

WINDHAM PLANNING AND ZONING BOARD BY-LAWS:

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

Article 1 - Title; Adoption; Amendment

- 1.1 These Rules may be cited as the Windham Planning Board Rules of Procedure.
- 1.2 These Rules shall be adopted following a public hearing by the Planning 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.
- 1.3 The rules shall be effective upon adoption by a 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.
- 1.4 These rules may be amended and revised in the same manner as the initial adoption.

Article 2 - Membership; Terms of Office; Officers; Vacancies

- 2.1 Pursuant to RSA 673:2, the Planning Board shall consist of seven (7) members; six (6) of whom shall be elected by the legislative body and the seventh member shall be a member of the Board of Selectmen.
- 2.2 Except for the Selectmen's representative, members shall be elected in staggered terms pursuant to RSA 673:5 of one (1) year, two (2) year, and three (3) year terms. The membership of the Board shall be elected in such a manner so that two (2) members shall be elected each year.
- 2.3 Term of Office shall commence upon election and after the Board member has been sworn in, provided however, that term shall continue until successors have been appointed or elected.
- 2.4 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, Vice Chairman, and Secretary.
- 2.5 Officers shall be elected for a one (1) year term at the first regular meeting following election by the legislative body.
- 2.6 Pursuant to RSA 673:12, vacancies in the membership of a local land use board occurring other than through the expiration of a term of office shall be filled as follows: For an elected member, 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.
- 2.7 The Planning Board may appoint up to four (4) qualified alternates who shall be appointed to three (3) year terms. The initial appointments of alternates shall be staggered as per RSA 673.6.

Article 3 - Duties of officers; Minutes

- 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 and to enforce the rules herein and applicable State laws.
- 3.2 The Vice-Chairman shall preside over meetings and assume the duties of Chairman in the absence of the Chairman. If the Vice-Chairman is also absent, then the Secretary shall assume the Chairman's duties.
- 3.3 The Secretary shall be responsible for the maintenance of Board minutes and records. However, the Board may retain a recording secretary whose records shall be reviewed by the Secretary for accuracy.
- 3.4 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.
- 3.5 Audio tape or video tape recordings will be made of the meeting and shall be archived for one (1) year and then the tapes may be reused. Exceptions to this tape reuse policy may be *made by a majority vote of the Board*. Audio/video tape recordings are the responsibility of the Planning Department.

Article 4 - Meetings; Special Meetings; Place; Hours

- 4.1 The Board regularly holds meetings on the first and third Wednesdays of each month, except that the Board may vote to hold only one meeting in a month or may vote to set other dates.
- 4.2 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.
- 4.3 Regular or special meetings of the Board may be recessed to a time and place certain as a continuation of said meeting without further notice.
- 4.4 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.
- 4.5 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.
- 4.6 The Board shall not commence any items of new business which include public hearings later than 10:30 PM provided that the Board may continue to conclusion the public hearing of any item of business which commenced prior to that hour. The Board may, by vote, determine to waive this rule and take up new business later than 10:30 PM. However, if the applicant or any abutter object to the Board hearing a specific plan after 10:30 PM, then the Board will continue that application until the next regularly scheduled meeting.

Article 5 - Quorums; Voting; Conduct of meetings

- 5.1 A quorum of four (4) members shall be required to conduct business.
- 5.2 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 which took place when the member was absent.

- 5.3 When the vote on a question is evenly divided, the question shall be deemed to have been defeated.
- 5.4 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.
- 5.5 Unless modified by a vote, the Board regularly follows the following Order of Business:
 - A. Call to Order
 - B. Adoption of Minutes of prior meetings
 - C. Correspondence
 - D. Consideration of Old Business
 - E. Consideration of New Business
 - F. Public Matters
 - G. Adjournment
- 5.6. Correspondence specific to an application before the Board will not be read with the general correspondence, but rather during the public hearing on that application.
- 5.7. The Agenda order for public matters shall be as follows:
 - 1) Public matters will be placed on the Agenda in the order they are received by the Planning Department. The date received shall be the date when the signed form was submitted to the Planning Department."
 - 2) Any public matters which are continued from a previous meeting shall be first on the Agenda, in the same order as before.
- 5.8. Upon submittal of the signed application to the Planning Department, no further material may be added to the file except at a public meeting or hearing of the Board where the application is posted to be heard.
- 5.9. If the Board determines that it does not have sufficient information to proceed with consideration and to make an informed decision, the application shall be rejected. The Agent of the Board will provide the applicant with the written reason for rejection and the rejected plan will be kept in a separate file in the Planning Department for no more than one year, unless otherwise directed by the Planning Board.
- 5.10 The Chairman shall enforce such order and decorum as may be necessary for the sufficient conduct of the Board's business, guided by a desire to maximize public input on matters before the Board. The Chairman shall regulate discussion among Board members, but refrain from participating in the debate. The Chairman's viewpoints may be expressed, but only after other members of the Board have spoken. If the Chairman wishes to participate in a specific discussion, he/she should hand the gavel to the Vice-Chairman and participate as a regular member. However, the Chair may vote on issues before the Board.
- 5.11 The Chairman shall establish such rules of parliamentary procedure as are necessary, subject to the provision that the Chairman may be overruled by a majority vote of the Board.

- 5.12 The Town engineer or CEA shall present the plans to the Planning Board for review. At the option of the Board, the Developer’s agent may be allowed to present the plans.
- 5.13 Board members and members of the public shall be recognized by the Chairman before speaking on the plan. Members of the public shall address all comments and questions through the Chairman.
- 5.14 The Chairman shall have the discretion to cut off the discussion at any point during the hearing. Should any member wish the discussion to continue, the Chairman shall call for a vote of the Board and the majority opinion will carry.

Article 6 - Sitewalks

- 6.1 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.
- 6.2 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.
- 6.3 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.
- 6.4 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.
- 6.5 The practice of an applicant directly contacting a member to invite that member to visit a property without prior Planning Department notice shall be discouraged as an inappropriate course of conduct.
- 6.6 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.
- 6.7 Minutes of sitewalks shall be kept only if there is a quorum of the Board conducting the sitewalk. Minutes shall be in accordance with Article 3.4.
- 6.8 The Board should refrain from making decisions on an application while on a sitewalk. Any comments, motions or direction to an applicant should be made at the public hearing.

Article 7 - Joint Meetings with Conservation Commission

- 7.1 Joint meetings of the Planning Board and the Conservation Commission shall be presided over by the Chairman of the Planning Board.
- 7.2 A quorum of the membership of each Board shall be required in order to conduct a joint meeting.
- 7.3 Separate minutes shall be kept of all joint meetings by the Secretary and/or Recording Secretary of the Planning Board. Minutes of a joint meeting shall not be considered the

official minutes of a joint hearing until they have been adopted by vote of both the Planning Board and the Conservation Commission.

- 7.4 Presentation of applications shall follow the same presentation as that specified for regular applications in Section 5.8 and 5.9.
- 7.5 At the conclusion of the public hearing, the Board receives the recommendations of the Conservation Commission. The Planning Board shall proceed to vote on the application.

Article 8 - Public Hearings; Workshops

- 8.1 The Board shall follow the statutory provisions for holding all public hearings on zoning amendments or changes in site plan/subdivision regulations.
- 8.2 In the case of zoning amendments or regulation changes proposed by the Board or Town staff, the Planning staff shall present the question and the public will be invited to comment.
- 8.3 In voting on proposed regulation changes, zoning amendments, land sale, or road acceptances, the Board shall consider each separate item and vote on adoption or disapproval of each separate proposal at the conclusion of the presentations of that item.
- 8.4 In voting on citizen zoning amendment proposals, the Board shall vote to approve or to disapprove said proposal. If the Board should be evenly divided or if a motion to approve fails to receive a majority vote, the proposal shall be noted as being “disapproved”.
- 8.5 In voting on regulation changes or staff proposed zoning amendments, the proposal shall be adopted or submitted to the voters for adoption only if approved by a majority vote.
- 8.6 Workshop meetings of the Board shall be meetings of the Board to receive presentations on or study one or more selected topics.

Article 9 - Standards of Conduct

- 9.1 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.
- 9.2 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 some 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.
- 9.3 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. An official with a conflict of interest must make that interest public, abstain from voting on the matter, and except as specified below, leave the table and podium area when the Board

members deliberate and vote on a matter. Further, the Board member may not discuss the matter privately with any other Board member voting on the matter or otherwise communicate directly or indirectly with Board members regarding the matter in question so as to attempt to influence the vote on said question.

- 9.4 In circumstances where the number of Board members who may not participate as a result of the provision in 9.3 results in less than a quorum being able to participate in a given question, the abstaining members may be counted as “present” although they are not allowed to participate in anyway other than abstaining. A Board member who is participating only for the purpose of being counted for the presence of a quorum shall be entitled to sit at the table provided that he/she not participate, comment, or make any indication of his/her position.
- 9.5 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.
- 9.6 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.
- 9.7 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 part 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.
- 9.8 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 cannot be requested by other than Board members.

Article 10 - Subcommittees

- 10.1 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.
- 10.2 The Planning Board shall establish a permanent subcommittee to be known as the Capital Improvement Program Subcommittee of the Windham Planning and Zoning Board. The purpose of which is to aid the Board of selectmen in their consideration of the annual budget and fulfill the long-term capital needs of the town as defined in the Master Plan.
- 10.3 The subcommittee shall develop a Capital Improvements Program, projected over a period of at least six years, in a manner deemed appropriate by the Planning Board.

The subcommittee is authorized to meet with all municipal departments, agencies, authorities, and boards to develop a statement of all capital projects proposed to be undertaken during the terms of the program.

- 10.4 The subcommittee shall utilize the information obtained to formulate a draft Capital Improvement Program consistent with the goals and needs of the community and shall present the draft, with supporting documentation, to the Planning Board for timely consideration to set the annual budget.
- 10.5 The subcommittee shall incorporate comments received from the Planning Board, and present the final Capital Improvements Program to the Planning Board.
- 10.6 The subcommittee shall consist of the following members:
 - One (1) Selectman appointed by the chairman of the Board of Selectmen whose term shall be one (1) year.
 - One (1) School Board member appointed by the chairman of the School Board whose term shall be one (1) year.
 - Two (2) members of the Planning Board appointed by the chairman of the Planning Board whose term shall be one (1) year.
 - Three (3) members of the general public appointed by the chairman of the Planning Board whose terms shall be staggered such that one member will service for three years, one member shall service for two years, and one member shall serve for one year. After the establishment of the subcommittee for the terms of office for all general public members shall be for three years. Members are limited to a six (6) year tenure on this subcommittee.

Adopted by the Windham Planning Board on June 28, 1989

Amended by the Planning Board - December 9, 1992

Amended by the Planning Board - April 7, 1993

Re-codified and affirmed by the Board of Selectmen: May 11, 1998

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 Board of Selectmen

Amended by the Planning Board - March 17, 1999

Amended by the Planning Board - August 4, 1999

Amended by the Planning Board - April 26, 2000