

**Office of Selectmen**  
**Post Office Box 139**  
**Moultonborough, N.H. 03254**  
**(603) 476-2347**

**STATEMENT OF POLICY**  
**No. 21**

**Discretionary Preservation Easements – RSA 79-D**

The purpose of this policy is to formalize the provisions of RSA 79-D under which the Town of Moultonborough receives and responds to an application for a Discretionary Preservation Easement. The Town's adoption of RSA 79-D indicates that there is a high level of interest in and enthusiasm for preserving historically significant agricultural structures in the Town of Moultonborough. To that end, the Board of Selectmen enacts this policy.

**I. Authority:**

NH RSA 79-D, *Discretionary Preservation Easement*, provides the statutory authority for the Board of Selectmen to grant property tax relief to owners of historic agricultural structures who (a) can demonstrate the public benefit of preserving their barns or other old farm buildings, and (b) agree to maintain their structures throughout the duration of the preservation easement. RSA 79-D encourages these owners to maintain and repair their structures by granting specific tax relief and assuring that assessments will not increase as a result of new repair or maintenance work.

RSA 79-D represents a uniquely New Hampshire approach which is strictly voluntary on the part of the property owner and combines statewide eligibility criteria and guidelines with decision-making and implementation at the local level. In Moultonborough, the Board of Selectmen has delegated the preliminary review of RSA 79-D applications to the Heritage Commission (December 3, 2009). Applicants are encouraged to consult with the Heritage Commission early in the application process, to ensure that applications are complete enough for discussion and eventual board action.

**II. Applications:**

Application to the Town of Moultonborough for a Discretionary Preservation Easement shall be made using Form PA-36-A (Discretionary Preservation Easement Application) created by the NH Department of Revenue Administration for that purpose and processed with a Checklist, attached hereto as Attachment A. The process, by which the Board of Selectmen considers the application, including the timing for events to occur, will be according to RSA 79-D: 4 and 5.

### III. Qualifying Structures:

Historic agricultural structures eligible for the easement are those identified by RSA 79-D: 3, as detailed by the New Hampshire Historic Agricultural Structures Advisory Committee established under RSA 227-C: 29. Local governing bodies may also decide to include other related agricultural structures in accordance with local circumstances.

### IV. Assessment of Property Subject to Discretionary Preservation Easement in the Town of Moultonborough:

Assessment of qualifying structures and related land located in the Town of Moultonborough shall occur following these guidelines:

A. The full value assessment of the qualifying historic agricultural structure(s) and land necessary for the function of the building(s) shall follow accepted standards required by the State of New Hampshire, Department of Revenue Administration and the International Association of Assessing Officials. The full value assessment of the structure will change only when all properties in the Town of Moultonborough or all agricultural structures in the Town of Moultonborough change. This shall include changes to recognized existing “neighborhoods”, so defined for assessing purposes.

B. A reduction in full value assessment, applied because of the Discretionary Preservation Easement, shall occur within the range of 25% to 75%, based upon the formula generated by the Heritage Commission using the form entitled “Matrix for 79-D abatement.” [Attachment B].

C. The change of use for a historic agricultural structure shall not disqualify that structure from consideration and approval for a Discretionary Preservation Easement. A structure that is converted to a non-agricultural use may be eligible if the adaptation retains the historic integrity of the building, but only for the level of maintenance and repair, not for the value added by the conversion. Whether a change of use occurred before the applicant seeks a Discretionary Preservation Easement, or when such a change occurs after Town approval of an application, the Town Assessor will assess the structure for its original agricultural use independent of the changes that occur(ed). The Discretionary Preservation Easement shall apply only to the historic agricultural structure(s) that qualifies the structure for consideration under RSA 79-D: 7. The cost of converting a barn or other agricultural structure to another use is NOT repair and maintenance. The original structure shall receive the reduction in fully assessed value so long as the historic integrity and character of the structure does not change.

V. Easement Document and Recording:

The Board of Selectmen shall prepare an easement document codifying and containing the terms of the agreement for execution by the applicant. The Discretionary Preservation Easement prepared shall apply for a term of ten years. The easement shall include a description of the method of assessment (RSA 79-D:7), a general repair and maintenance plan, and the terms of release, expiration and renewal (RSA 79-D:8). The applicant shall be responsible for paying a twenty-five dollar (\$25.00) fee for recording the document. The Town shall be responsible for the proper recording of the easement (RSA 79-D: 6).

VI. Notifications:

The Board of Selectmen shall notify the Town Assessor, Code Enforcement Officer, and the Heritage Commission of the completed Discretionary Preservation Easement. They will direct that the Administration Office file a copy of the recorded easement with the appropriate assessment card and make suitable reference to the easement in assessment records.

VII. Inspections:

An annual inspection shall be conducted by the Moultonborough Heritage Commission, with prior notice, in writing, to the property owner for compliance with the easement. If, based upon said inspection, the property owner fails to maintain the structure(s) in conformity with the agreement, causes the structure(s) to significantly deteriorate or be demolished or removed, or fails to implement the repair or maintenance plan within two (2) years of its scheduled date(s), the owner shall be notified in writing. If the owner fails to commence the repairs or plan within three (3) months of written notification, the easement shall be terminated and a penalty assessed in accordance with RSA 79-D:8.

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This policy shall be effective immediately upon adoption and shall remain in effect until superseded or replaced.

Date of Adoption:  
September 22, 2005  
(May 2011 revision)

Joel Mudgett, Chairman  
Edward J. Charest, Vice-Chairman  
James Gray  
Betsey Patten  
Russell Wakefield  
BOARD OF SELECTMEN

**Attachment A:****Moultonborough****Checklist for Processing Discretionary Preservation  
Easements for Historic Agricultural Structures**

Applicant: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Application on DRA Form PA-36-A Postmarked Date: \_\_\_\_\_  
(Application with supporting documentation attached.)

**Public Hearing:**

Notice published Date: \_\_\_\_\_

Public Hearing Date(s) Date: \_\_\_\_\_

**Site Visit (if conducted):**

Condition: Good Average Poor  
(Minutes and photographs attached.)

**Decision by Board of Selectmen**

Granted: \_\_\_\_\_ Date: \_\_\_\_\_ Amount \_\_\_\_\_%

Denied \_\_\_\_\_ Date: \_\_\_\_\_

**Preservation Easement:**

Signed original easement received from applicant Date: \_\_\_\_\_

Accepted by Board of Selectmen: Date: \_\_\_\_\_

Recorded: Date: \_\_\_\_\_

Recording fee/costs paid by applicant: Date: \_\_\_\_\_

**Hearing Qualification Questions:**

1. Is/are the structure(s) “historic” (at least 50 years old)? (Yes / No)

*See application for verification of age. Examples of supporting evidence of age are tax records, historic photographs and period publications.*

If “no” to the above, the structure(s) does/do not qualify for a discretionary preservation easement.

2. Is/are the structure(s) “agricultural structure(s)? (Yes / No)

*See NH Historic Agricultural Structures Advisory Committee guidelines, Attachment I, Illustrative List of Agricultural Structures, for examples.*

If “no” to the above, the structure(s) does/do not qualify for a discretionary preservation easement.

3. Does/do the structure(s) provide a public benefit? (Yes / No)

*In deciding whether to accept a Discretionary Preservation Easement, RSA 79-D:3 establishes that the local governing body of the municipality shall determine whether the structure meets one of the following three criteria of public benefit (see Heritage Commission recommendation):*

Does/do the structure(s) provide scenic enjoyment to the general public from a public road or public waters?

If “no” to the above, is/are the structure(s) historically important on a local, regional, state or national level, individually or as part of a historic area or district?

If “no” to the above, does/do the structure(s) contribute to the historic or cultural integrity of a property listed on or eligible for listing on the New Hampshire State or National Registers of Historic Places, or is/are the structure(s) in a locally designated historic district?

**Abatement Evaluation:**

1. Does the applicant agree to maintain the structure(s) in keeping with its historic integrity and character during the term of the easement, and is there a maintenance plan included?

Yes \_\_\_\_ No \_\_\_\_

2. Public benefit to be obtained versus the tax revenue lost by granting an easement:

Board of Selectmen's assessment of the public benefit gained if a discretionary easement were to be granted (see Heritage Commission recommendation):

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3. What is the assessed valuation of the structure(s) including the land necessary for the function of the structure(s): \_\_\_\_\_

4. Abatement granted (none, 25% - 75%). \_\_\_\_\_ %

Attachments:

1. Notice of Public Hearing
2. Minutes of Public Hearing and Site Visit (if applicable)
3. Photographs
4. Easement

**Attachment B**

<b><u>Matrix for 79-D Abatement</u></b>		
Moultonborough Heritage Commission		
Yes = 1 pt., No = 0 pts.		
Abatement Scale: 1-4 pts. = 25%, 5-8 pts. = 50%, 9-12 pts. = 75%		
<b><u>Category</u></b>	<b><u>Item</u></b>	<b><u>Yes/No</u></b>
<b><u>Recognition</u></b>		
<b>Local Recognition</b>	Is the structure of local or regional importance, in terms of cultural history and telling the story of agriculture or development in the community, and/or is it recognized in local historical publications or in the town Master Plan (history or community landmarks)?	
<b>Recognition Potential</b>	Does the structure meet DOE (determination of eligibility) criteria for listing in the NH State Register of Historic Places, the National Register of Historic Places, or other designation, individually or as contributing to a larger property or area?	
<b>Formal Recognition</b>	Is the structure listed in the National Register of Historic Places, or is it a contributing structure to a listed property? Is the structure listed in the NH State Register of Historic Places, or is it a contributing structure to a listed property?	
<b><u>Visibility and Public Benefit</u></b>		
<b>Rural Character</b>	Is the structure a familiar local landmark, and/or does it contribute to the scenic qualities of the community and region, thus benefiting local residents, visitors, and tourism?	
<b>Scenic Routes</b>	Is the structure on Scenic and Cultural Byway (Lakes Region Tour) or designated Scenic Road?	
<b>Public Support</b>	Is there public interest or community support for the structure's preservation (letters of support from individuals / organizations / specialists)?	
<b><u>Integrity</u></b>		
<b>Present Use</b>	Is the structure on a working farm (include Current Use and agricultural designations such as Tree Farm), or otherwise being used for agricultural purposes?	
<b>Community Example</b>	Is the structure a good representative of its type of barn, and is it a good example of historic construction methods or materials?	
<b>Unique Example</b>	Is the structure now an unusual or rare surviving type of barn or outbuilding in the area, or is it unique because of its architect or builder, or is it part of a unique landscape or setting?	

(continued)

<u>Category</u>	<u>Item</u>	<u>Yes/No</u>
<b><u>Integrity (continued)</u></b>		
<b>Use and Appearance</b>	If the structure is being used for agricultural purposes, does it retain its historic exterior appearance and integrity (consider alterations and replacement features)? Or, if the structure has been adapted for other use (such as residential or professional), has its historic exterior appearance been maintained, and does it retain integrity?	
<b><u>Plan</u></b>		
<b>Maintenance or Restoration Plan</b>	If the structure is in good or average condition, will the property owner's plan for maintenance and repair preserve the structure's historic appearance and integrity? Or, if the structure is in poor condition, or if there is a threat to its existence, will the property owner's plan restore the structure's historic appearance and integrity?	
<b>Quality Repair</b>	Will the property owner's planned maintenance, repair and/or restoration work adhere to the Secretary of the Interior's Standards for Rehabilitation?	
	<b>TOTAL POINTS</b>	
	<b>RECOMMENDED ABATEMENT</b>	

Completed and Recommended by the Moultonborough Heritage Commission as of  
 \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
 Chair