

## **AMHERST HERITAGE COMMISSION**

### **RULES OF PROCEDURE**

Adopted November 14, 2002

Amended September 10, 2020

Amended November 12, 2020

#### **I. GENERAL**

- 1.1 Authority. The Amherst Heritage Commission (hereinafter the Commission) was established by the voters of the Town of Amherst at Town Meeting of March 12, 2002. Pursuant to RSA § 676:1, the Commission has adopted these Rules of Procedure to prescribe the method of conducting its business pursuant to RSA § 673, RSA § 674, RSA § 676, and RSA § 91-A.
- 1.2 Purpose. The Commission is established 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. The Commission shall serve in an advisory capacity to the Historic District Commission, Planning Board and other local boards and residents.
- 1.3 Amendment. Amendments to these Rules of Procedure shall be adopted at a regular meeting of the Commission pursuant to RSA § 676:1, and shall be placed on file with the Office of Community Development for public inspection.
- 1.4 Interpretation. These Rules of Procedure are based upon the most current statutes governing land use boards as of its writing. 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.
- 1.5 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.
- 1.6 Definitions. Unless specifically defined below, words or phrases in these Rules of Procedure shall be interpreted to give them the same meaning as they have in the Amherst Zoning Ordinance and/or in common usage so as to give these rules their most reasonable application.
  - (a) *Abutter*. Any person whose property is located in the Town of Amherst and adjoins or is directly across the street or stream from the land under consideration by the Commission. For purposes of receiving testimony only and not for purposes of notification, the term abutter shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration.

- (b) *Alternate Member.* A non-voting member of the Commission who, at the direction of the chairperson, serves in the absence or disqualification of a regular member of the Commission.
- (c) *Applicant(s).* The owner(s) of the property and/or the person or persons duly authorized in writing by the owner(s) to act on behalf of the owner(s) in all matters before the Commission.
- (d) *Certified Local Government.* A city or town that has met specific standards enabling participation in certain National Historic Preservation programs.
- (e) *Commission.* Commission shall mean the Heritage Commission of the Town of Amherst, New Hampshire.
- (f) *Ex Officio Member.* Any member of the Commission who holds office by virtue of an official position and who shall exercise all the powers of a regular member of the Commission.
- (g) *Historic Property (or Historic Resource).* Any prehistoric or historic site, place, building, structure, or object that is deemed by the Commission to have historic, cultural, social, economic, political, or architectural significance.
- (h) *Historic District.* An area designated by ordinance of the Town of Amherst and which contains within definable geographic boundaries a significant concentration, linkage, or continuity of sites, buildings, structures, or objects united by past events or aesthetically by plan or physical development.
- (i) *Members.* Where not specified, "members" shall include Regular and Alternate Members.
- (j) *Preservation.* The act or process of applying measures necessary to sustain the existing form, integrity, and materials of an historic structure, place, or feature.
- (k) *Preservation Restriction.* A right to prohibit or require, a limitation upon, or an obligation to perform such acts on or with respect to, or uses of, a structure or site historically significant for its architecture, archaeology or associations, whether stated in the form of a restriction, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of the structure or site in any order of taking, which right, limitation or obligation is appropriate to the preservation or restoration of such structure or site.
- (l) *Regular Member.* A member of the Commission who has full voting power.
- (m) *Restoration.* The act or process of accurately recovering the form, features, and character of a property and its setting as it appeared at a particular period of time by means of removal of features from other periods in its history and reconstruction of missing features from the restoration period.

- (n) *Rules of Procedure.* A set of rules adopted by the Commission pursuant to RSA § 676:1 concerning the method of conducting the Commission's business.

## **II. POWERS**

- 2.1 Pursuant to RSA § 674:44-b, I., the Commission shall have advisory and review authority, specifically, as follows:

- (a) Survey and inventory all historic and cultural resources.
- (b) Conduct research and publish findings, including reports to establish the legal basis for a historic district and preparation of historic district ordinances within the municipality prior to its adoption or amendment as provided in RSA § 675:6.
- (c) Assist the Planning Board, as requested, in the development and review of those sections of the master plan that address cultural and historic resources.
- (d) Advise local agencies and other local boards (including the Historic District Commission pursuant to RSA § 674:44-c) in their review of requests on matters affecting or potentially affecting cultural and historic resources.
- (e) Coordinate activities with appropriate service organizations and non-profit groups such as the Historical Society of Amherst, the local Questers chapters (Amherst Villagers and Nipmugs), the Daughters of the American Revolution, etc.
- (f) Publicize its activities.
- (g) Hire consultants and contractors as needed.
- (h) Receive gifts of money and property, both real and personal, in the name of the town and subject to the approval of the Board of Selectmen, such gifts to be managed and controlled by the Commission for its proper purposes.
- (i) Hold meetings and hearings necessary to carry out its duties.

- 2.2 **Property.** Pursuant to RSA § 674:44-b, II., 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, limitations, 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.

- 2.3 **Appropriations and Expenditures.** Pursuant to RSA § 674:44-d, upon establishment

of the Town of Amherst 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.

### **III. MEMBERSHIP**

- 3.1 Regular Members. Membership shall consist of not fewer than three nor more than seven regular members, one of whom shall be an *ex officio* member of the Board of Selectmen and one of whom shall be an *ex officio* member of the Historic District Commission.
- 3.2 Alternate Members. Not more than five alternate members may be appointed. 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 that alternate shall continue as a voting member only until the immediate issue under consideration is decided. To the extent that an issue is considered over the course of two or more meetings, the alternate so designated shall sit and vote on that issue at subsequent sessions concerning that same issue. All voting and non-voting members may participate in all discussions.
- 3.3 Appointment. The *ex officio* members from the Board of Selectmen and the Historic District Commission shall be appointed by vote of their respective boards. All other regular members and alternate members shall be appointed by the Board of Selectmen.
- 3.4 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 purposes of the Heritage Commission. To the extent that professionals in the following disciplines are available in the community, the Board of Selectmen should make reasonable efforts to appoint members from those professions: architectural history, archaeology, cultural anthropology, New England history, or planning. Information on the credentials of the Commission members shall be kept on file with the Office of Community Development and

available for public review. Members shall be residents of the Town of Amherst.

- 3.5 Terms. Except as provided for in RSA § 673:5 I (b), the term of any *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, the initial terms of regular members first appointed to the Commission shall be staggered so that no more than three appointments occur annually in the case of a seven member Commission and no more than two appointments occur annually in the case of a five or six member Commission, except when required to fill vacancies. The terms of alternate members shall be staggered in a similar manner so that no more than two appointments occur annually in the case of a Commission with four or five alternate members and no more than one appointment occurs annually in the case of a Commission with two or three alternate members.
- 3.6 Vacancies. The Board of Selectmen shall act to fill a vacancy, including expired terms. Vacancies shall be filled as provided by RSA § 673:12. Pursuant to RSA § 673:12 III, the chairperson of the Heritage Commission may designate an alternate member of the Commission to fill a vacancy temporarily until such time as the Board of Selectmen fill the vacancy permanently.
- 3.7 Removal. Members may be removed for cause in a manner provided by RSA § 673:13. In addition, the chairperson may request the resignation of any member who fails to attend four consecutive meetings without just reason.

#### **IV. OFFICERS**

- 4.1 Positions and terms. A Chairperson, Vice Chairperson, Secretary and Treasurer shall be elected by a vote of the membership of the Commission. The term of every officer and Chairperson elected shall be for one year and any officer shall be eligible for re-election. Neither an *ex officio* nor an alternate member shall serve as Chairperson. The officers of the Commission shall be elected annually during the month of April by a majority vote of the Commission. Should any office of the Commission become vacant, the Commission shall elect a successor at the next regular meeting to serve the unexpired term of said officer.
- 4.2 Chairperson. The Chairperson shall preside at all meetings of the Commission, call meetings at the frequencies specified below, see that orders and resolutions of the Commission are carried out, sign all official correspondence of the Commission, serve as the official spokesperson for the Commission, and prepare an annual report. The Chairperson shall also appoint such committees as directed by the Commission.
- 4.3 Vice-Chairperson. The Vice-Chairperson shall perform all the duties of the chairperson in her or his absence.
- 4.4 Secretary. Pursuant to RSA § 91-A, the Secretary shall record the minutes of the meetings of the Commission and shall provide the original, signed copy of said minutes to the Office of Community Development for public inspection within 5

days of a public meeting or, unless voted otherwise pursuant to RSA § 91-A:3 III, within 72 hours of a non-public meeting. The Secretary shall also keep attendance of regular, alternate and *ex-officio* members. Once per year, the Secretary shall review amendments to the RSAs, if any, that may affect these Rules and propose corresponding changes to these Rules to keep them current with the RSAs.

- 4.5 Treasurer. The Treasurer shall prepare a budget, monitor the budget, and give periodic reports of receipt/dispersal of funds and funds on hand and perform such other duties as the Commission may direct by vote.

## **V. MEETINGS**

- 5.1 Regular Meetings. The Commission shall meet regularly on the second Thursday of each month, unless there is no business before the Commission. All regular meetings shall be open to the public, unless otherwise noticed and conducted in accordance with RSA § 91-A.

- 5.2 Special Meetings. Special meetings of the Commission shall take place at the call of the Chairperson or as the Commission deems necessary. All special meetings shall be open to the public, unless otherwise noticed and conducted in accordance with RSA § 91-A.

- 5.3 Joint Meetings.

(a) Pursuant to RSA § 676:2, an applicant seeking approval from another land use board(s) may petition the Heritage Commission and the respective land use board(s) 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 petitioned shall have the discretion as to whether or not to hold a joint meeting with any other land use board.

(b) A joint hearing shall be a formal public hearing.

(c) The Chairperson 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, unless the meeting is with the Planning Board in which case, pursuant to RSA 672:2 I, the Planning Board Chair shall chair the joint meeting.

(d) The Rules of Procedure for the joint meeting shall be governed by the land use board that chairs the meeting.

(e) Every board shall be responsible for rendering a decision on the subject matter that is within its own jurisdiction.

(f) The Heritage Commission shall make all reasonable efforts to hold at least one

joint meeting per year with the Historic District Commission for the purpose of coordinating preservation activities which overlap within the boundaries of the Amherst Village Historic District.

- 5.4 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 interests 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 by or against the Heritage Commission or any sub-committee thereof, or by 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.
- 5.5 Site Review. 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 treatment of historic structures. A site review shall be considered part of the meeting during which the acquisition or treatment is considered and shall be open to the public.
- 5.6 Notice. Notice of the time, date, place and agenda of any public meeting (other than a public hearing pursuant to the consideration of the acquisition or acceptance of property pursuant to Section VI of these Rules) of the Commission shall be posted in two public places at least 24 hours, excluding Sundays and legal holidays, prior to the meeting.
- 5.7 Order of Business. The business of regular meetings shall include, but not be limited to:
- (a) Attendance.
  - (b) Resolution of conflicts of interest and designation of voting.

- (c) Minutes.
  - (d) Public Hearing (if applicable).
  - (e) Committee & financial reports.
  - (f) Old business.
  - (g) New business.
  - (h) Adjournment.
- 5.8 Rules of Order. *Robert's Rules of Order* shall be used as a guide to conduct meetings unless otherwise prescribed by these Rules of Procedure.
- 5.9 Quorum and voting. A majority of the voting members shall constitute the quorum necessary in order to transact business in any meeting of the Commission. A motion, duly seconded and following discussion, shall be passed by affirmative vote of the quorum. The Chairperson shall not make a motion while chairing a meeting of the Commission. After all discussion of the motion has been completed, the Chairperson will call for a vote. When the vote is evenly divided, the motion shall be deemed to have been defeated. If the vote is not unanimous, the minutes of the meeting shall indicate voting members opposed or abstaining by name. The Chairperson shall vote on each motion.
- 5.10 Work or Study Sessions. Work or study 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.
- 5.11 Electronic Participation.
- (a) Pursuant to RSA 91-A:2, III, the Commission may allow one or more members to participate in a meeting by electronic or other means of communication when attendance in person at the location of the meeting is not reasonably practical and with the advance permission of the Chair. Any reason that such attendance is not reasonably practical shall be stated in the minutes of the meeting.
  - (b) Except in an emergency, as defined in RSA 91-A:2, III (b), a quorum of the Commission shall be physically present at the location specified in the meeting notice as the location of the meeting.
  - (c) Each member participating electronically or otherwise must be able to hear each other and speak to each other during the meeting, and shall be audible or otherwise discernible to the public in attendance at the meeting's location.
  - (d) Any member participating in such fashion shall identify the persons present in the location from which the member is participating.
  - (e) A member participating in a meeting by electronic means 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.
  - (f) 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.

## **VI. ACQUISITIONS & HOLDINGS**

- 6.1 **Public Hearing.** The Commission shall hold a public hearing prior to the acquisition or acceptance of a partial or whole interest in any real property. At the hearing, any applicant, abutter, or holder of conservation or preservation restrictions 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.
- 6.2 **Notice.** Notice shall be provided to the seller/grantor/donor, holders of the 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.
- 6.3 **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.
- 6.4 **Consultation with 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.
- 6.5 **Gifts of Personal Property.** In the case of gifts of personal property, 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 accordance with the "Town of Amherst Deposit Policy." Gifts of securities and of other personal property that does not have historic or cultural value to Amherst's heritage will be immediately sold and the proceeds deposited in accordance with the "Town of Amherst Deposit Policy." Gifts of historic or cultural value to Amherst's heritage will be offered to the Historical Society of Amherst for accession consideration.

## **VII. ADMINISTRATION**

- 7.1 **Forms.** All forms and revisions thereof shall be adopted by vote of the Commission.
- 7.2 **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.

- 7.3 Records. Records of the Commission shall be kept in the Office of Community Development and be available to the public in accordance with RSA § 91-A.
- 7.4 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.

## **VIII. CODE OF CONDUCT**

- 8.1 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.
- 8.2 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 part 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.
- 8.3 Commission members and staff shall not participate in the preparation of, administration, monitoring, approval, or payment of any grants or contracts made to or by the Commission if a real or apparent conflict of interest would be involved.
- 8.4 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 any action at law.
- 8.5 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.
- 8.6 If a member of the Commission is disqualified or unable to act in any particular case before the Commission, the Chairperson shall designate an alternate to act in place of

- the disqualified member as specified in RSA § 673:11.
- 8.7 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.
  - 8.8 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.
  - 8.9 It is expected that Commission members will treat other members, staff and guests at meetings and in their absence, with fairness, kindness, empathy and respect and refrain from rude or malicious comments and gossip. The Chair reserves the right to adjourn the meeting for lack of conformance with this section without calling for a vote.