



## **TOWN OF EFFINGHAM HISTORIC DISTRICT **AND HERITAGE** COMMISSION**

### **RULES OF PROCEDURE**

#### **Authority**

1. These rules of procedure are adopted under the authority of New Hampshire Revised Statutes Annotated. (RSA 676:1)
2. Duties of the Commission shall include, but are not limited to, those prescribed by Article 15 of the Effingham Town Zoning Ordinance and any other duty in accordance with the Laws of the State of NH (RSA 674)

#### **Members**

1. The Commission shall consist of ~~five (5)~~ **seven (7)** members. The Board of Selectmen shall designate one member as an ex-officio member of the Commission with power to vote, as per Article 15 of the Effingham Zoning Ordinance and RSA 673:4 **and 673:4-a**.
2. The term of a local land use board member shall be three (3) years. The terms of members of any local land use board shall be staggered so that no more than ~~two (2)~~ **three (3)** members change annually due to the normal expiration of terms in the case of a ~~five~~ **seven**-member board. (RSA 673:5)
3. Selection, qualification, term, removal of members, and filling of vacancies shall conform to RSA 673:4, **4-a**, 5, 12, and 13.
4. Two (2) Alternate members may serve on the Commission as authorized by RSA 673:4, **4-a**, 6, and 11, as per Article 15 of the Effingham Zoning Ordinance.
5. Each newly appointed and re-appointed member shall be sworn in and take an oath of office as required and in the manner prescribed by RSA 42.

#### **Officers**

1. The officers of the Commission and their duties shall be as follows:
  - a. **Chair:** The Chair shall:
    - send out the agenda three days before any meeting of the Commission;

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- preside over all meetings and hearings of the Commission;
- in the absence of the Secretary appoint a secretary pro tem to keep records of that meeting;
- place for review, minutes of any meeting of the Commission, at the Town of Effingham Municipal Offices within 5 days following the meeting as required by law;
- prepare an annual report of the activities of the Commission;
- keep a full and accurate record of all income and expenses of the Commission;
- perform other duties customary to the office.

b. ~~Assistant~~ **Vice Chair**: The ~~Assistant~~ **Vice** Chair shall:

- preside in the absence of the Chair;
- have the full powers of the Chair on matters that come before the Commission in the absence of the Chair;
- perform other duties customary to the office.

c. **Secretary**: The Secretary shall:

- issue notices of all meetings and hearings of the Commission as required by law;
- keep a full and accurate record, via minutes, of the proceedings of all meetings and hearings of the Commission, said minutes to include a record of the names of the members present;
- send ~~draft~~ minutes of any meeting of the Commission to all members within 4 **5 business** days following the meeting;
- prepare such correspondence and fulfill such duties as the Chair~~man~~ may specify;
- perform other duties customary to the office.

2. The officers of the Commission shall be elected annually by a majority vote of the members at the first regularly scheduled meeting of the Commission following the annual town meeting.

## Membership Policy

1. It is expected that all members will:
  - a. attend all posted meetings, work sessions and hearings that pertain to the Commission.
  - b. notify the Chair if unable to attend any meeting.
  - c. review the agenda for each meeting.
  - d. read the minutes sent out by the Secretary and have any business ready to present.

2. Members are encouraged to attend classes, conferences, and/or events that will increase their knowledge and help them to stay current with matters related to Historic District and/or **Heritage** Commission issues.
3. Attendance:
  - a. Should a member miss 25% of the meetings in a 12-month period, the Commission shall vote to determine if said member should be officially requested to review their ability to perform duties for the rest of their term.
  - b. Should a member miss 50% of the meetings in a 12-month period, the Commission shall vote to determine if said member should be asked to resign from the Commission. If the member chooses not to resign, the Commission shall vote to determine if the member will be referred to the Board of Selectmen with a request that the Selectmen consider removal proceedings per RSA 673:13.

### Meetings

1. **Regular meetings** of the Commission generally will be held at least monthly at the Town of Effingham Municipal Offices, unless there is no business to come before the Commission. Day and time to be determined annually by a majority vote of the members at the first regularly scheduled meeting of the Commission following the annual town meeting. (RSA 673:10, I and 673:17) Notice shall be provided as required by law. (RSA 91-A:2, II)
2. **Special meetings**, including work sessions, may be called by the Chair or in her/his absence, by the Assistant Chair, or at the request of three (3) members of the Commission. Notice shall be provided as required by law. (RSA 91-A:2, II)
3. **Non-public sessions** shall be held only in accordance with RSA 91-A:3. Notice shall be provided as required by law. (RSA 91-A:2, II)
4. **Emergency meetings** may be called by the Chair if s/he deems it to be a situation where immediate un-delayed action is imperative. The minutes of an emergency meeting shall clearly spell out the need for the emergency meeting. Notice shall be provided as required by law. (RSA 91-A:2, II)
5. **Quorum:** A majority of the membership of the Commission shall constitute a quorum, including alternates sitting in place of regular members. (RSA 673:10, III)

If any regular Commission member is absent from a meeting or hearing, or is disqualified from sitting on a particular application, the Chair shall designate an alternate, if one is present, to sit in place of the absent or disqualified member. Such alternate shall have all the powers and duties of a regular member regarding any matter under consideration on which the regular member is unable to act. The alternate should continue until the matter is completed; during this time, the regular member does not vote on the matter. (RSA 673:11)

An applicant may elect to postpone a discussion of or public hearing on his or her application to a future date if ~~four (4)~~ **six (6)** regular and/or alternate members or less are seated to vote. If an applicant chooses to proceed with less than ~~five (5)~~ **seven (7)** members of the Commission seated to vote, the fact that the decision, if adverse to the applicant, was made with less than ~~five (5)~~ **seven (7)** members of the Commission, shall not be grounds for an appeal of the Commission's decision.

6. **Disqualification:** If any member finds it necessary to be disqualified from sitting on a particular case, s/he shall notify the Chair as soon as possible so that an alternate may be requested to fill the place. The disqualification shall be announced by either the Chair or the member before the discussion of the application begins. (RSA 673:14, I)

The member disqualified shall leave the Commission table during all deliberations. The member shall not participate in any Commission discussion but may speak as an interested party.

If uncertainty arises as to whether a Commission member should disqualify her/himself, on the request of that member or the request of another member of the Commission, the Commission shall vote on the question of whether that member should be disqualified. Such request and vote shall be made prior to or at the commencement of any required discussion or public hearing. A vote on a question of disqualification shall be advisory and non-binding and may not be requested by persons other than Commission members. (RSA 673:14, II)

**Members shall also consider the Historic District and Heritage Commission's Code of Ethics (separately adopted) when determining if they or another member should be disqualified.**

7. **Order of Business** generally will be as follows:
  - a. Call to order by Chair
  - b. Minutes of previous meeting
  - c. Reading of communications directed to the Commission
  - d. Old business
  - e. New business
  - f. Adjournment
8. **A motion**, duly seconded, shall be carried by an affirmative vote of a majority of the members present.

## **Forms**

1. Forms created or revised by the Commission shall be adopted by resolution of the Commission.

## **Expenditure of Funds**

1. The Commission shall expend any and all funds according to procedures delineated in the Historic District and Heritage Commission Expenditure of Funds Policy separately adopted.

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## Records

1. The records of the Commission shall be kept at the Municipal Offices and shall be made available for public inspection upon request at the Municipal Offices in accordance with statutory requirements. (RSA 91-A:4)
2. Drafts of all minutes of the meetings of the Commission, which shall be subject to review and amendment at the next regularly scheduled meeting, including the names of Commission members present, persons appearing before the Commission, and a brief description of the subject matter shall be open to public inspection within five (5) business days of the public meeting as required in RSA 91-A:2, II.
3. Certificates of Approval, Notices of Disapproval, and determinations that an applicant does not need a Certificate of Approval, will be noted in writing to the applicant and the Effingham Zoning Enforcement Officer.

## Notice

1. For **all meetings**, except **Emergency meetings**, notice of the time and place shall be posted in 2 appropriate (i.e. public) places, one of which may be the Town's website, or shall be printed in a newspaper of general circulation in Effingham, at least 24 hours, excluding Sundays and legal holidays, prior to such meetings. For the purposes of notice, a business day means the hours of 8 a.m. to 5 p.m. on Monday through Friday, excluding national and state holidays. (RSA 91-A:2, II)
2. For **Emergency Meetings**, notice of the time and place shall be posted by the Chair as soon as practicable in 2 appropriate (i.e. public) places, one of which may be the Town's website. The Chair shall also employ whatever further means are reasonably available to inform the public that a meeting is to be held. (RSA 91-A:2, II)
3. For public hearings related to adoption of and/or amendments to the Historic District Regulations, notice shall be given for the time and place of each public hearing at least 10 calendar days before the hearing, not including the day notice is posted or the day of the public hearing. Such notice shall be published either in a paper of general circulation in Effingham or on the Town's website and shall be posted in at least 2 public places. The full text of the proposed historic district regulation need not be included in the notice if an adequate statement describing the proposal and designating the place where the proposal is on file for public inspection is stated in the notice. (RSA 675:7, I and II)
4. For public hearings related to the Town of Effingham's Scenic Road Ordinance, notice shall be advertised as to the time, date, place and purpose of the public hearing 2 times in a newspaper of general circulation in the area, the last publication to occur at least 7 days prior to such hearing. (RSA 231:158, II)
5. For public hearings related to the expenditure of heritage funds for the purchase of any interest in real property, the Commission shall hold a public hearing in accordance with RSA 675:7. (RSA 674:44-d)

## Applications for Certificate of Approval

1. The decision to approve or deny a certificate must be taken up at a public meeting of the Historic District **and Heritage** Commission. (RSA 91-A:2, II)
2. Applications for review before the Commission shall be made on forms provided by the Commission and shall be presented to the Commission or the Commission's agent, who shall sign and record the date of receipt. **It is required that applications be submitted digitally, via email. In the event that an applicant does not have internet access, completed paper forms may be returned to the Selectmen's Office during regular business hours or mailed to the Town of Effingham, Attn: Historic District & Heritage Commission for scanning. The Selectmen's Office will email the scanned documents to the Commission.** Applications must be received at **least** 7 days prior to the next **Regular meeting**.
3. The Commission will post notice of the application to be reviewed at the next meeting, as described in the Notice section 1 of these Rules of Procedure. Notice shall include name of applicant and property location.
4. The Commission shall determine whether an application is complete at a **Regular meeting**.
5. The Commission may reject applications not properly completed. Upon determination that an application is incomplete according to the Commission's regulations, the Chair shall notify the applicant and shall describe the information, procedure, or other requirement necessary for the application to be complete.

## Public Hearings

In the event a public hearing is required, the conduct of public hearings shall be governed by the following rules:

1. The Chair shall call the hearing in session, identify the applicant or agent, and summarize the purpose of the hearing.
2. A member of the Commission shall report on the manner in which public notice was given, citing the applicable RSA.
3. The Commission will review each section of the application and members of the Commission may ask questions at any point during the presentation.
4. Any party to the matter who desires to ask a question of another party must direct their question to the Chair.
5. Any person with a direct interest in the matter may testify in person or in writing. Other persons may testify as permitted by the Commission at each hearing.
6. Each person who speaks shall be required to state her/his name and address and indicate whether s/he is a party to the matter or an agent or counsel to a party to the matter.
7. The applicant or agent shall be called to present any additional information.

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8. Those appearing in favor of the proposal shall be allowed to speak.
9. Those in opposition to the proposal shall be allowed to speak.
10. Those neither in favor nor in opposition may speak.
11. Other parties such as representatives of town departments and other town boards and commissions who have an interest in the proposal shall be allowed to present their comments in person or in writing.
12. The Chair shall indicate whether the hearing is closed or adjourned pending the submission of additional material or information or the correction of noted deficiencies. In the case of a continuance, additional notice is not required if the date, time and place of the continuation is made known at the adjournment (RSA 676:7).
13. If an agent is appearing before the Commission and the applicant is not present at the meeting, the Commission must have written authorization from the applicant stating that the agent has been appointed to represent the applicant at the hearing. If neither the owner of record, the applicant nor a properly authorized agent is present at the hearing, the Commission may vote to dismiss the application without prejudice, not to be refiled with the Commission for a period of six (6) months.
14. Applications are usually presented in the order in which they are listed in the public notice for the hearing; however, the Commission, in its discretion, may decide by majority vote, to hear, and deliberate upon, and/or decide applications in a different order.

## **Decisions**

1. The Commission shall act to approve, conditionally approve, or disapprove a complete application within forty-five (45) days of filing pursuant to RSA 676:8, III and 676:9, I, subject to extension as provided in RSA 676:9, I.
2. Failure by the Commission to file the certificate within the specified period of time shall constitute approval by the Commission. (RSA 676:9, III)
3. In accordance with RSA 676:3, the notice of decision will be made available for public inspection via filing with the Town Clerk within five (5) business days after the vote is taken. Such notice of decision shall include any and all conditions of approval or, if the application is disapproved, shall provide the applicant with written reasons for the disapproval. A copy of the notice of decision shall be provided to the applicant and the Effingham Zoning Enforcement Officer.
4. Notice of decision shall include information on the right to appeal as outlined in 677:17

## **Joint Meetings and Hearings**

1. The Commission may hold joint meetings and hearings with other land use boards including the Planning Board, the Zoning Board of Adjustment, and the Zoning Enforcement Officer. Each board shall have discretion whether to hold such joint meeting or hearing. (RSA 676:2, I)

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2. An applicant seeking a local permit may petition two (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 land use board shall also have the authority on its own initiative to request a joint meeting. (RSA 676:2, I)
3. Joint business meetings with another local land use board may be held at any time when called jointly by the chairs of the two boards. (RSA 676:2, I)
4. A joint public hearing must be a formal public hearing when the subject matter of the hearing is within the responsibilities of the boards convened.
5. The Planning Board chair shall chair all joint meetings and public hearings when the subject matter involves the Planning Board. If the Planning Board is not involved in the joint meeting, the involved land use boards and/or officials shall determine which board shall be in charge. (RSA 676:2, I)
6. The Rules of Procedure for joint meetings and hearings, shall be the same as these Rules of Procedure except that the order of business shall be as follows (RSA 676:2, I and II):
  - a. Call to order by the ranking land use board Chair as determined in part five of this section.
  - b. Introduction of members of both boards by the Chair.
  - c. Explanation of reason for joint meeting/hearing by the Chair.
  - d. The joint meeting/hearing shall then follow the Rules of Procedure as outlined elsewhere in these Rules of Procedure.
  - e. Adjournment.
7. Each board involved in a joint public hearing makes its own decision, based on its criteria for the particular matter in accordance with RSA 676:2, III.

## **Amendment**

These Rules of Procedure may be amended by a majority vote of the members of the Commission as provided by RSA 676:1 ~~that such amendment is posted on the Town's website at least seven (7) days prior to the meeting at which the vote is to be taken~~. The amended procedures shall be filed with the Town Clerk as required by RSA 676:1.