



NEW HAMPSHIRE DIVISION OF HISTORICAL RESOURCES

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HERITAGE COMMISSIONS FOR NEW HAMPSHIRE COMMUNITIES

HERITAGE COMMISSIONS give local governments in New Hampshire new abilities to recognize and protect historical and cultural resources.

Unlike historic district commissions, whose responsibilities are limited to specific parts of a community, heritage commissions are intended to have a town-wide or city-wide scope, and a range of activities that is determined by each individual municipality. Heritage commissions do for cultural resources what conservation commissions do for natural resources. Functionally, heritage commissions are somewhere between historical societies and historic district commissions, with their precise role determined locally. And while their primary duties are to advise and assist other local boards and commissions, including the planning board, heritage commissions are also empowered to accept and expend funds for a non-lapsing heritage fund, and to acquire and manage property and property rights.

Some communities may have heritage commissions that are only advisory, but others will want their commissions to take a much more active role, and to assume the responsibilities of a historic district commission. And all of these are local decisions, authorized by the state enabling legislation: it gives communities a MENU, NOT A MANDATE.

The "heritage commission" concept provides communities with broader choices for the form and function of a municipal heritage body:

- no entity (nothing at all);
- a heritage commission only, with community-wide but non-regulatory responsibilities;
- a historic district commission only, with regulatory responsibilities limited to designated district/s;
- both a broadly focused non-regulatory heritage commission and a more narrowly focused, regulatory historic district commission; or
- a heritage commission (or historic district commission) that combines the functions of both entities.

The heritage commission statutes are "local option" legislation. They enable communities to establish heritage commissions with educational, advisory, and technical responsibilities; and, if desired, to merge an

existing historic district commission with the heritage commission (or to give an existing historic district commission the additional responsibilities of a heritage commission), so that the commission would also have regulatory powers within locally-designated historic districts.

1995 legislation brought the membership requirements of conservation commissions, historic district commissions, and heritage commissions into conformity; it also specifically stated that members of these commissions may serve on other municipal boards and commissions. This clarification was made to help communities--especially those with few available volunteers--that wish to establish parallel conservation and preservation commissions; and it will also make citizens' expertise more widely available to a broader range of local decisionmaking bodies.

For the first time, New Hampshire's municipalities can choose a level of official involvement in heritage activity that each community is comfortable with. And they will also be able, if they wish, to start out with a heritage commission and then, as local preservation sentiment grows, assign historic district responsibilities to the commission.

One of the other innovations of the heritage commission legislation is that it allows municipalities to establish a non-lapsing HERITAGE FUND which the heritage commission can spend--after a public hearing and subject to approval of the local governing body, without going back to the town meeting or citywide balloting--to acquire property and property interests (easements, etc.). However, to protect private property rights, neither the municipality nor the commission can condemn property for acquisition with the Heritage Fund.

This is an exact analogue to the conservation fund provisions (RSA 36-A:4 and RSA 36-A:5) which have been in effect, very successfully, for municipal conservation commissions for over thirty years. The heritage commission is also responsible to "manage and control" the acquired property, just as the conservation commission manages and controls the property it acquires under RSA 36:A:4 and RSA 36:A-5.

NH DHR/SHPO October 1996 ! REVISED June 2001

New Hampshire Revised Statutes Annotated (RSA)

TITLE 64

Planning And Zoning

CHAPTER 674

Local Land Use Planning And Regulatory Powers

Heritage Commission

§ 673:4-a & § 674:44-b

§ 673:4-a Heritage Commissions.

I. The heritage commission shall consist of not less than 3 members and no more than 7 members who shall be appointed in a manner as prescribed by the local legislative body.

II. Each heritage commission member shall be a resident of the city or town which establishes the commission. One commission member shall be a member of the local governing body. One commission member may be a member of the planning board. Not more than 5 alternate members may be appointed. When an alternate sits in absence or disqualification of a regular member, the alternate shall have full voting powers. If there is a historic district commission, one member of this commission shall be an ex officio member of the heritage commission. In determining each member's qualifications, the appointing authority shall take into consideration the appointee's demonstrated interest and ability to understand, appreciate and promote the purpose of the heritage commission.

III. Members of a heritage commission also may serve on other municipal boards and commissions, including but not limited to a conservation commission established under RSA 36-A, and a historic district commission established under RSA 673:4.

Source. 1992, 64:6. 1995, 138:4, eff. July 23, 1995.

SECTION 674:44-b

§ 674:44-b Powers.

I. Generally. Heritage commissions shall have advisory and review authority, specifically, as follows:

- (a) Survey and inventory all cultural resources.
- (b) Conduct research and publish findings, including reports to establish the legal basis for a 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 which address cultural and historic resources.

(d) Advise, upon request, local agencies and other local boards in their review of requests on matters affecting or potentially affecting cultural and historic resources.

(e) Coordinate activities with appropriate service organizations and nonprofit groups.

(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 city or town, subject to the approval of the city council in a city or the board of selectmen in a town, 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.

II. Property. The commission may acquire, in the name of the town or city, subject to the approval of the local governing body, 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 city or town, and shall manage and control the same; provided, however, that the city, town, or commission shall not have the right to condemn property for these purposes.

III. Historic District Commission. Heritage commissions also may assume, if authorized by the local legislative body, the composition and duties of historic district commissions.

Source. 1992, 64:2. 1993, 32:1. 1995, 138:5, eff. July 23, 1995