commission as authorized by RSA 36-A:3.
3. Except for the Selectmen's representative, all members shall be appointed for three-year terms. Terms of office will be staggered so that two regular, and up to one alternate, members are appointed each year.
4. Terms of Office commence on April 1 and end on March 31 three years subsequent; provided however, that the term shall continue until successors have been appointed.
5. A vacancy occurring by other than term expiration shall be filled for the unexpired term in the same manner as an original appointment.
6. The Secretary (or designated Town Employee) shall forward to the municipal clerk, for recording, each Commission member's term appointment and expiration dates.

### Officers

1. The Commission Officers and their duties shall be:
  - a. Chairman: The Chairman shall preside over all meetings and hearings in accordance with Roberts Rules of Order, and shall, with the assistance of the secretary and town staff, post meeting notices, prepare an annual report, and perform other duties customary to the office.
  - b. Vice-Chairman: The Vice-Chairman shall preside in the Chairman's absence, and shall have the full powers of the Chairman on matters that come before the Commission during the Chairman's absence.
  - c. Secretary: The Secretary (or designated Town Employee) shall be responsible for the maintenance of Commission minutes and records. The Commission may retain a Recording Secretary whose records shall be reviewed by the Commission for accuracy.
2. Commission officers shall be elected annually by a majority vote of the Commission, at the meeting immediately following the date new members are appointed.

## **Duties of Commission**

1. Conduct research into local land and water areas. (RSA 36-A:2)
2. Keep an index of all open space and natural aesthetic or ecological areas in Salem including marshlands, swamps, and other wetlands. (RSA 36-A:2)
3. Advise the Planning Board and other local bodies on conservation matters. (RSA 36-A:2)
4. Seek to coordinate the activities of unofficial groups involved with the protection of natural or watershed resources. (RSA 36-A:2)
5. Keep accurate records of Conservation Commission meetings and actions, and file an annual report. (RSA 36-A; RSA 91-A)
6. Manage, protect, and properly utilize conservation land. (RSA 36-A:4)
7. Intervene, investigate, and make recommendations on Dredge and Fill permits filed with the NH Dept. of Environmental Services (DES). (RSA 482-A)
8. Prepare reports and maps for local designation of prime wetlands. (RSA 482-A:15)
9. Notify the NH DES of projects adjacent to prime wetlands. (WT 703.01)
10. Manage the Salem Town Forest. (RSA 36-A:4 , RSA 31:110-113)
11. Receive, manage and control gifts of money and property for conservation purposes, subject to approval of the local governing body and in the name of Salem. (RSA 36-A:4)
12. Acquire, manage and control property or property rights for conservation purposes, subject to approval of the local governing body and in the name of Salem. (RSA 36-A:4)
13. Review and make recommendations to the Planning Board on Sand and Gravel Excavation permits. (RSA 155-E:3)
14. Manage all conservation or open space easements, including maintaining an accurate inventory and periodic visits to properties with easements.

## **Committees**

1. The Chairman may from time to time appoint subcommittees for any purpose deemed necessary. Each subcommittee shall report to the Commission at each meeting or at such other times as may be requested.
2. Spicket River Standing Subcommittee
  - a. Mission
    - To rehabilitate and protect the quality of the Spicket River as a natural resource of the town; and to promote the use of the river for community recreation in a natural environment such as canoeing, fishing, bird watching, and family adventure.
  - b. Goals
    - To maintain a free, clean and navigable river way for the community. This is to be done by any combination of annual cleanups and maintenance programs.
    - To conduct, as necessary, water quality testing for contaminants and to locate their sources.

c. Membership

- The subcommittee shall consist of no less than three and no more than seven members.
- Beginning in October 1996, and continuing annually thereafter, the Conservation Commission Chairman shall appoint no less than one member to the Spicket River Subcommittee.
- Beginning in October 1996, and continuing annually thereafter, the Conservation Commission Chairman shall issue a call for citizen candidates to serve on this committee. This posting shall utilize the traditional media outlets that are used for all other Town appointed boards. Applications shall be filled out and subsequent interviews conducted by the Conservation Commission. The Conservation Commission shall make appointments.
- The subcommittee shall have no more than four citizen appointed members. Terms shall be three years in length and shall expire the last day of October each year. Subsequently, new members' terms shall begin November 1 of each year. Beginning in 1996, the Commission will, as appropriate, appoint terms of less than three years in length in order to develop a more "staggered" term expiration and reappointment process.
- The subcommittee shall elect officers each November or December. The officers terms shall be for a one year period. These officers will be: Chairman, Vice-Chairman, and Secretary.

**Meetings**

1. All meetings, including non-public sessions, shall be held in accordance with RSA 91-A, as amended.
2. Regular meetings shall be held monthly at the Municipal Office Building at 7:00 PM, normally on the first Wednesday of each month.
3. Special meetings may be called by the Chairman or, in her/his absence, by the Vice-Chairman; or at the request of three Commission members. Public notice and notice to each member shall be given at least 24 hours prior to such meeting, excluding Sundays and legal holidays. The notice shall specify the meeting's purpose.
4. Quorum: A majority of Commission membership shall constitute a quorum, including alternates sitting in place of regular members. If any regular Commission member is absent from a meeting or hearing, or is disqualified from sitting on a particular application, the Chairman shall designate an alternate member to sit in place of the absent or disqualified member. Alternate members have all regular member powers and duties in regards to any matter under consideration on which the regular member is unable to act. The alternate member should continue until the matter is completed; the regular member does not vote on that matter.
5. A motion, duly seconded, shall be carried by an affirmative hand vote of a majority of the members present.
6. Members are requested to attend all regular meetings and as many other meetings and site walks as they can. Notification of absence must be submitted to the Chairman in advance. Continued absences (more than three consecutive unexcused meetings) will result in a letter of warning to the member. If absences continue, the member will be requested to submit his/her resignation by a date certain. If the member does not submit his/her resignation by that date, the Board of Selectmen will be so notified and requested to remove the member for cause pursuant to RSA 36-A:3.
7. Disqualification: Any Commission member who has a personal or pecuniary interest, direct or indirect, in any matter before the Commission, shall be disqualified from voting or speaking on said matter. If any members find it necessary to be disqualified from sitting on a particular case, s/he shall notify the Chairman as soon as possible so that an alternate may be requested to fill the place. Either the Chairman or the member shall announce the disqualification before the discussion or the public hearing on the application begins. The member disqualified shall leave the Commission table during all deliberations and the public hearing on the matter.

If uncertainty arises as to whether a Commission member should disqualify her/himself on the request of that member or the request of another member of the Commission, the Commission shall vote on the question of whether that member should be disqualified. Such request and vote shall be made at the commencement of any required public hearing. A vote on a question of disqualification shall be advisory and non-binding, and may not be requested by persons other than Commission members.

8. Order of Business shall be (as applicable):
  - a. Call to order by Chairman
  - b. Pledge of Allegiance
  - c. Roll Call
  - d. Public Hearing
  - e. Work Session
  - f. Old Business
  - g. New Business
  - h. Other Commission Business
  - i. Unscheduled Commission Matters
  - j. Nonpublic Session
  - k. Adjournment

### **Nonpublic Session**

1. Nonpublic sessions are only allowed for specific exemptions detailed in RSA 91-A. The exemption for land acquisition is RSA 91-A:3, II(d).
2. The Conservation Commission may exclude the public only after passing a motion stating the exemption relied upon for the nonpublic session. The motion, duly seconded, must be carried by an affirmative, recorded, roll-call vote of a majority of the members present.
3. All discussion and decisions made during nonpublic session shall be confined to the matters set out in the motion.
4. Minutes of proceedings in nonpublic session shall be kept, and the record of all actions shall be made available for public inspection as outlined in RSA 91-A:3, III. If it is determined by a recorded vote of 2/3 of the members present that divulgence of the information would have an adverse affect (see RSA 91-A:3, III), information may be withheld by sealing the minutes until (in the opinion of a majority of members) the applicable circumstances no longer apply. In that case, immediately after the nonpublic session, the Commission will take a roll call vote in public session to seal the minutes.

### **Public Hearings**

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

1. The Chairman shall call the hearing in session, identify the applicant or agent, and ask for their report on the proposal.
2. The applicant shall present the application to the Commission.
3. Members of the Commission may ask questions at any point during the presentation.
4. Any party to the matter who desires to ask a question of another party must do so through the Chairman.
5. Any applicant, any abutter, or any person with a direct interest in the matter may testify in person or in writing. Other persons may testify as permitted by the Commission at each hearing.
6. Each person who speaks shall be required to state her/his name and address and indicate whether s/he is a party to the matter or an agent or counsel to a party to the matter.

7. Other parties such as representatives of town departments and other town boards or commissions who have an interest in the proposal shall be allowed to present their comments in person or in writing.
8. The Chairman shall indicate whether the hearing is closed or adjourned pending the submission of additional material or information or the correction of noted deficiencies. In the case of an adjournment, additional notice is not required if the date, time and place of the continuation is made known at the adjournment.
9. The Commission shall act to approve, conditionally approve, or disapprove within the timeframes established by State law.
10. Notice of decision will be made available for public inspection at the Municipal Office Building. If the application is disapproved, the Commission shall provide the applicant with written reason for this disapproval.

### **Joint Meetings and Hearings**

1. The Commission may hold joint meetings and hearings with other "land use boards" including the Planning Board. Each Board shall have discretion whether or not to hold such joint meeting or hearing. (RSA 676:2)
2. Joint business meetings with another local land use board may be held at any time when called jointly by the Chairman of the two boards.
3. The rules of procedure for joint meetings and hearings, the subject matter of which involves the Commission, shall be the same as these rules of procedure except that the order of business shall be as follows:
  - a. Call to order by Chairman.
  - b. Introduction of members of both boards by Chairman.
  - c. Explanation of reason for joint meeting/hearing by Chairman.
  - d. In the case of a public hearing relative to a requested permit or an application for a plan of approval, or both, the applicant shall be called to present his proposal.
  - e. Adjournment.
4. Each board involved in a joint public hearing shall make its own decision, based on its criteria for the particular matter.

### **Records**

1. Commission records shall be kept by the Secretary (or designated Town Employee), and shall be made available for public inspection at the Commission's office as required by RSA 676:3,II.
2. Minutes of meetings including Commission member's names, 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:2, II.

### **Procedure for Standard Dredge and Fill Applications**

1. Applications to the New Hampshire Wetlands Board must be filed at the Town Clerk's Office at least ten days in advance of the Conservation Commission meeting at which the application is to be reviewed by the Commission. [Amended 7/7/93.] The Applicant shall, by certified mail, notify all abutters (as defined by the NH Wetlands Bureau Rules) of the initial meeting and all subsequent meetings at which the Commission will hear the application. Abutters shall be notified by certified mail at least ten days prior to the meeting. [Amended 8/06/97]

2. Within fourteen days of an application to the NH Wetlands Board being filed with the Town Clerk, the Chairman (or designated Town Employee) shall notify the NH Wetlands Board in writing of the Commission's intent to intervene, in accordance with RSA 482-A.
3. The application shall be scheduled for a public hearing at the next regular Commission meeting. A site walk shall normally be scheduled for the Saturday before the regular meeting.
4. If inclement weather or unusual field conditions (such as deep snow cover) prevent an adequate impact assessment, the Commission may request an applicant to postpone action until an adequate assessment can be made. [Amended 4/3/96]
5. A written report stating the Commission's action on the application shall be sent to the Wetlands Board within 40 days of the original filing date with the Town Clerk.
6. For applications involving the construction of wetland mitigation areas, the Commission shall impose, or request the appropriate regulatory agency (Planning Board or NH Wetlands Board) to impose, the following standard conditions:
  - a. A performance guarantee (letter of credit, bond, etc.), sufficient to cover the costs of constructing and planting the mitigation area shall be submitted;
  - b. Monitoring, to continue through three (3) growing seasons. A portion of the performance guarantee will be held during this time to cover replanting and minor site work revisions if necessary.
  - c. Monitoring reports, from a qualified wetland scientist, shall be submitted to Town staff and the Commission. In some cases, the Commission might require an independent firm to monitor construction and planting on behalf of the Town, at the applicant's expense.
  - d. Submission of as-built topographic plans, and certification that the wetland mitigation area was constructed and planted according to approved plans, before construction of the site begins. [Amended 4/3/96]

#### **Procedure for Minimum Impact Expedited Applications**

1. An application received by the Planning Office for a minimum impact expedited permit will be treated like a Standard Dredge and Fill application with the exception that staff will not send a notice of intervention to the Wetlands Board.
2. The application shall be scheduled for a public hearing at the next regular Commission meeting. A site walk shall normally be scheduled for the Saturday before the regular meeting. The applicant will be advised if the Commission determines a standard dredge and fill application should be filed. [Amended 2/1/95]

#### **Amendments**

1. These bylaws and rules of procedure may be amended by a majority vote of Commission members provided that such amendment is read at the meeting immediately preceding the meeting at which the vote is to be taken. The amended bylaws and rules of procedure shall be filed with the municipal clerk.

Adopted by the Salem Conservation Commission on January 6, 1993.  
 Amended by the Salem Conservation Commission on July 7, 1993.  
 Amended by the Salem Conservation Commission on February 1, 1995.  
 Amended by the Salem Conservation Commission on April 3, 1996.  
 Amended by the Salem Conservation Commission on August 6, 1997.  
 Amended by the Salem Conservation Commission on March 4, 1998.  
 Amended by the Salem Conservation Commission on March 6, 2002