

PLANNING BOARD
RULES OF ADMINISTRATIVE PROCEDURE
TOWN OF
TAMWORTH, NH

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TAMWORTH PLANNING BOARD
Rules Of Administrative Procedure

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I. AUTHORITY

These rules were adopted under the authority of New Hampshire Revised Statutes Annotated RSA 676:1, et seq.

III. PLANNING BOARD MEMBERSHIP

A. Members

The Tamworth Planning Board shall consist of seven regular members and three alternate members, all of whom must be residents of Tamworth. One of the regular seven members shall be a Selectman who serves as an ex-officio member. All members shall be sworn in by the Town Clerk.

B. How Elected/Appointed

1. Ex-Officio/Alternate Members: The Selectmen designate one Selectman as an ex-officio member. The Selectmen also designate a Selectman to serve as an ex-officio alternate member.
2. Regular Members/Alternates: The remaining six members of the Board shall be elected by vote of the Town. The three alternate members are appointed by any ex-officio member and the elected members of the Board. Any resident who wishes to serve as an alternate on the Board shall set forth such request in writing to the Board, which will make the appointments based upon the applicant's qualifications, integrity and willingness to serve.

C. Term The terms of the ex-officio member and the ex-officio alternate member shall coincide with the terms of the office as Selectmen. At the discretion of the Selectmen, the ex-officio and alternate ex-officio representatives to the Board may be appointed annually. The terms of the remaining six regular members and the three alternate members shall be for three years. The terms shall be staggered so that no more than two terms of regular members expire annually and not more than one appointment of an alternate member occurs annually, except when required to fill vacancies.

D. Vacancies in Membership any vacancy in an elected position on the Board shall be filled by appointment by the remaining Board members. The Town, at which time, a successor shall be elected to fill the unexpired term or start a new term as appropriate. Any vacancy in an ex-officio position on the Board shall be filled by the original appointing authority for the entire unexpired term.

E. Removal of Members No member of the Board may be removed by the Selectmen until after public hearing held pursuant to RSA 673:13.

F. Officers The officers of the Board shall be as follows:

1. Chairperson: The Chairperson shall preside over all meetings, and hearings, shall prepare, with assistance of the Secretary, an annual report, and shall perform other duties customary to the office.
2. Vice-Chairperson: The Vice-Chairperson shall preside in the absence of the Chairperson and shall have the full powers of the Chairperson on matters that come before the Board in the absence of the Chairperson.
3. Secretary: The Secretary shall keep a full and accurate record of the proceedings of each meeting, issue notices of all meetings, record the names of the members present; notify applicants and abutters of hearings; prepare such correspondence and fulfill such duties as the Board may specify. In the absence of the Secretary, the Chairperson shall appoint a

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Secretary pro tem to keep records of the meeting. The Secretary may delegate responsibilities to a Clerk hired by the Board for that position.

4. Treasurer: The Treasurer shall keep a full accounting of all monies received and disbursed by the Planning Board.

G. Other Officers The Board may create other officers as it deems necessary.

H. Election of Officers The Officers of the Board shall be elected annually on the fourth Wednesday of March by a majority vote of the Board. If requested by a majority of those present, the vote shall be by written ballot.

III. APPLICATION, SUBMISSION AND REVIEW PROCEDURES

A. Preliminary Review – Optional Discussion by Board members and applicants is non-binding in preliminary review. [RSA 676:4(II)(a)(b)]

1. Conceptual – No Plans: Consultation with the Board is available without formal notice to applicants, owners, agents, surveyors, engineers, and abutters with respect to the requirements of the Subdivision Regulations and other applicable ordinances, laws, and regulations. Applicants seeking consultation with the Board must submit a request for placement on the agenda (Appendix A.1). Discussion is limited to general, non-engineering issues and types of development that would meet the Masterplan recommendations for the proposed area [RSA 676:4 (II)(a)].
2. Design Review – Plans Permitted: Preapplication review is available with respect to engineering and design issues. Discussion must take place at regularly scheduled public hearings with notice to abutters [RSA 676:4(II)(b)], applicants, owners, agents, as well as architects, surveyors, engineers and soil scientists whose professional seals appear on any plat submitted to the Planning Board. Design review application forms (Appendix A.1 and A.4) must be submitted at least 19 days prior to the regularly scheduled public hearing at which the application is to be heard, and be accompanied by the appropriate fees (see Appendix A.2).

B. Subdivision Review – Mandatory:

1. Application: All of the items set forth above must be forwarded to the Clerk of the Planning Board not later than 5:00 pm at least 19 days prior to the public hearing at which the subdivider would like to present the application. The Clerk may not schedule an application for public hearing if the required documents and fees are not filed by the 19 day deadline. The subdivider shall submit an application which shall consist of the following documents:
 - a. An application form (Appendix A.6)
 - b. A checklist for completion of all required plat information (Appendix A.8 and A.9)
 - c. Any applicable waiver requests (Appendix A.10)
 - d. A list of names and addresses of all abutters, including owners on the opposite side of the road or river to the subdivided land, applicants, owners, agents, as well as architects, surveyors, engineers and soil scientists whose professional seals appear on any plats submitted to the Planning Board (Appendix A.5). [See Subdivision Regulation 3.01 .]
 - e. The application fee(s). [See Appendix A.2]

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2. Notices: The Planning Board shall serve notice by certified mail, return receipt requested, of the proposed subdivision application to the applicants, owners, agents, architects, surveyors, engineers, soil scientists, and abutters at least ten (10) days prior to the public hearing at which the application is to be presented. The general public shall be notified by posting notice at a public place within the Town of Tamworth or by publication in the Carroll County Independent at the discretion of the subdivision proposal.
3. Public Hearing:
 - a. The application shall be submitted to the Board for acceptance as a completed publication. Public comment is not permitted during Planning Board review for the purpose of accepting an application as complete. The merits of the subdivision shall not be addressed while reviewing an application for completeness. The Board shall vote to accept the application as complete, reject the application as incomplete, or continue the hearing.
 - b. Upon acceptance by the Planning Board of an application as complete, the public hearing shall be opened for review and discussion of the proposed subdivision. Questions and comments of all Board members, the applicant and abutters shall, to the extent possible, be directed through the Chairperson.
 - c. At the conclusion of the public discussion, the Planning Board shall either vote to approve or reject the subdivision application. Subdivision approval may be on a conditional basis.
 - d. If approved, the Chairperson and Secretary or Acting Chairperson and Acting Secretary shall sign five (5) copies of the subdivision plat. The Clerk shall: (1) Cause one signed plat to be recorded at the Carroll County Registry of Deeds by Certified Mail; (2) deliver one signed plat to the Board of Selectmen; (3) deliver one signed plat to the Fire Department; (4) retain one signed plat for the Planning Board file; (5) return the remaining plat to the applicant. If the applicant desires more than one signed copy, the applicant shall submit more than five copies of the plat to the Planning Board for execution.
 - e. If the proposed subdivision is approved by the Planning Board, the applicant will be notified of the approval on a form substantially identical to that set forth in Appendix D.2 .
 - f. If the proposed subdivision is not approved by the Planning Board, the applicant shall be notified of the reasons for the rejection on a form substantially identical to that set forth in Appendix D.3 .

IV. MEETINGS OF THE PLANNING BOARD

- A. Definition of Meeting A meeting is defined as the convening of a quorum of the membership (at least 4 members) to discuss or act upon a matter over which the Board has jurisdiction.
- B. Scheduling of Meetings The Board shall hold at least one regular meeting each month, on the fourth Wednesday of each month at the Tamworth Town Office building. Where the fourth Wednesday of a month falls on or in close proximity to a holiday, the Board may, in its discretion, reschedule the date of such meeting. All meetings are open to the public.
- C. Special Meetings Special Meetings may be called by the Chairperson, or in his or her absence, by the Vice-Chairperson or at the request of three members of the Board.

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D. Notice Requirements:

1. Meetings:

- a. The agenda for meetings shall be closed 72 hours before the meeting date and time. The Board, in its discretion, may refuse to recognize at a meeting any person not on the agenda. Space permitting, placement on the agenda shall occur upon submission of a request to the Clerk on the form, Request to Be Placed on Monthly Agenda (Appendix A.1) .
- b. A notice of the time and place of all regular and special meetings (i.e., site inspections and work sessions) of the Board shall be posted in two appropriate places or printed in a newspaper of general circulation in Tamworth at least 24 hours, excluding Sundays and legal holidays, prior to such meetings.
- c. This notice requirement does not apply to an emergency meeting, which is defined as a situation where immediate undelayed action is deemed to be imperative by the Chairperson. In such a case the Chairman shall employ whatever means are available to inform the public that an emergency meeting is to be held.

2. Public Hearings to Consider Applications: The following notices to abutters, applicants, agents, surveyors, engineers and the public are required under the following regulations the following number of days¹ in advance of the scheduled public hearings.

3. Public Hearings Relative to Proposed Ordinances or Regulations

- a. Notice of public hearing shall be posted and published in a newspaper of general circulation in accordance with RSA 675: 7.

¹ The number of days of both posting and/or publication shall not include either the day of posting/publication or the day of the hearing.

<u>Regulation</u>	<u>Notices by Certified Mail</u>	<u>Posting in Public Places</u>	<u>Publication in Newspaper</u>
Subdivision (Design Review & Applications)	10 days	10 days	OR 10 days

- b. Notices to applicants, owners, agents, abutters, surveyors, engineers shall be by certified mail, return receipt requested.
- a. The above required notices and notices to the general public by posting or publication as required above shall include a general description of the proposal, the identity of the applicant, the location of the proposal, and the date, time and place of the public hearing.
- b. Once the above required notices are given, no further notices are required, provided that, prior to the adjournment of the public hearing,, the date, time and place of the adjourned session is publicly announced at the hearing. In the event of excessive adjournments, the Board may require further notice to the abutters.
- c. No notices are required when the Board acts or considers disapprovals of applications based on failure of the applicant to supply required

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information, to meet reasonable deadlines, or to pay costs of notices or other required fees.

4. Public Hearings Relative to Proposed Ordinances or Regulations:

- a. Notice of public hearing shall be posted 12 days before the hearing and shall be published in the Carroll County Independent at least 12 days prior to the hearing per RSA 675:7.
- b. Subsequent public hearing held after the alteration to the form of proposed ordinance or regulation shall be held at least 14 days after the prior public hearing with the same requirements per RSA 675:3(IV).

V. PROCEDURES AT MEETINGS

- A. Chairperson Presides The Chairperson presides at all meetings and shall also have the power to compel the attendance of witnesses and administer oaths. The Vice-Chairperson/Secretary shall serve as acting Chairperson in the Chairperson's absence. If the Vice-Chairperson/Secretary is not present to so serve, the member who has served the longest period on the Board shall serve as acting Chairperson.
- B. Attendance: All members, including the alternates, are required to attend every meeting of the Board. While only the regular members or an alternate designated to act in the absent regular member's place may actually vote on any matter, all members may ask questions and participate in the discussion at hand.
- C. Quorum Required: Four members of the Board constitute a quorum. A quorum is necessary both in order to comprise a "meeting" as well as to transact any business of the Board.
- D. Designation of Alternate Members
 1. If the regular Board member is absent or disqualifies herself or himself, the Chairperson shall designate an alternate, if present, to act instead.
 2. If the ex-officio member is absent or disqualifies herself or himself, however, only the ex-officio alternate, if present, can serve in place of that member.
- E. Voting:
 1. All votes on any matters to come before the Board shall be taken after the matter has been duly moved, seconded and discussed in accordance with the usual rules of parliamentary procedure and after all parties have been given ample opportunity to be heard.
 2. All matters shall be decided by the majority vote of all of those members (both regular and designated alternates) present and voting. The Chairperson or acting Chairperson shall vote only in the event of a tie.
- F. Disqualification of a Member:
 1. A member of the Board may not take part in any deliberations or decisions which would disqualify that member from sitting as a juror if the matter was being decided in a Court of Law. In other words, a Board member must avoid any conflict of interest or even the appearance of a conflict of interest. Typical

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situations where a Board member should disqualify herself or himself would be the as follows:

- a. A member stands to gain a financial or economic benefit directly or indirectly, depending on the outcome.
 - b. A member has been retained or employed by the applicant or has performed some service for the applicant which is directly related to the matter at hand (such as an attorney or surveyor who also sits as a member of the Board).
2. A member should always, in advance of any deliberations, fully disclose the nature and extent of any matter which may disqualify that member from deliberating or making a decision. Any member may by his or her own motion disqualify himself or herself from any matter. If, after disclosure, a question exists as to whether a Board member should be disqualified, the Chairperson shall decide.
 3. If a member is disqualified or unable to act in any particular matter pending before the Board, the Chairperson shall designate an alternate, if present, to act in that members place.
 4. If the Chairperson is disqualified to sit on any particular matter pending before the Board, if possible the Chairperson should not chair any portion of that particular meeting but should appoint the Vice-Chairperson/Secretary to serve as acting Chairperson instead, disclosing the reasons therefore. If such a matter comes up during the meeting, the Chairperson should at that time appoint the Vice-Chairperson/Secretary to serve as acting Chairperson to chair the remainder of the meeting, disclosing the reasons therefore.
 5. Any member whose interest in the outcome of a particular matter exists by reason of being an abutter of property which is the subject matter before the Board is disqualified to deliberate and decide as to that matter; such a member should not sit as a Board member during that portion of the meeting.
 6. Any member so disqualified shall physically remove herself or himself from the table during the period of disqualification.
- G. Representation Before Board: No Board member shall appear before the Board in representative capacity for any applicant.
- H. Order of Business: Order of business shall generally be as follows:
1. Call to order by the Chairperson
 2. Roll call by the Secretary
 3. Approval of minutes of previous meeting(s)
 4. Treasurer's Report
 5. Secretary's Report
 6. Report of officers and committees
 7. Unfinished business

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8. Public hearing
9. Other business – public comment
10. Adjournment
- I. Non-Public Sessions: Non-public sessions shall be held only in accordance with RSA 91-A:3 .
- J. Public Hearings: The conduct of public hearings shall be governed by the following rules:
 1. The Chairperson shall call the hearing in session, introduce the Board, the applicant or agent, and describe the rules of conduct for the hearing.
 - a. Any person with an interest in the matter may testify, in person or in writing. Any material presented to the Board as evidence shall become part of the public record and will not be returned.
 - d. Any person who wishes to speak shall be recognized by the Chairperson and shall state her/his name and address.
 - e. Any question of the applicant or agent may go through the Chairperson.
 - f. Members of the Board may ask questions at any point during the hearing.
 2. The Chairperson shall ask for the Secretary's report on the proposal.
 3. The Secretary shall summarize the application and report on the manner in which public notice and personal notice was given.
 4. The Chairperson shall then ask the applicant or agent to present the proposal.
 5. The Chairperson shall then ask any person with an interest who wishes to testify or submit evidence to do so.
 6. The Chairperson shall then ask any person with an interest who has a question about the application to do so.
 7. The Chairperson shall indicate whether the hearing is closed or adjourned pending submission of additional material or information or correction of noted deficiencies. In the case of adjournment, additional notice is not required if the date, time and place of continuation is made known at the adjournment.
- K. Decisions: Notice of decision, using Appendix D.2 or D.3, will be made available for public inspection at the Town Office Building within 72 hours after the decision is made, as required in RSA 676:3. If the application is disapproved, the Board shall provide to the applicant written reason for the disapproval.

VI RECORDS

- A. Minutes: The Board shall keep accurate minutes of its meetings in accordance with the provisions of RSA 91-A. Minutes shall be available for inspection within 144 hours of a meeting during regular business hours at the Office of the Planning Board.
- B. Files and Documents: The files and other documents of the Board shall be kept by the

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Secretary and shall be made available for public inspection at the Town Office Building as required by RSA 676:3(II).

- C. Requests: A request for records other than minutes shall be made using the request form provided by the Board (Appendix D.1)

VII JOINT MEETINGS AND HEARINGS

- A. Other Approvals: Whenever an applicant seeks Planning Board and other land use Board approvals for a particular application, a joint meeting or hearing of the Board shall be held only upon request by the applicant and at the Planning Board's discretion.
- B. Procedure: Such an applicant shall fill out and file with the Planning Board Secretary completed applications for the land use Boards according to the application requirements set forth in the Regulations. The applicant must pay the application fee and costs set forth therein at the time of filing.
 - 1. All abutters and the applicant shall be notified of the date and purpose of the joint public hearing according to the Regulations.
 - 2. The Planning Board Chairperson shall chair the joint public hearing.
 - 3. The public hearing shall follow the conduct of public hearings described in Section V., paragraph J.
 - 4. The Boards shall jointly discuss and consider the proposal, seeking no further input from either the applicant or the public. After such joint discussion, the Boards shall separately convene; the Planning Board shall first deliberate and render its decision in the other Board's (s') presence according to the Planning Board's procedures, regulations, and ordinances. The other Board(s) shall next deliberate and render its/their decision(s) according to its/their procedures, regulations and ordinances.

VIII FORMS

All forms described herein shall be part of the Rules of Administrative Procedure:

Applicant Forms	Appendix A
Public Notice Forms	Appendix B
Accounting Forms	Appendix C
Administration Forms	Appendix D

IX AMENDMENT

These Rules of Administrative Procedure may be amended by a majority vote of the members of the Board provided that such amendment is read at two successive meetings immediately preceding the meeting at which the vote is to be taken. The amended Procedures shall be filed with the Town Clerk and with the New Hampshire State Office of Planning.

X SEVERABILITY

If any section, subsection, sentence, clause, or phrase of these Rules of Administrative Procedure are for any reason held to be unconstitutional or illegal, such invalidity shall not affect the validity of the