

BYLAWS FOR
THE NORWICH CONSERVATION COMMISSION

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Environmental Law Center

NORWICH CONSERVATION COMMISSION

1. PURPOSE

The purpose of the Commission is:

- a) to develop and maintain an inventory of and assist in the planning and preservation of the Town's natural and social resources for the continuing benefit of the townspeople;
- b) to acquire property interests to protect and preserve the Town's natural and social resources;
- c) to protect the watersheds;
- d) to increase the awareness of conservation and recreational goals in overall land use planning and zoning;
- e) to allow for recreational uses on acquired land which are consistent with conservation goals and have a minimum impact on the land;
- f) to conduct a broad education program on issues which have an impact on local natural and social resources; and
- g) to make recommendations to and cooperate and communicate with town officials and commissions, groups with similar concerns, and with appropriate agencies of the regional, state and federal government.

2. MEMBERSHIP

The Commission shall consist of [seven/nine] members, appointed by the Selectmen. Each member shall be a resident of the Town. All members shall serve without compensation, but may be reimbursed by the Town for necessary and reasonable expenses incurred in the course of their duties. All vacancies shall be filled by the Selectmen within six months. Appointments filling vacancies shall be for the remainder of the term of appointment. Appointments shall be for four years. The Selectmen may remove any member if just cause is stated to him in writing and after a public hearing on the matter, if that member requests one.

3. OFFICERS

The Commission shall elect the following officers annually at the first meeting of the group after the scheduled appointments:

A. Chairman shall preside at all meetings of the Commission at which he is present, and shall direct the work of the Commission. He may appoint annually chairmen of those standing committees provided for under Article 6. He shall submit a brief annual report to the Selectmen and, upon their adoption, to the annual Town Meeting of the transactions of the year passed and plans and prospects for the next year. The Chairman shall insure continuing liason between the Selectmen, Planning Commission and other town agencies.

B. Vice-Chairman shall assume all duties and powers of the Chairman in his absence.

C. Clerk shall keep minutes of all meetings and proceedings of the Commission and record any action taken by the Commission. He/she shall post public notices of Commission meetings and give notice to individual members when necessary.

D. Treasurer shall recommend action on all bills received by the Commission. He/she shall insure the authorization of payment of any bills over [\$100], as voted by the Commission, for submission to the Selectmen for payment. He/she shall prepare a financial report for each Commission meeting, and submit an annual financial statement to the Town. He/she shall attend all meetings of the Trustees of Public Funds of the Town which involve the Commission or Conservation Trust Fund.

4. MEETINGS

The Commission meetings shall be open to the public, and be held at a regular time and place when possible. The time and place of each meeting shall be posted at the Town Hall not less than seven days in advance. All records and minutes of any Commission meeting or action shall be filed with the Town Clerk and be available to the public.

Four members shall constitute a quorum. Members shall make every effort to attend all meetings and perform such duties as are assigned. Any member unable to attend a meeting shall notify the Clerk of the Commission and make a report available for that meeting if requested.

5. INVENTORIES

a) The Commission shall immediately begin development of an inventory on the basis of study of the natural resources of the Town. This inventory shall include but not be limited to prime agricultural and forest lands, soil capabilities, water resources, floodplains, known mineral resources, unique or fragile biological sites, scenic and recreational resources and other open lands. The Commission shall make recommendations based on this inventory to the Town Planning Commission which will provide protection of the valuable characteristics of these resources. These recommendations shall be considered by the planning commission as amendments to the town plan or zoning scheme. Separate inventory shall be prepared of the land-related social resources of the town, including those lands which have historic, educational, cultural, scientific, architectural, or archaeological values to the public. The Commission shall also make recommendations based on this inventory to the Planning Commission which shall be considered as amendments to the town plan.

b) These inventories shall be updated as needed and submitted to the Planning Commission to be available as guides in planning. The Commission may recommend any amendments to the Planning Commission at any time based on these inventories or studies which it feels are needed to implement the purposes of the Commission.

c) The Commission is authorized to designate or hire any person, partnership, company or corporation to give necessary specialized assistance in preparing the inventories.

6. COMMITTEES OF THE COMMISSION

a) The Chairman of the Commission may annually appoint chairmen of any standing committees from the membership of the Commission, which may include, but not be limited to:

1. Land Acquisition Committee

The Committee shall, on the basis of the inventories or other appropriate study, recommend to the Selectmen the purchase of or receipt of as a gift, specific land and/or property rights (including easements) or other property for the purposes set forth in Article 1. The Committee may solicit or suggest sales or donations of specific interests from land owners. Any purchases or receipt of gifts of property interests shall be by consent of the Selectmen or affirmative majority vote of the Town. Each recommendation

by the Committee shall include an estimate of acquisition related costs to the town, including but not limited to legal counselling, surveying, appraisal and effect on tax base, and the predicted source of funds to be used for acquisition and related costs.

2. Land Management Committee

The Committee shall annually prepare plans and propose regulations for the use of the property interests acquired under recommendation which will insure the continued protection and preservation of the interests for the purposes for which they were acquired. These plans shall be submitted to the Planning Commission and/or the Selectmen for approval. Where appropriate the plans may include a memorandum of agreement between the Selectmen and the Commission which would transfer management duties and responsibilities to the Commission. Any such memorandum shall include a provision for revocation by the Selectmen for any cause on thirty days notice.

3. Education and Information Committee

This Committee shall be responsible for preparation and distribution of material and education activities on the local natural and social resources. It shall make available to the public information on these resources, especially those relating to public lands. This Committee shall maintain communication with other Conservation Commissions, and may submit a copy of the Commission Chairman's annual report to the State Conservation Commission.

a) This Committee shall prepare, when requested or appropriate, a statement on the significant impacts any proposed development, land use plan, or other action will have on the natural or social resources of the Town, and submit that report to the proper board, commission, or authority.

b) If any of the above Committees are not formed, the responsibilities and duties of each shall be delegated by the Chairman of the Commission or assumed by the entire Commission.

c) No action shall be taken by any Committee without the consent of the Commission. Committee membership and meetings shall be open to the public.

d) The Commission is authorized to designate or hire any person, partnership, company or corporation to give necessary specialized assistance to a Committee.

7. OPERATING EXPENSES - CONSERVATION TRUST FUND

The Commission shall have the authority to request appropriations from the town for its operating, land management, inventory, education and information expenses.

Any other funds appropriated to the Commission shall be carried in a public trust fund called the Conservation Trust Fund.. This fund shall be under the charge and management of the Trustees of Public Funds. This fund shall accrue from year to year for the use by the Commission solely for the purposes set forth in Article 1 of these bylaws. The Commission shall have the authority to receive gifts, grants or money from any sources for those purposes. Any funds from private, state or federal sources which impose any obligation on the town shall be accepted only by consent of the Selectmen.

8. PUBLIC REPRESENTATION

a) The Commission shall represent the public interest in any matter having a potential adverse impact on the natural or social resources of the town to the extent permitted by law. It shall make recommendations to any town, regional, state or federal body which it feels are needed to implement the purposes of the Commission.

b) The Commission shall review the existing land use plan and any amendments proposed at any time to that plan and comment to the Planning Commission on the existing plan and any amendments.

c) Sale, or diversion from a use outside the purposes of Article 1 of these bylaws, of any interest which is administered by the Commission shall only occur after approval by a majority vote of the voters at the Town Meeting.

9. AMENDMENTS

These bylaws may be amended at any regular meeting of the Commission by a two-thirds vote of the Commission. Written notice of intent to amend must be publically posted, sent to each member of the Commission, and to the Chairman of the Board of Selectmen at least seven days prior to the meeting at which the proposed action is to be taken.

With the approval of the Selectmen, the Commission is recommending to the town that it replenish this Conservation Trust Fund by a special appropriation. We have several projects under study which if approved by the Selectmen or the town may need this money on short notice. For this reason, we include a review of the history, purposes and accomplishments of the Conservation Trust Fund.

Conservation Trust Fund

Master Plans adopted in Norwich in 1967, 1974, and 1980 all called for an inventory of the town's natural resources and measures for their protection and wise use. These include acquisition of ownership or other rights to areas deserving to be reserved in the public interest. To get started on this, the Selectmen created the Conservation Commission in 1974, and at the annual Town Meeting that year townspeople voted the first appropriation (\$5,000) to what is now called the Conservation Trust Fund. Additional appropriations of the same amount were voted in the next four years.

The Commission does not have direct access to the Fund, but acts as a watchdog, and makes recommendations for its use to the Selectmen or to the voters when opportunities arise for carrying out the stated objectives of the Master Plan. As the town's Master Plan now explains (page 7): "Public control or ownership of outstanding sites and facilities for recreation and conservation will surely become more difficult to acquire as the Town gets more crowded. The Selectmen and the Town as a whole should continue the strong support for the activities of the Recreation Council and the Conservation Commission, including the maintenance of the Capital Land Fund."

The discovery in 1969 that the top of Gile Mountain was about to be sold for a highly inappropriate development shocked the town into creating the Conservation Commission. The experience of the alarmed group that succeeded in making Gile Mountain a town park instead of a development showed that someone had to be watching out for the town's interest, and have money at hand for appraisals, surveys, options, and so forth. It also underscored the fact that only the town itself could get matching grants from Federal and State sources. The 1974 Town Plan, therefore, evolved out of an "Inventory" in which 19 different planning groups involving more than 200 townspeople assess Norwich, its problems, potential, and future. Three of these committees stressed the need for a Conservation Commission and its Fund. Concern at that time focused on open land along the Connecticut River and other waterways, and sites near the center of town, that should be indicated and studied for protection. These concerns have increased and broadened as the town has grown, and now include a wide range of major projects and areas.

Since the Conservation Trust Fund was established, it has been tapped three times — always on short notice — for such opportunities. In each case, with the consent of the Selectmen, money was immediately available for studies and negotiations of prime areas which might have been lost had the Commission been forced to wait for a vote at the next annual Town Meeting.

In 1974, by moving fast, the town and the Commission were able to work with the State Agency of Environmental Conservation to set aside 5.6 acres of undeveloped forest (the Loveland Strip) along the bank of the Connecticut River, at less than market value. The town put up \$2,000, and the State, \$4,000. In 1978, the Commission was able to purchase 7.3 acres to add to the 50-acre Gile Mountain tract. At a cost of \$7,300, this addition added a legal access, and an area for parking. The addition brought the tract into compliance with earlier Federal and State matching grants. This year, as mentioned, the Commission used \$8,000 from its Fund to purchase one-third of the library's new lot. This will add a small park area next to the Elderly Housing Development — an area that might have gone instead for a two-family house.

The new bylaws of the Conservation Commission charge it with maintaining an up-to-date inventory of the natural and recreational resources of the town, and to make recommendations concerning these resources to the town, and to make recommendations concerning these resources to the Selectmen or voters. Transparent overlays of inventory maps are available for public inspection in the Commission's office on the second floor of Tracy Hall. These overlays include: primary agricultural lands, slopes, flood plains, flood hazards, drainage patterns, wetlands; as well as, elevations, soils, land use, large land holdings, roads by class, soil survey, and physical condition.

An example of a natural resource might be a bog supporting a unique stand of rare wild orchids. A recreational or social resource might be a little garden-like park near the center of Norwich where elderly citizens can sit and visit with neighbors. Most cases that the Commission deals with are larger and more complex. While the Commission would not want to see very substantial areas moved off the tax rolls into public ownership, we are charged with alerting the town to significant opportunities for moving toward its stated goals of conservation and recreation. Availability of Conservation Trust Funds for quick action in these rare cases will continue to serve the town well.

William W. Ballard	Frances Haugen, treasurer
Richard d. Brooks, clerk	Jack Shepherd
William DeVaux	David Webb, chairman
Jake Guest	

COMMENTARY

INTRODUCTION

Preservation of the existing "character" of Vermont in general and Norwich in particular has been of increasing importance to its residents. In response to this concern, several legal frameworks designed to insure that growth is reasonable have been introduced into the land use system of the state. The establishment of a municipal Conservation Commission (pursuant to 24 Vt. Stat. Ann., title 24 §§ 4501-4506) provides a town or city with the highest degree of local control of any of these.

Norwich's Conservation Commission serves as a nucleus and motivating force for the protection of a municipality's natural resources. It is composed of town residents who are appointed by the Selectmen. The Conservation Commission's duties range from maintenance of resource inventories to development of educational programs on those resources. One of their major duties is to recommend the purchase or acquisition of interests in land which will protect those resources.

The concept of conservation commissions did not originate in Vermont; several other states have successfully introduced such programs. These commissions have demonstrated how local concern can have a local influence in resource use and planning. Commissions have, through appropriations by the town, gifts, government funding, and other sources, established or rehabilitated parks, low level recreation areas, preserves and conservation areas. They have also aided in protection of large areas of wetlands and floodplains, thereby insuring maintenance of proper water levels in aquifers and in watersheds.

Norwich's Conservation Commission is established in Vermont under 24 V.S.A. Chapter 118 by town vote. Once created, the Conservation Commission faced certain problems such as how to organize itself and what are the limits of its abilities and duties. Also, the relationship of the Conservation Commission to the municipality's Planning Commission or Board of Adjustment was undetermined. The Commission was unsure about its obligations to administer lands or interests which it has suggested be acquired. The state enabling act for conservation commissions gives some guidelines but does not address all the specific problems a commission might encounter.

To provide this needed framework to insure a working commission, these bylaws have been drafted and adopted. They provide limits to the commission's authority yet insure flexibility in individual decisions. They are designed to promote combined efforts by conservation and planning commissions to

allow for reasonable growth while insuring protection of valuable resources. The bylaws represent one approach - other approaches were examined and others are possible. The approach taken here is premised on a concerned commission which will continue to be active after the initial work of compiling resource inventories is complete.

ARTICLE 1

A wide range of purposes are listed to allow for a broad interpretation of the various goals of a Commission. Chapter 118 has references to "the purposes of [the] chapter" throughout the text of the statute, but those purposes are not specifically enumerated. The purposes must be implied from the various authorizations of the act. The list of purposes in the bylaws cover the spectrum of these authorizations.

Subsection (a) deals with development of an inventory of the town's resources. The inventory will be used in land use planning. References throughout the bylaws to "natural and social resources" are to those values listed for the respective inventories in Article 5. Subsection (a) also identifies the townspeople rather than the general public as the benefactors of the Commission's work. This is not meant to exclude regional plans for the sake of local interests, but rather to indicate that in deciding whether to recommend action of a given nature, the Commission should weight the benefits which accrue to the townspeople.

Subsection (b) refers to the Commission's authority and duty to protect the town resources. This subsection should not be construed to mandate acquisition of property interests to protect all resources: some protection may come from other sources, some resources inventoried will go unprotected. This is due to a desire in most towns for reasonable growth and to a limit on the funding available from prime land acquisition.

Subsection (c) allows flexibility for the Commission to consider acquisitions in floodplains, wetlands, streams, lakes, and ponds, as well as riparian interests. These acquisitions may be essential to protect other lands and to promote the general health, safety and welfare. This subsection should be construed to allow acquisition of lands subject to easements and limited uses as authorized by Chapter 155 of Title 10, Acquisition of Interests by Public Agencies. Section 6303 of Chapter 155 allows for acquisition of fees simple subject to right of occupancy and use, fees simple and resale of rights and interests, fees simple and lease back, fees less than simple, and leases. These agreements would allow the town to place restrictions on the use of land to insure protection of the watershed while not losing the use of that land for agricultural purposes. Section 6304 places statutory limitations on the rights of a grantor on reconveyance from a town which are consistent with the goal of watershed protection. Both parties to any transaction reconveying rights or interests should be made aware of these limits.

Subsection (d) sets forth a policy of having the Commission play an active role in advising with the Planning Commission and Zoning Adjustment Board. The Commission should be regarded as having an advisory role in the Planning and Zoning decisions. Chapter 118 does not state or imply that the Commission should have a greater power than these bodies. The Commission is not to be treated as an equal on land use decisions, as its basic role as defined by the statute is advisory. Subsection (d) does not give the Commission greater power than is authorized by Chapter 118 but rather follows the design of the statute by making the Commission a necessary consulting body.

Subsection (e) defines the word "recreational". Section 4506 states that "property acquired ... under this chapter shall not be sold or diverted to uses other than conservation or recreation ..." Under this section recreation is a valid purpose for the Commission to advise acquisition of property rights. Recreation is not defined in Chapter 118. Subsection (e) defines recreation for the purposes of the Commission as limited to uses consistent with conservation as set forth in the other subsections of Article 1 (see, for example, the definition in 10 V.S.A. § 5212(a)(3)). The suggested definition favors preservation of existing conditions over construction of more defined recreational facilities though such facilities may involve few or no permanent structures (for example, athletic fields and picnic grounds).

It has been suggested that this is too narrow a construction of the statute and that problems of permitting mixed recreational uses on acquired land will arise. The definition is suggested because it is most consistent with conservation.

Educational programs and activities authorized under § 4505(10) are referred to in subsection (f). Educational programs should be centered on local resources, but may include national or regional issues which have local significance. The emphasis on local impact is not meant to prohibit use of Commission funds for purchasing national or regional materials, provided some of the issues addressed in those materials are relevant to the town.

Subsection (g) recognizes the value of communication with other Commissions and the need for involvement in some projects at more than a local level.

ARTICLE 2

Chapter 118 allows for Commissions of not less than three nor more than nine members. An odd number is preferable in the event the Commission is split on any point. Commissions of seven or nine are suggested because of the need for four officers and Committee Chairmen. The third sentence of Article 2 is taken

from § 4502, with the addition of the phrase "incurred in the course of their duties". This phrase clarifies the scope of reimbursement which is allowed. Section 4502 also has a similar residency requirement.

The bylaws add a six-month limit to the time for the Selectmen to replace a vacancy. This insures a continuation of the proper size Commission and proper time to select a qualified replacement. The initial terms are staggered in length to insure a sense of continuity. Chapter 118 authorizes the Selectmen to remove any member at any time for just cause. The reasons for his removal must first be stated to him in writing. He then has the option to request a public hearing on his removal. This hearing is not mandated by the statute or the bylaws, and is only held if the member requests it.

ARTICLE 3

Officers are to be elected annually after the yearly appointments to the Commission. The Chairman is to preside over the meetings and is to make a brief annual report to the Selectmen and the Town Meeting. He/she also appoints chairmen to head any standing committees. The Vice-Chairman also is in charge of the original inventories made under Article 5 and for keeping them up to date.

The Clerk functions as the recording secretary of the Commission. He is also charged with issuing notices to the members and the public. The Treasurer is charged with paying or insuring payment of all bills presented to the Commission. Bills which may be over a certain dollar figure (\$100 is suggested) are to be voted on by the Commission and authorized by the Selectmen. These bills will be paid by the Selectmen. Reimbursement by the Commission will occur if that was the understanding at the time of authorization. The Treasurer will prepare financial reports for each Commission meeting and will submit a comprehensive report at the annual Town Meeting. He is also charged with attending any meeting of the Trustees of Public Funds of the Town at which the Conservation Trust Fund will be discussed.

ARTICLE 4

All meetings of the Commission will be open to the public and public participation will be encouraged. The Commission should make every attempt to hold meetings at a convenient place and on a regular schedule. In any event, the Clerk will post a public notice at the Town Hall at least seven days before the meeting. The Clerk will file minutes which are approved' with the Town Clerk, who will make them available for public review.

A meeting will not be official unless a quorum is present. For all purposes (except amendment of the bylaws, Article 9), a majority of the Commission will constitute a quorum. Voting on all bylaw amendments will be by majority vote. The simple majority figures are suggested to assure the workability of the Commission. Any member who cannot attend any meeting will notify the Clerk and prepare a report for that meeting if the Clerk or any member requests it. This was added to keep members conscientious.

ARTICLE 5

This Article makes mandatory the authorized development of an inventory of the Town's resources. The resources are divided into two categories, corresponding to § 4505(1), the "natural resources" and § 4505(2), the "social resources." The first category represents values inherent in the land which apply to any society, the second represents values which are dependent on the current society. This distinction between inherent values and judgment values is the basis for maintenance of separate inventories. This approach is suggested but not necessary. The land involved in each inventory may overlap. Consequently, a town may prefer to have one inventory covering both natural and social resources.

Preparation of these inventories should begin as soon as the Commission is organized. Since the inventories will serve as a basis for recommendations, their completion should be a high priority. Although not suggested in the general bylaws, a town could impose a deadline for completion of the initial inventories. This time limit should be sufficient to allow a dependable study. This was not suggested as a general requirement because many towns lack adequate primary sources on which to base an inventory, while in others the resources may have already been studied. In such a town the imposition of a deadline could be used. Where initial studies are sparse, however, the inventory process should not have a time limit imposed, as an open ended deadline reduces overall costs. In either situation, the Commission should use existing sources where possible, and prepare a totally independent inventory. The Commission may recommend amendments or acquisition based on its studies though the inventories are uncompleted. The resources listed to be inventoried are a minimum; other applicable resources may be included.

The Commission should assess the inventories and then make recommendations to the Town Planning Commission. The recommendations should be aimed at protecting these resources through the

mechanisms available to the Planning Commission. These recommendations will be considered as proposed amendments to the current plan or zoning scheme, and be reviewed by the Planning Commission as such. This procedure provides a mechanism separate from the acquisition mechanism of Chapter 118. The procedure is not violative of any Vermont law as any person or body can propose amendments to a plan. This step will assure adequate consideration of conservation and recreational concerns. Not every resource can be protected consistent with reasonable growth. The procedure is not a mandate of protection but a mechanism to provide adequate consideration of the concerns of the Commission.

Social resources should be examined in a separate inventory if different land interests are involved. It should be completed within a reasonable time and may in some cases be finished before the natural resources inventory. The social resources inventory will be presented to the Planning Commission along with the Conservation Commissions recommendations which will also be treated as proposed amendments. It will merely serve as a guide in planning. The suggestion for maintenance of separate inventories is not a determination that social resources are subordinate to natural resources. It merely recognizes the inherent problem of inventorying social resources; the process is more subjective than the listing of natural resources.

The inventories will be kept up to date. Revisions of the inventories shall be submitted to the Planning Commission to be used as aides in planning. The Commission may also make specific recommendations based on the inventories at any time. The emphasis is on using subsequent revisions as aides because of a desire not to burden the Planning Commission with a constant stream of proposed amendments.

Where technical assistance is required for the preparation of the inventories, the Commission will have the authority to decide which of any reasonable offers of assistance it will use. This removes a potential point of conflict with the Planning Commission. Jurisdiction overlaps with respect to this ability to designate the consultant or other specialized technician. The use of such technical assistance varies in each case, and in view of the differing policy goals of the two Commissions it is more appropriate to allow the Conservation Commission the ability to determine its consultants when such consultants are necessary. It should be emphasized again that the inventory should depend, where possible, on existing studies. Although the goals of the Planning and Conservation Commissions may differ, it would be a misallocation of resources to have the Conservation Commission re-inventory resources simply because of those differences.

ARTICLE 6

The Committees are recommended, not required. The use of Committees is recommended because of the different duties and responsibilities given the Commission. The appointment of a person as Chairman is a definite delegation of a duty by the Commission Chairman, and the extent of that duty is given by the definition of the Committee. These duties may be delegated without using Committees, but a standing Committee gives an opportunity for members and the public to participate in the specific area where they have the greatest concern. The creation of these optional Committees is strongly recommended.

The Committees will report to the Commission, and the Commission will decide what action to take on the report. The Commission may authorize specific technical assistance to a Committee when it is necessary for the Committee's work. The Committee must ask the Commission for authorization of such assistance, and give reasons for the request and listing possible sources for that assistance. The Commission will then decide whether the assistance will be given, and designate the source.

Land Acquisition. This Committee will make specific recommendations for the purchase of land, acceptance of land as a gift, purchase or acceptance as a gift of property interests, and purchase or acceptance as a gift of other property. These recommendations should be made in consideration of the financial ability of the Town to purchase any right. It is recommended that the purchase of easements be examined in each case so total cost might be reduced.

Interests listed in § 6303(a) of Chapter 155, Title 10, also represent alternatives to purchase of fees simple. Pursuant to § 6308(b) of Chapter 155 (as amended in 1975, No. 186 Adj. Sess.) interests less than fee simple should, when possible and in the interests of the parties, include a date of termination of the interest or rights pursuant to agreements made under authorization of Chapter 155. Acquisitions made pursuant to Conservation Commission recommendations are accomplished under authority of Chapter 155. Thus, the Town might not acquire a permanent interest in an easement. The suggested method of purchasing such an interest is by § 6303(a)(2), (3), or (4) which give the town a fee simple while subjecting the land to various degrees of use by the original owner. All these uses are subject to § 6304 which limits the development rights on the property. Subsections 6303(a)(2), (3), and (4) are not subject to the termination clause of § 6308(6), and therefore will usually be held valid and permanent. Acquisition of these type interests are highly suggested.

The Committee may approach individual owners with specific suggestions. This should be for acquisition of individual interests based on the inventories rather than a broad solicitation of all land owners. To facilitate these solicitations and all acquisitions the Committee should have a tax benefit schedule drawn up by an attorney which will enable an owner to evaluate the costs and benefits of donating or selling an interest to the town.

Any recommendation, including that of acceptance as a gift, will include other non-acquisition but related costs to the Town. These include legal counselling, title searches, surveying, appraisal, the effect the purchase or gift would have on the tax base, and what source of funding (if necessary) is recommended to purchase any right. This will enable the Selectmen or the Town voters to assess the total acquisition cost before authorizing or rejecting the sale.

There is an optional requirement that the Chairman of the Committee attend Town Planning Commission and Zoning Board of Adjustment meetings. This would allow for a greater uniformity in land use planning and insure communication between the bodies.

The possibility of a joint member on both Conservation and Planning Commissions was considered but not suggested because of the different goals of the two commissions. Joint membership, though not excluded, could inhibit the independent judgement which is an important asset of the Conservation Commission. The requirement that a member of the Conservation Commission attend all Planning and Board of Adjustment meetings is a compromise and eliminates this possibility but insures communication between the groups.

One problem which the Committee may encounter when recommending is the desire of the town to purchase or accept as a lot and have only a portion of that area set aside for conservation purposes. One method of allowing the town to convert the remaining land to higher recreational uses is the use of a nature conservancy or similar organization as a middleman in the transaction. The conservancy would purchase from the original owner, divide the area as the town wished. The town would then purchase the land or interest encumbered only to the extent it wished. This would eliminate the need for a town vote (pursuant to § 4506 of Chapter 118) before allowing a higher recreational use. An alternative to this type of transaction is a broader definition of "recreation." This is not suggested because of the reasons given after Article 1(e).

Whenever the Committee recommends purchase of an interest which is less than fee simple, the recommendation should include a provision for a right to enter to be given to the town in order to accomplish the purposes set forth in Article 1 of these bylaws. Such a provision is suggested in 10 V.S.A. § 6303(c). Inclusion of this provision protects the rights of the town after acquisition of interests less than fee simple.

Land Management. This Committee is charged with making recommendations for administering the land pursuant to § 4505(7) of Chapter 118. The Committee will recommend rules and regulations for the use of any land, interest, or other property acquired under recommendation from the Commission. These recommendations are to be consistent with the purposes for which the land was acquired. No absolute ban on any use is put in the bylaws. The uses which are allowed, however, should insure the continued protection and preservation of the interests, so as not to cause a degradation of the land or be inconsistent with the Commission's purpose. All plans or regulations must be approved by the Selectmen as they hold the land in public trust for the townspeople.

Subsection (7) of § 4505 of Chapter 118 gives a Commission authority to "administer" the interests acquired by Commission recommendation. Full administration is not possible as the Selectmen hold all public lands in trust for the Town. The Selectmen are authorized to lease these lands for the public benefit. The bylaws recommend the use of a memorandum of agreement (instead of a leasing agreement) which would transfer management and administration to the Commission. Leasing arrangements are also possible, but a revocable memorandum from the selectmen accomplishes the same goals and presents less potential administrative problems. Any agreement should include a provision to allow the Selectmen to revoke the lease for any reason. This insures that the Selectmen will be able to adequately discharge their duty to hold in the public trust. Any revocation of an agreement will give the Selectmen the duty to administer the land until new plans are adopted for its management. The use of memoranda of agreement is recommended as it would decrease the need for continually submitting plans to the Selectmen but still allow them to retain control over the land, with the right to revoke the lease for any cause.

Under the suggested definition in Article 1(e), interests acquired may be used for recreation if that use is consistent with the purposes for which the interest was acquired. This definition splits the administrative authority over recreation between the Conservation Commission (which would handle minimum impact recreation) and another group, possibly the town recreation committee (which would handle more organized and structured recreational uses and programs). While these two types of administration are suggested to be kept separate, there is an optional requirement that the Chairman of the Land Management Committee attend all meetings of the Town Recreation Committee and any other committees which are involved in public recreation. This should increase the use of the land administered by the Conservation Commission, as structured programs may be planned to use that land consistent with conservation goals. Such use is encouraged as the lands are held for public benefit and the use increases the education of the public in land use consistent with conservation. These programs could include field trips and nature walks for school children.

Education and Public Information. This committee will be responsible for the duties which are authorized in Subsection 10 of § 4505 of Chapter 118. The education of the public on local natural and social resources is a vital part of the Commission's town role.

The Committee should also communicate with other Conservation Commissions on problems it encounters and projects it undertakes and make its records available on request to such commissions. The chairman of the committee will also submit a copy of the Commission Chairman's annual report to the State Conservation Commission so the State Commission can coordinate efforts at the state level when necessary.

The Committee will also be charged with preparing a statement of the effects on local natural and social resources on any development or Town Board or Commission action. These reports are only necessary where there would be a significant impact on the resources. This procedure insures that conservation and recreation needs are recognized and considered. The report may be both quantitative and qualitative or merely qualitative. It is not meant to be an exhaustive report, but should be in-depth enough to allow adequate consideration by the appropriate group.

ARTICLE 7

The Commission may ask the Selectmen for appropriations from the general budget. These appropriations are to be used by the Commission for expenses incurred in inventories or Committee work. These funds will be held in an account administered by the Commission Clerk.

Any other funds will be put into a Conservation Trust Fund which will be administered by the Trustees of Public Funds of the town. These funds may be from private or government sources. Any funds which impose obligations (such as conditioned grants) will be accepted after approval by the Selectmen. The fund may be a major source for acquisition. Drives to raise money for the fund would be carried out by the Education and Public Information Committee.

ARTICLE 8

Whenever any proposed action might have an adverse impact on the resources of the Town, the Commission should represent the Town's interest in those resources. Actions of this type may include proposed developments or creation of Regional Planning

Commissions (or their actions). Where any such representation would be in conflict with the duties of another Town body, the Commission should examine the values to be represented and how they will be represented to determine whether it will represent the public. Unless the values and how they will be represented significantly differ, the Commission should defer to the other body when that body is authorized to represent the townspeople. The Commission will also make recommendations to any governmental body which may aid in the productive use of Town resources.

The Commission will work closely with the Planning Commission whenever possible, and review and comment on any actions they take.

There are three steps in the general land use process at which the Commission should have input: planning, zoning, and issuing of permits. The Planning Commission should be aware of the town's resources and of means to lessen the impact which reasonable growth will have on those resources. The inventories serve this function of insuring reflection of conservation goals in planning. Individual resources may be protected by zoning mechanisms which the Conservation Commission may suggest from time to time. Finally, procedures for the granting of individual variances and permits which allow for public input should be utilized by the Commission pursuant to its duty to protect the town's resources.

Section 4506 of Chapter 118 requires that land or interests acquired may only be sold or diverted from conservation or recreation purposes by an affirmative vote of the voters at the annual Town Meeting. Subsection (c) of Article 9 follows § 4506 in placing this limit on interests acquired under recommendation. The interests which should be considered subject to this provision are only those which have, since their acquisition by the Town, been administered by the Conservation Commission. This, together with the use of middlemen in acquisitions, will permit mixed recreational development.

ARTICLE 9

This Article allows for amendment of the bylaws by a two-thirds vote of the Commission or a vote of six if there are nine members. All members must receive individual written notice at least seven days before the meeting when amendments will be proposed. Notice must also be given the Chairman of the Board of Selectmen and be posted at the Town Hall. All amendments, as well as the original bylaws, must be approved by the Selectmen.