



# TOWN OF PITTSFIELD NEW HAMPSHIRE

## PLANNING BOARD RULES OF PROCEDURE

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# **Town of Pittsfield Planning Board**

## **Rules of Procedure**

### **I. Authority**

The planning board's authority to adopt these rules of procedure is New Hampshire Revised Statutes Annotated RSA 676:1, Method of Adopting Rules of Procedure; other enabling statutes in NH RSA; and enabling case law.

### **II. Establishment and Membership**

1. The town meeting adopted article 2 of the town meeting warrant of March 9, 2010, as follows:
  - (a) The planning board shall consist of 5 members. (See RSA 673:2, II.)
  - (b) The procedure for electing planning board members shall be according to RSA 673:2, II, (b), (1), as follows:
    - (1) The selectmen shall choose one selectman or administrative official of the town as an ex officio member.
    - (2) The remaining planning board positions shall be filled at the next regular town election pursuant to RSA 669:17 except that initial and subsequent terms shall be as follows: The town shall initially elect 2 members for a one-year term, one member for a 2-year term, and one member for a 3-year term. Thereafter, the term of an elected planning board member shall be 3 years. (See RSA 673:5, II.)
  - (c) Elected planning board members shall be elected by ballot. (See RSA 669:17, V, and RSA 669:14.)
2. The members of the planning board shall be residents of the municipality. (RSA 673:1, I.)

3. Every elected planning board member's term of office shall be as follows:

(a) The term of office shall begin upon the member's election and qualification for office and shall end upon the election and qualification of his successor.

(b) No person shall assume a town office until after the time period for requesting a recount is over. If a recount is requested for a town office, no person shall assume that office until after the recount is completed.

(RSA 669:10, Term of Office; RSA 669:9, Oaths of Town Officers; RSA 42:1, Oath Required; and RSA 669:30 through RSA 669:35, Recounts.)

4. The term of the selectmen's ex officio member shall be as follows:

(a) Except as provided in subparagraph (b), the term of the administrative official appointed by the board of selectmen shall be for one year.

(b) The board of selectmen may determine that the selectman member shall be subject to a 4 month or an annual appointment under such conditions as it determines.

(RSA 673:5, I.)

5. The elected planning board may appoint 5 alternate members for a term of 3 years each, which shall be staggered in the same manner as elected members pursuant to RSA 673:5, II. (RSA 673:6, II.)

6. The board of selectmen shall appoint the selectman's alternate. The term of the selectman's alternate shall be the same as the term of the selectman member and may be in addition to the alternates provided for in paragraph 5. (RSA 673:6, III.)

7. Any 2 appointed or elected members of the planning board 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 board of selectmen, or a local land use board as defined in RSA 672:7. (RSA 673:7, I.)

8. Every alternate member appointed to the planning board shall comply with the multiple membership requirements of RSA 673:7, I. (RSA 673:6, IV.)
  9. Vacancies in the membership of the planning board occurring other than through the expiration of a term of office shall be filled as follows:
    - (a) 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.
    - (b) For an appointed, ex officio, or alternate member, by the original appointing or designating authority, for the unexpired term.
    - (c) The chair of the planning board may designate an alternate member of the board to fill the vacancy temporarily until the vacancy is filled in the manner set forth in subparagraph (a) or (b). If the vacancy is for an ex officio member, the chair may only designate the person who has been appointed to serve as the alternate for the ex officio member.
- (RSA 673:12.)
10. The board of selectmen may, upon written findings of inefficiency, neglect of duty, or malfeasance in office, remove an elected member of the planning board or an alternate member after a public hearing. (RSA 673:13, II.)

### **III. Officers**

1. The planning board shall elect a chair, a vice-chair, a secretary, and a recording secretary. (See RSA 673:8.)
2. The board may create other offices as the board deems necessary. (RSA 673:8.)
3. The chair, the vice-chair, and the secretary shall be appointed or elected board members except that an ex officio board member shall not serve as chair, vice-chair, or secretary. (RSA 673:8 and RSA 673:9, II; also see rules III, 10 and 11, providing that the vice-chair and the secretary each may become an acting chair.)
4. The recording secretary may or may not be a board member and may or may not hold any other board office.
5. The board shall elect its officers annually at the regular meeting in April (ordinarily on the first Thursday of April).
6. The terms of the board's officers shall be one year. The board's officers shall be eligible for reelection. (RSA 673:9, I.)
7. If the office of either chair, vice-chair, secretary, or recording secretary becomes vacant before the end of the term, then the board shall elect a chair, vice-chair, secretary, or recording secretary, whichever office is vacant, to fill the unexpired term.
8. Every officer being elected to an office that has become vacant before the end of the term shall have the same qualifications as if he were being elected to a new term.
9. The chair shall preside over meetings, shall make such appointments as the board may direct, and shall act for the board on all matters not requiring a vote of the members.
10. The vice-chair shall have the full powers and duties of the chair on all matters that come before the board when the chair is absent.

11. The secretary shall have secretarial powers not assigned to the recording secretary or to the administrative secretary (see rule IV, 1), shall help the chair to compose notices of decision, shall be acting recording secretary or acting administrative secretary when the office of recording secretary or the position of administrative secretary is vacant, and shall have the full powers and duties of the chair on all matters that come before the board when both the chair and the vice-chair are absent.
12. The recording secretary shall prepare the board's minutes.

#### **IV. Administrative Assistance**

1. The planning board may retain or appoint an administrative secretary to administer the board's routine business in the town hall. "Routine business" shall include but not be limited to
  - (a) receiving applications and fees to approve subdivisions of land, mergers of lots, lot line adjustments, site plans, and earth excavations; requests to amend the zoning ordinance; applications for driveway permits; requests for re-hearings; and other filings and
  - (b) composing and posting routine notices for regular meetings and special meetings,but "routine business" shall not include composing special notices, such as notices for hearings under RSA 676:4, notices for hearings under RSA chapter 675, and notices of decision. The administrative secretary may or may not be a board member or a board officer. Ordinarily, the administrative secretary will be a town employee that the board of selectmen provides, but the administrative secretary shall act under the direction or supervision of the planning board secretary or the planning board chair. If the secretary and the chair give the administrative secretary conflicting direction or supervision, then the secretary or the chair may bring the conflict to the planning board for resolution.
2. The building inspector and the town administrator may provide other administrative assistance as mutually agreed.



## **V. Communications**

1. No member of either the planning board or any committee appointed by the planning board may contact the town attorney without the planning board chair's permission. In this rule, "town attorney" means the town's legal representative and does not mean the New Hampshire Municipal Association (formerly known as the New Hampshire Local Government Center).
2. The planning board notifies its members that the board of selectmen may monitor all communications between planning board members and the New Hampshire Municipal Association.

## **VI. General Provisions for Meetings**

1. The planning board shall hold at least one regular meeting in each month. (RSA 673:10, II.) The regular meeting shall be on the first Thursday of the month at 7:00 PM except as follows:
  - (a) When the first Thursday of January is New Year's Day (January 1), the regular meeting in that January shall be on the second Thursday of January (January 8) at 7:00 PM.
  - (b) When the first Thursday of July is July 3 or Independence Day (July 4), the regular meeting in that July shall be on the second Thursday of July (July 10 or 11) at 7:00 PM.
  - (c) The board shall have two regular meetings in December, on the first Thursday of December at 7:00 PM and on the third Thursday of December at 7:00 PM. The purpose of the second regular meeting in December is to set the dates of hearings for citizen petitions to amend or repeal the zoning ordinance. (See RSA 675:4, II, and RSA 675:4, V.)
  - (d) If the chair decides that a particular regular meeting should not happen at its regularly scheduled time because of a weather emergency or a similar emergency beyond the board's control, then the chair shall reschedule that regular meeting to a later time in that month.
2. During March, the chair shall reserve a conference room in the town hall for the coming second Thursday of July or the coming second Thursday of January, whichever is appropriate, if the regular meeting in the coming July or the regular meeting in the coming January will be on the second Thursday of the month according to rules VI, 1, (a) and (b). The chair shall create and post on the town hall bulletin board a list of the dates of the board's regular meetings in the coming year beginning with and including the board's regular meeting in April and ending with and including the board's regular meeting in the following March.
3. If the chair postpones a regular meeting because of an emergency, then he shall use whatever means are available to inform the board members and the public that he has postponed the meeting.

4. The board shall hold special meetings at either the call of the chair, the vote of the board, or the written request of a majority of the board members. Board members shall not request a special meeting on the basis of communication between board members outside a meeting open to the public in accordance with RSA 91-A.
5. The board shall hold its regular meetings and special meetings in the Pittsfield Town Hall, 85 Main Street, Pittsfield, NH 03263, unless the board votes to hold a particular meeting at some other place because the town hall cannot accommodate the meeting or its purpose.
6. The board shall notify the public of the time and place of every meeting. The board shall post the notice in the town hall and the post office at least 24 hours, excluding Sundays and legal holidays, before the meeting. (See RSA 91-A:2, II.)
7. All meetings and records of the board shall be open to the public in accordance with RSA 91-A. Minutes shall be available within 5 business days of the board meeting. (RSA 91-A:2, II, and RSA 91-A:4, IV.) The recording secretary shall use the New Hampshire Municipal Association's *Meeting Minutes 101* for guidance in preparing the minutes. (*Meeting Minutes 101*, New Hampshire Town and City series of the New Hampshire Municipal Association, June 2007. The New Hampshire Municipal Association was known as the New Hampshire Local Government Center in June 2007.) The board shall review the recording secretary's minutes for accuracy.
8. A majority of the membership of the board shall constitute the quorum necessary in order to transact business at any meeting of the board. (RSA 673:10, III.) Board members present and qualified to vote shall be counted to determine whether a quorum is present even if one or more of those board members abstain from voting.
9. Any board member who will be unable to attend a meeting shall notify the chair, the vice-chair, or the board's administrative secretary as soon as possible. The board encourages regular members and alternate members to attend all meetings of the board. Board members who are consistently absent may be subject to removal under RSA 673:13.

10. Whenever a regular member of the board is absent or whenever a regular member disqualifies himself or herself, the chair shall designate an alternate, if one is present, to act in the absent member's place; except that only the alternate designated for the board of selectmen member shall serve in place of that member. (RSA 673:11.)
11. The board shall adopt any lawful motion, except a motion to hear public input, if and only if a majority of the board members voting for or against the motion vote for the motion. The board shall adopt a motion to hear public input if and only if (1) a majority of the board members voting for or against the motion vote for the motion and (2) the chair agrees to the motion. The purpose of this restriction on the board's vote to hear public input is to respect the chair's duty under state law to maintain order. (See rule VII, 2.)

## **VII. Public or Board-Member Participation in Meetings**

1. The principal purpose of planning board meetings is to conduct the business of the board in regulating land use and in planning community development. The purpose of this section is to enable the board to conduct that business.
2. No person on or off the board may speak if the chair has not recognized that person to speak. The chair has the duty under state law to maintain order. (See *State v. Dominic* 117 N.H. 573, 376 A.2d 124 (1977), upholding a chair's decision to have another selectman arrested for speaking in a disorderly manner.)
3. Any person seeking the chair's recognition to speak should raise his hand.
4. The chair shall announce that the board is open to hearing public input whenever the board opens to hearing public input.
5. The chair shall announce that the board is closed to hearing public input whenever the board closes to hearing public input.
6. Any member of the public addressing the board at any time except during a work session or an agenda item labeled "public input" shall address the board from a podium or table at a central location in front of the board. In this rule, "work session" means other business excluding hearings as the term "other business excluding hearings" is used in the model agenda of section IX. During a work session or an agenda item labeled "public input," any person addressing the board may use the podium or table but is not required to use it.
7. The chair or a vote of the board may exclude public input from any part of a board meeting except
  - (a) any agenda item labeled "public input" or
  - (b) any hearing at which state law requires the board to hear public input.

8. Any alternate board member not sitting for an absent or disqualified regular board member may participate in board meetings in the same manner as any member of the public may participate in board meetings. (See RSA 673:6, V, and RSA 676:1.)
9. (a) If the board chooses to hear or must hear public input during some part of a board meeting, then the chair or a vote of the board may impose a time limit of 5 minutes or more on every speaker from the public during that part of the meeting. If the chair or a vote of the board imposes a time limit on any speaker from the public, then the chair or the vote shall impose the same time limit on every speaker from the public.  
  
(b) The purpose of such a time limit is to ensure that every member of the public has an equal opportunity to speak during a board meeting of a reasonable time period.  
  
(c) Authority to impose this time limit: See *Wright v. Anthony*, 733 F.2d 575 (8th Cir. 1984).
- 10.(a) If the board chooses to hear or must hear public input during an agenda item not labeled “public input,” then the chair shall restrict all public input to the subject matter of the agenda item.  
  
(b) Authority to impose this restriction: The planning board does not provide a traditional public forum for speech because “The Constitution does not grant to members of the public generally a right to be heard by public bodies making decisions of policy.” (*Minnesota State Board for Community Colleges v. Knight*, 465 U.S. 271 (1984).) For analysis of what is a “public forum” for speech and what is a “nonpublic forum” for speech, see *HippoPress v. SMG*, 150 N.H. 304, 837 A.2d 347 (2003).

11.(a) During every hearing at which state law requires the board to hear public input on a land use application or on a proposed land use regulation, the chair shall restrict all public input to the property-rights matters and the community-planning matters of the hearing.

(b) The purpose of this restriction is to ensure the constitutional due process of law that these hearings must provide.

(c) Authority to impose this restriction: The planning board does not provide a traditional public forum for speech; see rule VII, 10, (b). Consequently, the board may restrict public input during a hearing that has a specific purpose or purposes. Every hearing on a land use application or on a proposed land use regulation does have specific purposes, which are (1) to provide constitutionally required due process of law in restricting any person's use or enjoyment of his property and (2) to plan for and to provide for the needs of the community. For the hearing purpose of due process of law, see *Calawa v. Litchfield*, 112 N.H. 263, 296 A.2d 124 (1972). For the hearing purpose of community planning, see RSA 674:1 - 4; RSA 674:16 - 23; RSA 674:36; RSA 674:44; RSA 155-E:4; *Patenaude v. Meredith*, 118 N.H. 616, 392 A.2d 582 (1978) (community planning in relation to a land use application); *Britton v. Chester*, 134 N.H. 434, 595 A.2d 492 (1991) (community planning in relation to a proposed zoning ordinance); *Nine A v. Chesterfield*, 157 N.H. 361, 950 A.2d 197 (2008) (community planning in relation to a proposed zoning ordinance).

Additional references for this section: (1) *Public Meetings and Freedom of Speech: When Do Citizens Have a Right to Speak?* New Hampshire Town and City series of the New Hampshire Municipal Association, March 2009 (The New Hampshire Municipal Association was known as the New Hampshire Local Government Center in March 2009); (2) *Free Speech at Public Meetings-The New Hampshire Right-to-Know Law*, H. Bernard Waugh, Jr., Esq., Southern New Hampshire Planning Commission Planning Board Training Workshop, May 1994.

## **VIII. Disqualification of Board Members**

1. If any planning board member disqualifies himself from sitting in a particular case, then he shall notify the chair, the vice-chair, or the board's administrative secretary as soon as possible so that the chair may ask an alternate to sit in the disqualified board member's place.
2. Either the chair or the board member disqualifying himself shall announce the disqualification before the beginning of the hearing on the case.
3. The board member disqualifying himself shall leave the board table during the hearing and during all deliberation on the case in accordance with RSA 673:14, I: No member of the planning board shall participate in deciding or shall sit upon the hearing of any question which the board is to decide in a judicial capacity if that member has a direct personal or pecuniary interest in the outcome which differs from the interest 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 at 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. (RSA 673:14, I.)
4. RSA 500-A:12 provides that any juror may be required by the court, on motion of a party in the case to be tried, to answer upon oath if he:
  - (a) Expects to gain or lose upon the disposition of the case;
  - (b) Is related to either party;
  - (c) Has advised or assisted either party;
  - (d) Has directly or indirectly given his opinion or has formed an opinion;
  - (e) Is employed by or employs any party in the case;
  - (f) Is prejudiced to any degree regarding the case; or
  - (g) Employs any of the counsel appearing in the case in any action then pending in the court.

If it appears that any juror is not indifferent, he shall be set aside on that trial.



## **IX. Order of Business at a Meeting**

1. The order of business at any regular meeting of the planning board will ordinarily be as follows:
  - (a) Call to order.
  - (b) Roll call and confirmation of a quorum.
  - (c) Public input.
  - (d) Approval of the minutes of the previous meeting.
  - (e) Determination of whether an application for subdivision or site plan approval is complete.
  - (f) Public hearing on the completed application for subdivision or site plan approval.
  - (g) Design review of a subdivision or site plan.
  - (h) Preliminary conceptual consultation of a subdivision or site plan.
  - (i) Other hearings, such as hearings on proposed regulations.
  - (j) Other business excluding hearings.
  - (k) Building inspector's report.
  - (l) Selectman's report.
  - (m) Members' concerns.
  - (n) Public input.
  - (o) Adjournment.

2. The above model agenda is only advisory. The chair shall decide the items on and the order of the agenda for both regular and special meetings except that every agenda shall have items for
  - (a) call to order,
  - (b) roll call and confirmation of a quorum,
  - (c) at least one members' concerns period that follows all other business except either (1) public input and adjournment or (2) adjournment, and
  - (d) adjournment.
3. During a members' concerns period, no board member shall move to adjourn, but any board member may speak on any matter and may move the planning board to take any action permissible under regulations applicable to the planning board.
4. The members' concerns period shall be closed when and only when
  - (a) no board member states a concern or
  - (b) every board member has had an opportunity to speak for at least 5 minutes and the board votes to close the members' concerns period.

The purpose of condition (b) is to ensure that every board member has a reasonable opportunity to express his concerns without unreasonably prolonging the time period of the board meeting. Authority to impose this time limit: See *Wright v. Anthony*, 733 F.2d 575 (8th Cir. 1984).

## **X. Application for Subdivision or Site Plan Approval**

The procedures that the planning board shall follow when considering or acting upon a plat or application submitted to the board for approval under RSA title LXIV shall be as set forth in the board's subdivision regulations, subject to the requirements of (1) RSA 676:4 and (2) sections XI, XII, XIII, XV, and XVI of these rules of procedure.

## **XI. Schedule and Notice for Meetings for Formal Subdivision or Site Plan Applications**

1. After an applicant files an application for subdivision or site plan approval, the planning board shall determine whether the application is complete and shall vote upon its acceptance. To consider accepting the application as complete, the board shall use the first regular meeting that is 15 days or more after the filing date and that is a meeting for which the board can give notice according to rules XI, 2 and 3. (See RSA 676:4, I, (c), (1).)
2. For every meeting to consider accepting an application for subdivision or site plan approval as complete, the board shall notify the abutters, the applicant, holders of conservation, preservation, or agricultural preservation restrictions, and every engineer, architect, land surveyor, or soil scientist whose professional seal appears on any plat submitted to the board. The board shall send the notice by certified mail, shall post the notice in the town hall and the post office, and shall publish the notice in a newspaper of general circulation in the area for not less than 10 days before the date fixed for the meeting. (RSA 676:4, I, (d), (1).)

3. For those proposals in which any structure or proposed building site will be within 500 feet of the top of the bank of any lake, pond, river, or stream, the planning board shall also notify the department of environmental services by first class mail at the same time that notice is provided to abutters, cost to be paid in advance by the applicant consistent with RSA 676:4, I, (d), (1). The sole purpose of notification to the department shall be to provide information to the department for dam hazard classification. This requirement shall not confer upon the department the status of an abutter. Failure by the municipality to notify the department shall not be considered a defect of notice. (RSA 676:4, I, (d), (2).)
4. After accepting an application for subdivision or site plan approval as complete, the board shall hold a public hearing on the merits of the application. (RSA 676:4, I, (c), (1), and RSA 676:4, I, (e).)
5. For every hearing on the merits of an application for subdivision or site plan approval, the board shall give notice in the same manner as for a meeting to consider accepting an application for subdivision or site plan approval as complete. (RSA 676:4, I, (d), (1).) If the notice of the meeting to consider accepting the application as complete included the notice of the hearing on the merits of the application, then the board is not required to give additional notice of the hearing. (RSA 676:4, I, (d), (1).) In addition, the board is not required to give additional notice of an adjourned session of a hearing with proper notice if the date, time, and place of the adjourned session were made known at the prior hearing. (RSA 676:4, I, (d), (1).)

## **XII. Conduct of Meetings to Accept Applications as Complete**

1. The rules of this section shall govern how the planning board conducts meetings to consider accepting applications for subdivision or site plan approval as complete.
2. The chair shall declare the meeting in session.
3. The chair shall read the notice of public hearing.
4. The chair shall confirm to the public that the board has notified the applicant; holders of conservation, preservation, or agricultural preservation restrictions; abutters; and the public.
5. The chair shall explain to the audience
  - (a) that the board determines whether an application is complete before the board has a hearing on the merits of the application;
  - (b) that the public will have an opportunity to speak during the hearing on the merits of the application but not necessarily while the board is determining whether the application is complete;
  - (c) that no member of the public, including the applicant, has a right to speak at a meeting to consider accepting an application as complete (RSA 676:4, I, and DHB v. Pembroke, 152 N.H. 314, 876 A.2d 206 (2005)); and
  - (d) that board members may ask questions of the applicant or any member of the audience but that the question does not oblige anyone to answer.
6. Board members may ask questions of either the applicant or any member of the audience at any time while the board is determining whether the application is complete. A board member's question does not oblige anyone to answer.

7. The board shall determine and vote on whether or not the development, if approved, reasonably could be construed as having the potential for regional impact. Doubt concerning regional impact shall be resolved in a determination that the development has a potential regional impact. (RSA 36:56, I.)
8. If the board determines that the development could be construed as having the potential for regional impact, then the board shall continue the matter to allow time to notify the potentially impacted municipalities and the Central New Hampshire Regional Planning Commission. RSA 36:57, I, II, and III, state the notice procedure and the time required.
9. The board shall consider each requested waiver of subdivision or site plan regulations and shall vote to grant or deny the waiver. The board shall consider and vote on each requested waiver separately.
10. If the board votes to grant a waiver, then the board shall state the basis for granting the waiver and shall record the basis in the minutes. (RSA 674:36, II, (n), and RSA 674:44, III, (e).)
11. The board shall determine whether a submitted application is complete according to the board's regulation and shall vote upon its acceptance. (RSA 676:4, I, (c), (1).)
12. Upon determination by the board that a submitted application is incomplete according to the board's regulations, the board shall notify the applicant of the determination in accordance with RSA 676:3, which shall describe the information, procedure, or other requirement necessary for the application to be complete. (RSA 676:4, I, (c), (1).)
13. Upon determination by the board that a submitted application is complete according to the board's regulations, the board shall begin formal consideration and shall act to approve, conditionally approve as provided in RSA 676:4, I, (i), or disapprove within 65 days, subject to extension or waiver as provided in RSA 676:4, I, (f). (RSA 676:4, I, (c), (1).)

### **XIII. Conduct of Hearings on the Merits of Subdivision or Site Plan Applications**

1. The rules of this section shall govern how the planning board conducts hearings on the merits of applications for subdivision or site plan approval, with the following two exceptions: First, rules 2, 3, and 4 shall not apply if the hearing immediately follows the board's acceptance of the application as complete. Second, the chair may relax rules 8 through 13 if a less formal discussion will help the members of the public to express their concerns.
2. The chair shall declare the hearing in session.
3. The chair shall read the notice of public hearing.
4. The chair shall confirm to the public that the board has notified the applicant; holders of conservation, preservation, or agricultural preservation restrictions; abutters; and the public.
5. The chair shall explain to the audience
  - (a) that the chair shall restrict all public input to the property-rights matters and the community-planning matters of the hearing because this restriction is necessary to ensure the constitutional due process of law that the hearing must provide (see rule VII, 11);
  - (b) that each person has a time limit on speaking if the chair or a vote of the board imposed a time limit (see rule VII, 9);
  - (c) that each person who speaks must state his name and say whether he is a party to the application, an agent or counsel to the application, an abutter, or some other interested person;
  - (d) that any person who is not sitting as a board member and who wants to ask a question of another person must do so through the chair; and
  - (e) that board members may ask questions of either the applicant or any member of the audience but that the question does not oblige anyone to answer.

6. The chair shall call the applicant to make his presentation.
7. Board members may ask questions of the applicant at any time during the presentation.
8. The chair shall allow members of the public appearing in favor of the application to speak.
9. The chair shall allow members of the public appearing in opposition to the application to speak.
10. The chair shall allow members of the public appearing in favor of the application to speak in rebuttal.
11. The chair shall allow members of the public appearing in opposition to the application to speak in rebuttal.
12. The chair shall allow other interested persons to speak or to ask questions about the application.
13. The chair shall allow the applicant to speak to the comments or questions that oppose the application.
14. The chair shall close the hearing to public input.
15. The board shall deliberate on the merits of the application.
16. If necessary, the chair shall reopen the hearing to public input.
17. If the hearing was reopened, then the chair shall close the hearing to public input.
18. The board shall deliberate on the merits of the application.
19. The board shall vote to approve, approve with conditions, or disapprove the application. The board shall take the vote within 65 days, subject to extension or waiver as provided in RSA 676:4, I, (f), after the board accepted the application as complete. (RSA 676:4, I, (c), (1).)



- 20.If the board votes to approve the application with or without conditions, then the board shall specify the threshold levels of work that shall constitute the following terms, with due regard to the scope and details of the particular project:
- (a) “Active and substantial development or building” for the purpose of fulfilling RSA 674:39, I. (See *AWL Power v. Rochester*, 148 N.H. 603, 813 A.2d 517 (2002).)
  - (b) “Substantial completion of the improvements as shown on the subdivision plat or site plan” for the purpose of fulfilling RSA 674:39, II. (See *AWL Power v. Rochester*, 148 N.H. 603, 813 A.2d 517 (2002).)
- 21.If the board votes to approve the application with conditions, then the board shall state and the minutes shall record a detailed description of all conditions necessary to obtain final approval. (RSA 676:3, I and II.) The board shall vote separately on each condition.
- 22.The board shall not grant conditional approval of an application pending receipt of either information that the subdivision regulations require or studies or reports that the board requires before deciding the application. (See RSA 676:4, I, (e), (2).)
- 23.If the board votes to disapprove the application, then the board shall state and the minutes shall record the reasons for the disapproval. (RSA 676:3, I and II.)
- 24.The chair shall tell the audience that the board’s decision has a 30-day appeal period under RSA 676:5, III, or RSA 677:15, I.
- 25.The chair shall declare the hearing on the application closed.

#### **XIV. Conduct of Other Hearings**

The conduct of hearings on matters other than subdivision or site plan applications shall be similar to the conduct of hearings on subdivision or site plan applications. The planning board shall adjust the application of rules specific to processing subdivision or site plan applications so as to fit the matter under consideration.

#### **XV. Joint Meetings and Hearings**

1. The planning board may hold joint meetings or hearings with other local land use boards. Each local land use board shall have the discretion as to whether to hold a joint meeting with any other local land use board. (See RSA 676:2, I, and RSA 672:7, defining “local land use board.”)
2. The planning board chair shall chair all joint meetings with the planning board. (RSA 676:2, I.)
3. The planning board and any other local land use board may hold joint business meetings at the call of the two chairs of the two boards.
4. Every joint meeting of the planning board and the board of adjustment relating to an application to the board of adjustment shall satisfy the following conditions:
  - (a) The joint meeting shall be a formal public meeting relating to subject matter before both boards.
  - (b) Sections XIII and XIV of these rules together with such additional rules as the board of adjustment may require shall govern the meeting.

## **XVI. Issuance of Decision**

1. The planning board shall issue a final written decision which either approves or disapproves an application and make a copy of the decision available to the applicant. If the application is not approved, the board shall provide the applicant with written reasons for the disapproval. If the application is approved with conditions, the board shall include in the written decision a detailed description of all conditions necessary to obtain final approval. (RSA 676:3, I.)
2. The chair shall write, sign, and date the notice of decision.
3. Whenever the planning board votes to approve or disapprove an application, the minutes of the meeting at which such vote is taken, including the written decision containing the reasons therefor and all conditions of approval, shall be placed on file in the board's office and shall be made available for public inspection within 5 business days of such vote. (RSA 676:3, II.)
4. After the board has approved a subdivision or site plan, the chair and one other board member as specified in subparagraphs (a), (b), and (c) shall endorse the approval by signing the plat and dating the signatures. (See RSA 674:37.)
  - (a) The secretary shall countersign the chair's signature if the secretary is present and is not acting as chair.
  - (b) The vice-chair shall countersign the chair's signature if the secretary is absent but the vice-chair is present and is not acting as chair.
  - (c) A board member that the chair designates shall countersign the chair's signature if the secretary and vice-chair are both unavailable to countersign according to subparagraphs (a) and (b).

5. If the board conditionally approves a subdivision or site plan, then the chair and his countersigner shall sign the plat after the board receives and votes on documentation proving that all conditions precedent have been satisfied. The board shall vote on each condition separately. All conditions not specified within RSA 676:4, I, (i), as minor, administrative, or relating to issuance of other approvals shall require a hearing, and notice as provided in RSA 676:4, I, (d), except that additional notice shall not be required of an adjourned session of a hearing with proper notice if the date, time, and place of the adjourned session were made known at the prior hearing. (RSA 676:4, I, (i).)
6. The chair or the secretary shall record the plat at the registry of deeds within 10 calendar days of the final approval. (See RSA 674:39, I.) The applicant shall pay all recording fees.
7. Whenever a plat is recorded to memorialize an approval issued by the planning board, the final written decision, including all conditions of approval, shall be recorded with or on the plat. (RSA 676:3, III.)

**XVII. Schedule and Notice for Meetings for Proposed Master Plans,  
Proposed Subdivision or Site Plan Regulations, or Proposed  
Zoning Regulations**

1. For each of the following matters, the planning board shall hold a public hearing with notice according RSA 675:6 and RSA 675:7:
  - (a) Every master plan or amendment to a master plan proposed under RSA 674:1;
  - (b) Subdivision regulations proposed under RSA 674:35; and
  - (c) Site plan review regulations proposed under RSA 674:44.

(RSA 675:1, I; RSA 674:46-a, II; and RSA 675:7.)
2. For every zoning ordinance proposed under RSA 674:16, every proposed amendment to a zoning ordinance, and every proposal to repeal a zoning ordinance, the planning board shall hold a public hearing with notice according to RSA 675:3 through RSA 675:5 and RSA 675:7. (RSA 675:1, II; RSA 675:3, IX; RSA 675:4, V; and RSA 675:7.)
3. The board shall use its second regular meeting in December (ordinarily on the third Thursday of December) to set the date of the hearing for each citizen-petitioned zoning amendment and the date of the hearing for each citizen petition to repeal a zoning ordinance. (RSA 675:4, II, and RSA 675:4, V.)
4. After the board has scheduled hearings on the citizen petitions to amend or repeal the zoning ordinance, the chair shall post in the town hall and the post office the notices of public hearings on the citizen petitions, and he shall submit the notices to the newspaper where the board will advertise the hearings. (See RSA 675:7, I.) The chair will ordinarily do these notice tasks on the first day after the board has scheduled the hearings, to ensure that the board meets the notice-schedule requirements of RSA 675:7, I; but the chair may do the notice tasks on a later day if doing the notice tasks on the later day will have the board meeting the notice-schedule requirements of RSA 675:7, I.

5. For every historic district ordinance proposed under RSA 674:46, every building code proposed under RSA 674:51, every proposed amendment to a historic district ordinance or building code, and every citizen petition to repeal a historic district ordinance or building code, the planning board shall hold a public hearing with notice according to RSA 675:2 through RSA 675:5 and RSA 675:7 in the same manner as for zoning proposals. (RSA 675:1, II; RSA 675:3, IX; RSA 675:4, V; and RSA 675:7.)

## **XVIII. Filing Legislative Documents**

1. The planning board shall file proposed amendments to or repeals of the zoning ordinance, historic district ordinance, or building code with the minutes of the meeting at which the board voted to propose the amendment or repeal to the town meeting; or, if the amendment or repeal proposal is by citizen petition, then the board shall file the petition or a copy of it with the minutes of the meeting at which the board held a hearing on the petition.
2. The board shall file all zoning ordinances, historic district ordinances, building codes, subdivision regulations, site plan review regulations, historic district regulations, and their amendments with the town clerk. (RSA 675:8.)
3. The board or the town clerk shall file a copy of each master plan, zoning ordinance, historic district ordinance, capital improvement plan, building code, subdivision regulation, historic district regulation, site plan review regulation or amendment with the office of energy and planning. (RSA 675:9.)

## **XIX. Amendment**

The planning board may amend these rules of procedure at a regular meeting. The board shall file the amended rules with the town clerk. (RSA 676:1.)

## **XX. Certification**

The Pittsfield Planning Board adopted these rules of procedure on April 2, 2015.

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Clayton Wood, chair

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Pat Heffernan, vice-chair

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Jim Pritchard, secretary

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Daren Nielsen, member

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Gerard LeDuc, selectmen's ex officio member