RULES OF PROCEDURE

PLANNING BOARD, TOWN OF LINCOLN, NEW HAMPSHIRE

AUTHORITY

1. These rules of procedure are adopted under the authority of New Hampshire Revised Statutes Annotated **(RSA) 676:1**.

MEMBERS AND ALTERNATES

1. The Planning Board shall consist of five (5) members appointed by the Selectmen. One (1) of the four (4) members shall be a Selectman, designated by the Board of Selectmen as an ex-officio member with power to vote.
2. Selection, qualification, term, removal of members, and filling of vacancies shall conform to **RSA 673**.
3. Alternate members may serve on the Planning Board as authorized by **RSA 673:6** and participate as non-voting members.
4. Up to four (4) alternate members may be appointed, as provided for by the local legislative body, and should attend all meetings to familiarize themselves with the workings of the board to stand ready to serve whenever a regular member of the board is unable to fulfill his/her responsibilities.
5. At planning board meetings, alternates who are not activated to fill the seat of an absent or recused member or who have not been appointed by the chair to temporarily fill the unexpired term of a vacancy may participate with the board in a limited capacity. During a public hearing, alternates may sit at the table with the regular members and may view documents, listen to testimony, and actively participate and interact with other board members, the applicant, abutters and the public. Upon the close of the public hearing, alternates must remove themselves from the table and sit with other members of the public unless they are sitting in place of another member. 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.
6. 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 as soon as possible. Members, including the chairman and all officers, shall participate in the decision-making process and vote to approve or disapprove all motions under consideration.
7. Each newly elected or appointed (including re-elected or re-appointed) member shall be sworn in and take an oath of office as required by **RSA 42:1**.
8. The Secretary shall forward to the municipal clerk for recording the appointment/election and expiration dates of the terms of each member of the Board.

OFFICERS

1. The officers of the Board shall be as follows:
    a. Chairman: The Chairman shall preside over all meetings and hearings; shall prepare,

with the assistance of the Secretary, an annual report; and shall perform other duties customary to the office.

b. Vice-Chairman: The Vice-Chairman shall preside in the absence of the Chairman and shall have the full powers of the Chairman on matters that come before the Board in the absence of the Chairman.

c. 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; and prepare such correspondence and fulfill such duties as the Chairman may specify. In the absence of the Secretary, the Chairman shall appoint a secretary pro tem to keep records of the meeting.

2. The officers of the Board shall be elected annually during the month of April by a majority vote of the Board. If requested by a majority of those present, voting shall be by written ballot.

MEETINGS

1. Regular meetings shall be held at least monthly at the Lincoln Town Office at 6:00 p.m. on the second Wednesday of each month and again on the fourth Wednesday of each month, if a second meeting is required.

2. Special meetings may be called by the Chairman or in her/his absence, by the Vice-Chairman, or at the request of three (3) members of the Board provided public notice and notice to each member is given at least forty-eight (48) hours in advance of the time of such meeting. The notice shall specify the purpose of the meeting.

3. Nonpublic Sessions shall be held only in accordance with **RSA 91-A:3**.

4. Quorum: A majority of the membership of the Board shall constitute a quorum, including alternates sitting in place of regular members.

5. If any regular Board member is absent from a meeting or hearing, or disqualifies her/himself from sitting on a particular application, the Chairman shall designate one of the alternate members to sit in place of the absent or disqualified member. Such alternate shall have all the powers and duties of a regular member in regards to any matter under consideration on which the regular member is unable to act. The alternate should continue until the matter is completed; the regular member does not vote on that matter.

6. Disqualification: If any member finds it necessary to be disqualified from sitting on a particular case, as provided in **RSA 673:14**, s/he 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.

7. If uncertainty arises as to whether a Board member should disqualify her/himself, 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.

8. Order of Business shall be as follows:
    a. Call to order by Chairman
    b. Attendance and appointment of alternates by the Chairman
    c. Minutes of previous meeting
    d. Unfinished business
    e. Hearings on Subdivision/Site Plans
    f. Reading of communications directed to the Board
    g. Other business - public comment
9. A motion, duly seconded, shall be carried by an affirmative vote of a majority of the members present. Voting shall be by roll call which shall be recorded in the minutes, if requested.

APPLICATIONS FOR SUBDIVISION AND SITE PLAN REVIEW

1. Applications for hearings before the Board shall be made on forms provided by the Board and shall be presented to the Secretary of the Board or the Board's agent who shall sign and record the date of receipt.
2. Notice shall be given as required in **RSA 676:4,1(d)** ten (10) days before a completed application is submitted to the Board.
3. Completed applications shall be accepted by majority vote of the Board and shall be scheduled for consideration within thirty (30) days of acceptance.
4. The board shall reject all applications not properly completed.

FORMS

1. All forms prescribed herein and revisions thereof shall be adopted by resolution of the Board and shall become part of these rules of procedure.

NOTICE

1. Public notice of the submission of and public hearings on each application shall be given in the Littleton Courier and/or the Manchester Union Leader and by posting at both the Town Office and the Post Office not less than ten (10) days prior to the date fixed for submission and consideration of the application.
2. Personal notice shall be made by certified mail to the applicant, all abutters and any professional whose seal appears on any plat not less than ten (10) days prior to the date fixed for submission of the application to the Board.

PUBLIC HEARINGS

The conduct of public hearings shall be governed by the following rules:

1. The Chairman shall call the hearing in session, identify the applicant or agent and ask for the Secretary's report on the proposal.
2. The Secretary or agent shall read the application and report on the manner in which public and personal notice was given.
3. Members of the Board may ask questions at any point during the presentation.

4. Any party to the matter who desires to ask a question of another party must go through the Chairman.
5. Any applicant, any abutter or any person with a direct interest in the matter may testify in person or in writing. Other persons may testify as permitted by the Board at each hearing.
6. Each person who speaks shall be required to state her/his name and address and indicate whether s/he is a party to the matter or an agent or counsel to a party to the matter.
7. The applicant or agent shall be called to present the proposal and those appearing in favor of the proposal shall be allowed to speak.
8. Those in opposition to the proposal shall be allowed to speak.
9. Those neither in favor nor in opposition may speak.
10. Other parties such as representatives of town departments and other town boards and commissions who have an interest in the proposal shall be allowed to present their comments in person or in writing.
11. The Chairman shall indicate whether the hearing is closed or adjourned pending the submission of additional material or information or the correction of noted deficiencies. In the case of an adjournment, additional notice is not required if the date, time and place of the continuation is made known at the adjournment.

DECISIONS

1. The Board shall render a written decision within sixty-five (65) days of the date of acceptance of a completed application, subject to extension or waiver as provided in **RSA 676:4**.
2. The Board shall act to approve, conditionally approve, or disapprove.
3. Notice of decision will be made available for public inspection at (location) within five (5) business days after the decision is made, as required in **RSA 676:3**. If the application is disapproved, the Board shall provide the applicant with written reason for this disapproval.

RECONSIDERATION

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 **RSA 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**, et seq.

RECORDS

1. The records of the Board shall be kept by the Secretary or agent and shall be made available for public inspection at the Office of the Town Clerk as required by **RSA 91-A:4.**
2. Minutes of the meetings including the names of Board members, persons appearing before the Board and a brief description of the subject matter shall be open to public inspection within five (5) business days after the meeting as required in **RSA 91-A:2,II**.
3. If an electronic record of the meeting is created using publicly-owned equipment they are "government records" under the Right to Know Law and subject to disclosure unless they are

exempted from disclosure under some provision of the law. Under the Municipal Records Law RSA 33-A:3-a,LXXX schedule these electronic recordings shall be kept until written record of the meeting is approved at a Planning Board meeting. As soon as the minutes are approved, the electronic record shall be disposed of. Under RSA 91-A:4,III-b of The Right To Know Law an electronic record is no longer subject to disclosure after it has been initially and legally deleted.

JOINT MEETINGS AND HEARINGS

1. The Planning Board may hold joint meetings and hearings with other "land use boards" including the Zoning Board of Adjustment. Each board shall have discretion whether or not to hold such joint meeting or hearing (**RSA 676:2**).
2. Joint business meetings with another local land use boards may be held at any time when called jointly by the chairmen of the two boards.
3. A joint public hearing must be a formal public hearing when the subject matter of the hearing is within the responsibilities of the boards convened.
4. The Planning Board chair shall chair all joint meetings and public hearings when the subject matter involves the Planning Board.
5. The rules of procedure for joint meetings and hearings, the subject matter of which involves the Planning Board, shall be the same as these rules of procedure except that the order of business shall be as follows:
   a. Call to order by Chairman
   b. Introduction of members of both boards by Chairman
   c. Explanation of reason for joint meeting/hearing by Chairman
   d. In the case of a public hearing relative to a requested permit or an application for a plat approval, or both, the applicant shall be called to present his proposal.
   e. Adjournment. Each board involved in a joint public hearing makes its own decision, based on its criteria for the particular matter.

AMENDMENT

1. The Board's rules of procedure may be amended by a majority vote of its members at a regular meeting of the board as provided in **RSA 676:1**. The amended rules of procedure shall be filed with the Town Clerk.

These Rules of Procedure were adopted by the Lincoln Planning Board at a regularly scheduled and noticed meeting on August 12, 2015, under the authority of the New Hampshire Revised Statutes Annotated **(RSA) 676:1** and placed on file with the Town Clerk for public inspection.

James Spanos, Planning Board Chair

TITLE LXIV
PLANNING AND ZONING

CHAPTER 676
ADMINISTRATIVE AND ENFORCEMENT PROCEDURES

General Provisions

Section 676:1

676:1 Method of Adopting Rules of Procedure. – Every local land use board shall adopt rules of procedure concerning the method of conducting its business. Rules of procedure shall be adopted at a regular meeting of the board and shall be placed on file with city, town, village district clerk, or clerk for the county commissioners for public inspection. The rules of procedure shall include when and how an alternate may participate in meetings of the land use board.

Source. 1983, 447:1. 1989, 266:29, eff. July 1, 1989. 2010, 270:2, eff. July 6, 2010.

TITLE LXIV
PLANNING AND ZONING

CHAPTER 673
LOCAL LAND USE BOARDS

Establishment of Boards

Section 673:1

673:1 Establishment of Local Land Use Boards. –
I. Any local legislative body may establish a planning board, the members of which shall be residents of the municipality.
II. Any local legislative body may establish any or all of the following: a heritage commission, a historic district commission, an agricultural commission, and a housing commission.
III. Any local legislative body may provide for the appointment of an inspector of buildings. The local legislative body may fix the compensation for any inspector who is so appointed.

IV. Every zoning ordinance adopted by a local legislative body shall include provisions for the establishment of a zoning board of adjustment. Members of the zoning board of adjustment shall be either elected or appointed, subject to the provisions of RSA 673:3.
V. Every building code adopted by a local legislative body shall include provisions for the establishment of the position of a building inspector, who shall issue building permits, and for the establishment of a building code board of appeals. If no provision is made to establish a separate building code board of appeals, the ordinance shall designate the zoning board of adjustment to act as the building code board of appeals. If there is no zoning board of adjustment, the board of selectmen shall serve as the building code board of appeals.

Source. 1983, 447:1. 1992, 64:5. 2007, 266:2, eff. Aug. 28, 2007. 2008, 391:2, eff. Sept. 15, 2008. 2009, 286:1, eff. Jan. 1, 2010.

TITLE LXIV
PLANNING AND ZONING

CHAPTER 673
LOCAL LAND USE BOARDS

Appointment and Terms of Local Land Use Board Members

Section 673:6

673:6 Appointment, Number and Terms of Alternate Members. –
I. (a) The local legislative body may provide for the appointment of not more than 5 alternate members to any appointed local land use board, who shall be appointed by the appointing authority. The terms of alternate members shall be 3 years.
(b) In a town which votes to elect its planning board members on a staggered basis according to the provisions of RSA 673:2, II(b)(2), alternate members of the planning board shall continue to be appointed according to the provisions of this paragraph until each member of the board is an elected member. Thereafter, the alternate planning board members shall be appointed according to the provisions of paragraph II.
II. An 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.
II-a. An elected zoning board of adjustment 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.
III. The alternate for a city or town council member, selectman, or village district commission member shall be appointed by the respective council, board, or commission. The terms of alternate members shall be the same as those of the respective members and may be in addition to the alternates provided for in paragraph I.
IV. Every alternate member appointed to a planning board under this section shall comply

with the multiple membership requirements of RSA 673:7, I and II.
V. An alternate member of a local land use board may participate in meetings of the board as a nonvoting member pursuant to rules adopted under RSA 676:1.

Source. 1983, 447:1. 1986, 29:1. 1987, 197:1. 1991, 176:1. 1993, 69:2. 1996, 217:1, eff. Aug. 9, 1996. 2010, 270:1, eff. July 6, 2010.

TITLE III
TOWNS, CITIES, VILLAGE DISTRICTS, AND UNINCORPORATED PLACES

CHAPTER 42
OATHS OF TOWN OFFICERS

Section 42:1

42:1 Oath Required. – Every town officer shall make and subscribe the oath or declaration as prescribed by part 2, article 84 of the constitution of New Hampshire and any such person who violates said oath after taking the same shall be forthwith dismissed from the office involved.

Source. RS 35:1. CS 37:1. GS 38:1. GL 41:1. PS 44:1. PL 48:1. RL 60:1. RSA 42:1. 1969, 372:4, eff. Aug. 31, 1969.

TITLE VI
PUBLIC OFFICERS AND EMPLOYEES

CHAPTER 91-A
ACCESS TO GOVERNMENTAL RECORDS AND MEETINGS

Section 91-A:3

91-A:3 Nonpublic Sessions. –
I. (a) Public bodies shall not meet in nonpublic session, except for one of the purposes set out in paragraph II. No session at which evidence, information, or testimony in any form is received shall be closed to the public, except as provided in paragraph II. No public body may enter nonpublic session, except pursuant to a motion properly made and seconded.
(b) Any motion to enter nonpublic session shall state on its face the specific exemption under

paragraph II which is relied upon as foundation for the nonpublic session. The vote on any such motion shall be by roll call, and shall require the affirmative vote of the majority of members present.
(c) All discussions held and decisions made during nonpublic session shall be confined to the matters set out in the motion.
II. Only the following matters shall be considered or acted upon in nonpublic session:
(a) The dismissal, promotion, or compensation of any public employee or the disciplining of such employee, or the investigation of any charges against him or her, unless the employee affected (1) has a right to a meeting and (2) requests that the meeting be open, in which case the request shall be granted.
(b) The hiring of any person as a public employee.
(c) Matters which, if discussed in public, would likely affect adversely the reputation of any person, other than a member of the public body itself, unless such person requests an open meeting. This exemption shall extend to any application for assistance or tax abatement or waiver of a fee, fine, or other levy, if based on inability to pay or poverty of the applicant.
(d) Consideration of the acquisition, sale, or lease of real or personal property which, if discussed in public, would likely benefit a party or parties whose interests are adverse to those of the general community.
(e) Consideration or negotiation of pending claims or litigation which has been threatened in writing or filed against the public body or any subdivision thereof, or against any member thereof because of his or her membership in such public body, until the claim or litigation has been fully adjudicated or otherwise settled. Any application filed for tax abatement, pursuant to law, with any body or board shall not constitute a threatened or filed litigation against any public body for the purposes of this subparagraph.
(f) Consideration of applications by the adult parole board under RSA 651-A.
(g) Consideration of security-related issues bearing on the immediate safety of security personnel or inmates at the county correctional facilities by county correctional superintendents or their designees.
(h) Consideration of applications by the business finance authority under RSA 162-A:7-10 and 162-A:13, where consideration of an application in public session would cause harm to the applicant or would inhibit full discussion of the application.
(i) Consideration of matters relating to the preparation for and the carrying out of emergency functions, including training to carry out such functions, developed by local or state safety officials that are directly intended to thwart a deliberate act that is intended to result in widespread or severe damage to property or widespread injury or loss of life.
(j) Consideration of confidential, commercial, or financial information that is exempt from public disclosure under RSA 91-A:5, IV in an adjudicative proceeding pursuant to RSA 541 or RSA 541-A.
III. Minutes of meetings in nonpublic session shall be kept and the record of all actions shall be promptly made available for public inspection, except as provided in this section. Minutes and decisions reached in nonpublic session shall be publicly disclosed within 72 hours of the meeting, unless, by recorded vote of 2/3 of the members present, it is determined that divulgence of the information likely would affect adversely the reputation of any person other than a member of the public body itself, or render the proposed action ineffective, or pertain to terrorism, more specifically, to matters relating to the preparation for and the carrying out of all emergency functions, developed by local or state safety officials that are directly intended to thwart a deliberate act that is intended to result in widespread or severe damage to

property or widespread injury or loss of life. This shall include training to carry out such functions. In the event of such circumstances, information may be withheld until, in the opinion of a majority of members, the aforesaid circumstances no longer apply.

Source. 1967, 251:1. 1969, 482:2. 1971, 327:3. 1977, 540:4. 1983, 184:1. 1986, 83:4. 1991, 217:3. 1992, 34:1, 2. 1993, 46:1, eff. June 7, 1993; 335:16, eff. June 29, 1993. 2002, 222:2, 3, eff. Jan. 1, 2003. 2004, 42:1, eff. Jan. 1, 2005. 2008, 303:4, eff. July 1, 2008. 2010, 206:1, eff. June 22, 2010.

TITLE LXIV
PLANNING AND ZONING

CHAPTER 673
LOCAL LAND USE BOARDS

General Provisions

Section 673:14

673:14 Disqualification of Member. –
I. No member of a zoning board of adjustment, building code board of appeals, planning board, heritage commission, historic district commission, agricultural commission, or housing commission 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.
II. When uncertainty arises as to the application of paragraph I to a board member in particular circumstances, the board shall, upon the request of that member or another member of the board, vote on the question of whether that member should be disqualified. Any such request and vote shall be made prior to or at the commencement of any required public hearing. Such a vote shall be advisory and non-binding, and may not be requested by persons other than board members, except as provided by local ordinance or by a procedural rule adopted under RSA 676:1.
III. If a member is disqualified or unable to act in any particular case pending before the board, the chairperson shall designate an alternate to act in the member's place, as provided in RSA 673:11.

Source. 1983, 447:1. 1988, 26:1. 1992, 64:9. 1996, 42:11. 2007, 266:6, eff. Aug. 28, 2007. 2008, 391:6, eff. Sept. 15, 2008.

TITLE LXIV
PLANNING AND ZONING

CHAPTER 676
ADMINISTRATIVE AND ENFORCEMENT PROCEDURES

Planning Board

Section 676:4

676:4 Board's Procedures on Plats. –
I. The procedures to be followed by the planning board when considering or acting upon a plat or application submitted to it for approval under this title shall be as set forth in the board's subdivision regulations, subject to the following requirements:
(a) An application for approval filed with the planning board under this title, other than an application for subdivision approval, shall be subject to the minimum requirements set forth in this section and shall be governed by the procedures set forth in the subdivision regulations, unless the planning board by regulation specifies other procedures for that type of application.
(b) The planning board shall specify by regulation what constitutes a completed application sufficient to invoke jurisdiction to obtain approval. A completed application means that sufficient information is included or submitted to allow the board to proceed with consideration and to make an informed decision. A completed application sufficient to invoke jurisdiction of the board shall be submitted to and accepted by the board only at a public meeting of the board, with notice as provided in subparagraph (d). An application shall not be considered incomplete solely because it is dependent upon the issuance of permits or approvals from other governmental bodies; however, the planning board may condition approval upon the receipt of such permits or approvals in accordance with subparagraph (i). The applicant shall file the application with the board or its agent at least 15 days prior to the meeting at which the application will be accepted. The application shall include the names and addresses of the applicant, all holders of conservation, preservation, or agricultural preservation restrictions as defined in RSA 477:45, and all abutters as indicated in the town records for incorporated towns or county records for unincorporated towns or unorganized places not more than 5 days before the day of filing. Abutters shall also be identified on any plat submitted to the board. The application shall also include the name and business address of every engineer, architect, land surveyor, or soil scientist whose professional seal appears on any plat submitted to the board.
(c)(1) The board shall, at the next regular meeting or within 30 days following the delivery of the application, for which notice can be given in accordance with the requirements of subparagraph (b), determine if a submitted application is complete according to the board's regulation and shall vote upon its acceptance. 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. 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 subparagraph (i), or disapprove within 65 days, subject to extension or waiver as provided in subparagraph (f). Upon failure of the board to approve, conditionally approve, or disapprove the application, the selectmen or city council shall, upon request of the applicant, immediately issue an order directing the board to act on the application within 30 days. If the planning board does not act on the application within that 30-day time period, then within 40 days of the issuance of the order, the selectmen or city council shall certify on the applicant's application that the plat is approved pursuant to this paragraph, unless within those 40 days the selectmen or city council has identified in writing some specific subdivision regulation or zoning or other ordinance provision with which the application does not comply. Such a certification, citing this paragraph, shall constitute final approval for all purposes including filing and recording under RSA 674:37 and 676:18, and court review under RSA 677:15.

(2) Failure of the selectmen or city council to issue an order to the planning board under subparagraph (1), or to certify approval of the plat upon the planning board's failure to comply with the order, shall constitute grounds for the superior court, upon petition of the applicant, to issue an order approving the application if the court determines that the proposal complies with existing subdivision regulations and zoning or other ordinances. If the court determines that the failure of the selectmen or the city council to act was not justified, the court may order the municipality to pay the applicant's reasonable costs, including attorney's fees, incurred in securing such order.

(d)(1) Notice to the applicant, holders of conservation, preservation, or agricultural preservation restrictions, abutters, and the public shall be given as follows: The planning 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 by certified mail of the date upon which the application will be formally submitted to the board. Notice shall be mailed at least 10 days prior to submission. Notice to the general public shall also be given at the same time by posting or publication as required by the subdivision regulations. The notice shall include a general description of the proposal which is the subject of the application and shall identify the applicant and the location of the proposal. For any public hearing on the application, the same notice as required for notice of submission of the application shall be given. If notice of public hearing has been included in the notice of submission or any prior notice, additional notice of that hearing is not required nor shall additional notice be required of an adjourned session of a hearing with proper notice if the date, time, and place of the adjourned session was made known at the prior hearing. All costs of notice, whether mailed, posted, or published, shall be paid in advance by the applicant. Failure to pay such costs shall constitute valid grounds for the planning board to terminate further consideration and to disapprove the plat without a public hearing.

(2) 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 subparagraph (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.
(e) Except as provided in this section, no application may be denied or approved without a public hearing on the application. At the hearing, any applicant, abutter, holder of conservation, preservation, or agricultural preservation restriction, or any person with a direct interest in the matter may testify in person or in writing. Other persons may testify as permitted by the subdivision regulations or the board at each hearing. Public hearings shall not be required, unless specified by the subdivision regulations, when the board is considering or acting upon:
(1) Minor lot line adjustments or boundary agreements which do not create buildable lots, except that notice to abutters and holders of conservation, preservation, or agricultural preservation restrictions shall be given prior to approval of the application in accordance with subparagraph (d) and any abutter or holder of conservation, preservation, or agricultural preservation restrictions may be heard on the application upon request; or
(2) Disapprovals of applications based upon failure of the applicant to supply information required by the regulations, including identification of abutters or holders of conservation, preservation, or agricultural preservation restrictions; or failure to meet reasonable deadlines established by the board; or failure to pay costs of notice or other fees required by the board.
(f) The planning board may apply to the selectmen or city council for an extension not to exceed an additional 90 days before acting to approve or disapprove an application. The applicant may waive the requirement for planning board action within the time periods specified in subparagraph (c) and consent to such extension as may be mutually agreeable.
(g) Reasonable fees in addition to fees for notice under subparagraph (d) may be imposed by the board to cover its administrative expenses and costs of special investigative studies, review of documents and other matters which may be required by particular applications.
(h) In case of disapproval of any application submitted to the planning board, the ground for such disapproval shall be adequately stated upon the records of the planning board.
(i) A planning board may grant conditional approval of a plat or application, which approval shall become final without further public hearing, upon certification to the board by its designee or based upon evidence submitted by the applicant of satisfactory compliance with the conditions imposed. Such conditions may include a statement notifying the applicant that an approval is conditioned upon the receipt of state or federal permits relating to a project, however, a planning board may not refuse to process an application solely for lack of said permits. Final approval of a plat or application may occur in the foregoing manner only when the conditions are:
(1) Minor plan changes whether or not imposed by the board as a result of a public hearing, compliance with which is administrative and which does not involve discretionary judgment; or
(2) Conditions which are in themselves administrative and which involve no discretionary judgment on the part of the board; or
(3) Conditions with regard to the applicant's possession of permits and approvals granted by other boards or agencies or approvals granted by other boards or agencies, including state and federal permits.
All conditions not specified within this subparagraph as minor, administrative, or relating to issuance of other approvals shall require a hearing, and notice as provided in subparagraph 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.

II. A planning board may provide for preliminary review of applications and plats by specific regulations subject to the following:

(a) Preliminary conceptual consultation phase. The regulations shall define the limits of preliminary conceptual consultation which shall be directed at review of the basic concept of the proposal and suggestions which might be of assistance in resolving problems with meeting requirements during final consideration. Such consultation shall not bind either the applicant or the board and statements made by planning board members shall not be the basis for disqualifying said members or invalidating any action taken. The board and the applicant may discuss proposals in conceptual form only and in general terms such as desirability of types of development and proposals under the master plan. Such discussion may occur without the necessity of giving formal public notice as required under subparagraph I(d), but such discussions may occur only at formal meetings of the board.

(b) Design review phase. The board or its designee may engage in nonbinding discussions with the applicant beyond conceptual and general discussions which involve more specific design and engineering details; provided, however, that the design review phase may proceed only after identification of and notice to abutters, holders of conservation, preservation, or agricultural preservation restrictions, and the general public as required by subparagraph I(d). The board may establish reasonable rules of procedure relating to the design review process, including submission requirements. At a public meeting, the board may determine that the design review process of an application has ended and shall inform the applicant in writing within 10 days of such determination. Statements made by planning board members shall not be the basis for disqualifying said members or invalidating any action taken.

(c) Preliminary review shall be separate and apart from formal consideration under paragraph I, and the time limits for acting under subparagraph I(c) shall not apply until formal application is submitted under subparagraph I(b).

III. A planning board may, by adopting regulations, provide for an expedited review and approval for proposals involving minor subdivisions which create not more than 3 lots for building development purposes or for proposals which do not involve creation of lots for building development purposes. Such expedited review may allow submission and approval at one or more board meetings, but no application may be approved without the full notice to the abutters, holders of conservation, preservation, or agricultural preservation restrictions, and public required under subparagraph I(d). A hearing, with notice as provided in subparagraph I(d), shall be held if requested by the applicant, abutters, or holders of conservation, preservation, or agricultural preservation restrictions any time prior to approval or disapproval or if the planning board determines to hold a hearing.

IV. Jurisdiction of the courts to review procedural aspects of planning board decisions and actions shall be limited to consideration of compliance with applicable provisions of the constitution, statutes and regulations. The procedural requirements specified in this section are intended to provide fair and reasonable treatment for all parties and persons. The planning board's procedures shall not be subjected to strict scrutiny for technical compliance. Procedural defects shall result in the reversal of a planning board's actions by judicial action only when such defects create serious impairment of opportunity for notice and participation.

Source. 1983, 447:1. 1985, 159:1. 1986, 57:1, 2; 229:1, 2. 1989, 266:30. 1990, 275:1. 1995, 117:1, 2. 1997, 142:1-4; 249:1. 1998, 274:1. 2004, 71:6. 2005, 33:3, 4, eff. July 9, 2005.

2008, 229:2, eff. Aug. 19, 2008. 2009, 31:2, 3, eff. July 14, 2009. 2010, 39:1, 2, eff. July 17, 2010. 2011, 164:1, 2, eff. Aug. 13, 2011.

TITLE LXIV
PLANNING AND ZONING

CHAPTER 676
ADMINISTRATIVE AND ENFORCEMENT PROCEDURES

General Provisions

Section 676:3

676:3 Issuance of Decision. –
I. The local land use board shall issue a final written decision which either approves or disapproves an application for a local permit 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.
II. Whenever a local land use board votes to approve or disapprove an application or deny a motion for rehearing, 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. Boards in towns that do not have an office of the board that has regular business hours shall file copies of their decisions with the town clerk.
III. Whenever a plat is recorded to memorialize an approval issued by a local land use board, the final written decision, including all conditions of approval, shall be recorded with or on the plat.

Source. 1983, 447:1. 2000, 144:1, eff. Jan. 1, 2001. 2009, 266:1, eff. Sept. 14, 2009.

TITLE LXIV
PLANNING AND ZONING

CHAPTER 677
REHEARING AND APPEAL PROCEDURES

Appeal and Court Review of Planning Board Decisions

Section 677:15

677:15 Court Review. –
I. Any persons aggrieved by any decision of the planning board concerning a plat or subdivision may present to the superior court a petition, duly verified, setting forth that such decision is illegal or unreasonable in whole or in part and specifying the grounds upon which the same is claimed to be illegal or unreasonable. Such petition shall be presented to the court within 30 days after the date upon which the board voted to approve or disapprove the application; provided however, that if the petitioner shows that the minutes of the meeting at which such vote was taken, including the written decision, were not filed within 5 business days after the vote pursuant to RSA 676:3, II, the petitioner shall have the right to amend the petition within 30 days after the date on which the written decision was actually filed. This paragraph shall not apply to planning board decisions appealable to the board of adjustment pursuant to RSA 676:5, III. The 30-day time period shall be counted in calendar days beginning with the date following the date upon which the planning board voted to approve or disapprove the application, in accordance with RSA 21:35.
II. Upon presentation of such petition, the court may allow a certiorari order directed to the planning board to review such decision and shall prescribe therein the time within which return thereto shall be made and served upon the petitioner's attorney, which shall not be less than 10 days and may be extended by the court. The allowance of the order shall stay proceedings upon the decision appealed from. The planning board shall not be required to return the original papers acted upon by it; but it shall be sufficient to return certified or sworn copies thereof, or of such portions thereof as may be called for by such order. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.
III. If, upon the hearing, it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence or appoint a referee to take such evidence as it may direct and report the same to the court with the referee's findings of fact and conclusion of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made.
IV. The court shall give any hearing under this section priority on the court calendar.
V. The court may reverse or affirm, wholly or partly, or may modify the decision brought up for review when there is an error of law or when the court is persuaded by the balance of probabilities, on the evidence before it, that said decision is unreasonable. Costs shall not be allowed against the municipality unless it shall appear to the court that the planning board acted in bad faith or with malice in making the decision appealed from.

Source. 1983, 447:1. 1991, 231:14. 1995, 243:7, 8. 2000, 144:4. 2005, 105:2, eff. Aug. 14, 2005. 2009, 266:4, eff. Sept. 14, 2009.

TITLE VI
PUBLIC OFFICERS AND EMPLOYEES

CHAPTER 91-A
ACCESS TO GOVERNMENTAL RECORDS AND MEETINGS

Section 91-A:4

91-A:4 Minutes and Records Available for Public Inspection. –
I. Every citizen during the regular or business hours of all public bodies or agencies, and on the regular business premises of such public bodies or agencies, has the right to inspect all governmental records in the possession, custody, or control of such public bodies or agencies, including minutes of meetings of the public bodies, and to copy and make memoranda or abstracts of the records or minutes so inspected, except as otherwise prohibited by statute or RSA 91-A:5. In this section, "to copy" means the reproduction of original records by whatever method, including but not limited to photography, photostatic copy, printing, or electronic or tape recording.
I-a. Records of any payment made to an employee of any public body or agency listed in RSA 91-A:1-a, VI(a)-(d), or to the employee's agent or designee, upon the resignation, discharge, or retirement of the employee, paid in addition to regular salary and accrued vacation, sick, or other leave, shall immediately be made available without alteration for public inspection. All records of payments shall be available for public inspection notwithstanding that the matter may have been considered or acted upon in nonpublic session pursuant to RSA 91-A:3.
II. After the completion of a meeting of a public body, every citizen, during the regular or business hours of such public body, and on the regular business premises of such public body, has the right to inspect all notes, materials, tapes, or other sources used for compiling the minutes of such meetings, and to make memoranda or abstracts or to copy such notes, materials, tapes, or sources inspected, except as otherwise prohibited by statute or RSA 91-A:5.
III. Each public body or agency shall keep and maintain all governmental records in its custody at its regular office or place of business in an accessible place and, if there is no such office or place of business, the governmental records pertaining to such public body or agency shall be kept in an office of the political subdivision in which such public body or agency is located or, in the case of a state agency, in an office designated by the secretary of state.
III-a. Governmental records created or maintained in electronic form shall be kept and maintained for the same retention or archival periods as their paper counterparts. Governmental records in electronic form kept and maintained beyond the applicable retention or archival period shall remain accessible and available in accordance with RSA 91-A:4, III. Methods that may be used to keep and maintain governmental records in electronic form may include, but are not limited to, copying to microfilm or paper or to durable electronic media using standard or common file formats.
III-b. A governmental record in electronic form shall no longer be subject to disclosure pursuant to this section after it has been initially and legally deleted. For purposes of this paragraph, a record in electronic form shall be considered to have been deleted only if it is no longer readily accessible to the public body or agency itself. The mere transfer of an

electronic record to a readily accessible "deleted items" folder or similar location on a computer shall not constitute deletion of the record.
IV. Each public body or agency shall, upon request for any governmental record reasonably described, make available for inspection and copying any such governmental record within its files when such records are immediately available for such release. If a public body or agency is unable to make a governmental record available for immediate inspection and copying, it shall, within 5 business days of request, make such record available, deny the request in writing with reasons, or furnish written acknowledgment of the receipt of the request and a statement of the time reasonably necessary to determine whether the request shall be granted or denied. If a computer, photocopying machine, or other device maintained for use by a public body or agency is used by the public body or agency to copy the governmental record requested, the person requesting the copy may be charged the actual cost of providing the copy, which cost may be collected by the public body or agency. Nothing in this section shall exempt any person from paying fees otherwise established by law for obtaining copies of governmental records or documents, but if such fee is established for the copy, no additional costs or fees shall be charged.
V. In the same manner as set forth in RSA 91-A:4, IV, any public body or agency which maintains governmental records in electronic format may, in lieu of providing original records, copy governmental records requested to electronic media using standard or common file formats in a manner that does not reveal information which is confidential under this chapter or any other law. If copying to electronic media is not reasonably practicable, or if the person or entity requesting access requests a different method, the public body or agency may provide a printout of governmental records requested, or may use any other means reasonably calculated to comply with the request in light of the purpose of this chapter as expressed in RSA 91-A:1. Access to work papers, personnel data, and other confidential information under RSA 91-A:5, IV shall not be provided.
VI. Every agreement to settle a lawsuit against a governmental unit, threatened lawsuit, or other claim, entered into by any political subdivision or its insurer, shall be kept on file at the municipal clerk's office and made available for public inspection for a period of no less than 10 years from the date of settlement.
VII. Nothing in this chapter shall be construed to require a public body or agency to compile, cross-reference, or assemble information into a form in which it is not already kept or reported by that body or agency.

Source. 1967, 251:1. 1983, 279:2. 1986, 83:5. 1997, 90:2, eff. Aug. 2, 1997. 2001, 223:2, eff. Jan. 1, 2002. 2004, 246:2, eff. Aug. 14, 2004. 2008, 303:4, eff. July 1, 2008. 2009, 299:1, eff. Sept. 29, 2009.

TITLE VI
PUBLIC OFFICERS AND EMPLOYEES

CHAPTER 91-A
ACCESS TO GOVERNMENTAL RECORDS AND MEETINGS

Section 91-A:2

91-A:2 Meetings Open to Public. –
I. For the purpose of this chapter, a "meeting" means the convening of a quorum of the membership of a public body, as defined in RSA 91-A:1-a, VI, or the majority of the members of such public body if the rules of that body define "quorum" as more than a majority of its members, whether in person, by means of telephone or electronic communication, or in any other manner such that all participating members are able to communicate with each other contemporaneously, subject to the provisions set forth in RSA 91-A:2, III, for the purpose of discussing or acting upon a matter or matters over which the public body has supervision, control, jurisdiction, or advisory power. A chance, social, or other encounter not convened for the purpose of discussing or acting upon such matters shall not constitute a meeting if no decisions are made regarding such matters. "Meeting" shall also not include:
(a) Strategy or negotiations with respect to collective bargaining;
(b) Consultation with legal counsel;
(c) A caucus consisting of elected members of a public body of the same political party who were elected on a partisan basis at a state general election or elected on a partisan basis by a town or city which has adopted a partisan ballot system pursuant to RSA 669:12 or RSA 44:2; or
(d) Circulation of draft documents which, when finalized, are intended only to formalize decisions previously made in a meeting; provided, that nothing in this subparagraph shall be construed to alter or affect the application of any other section of RSA 91-A to such documents or related communications.
II. Subject to the provisions of RSA 91-A:3, all meetings, whether held in person, by means of telephone or electronic communication, or in any other manner, shall be open to the public. Except for town meetings, school district meetings, and elections, no vote while in open session may be taken by secret ballot. Any person shall be permitted to use recording devices, including, but not limited to, tape recorders, cameras, and videotape equipment, at such meetings. Minutes of all such meetings, including names of members, persons appearing before the public bodies, and a brief description of the subject matter discussed and final decisions, shall be promptly recorded and open to public inspection not more than 5 business days after the meeting, except as provided in RSA 91-A:6, and shall be treated as permanent records of any public body, or any subordinate body thereof, without exception. Except in an emergency or when there is a meeting of a legislative committee, a notice of the time and place of each such meeting, including a nonpublic session, shall be posted in 2 appropriate places one of which may be the public body's Internet website, if such exists, or shall be printed in a newspaper of general circulation in the city or town at least 24 hours, excluding Sundays and legal holidays, prior to such meetings. An emergency shall mean a situation where immediate undelayed action is deemed to be imperative by the chairman or presiding officer of the public body, who shall post a notice of the time and place of such meeting as soon as practicable, and shall employ whatever further means are reasonably available to inform the public that a meeting is to be held. The minutes of the meeting shall clearly spell out the need for the emergency meeting. When a meeting of a legislative committee is held, publication made pursuant to the rules of the house of representatives or the senate, whichever rules are appropriate, shall be sufficient notice. If the charter of any city or town or guidelines or rules of order of any public body require a broader public access to official

meetings and records than herein described, such charter provisions or guidelines or rules of order shall take precedence over the requirements of this chapter. For the purposes of this paragraph, a business day means the hours of 8 a.m. to 5 p.m. on Monday through Friday, excluding national and state holidays.

III. A public body may, but is not required to, allow one or more members of the body to participate in a meeting by electronic or other means of communication for the benefit of the public and the governing body, subject to the provisions of this paragraph.

(a) A member of the public body may participate in a meeting other than by attendance in person at the location of the meeting only when such attendance is not reasonably practical. Any reason that such attendance is not reasonably practical shall be stated in the minutes of the meeting.

(b) Except in an emergency, a quorum of the public body shall be physically present at the location specified in the meeting notice as the location of the meeting. For purposes of this subparagraph, an "emergency" means that immediate action is imperative and the physical presence of a quorum is not reasonably practical within the period of time requiring action. The determination that an emergency exists shall be made by the chairman or presiding officer of the public body, and the facts upon which that determination is based shall be included in the minutes of the meeting.

(c) Each part of a meeting required to be open to the public shall be audible or otherwise discernable to the public at the location specified in the meeting notice as the location of the meeting. Each member participating electronically or otherwise must be able to simultaneously hear each other and speak to each other during the meeting, and shall be audible or otherwise discernable to the public in attendance at the meeting's location. Any member participating in such fashion shall identify the persons present in the location from which the member is participating. No meeting shall be conducted by electronic mail or any other form of communication that does not permit the public to hear, read, or otherwise discern meeting discussion contemporaneously at the meeting location specified in the meeting notice.

(d) Any meeting held pursuant to the terms of this paragraph shall comply with all of the requirements of this chapter relating to public meetings, and shall not circumvent the spirit and purpose of this chapter as expressed in RSA 91-A:1.

(e) A member participating in a meeting by the means described in this paragraph is deemed to be present at the meeting for purposes of voting. All votes taken during such a meeting shall be by roll call vote.

Source. 1967, 251:1. 1969, 482:1. 1971, 327:2. 1975, 383:1. 1977, 540:3. 1983, 279:1. 1986, 83:3. 1991, 217:2, eff. Jan. 1, 1992. 2003, 287:7, eff. July 18, 2003. 2007, 59:2, eff. July 31, 2007. 2008, 278:2, eff. July 1, 2008 at 12:01 a.m.; 303:4, eff. July 1, 2008.

TITLE LXIV
PLANNING AND ZONING

CHAPTER 676
ADMINISTRATIVE AND ENFORCEMENT PROCEDURES

General Provisions

Section 676:2

676:2 Joint Meetings and Hearings. –
I. An applicant seeking a local permit may petition 2 or more land use boards to hold a joint meeting or hearing when the subject matter of the requested permit is within the responsibilities of those land use boards. Each board shall adopt rules of procedure relative to joint meetings and hearings, and each board shall have the authority on its own initiative to request a joint meeting. Each land use board shall have the discretion as to whether or not to hold a joint meeting with any other land use board. The planning board chair shall chair joint meetings unless the planning board is not involved with the subject matter of the requested permit. In that situation, the appropriate agencies which are involved shall determine which board shall be in charge.
II. Procedures for joint meetings or hearings relating to testimony, notice of hearings, and filing of decisions shall be consistent with the procedures established by this chapter for individual boards.
III. Every local land use board shall be responsible for rendering a decision on the subject matter which is within its jurisdiction.

Source. 1983, 447:1, eff. Jan. 1, 1984.

TITLE LXIV
PLANNING AND ZONING

CHAPTER 675
ENACTMENT AND ADOPTION PROCEDURES

Zoning Ordinance, Historic District Ordinance and Building Code Enactment Procedures

Section 675:7

675:7 Notice Requirements for Public Hearing. –
I. Notice shall be given for the time and place of each public hearing held under RSA 675:2-4 and RSA 675:6 at least 10 calendar days before the hearing. The notice required under this section shall not include the day notice is posted or the day of the public hearing. Notice of

each public hearing shall be published in a paper of general circulation in the municipality and shall be posted in at least 2 public places.
II. The full text of the proposed master plan, zoning ordinance, building code, subdivision regulation, site plan review regulation and historic district regulation, ordinance, or amendment need not be included in the notice if an adequate statement describing the proposal and designating the place where the proposal is on file for public inspection is stated in the notice.

Source. 1983, 447:1. 1985, 103:24, eff. Jan. 1, 1986.