

Town of Hudson, New Hampshire Bylaws
Conservation Commission

Chapter 144

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144.1 History

Adopted by the Conservation Commission of the Town of Hudson on January 14, 2019.

144.2 Authority

These bylaws of the Hudson Conservation Commission, hereinafter referenced simply as the "Commission," are adopted under the Authority of NH-RSA (New Hampshire Revised Statutes Annotated) 36-A:2. In the event of a difference between these bylaws and the applicable NH-RSAs, the NH-RSAs take precedence over these Bylaws.

144.3 Purpose

The purpose of the Commission shall be to ensure the proper utilization and protection of the natural resources, ecosystems, scenic vistas and open spaces of Hudson; to protect the watershed resources of Hudson; and to further promote an awareness and understanding of conservation practices and policies throughout the Town and region in keeping with state law.

144.4 Duties and Functions

1. The Commission shall have the following duties and functions:
 - a. Exercise its powers as authorized pursuant to RSA 36-A:1 – RSA 36-A:6, and all other applicable statutes and local ordinances.

144.5 Amendments

These bylaws may be amended by a majority vote of the voting members at a regular meeting of the Commission provided such amendments are read at two successive public meetings.

144.6 Members and Alternates

1. Pursuant to NH-RSA 36-A:3, the Commission shall consist of not less than three, nor more than seven regular members shall be appointed by the Board of Selectmen attend all meetings, and sit as voting members
2. Up to five alternate members may be appointed by the Board of Selectmen, attend all meetings to familiarize themselves with the workings of the Commission and stand ready to serve whenever a regular member of the Commission is unable to fulfill his/her responsibilities.
3. Each member of the Commission shall carry out the duties and functions of the Commission as set forth in these Bylaws and under RSA 36-A. They shall serve on standing and ad hoc committees as requested by the Chairman. Members shall strive to attend all meetings and to notify the Chairman or Secretary in advance when unable to attend a meeting.
4. A Selectman Liaison may be appointed by the Board of Selectman to act as a liaison between the Commission and the Board and should attend all meetings but shall have no voting powers nor the ability to sit in place of any regular member not in attendance.
5. At meetings of the Commission, alternates who are not activated to fill the seat of

an absent or recused member or who have not been appointed by the Chairman to temporarily fill the unexpired term of a vacancy may participate with the Commission in a limited capacity. During a public hearing, alternates may sit at the table with the regular members and may view documents, listen to testimony, ask questions and interact with other Commission members, the applicant, abutters and the public. Alternates shall not be allowed to make or second motions. Once the Commission moves into deliberations, alternates shall remove themselves from any further deliberations with the Commission. During work sessions or portions of meetings that do not include a public hearing, alternates may fully participate, exclusive of any motions or votes that may be made. At all times, the Chairman shall fully inform the public of the status of any alternate present and identify the members who shall be voting on the application.

6. All members and alternates must reside in the community and are expected to attend each meeting of the Commission to exercise their duties and responsibilities. Any member unable to attend a meeting shall notify the Chairman as soon as possible. Members, including the Chairman and all officers, shall participate in the decision-making process and vote to approve or disapprove all motions under consideration.

144.7 Officers

1. The Chairman, Vice Chairman, and Clerk shall be elected annually by a majority vote of the Commission at the first meeting in the month of January. All officers shall serve for one year and shall be eligible for re-election.
 - a. The Chairman shall preside over all meetings and hearings, appoint such committees as directed by the Commission and shall affix his/her signature in the name of the Commission.
 - b. The Vice-Chairman shall preside in the absence of the Chairman and shall have the full powers of the Chairman on matters which come before the Commission during the absence of the Chairman.
 - c. The Clerk shall maintain a record of all meetings, transactions and decision of the Commission, and perform such other duties as the Commission may direct by resolution.

144.8 Meetings

1. Regular meetings shall be held at Hudson Town Hall, at 7:00pm on the second Monday of each month unless otherwise determined by the Commission. Whenever a quorum is not present, the regular meeting shall be deemed to be adjourned and rescheduled after consultation with the Town Engineer (or designee).
2. Special Meetings may be called by the Chairman of the Commission, provided that at least 24 hours' notice of the time, place, and business of such meeting is given to each member of the Commission; and provided that the special meeting is given public notice in accordance with RSA 91-A:2. At any special meeting no business other than that specified in the notice may be considered. A special meeting shall

be called by the Chairman upon receipt of written request of a majority of regular members.

3. Quorum: A quorum for all meetings of the Commission shall be four members, including alternates sitting in place of members.
 - a. The Chairman shall make every effort to ensure that all seven members, and one or two alternates, are present for the consideration of any appeal or application.
 - b. If any regular Commission member is absent from any meeting or hearing, or disqualifies himself from sitting on a particular case, the Chairman shall designate one of the alternate members to sit in place of the absent or disqualified member, and such alternate shall be in all respects a full member of the Commission while so sitting.
 - c. Alternates shall generally be activated on a rotating basis from those present at a particular meeting. When an alternate is needed, the Chairman shall select the alternate who has not been activated for the longest time.
 - d. If there are less than four members (including alternates) present, the Chairman shall give the option to proceed or not to the applicant. Should the applicant choose to proceed with less than four members present that shall not solely constitute grounds for a rehearing should the application fail.

4. Disqualifications: If any member finds it necessary to disqualify himself from sitting in a particular case, as provided in RSA 673:14, he shall notify the Chairman as soon as possible so that an alternate may be requested to sit in his place. When there is uncertainty as to whether a member should be disqualified to act on a particular application, that member or another member of the Commission may request the Commission to vote on the question of disqualification. Any such request shall be made before the public hearing gets underway. The vote shall be advisory and non-binding.

Determining the threshold of disqualification can be difficult. To assist a member in determining whether or not they should step down (recuse themselves) Commission members should review the questions which are asked of potential jurors to determine qualification (RSA 500-A: 12). A potential juror may be asked whether he or she:

- a. Expects to gain or lose upon the disposition of the case;
- b. Is related to either party;
- c. Has advised or assisted either party;
- d. Has directly or indirectly given an opinion or formed an opinion;
- e. Is employed by or employs any party in the case;
- f. Is prejudiced to any degree regarding the case; or
- g. Employs any of the counsel appearing in the case in any action then pending in the court.
- h. Abutter within 200 feet.

Either the Chairman or the Member disqualifying himself/herself before the beginning of the public hearing on the case shall announce the disqualification. The disqualified shall step away from the table during the public hearing and during all deliberation on the case as they so choose.

5. Order of Business

The order of business for regular meetings shall be as follows:

- a. Call to Order
- b. Roll Call
- c. Seating of Alternates
- d. Approval of Minutes from Previous Meeting(s)
- e. Old/Unfinished Business (Continued or Deferred Hearings)
- f. Correspondence
- g. New Business/Public Hearings
- h. Other Business
- i. Adjournment

(Note: Although this is the usual order of business, the Commission may wish to hold the hearings immediately after the roll call in order to accommodate the public, based on a positive vote of the Commission.)

144.9 Application Process

1. Applications

- a. Each application for a hearing before the Commission shall be made on forms provided by the Town and shall be presented to the Town Engineer (or designee) who shall record the date and time of receipt.

Application deadline for meeting is 12:00 P.M. (noon), fourteen (14) business days (Monday-Friday including Holidays) prior the scheduled meeting date.

Only complete and accurate applications will be submitted for agenda action, incomplete or inaccurate applications will not be submitted for agenda action.

Received applications will be evaluated by Engineering Department staff. To the extent required, the Town Engineer will provide written comments to the Commission of its review and any concerns it may have with the application.

- b. All forms and revisions prescribed shall be adopted by resolution of the Commission and shall become part of these rules of procedure

2. Public Notice

Public notice of hearings on each application shall be posted at Town Hall, Town Public Library and the Post Office not less than five (5) days before the date fixed for the hearing. Notice shall include the name of the applicant, description of property to include tax map identification, action desired by the applicant, the

type of appeal being made, and the date, time and place of the hearing.

3. Public Hearing

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

- a. The Chairman shall call the hearing in session by instructing the Town Engineer or Clerk to report on the first application/matter.
- b. The applicant shall present to the Commission the reason(s) why the application has been brought before the Commission.
- c. Members and Alternates of the Commission, and any party to the case, may ask questions at any point during testimony once recognized by the Chairman.
- d. Each person who appears shall be required to state his/her name and address for the record and indicate whether he/she is a party to the case or an agent or counsel of a party to the case.
- e. The applicant shall be called to present his/her application.
- f. The Chairman shall then open the hearing up to those in favor of the application, who shall be allowed to speak.
- g. The Chairman shall then open the hearing up to those in opposition of the application, or who are neutral to the application, who shall be allowed to speak.
- h. The applicant and those in favor shall be allowed to speak in rebuttal.
- i. Those in opposition to the appeal shall be allowed to speak in rebuttal.
- j. Any person who wants the Commission to compel the attendance of a witness shall present his request in writing to the Chairman in accordance with RSA 673.15
- k. The public hearing on the matter shall be declared closed and the Case will be declared to be before the Commission. The Commission will deliberate and make its decision.
- l. All subsequent cases shall then be heard in the order they were presented.

144.10 Decision Process

Before deliberations begin, the Chairman shall allow non-sitting alternates, the Selectmen's Liaison, if present, and the Town Engineer or his/her designee to ask questions and give input, if they so desire.

Once this phase is completed, the Chairman shall declare the matter before the Commission and the sitting members present who are voting will raise any further questions they may have and then deliberate all concerns in order to reach a decision on the request.

The Commission shall vote on each of the applications for which testimony was given, after adequate deliberations.

The Chairman shall announce all decisions after the vote has been taken.

144.11 Deferment and Withdrawal

After public notice has been given, each application presented to the Commission for

consideration may be deferred or withdrawn only by action of the Commission, following receipt of written notice to the Town Engineer or to the Commission, itself, by the applicant. A sitting member must make a motion to defer until the next regular meeting or a date specific, that motion must be seconded and voted on by the sitting members of the case in question, and abutter notice shall be presumed to have been accomplished by the decision of the Commission's vote.

In the event that a deferred applicant is not ready when the case comes back before the Commission, the Commission may initiate withdrawal of the application, with or without prejudice, where "with prejudice" means that any new application (unless substantially changed) cannot be filed for a period of one year. Filing fees shall not be returned for withdrawn cases that have been reviewed and processed by staff with public notice of a scheduled hearing having been posted.

Moreover, once an application has been withdrawn, any re-application shall be considered a new application and the applicant shall be required to pay all applicable fees for consideration. In the event of a Commission-initiated deferment, because members felt it necessary for more information or other reason, a sitting member must make a motion to defer until the next regular meeting or a date specific, that motion must be seconded and voted on by the voting members of the case in question, and abutter notice shall be presumed to have been accomplished by the decision of the Commission's vote, but in some rare instances the Commission may require that notification fees be paid again for deferred cases in order to ensure that abutters are properly notified. In the event of the Commission's acceptance of a request for deferment by the applicant at the meeting, the request shall be handled in the same manner as a Commission-initiated deferment. In the event that the applicant is not ready when the case comes back before the Commission, the Commission may initiate withdrawal of the application, with or without prejudice, as described above.

144.12 Records

The records of the Commission shall be kept by the Town Engineer and made available for public inspection at Hudson Town Hall in accordance with RSA 36-A:2

Minutes of all meetings including names of Commission members, persons appearing before the Commission, and a brief description of the subject matter shall be open to public inspection within 5 business days of the public meeting. RSA 91-A:2 II

144.13 Waivers

Any portion of these rules of procedure may be waived in such cases where, in the opinion of the Commission, strict conformity would pose a practical difficulty to the applicant and a waiver would not be contrary to the spirit and intent of the rules. A majority of the Commission present shall vote any waiver.