

Town of Pelham New Hampshire



Planning Board Rules & Procedures

Revised: June 17, 2024

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Rules and Procedures
Town of Pelham, New Hampshire
PLANNING BOARD

The Pelham Planning Board shall be governed by the provisions of all the State statutes, local laws, ordinances, and these bylaws adopted by the Board.

Pursuant to RSA 676:1, the Pelham, New Hampshire Planning Board adopts the following Rules of Procedures and Bylaws.

Article 1 - Title; Adoption; Amendment; Waivers

- 1.1. These rules may be cited as the Pelham Planning Board Rules of Procedures/Bylaws.
- 1.2. These Rules shall be adopted following a public hearing by the Board. The hearing shall be properly noticed by the Planning Board Staff no 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 vote of the Planning Board and when they have been signed by the Chairman and Secretary of the Planning Board and filed with the office of the Town Clerk and Planning Department.
- 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. The Board may vote to waive any sections of these rules for good cause shown. The justification for such shall be stated and noted in the minutes.

Article 2 - Membership, Terms of Office, Officers, Vacancies, & Disqualifications

- 2.1. Pursuant to RSA 673:2, the Board shall consist of seven (7) members, six (6) of whom shall be elected by the local legislative and the seventh member shall be an ex-officio member appointed by the Board of Selectmen.
- 2.2. Except for the Selectmen's member representative, members shall be elected in staggered terms pursuant to RSA 673:5.
- 2.3. A term of office shall commence after the Board member has been sworn in and takes an oath of office as required by RSA 42:1, provided however, that term shall continue until the successor has been appointed or elected and sworn in.

- 2.4. The Board shall elect the following officers from its members, provided however, that the Selectmen's ex officio member shall not hold any office; Chair, Vice Chair and Secretary.
- 2.5. Officers shall be elected individually for a one (1) year term at the first regular meeting following election by the legislative body. Planning Board Staff shall add election of officers to the agenda and properly notify the public.
- 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:
 - 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.
- 2.7. The Board may appoint up to five (5) alternates who shall be appointed to three (3) year terms per RSA 673:6. The appointments of alternates shall be staggered as per RSA 673:5 II. The Selectmen shall appoint an alternate to the ex-officio member and only that alternate may sit for the ex-officio member and for no other member. In the case of a vacancy of an alternate, a Public Notice announcing the vacancy shall be published on the Town Website, social media, and posted in front of the Town Hall for a timeframe of not less than 2 weeks, or until such time that the vacancy has been filled. Vacancies of alternates and ex officio members will be filled as follows:
 - A. For an appointed, ex officio, or alternate member, by the original appointing or designated authority, for the unexpired term per 673:12.
- 2.8. Members must reside in the community and are expected to attend each meeting of the board to exercise their duties and responsibilities. Any member unable to attend a meeting shall notify the Chairman, Secretary, or the Planning Director as soon as possible.
- 2.9. If any member finds it necessary to be disqualified from sitting on a particular case, as provided in RSA 673:14, he or she shall notify the Chairman as soon as possible so that an alternate may be requested to fill the place. The disqualification shall be announced by either the chairman or the member before the discussion or the public hearing on the application begins. The member disqualified shall leave the Board table during all deliberations and the public hearing on the matter.

If uncertainty arises as to whether a Board member should disqualify him/herself, on the request of that member or the request of another member of the Board, the

Board shall vote on the question of whether that member should be disqualified. Such request and vote shall be made prior to or at the commencement of any required public hearing. A vote on a question of disqualification shall be advisory and non-binding and may not be requested by persons other than board members.

2.10 In accordance with applicable laws and regulations, the Planning Board may consider criminal backgrounds when evaluating the suitability of alternate members. Individuals with relevant criminal convictions may be subject to additional scrutiny or restrictions, as determined by the Board.

Article 3 - Officers, Roles, Responsibilities

[Amended 9/25/23]

The Officers of the Board shall be the Chairman, the Vice Chairman and the Secretary.

3.1 **CHAIRMAN** - The Chairman shall preside over meetings and shall be responsible for conduct and decorum of the meeting. In accordance with Robert's Rules of Order, the Chairman shall not make motions but may recommend or entertain a motion. The Chairman shall ensure that all parties receive a full and fair hearing before the Board. The Chairman, with Board authorization, will be the spokesperson on behalf of the Planning Board with other municipal boards, the public and the media. The Chairman communicates regularly with his/her Staff, the Planning Director/Administrative assistant and works with them on setting up meeting agendas and other Board organizational activities. The Chairman and the Secretary shall sign approved plans and act as the Planning Board designees to sign Voluntary Lot Merger forms subject to all authorized signatures being obtained prior to the Planning Board's signature.

3.2 **VICE CHAIRMAN** - The Vice Chairman shall preside over meetings and assume the powers and duties of Chairman in the absence of the Chairman. In cases where the Chairman may be an abutter, or have a conflict of interest with an applicant, the Vice Chairman may assume the Chairman position.

3.3 **SECRETARY** - The Secretary or designee shall check records, stamp new material into the record and take care of other administrative details. The Secretary shall keep a summary of facts on which any decisions are based, and the decisions which are rendered. If the Chairman and Vice Chairman are absent, or it is necessary for both of them to step down due to a conflict of interest or being an abutter, the Secretary may sit as acting Chairman. The Chairman and the Secretary shall sign approved plans and act as the Planning Board designees to sign Voluntary Lot Merger forms subject to all authorized signatures being obtained prior to the Planning Board's signature.

3.4 ALTERNATES - The Chair 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 happens, the Alternate member will have full participation and voting rights as a regular member.

- A. Alternate members who are not appointed by the Chairman to fill a seat of an absent or recused member may fully participate, with the exception that they may not make or second motions and or vote and shall not participate in any way during the deliberations by the board.
- B. 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. At all times, the chair shall fully inform the public of the status of any alternate present and identify the members who shall be voting on the application.
- C. Alternate members are expected to attend meetings on a regular basis. If more than 50% of the meetings are missed in a 6-month timeframe, the Board may take action under NH RSA 673:13, after providing a two (2) week notice of the hearing and having contemporaneously sent a notice to the alternate member.

Article 4 - Staff: Planning Director / Administrative Assistant and Recording Secretary / Minutes & Records

4.1. The Planning Director participates in meetings and public hearings to explain recommendations on planning proposals, presents and discusses applications and reports, provides staff support and guidance in interpretation and directions, answers questions regarding planning related issues.

A. The Planning Director and or Administrative Assistant shall ensure:

1. The safe-keeping of the Boards records and files;
2. See that all proper notice is given;
3. Mailing of Abutters notification;
4. Reading of Abutters list into the record; and
5. attend to all other administrative details.

B. The Planning Director/ Administrative Assistant facilitates the business of the Planning Board. Those duties include but are not limited to the following:

1. Prepare a list of conditions of approval from peer review and meetings

to be used in a motion of approval of plans.

2. Posting as per the NH RSA requirements; posting of Agenda, posting of Public Hearing(s) and Public Meetings, Posting is to be in the Pelham Town Hall, the Town of Pelham Web site and when required in a newspaper of general circulation.
3. Record Keeping as per the NH RSA requirements to ensure correspondence and other written material read into the minutes or used in a meeting; i.e., maps, photos, etc. are attached;
4. Ensuring that agencies, minutes, notices of decision and other pertinent information associated with proposed Zoning Amendments are delivered promptly to Building Inspector, Chairman of the Board of Selectmen, Chairman of the Conservation Commission, Chairman of the Zoning Board of Adjustment, Road Agent(s), Police Chief, Fire Chief, Town Engineer, Town Counsel and Wetland Scientist when applicable; and
5. The Planning Director/Administrative Assistant shall prepare material for Board members in advance of meetings including agenda, respond to queries and requests of board members as required, liaising with department heads, businesses and State and Federal agencies when required and collect various applications and application fees.

4.2. MINUTES:

- A. Minutes of the Board Meetings shall be kept by the Recording Secretary in accordance with the provisions of RSA 91-A. Minutes shall be considered a summary of events and business transacted once adopted by the Board with any amendments made.
- B. The Recording Secretary shall ensure that minutes are made available to the public in accordance with RSA 91-A. Draft minutes shall be open to public inspection not more than five (5) business days after the meeting per RSA 91-A:2 (II).
- C. Draft minutes and revised draft minutes will be provided to the Board members for review. Board members may offer, by email to the full Board and Recording Secretary, any amendments/corrections that they will be proposing at a public meeting. Discussions on the draft minutes or revised draft minutes on the proposed amendments/corrections will only take place at a public meeting.

Article 5 - Scheduling of Meetings, Special Meetings, Hearings and Place

- 5.1. Keeping with the provisions of RSA 673:10, the regularly scheduled Planning Board meetings shall be held at 6 Village Green in the Sherburne Hall on the first and third Mondays of the month at 7:00p.m. The Planning Board shall hold a minimum of one meeting in each month.
- 5.2. Meeting agendas are posted at the Town Hall in accordance with RSA 91-A. An effort will be made to post agendas and hearing notices on the Town's web site within the seven (7) days prior to the public hearing.
- 5.3. Special Meetings of the Board may be held at the call of the Chairman or by request of three (3) majority members. These meetings will be posted in accordance with N.H. RSA 91-A.
- 5.4. Non-Public sessions shall be held only in accordance with RSA 91-A:3.
- 5.5. Cancellation of Meetings - Public hearings may not be cancelled without the knowledge and consent of either the Planning Board Chairman, Vice Chairman or Secretary. Notice shall be posted by Staff and sent to all members of the Board by electronic means or phone.

Article 6 - Quorums, Voting, Conduct of Meetings and Subcommittees

- 6.1. A quorum of four (4) members shall be required to conduct business. Members of the Board physically present are counted to determine whether a quorum is present although they may abstain from voting affirmatively or negatively.
- 6.2. Members are expected to vote on matters before the Board unless the member recused himself/herself. Abstaining from a vote is discouraged, unless the issue pertains to business which took place when the member was absent.
- 6.3. The Board reserves the right to change the order of the posted agenda. Any agenda items not heard at the meeting will be placed on the agenda for the next available Planning Board Meeting.
- 6.4. The conduct of Public Hearings shall be governed by the following rules:
 1. The Chairman shall be the moderator and call the hearing to session.
 2. All person(s) who appear shall state their name and address for the record.
 3. The Applicant shall be called to present his/her presentation.

4. Members of the Board may ask questions during the presentation.
5. The Chairman will Open to the Public.
6. The Chairman will bring the discussion back to the Board.

6.5. 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.

6.6. When establishing subcommittees, the Board will define the roles, responsibilities, duties, membership, and duration of the subcommittees. All established subcommittees will follow the same requirements as the Planning Board that are outlined in NH RSA 91-A. In addition, subcommittees will provide the approved meeting minutes for posting on the Town website.

6.7. Subcommittees will serve as an Advisory Committee and shall have no more than three (3) Planning Board Members, including both regular and alternate members. Subcommittees may also include other persons who are not members of the Board.

6.8. Planning Board Staff is to be utilized in the same manner for a subcommittee as they would be utilized for the Planning Board.

6.9. The Planning Board shall elect a Chair for the subcommittee.

6.10. All subcommittee meetings shall be properly noticed at the Town Hall and held in a public space.

Article 7 - Decisions

- 7.1 The Board shall begin formal consideration of the application within thirty (30) days of submission of the complete application. The Board may, after the discussion period, decide to approve, conditionally approve, or deny a plan. The Board may also decide to postpone action on a plan until the next Planning Board Meeting.
- 7.2 If a revision and or change that is not subject to Article 8 of these procedures does happen, then the Sixty-Five day(65) time clock will restart from the date of revision and or change.
- 7.3 The Board shall render a written decision on all completed applications within Sixty-Five (65) days of the date the application is determined to be complete, subject to extension and or waiver as provided in NH RSA 676:4, I, (c) (1). If the Planning Board does not act on the application within that 65-day time period (unless the

board has determined that the application is a development of regional impact, which gives the board an additional 30 days), then the governing body (selectmen) is required to approve the application.

- 7.4 Notice of the decision, along with the meeting minutes at which the role was taken, will be made available for public inspection within five (5) business days after the decision is made as required by N.H. RSA 676:3.
- 7.5 The decision shall include specific written findings of fact that support the decision. As specified in RSA 676:3, I, "Failure of the board to make specific written findings of fact supporting a disapproval shall be grounds for automatic reversal and remand by the superior court upon appeal, in accordance with the time periods set forth in RSA 677:5 or RSA 677:15, unless the court determines that there are other factors warranting the disapproval."
- 7.6 The Planning Board may reconsider any decision to approve or disapprove an application, for good cause, provided it is within the statutory appeal period. This may be done through a motion that specifies the reasons for reconsideration. Upon successful passage of the motion, the board shall schedule a public hearing, with notice as provided in 676:4, I(d), where they shall consider whether or not to revise or alter their original decision. Should the board reach a new decision, a new appeal period shall be considered to have begun pursuant to RSA 677:15.

Article 8 - Revision of the Plan

- 8.1 Substantial revisions of the plans by the Applicant, other than in response to requests from the Board, will be treated as new applications and necessitate denial of the original plan. All plans are to be in compliance with the current town zoning.

Article 9 - Site Walks

- 9.1 A site walk is defined as a posted meeting of the Planning Board at a location which is the subject of an application before the Board, where the visit is in the company of the 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.
- 9.2 When the Board deems it necessary for the adequate consideration of an application, the Board shall request the applicant to allow a site walk by the Board.

- 9.3 When the Planning Board schedules a site walk for Board membership, it shall be posted as a meeting of the Planning Board in accordance with RSA 91-A.
- 9.4 Site walks are public meetings of the Planning Board and members of the public are allowed to attend.
- 9.5 An individual Board member should not visit an applicant's property at the applicant's invitation.
- 9.6 When a Board meets to consider an application, the Board shall disclose what they learned/observed while on the site walk at the location under consideration.
- 9.7 Minutes of the site walk shall be kept only if there is a quorum of the Board conducting the site walk.
- 9.8 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 10 - Joint Meetings with Other Land Use Boards

- 10.1 Joint meetings of the Planning Board and the ZBA and other local land use boards as defined by RSA 673:1 shall be presided over by the Chair of the Planning Board.
- 10.2 A quorum of the membership of each body shall be required in order to conduct a joint meeting.
- 10.3 Separate minutes shall be kept of all joint meetings by the Recording Secretary.
- 10.4 Presentation of applications shall follow the same presentation as that specified in each of the bodies' rules of procedure.
- 10.5 The Planning Board Chairman shall chair the joint hearing as required by RSA 676:2, and the Planning Board's procedures for public hearings shall be followed.
- 10.6 The other Boards shall concur with these conditions.

Article 11 - Standards of Conduct

- 11.1 The primary obligation of 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.

- 11.2 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.
- 11.3 To avoid a 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.
- 11.4 A Board member must not disclose or improperly use confidential information obtained in the course of his/her duties for financial gains or to further a personal interest.
- 11.5 Notwithstanding the above restrictions, a Board member may, following recusing himself/herself from the Board, exercise his/her rights as a citizen and address the Board on the issue under review.
- 11.6 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.
- 11.7 Any requests or inquiries by Board members should be made during public hearings or through appropriate town staff.
- 11.8 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 Chair 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.

Article 12 - Capital Improvements Program (CIP)

In accordance with NH RSA 674:5, the Planning Board is charged with preparing and annually updating the Capital Improvements Program (CIP). The preparation and

adoption of a CIP is an important part of Pelham's planning process. A CIP aims to recognize and resolve deficiencies in existing public facilities and anticipate and plan for future demand for capital facilities. A CIP is a multi-year schedule that lays out a series of municipal projects and their associated costs.

Article 13 - Master Plan

In accordance with RSA 674:1, it shall be the duty of every planning board established under RSA 673:1 to prepare and amend from time to time a master plan to guide the development of the municipality. Every planning board shall from time-to-time update and amend the adopted Master Plan with funds appropriated for that purpose by the local legislative body.

In accordance with RSA 674:2, the purpose of the Master Plan is to set down as clearly and practically as possible the best and most appropriate future development of the area under the jurisdiction of the Planning Board, to aid the board in designing ordinances that result in preserving and enhancing the unique quality of life and culture of New Hampshire, and to guide the board in the performance of its duties in a manner that achieves the principles of smart growth, sound planning and wise resource protection.

The Master Plan shall be a public record subject to provisions to RSA 91-A.

Article 14 - Nashua Regional Planning Commission (NRPC)

14.1 The Planning Board shall provide the Board of Selectmen with nominations of representatives to the Nashua Regional Planning Commission in accordance with RSA 36:46 III.

14.2 The Town of Pelham is allowed Three (3) Full-Time representatives and Three (3) Alternates.

14.3 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.

14.4 The Planning Board shall provide the Board of Selectmen with nominations of representatives for re-appointment of officers subject to the "appointment process" per RSA 36:46. The appointment process is as follows:

- A. The Planning Board shall have a public meeting of reappointment of the sitting commissioner.
- B. The Planning Board shall make a nomination to the Board of Selectmen to reappoint or not.

14.5 The Planning Board may also nominate alternate representatives to the Nashua Regional Planning Commission and are subject to the appointment process per RSA 36:46.

Article 15- Rules of Procedures and Bylaws Revision

These Rules of Procedures and Bylaws may be revised by first posting such revisions along with the usual monthly postings of agenda and business followed by a majority vote of the Planning Board members present at a regular monthly meeting.

Article 16- Conflict with Rules & Procedures

In the event of a conflict in these Rules & Procedures, Robert's Rules of Order shall be followed.

Town of Pelham, NH Planning Board Rules of Procedures/Bylaws:

Adopted by the Pelham, NH Planning Board on November 1, 2021.

Chairman



Tim Doherty, Chairman of the Pelham, NH Planning Board

Secretary



Danielle Masse-Quinn, Secretary of the Pelham, NH Planning Board

Amended 9/25/2023 at a Public Meeting of the Planning Board: Article 3, Section 3.1;

Amended 11/06/2023 at a Public Meeting of the Planning Board: Article 1, Section 1.1, Article 3, Section 3.1 & 3.3;

Amended 6/17/2024 at a Public Meeting of the Planning Board: Cover Sheet, Table of Contents, Article 2 Title, Article 2 Sections 2.3, 2.7, 2.8, 2.9, 2.10, Article 3.4, Article 4, Title, Sections 4.1, Article 5, Section 5.1, Article 7, Section 7.3, 7.5, 7.6, Article 16;

