

**PLANNING BOARD
TOWN OF SALEM, NEW HAMPSHIRE
RULES OF PROCEDURE**

Article 1 – AUTHORITY

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

Article 2 – MEMBERS

- 2.1** The Planning Board shall consist of 6 elected regular members, a Town Council representative designated by the Town Council as an ex-officio member with power to vote; and up to 5 alternate members selected by the regular members as authorized by RSA 673:6.
- 2.2** Selection, qualification, terms of office, removal of members, and filling of vacancies shall be in accordance with Town Meeting vote and conform to RSA 673.
- 2.3** Each newly elected or appointed (including re-elected or re-appointed) member shall be sworn in and take an oath of office as required by RSA 42:1.
- 2.4** Pursuant to RSA 673:7, any two (2) Planning Board members may also serve together on any other municipal board or commission, except that no more than one member of the Planning Board shall serve on the Conservation Commission, the Town Council or a local land use board as defined in RSA 672:7. Planning Board members (including alternates) shall not serve on the Zoning Board of Adjustment.
- 2.5** All members must be residents of Salem, New Hampshire.
- 2.6** Unless there are extenuating circumstances or prior approval from the Chair, any regular member who is absent for three (3) consecutive meetings or greater than fifty (50) percent of meetings in a calendar year shall be recommended by the Chair to the Town Council for removal from the Board. Per RSA 673:13, the Town Council may remove an elected member or alternate member upon written findings of inefficiency, neglect of duty, or malfeasance in office, after a public hearing.

Article 3 – OFFICERS AND AGENT

3.1 Officers. Planning Board officers shall be elected annually, at the second regular meeting following the annual Town Meeting election, by a majority vote of the Board. Officers shall be as follows:

- a. A Chair who shall preside over all meetings and hearings; affix his/her signature in the name of the Board, prepare an annual report, and perform other duties customary to the office. The Chair shall be responsible for the conduct and decorum of the meeting. The Chair shall have the responsibility to ensure that all parties receive a full and fair hearing before the Board. The Chair shall enforce the rules herein and applicable State laws. Pursuant to RSA 673:9, II an ex-officio member shall not serve as Chair.
- b. A Vice Chair who shall preside in the absence or at the request of the Chair; and who shall have the full powers of the Chair on matters which come before the Board while so presiding.
- c. A Secretary who shall present the meeting minutes and perform such other duties as the Board may direct by resolution. The Board may retain a recording secretary whose records shall be reviewed by the Secretary for accuracy.
- d. The Town Council's ex-officio member shall not hold any office.

1 3.2 Agent. The Town Manager shall designate a Town employee as agent for the Planning Board.

2

3 a. The Agent shall be responsible for providing applicants with application forms, providing

4 each Board member with an information packet before each meeting. The packet shall

5 include a meeting agenda, copies of plans, abutter lists, and correspondence for each item

6 on the agenda, and other information that the Board may request or the Agent may deem

7 to be necessary.

8

9 b. The Agent shall issue notices of all meetings, record the names of the members present,

10 notify applicants and abutters of hearings, and prepare such correspondence and fulfill such

11 duties as the Board may specify.

12

13 c. The Agent shall forward to the Town Clerk for recording the appointment/election and

14 expiration dates of the terms of each member of the Board.

15

16 d. The agent shall maintain all the Board's permanent file records.

17

18 e. The agent may sign correspondence, applications, and memos on behalf of the Board.

19

20 Article 4 – MEETINGS

21

22 4.1 For the purpose of this document, a “Meeting” is defined as set forth in RSA 91-A:2 and means the

23 convening of a quorum of the Board to discuss or act upon a matter over which the Board has

24 supervision, control, jurisdiction, or advisory power.

25

26 a. Meetings include gatherings such as regular and special meetings, public hearings, site-visits,

27 and workshops.

28

29 b. A chance, social, or other encounter not convened for the purpose of discussing or acting upon

30 such matters shall not constitute a meeting per RSA 91-A:2.I

31

32 c. A meeting does not include circulation of draft documents which when finalized are intended

33 to formalize decisions previously made in a meeting per RSA 91-A:2.I.d

34

35 4.2 Regular meetings will normally be held on the second and fourth Tuesday of each month in the

36 Knightly Meeting Room at the Salem Town Hall, commencing at 7:00 PM. The Board may vote to

37 set other dates, places, or starting times for a particular meeting.

38

39 4.3 Special meetings may be called by the Chair or in her/his absence by the Vice Chair or at the request

40 of four Board members, provided public notice and notice to each member is given at least

41 48 hours in advance of the time of such meeting. The notice shall specify the purpose of the

42 meeting.

43

44 4.4 Regular or special meetings of the Board may be recessed to a time and place certain as a

45 continuation of said meeting without further notice.

46

47 4.5 All meetings of the Board shall be held in accordance with RSA 91-A:2 and RSA 91-A:3, as exists or

48 may be amended, relating to meetings open to the public and nonpublic sessions.

49

50 4.6 Quorum. A majority of the membership of the Board shall constitute a quorum including alternates

51 sitting in place of regular members.

52

53 4.7 Designation of Alternate Members. Per RSA 673:11, whenever a regular member is absent or

54 whenever a regular member disqualifies himself or herself, the Chair shall designate an alternate,

1 if one is present, to act in the absent member's place; except that only the alternate designated for
2 the Town Council member shall serve in place of that member.

3

4 a. Except for disqualification, when a regular member attends subsequent meetings, or arrives
5 after the start of a meeting, the alternate shall yield back to the regular member after the
6 hearing in progress is finished. When an alternate continues until a matter is completed, the
7 regular member does not vote on that matter.

8

9 b. Because the presence of alternates is intended, under these rules, to be on an "as-needed"
10 basis, it is incumbent on every regular Board member to review agendas in advance of
11 meetings and to advise the Chair and Agent when they expect to be (1) late, (2) unable to
12 attend, or (3) expect to recuse themselves from an agenda item.

13

14 c. Alternate members of the Board are expected to attend Planning Board meetings in order to
15 be familiar with issues involved in pending Board business. However, when an alternate is
16 not designated to participate in a given business or discussion item, the alternate shall not
17 participate in the discussion item except to the extent that the public is generally allowed to
18 so participate.

19

20 d. Once selected for a business item because of disqualification, the designated alternate shall
21 participate in all hearings and proceedings on that given application as if a regular member.
22 The designated alternate shall be responsible to verify when this matter is scheduled for
23 further consideration by the Board and be present at that time.

24

25 **4.8 Disqualification.**

26 a. Per RSA 673:14, no member shall participate in deciding or shall sit upon the hearing of any
27 question which the board is to decide in a judicial capacity if that member has a direct
28 personal or pecuniary interest in the outcome which differs from the interest of other
29 citizens, or if that member would be disqualified for any cause to act as a juror upon the trial
30 of the same matter in any action at law. Reasons for disqualification do not include
31 exemption from service as a juror or knowledge of the facts involved gained in the
32 performance of the member's official duties.

33

34 e. When uncertainty arises as to the application of the above paragraph to a board member in
35 particular circumstances, the board shall, upon the request of that member or another
36 member of the board, vote on the question of whether that member should be disqualified.
37 Any such request and vote shall be made prior to or at the commencement of any required
38 public hearing. Such a vote shall be advisory and non-binding, and may not be requested by
39 persons other than board members.

40

41 f. If a member is disqualified or unable to act in any particular case pending before the board,
42 The Chair shall designate an alternate to act in the member's place, as provided in
43 RSA 673:11.

44

45 **4.9 The Order of Business for meetings and public hearings, unless modified by the Chair, is:**

46

47 a. Call to Order

48 b. Member Introductions

49 c. Adoption of Prior Meeting Minutes

50 d. Old Business

51 e. New Business

52 f. Public Matters

- 1 g. Planning Board Matters
- 2 h. Work Session
- 3 i. Adjournment

4

5 **4.10** Work-sessions are meetings of the Board to receive presentations on or to study one or more

6 selected topics, usually with no public participation.

7

8 **4.11** Voting. Action on any item shall be taken on the basis of a motion, duly seconded, made by any

9 sitting member of the Board other than the Chair.

- 10 a. A majority affirmative vote is necessary to decide any matter before the Board. Sitting
- 11 members present are counted to determine whether a quorum exists, even though they
- 12 abstain from voting affirmatively or negatively.
- 13
- 14 b. Should a motion result in a tie vote the application shall be continued to the next meeting
- 15 where the Board will continue deliberations and the Chair may appoint alternates to site if such
- 16 is necessary. Members abstaining shall not be considered "members voting" in determining
- 17 whether a question has been adopted.
- 18
- 19 c. A motion to reconsider a previous vote by the Board shall be in order only if made by a member
- 20 who voted with the prevailing side, or if the member did not vote on the original question.
- 21
- 22 d. Absentee votes by any method, including a letter or e-mail to the Board, are not allowed.
- 23
- 24 e. When a meeting includes at least one member participating by telephone or other electronic
- 25 means, all votes taken during such meeting shall be by roll call vote per RSA 91-A:2,III,e.
- 26
- 27

28 Article 5 – SITE-VISITS

29

30 **5.1** A "site-visit" is defined as a visit by Board members to a location which is the subject of an

31 application before the Board. This does not include a view of a site from adjoining public highways

32 or other observations that can be made without entering on the property. Notice of a site visit

33 must be posted as a public meeting and must be open to the public if a quorum of members may

34 be present.

35

36 **5.2** When the Board deems it necessary for adequate consideration of an application, the Board shall

37 request the applicant to allow a site-visit by the Board. If permission is refused, the Board may deny

38 the application for failure of the applicant to allow the Board to get sufficient information.

39

40 **5.3** When the Board meets to consider an application, members shall disclose if a site-visit was

41 conducted. In accordance with RSA 91-A, minutes will be required if a quorum was present.

42

43 **5.4** The practice of an applicant directly calling a member to invite that member to visit a property

44 without prior Planning Department notice shall be discouraged as an inappropriate course of

45 conduct. Discussions between an applicant and a member outside of the public hearing are

46 prohibited by Standards of Conduct 13.7, must be disclosed at the public hearing, and could result

47 in disqualification of the member from considering that plan.

48

49 Article 6 – APPLICATIONS FOR SUBDIVISION AND SITE PLAN REVIEW

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51 **6.1** Applications for hearings before the Board shall be made on forms approved by the Board and shall

52 be presented to the Board's agent, who shall sign and record the date of receipt.

53

54 **6.2** Upon the filing of an application, the applicant shall file one set of preprinted address labels

55 representing the names and addresses of the applicant, all abutters, holders of conservation,

56 preservation, or agricultural preservation restrictions, and any professional whose seal appears on

1 any plat, together with any other person the applicant desires to be notified of the meeting. If an
2 application is to be considered at more than 4 public hearings, an updated abutters list and
3 additional mailing labels and notice fees shall be required of the applicant. Abutters shall be
4 defined as set out in RSA 672:3.

5

6 **6.3** The Board may conduct Conceptual Consultations and Design Reviews in accordance with
7 RSA 676:4, II.

8

9 **6.4** New applications shall be introduced as "New Business" items on Planning Board agendas in order
10 of their receipt by the Planning Director.

11

12 **6.5** At the public hearing, new applications shall be submitted to the Board, reviewed for
13 completeness, and then accepted by majority vote of the Board if found to be complete. At a
14 minimum, the application shall be scheduled for consideration within 30 days of acceptance;
15 however, such consideration may begin on the same night as the application is accepted.

16

17 **6.6** The Board shall reject all applications not substantially complete, including those with improper or
18 incomplete abutter notification.

19

20 **6.7** Requests by an applicant to be placed on an agenda, other than a new application, must be
21 received not less than 7 days prior to the date of the meeting.

22

23 **6.8** The Board generally will not approve a plan unless approvals from staff and outside consultants
24 are received at least one week prior to the meeting. Applicants are advised not to return to the
25 Board after the first presentation until such approvals are received, unless the applicant needs
26 advice on specific plan review items.

27

28 **Article 7 – FORMS and FEES**

29

30 **7.1** All forms prescribed herein and revisions thereof shall be adopted by the Board and shall become
31 part of these Rules of Procedure.

32

33 **7.2** Application, notice, and other associated fees shall be adopted by the Planning Board after a public
34 hearing and included as part of the Subdivision and Site Plan Review regulations.

35

36 **Article 8 – NOTICE**

37

38 **8.1** In accordance with RSA 676:4, public notice of the submission of applications and public hearings
39 on each application shall be given not less than 10 days prior to the date fixed for submission to
40 and consideration of the application by the Planning Board. Notice shall be made by certified mail
41 to the applicant, holders of conservation, preservation, or agricultural preservation restrictions, all
42 abutters, and any professional whose seal appears on any plat, not less than 10 days prior to the
43 date fixed for submission of the application to the Board.

44

45 **8.2** Per RSA 672:3, "Abutter" means any person whose property is located in New Hampshire and
46 adjoins or is directly across the street or stream from the land under consideration by the local land
47 use board. For purposes of notification, in the case of an abutting property being under a
48 condominium or other collective form of ownership, the term "abutter" means the officers of the
49 collective or association. In the case of an abutting property being under a manufactured housing
50 park form of ownership, the term "abutter" includes the manufactured housing park owner and the
51 tenants who own manufactured housing which adjoins or is directly across the street or stream from
52 the land under consideration.

1 **8.3** Public notice for all meetings shall be printed in a local newspaper, or posted at the Town Hall and
2 Kelly Library. Public notices will include the date, time, place, and agenda summary for that
3 meeting.

4

5 **8.4** In accordance with RSA 91-A:2 II,b meeting notices will be posted on the Town's website in a
6 consistent and reasonably accessible manner.

7

8 **8.5** Notice for public hearings on topics other than site plan applications and subdivision requests (such
9 as zoning amendments, master plan changes, and regulation or rules changes), shall contain a
10 summary of the topic together with the notation that the full text is available upon request.

12 **Article 9 – PUBLIC HEARINGS**

14 **9.1** The Board shall follow the statutory provisions for holding all public hearings on topics such as
15 zoning amendments, changes in site plan/subdivision regulations, or changes to the master plan.

16

17 **9.2** The Chair shall enforce such order and decorum as may be necessary for the sufficient conduct of
18 the Board's business, guided by a desire to maximize public input on matters before the Board.
19 Further, the Chair shall establish such rules of parliamentary procedure as are necessary, subject
20 to the provision that the Chair may be overruled by a majority vote of the Board.

21

22 **9.3** Public Hearings shall not commence prior to 7:00 PM nor shall any new items be taken up after
23 10:30 PM unless otherwise voted by a majority of the Board, provided, however, the Board may
24 continue to the conclusion of a public hearing on a matter which commenced prior to 10:30 PM.

25

26 **9.4** The conduct of public hearings shall be governed by the following rules:

27

28 a. The Chair shall call the hearing in session, identify the applicant or agent and ask for the
29 Planning Board's agent's report on the proposal.

30

31 b. Members of the Board may ask questions at any point during the presentation at the
32 discretion of the Chair.

33

34 c. Any party to the matter who desires to ask a question of another party must do so through
35 the Chair.

36

37 d. Any applicant, any abutter or any person with a direct interest in the matter may testify in
38 person or in writing. Other persons may testify as permitted by the Board at each hearing.

39

40 e. Each person who speaks shall be required to state her/his name and address and indicate
41 whether s/he is a party to the matter or an agent or counsel to a party to the matter.

42

43 f. Other parties such as representatives of town departments and other town boards and
44 commissions who have an interest in the proposal shall be allowed to present their
45 comments in person or in writing.

46

47 g. The Chair shall indicate whether the hearing is closed or adjourned pending the submission
48 of additional material or information or the correction of noted deficiencies. In the case of
49 an adjournment, additional notice is not required if the date, time and place of the
50 continuation is made known at the adjournment.

51

1 **9.5** Under normal circumstances in which the Board is first considering an application for subdivision
2 or site plan, the applicant shall be recognized for presentation, followed by staff comments;
3 questions by Board members, questions/input by abutters, and questions/input by other members
4 of the public-at-large.

5 **9.6** In the case of zoning amendments or regulation changes proposed by the Board or Town staff, the
6 Agent shall present the question and the public will be invited to comment.

7 **9.7** In the case of zoning amendments proposed by citizen petition, the petitioners shall be recognized
8 to present their proposal, followed by comments from the Agent, questions from Board members,
9 and then public comment.

10 **9.8** In voting on proposed regulation changes, zoning amendments, land sales, or road acceptances,
11 the Board shall consider each separate item and vote on adoption or disapproval of each separate
12 proposal at the conclusion of the presentation of that item.

13 **9.9** In voting on citizen zoning amendment proposals, the Board shall vote to approve or to disapprove
14 said proposal. If the Board is evenly divided, or if a motion to approve fails to receive a majority
15 vote, the proposal shall be noted as being "disapproved."

16 **9.10** In voting on regulation changes or staff-proposed zoning amendments, the proposal shall be
17 adopted or submitted to the voters for adoption only if approved by a majority vote.

18 **9.11** In presentations by abutters, the Board shall generally allow wide latitude in allowing persons to
19 speak, reserving the right to limit presentations which are not relevant to the matters at hand or
20 are repetitive of points previously made.

21 **9.12** The Chair shall have the discretion to set time limits for presentation of public input on or
22 discussion about an application; and the discretion to cut off the discussion at any point during the
23 hearing. Should any member wish the discussion to continue, the Chair shall call for a vote of the
24 Board and the majority opinion will carry.

32 **Article 10 – DECISIONS**

33 **10.1** The Board shall render a written decision within 65 days of the date of acceptance of a completed
34 application, subject to extension or waiver as provided in RSA 676:4.

35 **10.2** The Board shall act to approve, conditionally approve, or disapprove.

36 **10.3** Notice of the decision will be made available for public inspection at the Town Hall Planning Office
37 within five business days after the meeting as required in RSA 676:3. If the application is
38 disapproved, the Board shall provide the applicant with written reason for this disapproval.

43 **Article 11 – RECORDS**

44 **11.1** Board meeting minutes shall be kept in accordance with the provisions of RSA 91-A. Meeting
45 minutes, including the names of Board members, persons appearing before the Board and a brief
46 description of the subject matter and final decisions, shall be open to public inspection within five
47 business days of the public meeting as required in RSA 91-A:2 II. Minutes, once adopted by the
48 Board with any corrections noted, will be the official record of the meeting and will be posted on
49 the Town's website in a consistent and reasonably accessible manner.

50 **11.2** The records of the Board shall be kept by the Planning Board Agent and shall be made available for
51 public inspection at the Town Hall Planning Office as required by RSA 91-A:4. Copies of minutes
52 will be provided upon request for their reproduction cost.

1 **11.3** All meetings of the Board which are public hearings shall be recorded. All meeting materials are
2 considered part of the public record and subject to public review. In the event of a challenge to a
3 decision by the Board, recordings shall be retained on the Town website for at least one year or
4 until any appeal period has passed, whichever is later.

5 **11.4** Minutes of site-visits shall be kept when there is a quorum of the Board present at the site. The
6 record of site visits will be incorporated within the regular meeting minutes.

7 **Article 12 – JOINT MEETINGS AND HEARINGS**

8 **12.1** RSA 676:2 allows the Planning Board to hold joint meetings and hearings with other “land use
9 boards” including the Board of Adjustment and the Historic District Commission, and other non-
10 land use boards. Each Board shall have discretion whether to hold such joint meeting or hearing.

11 **12.2** Joint business meetings with another board may be held at any time when called jointly by the
12 Chair of the two boards.

13 **12.3** A joint public hearing must be a formal public hearing when the subject matter of the hearing is
14 within the responsibilities of the boards convened.

15 **12.4** The Planning Board Chair shall chair all joint meetings and public hearings when the subject matter
16 involves the Planning Board, per RSA 676:2.

17 **12.5** The rules of procedure for joint meetings and hearings, the subject matter of which involves the
18 Planning Board, shall be the same as these rules of procedure except that the order of business
19 shall be as follows:

20 a. Call to order by Chair
21 b. Introduction of members of both boards by Chair
22 c. Explanation of reason for joint meeting/hearing by Chair
23 d. In the case of a public hearing relative to a requested permit or an application for a plat
24 approval, or both, the applicant shall be called to present his proposal.
25 e. Adjournment

26 **12.6** Each board involved in a joint public hearing makes its own decision, based on its criteria for the
27 particular matter.

28 **Article 13 – STANDARDS OF CONDUCT**

29 **13.1** The primary obligation of Planning Board members is to serve the public interest and to conduct
30 themselves so as to maintain public confidence in the Planning Board and the conduct of its
31 business.

32 **13.2** Members shall not directly or indirectly solicit, accept, or receive any gift (whether in money,
33 services, loans, travel, entertainment, hospitality, or in some other form), under circumstances in
34 which it could be reasonably inferred that the gift was intended to influence them in the
35 performance of their duties or was intended as a reward for any recommendation or decision on
36 their part.

37 **13.3** To avoid conflict of interest or the appearance of impropriety, any member who may receive some
38 private benefit from a public Planning Board decision must not participate in that decision. The
39 private benefit may be direct or indirect; create a material personal gain or provide an advantage
40 to relations, friends, groups or associations that hold a significant share of the official's loyalty. An

1 official with a conflict of interest must make that interest public, abstain from voting on the matter,
2 and except as specified below, leave the table or podium area when Board members deliberate
3 and vote on a matter. Further, the Board member may not discuss the matter privately with any
4 other Board member voting on the matter or otherwise communicate directly or indirectly with
5 Board members regarding the matter in question so as to attempt to influence the vote on said
6 question.

7

8 **13.4** A Board member shall not disclose or use confidential information obtained in the course of his
9 duties to further a personal interest.

10

11 **13.6** All Board members share a responsibility to enforce adherence to the standards of conduct herein.
12 If a member believes that one or more members may, either by intention or inadvertence, be in
13 violation of these standards, s/he shall call that fact to the attention of the Chair who shall in turn
14 call it to the attention of the member in question.

15

16 **13.7** All discussions between Planning Board members and applicants or their agents regarding matters
17 to be decided by the Board shall take place at public hearings as part of the public record.

18

19 **13.8** The Code of the Town of Salem, Chapter 33, Article I Code of Ethics for Boards, Committees, and
20 Commissions applies to all Planning Board members.

21 **Article 14 – AMENDMENT**

22

23 **14.1** These Rules of Procedure may be amended, following a public hearing, by majority vote of the
24 Board. Notice for the time and place of the hearing shall be as provided in RSA 675:7. Amended
25 Rules of Procedure shall be filed with the Town Clerk and available for inspection pursuant to RSA
26 676:1.

27

28 **These Rules of Procedure were adopted on June 28, 1988 by the Salem Planning Board, and amended on
29 January 8, 1991; October 22, 1996; August 12, 1997; January 26, 1999; December 12, 2000; May 13, 2008;
30 May 13, 2014; August 13, 2024.**