

TOWN OF MASON PLANNING BOARD RULES OF PROCEDURE

Adopted December 3, 2008
Revised May 27, 2009

AUTHORITY

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

MEMBERS

1. **Membership:** The Planning Board shall consist of 5 members. The Selectmen shall designate one selectman as an ex-officio member with power to vote, and appoint 4 other regular members who are residents of the Town.
2. **Terms:** Selection, qualification, term, removal of members, and filling of vacancies shall conform to RSA 673.
3. **Alternate members:** Alternate members may serve on the Planning Board as authorized by RSA 673:6. Alternate members of the Board shall join the regular members in all presentations, public hearings, and discussions except that such alternates may not vote on any proposal or motion before the Board unless so directed by the Chair.
4. **Oath of Office:** Each newly elected or appointed (including re-appointed) member shall be sworn in and take an oath of office as required by RSA 42:1.
5. **Certification:** The Recorder shall forward to the municipal clerk for recording the appointment/election and expiration dates of the terms of each member of the Board.

OFFICERS AND OTHER BOARD DUTIES

1. **Chairman:** The Chairman shall preside over all meetings and hearings, prepare an annual budget, develop an annual report and perform other duties customary to the office.

The Chairman shall be elected annually at the first meeting following the Town Meeting by a majority vote of the Board. If requested by a majority of those present, voting shall be by written ballot.

2. **Secretary pro tem:** The Board shall appoint a secretary pro tem from the members present at each meeting to keep a full and accurate record of

the proceedings of the meeting. The record shall contain the names of the members present; names of others present and a summary of items discussed and actions taken by the Board.

3. **Other duties:** The Chairman may appoint other members of the board to fulfill such duties as the Chairman may specify.

MEETINGS

1. **Regular meetings** shall be held at least monthly at the Mann House at 16 Darling Hill Road, Mason, NH, at 7:30 pm on the last Wednesday of each month. No new public hearing or business shall commence after 10:00 pm, but will be continued until the next scheduled Board meeting. The Board may, at its sole discretion, waive this provision by majority vote.
2. **Special meetings** may be called by the Chairman or at the request of three members of the Board. Notice shall be posted in two public places and notice shall be given to each member 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. If any regular Board member is absent from a meeting or hearing, or disqualifies her/himself from sitting on a particular application, the Chairman 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 regards to any matter under consideration on which the regular member is unable to act. The alternate should continue until the matter is completed; the regular member does not vote on that matter.
5. **Disqualification:** If any member finds it necessary to be disqualified from sitting on a particular case, as provided in RSA 673:14, s/he shall notify the Chairman as soon as possible so that an alternate may be requested to fill the place. The disqualification shall be announced by either the Chairman or the member before the discussion or the public hearing on the application begins. The member disqualified 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.

6. **Order of Business** shall be as follows:
 - a. Call to order by Chairman
 - b. Minutes of previous meeting
 - c. Hearings on subdivision/site plans
 - d. Reading of communications directed to the Board
 - e. Other business

7. **Motions:** A motion, duly seconded, shall be carried by an affirmative vote of a majority of the members present.

APPLICATIONS FOR SUBDIVISION AND SITE PLAN REVIEW

1. **Applications** for hearings before the Board shall be made on forms provided by the Board and shall be processed as set forth in the Subdivision or Site Plan Regulations. Each application shall be given a case number that corresponds to the year and consecutive application number (example the first case number of the year 2008 would be 08-01) and identified using the tax parcel numbers of the lots affected by the application. All Planning Board files shall be maintained at the Town Offices.

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. **Incomplete applications** The board shall reject all applications not properly completed.

FORMS

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

NOTICE

1. **Public notice** of the submission of and public hearings on each application shall be given in the Monadnock Ledger Transcript or by

posting at both the Town Offices and the Mann House 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.

SITE WALKS

If the Board conducts a site walk as part of an application review, notice of the site walk shall be posted and minutes of the meeting shall be taken when a quorum of the Board is present. The Board will make no decisions on the site walk.

PUBLIC HEARINGS

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

1. The Chairman shall call the hearing in session, identify the applicant or agent and ask for the Planning Consultant's report as well as other reports as needed from the Town Engineer and other consultants.
2. Members of the Board may ask questions at any point during the presentation.
3. Any party to the matter who desires to ask a question of another party must go through the Chairman.
4. Any applicant, any abutter or any person with a direct interest in the matter may testify in person or in writing. Other persons may testify as permitted by the Board at each hearing.
5. 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.
6. The applicant or agent shall be called to present the proposal and those appearing in favor of the proposal shall be allowed to speak.
7. Those in opposition to the proposal shall be allowed to speak.
8. Those neither in favor nor in opposition may speak.

9. Other parties such as 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.
10. The Chairman 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.

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 the application.
3. Notice of decision will be made available for public inspection at the Mason Town Office 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.

RECORDS

1. The records of the Board shall be made available for public inspection at the Mann House/Town Office 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 5 business days of the public meeting as required in RSA 91-A:2 ,II.

JOINT MEETINGS AND HEARINGS

1. The Planning Board may hold joint meetings and hearings with other “land use boards” including the Zoning Board of adjustment and the Building Inspector. Each entity shall have discretion whether or not to hold such joint meeting or hearing (RSA 676:2).
2. Joint business meetings with another local land use board may be held at any time when called jointly by the chairmen 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 chair 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 Chairman
 - b. Introduction of members of both boards by Chairman
 - c. Explanation of reason for joint meeting/hearing by Chairman
 - 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.

E-MAIL AND OTHER COMMUNICATIONS BETWEEN MEETINGS

1. PURPOSE

- 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. DEFINITIONS

- A. **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.
- B. **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.

- C. **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.
- D. **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.

3. **ACTIVITIES BETWEEN MEETINGS OF INDIVIDUAL MEMBERS.**

Individual Board members may, between meetings, prepare drafts of motions or other potential Board actions. 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.

4. **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 Town Clerk who shall place a hard copy of such communication in the Planning Board electronic communications file.
- B. The member making the Distribution shall report on it, and its contents, at the next 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.

5. **EXCHANGES.** Exchanges involving a quorum or more of the Board or of any Planning Board Committee 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 Subsection 7.3 is permitted if the number of Board or Committee members involved is less than a quorum; however:

- A. Each member involved shall be responsible for preventing the number of members involved from reaching a quorum;

- B. Information discussed in, or generated by, an Exchange between members shall not be subject to further Distribution; and
 - C. No Exchange shall include any vote or straw vote, or any Ex Parte Communication.
6. **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 Consultant or to a Board meeting, as appropriate; and
 - D. Report on the conversation to the Board at a public meeting.
7. **SCHEDULING AND AGENDA.** 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.

AMENDMENTS

1. These rules of procedure may be amended by a majority vote of the members of the Board provided that such amendment is read at two successive meetings immediately preceding the meeting at which the vote is to be taken. The amended procedures shall be filed with the municipal clerk.

