

Date Adopted: 07/14/14

Town Of Bennington, New Hampshire
Planning Board
By-Laws and Rules of Procedure

Pursuant to RSA 676:1, the Bennington, New Hampshire Planning Board adopts the following Rules of Procedure.

Section 1 - Title; Amendment

- 1.1 These rules may be cited as the Bennington Planning Board Rules of Procedure.
- 1.2 These rules may be amended and revised by a majority vote of the members of the board.
- 1.3 The Board recommends annual review of By-Laws and Master Plan.

Section 2 - Membership; Officers; Terms of Office

- 2.1 The Planning Board shall consist of five members who are residents of the community and elected by the Town to serve. One member shall be a member of the Board of Selectmen.
- 2.2 Selection, qualification, terms, removal of members, and filling of vacancies shall conform to RSA 673.
- 2.3 The Planning Board shall elect the following officers from its members, provided however, that the Selectmen's ex officio member shall not hold any office: Chairman and Vice Chairman.
- 2.4 The Board shall appoint a clerk.
- 2.5 Officers are elected for a one (1) year term at the first regular meeting following the annual town election.
- 2.6 Any Member unable to attend a meeting shall notify the chair as soon as possible.
- 2.7 Prolonged absence without adequate justification may initiate a request from the Board to the Selectmen to remove Member/Alternate in accordance with RSA 673:13.
- 2.8 The Chairman shall seat alternate members as voting members as needed to bring the Board to full capacity whenever possible.

Section 3 - Duties of Officers

- 3.1 The Chairman shall preside over meetings and shall be responsible for conduct and decorum of the meeting. The Chairman shall have the responsibility to ensure that all parties receive a full and fair hearing before the Board, to enforce the rules herein and applicable State laws, appoint such committees as directed by the Board and shall affix his/her signature in the name of the Board.
- 3.2 The Vice-Chairman shall preside over meetings and assume the duties of Chairman in the absence of the Chairman.
- 3.3 The clerk shall maintain a record of all meetings, transactions and decisions of the Board, and perform such other duties as the Board may direct by resolution. The clerk may also hold seat of alternate

Section 4 - Meetings; Special Meetings; Place; Hours

- 4.1 The Board regularly holds meetings on the second Monday of each month.
- 4.2 The Board holds a workshop the fourth Monday of each month.
- 4.3 Special meetings of the Board shall be held at the call of the Chairman or by written request of a majority of the Board members.
- 4.4 Regular or special meetings of the Board may be recessed to a time and place as a continuation of said meeting without further notice.
- 4.5 All meetings of the Board shall be held in Town Hall unless the Board shall vote to meet at some other different place for a particular meeting.
- 4.6 Regular meetings of the Board shall commence at 7:30 PM unless the Board shall vote to fix some different meeting time for a particular meeting.
- 4.7 Meetings - Controlling Length of: At the start of a regular meeting, if an Agenda has not been divided by the Chair, any board member may request a polling of the members to determine whether or not the agenda should immediately be divided at some designated point in order to inform the public present before the meeting formally starts. However, if a decision is not made to divide an agenda, and the Board's business continues to 9:30 PM then, the Board shall not commence any new agenda items so that the Board may continue to conclusion the current agenda item. The Board may, by vote, determine to waive this rule and take up new business later than 9:30 PM.

4.8 A quorum of three (3) members is required to conduct business.

4.9 An affirmative vote of a majority of members voting on a question shall be sufficient for adoption of the question. Members of the Board present may be counted to determine whether a quorum is present although they may abstain from voting affirmatively or negatively. Persons abstaining shall not be considered "members voting" in determining whether a question has been adopted. Members are expected to vote on matters before the Board, unless that member has recused himself/herself. Abstaining from a vote is discouraged, unless the issue pertains to business that took place when the member was absent.

4.10 When the vote on a question is evenly divided, the question shall be deemed to have been defeated.

4.11 A motion to reconsider a previous vote by the Board shall be in order only if made by a member who voted with the prevailing side.

4.12 Unless modified by a vote, the Board regularly follows the following Order of Business:

A. Call to Order / Roll Call

B. Old Business

C. New Business

D. Miscellaneous business

E. Adjournment

4.13 Alternate members shall only vote when appointed to sit in the place of an absent or disqualified member, excepting that alternate members may vote on administrative and procedural matters.

Section 5 - Agenda Management

5.1 On a monthly basis, applications received for Planning Board consideration shall be kept in sequence of the time when the completed application is received in the office. The Planning Coordinator / Chairman shall not accept nor schedule for consideration by the Board an application which is not substantially complete.

5.2 Pursuant to State law, an application may only be "accepted" by the Planning Board at a public hearing held by the Board.

5.3 Requests by an applicant to be placed on an agenda, for new applications, must be received not less than thirty days prior to the date of the meeting.

5.4 Requests by an applicant to be placed on an agenda, other than a new application, must be received not less than fifteen days prior to the date of the meeting.~

5.5 Information regarding an application under consideration by the Board, or for inclusion on the Miscellaneous Business agenda, must be submitted to the Planning Board Office fifteen (15) days prior to the Monday night meeting when the information is to be considered. Information submitted after that day or at the hearing shall be taken under advisement and discussed at a time and place to be specified by the Board, unless waived by a majority vote of the Board.

Section 6 - Public Hearing

The conduct of public hearings shall be governed by the following rules:

6.1 The Chairman shall be the mediator and call the hearing into session.

6.2 Members of the board and alternates may ask questions at any point during presentation.

6.3 The Chairman shall ensure that each person who appears at a Public Hearing signs in as well as state his/her name, address, and in what capacity they are present for.

6.4 Any member of the board, through the Chairman, may request any party to the case to speak a second time.

6.5 Any party to the case who wants to ask a question of another party to the case must do so through the Chairman.

6.6 The applicant shall be called to present his proposal.

6.7 Those appearing in favor of the application shall be allowed to speak

6.8 Those in opposition to the application shall be allowed to speak.

6.9 The applicant shall be allowed to speak in rebuttal

6.10 The Chairman shall present a summary setting forth the facts of the case and the claims made for each side. Opportunity shall be given for the correction from the floor

Section 7 - Decisions

7.1 The Board shall render a written decision on all completed applications within 65 days of the date the application is accepted as complete, subject to extension or waiver as provided in RSA 676:4,I,(f)

7.2 Notice of the decision will be made available for public inspection within 5 business days after the decision is made, as required in RSA 676:3.

7.3 If the application is disapproved, the Board shall provide the applicant with written reasons for the disapproval.

Section 8 - Records

8.1 The records of the Board shall be kept at the Planning Board office and shall be made available for public inspection at the Town Hall as required by RSA 676:3 II.

8.2 Minutes of the Board meetings shall be kept in accordance with the provisions of RSA 91-A. Minutes shall be considered a summary of events and business transacted once adopted by the Board with any corrections noted.

8.3 All plats and notices of decisions shall be recorded with the Registry of Deeds. The Applicant shall be responsible for the recording fees.

8.4 All official documents produced, adopted, or revised by the Planning Board for future regular use shall prominently include a version or revision date, which shall be reported to the Town Clerk. The Town Clerk shall maintain an ordered list of such documents, including their most recent version or revision. Examples to be listed include forms, checklists, guides, and manuals, but not correspondence or other single-use dated documents.

Section 9 - Sitewalks

9.1 A sitewalk is defined as a visit by the Board or a member of the Board to a location which is the subject of an application before the Board, where the visit is in the company of the owner applicant, their agents or employees and involves going onto the property or visiting areas which are not customarily available for public inspection. This does not include a view of a site from adjoining public highways or other observations that can be made without entering on the property.

9.2 When the Board deems it necessary for the adequate consideration of an application, the Board shall request the applicant to allow a sitewalk by the Board.

9.3 When the Planning Board schedules a sitewalk for Board membership, it shall be posted as a meeting of the Board in accordance with RSA 91-A.

9.4 Sitewalks are public meetings of the Board and as such members of the public are allowed to attend. The Chairman has the authority to maintain decorum and order on a sitewalk just as at any other meeting of the Board.

9.5 The practice of an applicant directly contacting a member to invite that member to visit a property without prior Chairman / Planning Coordinator notice shall be discouraged as an inappropriate course of conduct.

9.6 When the Board meets to consider an application, the Board and/or individual members of the Board shall disclose whether they have conducted a sitewalk on the location under consideration.

9.7 Minutes of sitewalks shall always be kept and made public.

9.8 The Board should refrain from making decisions on an application while on a sitewalk. For Board members, the purpose of the sitewalk is to gain knowledge of the site. Members shall not discuss merits of the case with the applicant until the Public Meeting.

Section 10 - Joint Meetings and Hearings

10.1 As provided in RSA 676:2, joint meetings and hearings may be held with other land-use boards at the discretion of the boards involved.

10.2 Joint business meetings with any other land-use board(s) may be held at any time when called jointly by the chairmen of the boards involved.

10.3 A public hearing will be held jointly with another board only under the following conditions

a. The joint public hearing must be a formal public hearing on appeals to both boards by the same applicant(s) regarding the same subject matter.

b. The Planning Board chairman shall chair the joint hearing as required by RSA 676:2, and the Planning Board's procedures for public hearings shall be followed.

c. The other board shall concur in these conditions.

Section 11 - Standards of Conduct

11.1 The primary obligation of Planning Board members is to serve the public interest, and to conduct themselves so as to maintain public confidence in the Planning Board and the conduct of its business.

11.2 Members shall not directly or indirectly solicit any gifts or accept or receive any gift (whether in money, services, loans, travel, entertainment, hospitality, premises or in any other form), under circumstances in which it could be reasonably inferred that the gift was intended to influence them in the performance of their duties or was intended as a reward for any recommendation or decision on their part.

11.3 To avoid conflict of interest or even the appearance of impropriety, any member who may receive some private benefit from a public planning board decision must not participate in that decision. The private benefit may be direct or indirect, create a material personal gain or provide an advantage to relations, friends, groups or associations that hold a significant share of the official's loyalty. A Member with a conflict of interest must make that interest public, abstain from voting on the matter, recuse themselves and leave the table.

11.4 A Board member must not disclose or improperly use confidential information obtained in the course of his duties for financial gains or to further a personal interest.

11.5 Notwithstanding the above restrictions, a Board member who has an interest in a plan before the Board may, following recusing himself/herself from the Board, exercise his/her rights as a citizen and address the Board on the issue under review.

11.6 Ex parte communications (written or verbal communications from or to a Board member concerning a pending application) impair the procedural due process rights of interested parties and undermine public confidence in the Planning Board. Board members should refrain from initiating ex parte communications on any application. Any requests or inquiries by Board members should be made during public hearings or through appropriate town staff. Members receiving ex-parte communications should refrain from responding (citing this section) and refer the party initiating the communication to the appropriate town staff. In appropriate circumstances, the town staff shall advise interested parties of the inquiry or attempted ex parte communication.

11.7 All Board members share a responsibility to enforce adherence to the standards or conduct herein. If a member believes that one or more members may either by intention or inadvertence be in violation of these standards, he/she shall call that fact to the attention of the Chairman who shall in turn call it to the attention of the member in question. In the event of a dispute as to whether a member should or should not participate, the question shall be posed to the Board, as to whether the member in question should or should not participate. Such a vote shall be advisory and non-binding and can not be requested by other than Board members.

Section 12 - Subcommittees

12.1 The Planning Board having adopted a Master Plan, is authorized by the Board of Selectmen to prepare and amend a recommended program of municipal capital improvements per RSA 674:5.

12.2 The Planning Board, at its discretion, may create additional subcommittees for work on other Board projects, including Master Plan Updates, Zoning Ordinance Amendments, Site Plan Review Regulation Amendments, Subdivision Review Regulation Amendments, and other similar projects.

Section 13 - Fees

13.1 Subdivision:

General application fee \$250 plus \$100 for each additional lot created.

13.2 Lot Line Adjustment:

General application fee \$200.

13.3 Site Plan Review: \$75.00 fee

13.4 Notification Fee: \$8 per abutter plus actual cost of required newspaper notices. Notification fees are payable at time of initial application. Additional fees shall be required if further notification is necessary.

13.5 Professional Circuit Rider Planner Review Fees: During periods when the Planning Board has engaged the services of a circuit rider planner with the Southwest New Hampshire Regional Planning Commission to review planning board applications, the applicant shall bear the cost of any such reviews done in relation to his/her project. Prior to signing and recording of the plat, the applicant shall provide the Town with a check, made to the Town of Bennington, for the entire cost of such reviews.

13.6 Professional Engineering Review Fees: The Planning Board may, at its discretion, employ the services of an outside consultant engineer to review roadway, drainage, utility, water line, sewage disposal, pedestrian facility, or any other similar design. Said cost of such reviews shall be borne by the applicant. Prior to signing and recording of the plat, the applicant shall provide the Town with a check, made to the Town of Bennington, for the entire cost of such reviews.

13.7 Fees for Recording by the Registry of Deeds

13.8 Application and notification fees are due at time of initial application; additional fees must be received before an application can be approved.