

# Town of Deering New Hampshire

## BY-LAWS AND RULES OF PROCEDURE

## TABLE OF CONTENTS

Section 1 - Title; Amendment .....	3
Section 2 - Membership; Officers; Terms of Office .....	3
Section 3 - Duties of Officers.....	3
Section 4 - Meetings; Special Meetings; Place; Hours .....	3
Section 5 - Agenda Management .....	4
Section 6 - Public Hearing .....	5
Section 7 - Decisions .....	5
Section 8 - Records .....	5
Section 9 - Sitewalks .....	6
Section 10 - Joint Meetings and Hearings.....	6
Section 11 - Standards of Conduct.....	6
Section 12 - Subcommittees .....	7
Section 13 - Fees .....	8

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

### **Section 1 - Title; Amendment**

- 5.3 These rules may be cited as the Deering Planning Board Rules of Procedure.
- 5.4 These rules may be amended and revised by a majority vote of the members of the board.

### **Section 2 - Membership; Officers; Terms of Office**

- 2.1 The Planning Board shall consist of seven (7) members who are residents of the community appointed by the Board of Selectmen with one member 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 meeting.
- 2.6 Three (3) qualified alternates shall be appointed to three (3) year terms by the Board of Selectman. Alternates should attend all meetings to familiarize themselves with the workings of the board to stand ready to serve whenever a regular member of the board is unable to fulfill his/her responsibilities.
- 2.7 Attendance: Members are expected to attend all meetings and workshop sessions. Members shall be permitted to miss three (3) meetings in a single calendar year. Upon missing three (3) meetings, the Chairman shall notify the member by writing of the next upcoming meeting. Should the member miss a fourth meeting, the Planning Board may submit a request in writing to the Board of Selectmen to have said regular member removed from the Board in accordance with RSA 673:13.

### **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 Wednesday of each month.
- 4.2 The Board holds a workshop the fourth Tuesday 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 7:00 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 four (4) 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. Miscellaneous business
  - C. Old Business
  - D. New Business
  - E. Miscellaneous business
  - F. Adjournment
- 4.13 The chairman shall only vote when a question is evenly divided. 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 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 Wednesday 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 may ask questions at any point during presentation.
- 6.3 Each person who appears shall be required to state his name and address and indicate whether he is a party to the case or an agent or counsel of a party to the case.
- 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 determined to be 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 144 hours 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.

## **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 be kept only if there is a quorum of the Board conducting the sitewalk. Minutes shall be in accordance with Section 3.4.
- 9.8 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.

## **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. 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 when the Board members deliberate and vote on a matter.
- 11.4 In circumstances where the number of Board members who may not participate as a result of the provision in 11.3 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.
- 11.5 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.
- 11.6 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.
- 11.7 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 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.
- 11.8 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 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 shall establish a permanent subcommittee to be known as the Capital Improvement Program Subcommittee of the Deering Planning 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.
- 12.3 The subcommittee shall develop a Capital Improvements Program (CIP), 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.
- 12.4 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.
- 12.5 The subcommittee shall incorporate comments received from the Planning Board, and present the final Capital Improvements Program to the Planning Board.
- 12.6 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 **Notification Fee:** \$5 per abutter. Notification fees are payable at time of initial application. Additional fees shall be required if three (3) public hearings are necessary for consideration of an item.
- 13.4 **Professional Circuit Rider Planner Review Fees:** During periods when the Planning Board has engaged the services of a circuit rider planner with the Central 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 Deering, for the entire cost of such reviews.
- 13.5 **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 Deering, for the entire cost of such reviews.
- 13.6 Application and notification fees are due at time of initial application; additional fees must be received before an application can be approved.

Amended – September 10, 2003

Amended – July 14, 2004