



Should Your Commission Have Bylaws?

Carol Andrews, NHACC executive director, June 2011

I am often asked to provide model or example documents for commissioners who want to create bylaws or rules of procedure. My reply usually comes in the form of questions:

Why do you want to create bylaws?

Does the desire to have bylaws come from within the commission, or is there an effort to direct your commission (and perhaps other town boards) to write bylaws?

Many commissions operate successfully with, and without, bylaws. I recognize that these documents can provide important guidance for commission operations, but there are cases where bylaws documents were used to justify the removal of commissioners, or to publicly criticize actions of the commission.

I want to make it clear that there is **no requirement for a conservation commission to adopt bylaws or rules of procedure**. Conservation commissions are not a “local land use board”, and are not governed by [RSA 676:1](#) (Every local land use board shall adopt rules of procedure concerning the method of conducting its business...). Town planners, administrators, and managers often think that a conservation commission must develop rules of procedure because they incorrectly assume that a conservation commission is a land use board. If your commission is being directed to develop bylaws or rules of procedure, you could consider writing a document that simply reiterates important provisions of [RSA 36-A](#):

The commission was formed by vote of town meeting in 1975, and its mission is to keep and index of, and to protect, the town’s water resources and other natural resources

The commission may have 3 - 7 members (unless the town voted a specific number at the formation of the commission), and the board of selectmen must appoint them

Conservation commission members must be residents of the town

In my opinion bylaws or other guidance documents

Should:

- Clarify how a commission will conduct its business
- Cite RSA 36-A

Should not:

- Limit the number of members or alternate members on your commission (unless these limits were voted at town meeting or other



NHACC

54 Portsmouth Street
Concord, NH 03301
603.224.7867
info@nhacc.org
NHACC.org

legislative body). RSA 36-A provides for 3 - 7 members, and does not specify a limit for the number of alternates.

- Limit the ability of the commission or its members to voice an opinion
- Require an approval process by another board (you do not need to have your bylaws approved by the board of selectmen)
- Prescribe the actions of other boards, unless that action is stated in law
- Set a specific quorum number
- State that *Robert's Rules of Order* will be followed.

According to Local Government Center Attorney Christine Fillmore: *Robert's Rules of Order* are not required, nor are they particularly useful for municipal boards...they are extremely complex. The current 10th edition is more than 700 pages long; the official "brief" version is more than 200 pages. It is also a challenge to be sure everyone is using the same version.

- Perpetuate the myth of an "ex officio" selectmen's seat, with voting power, on the conservation commission. There is no provision for such a position under NH law. Your bylaws may state that you welcome a selectmen's representative to attend commission meetings as a non-voting member.

I think the titles we give these guidance documents is important. The word "bylaws" could invite criticism or even a legal challenge. I prefer a less formal title such as "operational guidelines".