

## **MERRIMACK PLANNING BOARD RULES OF PROCEDURE**

### **I. PURPOSE AND AUTHORIZATION**

The Merrimack Planning Board (hereinafter, the Board) duly established by the Merrimack Town Meeting on March 10, 1964 in accordance with RSA 673:1 hereby establishes the following rules of procedure for the conduct of its business, pursuant to RSA 676: 1.

### **II. NAME**

The name of the board shall be the "Merrimack Planning Board".

### **III. MEMBERSHIP AND TERMS OF OFFICE**

- A. Appointment of Members: The Board shall consist of seven members, appointed by the Town Council, and shall include one Town Councilor to act as an ex-officio member with power to vote. The appointment of members shall conform to terms and requirements of RSA 673:2 II and RSA 673:5. Members of the Board shall conform to the limitations on multiple membership set forth in RSA 673:7.
- B. Alternates: The Town Council may appoint, in addition to regular members, not more than three alternate members who may serve, upon designation by the Chair, in place of a regular member in the event of absence or disqualification. The terms and multiple membership requirements for alternates shall be the same as for regular members.

### **IV. OFFICERS AND THEIR DUTIES**

- A. Election of Officers: The Board shall elect, by a majority vote at its annual meeting, the following officers from among its members. The term of each officer shall be limited to one year; however any officer shall be eligible for re-election.
  - i. Chair: The Chair shall preside at all meetings and hearings of the Board and shall have the duties normally conferred on such officers. The Chair shall appoint such Committees as directed by the Board, including one member of the Board who shall act as Chair of such Committees. As directed by the Board, the Chair shall affix his/her signature in the name of the Board to all approved plans and all correspondence from the Board. The Chair shall approve the agenda for all regular and special meetings of the Board. In the absence of administrative staff, the Chair or his/her designee shall be responsible for the records of the meeting.
  - ii. Vice Chair: The Vice Chair shall act for the Chair in his/her absence. The Vice Chair shall affix his/her signature to all plans approved by the Board on behalf of the Board.

## **V. MEMBERS AND THEIR DUTIES**

- A. Members: are expected to attend all Regular, Special and Annual Meetings, Public Hearings, and Joint Meetings and Hearings conducted by the Planning Board. If a Member cannot be present at any meeting he/she shall notify the Chair prior to the meeting of his/her inability to attend. In the absence of a regular member, other than the Town Council Representative, the Chair shall appoint an alternate from among those Alternate Members present to act in the place of the absent member. If a Member is late to arrive for a meeting, the Chair shall appoint an Alternate Member from among those Alternate members present to act in the place of the absent Member until the hearing and Board action is completed on the agenda item being heard. Upon the start of a new agenda item, the regular Member may take his/her seat on the Board replacing the Alternate Member. At the discretion of the Chair, a member may participate in the meeting by “electronic or other means of communication” subject to the requirements of RSA 91-A:2.III.
- i. If a Member chooses to recuse themselves from the Board for a particular agenda item, the Chair shall appoint an alternate from among those Alternate Members present to act in the place of the Member for that agenda item. Upon start of a new agenda item, the Member may take his/her seat on the Board replacing the Alternate.
  - ii. If the Town Council Representative to the Planning Board is absent, an Alternate Member will not be appointed to fill his/her place in accordance with RSA 673:11.
- B. Alternate Members: are expected to attend all Regular, Special and Annual Meetings, Public Hearings, and Joint Meetings and Hearings of the Planning Board. If an Alternate Member cannot be present at any meeting he shall notify the Chair prior to the meeting of his/her inability to attend.
- i. Alternate Members shall sit at the table with the Planning Board during all regular meetings of the Planning Board, and may participate in questioning applicants and discussion of plans along with the regular Board Members. Alternate Members will not vote on any plan before the Board unless they have been appointed to act as a Member on the hearing item as described in Paragraph V. A., above.
  - ii. The selection of Alternate Members to act as Members of the Board shall be made by the Chair to fill the place of an absent Regular Member at the start of the Planning Board Meetings. Alternates shall be chosen on a rotational basis in so far as is practical to give each alternate an approximately equal number of agenda items heard on a monthly or quarterly basis. The Chair, through the Community Development Department, shall maintain a record of appointments made to act as Members. In all cases, however, the decision of the Chair to appoint an alternate to act as a Member shall be final.

## **VI. MEETINGS**

- A. **Regular Meetings**: Regular meetings of the Board shall be held at least monthly and shall be open to the public. The time and place of the meetings shall be selected by a majority vote of the Board taken at the annual meeting. Regular meetings shall not be held on Sundays or legal holidays. The following general rules of procedure shall govern the conduct of such meetings:
- i. **Quorum Required**: Four (4) members, or designated alternates, of the Planning Board shall constitute the quorum necessary in order to transact business at any meeting.
  - ii. **Notice of Meetings**: Notice of the time, date and place of any public meeting of the Board shall be posted in two public places at least 24 hours, excluding Sundays and legal holidays, prior to the meeting.
  - iii. **Records Required**: Minutes of the events of the meeting shall be taken and shall include the names of members in attendance, persons appearing before the Board, a brief description of the topics discussed, and a record of any actions taken (see Record of Decision, below). Such minutes shall be available for public inspection within 5 business days of the meeting. Minutes of Non-Public Sessions shall conform to the requirements of RSA 91-A:3.
  - iv. **Order of Business**: The general order of business shall be in accordance with the posted agenda unless modified by a majority vote of the Board. The following order of business will generally be followed for each application to the Board unless otherwise determined by the Chair.
    1. Chair will announce agenda item and application to be considered.
    2. Chair or Staff will read aloud applicable background information, letter of request, minutes of previous meetings, etc. as necessary.
    3. Applicant will present his/her plan to the Board.
    4. Board members question applicant.
    5. Chair will solicit any input from Town Staff.
    6. Board members question applicant.
    7. A motion will be made by a member of the Board to grant or deny any submitted waiver requests. Waiver requests shall be justified by the applicant based on the applicable criteria listed in either RSA 674:36 or 674:44.
    8. A motion will be made by a member of the Board to accept for review (finding the application complete), to find the application incomplete, or continue action on the application (Note: on a vote not to accept a plan for review, the minutes will show the Board's reason for non-acceptance, such as incompleteness of submittal, etc.)
    9. Chair will read all other correspondence such as letters from Abutters, etc.
    10. Chair will solicit testimony from abutters and/or other interested persons. (Note: All persons giving testimony to the Planning Board will

provide their name and address/professional affiliation for inclusion in the record.)

11. Final questions of applicant from the Board.
12. Chair will ask for the staff recommendations for Planning Board action.
13. A motion will be made by a member of the Board to approve, deny, or continue action on the application.
  - a. The Board shall make findings of fact with any decision to approve or disapprove an application.
  - b. Should there be a vote to disapprove the application, the Board shall include the specific reasons for denial in its motion.
  - c. If a plan is approved with conditions precedent, the Chair and Vice Chair will not sign the plan until such conditions are satisfied.
  - d. If the Board votes to continue an application to a date certain, additional written public notice of the continued hearing is not required as long as the Board states as part of the motion to continue the date, time, and place of the continued hearing (in accordance with RSA 676:4).

v. Consent Agenda: The Planning Board may include a Consent Agenda as part of any regular meeting agenda. The purpose of the Consent Agenda is consolidate multiple routine, procedural decisions, and decisions that are likely to be noncontroversial (such as Regional Impact Determinations, conditional approval extension requests, actions regarding performance or maintenance bonds, or other similar procedural processes), in a single vote by the members of the Board. The Consent Agenda shall operate in accordance with the following:

1. The items that are to be included in the Consent Agenda must be submitted to the Community Development Department meeting in accordance with any applicable deadlines to be posted in the published agenda of the meeting.
2. The posted meeting agenda shall list all items that are to be considered as part of the Consent Agenda.
3. The list and supporting documents for Consent Agenda items shall be included in the Board's meeting packets in sufficient time to be read by all members prior to the meeting.
4. There is no public testimony or discussion regarding any items in the Consent Agenda, unless removed from the Consent Agenda by a member of the Board, in accordance with item 6 below.
5. All items in the Consent Agenda shall be acted on by a single motion, second, and vote of the Board.
6. Removal of Item from Consent Agenda: Any item on the Consent Agenda can be removed from the Consent Agenda if any Board member so requests, with no vote of the Board required. Members may request that an item be removed for any reason (they may wish, for example, to discuss the item, to query the item, or to register a vote against the item). After an item is removed, the Board shall act separately on the item with opportunity for discussion.

7. The meeting minutes shall include sufficient detail of each item on the Consent Agenda that was acted upon.
- vi. Voting: A motion, duly seconded, shall be passed by a majority of members present and voting in the affirmative. The Chair will not make a motion while chairing a meeting of the Board. After all discussion of the motion by Board members has been completed, the Chair will call for a vote on the motion by the Board. If the vote is not unanimous, the minutes of the meeting shall indicate members in favor, opposed, or abstaining by name.
    1. A tie vote between members voting in favor and in opposition represents only a failed motion, and no Board action has commenced until a motion passes by a majority vote. If the Board is unable to pass a motion to take action on the application, the Board should vote to continue the item to its next scheduled meeting.
    2. A Board member should only abstain from voting in circumstances of financial interest in a specific outcome the Board has jurisdiction over, prejudice, or a conflict of interest. In these instances, recusal from consideration of the subject matter entirely is more appropriate (per RSA 673:14).
    3. Board members are appointed by the Town Council to make decisions, and they are expected to do so, regardless of the difficulty of the decision. If a Board member feels like they cannot make a decision, *rather than abstaining from a vote*, the Board member should make a motion to continue the deliberations to a future date and work to allow for further discussion and submission of information, so that a vote can be made with confidence at the subsequent meetings/public hearings.
    4. While not necessary, abstentions on votes for approval of minutes, and on a vote for oneself during the annual meeting for election of officers are permissible.
  - vii. Record of Decision: Pursuant to RSA 676:3, whenever the Board issues a decision, record of the decision shall be placed on file in the Board's office and be available for public inspection within 5 business days after the decision is made.
- B. Special Meetings: Special meeting may be called by the Chair or, in his/her absence, by the Vice Chair. Notice to members shall be at least 48 hours in advance of the meeting. Notice to the public shall be in the same manner as for a regular meeting. No business shall be acted upon at a special meeting unless a quorum of the members is present. The notice of the meeting shall specify the purpose of the meeting and no other business may be considered except by unanimous consent of the Board members present once a quorum has been established.
  - C. Annual Meeting: An annual organizational meeting shall be held at the first regular meeting held in May of each year, but not later than 90 days following the close of Town

Annual Meeting. The purpose of the annual meeting will be to elect officers and to review the Rules of Procedure which shall be made a part of the minutes of the meeting.

## **VII. PUBLIC HEARING**

- A. Public Hearings Required: Public hearing shall be held, as required by the N.H. Revised Statutes Annotated for:
- i. Master Plan or amendment proposed under RSA 674:1
  - ii. Subdivision regulation proposed under RSA 674:35-37
  - iii. Site plan review regulation proposed under RSA 674:43-44
  - iv. Zoning ordinance proposed under RSA 674:16
  - v. Building code proposed under RSA 674:51
  - vi. Board review of subdivision or site plan proposal under RSA 674:43-44
- B. Notice of Hearing: Notice of hearings for items A.1 through A.5 above shall be given at least 10 calendar days prior to the date of hearing by publication in a newspaper of general circulation and by posting in at least 2 public places (the Merrimack Town Hall and the Merrimack Public Library). The 10 calendar days shall not include the day of posting or the day of the meeting.
- i. For hearings involving an application for subdivision or site plan review (item A-6 above) notice to the applicant and abutters shall be given by certified mail at least 10 days prior to the meeting.
  - ii. The full text of a notice for any hearing need not be included in the notice provided an adequate summary is included in the notice and a location is specified where the proposal may be viewed by the public.
- C. Conduct of the Hearing: The Chair or, in his/her absence, the Vice Chair, or a member appointed by the Chair or his/her designee, shall preside at the public hearing, and shall:
- i. Convene the meeting and read the legal advertisement announcing the date, time and purpose of the meeting into the record;
  - ii. Briefly state the manner in which the hearing shall be conducted;
  - iii. Call upon the applicant, or sponsor of any proposal, to present the proposal;
  - iv. Read any written testimony received concerning the proposal into the record;
  - v. Call upon those appearing in favor of, or in opposition to, the proposal to direct questions or comments to the Chair; and

- vi. Call the hearing to a close, as appropriate, outlining the Board's anticipated procedure concerning the proposal.
- D. Record of Hearing: A public record of the proceedings shall be taken in writing and incorporated into the Board's minutes, in accordance with RSA 91-A.

### **VIII. JOINT MEETINGS AND HEARINGS**

- A. Request for Joint Meetings: The Board, or any applicant, or any other land use board, may request a joint meeting or hearing of the boards on any topic common to their respective jurisdiction. Each board shall have the discretion as to whether or not to hold a joint meeting with another board.
- B. Planning Board Shall Chair: The Planning Board Chair shall chair any joint meeting or hearing in which the Board is involved. (RSA 676:2) The Chair shall follow the general rules of conduct outlined in these Rules of Procedure.
- C. Notices and Decisions: Each board participating in the joint meeting or hearing shall be responsible for providing notice, filing minutes and decisions, and for rendering and issuing decisions, as appropriate, for the subject matter within its jurisdiction as prescribed for that board by statute, local ordinance, or other rules of procedure.

### **IX. STAFF AND FINANCES**

Within the limits of funding made available for its use by the Town Meeting, and in accordance with RSA 673:16, the Board may employ such staff personnel and/or consultants as it may require to aid the Board in its work. Appointments shall be made by a majority of the members present at any regular or special meeting at which a quorum has been established. The Chair may be authorized to sign contracts for employing personnel and contracting for consulting services as approved by the Board. The Chair may authorize expenditure of funds within the Town Meeting approved budget of the Planning Board. The Board shall review and approve its annual budget prior to submittal of the budget to the Town Council.

### **X. PUBLIC RELATIONS**

The Chair or a duly appointed Board member or staff personnel may be authorized by the Board to act as the principal public relations contact for the Board. Duties shall be as prescribed by the Board.

### **XI. COMMITTEES**

Special committees may be appointed for purposes and terms approved by the Board.

### **XII. APPLICATIONS AND FORMS**

- A. Applications: Applications for subdivision or site plan review, Conditional Use Permits or gravel excavation permits shall be made on forms provided by the Board.

- B. Submission of Applications: No application shall be placed upon any agenda for acceptance at a regular meeting of the Board unless the application is received by the Community Development Office no less than 15 days prior to the meeting day at which it is to be accepted and/or discussed. No application will be received by the Community Development Office, except in proper form, as prescribed in the subdivision regulations.
- C. Vote of the Board Required: In every instance where a submission of a plat or any other document is made to the Planning Board by a property owner or his/her duly authorized agent, in writing, and whether Planning Board approval is required or not, the plat or other document shall be submitted to the Board for its consideration. Neither the Chair nor the Vice Chair shall be authorized to execute any plat or document unless approved by the said Board.

### **XIII. AMENDMENTS**

- A. Amendments: These Rules of Procedure may be amended as follows:
  - i. At any regular meeting of the Board by a unanimous vote of the entire membership of the Board; or,
  - ii. At any regular meeting of the Board by a vote of five members of the Board provided that the proposed change has been read and discussed at a previous regular meeting of the Board.
- B. Filing with the Town Clerk: These Rules of Procedure and any amendments thereto shall be placed on file with the Town Clerk for public inspection. A complete set of Rules of Procedure, as amended, shall also be attached to the minutes of the Board's annual organizational meeting and kept on file.
- C. Effective Date: These Rules of Procedure, and any subsequent amendments, shall become effective immediately upon passage by the Board.
- D. Record of Amendments: Amendments shall be recorded in the minutes of the meeting at which such action occurs.