

Weare Heritage Commission

BY-LAWS & RULES OF PROCEDURE

TOWN OF WEARE, NEW HAMPSHIRE
Adopted September 22, 2010

- I. **Authority:** The Weare Heritage Commission (herein, the Commission) was established on by the voters of the Town of Weare on March 14, 2006 (Town Meeting Warrant Article 41) pursuant to RSA 673:1 II. The Commission has adopted these Rules of Procedure to prescribe the method of conducting its business pursuant to RSA 676:1, RSA 673, RSA 674, RSA 676 and RSA 91-A.
- II. **Title:** The Commission is hereby designated as the “Weare Heritage Commission”.
- III. **Purpose:** The Weare Heritage Commission is established in accordance with RSA 673 for the proper recognition, use, and protection of resources, tangible or intangible, primarily man-made, that are valued for their historic, cultural, aesthetic, or community significance within their natural, built, or cultural contexts.
- IV. **Powers:** Pursuant to RSA 674:44-b the Commission shall have advisory and review authority, specifically, as follows:
 1. Survey and inventory all cultural resources.
 2. Conduct research and publish findings, including reports to establish the legal basis for a district and preparation of heritage district ordinances within the Town prior to its adoption or amendment as provided in RSA 675:6.
 3. Assist the Planning Board, as requested, in the development and review of those sections of the Master Plan which address cultural and historic resources.
 4. Advise, upon request, local agencies and other local boards in their review of requests on matters affecting or potentially affecting cultural and historic resources.
 5. Coordinate activities with appropriate service organizations and nonprofit groups.
 6. Publicize its activities.
 7. Hire consultants and contractors as needed.
 8. Receive gifts of money and property, both real and personal, in the name of the Town, subject to the approval of the Board of Selectmen such gifts to be managed and controlled by the Commission for its proper purpose.
 9. Hold meetings and hearings necessary to carry out its duties.

Advisory Role to Town Boards and Commissions: (Examples): The Commission may assist and advise the Board of Selectmen in the review of applications submitted for RSA 79-D (Barn Easement) and RSA 79-E (Village Revitalization Tax Incentive), and make recommendations relative to those and other matters that may affect historical and cultural resources. The Commission may also assist and advise the Conservation commission and Land Use Boards in review of applications that may impact historical and cultural resources, and participate in the preparation of preservation-related ordinances and periodic master plan updates.

Historic District Commission: Pursuant to RSA 674:44-b III the Heritage Commission also may assume, if authorized by the local legislative body, the composition and duties of a Historic District Commission.

- V. **Appropriations and expenditures:** Pursuant to RSA 674:44-d upon establishment of the Weare Heritage Commission, the Town may appropriate money as deemed necessary to carry out its purposes. The whole or any part of money so appropriated in any year and any gifts of money received pursuant to RSA 674:44-b shall be placed in a Heritage Fund and allowed to accumulate from year to year. Money may be expended from such fund by the Heritage Commission for its purposes without further approval of the town meeting.

The Town Treasurer, pursuant to RSA 41:29 shall have custody of all monies in the Heritage Fund and shall pay out the same only upon order of the Heritage Commission. The disbursement of Heritage Funds shall be authorized by a majority of the Heritage Commission. Prior to the use of such funds for the purchase of any interest in real property, the Heritage Commission shall hold a public hearing with notice in accordance with RSA 675:7.

Property: Pursuant to RSA 674:44-b, the Commission may acquire, in the name of the Town and subject to the approval of the Board of Selectmen, by gift, purchase, grant, bequest, devise, lease, or otherwise a fee or lesser interest, development rights, covenant, or other contractual right, including conveyances with conditions, limitation or reversions, as may be necessary to acquire, maintain, improve, protect, limit the future use of, or otherwise conserve and properly use the cultural resources of the town, and shall manage and control the same; provided, however, that the Town or Commission shall not have the right to condemn property for these purposes.

- VI. **Membership:** Regular Members: The Selectmen shall appoint a Weare Heritage Commission comprised of five members. Membership on the Commission shall be as follows:
- a. Each member or alternate member shall be a resident of Weare.
 - b. One member shall include a selectman to act as an ex-officio member with the power to vote.
 - c. Not more than one member may be a member of the Planning Board.
 - d. One resident of each Historic District is encouraged to be a member.

The appointment of members shall conform to the terms and requirements of RSA 673:4-a and RSA 673:5.

Alternate Members: The Board of Selectmen may appoint, in addition to regular members, not more than five alternate members who may serve whenever a regular member is either absent or disqualifies himself or herself, the chairperson shall designate an alternate to vote in his or her place; except that only the alternate designated by the Board of Selectmen for its ex-officio member shall serve in place of that member. When designated to vote, the alternate shall continue as a voting member until the end of the meeting unless the regular member for whom the alternate is voting subsequently joins the meeting, in which case the alternate shall continue as a voting member only until the immediate issue under consideration is decided. All voting and non-voting members may participate in all discussions.

Appointment: The ex-officio members from the Board of Selectmen and any member from any town board or commission shall be appointed by vote of their respective boards. All other regular members and alternates shall be appointed by the Board of Selectmen with recommendations from the Commission.

Qualifications: In determining each member's qualifications the Board of Selectmen shall take into consideration the appointee's demonstrated interest and ability to understand, appreciate and promote the purpose of the Heritage Commission.

Terms: Except as provided for in RSA 673:5 I (b), the term of the ex-officio member shall coincide with the term for that other office. The term of all other regular and alternate members shall be three years in accordance with RSA 673: 5 II.

Removal: Members may be removed for cause in a manner provided by RSA 673:13. Pursuant to RSA 673:13 I, after a 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.

VI. Officers: Election of Officers: The Commission shall elect, by a majority vote at its annual meeting (the first regular meeting after the town meeting or within 30 days thereof) the following officers from among its membership. The term of each officer shall be limited to one year; however any officer shall be eligible for re-election. Neither an ex-officio nor an alternate member shall serve as Chairman (Chairperson).

Chairman: The Chairman shall preside at all meetings of the Commission and shall have the duties normally conferred on such officers. The Chairman shall appoint such Committees as directed by the Commission, including one member of the

Commission who shall act as Chairman of such Committee. As directed by the Commission, the Chairman may affix his/her signature in the name of the Commission to all correspondence or documents from the Commission. The Chairman shall approve the agenda for all regular meetings and special meetings of the Commission. The Chairperson or the Commissions designee shall act as the official spokesperson for the Commission and/or prepare an annual report. In the absence of administrative staff, the Chairman or his/her designee shall be responsible for the records of the meeting.

Vice Chairman: The Vice- Chairman shall act for the Chairman in his/her absence and shall adhere to all requirements set forth for the Chairman.

Secretary: The Secretary shall act as Chairman in the absence of the Chairman and Vice-Chairman, or may appoint a designee to act as Chairman with permission of the Commission. In the absence of the Secretary, the Commission may appoint another member to act as Secretary. The Secretary shall record the minutes of the meetings of the Commission and shall uphold the requirements of RSA 91-A.

VII. Members and their duties: Members: Members are expected to attend all regular, special, annual meetings and joint meetings and hearings involving the Commission. If a member cannot be present at any meeting they shall notify the Chair or acting Chair prior to the meeting of his/her inability to attend.

VIII. Meetings: Regular Meetings: The Commission shall meet on the 4th Wednesday of the month, unless there is no business before the Commission. All regular meetings shall be open to the public, unless otherwise noticed and conducted in strict accordance with RSA 91-A: 3. Meetings shall not be held on Sundays or legal holidays.

The following general rules of procedure shall govern the conduct of the meeting.

Quorum Required: A majority of the membership of the Commission shall constitute the quorum necessary in order to transact business at any meeting.

Notice of Meetings: Notice of the time, date and place of any public meeting of the Commission shall be posted in two public places at least 24 hours, excluding Sundays and holidays, prior to the meeting.

Records Required: Minutes of the events of the meeting shall be taken and shall include the names of members in attendance, persons appearing before the Commission, a brief description of the topics discussed, and a record of any actions taken or recommendations from the Commission to boards or respective parties. All records must meet the requirements of RSA 91-A.

Order of Business: The general order of business shall be in accordance with the agenda unless modified by a majority of the Commission. The agenda shall include but is not limited to:

- a. Call to order by Chairman

- b. Chairman's Comments
- c. Attendance
- d. Resolution of conflicts of interest and designation of voting
- e. Public Comments
- f. Minutes
- g. Public hearing (if applicable)
- h. Old Business
- i. Committee & Financial Reports
- j. New Business
- k. Adjournment

Voting: A motion, duly seconded, shall be passed by a majority of the members present, voting in the affirmative, once a quorum has been established. After all discussion of the motion by Commission members has been completed, the chairman will call for a vote on the motion by the Commission.

Work or Work Sessions: Work or work sessions may be convened as a whole or as a committee of the whole in the same manner as special meetings, provided that no quorum shall be required and that no official action shall be taken.

Special Meetings: Special meetings of the commission shall take place at the call of the Chairman or as the commission deems necessary. All special meetings shall be open to the public, unless otherwise noticed and conducted in strict accordance with RSA 91-A: 3.

Joint Meetings and Hearings:

Pursuant to RSA 676:2, 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 is within the responsibilities of those boards. Similarly, the Heritage Commission shall have the authority on its own initiative, pursuant to RSA 676:2 to request a joint meeting with any other land use board(s). Each land use board so partitioned shall have the discretion as to whether or not to hold a joint meeting with any other land use board.

- a. A joint hearing shall be a formal public hearing.
- b. The Chairman of the Heritage Commission along with the chairperson(s) of the other land use board(s) shall mutually determine who shall chair the joint meeting; except in the case of the Planning Board, the Planning Board Chair shall chair the meeting.
- c. The rules of procedure for the joint meeting shall be governed by the land use board that chairs the meeting.
- d. Every board shall be responsible for rendering a decision on the subject matter that is within its own jurisdiction.

Non-Public Sessions: In accordance with RSA 91-A: 3, the Commission shall not meet in non-public session, except for the purposes set forth in (a) through (c) below. No session at which evidence, information or testimony in any form is received shall be

closed to the public, except for the purposes set forth in (a) through (c) below. The Commission may not enter non-public session, except pursuant to a motion properly made and seconded. Minutes of non-public sessions shall be kept, recorded and made available for public inspection in accordance with RSA 91-A: 3, III.

- a. Matters which, if discussed in public, would likely affect adversely the reputation of any person, other than a member of the Heritage Commission itself, unless such person requests an open meeting.
- b. 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 interest are adverse to those of the general community.
- c. Consideration or negotiation of pending claims or litigation which has been threatened in writing or filed against the Heritage Commission or any member thereof, or against any member thereof because of his or her membership in the Heritage Commission, until the claim or litigation has been fully adjudicated or otherwise settled.

Site Review (site walk):

At its option, the Commission may table final consideration of an issue pending a site review. The purpose of the site review is to validate information that could materially affect the consideration of the issue at hand. A site review shall be required in all circumstances where the Commission is considering the acquisition of a full or partial interest in real property pursuant to Section VI or expenditure of public funds for the treatment of historic structures. A site review shall be considered a potential meeting and shall be posted and open to the public (minutes are only necessary if a quorum exists).

VIII. Acquisitions and Holdings:

Public Hearing: The Commission shall hold a public hearing prior to the acquisition or acceptance of a partial or whole interest in a real property. At the hearing, any applicant, abutter, or holder of conservation or preservation restriction shall be provided an opportunity to testify in person, and any party with a direct interest in the matter may testify in person or in writing.

Notice: Notice shall be provided to the seller/grantor/donor, holders of conservation or preservation restrictions and to abutters by mail of the date upon which the Commission will consider the matter. Notice shall be sent by regular mail at least 5 days prior to the meeting. Notice to the general public shall also be given at the same time by posting in two public places and one local newspaper at least 10 calendar days before the hearing. The notice shall include a general description of the proposal that is the subject of consideration and shall identify the seller/grantor/donor and the location of the proposed property.

Due Diligence: The Commission shall perform or cause to be performed all necessary due diligence to protect the interests of the town and to make an appropriate determination as to the public benefit of the proposed acquisition. Due diligence may

include some or all of the following: title search, survey, historic structure report, environmental tests, appraisal, etc.

Consultation with the Board of Selectmen: The Commission shall seek the approval of the Board of Selectmen prior to making a final decision on whether to acquire or accept real property.

Gifts of Personal Property: In the case of gifts of personal property (require approval from the Board of Selectman), no public hearing is required. A record of the gift will be made in the minutes of the meeting at which it is announced. Monetary gifts will be immediately deposited in the “Weare Heritage Commission Fund”. Gifts of securities and of other personal property that does not have historic or cultural value to Weare’s heritage will be immediately sold and the proceeds deposited into the “Weare Heritage Commission Fund”. Gifts of historic or cultural value to Weare’s heritage may be offered to the Weare Historical Society for accession consideration.

X. Administration:

Forms: All forms and revisions thereof shall be adopted by vote of the Commission.

Due Diligence: The Commission may table final consideration of an issue for the purposes of seeking advice, recommendations, or reports from professional, educational, cultural, civic or other groups or persons as may be deemed necessary for the determination of a reasonable decision.

Records: Records of the Commission shall be kept in the office of the Town Clerk and be available to the public in accordance with RSA 91-A.

XI. Code of Conduct:

1. Commission members and staff shall not use their position for a purpose that is, or gives the appearance of being, motivated by a desire for personal benefit or private gain for themselves or others, particularly those with whom they have family, business, organizational, or other ties.
2. Commission members and staff who have a financial interest in a property, shall not participate in any discussion, hearing, or other Commission consideration of that property, whether as apart of local review procedures pursuant to RSA 674 and RSA 676, or as part of actions (such as National Register nomination review procedures) pursuant to the responsibilities of a “Certified Local Government” under the National Historic Preservation Act, or under the associated requirements established by the National Park Service and the State of New Hampshire for participation in the Certified Local Government program.
3. Commission members and staff shall not participate in the preparation of, administration, monitoring, approval, or payment of grants or contracts made to the Commission if a real or apparent conflict of interest would be involved.
4. In conformance with RSA 673:14, no member of the Commission shall sit upon the hearing of any question which the Commission is to decide if that member has a direct, personal, or pecuniary interest in the outcome which differs from the

- interest of other citizens or would be disqualified for any cause to act as a juror upon the trial of the same matter in a action of law.
5. When uncertainty arises as to the application of these provisions to a Commission member in particular circumstances, the Commission shall, upon the request of that member or another member of the Commission, vote on the question of whether that member should be disqualified. Any such request and vote shall be made prior to or at the commencement of any required public hearing. Such a vote shall be advisory and non-binding, and may not be requested by persons other than Commission members, except as provided by local ordinance or by these Rules of Procedure.
 6. If a member of the Commission is disqualified or unable to act in any particular case before the Commission, the Chairman shall designate an alternate to act in place of the disqualified member as specified in RSA 673:11.
 7. Any member of the Commission who may have an apparent, potential, or actual conflict of interest with respect to any deliberations or matters before the Commission shall absent himself or herself from the Commission's meeting while such matters are being considered or acted upon.
 8. Commission members and staff who are in office or employed at the time these code of conduct provisions are adopted shall be exempted for a period not to exceed one year from the date of adoption, pursuant to RSA 31:39-a.

XII. Amendments:

Amendments: These by-laws and rules of procedure may be amended at any regular meeting session of the Commission by a majority of the Commission.

Filing with the Town Clerk: These by-laws and any amendments thereto shall be placed on file with the Town Clerk for public inspection. A complete set of by-laws, as amended, shall be attached to the minutes of the Commission meeting in which they were amended and finalized.

Effective Date: These by-laws and any subsequent amendments shall become effective immediately upon passage by the Commission as recorded in the minutes of the meeting at which such action occurs.

Interpretation: These By-laws and Rules of Procedure are based upon the most current statutes governing land use boards as of its writing (updated with legislation through chapter 327 of the 2009 session of the General Court). Whenever the requirements of these Rules of Procedure are at variance with those of any other lawfully adopted rules, regulations, ordinances, or statutes, the requirements that are most restrictive or that impose the higher standard shall govern.

Severability: If any section, subsection, sentence, clause, phrase or other part of these Rules of Procedure is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remaining portions of these Rules of Procedure.

