

# TITLE III

## TOWNS, CITIES, VILLAGE DISTRICTS, AND UNINCORPORATED PLACES

### CHAPTER 36-A

#### CONSERVATION COMMISSIONS

##### Section 36-A:1

**36-A:1 Method of Adoption.** – Any city by vote of its city council, and any town at any duly warned meeting, may adopt or rescind the provisions of this chapter.

**Source.** 1963, 168:1, eff. Aug. 20, 1963. 2008, 317:1, eff. Jan. 1, 2009.

##### Section 36-A:2

**36-A:2 Conservation Commission.** – A city or town which accepts the provisions of this chapter may establish a conservation commission, hereinafter called the commission, for the proper utilization and protection of the natural resources and for the protection of watershed resources of said city or town. Such commission shall conduct researches into its local land and water areas and shall seek to coordinate the activities of unofficial bodies organized for similar purposes, and may advertise, prepare, print and distribute books, maps, charts, plans and pamphlets which in its judgment it deems necessary for its work. It shall keep an index of all open space and natural, aesthetic or ecological areas within the city or town, as the case may be, with the plan of obtaining information pertinent to proper utilization of such areas, including lands owned by the state or lands owned by a town or city. It shall keep an index of all marshlands, swamps and all other wet lands in a like manner, and may recommend to the city council or selectmen or to the department of resources and economic development a program for the protection, development or better utilization of all such areas. It shall keep accurate records of its meetings and actions and shall file an annual report which shall be printed in the annual town or municipal report. The commission may appoint such clerks and other employees or subcommittees as it may from time to time require.

**Source.** 1963, 168:1. 1973, 550:1, eff. Sept. 3, 1973.

##### Section 36-A:3

**36-A:3 Composition of Commission.** – The commission shall consist of not less than 3 nor more than 7 members. In a town which has a planning board, one member of the commission may also be on the planning board. In a city which has a planning board, one member of the commission may be on the planning board. In cities, the members of the commission shall be appointed by the mayor subject to the provisions of the city charter, and in towns the members of the commission shall be appointed by the selectmen. Alternate members may be appointed in a like manner and when the alternate serves in the absence or disqualification of a regular member, the alternate shall have full voting powers. When a commission is first established, terms of the members shall be for one, 2, or 3 years, and so arranged that the terms of approximately 1/3 of the members will expire each year, and their successors shall be appointed for terms of 3 years each. Any member of a commission so appointed may, after a public hearing, if requested, be removed for cause by the

appointing authority. A vacancy occurring otherwise than by expiration of a term shall be filled for the unexpired term in the same manner as an original appointment. Members of a conservation commission shall be residents of the city or town which they represent. Members of a conservation commission also may serve on other municipal boards and commissions, including, but not limited to a historic district commission established under RSA 673:4, and a heritage commission established under RSA 673:4-a.

**Source.** 1963, 168:1. 1973, 550:2. 1974, 44:2. 1987, 318:1. 1995, 138:1, eff. July 23, 1995. 1997, 31:1, eff. June 27, 1997.

## **Section 36-A:4**

### **36-A:4 Powers. –**

I. Said commission may receive gifts of money, personal property, real property, and water rights, either within or outside the boundaries of the municipality, by gift, grant, bequest, or devise, subject to the approval of the local governing body, such gifts to be managed and controlled by the commission for the purposes of this section. Said commission may acquire in the name of the city or town, subject to the approval of the local governing body, by purchase, the fee in such land or water rights within the boundaries of the municipality, or any lesser interest, development right, easement, covenant, or other contractual right including conveyances with conditions, limitations, or reversions, as may be necessary to acquire, maintain, improve, protect, or limit the future use of or otherwise conserve and properly utilize open spaces and other land and water areas within their city or town, and shall manage and control the same, but the city or town or commission shall not have the right to condemn property for these purposes.

II. No commission, its members, or designee shall enter private property to gather data about the property for use in a wetlands designation, prime wetlands designation, natural resource inventory report or map, or natural heritage map without first obtaining permission of the property owner or agent, or a lawfully issued warrant. Such permission may be oral or written, provided that record is made of oral authorization. If consent for entry is denied, the conservation commission, or designee, may obtain an administrative inspection warrant under RSA 595-B.

III. Prior to requesting permission, the commission, its members, or designee shall notify the landowner of the purpose of the data gathering, the specific features that will be evaluated, the manner in which the data collected will be recorded and distributed, and possible known consequences of the data collection.

IV. No data gathered by entering property without the permission of the landowner or an administrative warrant shall be used for any purpose other than law enforcement purposes authorized by statute.

V. The conservation commission, in reviewing an application to provide input to any other municipal board, shall not require submission of an application for or receipt of a permit or permits from other state or federal governmental bodies prior to accepting a submission for its review or providing such input.

**Source.** 1963, 168:1. 1973, 550:3. 1995, 138:2, eff. July 23, 1995. 2008, 317:2, eff. Jan. 1, 2009. 2012, 202:2, eff. June 13, 2012. 2013, 270:4, eff. Sept. 22, 2013.

## **Section 36-A:4-a**

### **36-A:4-a Optional Powers. –**

I. The legislative body of a city or town may vote at an annual meeting to authorize the conservation commission to:

(a) Expend funds for the purchase of interests in land outside the boundaries of the municipality, subject to the approval of the local governing body; and

(b) Expend funds for contributions to "qualified organizations," as defined in section 170(h)(3) of the Internal Revenue Code of 1986, for the purchase of property interests or facilitating transactions relative thereto to be held by the qualified organization, when such purchase carries out the purposes of this chapter.

Because such contributions further the protection of the state's natural resources, they are hereby declared to be a public purpose.

II. A vote under this section may be taken simultaneously with the adoption of this chapter or any time thereafter. If the vote is taken simultaneously with the adoption of this chapter, a separate question shall be placed on the warrant.

(a) The wording of the question under subparagraph I(a) shall be: "Shall the town vote to adopt the provisions of RSA 36-A:4-a, I(a) to authorize the conservation commission to expend funds to purchase interests in land outside the boundaries of our municipality, subject to the approval of the local governing body?"

(b) The wording of the question under subparagraph I(b) shall be: "Shall the town vote to adopt the provisions of RSA 36-A:4-a, I(b) to authorize the conservation commission to expend funds for contributions to 'qualified organizations' for the purchase of property interests, or facilitating transactions related thereto, where the property interest is to be held by the qualified organization and the town will retain no interest in the property?"

III. The provisions of this section may be rescinded by vote of the legislative body.

**Source.** 2008, 317:3, eff. Jan. 1, 2009.

## **Section 36-A:5**

### **36-A:5 Appropriations Authorized. –**

I. A town or city, having established a conservation commission as authorized by RSA 36-A:2, may appropriate money as deemed necessary for the purpose of this chapter. The whole or any part of money so appropriated in any year and any gifts of money received pursuant to RSA 36-A:4 may be placed in a conservation fund and allowed to accumulate from year to year. Money may be expended from said fund by the conservation commission for the purposes of this chapter without further approval of the town meeting.

II. The town treasurer, pursuant to RSA 41:29, shall have custody of all moneys in the conservation fund and shall pay out the same only upon order of the conservation commission. The disbursement of conservation funds shall be authorized by a majority of the conservation commission. Prior to the use of such funds for the purchase of any interest in real property or for a contribution to a qualified organization for the purchase of property interests under RSA 36-A:4-a, I(b), the conservation commission shall hold a public hearing with notice in accordance with RSA 675:7.

III. In the municipality that has adopted the provisions of RSA 79-A:25, II, the specified percentage of the revenues received pursuant to RSA 79-A shall be placed in the conservation fund.

**Source.** 1963, 168:1. 1973, 550:4. 1987, 318:2. 1988, 120:1, eff. June 18, 1988. 2008, 317:4, eff. Jan. 1, 2009.

## **Section 36-A:6**

**36-A:6 Commissioner of Resources and Economic Development. –** The commissioner of the department of resources and economic development may establish a program to assist, at their request, the cities and towns which have adopted the provisions of this chapter, in acquiring land and in planning of use and structures as described in RSA 36-A:2.

**Source.** 1963, 168:1, eff. Aug. 20, 1963.