

## **RULES OF PROCEDURE**

### **PLANNING BOARD, TOWN OF RINDGE**

Revised 5/27/10, 6/23/10, 05/02/2012,

#### **SECTION I. AUTHORITY**

These rules of procedure are adopted under the authority of New Hampshire Revised Statutes Annotated (RSA) 676:1.

#### **SECTION II. MEMBERSHIP**

The Planning Board shall consist of seven (7) members. The Selectmen shall designate one selectman as an ex-officio member with power to vote. Selection, qualification, term, removal of members, and filling of vacancies shall conform to RSA 673. Up to five (5) Alternate members may serve on the Planning Board as authorized by RSA 673:6. Each newly elected or appointed (including re-elected or re-appointed) member shall be sworn in and take an oath of office as required by RSA 42:1. The Planning Director shall forward to the municipal clerk for recording the appointment/election and expiration dates of the terms of each member of the Board.

#### **SECTION III. OFFICERS**

1. The officers of the Board shall be as follows:

**Chairperson:** The Chairperson shall preside over all meetings and hearings; shall prepare, with the assistance of the Planning Director, an annual report; and shall perform other duties customary to the office.

**Vice-Chairperson:** The Vice-Chairperson shall preside in the absence of the Chairperson and shall have the full powers of the Chairperson on matters that come before the Board in the absence of the Chairperson.

In the absence of both the Chairperson and Vice-Chairperson, an Acting Chairperson shall be chosen by a majority of the Board. The Officers shall serve for one year and shall be eligible for re-election.

2. The officers of the Board shall be elected annually at the first meeting following the Annual Town Meeting by majority vote of the Board. If it is necessary to appoint an alternate to sit in place of an absent member, such alternate shall be randomly selected. Vacancies in the membership of the Board shall be filled pursuant to the procedures set forth in RSA 673:12. If requested by a majority of those present, voting shall be by written ballot.

#### **SECTION IV. DUTIES**

1. It shall be the duty of all members and alternates to be present at all hearings and meetings, to read materials in preparation of meetings and to serve on subcommittees as needed.
2. In the event a member or alternate misses three (3) consecutive meetings or more than four meetings in one year without notifying the Chairperson, removal of that member or alternate may be recommended to the Board of Selectmen as provided in RSA 673:13.

#### **SECTION V. SUBCOMMITTEES**

1. The Chairperson shall appoint such subcommittees as the Board directs and shall appoint the Chairperson of each subcommittee. Whenever possible, at least two Planning Board members shall sit on each subcommittee.
2. Subcommittee meetings shall be posted in accordance with RSA 91-A:2.

#### **SECTION VI. MEETINGS**

1. At least one regular meeting shall be held each month in accordance with RSA 673:10. The first meeting following the Annual Town Meeting shall be a work meeting if the schedule permits, for the purpose of election of Officers, review of the Rules of Procedure and orientation of new members.
2. Special meetings may be called by the Chairperson or, in her/his absence, by the Vice-Chairperson or, at the request of three members of the Board, provided that public notice and notice to each member is given at least 48 hours in advance of the time of such meeting. The notice shall specify the purpose of the meeting.
3. Nonpublic Sessions shall be held only in accordance with RSA 91-A:3.
4. Quorum: A majority of the membership of the Board shall constitute a quorum, including alternates sitting in place of regular members. Pursuant to RSA 673:11, if any regular Board member is absent from a meeting or hearing, or disqualifies her/himself from sitting on a particular application, the Chairperson shall designate one of the alternate members to sit in place of the absent or disqualified member. Such alternate shall have all the powers and duties of a regular member in regard to any matter under consideration on which the regular member is unable to act. The alternate may continue to sit until the matter is completed unless the absent member returns and states for the record that she/he has familiarized her/himself with the matter. Alternates shall be appointed to sit on a rotating basis with consideration given to continuity of cases.
5. Unseated Alternates: Unseated alternates may participate with the board in a limited capacity. During a public hearing, alternates may view documents, listen to testimony, and actively participate and interact with other board members, the applicant, abutters,

and the public. However, they shall not be allowed to make or second motions and shall not participate in any way during the deliberations by the board.

During work sessions or portions of meetings that do not include a public hearing, alternates may fully participate, exclusive of any motions or votes that may be made. At all times, the chair shall fully inform the public of the status of any alternate present and identify the members who shall be voting on the application.

6. Disqualification: If any member finds it necessary to be disqualified from sitting on a particular case, as provided in RSA 673:14, she/he shall notify the Chairperson as soon as possible so that an alternate may be appointed. The disqualification shall be announced by either the Chairperson or the member before the discussion or the public hearing on the case or matter begins. The disqualified member shall leave the Board table during all deliberations and the public hearing on the matter. If uncertainty arises as to whether a Board member should disqualify her/himself, on the request of that member or the request of another member of the Board, the Board shall vote on the question of whether that member should be disqualified. Such request and vote shall be made prior to or at the commencement of any required public hearing. A vote on a question of disqualification shall be advisory and non-binding, and may not be requested by persons other than board members.

Any member who is an abutter to a proposed subdivision or site plan will be automatically disqualified from sitting on the case.

7. Order of Business shall be as follows:

- a. Call to order and Roll Call by the Chairperson.
- b. Appointment of alternates, if necessary.
- c. Announcements and Communications
- d. Approval of Minutes
- e. Old Business/Continued Public Hearings
- f. New Business/ Public Hearings
- g. Reports of Officers and Subcommittees
- h. Other Business

8. Agendas: It shall be the responsibility of the Chairperson, assisted by the Planning Department, to prepare an Agenda for each meeting of the Board.

## **SECTION VII. APPLICATIONS FOR SUBDIVISION, SITE PLAN REVIEW, AND CONDITIONAL USE PERMITS NOT OTHERWISE PART OF REGULAR SITE PLAN REVIEW**

**All applications for Subdivision, Site Plan and Conditional use Approval shall be processed in accordance with the procedures set forth in RSA 676:4 including, but not limited to, the following:**

1. Applications for hearings before the Board shall be made on forms provided by the Board and shall be filed with the Planning Department.
2. Notice shall be given as required in RSA 676:4,1(d) 10 days before a completed application is submitted to the Board.
3. Completed applications shall be accepted by majority vote of the Board and shall be scheduled for consideration within 30 days of acceptance.
4. The Board shall reject all applications not properly completed.
5. An application shall not be considered incomplete solely because it is dependent upon the issuance of permits or approvals from other governmental bodies, however, the Planning Board may condition approval upon the receipt of such permits. RSA 676:4I(b).

#### **SECTION VIII. FORMS**

1. All forms prescribed herein and revisions thereof shall be adopted by resolution of the Board and shall become part of these Rules of Procedure.

#### **SECTION IX. NOTICE**

1. Public notice of the submission of and public hearings on each application shall be given in the local newspaper not less than ten (10) days prior to the date fixed for submission and consideration of the application.
2. Personal notice shall be made by certified mail to the applicant, all abutters and any professional whose seal appears on any plat not less than ten (10) days prior to the date fixed for submission of the application to the Board.

#### **SECTION X. PUBLIC HEARINGS**

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

1. The Chairperson shall call the hearing in session, identify the applicant or agent and ask for the Planning Director's report on the proposal.
2. The applicant or agent shall be called on to present the proposal.
3. Those in favor of the proposal shall be allowed to speak.
4. Those in opposition to the proposal shall be allowed to speak.
5. Other parties, including representatives of town departments and other town boards and commissions, who have an interest in the proposal shall be allowed to present their comments in person or in writing.
6. Any party to the matter who desires to ask a question of another party must go through the Chairperson.

7. Any applicant, any abutter or any person with a direct interest in the matter may ask questions and/or testify in person or in writing.
8. Each person who speaks shall be required to state her/his name and address and indicate whether s/he is a party to the matter or an agent or counsel to a party to the matter.
9. Members of the Board may ask questions at any point during the presentation.
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10. The Chairperson shall indicate whether the hearing is closed or adjourned pending the submission of additional material or information or the correction of noted deficiencies. In the case of an adjournment, additional notice is not required if the date, time and place of the continuation is made known at the adjournment.

### **SECTION XI. DECISIONS**

1. The Board shall render a written decision within 65 days of the date of acceptance of a completed application, subject to extension or waiver as provided in RSA 676:4.
2. The Board shall act to approve, conditionally approve, or disapprove a completed application
3. Notice of Decision will be made available for public inspection at the Planning Department within 144 hours after the decision is made, as required in RSA 676:3. If the application is disapproved, the Board shall provide the applicant with written reason for this disapproval
4. Whenever a plan is recorded to memorialize an approval issued by the Board, the written Decision, including all conditions of approval, shall be recorded with or on the plan. RSA 676:3 III.

### **SECTION XII. RECORDS**

1. The records of the Board shall be kept by the Planning Director and shall be made available for public inspection at the Planning Department as required by RSA 676:3,11.
2. Minutes of the meetings including the names of Board members, persons appearing before the Board and a brief description of the subject matter shall be open to public inspection within 144 hours of the public meeting as required in RSA 91-A:2 ,II.
3. Recordings of Planning Board meetings conducted in accordance with state law are permitted. However, the Board asks that the recorder notify the chairman at the start of the meeting of any such recording as a courtesy to the audience.
4. Town staff may record Planning Board meetings to assist them in transcribing the official Meeting Minutes. However, recordings made will be deleted upon the approval of the meeting minutes or following the appeal period for an application, whichever is later.

### **SECTION XIII. JOINT MEETINGS AND HEARINGS**

1. The Planning Board may hold joint meetings and hearings with other “land use boards” including the Board of Adjustment. Each board shall have discretion whether or not to hold such joint meeting or hearing (RSA676:2).
2. Joint business meetings with another local land use board may be held at any time when called jointly by the chairpersons of the two boards.
3. A joint public hearing must be a formal public hearing when the subject matter of the hearing is within the responsibilities of the boards convened.
4. The Planning Board Chairperson shall chair all joint meetings and public hearings when the subject matter involves the Planning Board.
5. The rules of procedure for joint meetings and hearings, the subject matter of which involves the Planning Board, shall be the same as these rules of procedure except that the order of business shall be as follows:

- a. Call to order by Chairperson
  - b. Introduction of members of both boards by Chairperson
  - c. Explanation of reason for joint meeting/hearing by Chairperson
  - d. In the case of a public hearing relative to a requested permit or an application for a plat approval, or both, the applicant shall be called to present his proposal
  - e. Adjournment
6. Each board involved in a joint public hearing makes its own decision, based on its criteria for the particular matter.

#### **SECTION XIV. STANDARDS OF CONDUCT**

##### 1. Conflict of Interest

In accordance with RSA 673:14, no member shall participate in deciding or shall sit upon the hearing of any question if that member has a direct personal or pecuniary interest in the outcome, or if that member would be disqualified for any cause to act as a juror upon the trial of the same matter in any action at law.

Reasons for disqualification include, but are not limited to, when a member:

- a) is related to the applicant or any abutter;
- b) has assisted or advised the applicant, the applicant’s agent, or any abutter; or,
- c) is biased or prejudiced in any manner or to any degree which would, in the eyes of a reasonable and prudent person, prevent the member from acting impartially with respect to the application before the Board.

##### 2. E-mail and Other Communications Between Meetings

The purpose of this Section is:

- a) to ensure compliance with the letter and spirit of the Right-to-Know Law, RSA 91-A, and with the Due Process rights of parties before the Board;
- b) to clarify Board members' ability, between meetings, to research issues and prepare motions or other potential Board actions, thus promoting efficient use of meeting time, but only to the extent allowed by law; and
- c) to clarify the role of electronic media such as E-mail in achieving these goals.

## 2. In this Section:

Communication means a transfer of information, objective or subjective, from one person to another. It includes face-to-face or phone conversations, letters, memos, E-mails, web sites, or any other medium, regardless of the location or ownership of any device or equipment used.

Distribution is a one-way communication between meetings involving more than one Board member where no between-meeting response (except acknowledgment of receipt) occurs or is expected.

Exchange is a communication between meetings, or series of communications, involving more than one Board member which includes a between-meeting response, or expectation of a response.

Ex Parte Communication is communication, other than at a legally-noticed meeting, between a Board member and a person with an interest in, or affected by, a pending or future case.

Individual Board members may prepare drafts of motions or other potential Board actions between Board meetings. They may also research or investigate general or specific factual issues. However, if the research pertains to a case, the member shall, at the public hearing, report all findings to the Board, and parties to the case shall be given a meaningful opportunity to respond.

## 3. Distributions

A Distribution may be made to any number of Board members, so long as it does not become an Exchange. Whenever a member makes a Distribution concerning a pending or future case and it involves a quorum of the Board (counting all senders and recipients):

- a) a copy shall be forwarded to the Planning Director, who shall determine, under RSA 91-A or other applicable law, whether the Distribution is subject to public disclosure and shall place the copy in the appropriate file;
  - b) the member making the Distribution shall report on it, and its contents, at the public hearing on the case unless the information is exempt from disclosure under RSA 91-A;
- and,

c) parties to the case shall be given a meaningful opportunity to respond to the information in the Distribution.

#### 4. Exchanges

Exchanges involving a quorum or more of the Board or of any Planning Board Subcommittee are prohibited. Such Exchanges shall be considered deliberations and shall occur only at meetings noticed in accordance with RSA 91-A. An Exchange pertaining to any activity allowed under this paragraph is permitted if the number of Board or subcommittee members involved is less than a quorum.

Information discussed in, or generated by, an Exchange between members shall not be subject to further Distribution and no Exchange shall include any vote or straw vote, or any Ex Parte Communication.

#### 5. Ex Parte Communications

Board members shall not initiate Ex Parte Communications. If an Ex Parte Communication is initiated by another person, the Board member contacted shall:

- a) refrain from discussing the substance or merits of a case;
- b) inform the person, if necessary, that such a discussion could lead to disqualification;
- c) refer the person to the Planning Department or to a Board meeting, as appropriate; and
- d) report on the conversation to the Board at a public meeting. The Chairperson may inquire generally of the Board prior to opening a public hearing on an application, and specifically of an applicant or an applicant's agent, whether any ex parte communications have occurred with respect to the matter before the Board.

#### **6. Scheduling and Agenda**

Notwithstanding anything herein contained to the contrary, nothing in this policy prevents any Distributions, Exchanges or Ex Parte Communications which pertain solely to:

- a) scheduling of meetings or hearings;
- b) the determination or ordering of agenda items or topics to be taken up at meetings or hearings; or
- c) general procedural requirements pertaining to such scheduling and agenda matters.

### **SECTION XV. AMENDMENT**

These rules may be amended at any regular meeting by an affirmative vote of a quorum of the Board provided that such amendment(s) has been presented in

writing to each member of the Board at least 15 days preceding the meeting at which the vote is taken unless this 15 day requirement is waived by every member voting on the amendment(s).