

Planning Board Rules of Procedure Town of Goshen, New Hampshire

Authority

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

A. Members

1. The Goshen Planning Board (“the Board”) shall consist of five members, four of whom shall be elected at Town Meeting. The fifth position shall be filled by a selectman who shall be designated by the Board of Selectmen as an ex-officio member with power to vote.
2. Except for the Selectman’s representative, members shall be elected for three-year terms. Terms of Board members shall be staggered so that no more than two members are elected annually, except when required to fill vacancies. [RSA 673:5] Terms of office shall commence at the first regular Board meeting after the annual Town Meeting.
3. The Board may appoint five alternate members for a term of three years each. Terms of alternates shall be staggered so that no more than two members are appointed annually, except to fill vacancies. [RSA 673:6]
4. The alternate member for the Selectmen’s representative to the Board shall be appointed by the Board of Selectmen. The term of this alternate member shall be the same as that of the Selectmen’s Representative. This alternate member shall be in addition to the alternates provided for in Paragraph A.3, above. [RSA 673:6, III]
5. Vacancies in the Board (other than the Selectmen’s representative) shall be filled by appointment by the remaining Board members until the next Town Meeting.
6. Each newly elected or appointed member or alternate member (including those re-elected or re-appointed) shall be sworn in and take an oath of office as required by RSA 42:1.
7. All members and alternates must reside in Goshen. [RSA 669:6]
8. Planning Board members and alternates may also serve on any other municipal board or commission, provided that such multiple membership does not result in two or more Planning Board members or alternates serving on the same “other” board or commission. [RSA 673:7, I]

B. Officers

1. The officers of the Board shall consist of a Chairperson, a Vice-Chairperson, a Secretary, and an Administrator of Fees and Special Accounts.
2. The Board shall elect the Chairperson and the Vice-Chairperson from among its members (other than the Selectmen's representative). These officers shall serve for one year. [RSA 673:9]
3. The election of the Chairperson and Vice-Chairperson shall take place at the first regular meeting of the Board following the annual Town Meeting, or as soon afterwards as the Board deems reasonably practical.
4. The Secretary may be a paid employee of the Board or may be elected by the Board from among its members.
5. The Board shall elect the Administrator of Fees and Special Accounts from among its members.
6. The duties of the officers shall be as follows:
 - a. Chairperson: The Chairperson shall preside over all meetings and hearings; shall prepare an annual report; and shall perform other duties customary to the office.
 - b. 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.
 - c. Secretary: The Secretary shall keep a record of the proceedings of each meeting and hearing in accordance with RSA 91-A. These minutes shall include the names of Board members present, names of persons appearing before the Board, and a brief description of the subject matter. The Secretary shall also comply with appropriate state posting requirements for hearings, notify applicants and abutters of hearings, and prepare such correspondence and fulfill such duties as the Chairperson may specify.
 - d. Administrator of Fees and Special Accounts: The duties of the Administrator of Fees and Special Accounts of the Goshen Planning Board ("the Board") are to keep track of Board receipts, per the Board's schedules of fees, and to monitor any and all special accounts that the Board sets up for handling of applicant payments to consultants. A detailed job description is attached in Appendix A.

C. Meetings

1. The Planning Board may hold four types of meetings. All meetings, with the sole exception of nonpublic sessions are open to the public.
 - a. **“Regular meetings”** are held on a regularly scheduled basis for the purpose of conducting regular business of the Board. “Regular business” includes routine matters and non-binding preliminary or conceptual discussions with applicants.
 - b. **“Special meetings,”** are held to conduct regular business, as needed, at any time other than a regular meeting. “Emergency meetings” (see RSA 91-A:2,II) are a type of “special meeting.”
 - c. **“Public hearings”** are held as needed for the purpose of discussing or acting on formal applications from applicants or to hear public comment on proposed ordinances, regulations, fees, master plan, and all such matters as required by state statute. Additional procedures for public hearings are specified in Section D.
 - d. **“Nonpublic sessions”** are held as needed for the purposes specified in RSA 91-A:3, including discussing or acting on personnel issues, legal issues, or issues for which a public discussion would be adverse to the general community.
2. Procedures for regular meetings of the Board are as follows:
 - a. Regular meetings shall be held at 7:00 p.m. on the first and last Tuesday of each month at the Goshen Town Hall.
 - b. A notice of the time, place, and schedule of regular meetings shall be posted in two public places in the Town of Goshen. Regular meetings that are held at their scheduled time do not need to be posted on an individual basis.
 - c. The Board may vote to change the time and place of any particular meeting and may vote to omit a regular meeting. However, the Board shall hold at least one regular meeting in each month. [RSA 673:10, II]
 - d. Notice of the omission of any regular meeting or any change in the time or place of a regular meeting shall be posted in not less than two public places within the Town of Goshen in accordance with RSA 91-A:2,II.
 - e. The Chairperson shall prepare an agenda that presents the items of business to be considered at each regular meeting. The order in which the business items are considered shall be at the discretion of the Board.

3. Procedures for special meetings of the Board are as follows:
 - a. Special meetings may be held at the call of the Chairperson, or in his or her absence by the Vice-Chairperson, or by request of three or more members of the Board.
 - b. Notice of all special meetings shall be posted in not less than two public places within the Town of Goshen in accordance with RSA 91-A:2, II.
4. Nonpublic sessions shall be held only in accordance with RSA 91-A:3, including making the motion (during a public meeting) to go into nonpublic session, the matters that may be discussed, and the taking of minutes. However, a conference with the Board's legal counsel *for purposes of receiving legal advice* is excluded from the definition of a "meeting." Therefore, such a conference needs no minutes and need not comply with the requirements for a "nonpublic session."
5. The Board may allow public input at any public meeting.
6. By a motion of a Board member, the Board may vote to reconsider a previous vote that was taken either at the current meeting or at a previous meeting.
7. If a meeting or hearing is continued to a future date, notice of the new date is not necessary, provided that the time, date, and place of the continued meeting is announced prior to adjournment of the current meeting. Otherwise, the requirements for the notice of the continued meeting or hearing are the same as for the initial meeting or hearing.

D. Public Hearings

1. Notice for public hearings on the master plan, zoning ordinance, building code, land use regulations, and fee schedules shall be given as required in RSA 675:7.
2. Notice for public hearings on applications shall be given as required in RSA 676:4,1(d) or RSA 155-E:7, as applicable, and as described in the applicable regulations, as adopted by the Board.
3. Applications for public hearings before the Board (including subdivision, site plan review, or excavation permit applications) shall be made on forms provided by the Board.
4. Applications shall be handled in accordance with the procedures described in applicable regulations and application forms, as adopted by the Board.

5. The Order of Business for public hearings on applications shall generally include at least the following elements:
 - a. Presentation by the applicant and those in favor of the application
 - b. Presentation by any opposed to the application
 - c. Rebuttal by those in favor
 - d. Rebuttal by those opposed

The Board may set a time limit on the presentation and rebuttal by the applicant, those in favor of the application, and those opposed to the application. Such time limits as the Board deems necessary may be established either at the beginning of the hearing or during the hearing, as needed.

Members of the Board may ask questions at any point during the proceedings.

6. The Board may reject any application that is not properly completed.
7. In all other respects, the rules of procedure for public hearings are the same as for other public meetings.

E. Absences, Alternates, and Quorum

1. Whenever the Chairperson and Vice Chairperson are both absent from a meeting, the Board members present shall vote to appoint an Acting Chairperson. The Selectman's representative (or alternate, if serving) may be appointed as Acting Chairperson. While presiding, the Acting Chairperson shall assume all the duties and responsibilities of the Chairperson.
2. Whenever the Secretary is absent from a meeting or hearing, the Chairperson shall appoint a secretary pro tem to keep records of the meeting.
3. Whenever a regular Board member, with the exception of the Selectmen's representative, is absent from a meeting or hearing, or disqualifies herself of himself (see Section I, below) from sitting on a particular application, the Chairperson shall designate an alternate member, if one is present, to act in place of the absent or disqualified member. If the Selectmen's representative is absent from a meeting or hearing or disqualifies herself or himself, then only the alternate designated for the Selectmen's representative shall serve in place of that member. [RSA 673:11]
4. Alternate members shall have full Board member authority when serving, and may serve for an entire meeting or an individual case, as necessary. When not serving, they may express opinions on matters before the Board, but shall have no other authority.

5. A majority of the membership of the Board shall constitute the quorum necessary in order to transact business. [RSA 673:10, III] Alternates who are sitting in place of regular members shall be counted as part of the quorum. Members who are present may be counted as part of the quorum even if they abstain from voting affirmatively or negatively. A member who is disqualified [see Section I, below] may be counted as “present,” if necessary to provide a quorum.
6. When a quorum of members is not present, those members who are present should wait for a minimum of 20 minutes from the scheduled starting time of the meeting or hearing to see if a quorum can be achieved. If a quorum is not achieved within that time period, then the members who are present may agree to cancel the meeting.

F. Fees

Fees to cover the costs of notification, administration, special investigative studies, review of documents, including legal documents, and other matters which may be required by particular applications may be charged to an applicant and should be paid by the applicant before approval is granted. The Board shall provide a schedule of fees to an applicant on request. [RSA 676:4, I(d) and I(g)]

G. 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 board shall have discretion as to whether or not to hold such a 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 chairpersons of the two boards.
3. A joint public hearing must be held if requested by an applicant in cases where the approval of both boards is needed. However, in situations in which Planning Board regulations require that the other board must act before action can be taken by the Planning Board, then this requirement must be satisfied.
4. The Planning Board Chairperson shall chair all joint meetings and public hearings when the subject matter involves the Planning Board. [RSA 676:2]
5. The rules of procedure for joint meetings and hearings shall be the same as these Planning Board rules of procedure, except that the order of business shall be as follows:
 - a. Call to order by the Planning Board Chairperson.

- b. Introduction of members of both boards by the Chairpersons
 - c. Explanation by the Chairperson of the reason for the joint meeting or hearing.
 - d. In the case of a public hearing relative to a requested permit or an application, the applicant shall be called to present his or her proposal, making clear what is being requested or reviewed by each board (for example, special exception for the ZBA and site plan review from the Planning Board).
6. Each board shall deliberate on its own and make its own decision, based on its particular criteria for the issue. Each Board shall also record its own minutes of the meeting.

H. Site Visits

1. A Site Visit is a visit by the Board, or by one or more members of the Board, together with an applicant or an applicant's agent, to a location which is the subject of an application or review before the Board.
2. When the Board deems it necessary for the adequate consideration of an application, the Board shall request the applicant's permission to make a Site Visit. If such a request is not granted, the application may be denied by majority vote of the Board without further hearings.
3. When the Board schedules a Site Visit for two or more Board members, it shall be posted as a public meeting of the Board in accordance with RSA 91-A.

I. Disqualification of Members

1. No member of the Board shall participate in or sit upon the hearing of any application, or of any other matter in which the Board is to decide in a judicial capacity, if that member has a direct personal or pecuniary interest in the outcome which differs from the interest of other citizens. "Personal interest" shall include, without limitation, being a relative or business associate of an applicant or being the owner or lessee of property abutting the property that is the subject of an application. [RSA 673:14, I]
2. If any member finds it necessary to be disqualified from sitting on a particular case, as provided in RSA 673:14, I, then she or he should notify the Chairperson as soon as possible so that an alternate may be designated to fill the place of the disqualified member. The disqualification shall be announced either by the Chairperson or by the member before the discussion or the public hearing on the applications begins. The member disqualified shall leave the Board table during

all deliberations and public hearings on the matter, but may participate as a member of the general public.

3. If uncertainty arises as to whether a Board member should disqualify herself or himself, then 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. Any such request and vote shall 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.
[RSA 673:14]

J. Policy on E-Mail and Other Between-Meeting Communications

1. Purpose. The aims of this policy are:

- 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. In this policy:

- 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. Any between-meeting communication from one Board member to one or more other Board members shall be considered either a "Distribution" or an "Exchange."
- c. A "Distribution" is a one-way communication, where no between-meeting response (except acknowledgment of receipt) occurs or is expected.
- d. An "Exchange" is a between-meeting communication, or series of them, which involves a between-meeting response, or expectation of response.
- e. "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, or other matter within the Board's jurisdiction.

3. **Between-Meeting Activities of Individual Members.** Individual Board member may, between meetings, prepare drafts of motions or other potential Board actions. They may also research or investigate general or specific factual issues. Contact between two Board members to facilitate future Board action in such matters is permissible. However, if the research pertains to a case, the member conducting the Board research 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. There is no restriction on the distribution of materials related to regular Board business. However, 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 Board Chairperson, 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. Unless the information is exempt from disclosure under RSA 91-A, the member making the Distribution shall report on it, and its contents, at the public hearing on the case; and
 - c. Parties to the case shall be given a meaningful opportunity to respond to the information in the Distribution.
5. **Exchanges.** Exchanges on a pending case involving a quorum or more of the Board, or of any subcommittee as defined below, 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 Paragraph 3, above, is permitted if the number of Board or subcommittee 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 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 Board Chairperson or to a Board meeting, as appropriate; and
 - d. Report on the conversation to the Board at a public meeting.
- 7. Scheduling and Agenda.** Notwithstanding Paragraphs 4, 5, and 6, above, 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 or administrative requirements pertaining to such scheduling and agenda matters.
- 8. Subcommittees.** A subcommittee is any group of two or more persons, including at least one Board member, to which the Board has assigned a specific task related to Board business. A subcommittee shall be considered a public body, and all provision of RSA 91-A and this policy, applicable to a quorum of the Board, shall also apply to a quorum of a subcommittee.

K. Amendment

1. These Rules of Procedure may be amended by a majority vote of the Board at a regular meeting of the Board.
2. The amended procedures shall be placed on file with the Town Clerk for public inspection. [RSA 676:2]

L. Waiver Provision

The Board may, by a majority vote of its members present, waive any portion of these Rules of Procedure which is not dictated by state statute, as deemed necessary for the pending issue.

Appendix A. Job Description, Administrator of Fees and Special Accounts.

The duties of the Administrator of Fees and Special Accounts of the Goshen Planning Board (“the Board”) are to keep track of Board receipts, per the Board’s schedules of fees, and to monitor any and all special accounts that the Board sets up for handling of applicant payments to consultants.

Fees

The Board has published fee schedules for the review of applications for subdivisions, site plan reviews, and excavation permits. Applicants are charged specific pre-set amounts for the processing of applications. They are also charged for the actual costs of associated Board expenditures.

Pre-Set Application Charges: All pre-set charges are specifically detailed in the Board’s published fee schedules. They include (but not limited to) such charges as the following.

- Application fees
- Per lot/site/unit fees
- Hearing fees and hearing continuation fees
- Excavation permit fees

Associated Application Charges: The various types of associated charges for which the Board requires applicant reimbursement are explained in the Board’s fee schedules. Associated charges include (but are not limited to) the actual cost of

- Advertisement of hearings
- Notifying abutters of hearings
- Recording fees (in cases where the Board assumes responsibility for recording plans with the Sullivan County Registry of Deeds)
- Professional reviews, inspections, and special studies, as deemed necessary by the Board.

Special Accounts

To handle charges for professional assistance in reviewing documents, conducting inspections, and preparing special studies, the Board may set up a special bank account. Funds from the applicant are deposited in this account, and funds are paid out for services charged by professional consultants.

Responsibilities of the Administrator of Fees and Special Accounts

In order to keep track of Board receipts and expenditures, the Administrator of Fees and Special Accounts will do the following:

- Keep a record all Board receipts from applicants.
- Work with applicants to make sure that payments are made for all required fees and at-cost charges.

- Work with the Board Secretary and the Selectmen's Secretary to assure that costs of advertisements, mailings, and recording fees are properly billed to applicants.
- Work with the Town Treasurer to assure that applicant deposits are made, as appropriate, to any special account and that payments are made, as appropriate, for related professional services that have been billed.
- Work with the Selectboard Secretary to assure that all receipts are recorded in appropriate line items in the Town Budget.