

# Town of Exeter Heritage Commission

## Rules of Procedure

Rules under which the commission operates,

Adopted March 13, 2007

Revised January 24, 2024

### I. GENERAL

1. Authority. The Exeter Heritage Commission (hereinafter the Commission) was established by the voters of the Town of Exeter at Town Meeting of March 14, 2006. Pursuant to RSA S 676: 1, the Commission has adopted these Rules of Procedure to prescribe the method of conducting its business pursuant to RSA S 673, RSA S 674, RSA S 6761 and RSA S 91-A.
2. Amendment. Amendments to these Rules of Procedure shall be adopted at a regular meeting of the Commission and shall be placed on file with the Town Clerk for public inspection.
3. Interpretation. These Rules of Procedure are based upon the most current statutes governing land use boards as of its writing (updated with legislation through Chapter 297 of the 2001 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.
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.
5. 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 Exeter 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 Exeter and adjoins or is directly across the street or stream or railroad right-of-way 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 property will be directly affected by the proposal under consideration.
  - b. Alternate Member. A 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.

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- d. Building Permit (or Permit). A certificate issued by the Code Enforcement Officer permitting the building, alteration, installation, repairs or change of buildings, land, or uses as regulated by the Zoning Ordinance.
- e. Certificate of Approval (or Certificate). A certificate issued by the Historic District Commission indicating its approval of an application to alter, repair, construct, add onto, move, demolish, or change the use of a structure or a site within a Historic District.
- f. Certified Local Government. A city or town that has met specific standards enabling participation in certain National Historic Preservation Act programs.
- g. Commission. Commission shall mean the Heritage Commission of the Town of Exeter, New Hampshire.
- h. Conservation Restriction. A right to prohibit or require, a limitation upon, or an obligation to perform, acts on or with respect to, or uses of, a land or water area, 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 area or in any order of taking, which right, limitation, or obligation is appropriate to retaining or maintaining such land or water area, including improvements thereon, predominantly in its natural, scenic, or open condition, or in agricultural, farming, open space or forest use, or in any other use or condition consistent with the protection of environmental quality.
- i. 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.
- j. 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.
- k. Historic District. An area designated by ordinance of the Town of Exeter 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.
- l. Preservation. The act or process of applying measures necessary to sustain the existing form, integrity, and materials of an historic structure, place, or feature.
- m. Preservation Restriction. A right to prohibit or require, a limitation upon, or an obligation to perform, 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 or in any order of taking, which right, limitation or obligation is appropriate to the preservation or restoration of such structure or site.
- n. Regular Member. A member of the Commission who has full voting power.

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- o. 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. RESPONSIBILITIES

1. Pursuant to RSA S 674:44-b, 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, upon request, local agencies and other local boards (including the Historic District Commission pursuant to RSA S 674:44-c) in their review of requests on matters affecting or potentially affecting cultural and historical resources.
  - e. Coordinate activities with appropriate service organizations and non-profit groups such as the Exeter Historical Society, the American Independence Museum, 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 Select Board, such gifts to be managed and controlled by the Commission for its proper purposes.
2. Property: Pursuant to RSA S 674:44-b, the Commission may acquire, in the name of the town and subject to the approval of the Select Board, by gift, purchase, grant, bequest, devise, lease, or otherwise, a fee or lesser interest, development right, 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.

### III. MEMBERSHIP

1. Regular Members. Pursuant to RSA 673:4-a, membership shall consist of seven regular members. One member shall be an ex officio member of the Select Board, one member shall be an ex officio member of the Historic District Commission and one member shall be an ex officio member of the Planning Board.
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

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chairperson shall designate an alternate to vote in his or her place; except that only the alternate designated by the Select Board 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. Appointment. The ex officio members from the Select Board, the Historic District Commission and the Planning Board shall be appointed by vote of their respective boards. All other regular members and alternate members shall be appointed by the Select Board.
4. Qualifications. In determining each member's qualifications, the Select Board 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 Select Board 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 Town Clerk and available for public review. Members shall be residents of the Town of Exeter.
5. Terms. Except as provided for in RSA S 673:5 (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 S 673:5 If, the initial terms of regular members first appointed to the Commission shall be staggered so that no more than three appointments occur annually 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. If a member wishes to be reappointed at the end of their term he or she must submit a letter to the Select Board so stating, prior to the term expiration .
5. Vacancies. The Select Board shall provide eligible volunteers to fill a vacancy, including expired terms. Vacancies shall be filled as provided by RSA S 673:12. Any member wishing to vacate their term prior to its expiration must submit a letter so stating to the Select Board.
6. Removal. Members may be removed for cause in a manner provided by RSA S 673:13. In addition, the chairperson may request the resignation of any member who fails to attend four consecutive meetings without just reason.

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### IV. OFFICERS

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. The Chairperson and officers shall be eligible for re-election. An ex officio member shall not serve as Chairperson.
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, and 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.
3. Vice-Chairperson. The Vice-Chairperson shall perform all the duties of the chairperson in her or his absence.
4. Secretary. Pursuant to RSA S 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 (Code Enforcement Officer, Town Clerk, Planning Dept.?) for public inspection within 144 hours of a public meeting or, unless voted otherwise pursuant to RSA S 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.
5. Treasurer. The Treasurer shall act as representative of the Commission to the Director of Finance of the Town of Exeter and prepare budget appropriations annually, in August, for the Heritage Commission General Fund. The disbursement of heritage funds shall be authorized by a majority of the Commission. Prior to the use of such funds for the purchase of any interest in real property, the Commission shall hold a public hearing with notice in accordance with RSA S 675:7.

### V. MEETINGS

1. Regular Meetings. The Commission will generally meet regularly on the third Wednesday 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 strict accordance with RSA S 91-A:3.
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 strict accordance with RSA S 91-A:3.
3. Joint Meetings.
  - a. Pursuant to RSA S 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

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the responsibilities of those boards. Similarly, the Heritage Commission shall have the authority on its own initiative, pursuant to RSA S 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 meeting 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.
  - 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 that overlap within the boundaries of the Exeter Historic Districts.
4. Non-Public Sessions. In accordance with RSA S 91-A:3, the Commission shall not meet in nonpublic 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. When possible, the Commission shall advise the Town Manager of any planned non-public sessions. 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 S 91-A:3,
- 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 against the Heritage Commission or 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. 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

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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.

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.
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.
- 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.
- 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 members opposed or abstaining by name. The Chairperson shall vote on each motion.
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.

### VI. ACQUISITIONS & HOLDINGS

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 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.
2. 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

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Commission will consider the matter. Notice shall be sent by regular mail at least 10 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.

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.
4. Consultation with Select Board. The Commission shall seek the approval of the Select Board prior to making a final decision on whether to acquire or accept real property.
5. Gifts of Personal Property. In the case of gifts of personal property, no public hearing is required, but must be reviewed with the Town Manager for insurance consideration. 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 Exeter Deposit Policy." Gifts of securities and of other personal property that does not have historic or cultural value to Exeter's heritage will be immediately sold and the proceeds deposited in accordance with the "Town of Exeter Deposit Policy." Gifts of historic or cultural value to Exeter's heritage may be offered to the Exeter Historical Society for accession consideration.

### VII. ADMINISTRATION

1. Forms. All forms and revisions thereof shall be adopted by vote of the Commission.
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.
3. 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 S 91 -A.

### VIII. 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



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property, whether as part of local review procedures pursuant to RSA S 674 and RSA S 676, or as part of actions such as National Register nomination review procedures.

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.
4. In conformance with RSA S 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.
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 chairperson shall designate an alternate to act in place of the disqualified member as specified in RSA S 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 S 31 :39-a.