

**Easton, New Hampshire
Conservation Commission
Bylaws/Rules of Procedure**

BYLAWS

Section I: Purpose and Authority

1. The purpose of the Conservation Commission is to protect the watershed resources, and promote the proper utilization and protection of natural resources within the Town of Easton.
2. These Bylaws and Rules of Procedure are adopted under the authority of New Hampshire Revised Statutes Annotated (RSA) 36-A, "Conservation Commission".
3. Forestry pursuant to RSA 31:110-113.

Section II: Membership

1. The Easton Conservation Commission shall consist of a minimum of five (5), maximum of seven (7) full time members and two alternate members appointed by the Board of Selectmen.
2. All full time Commission members shall be appointed for three-year terms.
3. Terms of office commence on April 1st and end on March 31st three years subsequent, provided however that the term shall continue until a successor be appointed.
4. A vacancy occurring by other than term expiration shall be filled for the unexpired term in the same manner as an original appointment.
5. The secretary shall forward to the municipal clerk for recording, each Commission members' term appointment and expiration dates.

Section III: 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 the 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. (i.e., first meeting in April)

Section IV: Duties of the Commission

1. Conduct research into Easton land and water areas.
2. Keep an index of all open space and natural aesthetic or ecological areas in Easton including marshlands, swamps and other wetlands.
3. Advise the Planning Board and other local bodies on conservation matters
4. Seek to coordinate the activities of unofficial groups involved with the protection of natural or watershed resources.
5. Keep accurate records of Conservation Commission meetings and actions and file an annual report. These minutes, in draft form, must be made available in accordance with RSA 91-A.
6. Manage, protect and properly utilize conservation land.
7. Be aware of, investigate and make recommendation on Dredge and Fill permit files with the NH Department of Environmental Services (DES).
8. Prepare reports and maps for local designation of prime wetlands
9. Notify the NH DES of projects adjacent to prime wetlands.
10. Manage the Town conservation land and Town forests.
11. Advise the Selectboard on receipt of gifts, acquisitions and expenditures for conservation purpose of money and property for conservation purposes, subject to approval of the local governing body and in the name of the Town of Easton.
12. Review and make recommendations in accordance with RSA 155-E.
13. Manage all conservation and open space easements, including maintaining an accurate inventory and periodic visits to properties with easements.

RULES OF PROCEDURE

Section V: Committees

1. The Chairman may from time to time appoint subcommittees for any purpose deemed necessary.
2. Each subcommittee shall report to the Commission at each meeting or at such other times as may be requested.

Section VI: Meetings

1. All meetings, including non-public session, shall be held in accordance with RSA 91-A.
2. Regular meetings shall be held monthly at the Town Hall at 8:00 a.m., normally on the third Friday of each month.
3. As a rule, the Commission does not meet in July or August.
4. Special meetings may be called by the Chairman or in his/her absence, the Vice-Chairman or at the request of three Commission members. Public notice and notice to each member shall be given at least 25 hours prior to such meeting, excluding Sundays and legal holidays. The notice shall specify the meeting's purpose.
5. A majority of the 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 regard to any matter under consideration on which the regular member is unable to act.

Section VII: 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 as a member of the Commission. (RSA 673)

1. If any member finds it necessary to be disqualified from sitting on a particular case, he/she shall notify the Chairman as soon as possible so that an alternate may be identified to fill the place.
2. The member disqualified shall leave the Commission table during all deliberations and the public hearing on the matter.
3. A Commission member, who is recused, may speak as a member of the public (i.e., an abutter) as long as they are seated in the audience and recognized by the chair as a member of the public.

Section VIII: Order of Business

1. Call to order by Chairman
2. Roll call
3. Public hearing
4. Old business
5. Subcommittee reports
6. New business
7. Non-public Session, if necessary as provided in RSA 91.
8. Adjournment

Section IX: Non-public Session

1. Non-public sessions are only allowed for specific exemptions detailed in RSA 91-A. The exemption for land acquisition is RSA 91A:3 II (d).

2. Minutes of the proceedings in non-public session shall be kept, and the record of all actions shall be made available for public inspection. 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 information may be withheld by sealing the minutes until (in the opinion of a majority of the members) the applicable circumstance no longer applies. In that case, immediately after the non-public session, the Commission will take a roll call vote in public session to seal the minutes. (RSA 91-A:3 III)

Section X: Public Hearings

1. The conduct of public hearing shall be governed by the following rules as set forth in RSA 91A and any other statutes or amended statutes that pertain to public hearings.

Section XI: Joint Meetings and Hearings

1. The Commission may hold joint meetings and hearings with other “land use boards” including the Planning Board.
2. Each Board shall have discretion whether or not to hold such joint meeting or hearing. (RSA 676:2)

Section XII: Records

1. Commission records with the exception of non-public session sealed minutes, shall be kept by the Secretary (or designated Town employee), and a copy shall be kept on file at the Town Clerk’s office.
2. Minutes of meetings including names of members and persons appearing before the Commission, and a brief description of the subject matter, shall be recorded and a signed copy shall be kept on file at the Town Clerk’s office. (RSA 91-A:2, II).

Section XIII: Procedure for Dredge and Fill Applications (RSA 492)

1. Application to the New Hampshire Wetland 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. The applicant shall, by certified mail, notify all abutters (as defined by the NH Wetlands Bureau Rules) of the application.
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 Commissions intent to intervene, in accordance with Board Policy.

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 (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.
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 request the appropriate regulatory agency to impose the following standard conditions:
 - a. A performance guarantee shall be submitted (letter of credit, bond, etc.) sufficient to cover the costs of constructing and planting the mitigation area.
 - 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.

Section XIV: Amendments

These Bylaws/Rules of Procedure may be amended by a majority vote of the Commission members provided that such an 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.

Section XV: Validity

If any portion of these rules shall be held to be invalid for any reason by Any court of competent jurisdiction, such holding shall not invalidate in any manner any other provision contained herein.

Adopted by a majority vote of the Easton Conservation Commission, as indicated by signatures below.

Anita Craven
Date

Ned Cutler
Date

Denys Draper, Vice-chairman
Date

Maria Hynes, Chairman
Date

Genny Wren Miller
Date

Mike Platt, Secretary
Date

Steve Sabre
Date

Appendix

These revised statutes annotated are supplied in this document to allow members of the Conservation Commission as well as members of the public a ready reference.

RSA 31:110 Establishment. - The legislative body of any city or town may vote to establish by purchase, lease, grant, tax collector's deed, transfer, bequest or other devise, a city or town forest.

RSA 31:111 Purpose. - The main purpose of such city or town forest shall be to encourage the proper management of timber, firewood and other natural resources through planting, timber stand improvement, thinning, harvesting, reforestation, and other multiple use programs consistent with the forest management program, any deed restrictions and any pertinent local ordinances or regulations.

RSA 31:112 Management. -

I. A city or town forest established under RSA 31:110 shall be managed by a forestry committee consisting of not less than 3 nor more than 5 members. In cities the members shall be appointed by the mayor and aldermen and in towns they shall be appointed by the selectmen. When a forestry committee is first established, terms of the members shall be for one, 2 or 3 years, and so arranged that the terms of approximately 1/3 of the members shall expire each year, and their successors shall be appointed for terms of 3 years each. The committee shall include the city or town tree warden, if there is one. The committee shall choose its chairman, shall serve without compensation and shall make an annual report to the city or town and shall send a copy to the director of the division of forests and lands, department of resources and economic development. Vacancies for the unexpired terms shall be filled in the same manner as the original appointments.

II. If a city or town has adopted RSA 36-A, a city or town forest may be managed by the city or town conservation commission, with the tree warden, if any, as an ex-officio

RSA 31:113 Appropriations Authorized. - For the purposes of establishing or maintaining a city or town forest, a city or town may raise and appropriate such funds as it deems necessary. The proceeds from said forest shall be placed in a special forest maintenance fund and shall be allowed to accumulate from year to year, unless otherwise voted by the legislative body of such city or town.

RSA 36-A:1 Method of Adoption. - Any city by vote of its city council, and any town at any duly warned meeting, may adopt or rescind the provisions of this chapter.

RSA 36-A:2 Conservation Commission. - A city or town which accepts the provisions of this chapter may establish a conservation commission, hereinafter called the commission, for the proper utilization and protection of the natural resources and for the protection of watershed resources of said city or town. Such commission 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. It shall keep an index of all open space and natural, aesthetic or ecological areas within the city or 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 a town or city. It shall keep an index of all marshlands, swamps and all other wet lands in a like manner, and may recommend to the city council or selectmen or to the department of resources and economic development a program for the protection, development or better utilization of all such areas. It shall keep accurate records of its meetings and actions and shall file an annual report which shall be printed in the annual town or municipal report. The commission

may appoint such clerks and other employees or subcommittees as it may from time to time require.

RSA36-A:3 Composition of Commission. - The commission shall consist of not less than 3 nor more than 7 members. In a town which has a planning board, one member of the commission may also be on the planning board. In a city which has a planning board, one member of the commission may be on the planning board. In cities, the members of the commission shall be appointed by the mayor subject to the provisions of the city charter, and in towns the members of the commission shall be appointed by the selectmen. Alternate members may be appointed in a like manner and when the alternate serves in the absence or disqualification of a regular member, the alternate shall have full voting powers. When a commission is first established, terms of the members shall be for one, 2, or 3 years, and so arranged that the terms of approximately 1/3 of the members will expire each year, and their successors shall be appointed for terms of 3 years each. Any member of a commission so appointed may, after a public hearing, if requested, be removed for cause by the appointing authority. A vacancy occurring otherwise than by expiration of a term shall be filled for the unexpired term in the same manner as an original appointment. Members of a conservation commission shall be residents of the city or town which they represent. Members of a conservation commission also may serve on other municipal boards and commissions, including, but not limited to a historic district commission established under RSA 673:4, and a heritage commission established under RSA 673:4-a.

RSA36-A:4 Powers. - Said 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 local governing body, such gifts to be managed and controlled by the commission for the purposes of this section. Said commission may acquire in the name of the city or town, subject to the approval of the local governing body, 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 their city or town, and shall manage and control the same, but the city or town or commission shall not have the right to condemn property for these purposes.

RSA 36-A:4-a Optional Powers. -

I. The legislative body of a city or town may vote at an annual meeting to authorize the conservation commission to:

- (a) Expend funds for the purchase of interests in land outside the boundaries of the municipality, subject to the approval of the local governing body; and
- (b) Expend funds for contributions to ""qualified organizations," as defined in section 170(h)(3) of the Internal Revenue Code of 1986, for the purchase of property interests or facilitating transactions relative thereto to be held by the qualified organization, when such purchase carries out the purposes of this chapter. Because such contributions further the protection of the state's natural resources, they are hereby declared to be a public purpose.

II. A vote under this section may be taken simultaneously with the adoption of this chapter or any time thereafter. If the vote is taken simultaneously with the adoption of this chapter, a separate question shall be placed on the warrant.

(a) The wording of the question under subparagraph I(a) shall be: ""Shall the town vote to adopt the provisions of RSA 36-A:4-a, I(a) to authorize the conservation commission to expend funds to purchase interests in land outside the boundaries of our municipality, subject to the approval of the local governing body?"

(b) The wording of the question under subparagraph I(b) shall be: ""Shall the town vote to adopt the provisions of RSA 36-A:4-a, I(b) to authorize the conservation commission to expend funds for contributions to 'qualified organizations' for the purchase of property interests, or facilitating transactions related thereto, where the property interest is to be held by the qualified organization and the town will retain no interest in the property?"

III. The provisions of this section may be rescinded by vote of the legislative body.

RSA 36-A:5 Appropriations Authorized. -

I. A town or city, having established a conservation commission as authorized by RSA 36-A:2, may appropriate money as deemed necessary for the purpose of this chapter. The whole or any part of money so appropriated in any year and any gifts of money received pursuant to RSA 36-A:4 may be placed in a conservation fund and allowed to accumulate from year to year. Money may be expended from said fund by the conservation commission for the purposes of this chapter without further approval of the town meeting.

II. The town treasurer, pursuant to RSA 41:29, shall have custody of all moneys in the conservation fund and shall pay out the same only upon order of the conservation commission. The disbursement of conservation funds shall be authorized by a majority of the conservation commission. Prior to the use of such funds for the purchase of any interest in real property or for a contribution to a qualified organization for the purchase of property interests under RSA 36-A:4-a, I(b), the conservation commission shall hold a public hearing with notice in accordance with RSA 675:7.

III. In the municipality that has adopted the provisions of RSA 79-A:25, II, the specified percentage of the revenues received pursuant to RSA 79-A shall be placed in the conservation fund.

RSA 36-A:6 Commissioner of Resources and Economic Development. - The commissioner of the department of resources and economic development may establish a program to assist, at their request, the cities and towns which have adopted the provisions of this chapter, in acquiring land and in planning of use and structures as described in RSA 36-A:2.

RSA 91-A:1 Preamble. - Openness in the conduct of public business is essential to a democratic society. The purpose of this chapter is to ensure both the greatest possible public access to the actions, discussions and records of all public bodies, and their accountability to the people.

RSA 91-A:1-a Definitions. - In this chapter:

I. ""Advisory committee" means any committee, council, commission, or other like body whose primary purpose is to consider an issue or issues designated by the appointing authority so as to provide such authority with advice or recommendations concerning the formulation of any public policy or legislation that may be promoted, modified, or opposed by such authority.

II. ""Governmental proceedings" means the transaction of any functions affecting any or all citizens of the state by a public body.

III. ""Governmental records" means any information created, accepted, or obtained by, or on behalf of, any public body, or a quorum or majority thereof, or any public agency in furtherance of

its official function. Without limiting the foregoing, the term "governmental records" includes any written communication or other information, whether in paper, electronic, or other physical form, received by a quorum or majority of a public body in furtherance of its official function, whether at a meeting or outside a meeting of the body. The term "governmental records" shall also include the term "public records."

IV. "Information" means knowledge, opinions, facts, or data of any kind and in whatever physical form kept or maintained, including, but not limited to, written, aural, visual, electronic, or other physical form.

V. "Public agency" means any agency, authority, department, or office of the state or of any county, town, municipal corporation, school district, school administrative unit, chartered public school, or other political subdivision.

VI. "Public body" means any of the following:

(a) The general court including executive sessions of committees; and including any advisory committee established by the general court.

(b) The executive council and the governor with the executive council; including any advisory committee established by the governor by executive order or by the executive council.

(c) Any board or commission of any state agency or authority, including the board of trustees of the university system of New Hampshire and any committee, advisory or otherwise, established by such entities.

(d) Any legislative body, governing body, board, commission, committee, agency, or authority of any county, town, municipal corporation, school district, school administrative unit, chartered public school, or other political subdivision, or any committee, subcommittee, or subordinate body thereof, or advisory committee thereto.

(e) Any corporation that has as its sole member the state of New Hampshire, any county, town, municipal corporation, school district, school administrative unit, village district, or other political subdivision, and that is determined by the Internal Revenue Service to be a tax exempt organization pursuant to section 501(c)(3) of the Internal Revenue Code.

RSA 91-A:2 Meetings Open to Public. -

I. For the purpose of this chapter, a "meeting" means the convening of a quorum of the membership of a public body, as defined in RSA 91-A:1-a, VI, or the majority of the members of such public body if the rules of that body define "quorum" as more than a majority of its members, whether in person, by means of telephone or electronic communication, or in any other manner such that all participating members are able to communicate with each other contemporaneously, subject to the provisions set forth in RSA 91-A:2, III, for the purpose of discussing or acting upon a matter or matters over which the public body has supervision, control, jurisdiction, or advisory power. A chance, social, or other encounter not convened for the purpose of discussing or acting upon such matters shall not constitute a meeting if no decisions are made regarding such matters. "Meeting" shall also not include:

(a) Strategy or negotiations with respect to collective bargaining;

(b) Consultation with legal counsel;

(c) A caucus consisting of elected members of a public body of the same political party who were elected on a partisan basis at a state general election or elected on a partisan basis by a town or city which has adopted a partisan ballot system pursuant to RSA 669:12 or RSA 44:2; or

(d) Circulation of draft documents which, when finalized, are intended only to formalize decisions previously made in a meeting; provided, that nothing in this subparagraph shall be construed to alter or affect the application of any other section of RSA 91-A to such documents or

related communications.

II. Subject to the provisions of RSA 91-A:3, all meetings, whether held in person, by means of telephone or electronic communication, or in any other manner, shall be open to the public. 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 public bodies, and a brief description of the subject matter discussed and final decisions, shall be promptly recorded and open to public inspection not more than 5 business days after the meeting, except as provided in RSA 91-A:6, and shall be treated as permanent records of any public body, 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 one of which may be the public body's Internet website, if such exists, or shall be printed in a newspaper of general circulation in 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 public body, who shall post a notice of the time and place of such meeting as soon as practicable, and shall employ whatever further means are reasonably 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 town or guidelines or rules of order of any public body 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. For the purposes of this paragraph, a business day means the hours of 8 a.m. to 5 p.m. on Monday through Friday, excluding national and state holidays.

III. A public body may, but is not required to, allow one or more members of the body to participate in a meeting by electronic or other means of communication for the benefit of the public and the governing body, subject to the provisions of this paragraph.

(a) A member of the public body may participate in a meeting other than by attendance in person at the location of the meeting only when such attendance is not reasonably practical. Any reason that such attendance is not reasonably practical shall be stated in the minutes of the meeting.

(b) Except in an emergency, a quorum of the public body shall be physically present at the location specified in the meeting notice as the location of the meeting. For purposes of this subparagraph, an "emergency" means that immediate action is imperative and the physical presence of a quorum is not reasonably practical within the period of time requiring action. The determination that an emergency exists shall be made by the chairman or presiding officer of the public body, and the facts upon which that determination is based shall be included in the minutes of the meeting.

(c) Each part of a meeting required to be open to the public shall be audible or otherwise discernable to the public at the location specified in the meeting notice as the location of the meeting. Each member participating electronically or otherwise must be able to simultaneously hear each other and speak to each other during the meeting, and shall be audible or otherwise discernable to the public in attendance at the meeting's location. Any member participating in such fashion shall identify the persons present in the location from which the member is participating. No meeting shall be conducted by electronic mail or any other form of communication that does

not permit the public to hear, read, or otherwise discern meeting discussion contemporaneously at the meeting location specified in the meeting notice.

(d) Any meeting held pursuant to the terms of this paragraph shall comply with all of the requirements of this chapter relating to public meetings, and shall not circumvent the spirit and purpose of this chapter as expressed in RSA 91-A:1.

(e) A member participating in a meeting by the means described in this paragraph is deemed to be present at the meeting for purposes of voting. All votes taken during such a meeting shall be by roll call vote.

RSA91-A:2-a Communications Outside Meetings. -

I. Unless exempted from the definition of "meeting" under RSA 91-A:2, I, public bodies shall deliberate on matters over which they have supervision, control, jurisdiction, or advisory power only in meetings held pursuant to and in compliance with the provisions of RSA 91-A:2, II or III.

II. Communications outside a meeting, including, but not limited to, sequential communications among members of a public body, shall not be used to circumvent the spirit and purpose of this chapter as expressed in RSA 91-A:1.

RSA 91-A:3 Nonpublic Sessions. -

I. (a) Public bodies 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 public body 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 or her, 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 public body itself, unless such person requests an open meeting. This exemption shall extend to any application for assistance or tax abatement or waiver of a fee, fine, or other levy, if based on inability to pay or poverty of the applicant.

(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 public body or any subdivision thereof, or against any member thereof because of his or her membership in such public body, until the claim or litigation has been fully adjudicated or otherwise settled. Any application filed for tax abatement, pursuant to law, with any body or board shall not constitute a threatened or filed litigation against any public body for the purposes of this subparagraph.

(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.

(i) Consideration of matters relating to the preparation for and the carrying out of emergency functions, including training to carry out such functions, developed by local or state safety officials that are directly intended to thwart a deliberate act that is intended to result in widespread or severe damage to property or widespread injury or loss of life.

III. Minutes of meetings 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 public body itself, or render the proposed action ineffective, or pertain to terrorism, more specifically, to matters relating to the preparation for and the carrying out of all emergency functions, developed by local or state safety officials that are directly intended to thwart a deliberate act that is intended to result in widespread or severe damage to property or widespread injury or loss of life. This shall include training to carry out such functions. 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.

RSA 91-A:4 Minutes and Records Available for Public Inspection. -

I. Every citizen during the regular or business hours of all public bodies or agencies, and on the regular business premises of such public bodies or agencies, has the right to inspect all governmental records in the possession, custody, or control of such public bodies or agencies, including minutes of meetings of the public bodies, and to copy and make memoranda or abstracts of the records or minutes so inspected, except as otherwise prohibited by statute or RSA 91-A:5. In this section, "to copy" means the reproduction of original records by whatever method, including but not limited to photography, photostatic copy, printing, or electronic or tape recording.

I-a. Records of any payment made to an employee of any public body or agency listed in RSA 91-A:1-a, VI(a)-(d), or to the employee's agent or designee, upon the resignation, discharge, or retirement of the employee, paid in addition to regular salary and accrued vacation, sick, or other leave, shall immediately be made available without alteration for public inspection. All records of payments shall be available for public inspection notwithstanding that the matter may have been considered or acted upon in nonpublic session pursuant to RSA 91-A:3.

II. After the completion of a meeting of a public body, every citizen, during the regular or business hours of such public body, and on the regular business premises of such public body, has the right to inspect all notes, materials, tapes, or other sources used for compiling the minutes of such meetings, and to make memoranda or abstracts or to copy such notes, materials, tapes, or sources inspected, except as otherwise prohibited by statute or RSA 91-A:5.

III. Each public body or agency shall keep and maintain all governmental records in its custody at its regular office or place of business in an accessible place and, if there is no such office or place of business, the governmental records pertaining to such public body or agency shall be kept in an office of the political subdivision in which such public body or agency is located or, in the case of a

state agency, in an office designated by the secretary of state.

III-a. Governmental records created or maintained in electronic form shall remain accessible for the same retention or archival periods as their paper counterparts. Methods that may be used to accomplish this requirement include, but are not limited to, copying to microfilm or paper or to durable electronic media using standard or common file formats.

III-b. A governmental record in electronic form shall no longer be subject to disclosure pursuant to this section after it has been initially and legally deleted. For purposes of this paragraph, a record in electronic form shall be considered to have been deleted only if it is no longer readily accessible to the public body or agency itself. The mere transfer of an electronic record to a readily accessible "deleted items" folder or similar location on a computer shall not constitute deletion of the record.

IV. Each public body or agency shall, upon request for any governmental record reasonably described, make available for inspection and copying any such governmental record within its files when such records are immediately available for such release. If a public body or agency is unable to make a governmental record available for immediate inspection and copying, it shall, within 5 business days of request, make such record available, deny the request in writing with reasons, or furnish written acknowledgment of the receipt of the request and a statement of the time reasonably necessary to determine whether the request shall be granted or denied. If a computer, photocopying machine, or other device maintained for use by a public body or agency is used by the public body or agency to copy the governmental record requested, the person requesting the copy may be charged the actual cost of providing the copy, which cost may be collected by the public body or agency. Nothing in this section shall exempt any person from paying fees otherwise established by law for obtaining copies of governmental records or documents, but if such fee is established for the copy, no additional costs or fees shall be charged.

V. In the same manner as set forth in RSA 91-A:4, IV, any public body or agency which maintains governmental records in electronic format may, in lieu of providing original records, copy governmental records requested to electronic media using standard or common file formats in a manner that does not reveal information which is confidential under this chapter or any other law. If copying to electronic media is not reasonably practicable, or if the person or entity requesting access requests a different method, the public body or agency may provide a printout of governmental records requested, or may use any other means reasonably calculated to comply with the request in light of the purpose of this chapter as expressed in RSA 91-A:1. Access to work papers, personnel data, and other confidential information under RSA 91-A:5, IV shall not be provided.

VI. Every agreement to settle a lawsuit against a governmental unit, threatened lawsuit, or other claim, entered into by any political subdivision or its insurer, shall be kept on file at the municipal clerk's office and made available for public inspection for a period of no less than 10 years from the date of settlement.

VII. Nothing in this chapter shall be construed to require a public body or agency to compile, cross-reference, or assemble information into a form in which it is not already kept or reported by that body or agency.

RSA 91-A:5 Exemptions. - The following governmental records are exempted from the provisions of this chapter:

- I. Records of grand and petit juries.
- II. Records of parole and pardon boards.
- III. Personal school records of pupils.
- IV. Records pertaining to internal personnel practices; confidential, commercial, or financial

information; test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examinations; and personnel, medical, welfare, library user, videotape sale or rental, and other files whose disclosure would constitute invasion of privacy. Without otherwise compromising the confidentiality of the files, nothing in this paragraph shall prohibit a public body or agency from releasing information relative to health or safety from investigative files on a limited basis to persons whose health or safety may be affected.

V. Teacher certification records in the department of education, provided that the department shall make available teacher certification status information.

VI. Records pertaining to matters relating to the preparation for and the carrying out of all emergency functions, including training to carry out such functions, developed by local or state safety officials that are directly intended to thwart a deliberate act that is intended to result in widespread or severe damage to property or widespread injury or loss of life.

VII. Unique pupil identification information collected in accordance with RSA 193-E:5.

VIII. Any notes or other materials made for personal use that do not have an official purpose, including but not limited to, notes and materials made prior to, during, or after a governmental proceeding.

IX. Preliminary drafts, notes, and memoranda and other documents not in their final form and not disclosed, circulated, or available to a quorum or a majority of the members of a public body.

RSA 91-A:5-a Limited Purpose Release. - Records from non-public sessions under RSA 91-A:3, II(i) or that are exempt under RSA 91-A:5, VI may be released to local or state safety officials. Records released under this section shall be marked ""limited purpose release" and shall not be redisclosed by the recipient.

RSA 91-A:6 Employment Security. - This chapter shall apply to RSA 282-A, relative to employment security; however, in addition to the exemptions under RSA 91-A:5, the provisions of RSA 282-A:117-123 shall also apply; this provision shall be administered and construed in the spirit of that section, and the exemptions from the provisions of this chapter shall include anything exempt from public inspection under RSA 282-A:117-123 together with all records and data developed from RSA 282-A:117-123.

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RSA 91-A:7 Violation. - Any person aggrieved by a violation of this chapter may petition the superior court for injunctive relief. In order to satisfy the purposes of this chapter, the courts shall give proceedings under this chapter high priority on the court calendar. Such a petitioner may appear with or without counsel. The petition shall be deemed sufficient if it states facts constituting a violation of this chapter, and may be filed by the petitioner or his or her counsel with the clerk of court or any justice thereof. Thereupon the clerk of court or any justice shall order service by copy of the petition on the person or persons charged. When any justice shall find that time probably is of the essence, he or she may order notice by any reasonable means, and he or she shall have authority to issue an order ex parte when he or she shall reasonably deem such an order necessary to insure compliance with the provisions of this chapter.

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RSA 91-A:8 Remedies. -

I. If any public body or agency or employee or member thereof, in violation of the provisions of this chapter, refuses to provide a governmental record or refuses access to a governmental proceeding to a person who reasonably requests the same, such public body, public agency, or

person shall be liable for reasonable attorney's fees and costs incurred in a lawsuit under this chapter provided that the court finds that such lawsuit was necessary in order to make the information available or the proceeding open to the public. Fees shall not be awarded unless the court finds that the public body, public agency, or person knew or should have known that the conduct engaged in was a violation of this chapter or where the parties, by agreement, provide that no such fees shall be paid. In any case where fees are awarded under this chapter, upon a finding that an officer, employee, or other official of a public body or agency has acted in bad faith in refusing to allow access to a governmental proceeding or to provide a governmental record, the court may award such fees personally against such officer, employee, or other official.

I-a. The court may award attorney's fees to a public body or public agency or employee or member thereof, for having to defend against a person's lawsuit under the provisions of this chapter, when the court makes an affirmative finding that the lawsuit is in bad faith, frivolous, unjust, vexatious, wanton, or oppressive.

II. The court may invalidate an action of a public body or agency taken at a meeting held in violation of the provisions of this chapter, if the circumstances justify such invalidation.

III. In addition to any other relief awarded pursuant to this chapter, the court may issue an order to enjoin future violations of this chapter.

RSA 91-A:9 Destruction of Certain Information Prohibited. - A person is guilty of a misdemeanor who knowingly destroys any information with the purpose to prevent such information from being inspected or disclosed in response to a request under this chapter. If a request for inspection is denied on the grounds that the information is exempt under this chapter, the requested material shall be preserved for 90 days or while any lawsuit pursuant to RSA 91-A:7-8 is pending.

RSA 91-A:10 Release of Statistical Tables and Limited Data Sets for Research. -

I. In this subdivision:

(a) "Agency" means each state board, commission, department, institution, officer or other state official or group.

(b) "Agency head" means the head of any governmental agency which is responsible for the collection and use of any data on persons or summary data.

(c) "Cell size" means the count of individuals that share a set of characteristics contained in a statistical table.

(d) "Data set" means a collection of personal information on one or more individuals, whether in electronic or manual files.

(e) "Direct identifiers" means:

(1) Names.

(2) Postal address information other than town or city, state, and zip code.

(3) Telephone and fax numbers.

(4) Electronic mail addresses.

(5) Social security numbers.

(6) Certificate and license numbers.

(7) Vehicle identifiers and serial numbers, including license plate numbers.

(8) Personal Internet IP addresses and URLs.

(9) Biometric identifiers, including finger and voice prints.

(10) Personal photographic images.

(f) "Individual" means a human being, alive or dead, who is the subject of personal information and includes the individual's legal or other authorized representative.

(g) "Limited data set" means a data set from which all direct identifiers have been removed or blanked.

(h) "Personal information" means information relating to an individual that is reported to the state or is derived from any interaction between the state and an individual and which:

(1) Contains direct identifiers.

(2) Is under the control of the state.

(i) "Provided by law" means use and disclosure as permitted or required by New Hampshire state law governing programs or activities undertaken by the state or its agencies, or required by federal law.

(j) "Public record" means records available to any person without restriction.

(k) "State" means the state of New Hampshire, its agencies or instrumentalities.

(l) "Statistical table" means single or multi-variate counts based on the personal information contained in a data set and which does not include any direct identifiers.

II. Except as otherwise provided by law, upon request an agency shall release limited data sets and statistical tables with any cell size more than 0 and less than 5 contained in agency files to requestors for the purposes of research under the following conditions:

(a) The requestor submits a written application that contains:

(1) The following information about the principal investigator in charge of the research:

(A) name, address, and phone number;

(B) organizational affiliation;

(C) professional qualification; and

(D) name and phone number of principal investigator's contact person, if any.

(2) The names and qualifications of additional research staff, if any, who will have access to the data.

(3) A research protocol which shall contain:

(A) a summary of background, purposes, and origin of the research;

(B) a statement of the general problem or issue to be addressed by the research;

(C) the research design and methodology including either the topics of exploratory research or the specific research hypotheses to be tested;

(D) the procedures that will be followed to maintain the confidentiality of any data or copies of records provided to the investigator; and

(E) the intended research completion date.

(4) The following information about the data or statistical tables being requested:

(A) general types of information;

(B) time period of the data or statistical tables;

(C) specific data items or fields of information required, if applicable;

(D) medium in which the data or statistical tables are to be supplied; and

(E) any special format or layout of data requested by the principal investigator.

(b) The requestor signs a "Data Use Agreement" signed by the principal investigator that contains the following:

(1) Agreement not to use or further disclose the information to any person or organization other than as described in the application and as permitted by the Data Use Agreement without the written consent of the agency.

(2) Agreement not to use or further disclose the information as otherwise required by law.

(3) Agreement not to seek to ascertain the identity of individuals revealed in the limited data set and/or statistical tables.

(4) Agreement not to publish or make public the content of cells in statistical tables in which

the cell size is more than 0 and less than 5 unless:

- (A) otherwise provided by law; or
- (B) the information is a public record.

(5) Agreement to report to the agency any use or disclosure of the information contrary to the agreement of which the principal investigator becomes aware.

(6) A date on which the data set and/or statistical tables will be returned to the agency and/or all copies in the possession of the requestor will be destroyed.

III. The agency head shall release limited data sets and statistical tables and sign the Data Use Agreement on behalf of the state when:

- (a) The application submitted is complete.
- (b) Adequate measures to ensure the confidentiality of any person are documented.
- (c) The investigator and research staff are qualified as indicated by:
 - (1) Documentation of training and previous research, including prior publications; and
 - (2) Affiliation with a university, private research organization, medical center, state agency, or other institution which will provide sufficient research resources.
- (d) There is no other state law, federal law, or federal regulation prohibiting release of the requested information.

IV. Within 10 days of a receipt of written application, the agency head, or designee, shall respond to the request. Whenever the agency head denies release of requested information, the agency head shall send the requestor a letter identifying the specific criteria which are the basis of the denial. Should release be denied due to other law, the letter shall identify the specific state law, federal law, or federal regulation prohibiting the release. Otherwise the agency head shall provide the requested data or set a date on which the data shall be provided.

V. Any person violating any provision of a signed Data Use Agreement shall be guilty of a violation.

VI. Nothing in this section shall exempt any requestor from paying fees otherwise established by law for obtaining copies of limited data sets or statistical tables. Such fees shall be based on the cost of providing the copy in the format requested. The agency head shall provide the requestor with a written description of the basis for the fee.

[RSA 91-A:11 repealed by 2005, 3:2 effective Nov. 1, 2010.]

91-A:11 Oversight Commission Established. -

There is established an oversight commission to study and oversee the right-to-know law in light of the supreme court's decision in *Hawkins v. N.H. Department of Health and Human Services* and increasing use of electronic communications in the transaction of governmental business.

[RSA 91-A:12 repealed by 2005, 3:2 effective Nov. 1, 2010.]

91-A:12 Membership and Compensation. -

I. The members of the oversight commission shall be as follows:

- (a) Four members of the house of representatives, one from the science, technology and energy committee, one from the municipal and county government committee, one from the judiciary committee, and one other member, appointed by the speaker of the house.
- (b) Three members of the senate, appointed by the president of the senate.
- (c) Three municipal officials, appointed by the New Hampshire Municipal Association.
- (d) One school board member, appointed by the New Hampshire School Boards Association.
- (e) One school administrator, appointed by the New Hampshire School Administrators Association.

(f) Two county officials, appointed by the New Hampshire Association of Counties.

(g) Four members of the public, one of whom shall be an attorney who has knowledge of and experience with the right-to-know law, one of whom shall be an information technology professional, and one of whom shall be a telecommunications professional, all appointed by the governor with the consent of the council.

(h) The attorney general, or designee.

II. Legislative members of the commission shall receive mileage at the legislative rate when attending to the duties of the commission.

[RSA 91-A:13 repealed by 2005, 3:2 effective Nov. 1, 2010.]

91-A:13 Duties. -

The commission shall study:

I. The need for disclosure requirements or guidelines for email and other electronic communication occurring between and among state, county, and local government appointed and elected officials and employees of governmental entities.

II. The need for disclosure requirements or guidelines for electronic communications with constituents of state, county, and local government appointed and elected officials and employees of governmental entities.

III. Archival requirements for electronic documents.

IV. The status of proprietary data within the definitions of the right-to-know law.

V. The ability to recover costs relative to the retrieval of electronic files and communications.

VI. Issues relative to public records posted to web sites of governmental entities.

VII. Whether a member of a body subject to the right-to-know law may participate in a meeting by teleconference or other electronic means.

VIII. The extent to which the public will be provided access to stored computer data under the right-to-know law.

IX. Any other matter deemed relevant by the commission.

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RSA 91-A:14 repealed by 2005, 3:2 effective Nov. 1, 2010.]

91-A:14 Chairperson; Quorum. -

The members of the commission shall elect a chairperson from among the members. Nine members of the commission shall constitute a quorum.

[RSA 91-A:15 repealed by 2005, 3:2 effective Nov. 1, 2010.]

91-A:15 Report. -

The commission shall make an annual report beginning on November 1, 2005, together with its findings and any recommendations for proposed legislation to the speaker of the house of representatives, the senate president, and the governor.

. RSA 673:1 Establishment of Local Land Use Boards. -

I. Any local legislative body may establish a planning board, the members of which shall be residents of the municipality.

II. Any local legislative body may establish any or all of the following: a heritage commission, a historic district commission, an agricultural commission, and a housing commission.

III. Any local legislative body may provide for the appointment of an inspector of buildings. The local legislative body may fix the compensation for any inspector who is so appointed.

IV. Every zoning ordinance adopted by a local legislative body shall include provisions for the

establishment of a zoning board of adjustment.

V. Every building code adopted by a local legislative body shall include provisions for the establishment of the position of a building inspector, who shall issue building permits, and for the establishment of a building code board of appeals. If no provision is made to establish a separate building code board of appeals, the ordinance shall designate the zoning board of adjustment to act as the building code board of appeals. If there is no zoning board of adjustment, the board of selectmen shall serve as the building code board of appeals.

RSA 673:2 Planning Board. -

I. (a) In cities, the planning board shall consist of 9 members:

(1) The mayor of the city, or with the approval of the local legislative body the mayor's designee, who shall be an ex officio member;

(2) An administrative official of the city selected by the mayor, who shall be an ex officio member;

(3) A member of the city council selected by the council, who shall be an ex officio member; and

(4) Six persons appointed by the mayor, if the mayor is an elected official, or such other method of appointment or election as shall be provided for by the local legislative body or municipal charter.

(b) Alternatively, the local legislative body in a city with a city council-city manager form of government may establish a planning board with membership as provided in paragraph I-a.

I-a. In cities with a city council-city manager form of government, the planning board may consist of the following 9 members:

(a) The city manager, or with the approval of the local legislative body the city manager's designee, who shall be an ex officio member;

(b) A member of the city council selected by the council, who shall be an ex officio member; and

(c) Seven persons appointed by the mayor, if the mayor is an elected official, or such other method of appointment or election as shall be provided for by the local legislative body or municipal charter.

I-b. In towns which operate under the town council form of government, the planning board shall consist of 7 or 9 members, as determined by the local legislative body or by the municipal charter. If the planning board shall consist of 9 members, the members shall be the persons listed in paragraph I. If the planning board shall consist of 7 members, the members shall be as follows:

(a) A member of the town council or administrative official of the town selected by the town council, who shall be an ex officio member; and

(b) Six persons appointed by the mayor, if the mayor is an elected official, or such other method of appointment or election as shall be provided for by the local legislative body or municipal charter.

II. In other towns, the planning board shall consist of 5 or 7 members as determined by the local legislative body. The membership shall be filled by one of the following procedures:

(a) The selectmen shall designate one selectman or administrative official of the town as an ex officio member and appoint 4 or 6 other persons who are residents of the town, as appropriate; or

(b) The local legislative body may decide, by majority vote at the town meeting, that planning board members shall be elected according to either the procedure in subparagraph (1) or in subparagraph (2). The official ballot shall be used on every referendum for the adoption of RSA

673:2, II(b)(1) or (2), and every subsequent rescission of such adoption pursuant to subparagraph (c). The wording on the official ballot of any referendum for the adoption of RSA 673:2, II(b)(1) or (2) shall specifically state which procedure for electing planning board members is being voted upon. Following the majority vote at town meeting, planning board members shall be elected as follows:

(1) The selectmen shall choose one selectman or administrative official of the town as an ex officio member and the remaining planning board positions shall be filled at the next regular town election pursuant to RSA 669:17. Thereafter, a planning board member shall be elected for the term provided under RSA 673:5, II; or

(2) The selectmen shall choose one selectman or administrative official of the town as an ex officio member and the remaining planning board positions shall be filled on a staggered basis at the subsequent regular town elections pursuant to RSA 669:17 as the term of an appointed member expires, until each member of the board is an elected member. The maximum number of elections to occur annually shall be as provided in RSA 673:5, II. When each planning board member is an elected member, such member shall be elected for the term provided in RSA 673:5, II.

(c) A local legislative body which has voted to elect planning board members may, by majority vote at town meeting, decide to rescind that action and have the planning board appointed in the manner set forth in subparagraph (a). The vote to have planning board members so appointed shall take effect upon adoption by the town meeting, and the selectmen shall forthwith appoint members in accordance with RSA 673:5. The planning board shall, however, continue in existence, and the elected members in office at the time of the town meeting vote to appoint members may continue to serve until their successors are appointed and qualified.

III. In village districts, the planning board shall consist of either 5 or 7 members as determined by the village district meeting. The district commissioners shall:

(a) Designate one district commissioner or administrative official of the district as an ex officio member; and

(b) Appoint 4 or 6 other persons who are residents of the village district, as appropriate.

IV. In counties in which there are located unincorporated towns or unorganized places, the planning board shall consist of 5 or 9 members. The county commissioners shall recommend appointees to the planning board, and the appointees shall be approved by the county delegation. Planning board members shall be residents of the county, and shall be evenly distributed geographically throughout the county. The membership of the planning board shall be as follows:

(a) The chairperson of the board of county commissioners or designee shall be an ex officio member.

(b) A member of the county convention selected by the convention shall be an ex officio member.

(c) An administrative official of the county selected by the chairperson of the board of county commissioners shall be an ex officio member.

(d) Two or 6 persons appointed by the board of county commissioners and approved by the county convention.

(e) One or 3 alternates appointed by the board of county commissioners and approved by the county convention.

RSA 673:3 Zoning Board of Adjustment and Building Code Board of Appeals. -

I. The zoning board of adjustment shall consist of 5 members. The members of the board shall either be elected in the manner prescribed by RSA 669, or appointed in a manner prescribed by the local legislative body. Each member of the board shall be a resident of the municipality in order to

be appointed or elected.

II. Zoning board of adjustment members who are elected shall be elected for the term provided under RSA 673:5, II. The terms of appointed members of zoning boards of adjustment in municipalities in office on the effective date of an affirmative decision to elect such board members shall not be affected by the decision. However, when the term of each member expires, each new member shall be elected at the next regular municipal election for the term provided under RSA 673:5, II.

III. A local legislative body which has provided for the election of zoning board of adjustment members may rescind that action, in which event members shall thereafter be appointed in a manner prescribed by the local legislative body. The elected board shall, however, continue in existence, and the elected members in office may continue to serve until their successors are appointed and qualified.

IV. The building code board of appeals shall consist of 3 or 5 members who shall be appointed in a manner prescribed by the local legislative body; provided, however, that an elected zoning board of adjustment may act as the building code board of appeals pursuant to RSA 673:1, V. Each member of the board shall be a resident of the municipality in order to be appointed.

RSA673:3-a Training. - Within 6 months of assuming office for the first time, any non-ex-officio member of the zoning board of adjustment and the planning board may at the member's option complete at least 6 hours of training for the member's respective position. The training shall be designed and furnished by the office of energy and planning.

RSA 673:4 Historic District Commission. -

I. The historic district commission shall consist of not less than 3 members and no more than 7 members who shall be appointed in a manner as prescribed by the local legislative body.

II. Each historic district commission member shall be a resident of the city or town which establishes the district. One commission member shall be a member of the local governing body and one commission member may be a member of the planning board. Not more than 5 alternate members may be appointed. When an alternate sits in absence or disqualification of a regular member, the alternate shall have full voting powers. In determining each member's qualifications, the appointing authority shall take into consideration the appointee's demonstrated interest and ability to understand, appreciate and promote the purposes of the historic district commission.

III. Members of a historic district commission also may serve on other municipal boards and commissions, including but not limited to a conservation commission established under RSA 36-A, and a heritage commission established under RSA 673:4-a.

RSA673:4-a Heritage Commissions. -

I. The heritage commission shall consist of not less than 3 members and no more than 7 members who shall be appointed in a manner as prescribed by the local legislative body.

II. Each heritage commission member shall be a resident of the city or town which establishes the commission. One commission member shall be a member of the local governing body. One commission member may be a member of the planning board. Not more than 5 alternate members may be appointed. When an alternate sits in absence or disqualification of a regular member, the alternate shall have full voting powers. If there is a historic district commission, one member of this commission shall be an ex officio member of the heritage commission. In determining each member's qualifications, the appointing authority shall take into consideration the appointee's demonstrated interest and ability to understand, appreciate and promote the purpose of the

heritage commission.

III. Members of a heritage commission also may serve on other municipal boards and commissions, including but not limited to a conservation commission established under RSA 36-A, and a historic district commission established under RSA 673:4.

RSA673:4-b Agricultural Commissions. -

I. The agricultural commission shall consist of not less than 3 members and no more than 7 members who shall be appointed in a manner as prescribed by the local legislative body.

II. Each agricultural commission member shall be a resident of the city or town which establishes the commission. One commission member may be a member of the local governing body. One commission member may be a member of the planning board. Not more than 5 alternate members may be appointed. When an alternate sits in absence or disqualification of a regular member, the alternate shall have full voting powers. In determining each member's qualifications, the appointing authority shall take into consideration the appointee's demonstrated interest and ability to understand, appreciate, and promote the purpose of the agricultural commission.

III. Members of an agricultural commission also may serve on other municipal boards and commissions, including but not limited to a conservation commission established under RSA 36-A, a historic district commission established under RSA 674:46, or a heritage commission established under RSA 674:44-a.

RSA673:4-c Housing Commissions. -

I. The housing commission shall consist of not less than 3 members and no more than 7 members who shall be appointed in a manner as prescribed by the local legislative body.

II. Each housing commission member shall be a resident of the city or town which establishes the commission. One commission member may be a member of the local governing body. One commission member may be a member of the planning board. Not more than 5 alternate members may be appointed. When an alternate sits in absence or disqualification of a regular member, the alternate shall have full voting powers. In determining each member's qualifications, the appointing authority shall take into consideration the appointee's demonstrated interest and ability to understand, appreciate, and promote the purpose of the housing commission.

III. Members of a housing commission also may serve on other municipal boards and commissions, including but not limited to a conservation commission established under RSA 36-A, a historic district commission established under RSA 674:46, a heritage commission established under RSA 674:44-a, or an agriculture commission established under RSA 674:44-e.

RSA673:5 Terms of Local Land Use Board Members. -

I. (a) Except as provided in subparagraph (b), the term of any ex officio member serving on a local land use board shall coincide with the term for that other office; except that the term of the administrative official appointed by the mayor shall terminate with the term of office of the mayor appointing the official, and that the term of the administrative official appointed by the town council, board of selectmen, or village district commissioners shall be for one year.

(b) A city or town council, board of selectmen, or the village district commissioners may determine that the city or town council member, the selectman member or the village district commission member shall be subject to a 4 month or an annual appointment under such conditions as it determines.

II. The term of an elected or appointed local land use board member shall be 3 years. The initial terms of members first appointed or elected to any local land use board shall be staggered so that

no more than 3 appointments or elections occur annually in the case of a 7 or 9 member board and no more than 2 appointments or elections occur annually in the case of a 5 member board, except when required to fill vacancies.

RSA 673:6 Appointment, Number and Terms of Alternate Members. -

I. (a) The local legislative body may provide for the appointment of not more than 5 alternate members to any appointed local land use board, who shall be appointed by the appointing authority. The terms of alternate members shall be 3 years.

(b) In a town which votes to elect its planning board members on a staggered basis according to the provisions of RSA 673:2, II(b)(2), alternate members of the planning board shall continue to be appointed according to the provisions of this paragraph until each member of the board is an elected member. Thereafter, the alternate planning board members shall be appointed according to the provisions of paragraph II.

II. An elected planning board may appoint 5 alternate members for a term of 3 years each, which shall be staggered in the same manner as elected members pursuant to RSA 673:5, II.

II-a. An elected zoning board of adjustment may appoint 5 alternate members for a term of 3 years each, which shall be staggered in the same manner as elected members pursuant to RSA 673:5, II.

III. The alternate for a city or town council member, selectman, or village district commission member shall be appointed by the respective council, board, or commission. The terms of alternate members shall be the same as those of the respective members and may be in addition to the alternates provided for in paragraph I.

IV. Every alternate member appointed to a planning board under this section shall comply with the multiple membership requirements of RSA 673:7, I and II.

RSA 673:7 Planning Board Members Serving on Other Local Boards. -

I. In the case of towns, appointed or elected members of the planning board may also serve on any other municipal board or commission, provided that such multiple membership does not result in 2 planning board members serving on the same board or commission.

II. In cities, appointed members shall not hold any other municipal office, except that:

(a) One of the appointed members may be a member of the zoning board of adjustment;

(b) Either one appointed member or one ex officio member may be a member of the conservation commission if one exists in the city; and

(c) Either one appointed member or one ex officio member may be a member of the heritage commission, the historic district commission, the agricultural commission, the housing commission, or all 4 if such commissions exist in the municipality.

III. In counties in which there are located unincorporated towns or unorganized places, the county commissioners shall determine which members of the planning board for those towns and places, if any, may serve on other municipal boards or commissions.

RSA 673:8 Organization. - Each local land use board shall elect its chairperson from the appointed or elected members and may create other offices as it deems necessary.

RSA 673:9 Term of Chairperson and Officers. -

I. The term of every officer and chairperson elected by a local land use board shall be one year. Both the chairperson and officers shall be eligible for reelection.

II. In the case of planning boards, an ex officio member shall not serve as chairperson.

RSA 673:10 Scheduling of Meetings. -

I. Meetings of the heritage commission, the historic district commission, the agricultural commission, the housing commission, the building code board of appeals, and the zoning board of adjustment shall be held at the call of the chairperson and at such other times as the board may determine.

II. The planning board shall hold at least one regular meeting in each month.

III. A majority of the membership of a local land use board shall constitute the quorum necessary in order to transact business at any meeting of a local land use board.

RSA 673:11 Designation of Alternate Members. - Whenever a regular member of a local land use board is absent or whenever a regular member disqualifies himself or herself, the chairperson shall designate an alternate, if one is present, to act in the absent member's place; except that only the alternate designated for the city or town council, board of selectmen, or village district commission member shall serve in place of that member.

RSA 673:12 Filling Vacancies in Membership. - Vacancies in the membership of a local land use board occurring other than through the expiration of a term of office shall be filled as follows:

I. For an elected member, by appointment by the remaining board members until the next regular municipal election at which time a successor shall be elected to either fill the unexpired term or start a new term, as appropriate.

II. For an appointed, ex officio, or alternate member, by the original appointing or designating authority, for the unexpired term.

RSA 673:13 Removal of Members. -

I. After public hearing, appointed members and alternate members of an appointed local land use board may be removed by the appointing authority upon written findings of inefficiency, neglect of duty, or malfeasance in office.

II. The board of selectmen may, for any cause enumerated in paragraph I, remove an elected member or alternate member after a public hearing.

III. The appointing authority or the planning board shall file with the city or town clerk, the village district clerk, or the clerk for the county commissioners, whichever is appropriate, a written statement of reasons for removal under this section.

IV. The council, selectmen, county commissioners with the approval of the county delegation, or district commissioners may for any cause enumerated in this section remove the members selected by them.

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RSA 673:14 Disqualification of Member. -

I. No member of a zoning board of adjustment, building code board of appeals, planning board, heritage commission, historic district commission, agricultural commission, or housing commission shall participate in deciding or shall sit upon the hearing of any question which the board 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.

II. When uncertainty arises as to the application of paragraph I to a board member in particular

circumstances, the board 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 board members, except as provided by local ordinance or by a procedural rule adopted under RSA 676:1.

III. If a member is disqualified or unable to act in any particular case pending before the board, the chairperson shall designate an alternate to act in the member's place, as provided in RSA 673:11.

RSA 673:15 Power to Compel Witness Attendance and Administer Oaths. - The chairperson of the zoning board of adjustment or the chairperson of the building code board of appeals or, in the chairperson's absence, the acting chairperson may administer oaths. Whenever the board exercises its regulatory or quasi judicial powers it may, at its sole discretion, compel the attendance of witnesses. All expenses incurred under this section for compelling the attendance of a witness shall be paid by the party or parties requesting that a witness be compelled to attend a meeting of the board.

RSA 673:16 Staff; Finances. -

I. Each local land use board may appoint such employees as it deems necessary for its work who shall be subject to the same employment rules as other corresponding civil employees of the municipality. Each board may also contract with planners, engineers, architects, and other consultants for such services as it may require. The expenditures of the board, exclusive of gifts, reimbursements, or amounts held pursuant to paragraph II, shall be within the amounts appropriated for the purpose by the local legislative body, which may provide such funds, equipment, and accommodations as it deems necessary or advisable for the board's work. Each board may accept and use gifts, grants, or contributions for the exercise of its functions, in accordance with procedures established for the expenditure of funds within the municipality.

II. Any fee which a local land use board, acting pursuant to this title, collects from an applicant to cover an expense lawfully imposed upon that applicant, including but not limited to the expense of notice, the expense of consultant services or investigative studies under RSA 676:4, I(g), or the implementation of conditions lawfully imposed as part of a conditional approval, may be paid out toward that expense without approval of the local legislative body. Such fees:

(a) Shall, whenever held by the municipality, be placed in the custody of the municipal treasurer, subject to the same investment limitations as for other municipal funds.

(b) Shall be paid out only for the purpose for which the expense was imposed upon the applicant.

(c) Shall be held in a separate, nonlapsing account, and not commingled with other municipal funds; provided, however, that such fees may be used to reimburse any account from which an amount has been paid out in anticipation of the receipt of said fees.

(d) Shall be paid out by the municipal treasurer only upon order of the local land use board or its designated agent for such purpose. This paragraph shall not apply to application, permit, or inspection fees which have been set by the local legislative body as part of an ordinance, or by the selectmen under RSA 41:9-a. Notwithstanding RSA 672:7, a building inspector shall not be considered a "local land use board" for purposes of this section.

RSA 673:17 Open Meetings; Records. - Each local land use board shall hold its meetings and maintain its records in accordance with RSA 91-A.

RSA 673:18 Abolishing Planning Board, Heritage Commission, Historic District Commission, Agricultural Commission, or Housing Commission. -

I. The local legislative body of a city, of a county in which there are located unincorporated towns or unorganized places, or of a town operating under the town council form of government, shall determine the manner in which the planning board, the heritage commission, the historic district commission, the agricultural commission, or the housing commission may be abolished.

II. In all other towns, upon a petition to abolish the planning board, the heritage commission, the historic district commission, the agricultural commission, or the housing commission, signed by 100 or more voters or 1/10 of the registered voters in town, whichever number is less, the planning board, heritage commission, historic district commission, agricultural commission, or housing commission shall submit the proposal to the town or village district in the same manner prescribed in RSA 675:4, except that the question put to the voters shall be in substantially the following form: ""Are you in favor of abolishing the planning board (heritage commission, historic district commission, agricultural commission, or housing commission) as proposed by petition of the voters of this town (village district)?"

RSA 673:19 Effect of Abolishing Planning Boards. - Upon the effective date of the abolition of a planning board, all land use control activities in the municipality formerly performed by the planning board shall cease. Existing zoning ordinances shall remain in effect following the abolition date for a period not to exceed 2 years from the date of such action, but no amendment to a zoning ordinance requiring action by the former planning board shall be permitted.

RSA 673:20 Effect of Abolishing Heritage Commissions, Historic District Commissions, Agricultural Commissions, and Housing Commissions. - Upon the effective date of the abolition of a heritage commission, historic district commission, agricultural commission, or housing commission all the powers and duties of such commission shall cease.

RSA 673:21 Transfer of Documents Upon Abolition of Planning Board, Heritage Commission, Historic District Commission, Agricultural Commission, and Housing Commission. -

I. Whenever a heritage commission, historic district commission, agricultural commission, or housing commission is abolished, the records shall be transferred to the planning board. In a municipality where a planning board does not exist, the records shall be transferred to the city, town, or village district clerk, or to the clerk for the county commissioners, whichever is appropriate.

II. Whenever a planning board is abolished, the records shall be transferred to the city or town clerk, to the clerk of the board of district commissioners, or to the clerk for the county commissioners, whichever is appropriate.

RSA 673:22 Transfer of Documents Upon Abolition of Zoning Ordinance or Building Code. -

I. Whenever a zoning ordinance is abolished, the records of the zoning board of adjustment shall be transferred to the planning board.

II. Whenever a building code is abolished, the records of the building code board of appeals shall be transferred to the planning board.

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 this 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.