

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

ARTICLE I AUTHORITY

- 1.1 GOVERNANCE.** The Planning Board of the Town of Henniker shall be governed by the provisions of all applicable State statutes, Town regulations and these rules.
- 1.2 AUTHORITY.** These rules are adopted under the authority of New Hampshire Revised Statutes Annotated (RSA) 676:1.

ARTICLE II MEMBERS

- 2.1 DEFINITION OF BOARD.** As used in these rules, the term "Board" shall mean the Planning Board duly established by the legislative body of the Town of Henniker in March 1958 under the authority of RSA Chapter 673.
- 2.2 REGULAR MEMBERS.** The Board shall consist of six members, elected by the Town per RSA 673:2, II (b), which shall be termed Regular Members. Members of the Board shall conform to the limitations on multiple membership set forth in RSA 673:7.
- 2.3 ALTERNATE BOARD MEMBERS.** The Board shall appoint not more than three Alternate Members, who serve for terms of three years each, per RSA 673:6, II. Such appointments may be made by a majority vote of the Board at any scheduled meeting.

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.

In the absence of any Regular Member, except the Ex-officio Member of the Board of Selectmen, the Chair shall appoint an Alternate to fill such vacancy. The Chair, on a rotating basis, with the Secretary keeping a record of such appointments, shall appoint the Alternates to fill such vacancy. Said Alternate shall then act as a Regular Member.

When an Alternate Member has been appointed to fill the position of a Full Member at a meeting because of the Full Member's absence, the Alternate Member shall continue to sit on any continued applications that were started at that meeting, in the place of the Full Member, at subsequent meetings until the applications are decided.

- 2.4 EX-OFFICIO MEMBER.** The Ex-officio Selectmen member, and an Alternate for the member, will be appointed annually by the Town's Board of Selectmen, per RSA 673:2, II (b) and 673:6, III. The Ex-officio Member, or the Alternate for that member, will have the same voting rights as a Regular Member.

2.5 VACANCIES. Vacancies in the membership of the Board, occurring other than through the expiration of a term of office, will be filled as follows (RSA 673:12):

- A. For a Regular Member, through appointment by the remaining Board members until the next regular town election, at which time a successor will be elected either to fill the unexpired term or to begin a new term, as appropriate.
- B. For an Ex-officio Selectman Member or Alternate, through appointment by the Selectmen for the unexpired term.
- C. For an Alternate Member, through appointment by the Board for the unexpired term.

In the case of a vacancy for a Regular or Alternate Member, if there are no existing applicants to fill the vacancy, the Board will notify the public of the vacancy requesting interested parties to apply.

2.6 REMOVAL AND RESIGNATION OF MEMBERS. The Board of Selectmen may remove a Regular Member after a public hearing upon written findings of inefficiency, neglect of duty, or malfeasance in office. An Alternate Member may be removed by the Planning Board after a public hearing for the same reasons stated in the preceding sentence, per RSA 673:13, I-II.

A member may resign at any time by notifying the Chair in writing.

2.7 ATTENDANCE. A Member may be excused for nonattendance of a meeting or hearing for valid reasons if he or she notifies the Chair or Secretary prior to the meeting or hearing. The Board may, in unusual circumstances, grant a leave of absence not to exceed six months.

2.8 SITTING DURING MEETINGS^a: Alternate Members and the Alternate Ex-officio Member, unless voting in place of a Regular Member or the Ex-Officio, shall sit in the audience during hearings. If recognized by the Chair, members may ask questions during hearings relative to cases on the Agenda. Alternate Members may fully participate in all discussions relative to Board minutes, along with items under Discussion and Other Business.

^a Amended by vote of Board on April 26, 2017.

ARTICLE III OFFICERS AND DUTIES

3.1 ELECTION OF OFFICERS. At the first Board meeting after the Town election, the Board shall elect a Chair and a Vice-Chair from the voting members, and such other officers, as it may deem necessary. In case of failure to elect at the time specified, the election shall take place at the next meeting. All officers shall be elected by a majority vote. Officers shall hold their respective offices for a term of one year. The Ex-officio Selectmen Member may not serve as an officer.

3.2 DUTIES OF THE CHAIR. The Chair shall call the meeting to order, preside over all meetings and hearings of the Board, provide direction to the Board, rule on all questions not resolved by the bylaws or by statutes or regulations, help establish agendas for meetings, appoint any committees found necessary to carry out the business of the Board, and otherwise supervise the business and affairs of the Board.

The Chair may delegate his or her responsibilities for specific tasks to other regular Members of the Board, but may not abdicate the general responsibilities of the position.

The Chair may present to the Board such matters as in the Chair's judgment require attention.

The Chair shall exercise a general supervision over the business, papers, and property of the Board and shall execute all formal documents on behalf of the Board.

The Chair shall serve as the primary liaison to the media, town staff and consultants, as well as represent the Board at meetings with other Town and State officials.

3.3 DUTIES OF THE VICE CHAIR. The Vice Chair shall assume the duties and powers of the Chair in the Chair's absence.

3.4 SECRETARY. The Secretary shall assume the duties and powers of the Chair and Vice Chair in their absence. The Secretary will manage attendance to ensure a quorum at meetings. The Secretary will maintain a record of the designation of Alternate Members as voting members, to assist the Chair in ensuring an even rotation of Alternate Members.

3.5 BUDGET DIRECTOR. The budget director prepares and tracks the budget. This includes the annual submittal to the Budget committee. The Budget Director provides monthly budgetary status information to the Planning Board.

3.6 REMOVAL AND VACANCIES. Any officer may be removed as such (but not removed from the Board) by a majority vote of the Board with or without cause. Any vacancy in any office may be filled by vote of the Board for the unexpired portion of the term.

- 3.7 CLERK.** The Planning Consultant and/or Town Staff shall function as the clerk for the Board. The clerk shall administer official correspondence, subject to these rules and at the direction of the Board; shall issue the proper forms; compile all information, maps, and records for the Board's review; shall send all notices required by law; shall keep the minutes of all Board actions and proceedings; shall prepare reports and perform other duties as directed by the Chair; and, shall keep records of its examinations and other official actions.

The Clerk, in consultation with the Chair, shall prepare the agenda for each meeting, provide all supportive documentation, and mail said materials to each Member. The Clerk shall also make public notice of the agenda of each meeting in accordance with the appropriate regulations. Any Member may request and have placed on the agenda any item for discussion.

The Clerk also functions as a resource to be accessible to the public to provide information on planning and zoning.

The Clerk shall perform other Planning Board duties as directed by the Chair.

ARTICLE IV SUBCOMMITTEES

- 4.1 AUTHORIZATION.** The Chair is authorized to appoint Subcommittees to study and to report upon such matters as directed by the Chair, which is germane to the purpose of the Board.
- 4.2 MEMBERSHIP.** All Subcommittees shall consist of not more than 3 Board Members, and may be comprised of other residents, property owners, and business owners as may be necessary.
- 4.3 DUTIES.** The Board, at a regular meeting, shall define the duties of any Subcommittee.
- 4.4 SUBCOMMITTEE CHAIR.** At the first meeting of the Subcommittee, the membership of the Subcommittee shall elect a Chair.
- 4.5 MEETINGS.** The Chair of a Subcommittee shall call the same at such time and place as he or she may deem proper whenever there is any business requiring the attention of the Subcommittee.
- 4.6 INVESTIGATIONS.** If necessary for the proper consideration of any matter referred to the Subcommittee, the Subcommittee is authorized to make investigations and call upon the Town staff for such surveys, plans, estimates, and recommendations as may be deemed necessary.

- 4.7 PLANNING BOARD SUBCOMMITTEES.** A Planning Board Subcommittee shall be considered a public body, and all provisions of RSA 91-A and this Article, applicable to a quorum of the Board, shall also apply to a quorum of a subcommittee.

ARTICLE V MEETINGS

- 5.1 REGULAR MEETINGS.** Regular meetings shall be conducted by the Board at which applications for development shall be reviewed and acted upon. Regular meetings of the Board shall be held on the second Wednesday of the month unless there is no business to transact, in which case no meeting shall be held. The start time of the meeting will be listed on the posted agenda.
- 5.2 WORK SESSIONS.** Work sessions shall be conducted by the Board at which study items and planning issues are analyzed. Said sessions shall be held on the fourth Wednesday of the month unless there is no business to transact, in which case no meeting shall be held. The start time of the meeting will be listed on the posted agenda.
- 5.3 SPECIAL MEETINGS.** Special meetings of the Board may be called by the Chair provided that at least 24 hours commencement notice of the time, place, and business of such meeting be given each member of the Board.
- Upon the written or oral request of at least four Board members, a special meeting shall be called. Said meeting shall take place no later than one week after the fourth member shall have made the request for a special meeting.
- 5.4 PLACE OF MEETING.** Meetings of the Board shall normally be held at Town Hall, in the Town of Henniker, or at some other public place in the Town of Henniker, or at the site of a proposed project for the express purpose of inspecting said site as part of the review for a proposed project.
- 5.5 OPEN MEETINGS.** All meetings of the Board and its committees shall be open to the public except as stipulated by RSA 91-A:3.
- 5.6 NOTICE OF MEETINGS.** Notice of the time, date, and place of any open meeting of the Board shall be posted in two public places, such as the Town Hall, Library, Post Office, Water Department, Sewer Department, Highway Department, Police State, Fire Station, and/or the Town website at least 24 hours in advance of the meeting, excluding Sundays and legal holidays, per RSA 91-A:2.

Notice when an application has been filed and placed on the Planning Boards agenda for determination of completeness and/or public hearing shall be sent by certified mail at least 10 days before the date of the meeting to all abutters, as defined in RSA 676:4, I(d). Notice shall also be posted in two public places, such as the Town Hall, Library, Post Office, Water Department, Sewer Department, Fire Department, Police Department,

Highway Department and/or Town website and published in a newspaper of general circulation at least 10 days before the date of the meeting.

- 5.7 CANCELLATION OF MEETINGS.** The Clerk shall give each member of the Board 48 hour's prior notice of the cancellation of such meeting and shall post a notice in at least two public places at least 24 hours prior to the time of the scheduled commencement. In the event of a weather-related cancellation, notification to the Board members and the public will be done as soon as the Chair has determined to cancel the meeting.
- 5.8 MINUTES.** The recording secretary shall take complete and accurate minutes, prepare in writing the official minutes of all meetings; show the vote of each member upon every question, or if absent, disqualified, or failing to vote so indicate; include in the minutes the names of all witnesses, a summary of the facts on which the decision is based and the decision rendered; and to deliver to the Clerk, or designated Town employee, within 5 business days the completed document for submission to the Board for acceptance and public posting, per RSA 91-A:4.

ARTICLE VI CONDUCT OF BUSINESS

- 6.1 CALL TO ORDER.** Meetings shall be called to order by the Chair, or in the Chair's absence, by the Vice-Chair. In the absence of both, the Secretary shall call the meeting to order and act as the Chair pro-tem.
- 6.2 QUORUM.** The Board shall only conduct a meeting and transact business when a quorum is present. A majority of the membership, 4 regular members, ex-officio members, and/or alternates shall constitute a quorum for the conduct of business.
- 6.3 ORDER OF BUSINESS.** For each regular meeting the order of business, unless otherwise ordered by the Chair, shall be as follows, and shall be shown on the agenda:
- I. Call to Order
 - II. Approval of Minutes
 - III. Old Business
 - A. Completeness Review
 - B. Public Hearing
 - IV. New Business
 - A. Conceptual Discussions
 - B. Completeness Review
 - C. Public Hearing
 - V. Other Business
 - VI. Adjournment

For each work session, the order of business shall be as follows:

- I. Call to Order

- II. Study Items
- III. Committee Reports
- IV. Adjournment

The Board will make an effort to conduct its business at meetings in the order stated in the public meeting notice, but the Chair does have the right to vary the order of business to accommodate the needs of the Board members, the applicants, and the public.

6.4 CONDUCT OF THE PUBLIC HEARING, JUDICIAL CAPACITY. For public hearings on applications for subdivision approval, site plan approval, and other matters which the Board is to decide in a judicial capacity, the Chair, shall preside at the public hearing, and shall observe the following procedure:

- A) Convene the meeting and state the manner in which the hearing shall be conducted
- B) Read the legal notice of the case
- C) Call upon the Town Consultant(s) to present the application
- D) Call upon the applicant, or representative of any proposal, to present the application
- E) Determine if the application should be deemed complete
- F) Open the public hearing to allow the public to ask questions and/or voice opinion(s)
- G) Read any written testimony received concerning the proposal into the record, unless waived by the Chair or the party who submitted the correspondence
- H) During the presentation by the applicant, questions may be asked at any point by Members of the Board
- I) Call upon those who wish to comment to direct questions or comments to the Chair. Each person must state their name when addressing the Board
- J) Call the hearing to a close, as appropriate, outlining the Board's anticipated procedure concerning the proposal
- K) Motion to be made and seconded to render a decision on the application

The Board's failure to adhere to the foregoing procedures with respect to any particular matter will not affect the validity of any action taken in that matter, so long as all persons are given proper notice of the hearing and an adequate opportunity to be heard.

6.5 CONDUCT OF THE PUBLIC HEARING, NON-JUDICIAL CAPACITY. For public hearings on amendments to the town's zoning ordinance, changes to the board's regulations, and other matters, which the Board is to decide in a non-judicial capacity, the board, will, to the extent feasible, observe the following procedure:

- 1. Presentation
- 2. Questions from Board members
- 3. Questions and comments from public
- 4. Discussion by Board after motion is made and seconded
- 5. Decision

The Board's failure to adhere to the foregoing procedure with respect to any particular matter will not affect the validity of any action taken in that matter, so long as all persons are given proper notice of the hearing and an adequate opportunity to be heard.

- 6.6. PRESENTATIONS DURING PUBLIC HEARINGS.** The Chair shall request that at the start of each Public Hearing a representative of the proposal give a brief presentation of the request before the Board. The brief presentation shall be adequate so as to inform all abutters and members of the public as to the nature of the project in order that they may comment on the proposed project.
- 6.7. PERMISSION REQUIRED TO ADDRESS THE BOARD.** Persons other than Members of the Board shall not be permitted to address the Board except when recognized by the Chair. The speaker shall not enter into any debate with anyone present, shall speak only to the subject matter indicated, and address all comments and questions to the Chair. A group may have one person act as its spokesman and shall follow the same rules.
- 6.8. RULES OF ORDER.** The Board will follow rules of order as established by the Chair, subject to approval by a majority of the Board. The Board is under no obligation to follow any formal rules of parliamentary procedure.
- 6.9. TIME LIMITS ON DESIGN REVIEW.** The Planning Board has the authority to determine, at a public meeting, when the design review process for a project has ended. Notice of such a determination will be given to the applicant in writing within 10 days.
- 6.10. MINUTES.** The minutes of previous meetings shall be submitted for approval at the next regular meeting. The Chair shall call for any corrections to the minutes. Hearing none, the Chair shall call for a motion to approve the minutes as submitted. If there are corrections, the corrections shall be handled by general consensus after which the Chair shall call for a motion to approve the minutes as amended.
- Corrections may be made to previously approved minutes by motion duly passed by a vote of the majority of the membership.
- 6.11. RECESS OF THE MEETING.** The Chair may order a temporary halt to the proceedings of the meeting. Said recess should normally not exceed 30 minutes. Upon ordering the recess, the Chair shall state the time and place for reconvening.
- 6.12. CONTINUANCE OF THE HEARING.** The Board may continue a public hearing if the application cannot be disposed of on the day set. No further public notice shall be necessary provided that the date, time, and place of the continued hearing shall be announced before adjournment.
- 6.13. ADJOURNMENT OF MEETING.** The Board shall adjourn each meeting to its next scheduled meeting or to a special meeting specifying time, date, and place.

If the order of business has not been concluded by 10:00 PM, the Chair shall poll the attending Members to determine if the Board should continue beyond the 10:00 PM, or continue the matters on the agenda to the next appropriate meeting, or continue to a special meeting specifying time, date, and place.

ARTICLE VII VOTING

7.1 MOTION TO BE STATED BY THE CHAIR When a motion is made and seconded, it shall be stated by the Chair before debate. Said motion shall not be accepted by the Chair if, in the opinion of the Chair, discussion and debate relative to the subject matter of the motion has not fully discussed. At the request of the Chair or any Member of the Board, the motion shall be in writing. A motion may not be withdrawn or amended by the mover without the consent of the second and approval of a majority of the Board.

7.2 MAJORITY VOTE REQUIRED The affirmative vote of a majority of the Board Members voting on any action will be necessary for approval of the action; provided that in no event may any action be approved by the affirmative vote of fewer than three members. A tie vote on any motion will cause the motion to fail.

7.3 BOARD INACTION. If the Board is unable to take action pursuant to Section 7.2, it shall continue the matter for further consideration.

7.4 DECISIONS. The Board shall act to approve, disapprove, or conditionally approve the application within 65 days (per RSA 676:4, I (c)(1)) after accepting the application as complete.

Notice of decision will be made available for public inspection at the Town Hall 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.

7.5 RECONSIDERATION OF DECISION. The Planning Board shall have the ability to reconsider its decision, upon its own motion or at the request of a party to the proceeding, within the 30 day appeal period established by RSA 677:4.

7.6 CONFLICT OF INTEREST or PREJUDGEMENT. In accordance with RSA 673:14, no Member shall participate in deciding or shall sit upon the hearing of any question if that Member has a direct personal or pecuniary interest in the outcome which differs from the interests of other citizens, or if that Member would be disqualified for any cause to act as a juror upon the trial of the same matter in any action of law. Reasons for disqualification do not include exemption from service as a juror or knowledge of the

facts involved gained in the performance of the member's official duties, per RSA 500-A:12.

When an uncertainty arises as to whether a Member is disqualified in particular circumstances, the Board shall, at the request of that Member or another Board member, vote on the question, but such vote shall be advisory only and non-binding on the member in question. Any non-board person with a direct interest in the outcome may voice an objection to a Board Member's participation, setting forth specific reasons. Any such objection shall be made either prior to or at the commencement of the public hearing, or at such later time as the facts claimed to warrant disqualification first become known.

A Member who has disqualified himself/herself shall remove himself/ herself from the Board, and shall sit with the public until such time as the Board has completed its consideration of the application at that meeting. The Member may then return to the Board. The disqualified Member shall not participate in the Board's subsequent consideration of that application. If as a result of disqualification the Board loses its quorum, then there shall be an adjournment or recess of consideration of the matter until there is a quorum either at the same meeting or the next available meeting.

- 7.7 RECORDS.** The records of the Board shall be kept by the Clerk and shall be made available for public inspection at the Town Hall during normal business hours. Records shall include meeting minutes, notices of decision, correspondence to and from the Board, all application material, and evidence submitted to the Board.

ARTICLE VIII JOINT MEETINGS AND HEARINGS

- 8.1** The Planning Board may hold joint hearings with other Land Use Boards. Each Board shall have discretion whether or not to hold such joint meetings or hearings.
- 8.2** Joint business meetings with another local Land Use Board may be held at any time when called jointly by the Chair of the two Boards.
- 8.3** 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.
- 8.4** The Planning Board Chair shall chair all joint meetings and public hearings when the subject matter involves the Planning Board.
- 8.5** The rules of procedure for joint meetings and hearing, 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 the Chair
 - B. Introduction of Members of both Boards by Chair

- C. Explanation of reason for joint meeting/hearing by Chair
- 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 the proposal
- E. Adjournment

- 8.6** Each Board involved in a joint public hearing makes its own decision, based on its criteria for the particular matter

ARTICLE IX MISCELLANEOUS

- 9.1 ADOPTION.** Upon adoption, the Clerk shall file a copy of these rules and all amendments with the Town Clerk as a public record.
- 9.2 AMENDMENTS.** These rules may be amended at any regular meeting by an affirmative vote of a quorum of the Board provided that such amendment has been presented in writing to each Member of the Board at least 5 days preceding the meeting at which the vote is taken.
- 9.3 EFFECTIVE DATE.** These rules of procedures, and any subsequent amendments, shall become effective immediately upon passage by the Board as recorded in the minutes of the meeting at which such action occurs.
- 9.4 VALIDITY.** If any portion of these rules shall be held to be invalid for any reason by any court of competent jurisdiction, such holding shall not invalidate in any manner any other provision contained herein.