Windham Planning Board
Rules of Procedure
Windham, New Hampshire

Pursuant to RSA 676:1, the Windham, New Hampshire Planning Board adopts the following Rules of Procedure.

Article 1 - Title; Adoption; Amendment; Waivers

1.1 These Rules may be cited as the Windham Planning Board Rules of Procedure.

1.2 These Rules shall be adopted following a public hearing by the Planning Board. The hearing shall be noticed by a legal notice published not less than seven (7) days prior to the hearing and said notice shall contain a summary of the provisions herein, together with the notation that the full text is available upon request.

1.3 The rules shall be effective upon adoption by a majority of the Board and when they have been signed by a majority of the Board and filed with the office of the Town Clerk.

1.4 ~~These rules may be amended at any regular meeting by a majority vote of the Board provided that such amendment is read at a regular meeting of the Board immediately preceding the meeting at which the vote is to be taken.~~

1.5 Provisions of these rules may be temporarily waived or modified for a meeting by the Planning Board, when in the opinion of the Board, such action is deemed reasonably necessary to effectuate the lawful purposes of the Board's business. The justification for such action shall be stated and noted in the minutes. A majority vote is required on the proposed waiver.

Article 2 - Membership; Terms of Office; Officers; Vacancies

2.1 Pursuant to RSA 673:2, the Planning Board shall consist of seven (7) members; six (6) of whom shall be elected by the legislative body and the seventh member shall be an ex-officio member appointed by the Board of Selectmen.

2.2 Except for the Selectmen's representative, members shall be elected in staggered terms pursuant to RSA 673:5 of one (1) year, two (2) year, and three (3) year terms. The membership of the Board shall be elected in such a manner so that two (2) members shall be elected each year.

2.3 Term of Office shall commence upon election and after the Board member has been sworn in, provided however, that term shall continue until successors have been appointed or elected.

2.4 The Planning Board shall elect the following officers from its members, provided however, that the Selectmen's ex officio member shall not hold any office: Chairman and Vice Chairman.

2.5 Officers shall be elected individually for a one (1) year term at the first regular meeting following election by the legislative body.

2.6 Pursuant to RSA 673:12, vacancies in the membership of a local land use board occurring other than through the expiration of a term of office shall be filled as follows: For an elected member, by appointment by the remaining board members until the next regular municipal election at which time a successor shall be elected to either fill the unexpired term or start a new term, as appropriate.

2.7 The Planning Board may appoint up to four (4) alternates who shall be appointed to three (3) year terms. The initial appointments of alternates shall be staggered as per RSA 673.6. The Selectmen shall appoint an alternate to the ex-officio member and only that alternate may sit for the ex-official member and for no other member.

Article 3 – Roles & Responsibilities; Minutes & Records

3.1 CHAIRMAN: The Chairman shall preside over meetings and shall be responsible for conduct and decorum of the meeting. The Chairman shall have the responsibility to ensure that all parties receive a full and fair hearing before the Board and to enforce the rules herein and applicable State laws. The Chairman, with Board authorization, will be the spokesperson on behalf of the Planning Board with other municipal boards, the public, and media. The Chairman communicates regularly with the planning clerk and works with them on setting the meeting agendas and other Board organizational activities.

3.2 VICE CHAIRMAN: The Vice-Chairman shall preside over meetings and assume the duties of Chairman in the absence of the Chairman. At public hearings, the Vice Chairman shall read the official hearing notification into the record and will also read correspondence related to the hearing into the record.

3.3 ALTERNATES The Chairman will appoint Alternate members to sit in place of regular members if they are absent or have removed themselves from hearing an application. When this occurs, the Alternate Member will have full participation and voting rights as a regular member.

If the Alternate member is to sit in place of the Chairman or Vice Chairman, those official roles assigned to those positions will be carried out by a regular member of the Board.

The Clerk, or their designee, will maintain a record of the designation of Alternate Members as voting members to assist the Chairman in ensuring an even rotation of Alternate Members.

Alternate members who are not appointed by the Chair to fill the seat of an absent or recused member may fully participate, with the exception that they may not make or second motions, vote or participate in discussions on the motion.

Alternate members are expected to attend meetings on a regular basis. If more than 50% of the meetings are missed in an 6 month timeframe, the Board may vote to unappoint the alternate member.

3.4. CLERK: The Community Development Director, Community Planner, or their designee 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 Chairman; and shall keep records of its examinations and other official actions.

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

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

3.5 MINUTES: Minutes of the Board meetings shall be kept in accordance with the provisions of RSA 91-A and Section 3.4 of these Rules of Procedure. Minutes shall be considered a summary of events and business transacted once adopted by the Board with any corrections noted.

Minutes must be made available in accordance with RSA 91-A. Draft minutes are posted at the Town Hall and the Community Development Department per RSA 91-A:2(II).

An effort will be made to post the draft minutes and revised draft minutes, within the same timeframe listed above, as well as approved minutes, when they become available, on the Towns web site.

Draft minutes and revised draft minutes will be provided to the Planning Board members for review. Board members may offer, by email to the full Board and Clerk, any amendments/corrections that they will be proposing at a public meeting. The Clerk will make such emails available for public review. Discussions on the draft minutes or revised draft minutes on the proposed amendments/corrections will only take place at a public meeting.

3.6 RECORDINGS Audio/video recordings made by members of the public are not required to be archived by the Department, unless they are submitted as part of a case file, in which case they will be kept in accordance with NH RSA 91-A.

Article 4 - Meetings; Special Meetings; Place; Hours

4.1 The Board regularly holds meetings on the first and third Wednesdays of each month, except that the Board may vote to amend their meeting schedule as the need arises. Meeting agendas are posted at the Town Hall and the Community Development Department in accordance with RSA 91-A.

Hearing notices are posted at the Town Hall, in the Community Development Department, and in a newspaper of general circulation 10 days prior to the public hearing.

An effort will be made to post the agenda and hearing notices on the Towns web site within the same timeframe listed previously.

4.2 Special meetings of the Board shall be held at the call of the Chairman or by written request of a majority of the Board members. These meetings will be posed in accordance with NH RSA 91-A.

4.3 Regular or special meetings of the Board may be recessed to a time and place certain as a continuation of said meeting without further notice as long as the time and place are announced in the meeting and captured in the meeting minutes.

4.4 All meetings of the Board shall be held in the Community Development Department building unless the Board shall vote to meet at some other different place for a particular meeting.

4.5 Regular meetings of the Board shall commence at 7:00 PM unless the Board shall vote to fix some different meeting time for a particular meeting.

4.6 The Board shall not commence any items of new business, which include public hearings, later than 10:00 PM provided that the Board may continue to conclude the public hearing of any item of business which commenced prior to that hour. The Board may, by vote, determine to waive this rule and take up new business later than 10:00 PM. However, if the applicant or any abutters objects to the Board hearing a specific item after 10:00 PM, then the Board will continue that item until the next regularly scheduled meeting.

4.7 Nonpublic sessions shall be held only in accordance with RSA 91-A:3

Article 5 - Quorums; Voting; Conduct of Meetings; Subcommittees

5.1 A quorum of four (4) members shall be required to conduct business.

5.2 An affirmative vote of a majority of members voting on a question shall be sufficient for adoption of the question. Members of the Board present may be counted to determine whether a quorum is present although they may abstain from voting affirmatively or negatively. Members are expected to vote on matters before the Board, unless that member has recused himself/herself. Abstaining from a vote is discouraged, unless the issue pertains to business which took place when the member was absent.

5.3 When the vote on a question is evenly divided, the question shall be deemed to have been defeated.

5.4 The Board may reconsider any decision regarding an application, for good cause, provided it is within the statutory appeal period. This may be done by a member who voted on the prevailing side through a motion that specifies the reason for reconsideration. Upon successful passage of the motion, the board shall schedule a

public hearing, with notice as provided in RSA 674:4,I(d), where they shall consider whether or not to revise or alter their original decision.

5.5 The Board may reconsider any other decision, for good cause, at the request of a member who voted on the prevailing side through a motion that specifies the reason for reconsideration. If the motion passes, this item will be placed on the next available Board agenda for consideration.

5.6 The Planning Board reserves the right to change the order of the posted agenda. No new business will be taken up after 10pm unless agreed to by the Planning Board. Any remaining items will be placed on the agenda for the next available Planning Board meeting.

5.7. Correspondence and presentations specific to an application before the Board are presented during the public hearing on that application.

5.8. To ensure timely inclusion among the Board's written materials, written or emailed statements submitted in lieu of a personal appearance should be received by the Community Development Department by noon the Friday preceding the applicable hearing or workshop date. The Board will attempt but cannot guarantee timely review and consideration of written or emailed statements received after that time.

5.9. If the Board determines that it does not have sufficient information to proceed with consideration of an application, including required application requirements, such that the Board is unable to make an informed decision, or if it is determined that the application does not comply with the zoning ordinance, the application shall be rejected by a majority vote of the voting members. The Clerk will provide the applicant with the written reason for rejection in accordance with NH RSA 676:3.

5.10 The Chairman shall enforce such order and decorum as may be necessary for the sufficient conduct of the Board's business, guided by a desire to maximize public input on matters before the Board. The Chairman shall manage the discussion among Board members, the applicant, and the public. When the Chairman speaks it is not to be interpreted as representing the Board but his/her own personal views and opinions. .

5.11 The Chairman shall set out procedural processes at the beginning of each meeting so that members of the public and Board are aware of the expectations for how to proceed.

5.12 The Town Community Development Department Staff shall present the application material to the Planning Board for review. At the option of the Board, the Developer's agent may be allowed to present the plans.

5.13 Board members and members of the public shall be recognized by the Chairman before speaking on the plan. Members of the public shall address all comments and questions through the Chairman.

5.14 The Chairman shall have the discretion to cut off the discussion at any point during the hearing. Should any member wish the discussion to continue, the Chairman shall call for a vote of the Board and the majority opinion will carry.

5.15 When establishing subcommittees, the Planning Board will define the roles, responsibilities, duties, membership, and duration of the subcommittee. All established Subcommittees will follow the same requirements as the Planning Board that are outlined in NH RSA 91-A and Article 9 of these Rules of Procedure, in addition to providing the approved meeting minutes for posting on the Town web site. Non-Planning Board members may serve on Planning Board subcommittees, however no Town employee may be appointed to serve on these subcommittees.

Article 6 – Site walks

6.1 A site walk is defined as a scheduled public visit by the Board to a location which is the subject of an application before the Board, where the visit is in the company of the owner applicant, their agents or employees and members of the public and involves going onto the property or visiting areas which are not customarily available for public inspection. This does not include a casual view of a site from adjoining public highways or other observations that can be made without entering on the property.

6.2 When the Board deems it necessary for the adequate consideration of an application, the Board shall schedule a site walk by the Board.

6.3 When the Planning Board schedules a site walk for Board membership, it shall be posted as a meeting of the Board and meeting minutes shall be taken in accordance with RSA 91-A.

6.4 Site walks are public meetings of the Board and as such members of the public are allowed to attend. The Chairman has the authority to maintain decorum and order on a site walk just as at any other meeting of the Board.

6.5 The practice of an applicant directly contacting a member to invite that member to visit a property without prior Community Development Department notice shall be discouraged as an inappropriate course of conduct.

6.6 When the Board meets to consider an application after conducting a site walk, the Board shall disclose what they learned/observed while on a site walk at the location under consideration.

6.7 The Board should refrain from making decisions on an application while on a site walk. Any comments, motions or direction to an applicant should be made at the public hearing.

Article 7 - Joint Meetings with Other Land Use Boards

7.1 Joint meetings of the Planning Board and the ZBA, Historic District Commission, and the Conservation Commission shall be presided over by the Chairman of the Planning Board.

7.2 A quorum of the membership of each Board shall be required in order to conduct a joint meeting, as stated in Article 5.1.

7.3 Separate minutes shall be kept of all joint meetings by the ~~Secretary and/or Recording Secretary of the~~ Planning Board. Minutes of a joint meeting shall not be considered the official minutes of a joint hearing until they have been adopted by vote of both the Planning Board and the other land use board.

7.4 Presentation of applications shall follow the same presentation as that specified in each of the land use board's rules of procedure.

7.5 At the conclusion of the public hearing, the Planning Board receives the recommendations of the Conservation Commission, the vote of the ZBA, and/or the vote of the Historic District Commission. The Planning Board shall proceed to vote on the application.

7.6 A joint meeting can be requested in writing by the applicant at the time of application submission and can be suggested by Community Development Department Staff to the Chairman of the respective Boards. If the request is made by the applicant, it must be honored.

Article 8 – Land Use Regulation Public Hearings; Workshops

8.1 The Board shall follow the statutory provisions for holding all public hearings on zoning amendments or changes in site plan/subdivision regulations.

8.2 In the case of zoning amendments or regulation changes proposed by the Board, the amendment will be presented by town staff and/or Planning Board members and the public will be invited to comment.

8.3 In voting on proposed regulation changes, zoning amendments, land sale, or road acceptances, the Board shall consider each separate item and vote on adoption or disapproval of each separate proposal at the conclusion of the presentations of that item.

8.4 In voting on citizen petition zoning amendment proposals, the Board shall vote to support or to not support said proposal. If the Board should be evenly divided, or if a motion to support fails to receive a majority vote, the proposal shall be noted as being not supported. The vote, as well as whether the Board is supporting or not supporting the petition shall be, noted on the warrant.

8.5 Workshop meetings of the Board shall be meetings to receive presentations on or study one or more selected topics.

Article 9 - Standards of Conduct

9.1 The primary obligation of Planning Board members is to serve the public interest, and to conduct themselves so as to maintain public confidence in the Planning Board and the conduct of its business.

9.2 Members shall not directly or indirectly solicit any gifts or accept or receive any gift (whether in money, services, loans, travel, entertainment, hospitality, premises or in some other form), under circumstances in which it could be reasonably inferred that

the gift was intended to influence them in the performance of their duties or was intended as a reward for any recommendation or decision on their part.

9.3 To avoid conflict of interest, any member who may receive some private benefit from a public planning board decision must not participate in that decision. The private benefit may be direct or indirect, create a material personal gain or provide an advantage to relations, groups, or associations that hold a significant share of the official's loyalty. An official with a conflict of interest must abstain from voting on the matter and leave the table and podium area when the Board members deliberate and vote on a matter. Further, the Board member may not discuss the matter privately with any other Board member voting on the matter or otherwise communicate directly or indirectly with Board members regarding the matter in question so as to attempt to influence the vote on said question.

9.4 A Board member must not disclose or improperly use confidential information obtained in the course of his duties for financial gains or to further a personal interest.

9.5 Notwithstanding the above restrictions, a Board member who has an interest in a plan before the Board may, following recusing himself/herself from the Board, exercise his/her rights as a citizen and address the Board on the issue under review.

9.6 Ex parte communications (written or verbal communications from or to a Board member concerning a pending application) impair the procedural due process rights of interested parties and undermine public confidence in the Planning Board. Board members should refrain from initiating ex parte communications on any application. Any requests or inquiries by Board members should be made during public hearings or through appropriate town staff. Members receiving ex part communications should refrain from responding (citing this section) and refer the party initiating the communication to the appropriate town staff. In appropriate circumstances, the town staff shall advise interested parties of the inquiry or attempted ex parte communication.

9.7 All Board members share a responsibility to enforce adherence to the standards or conduct herein. If a member believes that one or more members may either by intention or inadvertence is in violation of these standards, he/she shall call that fact to the attention of the Chairman who shall in turn call it to the attention of the member in question. In the event of a dispute as to whether a member should or should not participate, the question shall be posed to the Board, as to whether the member in question should or should not participate. Such a vote shall be advisory and non-binding and cannot be requested by anyone other than Board members.

Article 10 – Capital Improvement Plan (CIP)

10.1 The Planning Board, having adopted a Master Plan, is authorized by a vote at 1986 Town Meeting to prepare and amend a recommended program of municipal capital improvements per RSA 674:5.

10.2 The Planning Board shall establish a permanent subcommittee to be known as the Capital Improvement Program Subcommittee of the Windham Planning Board, the purpose of which is to aid the Board of Selectmen in their consideration of the annual budget and fulfill the long-term capital needs of the town as defined in the Master Plan. The Planning Board will annually review the duties, roles, and responsibilities of the CIP Subcommittee and set the financial threshold for inclusion of capital projects.

10.3 The subcommittee shall develop a Capital Improvements Program, projected over a period of at least six years, in a manner deemed appropriate by the Planning Board. The subcommittee is authorized to meet with all municipal departments, agencies, authorities, and boards to develop a statement of all proposed capital projects to be undertaken during the terms of the program.

10.4 The subcommittee shall utilize the information obtained to formulate a draft Capital Improvement Program consistent with the goals and needs of the community and shall present the draft, with supporting documentation, to the Planning Board for timely consideration to set the annual budget.

10.5 The subcommittee shall incorporate comments received from the Planning Board, and present the final Capital Improvements Program to the Planning Board for adoption after holding a public hearing.

10.6 The subcommittee shall consist of the following members:

- One (1) Selectman appointed by the Chairman of the Board of Selectmen whose term shall be one (1) year. An Alternate may also be appointed for the term of 1 year to represent the Board of Selectmen if the regular member is unable to participate.
- One (1) School Board member appointed by the Chairman of the School Board whose term shall be one (1) year. An Alternate may also be appointed for a term of 1 year to represent the School Board if the regular member is unable to participate.
- Two (2) members of the Planning Board appointed by the Chairman of the Planning Board whose term shall be one (1) year. An Alternate may also be appointed for a term of 1 year to represent the Planning Board if one of the regular members is unable to participate.
- Three (3) members of the general public shall be appointed by the Planning Board, with staggered terms of three (3) years each, such that one (1) member is appointed each year. To maximize public participation in the CIP process, "members of the general public" shall be defined as residents not currently serving as a Selectman, School Board member, or Planning Board member. In the event such a member of the general public shall become, during the period of appointment, a Selectman or member of any land use board, he or she shall be disqualified from further participation and a new "Member of the general public" shall be appointed by the Board. An

Alternate may also be appointed for a term of 1 year to participate if one of the regular members is unable to participate.

- It is recommended that these appointments take place no later than the first scheduled meeting in July.

Article 11 – Design Review Subcommittee

11.1 The Planning Board, having adopted Design Review Regulations in accordance with RSA 675:6, is authorized to establish a permanent Design Review Subcommittee.

11.2 The Subcommittee shall consist of 5 members to be appointed by the Planning Board with staggered terms of three (3) years each.

11.3 The purpose the Design Review Subcommittee is to review all development applications, as described in the Scope of the Design Review Regulations.

11.4 The Subcommittee is to provide advisory comments to the Planning Board as to the application's conformance with the Design Review Regulations and whether or not the Subcommittee supports the granting of any waivers that are being requested.

Article 12 – Regional Planning Commissions:

12.1 The Planning Board shall provide the Board of Selectmen with nominations of representatives to the regional planning commission in accordance with RSA 36:46 III. The Town of Windham is entitled to 3 representatives on the commission. Initial appointments shall be for 2, 3, and 4 years with vacancies being filled for the remainder of any unexpired term in the same manner as the original appointments. The Planning Board may also nominate alternate representatives to the Commission.

Adopted by the Windham Planning Board on June 28, 1989
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