

TOWN OF HUDSON NEW HAMPSHIRE

PLANNING BOARD RULES OF PROCEDURE

Original Draft 09-15-2021

I. AUTHORITY

These Rules of Procedure are adopted under the Authority of New Hampshire Revised Statutes Annotated. Chapter 676:1, and the Zoning Ordinance and Map of the Town of Hudson.

II. Title; Adoption; Amendment; Waivers

- 1.)** These Rules may be cited as the Hudson NH Planning Board (Board) Rules of Procedure.
- 2.)** These rules shall be adopted following a public hearing by the Board. The hearing shall be noticed by a legal notice published not less than seven (7) days prior to the hearing and said notice shall contain a summary of the provisions herein, together with the notation that the full text is available upon request.
- 3.)** The Rules shall be effective upon adoption by the majority of the Board and when they have been signed by a majority of the Board and filed with the office of the Town Clerk.
- 4.)** These rules may be amended at any regular meeting by a majority vote of the Board provided that such amendment is read at a regular meeting of the Board immediately preceding the meeting at which the vote is taken.
- 5.)** The Board may vote to waive any sections of these rules for good cause shown. The justification for such action shall be stated and noted in the minutes.

III. MEMBERSHIP

Membership of the Planning Board shall be consistent with NH RSA 673:2.
II.

1.) Member – a Member shall mean a regular voting participant

2.) Alternate - Alternate shall be a non-voting participant.

3.) The Planning Board shall consist of seven (7) Members and three (3)/
five (5) Alternates.

a.) Six (6) of the Members are by appointment by the Board of Selectmen and have a term of office. As a result of the 2021 Election, two (2) member Three-year (3-year) Terms become Elected in 2022, two (2) Member Three-year (3-year) Terms become elected in 2023 & two (2) Member Three-year (3-year) Terms become Elected in 2024. After the election of 2024, none of the six (6) Members shall be appointed by Board of Selectman, Pursuant to NH RSA 673:2, II (b) (2).

1.) Appointed Member Vacancies, Pursuant to NH RSA 673:12 (II). Vacancies for an appointed, ex officio, or alternate members, by the original appointing or designating authority, for the unexpired term.

2.) Elected Member Vacancies, Pursuant to NH RSA 673:12 (I). Vacancies for an Elected Member shall be by appointment by the remaining Board Members until the next regular municipal election at which time a successor shall be elected to either fill the unexpired term or start a new term, as appropriate.

3.) Pursuant to NH RSA 673:12 III, The chairperson of the local land use board may designate an alternate member of the board to fill the vacancy temporarily until the vacancy is filled in the manner set forth in NH RSA 673:12 paragraph I or II.

b.) The seventh (7) Member shall be held by one (1) Selectmen as an ex-officio Member.

1.) Vacancy for ex officio member, the Chair may only designate the person who has been appointed to serve as the alternate for the ex officio member.

c.) Three (3) Alternates are appointed by the Board of Selectmen and have terms of office. As a result of the 2021 Election and Pursuant to NH RSA 673:6 (b), In a town which votes to elect its planning board members on a staggered basis according to the provisions of NH RSA 673:2, II (b) (2), alternate members of the planning board shall continue to be appointed according to the provisions of this paragraph (NH RSA673:6 I (a)) until each member of the board is an elected member. Thereafter, the alternate planning board members shall be appointed according to the provisions of NH RSA 673:6 paragraph II.

d.) After the election of 2024 and Pursuant to NH RSA 673:2 II, the elected planning board may appoint five (5) alternate members for a term of three-years (3-years) each, which shall be staggered in the same manner as the elected members pursuant to NH RSA 673:5, II.

1.) Alternates - If more than 50% of meetings are missed in a six (6) month timeframe by an Alternate, the Board may take action under NH RSA 673:13, after having provided a two (2) week notice of hearing and have contemporaneously sent a notice to the alternate member.

3.) Pursuant to NH RSA 673:5 II, the term of a Planning Board Member or Alternate shall be three (3) years. New Members and Alternates, upon their first appointment or election, shall be appointed or elected to staggered

terms so not more than three (3) Member and two (2) Alternate appointments or elections occur annually.

4.) A term of office shall commence after the Board Member or Alternate has been sworn in, provided however, that term shall continue until a successor has been appointed or elected and sworn in.

5.) The Town Clerk shall notify the Planning Board Chair that the newly appointed or elected Member or Alternate has filled out the required financial report and has been sworn in by the Town Clerk.

6.) New Members shall be provided with land use planning tools, such as subdivision/site plan regulations, a zoning ordinance, master plan and other material. Town Staff and the Planning Board Chair are available to assist new Members with document introduction and answers to questions and identify training opportunities.

7.) Alternates shall hold all Planning Board Member rights and obligations. That is, they shall receive all applicable information; they shall sit at the Planning Board table during meeting, and they shall be able to question applicants and/or other persons testifying in the case. Except, they shall not participate in Planning Board deliberations or vote, unless appointed to sit in the capacity of absent or excused Members, during which time they shall be sitting Members.

IV. OFFICERS

1.) Officers shall be elected individually for a one (1) year term at the first regular meeting following election by legislative body. Officers shall be eligible for re-election.

2.) A Chair shall be elected annually by a majority vote of the Board. He/she shall preside over all meeting and hearings, appoint committees as directed by the Board and shall affix his/her signature in the name of the Board. The Chair, with Board authorization, will be the spokesperson on behalf of the Planning Board with other municipal boards. The Chair shall regularly

communicate with the Town Planner and work with them on setting the meeting agendas and other Board organizational activities.

3.) A Vice-Chair shall be elected annually by a majority vote of the Board. The Vice-Chairman shall preside ex-officio in the absence of the Chair and shall have the full power of the Chair during his/her absence. At public hearings, The Vice-Chair shall read the official hearing notification into the record.

4.) A Secretary shall be elected annually by a majority vote of the Board. He/she shall maintain a record of decisions of the Board and shall affix his/her signature on plans in the name of the Board.

5.) The Chair, or Acting Chair, shall decide which Alternates shall be seated. Alternates shall be seated on a rotating basis.

6.) Officers shall be Members. Pursuant to RSA § 673:9, II, an Ex-officio Member shall not serve as the Chair.

V. Removal of Members

1.) Pursuant to NH RSA 673:13 I. After a public hearing, appointed members and alternate members of the appointed local land use board may be removed by the appointing authority upon written findings of inefficiency, neglect of duty, or malfeasance in office.

2.) Pursuant to NH RSA 673:13 II. The Board of Selectman may, for any cause enumerated in paragraph I, remove an elected member or alternate member after a public hearing.

3.) The appointing authority or the planning board shall file with the Town Clerk a written statement of reasons for removal under this section.

4.) Should any Member or Alternate miss three unexcused consecutive meetings, or more than four unexcused meeting annually. That Member or Alternate may be recommended to the Board of Selectmen for removal.

VI. Meetings

1.) Regular meeting shall be held at Town Hall in the Buxton room at 7:00PM on the 2nd and 4th Wednesday of each month.

a.) Other meeting may be held on the call of the Chair or request of the majority of the Board Members, provide public notice and notice to each Member is given at least 48 hours excluding Saturdays, Sundays and legal holidays prior to such meetings.

b.) Workshop meetings will be held as needed and specified by the Planning Board Chair or request of the Majority of the Board Members.

c.) Generally, after 9:30PM no new cases will be heard, and any case in progress at 10:00PM shall be deferred until the next available meeting date.

d.) In special circumstances, the Board may elect, through a Motion and majority vote to extend its meeting time till 11:00PM but no later.

2.) Quorum: A quorum for all meetings of the Board shall be four (4) Members, including Alternates sitting in place of Members. An Alternate acting in the stead of a Member should complete to whatever conclusion the Board decides concerning the item on the agenda even if the absent or excused Member arrives. The quorum can legally carry out the business of the Planning Board.

3.) If any Member is absent from any meeting or hearing or disqualifies him/herself from sitting on a particular case, the Chair shall designate an Alternate to sit in place of the absent or disqualified Member, and such Alternate shall be in all respects a Member of the Board while so sitting.

4.) When the public hearing portion of the meeting is closed and the Planning Board enters its deliberations, the Chair will recognize for the record the Members participating in the deliberations and vote.

5.) Disqualification:

a.) If any Member finds it necessary to disqualify him/herself from sitting in particular case, he/she shall notify the Chair as soon as possible so that an Alternate may sit in his/her place. The disqualification shall be announced before the beginning of the public hearing on the case by the Chair or the Member disqualifying him/herself. The Member disqualifying hi/herself shall absent him/herself from the Board table during the public hearing and during all deliberations on the case.

b.) Pursuant to NH RSA 673:14 I. No Member of the Planning Board shall participate in deciding or shall sit upon the hearing of any question which the Board is to decide in a judicial capacity if the Member has a direct personal or pecuniary interest in the outcome which differs from the interest of other citizens, or if the would be disqualified for any case to act as a juror upon the trial of the same matter in action of law. Reasons for disqualification do not include exemptions from services as a juror or knowledge of the facts involved in the performance of the Member's official duties.

c.) Pursuant to NH RSA 673:14 II. When uncertainty arises as to the application of NH RSA 673:14 paragraph I to a Board Member in particular circumstances, the Board shall, upon the request of that Member or another Member of the Board, vote on the question of whether that member should be disqualified. Any such request and vote should be made prior to or at the commencement of any required public hearing. Such a vote shall be advisory and non-binding and may not be requested by persons other than Board Members, except as provided by local ordinance or by a procedural rule adopted under NH RSA 676:1.

6.) The Chair shall exercise discretion or at the request of Member, in stopping participation that is repetitive, not germane, or otherwise not of constructive assistance to the Board in addressing the matter at hand.

7.) Order of Business: Generally, the order of business for regular meetings is as follows; the Chair reserves the right to items out of order when deemed appropriate:

- a.) Call to Order by the Chair
- b.) Roll Call
- c.) Seating of Alternates
- d.) Interview(s)/Appointment(s) (when applicable)
- e.) Minutes of Previous Meeting(s)
- f.) Cases Requesting Deferral
- g.) Correspondence
- h.) Performance Sureties
- i.) ZBA Input Only
- j.) Old Business/Public Hearings
- k.) Conceptual Review Only (Limited to 15 minutes)
- l.) New Business/Public Hearing
- m.) Other Business
- n.) Adjournment

8.) Agendas:

- a.) Agendas shall be prepared for every meeting of the Planning Board. Preparation of agendas are the authority of the Planning Board; administrative responsibilities for preparation of the agenda

are delegated to the Chair, who shall have final approval of content. Staff will assist the Chair in the preparation and posting of agendas.

b.) Packets containing agendas and supporting correspondence shall be prepared by the Planning Staff and shall be provided to the Planning Board seven (7) days prior to the meeting. Submissions to be included in the packets must be provided to Planning Staff at least fourteen (14) days prior to the meeting.

9.) Cell Phone Usage: Members of the Planning Board shall refrain from cell phone usage during meetings. Members shall request Town Planner or their assigns to research any information during the meeting they require.

10.) Informational Meeting: The Planning Board shall strive at least once annually to meet with Members of the Zoning Board of Adjustment (ZBAO, Conservation Commission and the Lower Merrimack River Local Advisory Committee (LMRLAC). The activity of these Boards is of interest in Planning or Zoning and exchange of data can eliminate potential gray areas in regulations.

11.) Recording: The Chair shall make certain that any decision, stipulations, claims or promises on the part of an applicant are recorded by the Secretary and included in the development agreement and/or on the site plan and/or the subdivision plan.

12.) Site Walks

a.) A site walk is defined as a posted meeting of the Board at a location which is subject of an application before the Board, where the visit is in the company of the applicant, their agents or employees and members of the public and involves going onto the property or visiting areas which are not customarily available for public inspection.

b.) When the Board deems it necessary for the adequate consideration of an application, the Board shall schedule a site walk by the Board.

c.) Members of the public are allowed to attend. Public Input is not allowed on site-walks and shall only happen during public input session of public hearings. The Chair has the authority to maintain decorum and order on a site walk just as at any other meeting of the Board.

d.) Individual Members shall not visit an applicant's property at the applicant's request. Site walks shall be conducted as a Board.

e.) Board Members shall refrain from discussing an application while on a site. Any comments, motions or direction to the applicant should be made at the public hearing.

13.) Applications/Decision

1.) Application:

a.) Each application for a hearing before the Board shall be made on forms provided by the Town and shall be presented to the Town Planner who shall record the date of receipt over his/her signature.

b.) Applications and decisions shall meet the specifications of applicable Town Ordinances.

c.) All forms and revisions prescribed shall be adopted by resolution of the Board and shall become part of these rules of procedure.

d.) The application form shall be reviewed annually to see if update is required based on NH RSA changes, case law and Town land use ordinances.

2.) Public Notice:

a.) Public Notices of public hearing on each application shall be posted on the Town Website and shall be posted in those areas prescribed by the Town Clerk for the publishing of Town

notices not less than the name of the applicant, description of the property to include tax map identification, action desired by the applicant, provisions of the zoning ordinance concerned, type of application being made, the date, time and place of the hearing, and the date, time and place where the plans can be reviewed.

b.) Personal notice shall be made by certified mail to the applicant, all abutters, and other property owners as required by the applicable ordinance or regulation, not less than ten days before the date of the hearing. Notices shall also be given to the Town Clerk and other parties deemed by the Board to have special interest. Said notice shall contain the same information as the public notice and shall be made on forms provided for this purpose. The rules of conduct for Public Hearings should be printed on the reverse side of personal notices.

3.) Staff Review Summary:

a.) The Town Planner will present a summary of each item before Planning Board discussion.

b.) Staff recommendation for Board action will follow each summary.

c.) Staff will present recommendations concerning any ruling of the Zoning Administrator. The Planning Board shall respond in the allowed timeframe in case of appeal.

4.) Public Hearing: The conduct of public hearings shall be governed by the following rules:

a.) The Chair shall call the hearing in session.

b.) Application presents testimony.

c.) Members and Alternates may ask questions at any point during testimony.

d.) Public Input:

1.) Each person who appears shall be required to state his/her name and address and indicate whether he/she is a party to the case or an agent or counsel of a party to the case.

2.) Agent or Counsel shall identify by name and address any and all the parties to whom they represent.

3.) Generally, no Member of the public may speak more than two (2) times at any single public hearing.

4.) Generally, Members of the public shall be allotted three (3) minutes per speaking time.

5.) Generally, when Members of the public elect to hire an Agent or Counsel to represent them, they shall be considered to have transferred their speaking turns and time to said Agent or Counsel. If an Agent or Counsel has been hired by more than one (1) Member of the Public, they shall be afforded the combined speaking time for each such Member of the Public, but only a single speaking turn. The Chair shall identify the total speaking time for the Agent or Counsel based on the number of Members of the Public they represent.

6.) Public Input is reserved exclusively for persons with a direct interest in the matter before the Board. When a project is declared to have a Regional Impact, input is intended for the designated governing bodies declared.

7.) To ensure the timely inclusion among the Board's written materials, correspondence must be submitted

by 10:00 am fourteen (14) days prior to the scheduled meeting.

7.) The Chair at his/her discretion or by majority vote of the Board may allow more time or more speaking turns where a complex situation may exist.

e.) The Chair shall close the public hearing and place the matter before the Board. (see VI.5.b.) The Chair at his/her discretion or a majority vote of the Board, may reopen public input if so deemed that substantial changes have been made to the proposed application.

f.) Members, through the Chair, may request any part to the case to speak another time.

g.) Any party to the case who wants to ask a questions of another party to the case must do so through the Chair.

h.) If the regular meeting room does not contain sufficient seating for the applicants/public, et al, the matter shall be deferred, and the venue shall be moved to any area which allows sufficient seating in the room.

i.) The Public should be informed that written records and DVD copies of the hearing are available for a nominal fee at the Planning department, in Town Hall.

5.) Motions and Votes:

a.) Motions shall be made and seconded by any Member or Alternate as a seated Member.

1.) When a motion is made and seconded, it shall be stated by the Chair before debate.

2.) Any Member may demand that is be put in writing.

3.) A motion shall not be withdrawn by the mover without consent of the Member seconding it.

b.) Alternates, not seated as Members, shall refrain from any discussion or comment when a motion is before the Board.

c.) Vote:

1.) Each Member or Alternate seated as a Member, when a question is placed, shall vote either yes or no when called by the Chair.

2.) Any Member or Alternate seated as a Member may demand a roll call vote. Such demand shall be made immediately prior to the vote in question. Roll call votes shall begin with the Member requesting the roll call.

d.) Reconsideration of previous decision:

1.) The Board may reconsider any decision regarding an application, for good cause, provided it is within the statutory appeal period. This may be done by a member who voted on the prevailing side through a motion that specifies the reason for reconsideration. Upon successful passage of the motion, the Board shall schedule a public hearing, with notice as provided in NH RSA 676:4,1(d), where they shall reconsider the issue that led to the reconsideration decision. If an Alternate was seated for an application decision, but not seated at the next meeting, they may request if a Member is willing to make motion for reconsideration for good cause.

2.) The Board may reconsider any other decision, for good cause, at the request of a Member who voted on the prevailing side through a motion.

