

**TOWN OF DERRY PLANNING BOARD  
POLICY AND PROCEDURES**

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**ARTICLE I - PERSONNEL**

The Planning Board for the Town of Derry shall be established as regulated by the New Hampshire RSA 673 and 676 and the Town Charter as pre-enacted or subsequently amended.

**SECTION 1 - Membership** - Shall consist of 9 members to include:

- a. The Town Administrator or his/her designee.
- b. A member of the Town Council, selected by the Council shall be an ex-officio member.
- c. Seven (7) persons appointed by the Town Council as regular members. Appointments shall be for 3 years, such terms to be staggered.
- d. Three (3) alternate members appointed by the Town Council. Appointments shall be for 3 years, such terms to be staggered.
- e. Ex-officio alternate member shall be appointed by the respective membership. Terms shall be the same as those of the respective member.
- f. At a meeting, alternates who are not activated to fill the seat of an absent or recused member, or who have not been appointed to fill the unexpired term of a vacancy, may participate with the Board in a limited capacity. During a public hearing, alternates may view documents, listen to testimony, ask questions and interact with other board members, the applicant, abutters and the public. Alternates shall not be allowed to make or second motions. Alternates may participate in deliberations by the Board, but may not vote. At all times, the Chair shall fully inform the public of the status of any alternates present and identify the members who will be voting on the application.
- g. During work sessions or portions of meetings that do not include a public hearing, alternates may fully participate, exclusive of any motions or votes that may be made.

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**SECTION 2 - Officers** - The officers of the Board shall consist of a Chairman, Vice-Chairman and a Secretary who shall be elected at the annual meeting.

- a. Chairman: The Chairman shall be elected annually by a majority vote of the Board in the month of April. He/she shall preside over all meetings and hearings, appoint such committees as directed by the Board and sign all plans approved.
- b. Acting Chairman: In the absence of the Chairman, the order of succession shall be:
  - 1. Vice-Chairman
  - 2. Secretary
  - 3. Or shall be elected by the members present.
  - 4. No ex-officio member shall act as Chairman.
- c. Vice-Chairman: The Vice-Chairman shall be elected annually by a majority vote of the Board in the month of April. In the absence of the Chairman, he/she shall preside at all meetings of the Board and perform the duties of the Chairman.
- d. Secretary: The Secretary shall be elected annually by a majority vote of the Board in the month of April and shall have full charge of all plans and files during the meeting, and shall sign all approved plans.
- e. Acting Secretary: In the absence of the Secretary, an acting Secretary shall appointed by the Chairman, who will perform the duties of the Secretary.
- f. Clerk of Records: The Clerk of Records shall be part of the personnel of the Planning Department and shall be responsible for the official recording and maintenance of the minutes of meetings and public hearings; also all public notices and mailings.
- g. All officers shall serve for one year and shall be eligible for re-election.
- h. The Chairman or acting Chairman shall decide which alternates shall be seated; alternates shall be seated on a rotating basis.
- i. Officers shall be regular members of the Planning Board.

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**SECTION 3 - Vacancies**

- a. Officers: Should the office of Chairman, Vice-Chairman or Secretary become vacant, the successor shall be elected by the majority members present at the next regular meeting to serve the unexpired term of said vacancy.
- b. Members: In the event of a vacancy, the Town Council shall appoint a new member.

**SECTION 4 - Code of Conduct for Planning Board Members**

- a. When acting upon subdivision, site plan or conditional use permit applications, the Planning Board is acting in a quasi-judicial capacity. As such, the members are expected to base their decisions upon the record of public testimony, documents submitted in connection with the application, reports of engineers and other experts, and other proceedings of duly noticed public hearings. Members may also use their personal knowledge of the community and of the parcels of land under consideration, as input to the public deliberations and decision making process. All Planning Board decisions on applications must be based on the level of compliance with the Town of Derry Land Development Control Regulations, the Town of Derry Zoning Ordinance, and NH State Law, as reasonably interpreted and applied by the Planning Board.
- b. Members should not engage in conversations about the merits of applications with interested parties or the general public except at Planning Board meetings. When such conversations or other exchanges of information occur, the members have an obligation to disclose the content of the communication at the next Planning Board meeting, and to provide copies of any documents or correspondence received by the member to the Planning Director, Planning Board Clerk of Records or Planning Board Chairman.
- c. Members are permitted, and encouraged, to request additional information that they feel is important to reach an informed decision on any application, by making a request for such information to the applicant at meetings of the Planning Board, or to the Planning Board Chairman or the Planning Director. Requests for information that would incur additional cost to the applicant or to the town shall be subject to approval by the Planning Board or the Planning Director. Any such information shall be routed through the Planning Office and provided to all members.
- d. All proceedings of the Planning Board, and any of its committees, are subject to the provisions of NH RSA 91A, the "Right to Know Law". As such, any discussion of official business involving a quorum of the Planning Board, whether

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or not at a noticed and scheduled meeting, are a meeting under, and subject to the requirements of, the Right to Know Law. Members should avoid participating in any meeting as defined in RSA 91-A:2 that is not duly noticed to all the members of the Board.

e. The members of the Planning Board are subject to the provisions of NH RSA 673:14 I, with respect to the potential for a conflict of interest. If a member has a direct or personal financial interest in the outcome of the application that is different from that of the general public, or if a member would be disqualified to sit on a jury hearing the subject matter of the application, the member has a conflict of interest, or if a member has expressed an opinion directly relating to the merits of an application, that member may be subjected to recusal from participation in the matter in accordance with the procedure set forth in RSA 673:14, II.

f. No member or officer of the Planning Board shall represent the official position of the board in any matter, unless authorized by a resolution of the Planning Board, approved by majority vote of the board at a duly noticed public meeting, authorizing the member or officer to make such representations or take such actions on behalf of the board. Exceptions to this provision include any responsibilities specifically assigned under the Town Charter, Town Ordinance or State Law.

g. In order to faithfully fulfill their obligations under this section and under NH State Law, all members of the Planning Board are strongly encouraged to take advantage of the various land use regulation training seminars sponsored each year by the State and other planning agencies.

**ARTICLE II - MEETINGS**

**SECTION 1 - Annual Meeting**

The annual meeting shall be held on the first Wednesday in April for the purpose of electing officers and to review the POLICY & PROCEDURES. Officers shall be elected by a majority vote of the members present and voting.

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**SECTION 2 - Regular Meetings**

Regular meetings shall be held on the first and third Wednesday of each month at 7:00 P.M. at the Derry Municipal Center, 14 Manning St, 3<sup>rd</sup> floor meeting room unless otherwise specified. Members should notify the Planning Dept. if they are unable to attend.

**SECTION 3 - Special Meetings**

Special meetings may be called by the Chairman, or in his absence, by the Vice-Chairman, at the request of 3 members of the Board provided public notice and notice to each member is given at least 48 hours in advance of the time of such meeting.

**SECTION 4 - Workshops**

Workshops will be held at the regular meetings on the first and third Wednesday of the month at 7:00 p.m. at the Derry Municipal Center, 3<sup>rd</sup> floor meeting room unless otherwise specified.

**SECTION 5 - Conduct of Meetings**

- a. Quorum: A quorum for all meetings of the Board shall be five (5) members, including alternates sitting in the place of members.
- b. Rules of Order: Robert's Rules of Order (Revised) shall form the basis for conduct of meetings. Understanding that literal application of Robert's Rules is only practical for large parliamentary bodies; the Board may operate under a simplified version as modified by the Chairman. The Chairman shall not make or second motions, but shall be eligible to vote on all motions. The Chairman shall ensure that any motion before the Board has been clearly stated, and request restatement of the motion if required, prior to a vote on the motion.
- c. Suspension of the Rules: Any member of the Board may move to suspend the rules, including procedural provisions of this document or of Robert's Rules as interpreted by the Chairman, as may be necessary or desirable for the purpose of reaching a decision on any matter pending before the Board, subject to the constraints of Town Ordinances and State Law. An affirmative vote of a two-thirds majority of the members present and voting shall be required to suspend the rules.

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- d. Members Absent: The Chairman shall appoint an alternate member, on a rotating schedule, to sit as a voting member in the absence of a regular member.
- e. Disqualifications: Where a member of the Board has a personal, financial, or other conflict of interest in a plan before the Board, said member shall disqualify him/herself from taking any part in the discussion or action which may be taken. The disqualification shall be announced by either the Chairman or the member disqualifying him/herself before the beginning of the public hearing on the plan. The member disqualifying him/herself shall absent him/herself from the Board table during the public hearing and during all deliberation on the plan. This will be duly noted in the minutes of the meeting or hearing.
- f. Qualifications: Late arrivals shall not be seated or permitted to vote on a plan once that plan has been called to the table.
- g. Manner of Voting: At the discretion of the Chairman, the voting on all motions shall be by show of hands, voice vote or by roll call of the members, of which the yeas, nays, and abstentions shall be recorded in the minutes. Any nays, abstentions, and recusals shall give an explanation and that explanation shall be recorded in the minutes.
- h. Conduct of Members: No personal attacks shall be made by any member of the Board against any other members or anyone appearing before the board

**SECTION 6 - Order of Business**

At a regular meeting the following shall be the order of business:

- 1. Pledge of Allegiance
- 2. Call to order by the Chair
- 3. Introduction of members
- 4. Seating of alternates
- 5. Appointment of Acting Secretary (if Secretary is absent)
- 6. Administrative business
- 7. Agenda
- 8. Adjourn
- 9. Signing of approved plans (if any)

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**SECTION 7 - Applications**

- a. All applications shall be processed by and with the forms provided by the Planning Department.
- b. Information relevant to the technical review of an application which is scheduled for a vote by the Planning Board must be submitted to the Planning Board Clerk no later than 4:00 pm three [3] business days prior to the meeting at which action by the Board is scheduled.

Such information shall be made available to the members of the Board and the Public at the Derry Municipal Center, Office of the Director of Planning no later than 48 hours prior to the scheduled meeting. The Board may suspend this rule to accept any new information by a majority vote of the Board. An exception to this rule may be made at the discretion of the Chairperson, provided such information is read publicly into the record.

If information is presented to the Board after the deadline and the Board does not suspend the rules, a vote shall be continued until the next regularly scheduled meeting provided such continuance does not extend beyond the times required for action as stated in Section 170-15 A or D of the Land Development Control Regulations. (*"In effect, if new information is presented and the Board votes to not suspend its rules and the next regularly scheduled meeting is after the required action date by the Board, the new information shall not be considered by the Board."*)

- c. Upon submission and acceptance of the application and all appropriate fees, there shall be no revisions allowed prior to the scheduled meeting.
- d. All applications shall be subject to review by the Town's outside consulting firm with the exception of land transfer and lot consolidation plans, plans that would be considered a minor subdivision, or plans at the discretion of the Planning staff that do not require outside consulting engineering review.
- e. All applications shall comply with the Derry Zoning Ordinance and the Land Development Control Regulations.
- f. All applications, upon final approval, shall be subject to field inspections by the engineering staff of the Derry Public Works Department or the Planning Board's outside consulting engineering firm.

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**SECTION 8 - Improvement Security**

- a. The Planning Board shall be the agency to accept and release all improvement securities.
- b. The Planning Board may delegate to the Public Works Department the responsibility of determining the amount of the Improvement Security.
- c. The Public Works Department shall maintain all records pertaining to Improvement Securities.
- d. The Public Works Department shall submit a monthly report on Improvement Securities that are due to expire within 90 days.

**SECTION 9 - Procedure For Proposed Changes To The Town's Zoning Ordinance and/or Land Development Control Regulations**

- a. Any requested change to or deletion of a part or parts of the Zoning Ordinance or Land Control Regulations must be initially presented as a discussion item at a regularly scheduled Board meeting. The sponsoring individual will be responsible for all research both before and after the initial presentation. This is to include any and all changes necessary to produce a final draft for consideration at a public hearing. The sponsor shall also be responsible for providing, in writing, a view of why the changes are necessary and what they will accomplish for the Town.
- b. No request for changes to either the Zoning Ordinance or Land Control Regulations may be accepted for a public hearing without at least one workshop session devoted to consideration of the request. This will provide time for appropriate changes to be made.

**SECTION 10 – Procedure for Reconsideration of a Planning Board Decision**

- a. The Board may reconsider its own decision within the statutory time period for appeal to the Superior Court.
- b. The motion to reconsider must be made by a member who was on the prevailing side of the decision to be reconsidered.



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- c. Upon an affirmative vote to reconsider, the Board shall determine a date and time certain to reconsider the matter. The Board may take up the matter immediately.
- d. Deliberation upon the matter must clearly define why the Board felt its prior decision was unclear, unreasonable, or that the Board was not in possession of all the facts required to make a determination.

**ARTICLE III - AMENDMENTS**

These rules of procedure may be amended by a majority vote of the members of the Board provided that such amendment is read at two (2) successive meetings immediately preceding the meeting at which the vote is to be taken; a copy to be filed with the Town Clerk.

The provisions of this **POLICY and PROCEDURES** shall be subject to any applicable federal, state or local laws, regulations or ordinances.