

TOWN OF GORHAM

PLANNING BOARD RULES

NOVEMBER 1989
Amended August 3, 1992
Amended May 5, 1997
Amended November 6, 2023

SECTION I - ESTABLISHMENT

The membership of the Board shall consist of seven (7) members, no one of whom shall be a salaried official of the town.

Pursuant to Article IV of the Planning Board Ordinance of the Town of Gorham there is hereby created Rules of the Gorham Planning Board for which purpose they shall serve to enable the Planning Board to work clearly, effectively and impartially in carrying out the intent of said Ordinance.

SECTION II - TERM OF OFFICE AND VACANCIES

The terms of the members and subsequent appointees shall be for three (3) years. All members may serve until their successors are duly appointed and qualified.

Members appointed shall be residents of the Town.

A vacancy may occur by reason of resignation, death, giving up residency or failure to attend at least 75% of all meetings during the previous twelve months. The Chair of the Board shall immediately notify the Town Council in writing of any vacancy when it occurs.

SECTION III – OFFICERS

At the Board's first regular meeting in April of each year, or at any other regular meeting when necessary to fill a vacant office, officers shall be nominated by a Board member, and a vote by show of hands shall be conducted for their election. Election shall be by a majority vote of all members of the Board present and authorized to vote.

Officers of the Board shall consist of Chair, Vice Chair, Secretary, non-member Clerk and such other officers as it may determine by vote. These officers shall have the following duties:

a. Chair

1. The Chair shall preside at all regular and special meetings of the Board and conduct the meetings consistent with Roberts Rules of Order except when Roberts Rules of Order are in conflict with these rules.
2. The Chair shall appoint members to committees of the Board.
3. The Chair shall be an ex officio member of all committees.
4. The Chair, in collaboration with the Town Planner, shall prepare meeting agendas and issue same in due time before scheduled meetings.

5. The Chair shall appoint members as liaison, as needed.
 6. The Chair, in collaboration with the Town Planner, shall determine the order of items on the agenda for any meetings of the Board. Packets containing the information for all agenda items except the Town Planner review memo shall be mailed to the members of the Planning Board two Friday's from the Monday meeting. The review memo shall be uploaded to the Planning Board shared folder with all other documents.
- b. Vice-Chair
1. The Vice-Chair shall assume the duties of the Chair when the Chair is absent or abstains.
 2. The Chair may delegate duties to the Vice-Chair when work load or circumstances so dictate that it is in the best interest of the Board.
- c. Secretary
1. The Secretary shall assume the duties of the Chair when both the Chair and Vice-Chair are absent or abstain.
 2. The Secretary shall review the minutes as prepared by the Clerk.

The Board may select a member of the Board to preside at any meeting of the Board when all three Officers are absent or abstain.

SECTION IV – COMMITTEES

The Board may establish any standing or special committees which the Board deems necessary in the conduct of its business. The Chair shall poll the membership to determine who may be interested in serving on the committee. All committees shall have a Chair so designated by the Chair of the Board. The committee Chair shall report the actions and status of the committee as directed by the Board Chair.

SECTION V - MEETINGS

A. REGULAR

The Board shall meet regularly on the first Monday of each month at the Town Office, unless otherwise specified. When a regular meeting time falls on a holiday, the regular meeting will be held the following Monday at the same time and place. If warranted by the number of pending or newly submitted applications or by other business of the Board, a second regular meeting for the month may be called for the third Monday of the month. The date of any regular meeting may be changed by the Chair, in consultation with the Town Planner, so long as the ordinance requirements are met. The Chair shall call special meetings whenever necessary. Town staff shall notify the public and Board members as outlined in the Land Use Ordinance or at least three (3) days before the meeting for workshop items.

The meetings shall be held in the Council Chambers or such other time and place as the Board or Municipal Officers may designate.

B. SPECIAL

Special meetings shall be called at the discretion of the Chair or when called by a majority vote of the members.

The call for said special meeting shall set forth the matters to be acted upon at said meeting, and nothing else shall be considered at such special meeting. In accordance with State Law, the press shall be notified of any special meetings in the same manner as Board members.

C. WORKSHOP

Informal workshop meetings shall be held regularly immediately prior to regular meetings and may be called as special meetings from time to time. Such meetings shall be held at the same location at which the Planning Board meeting is held. The purpose of this type of meeting is to discuss business which may appear on the agenda of an immediate or future regular meeting of the Board or to discuss matters of Board administration or procedure. All workshop meetings shall be open to the public in accordance with State Law. Public comment is allowed at the discretion of the Chair, and then only if time permits.

D. SITE WALK

Site walk meetings may be called by the Chair or a majority of the Board for the purpose of allowing the Board and interested public to inspect the site of a pending proposal. Site walks are encouraged for all applications before the Board. The Clerk of the Board is responsible for minutes of site walks. To ensure full and fair disclosure of Board actions to all members of the public, no formal motions shall be made nor votes taken at a site walk. Public comment is allowed at the discretion of the Chair, and then only if time permits.

Public notice shall be posted on the town's website and in the town office for all site walks.

The Planning Board may determine a set day of the month, with alternate date for inclement weather, to be reserved for site walks.

E. PUBLIC HEARING

Public hearings shall be held prior to amending or adopting the Comprehensive Plan or the Land Use and Development Code as required by ordinance and State law. Notice of hearings shall comply with the requirements of the Code and State law.

F. NOTICE

Notice of meetings shall be in writing and contain the items of business (agenda). The Town Planner, in collaboration with the Chair, shall prepare the agenda and send notice. No item may be added to the agenda at a Planning Board meeting.

G. QUORUM AND VOTING REQUIREMENTS

A quorum shall consist of at least four (4) members of the Board for the transaction of business. All members other than the Chair, are permitted to make and second motions; and all members present, unless abstaining, participate in the discussion and deliberation. No

meeting of the Board shall be held, or once begun, shall be continued, without a quorum as established in this section.

No member shall be authorized to vote on a matter if he or she did not attend a public hearing or hearings held on the matter or did not review the materials and a recording of the meeting that the member did not attend.

The Chair shall call on each member, individually and by name, after a motion has been made and seconded, for further discussion and contribution.

A smaller number of members may be appointed by at least four (4) members of the Board to a particular ad-hoc committee from time to time.

SECTION VI – DUTIES

The duties of the Board shall be as established by ordinance and State law.

SECTION VII – DECISIONS

All Board decisions relative to specific applications shall be accompanied by findings of facts and conclusions of law.

- a. Findings of fact are statements by the Board summarizing all the basic facts involved in a particular application.
- b. Conclusions of law are statements linking the specific facts covered in the findings of fact to the specific list of criteria in the ordinance which the applicant must meet in order to receive the Board's approval.
- c. Any member of the Board voting on the prevailing side of a decision may move to reconsider the Board's decision. Such motion may only be made prior to adjournment of the meeting in which the decision to be reconsidered was made or at the next following regular or special meeting. A motion to reconsider, and any reconsideration should such motion carry, does not act to reopen any public hearing held on the matter, unless otherwise determined by the Board.

SECTION VIII - CONDUCT OF MEETINGS

A. GENERAL

1. The Chair shall take the Chair at the time appointed for the meeting, call the members to order, cause the roll to be called and identify those members absent. A quorum being present, the Chair shall cause the Minutes of the preceding meeting to be discussed and accepted by the Board, with or without amendments, and proceed to committee and other reports, public hearings, old business, announcements, and adjournment. Copies of the Minutes will be available prior to the meeting

The order of agenda items may be changed by the Chair as the need arises.

2. The latest edition of Robert's Rules of Order shall be used as the procedural authority for the conduct of meetings, except as otherwise provided by State Law, Town Ordinance, or

these rules. In cases of procedural uncertainty, all such questions shall be resolved by the Chair in a manner that most affords all members of the public a fair opportunity to be heard. All decisions of the Chair are subject to a majority vote of the Board.

3. The Chair shall declare all votes, but if any member doubts a vote, the Chair shall cause a recount of the members voting in the affirmative and in the negative without debate. A record of all votes will be kept by the Clerk of the Board.

4. When a question is under debate, the Chair shall receive motions that shall have preference in the following order:

- a. Adjourn
- b. for the previous question
- c. to lay on the table
- d. to postpone to a day certain
- e. to refer to a committee or some administrative official
- f. to amend
- g. to postpone definitely

The Chair shall recognize each member by name during discussion, the making of a motion, and the seconding of a motion.

5. The Chair shall consider a motion to adjourn as always in order except on immediate repetition; and that motion, and the motion to lay on the table, or to take from the table, shall be decided without debate.

6. Voting shall be conducted only on items included on the agenda of the meeting, except as allowed for reconsideration of all previous votes. A motion shall be passed only by the affirmative vote of a majority of Board members present and voting, except as otherwise provided in these rules, the Town's Planning Board ordinance, or Maine statutes.

7. After a vote is taken, it shall be in order for any member who voted in the majority, or in the negative on a tie vote, to move a reconsideration thereof at the same, or the next regular meeting, but not afterwards; and when a motion of reconsideration is decided, that vote shall be final and the matter may not be considered further. (In instances where a super majority vote is needed to pass a motion, a vote to reconsider must come from a member who voted on the prevailing side of the issue.)

8. When the previous question is moved and seconded, there shall be no further amendment or debate; but pending amendments shall be put in their order before the main question. If a motion for the previous question fails, the main question and any pending amendments remain open for debate. To maintain the clarity of a question, each main question shall be limited to two amendments.

9. No debate shall be allowed on a motion for the previous question. No motion for the previous question shall be amended. All questions of order arising incidentally thereon must be decided by the Chair without discussion.

10. Conflict of Interest - Board members shall avoid the appearance of any conflict of interest by appropriate disclosures or by abstention. Full public disclosure of the nature of any potential conflict of interest shall be made before discussion of each agenda item. Conflict of interest shall be found if the member is:

- a) the applicant;
- b) has a direct or indirect actual pecuniary interest on any matter or question before the Board; or
- c) Is by reason of interest placed in a situation of temptation to serve his or her own direct or indirect personal pecuniary interest, which shall include pecuniary benefit to any member of the Board member's family, including a spouse, parent, grandparent, brother, sister, child, aunt, uncle, cousin, niece, nephew, mother-in-law, father-in-law, brother-in-law, or sister-in-law; or
- d) Is an officer, director, partner, associate, employee or stockholder of a private corporation, business or other economic entity which is making the application to the Board or which will be affected by the Board's decision AND is directly or indirectly the owner of at least 10% of the stock of the private corporation or owns at least 10% interest in the business or other economic entity.

The affected Board member should indicate in public to the Board whether they believe that they can hear and vote on the matter impartially. To a limited extent, members of the public shall also be allowed to comment on this matter at this time. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon shall be decided by a majority vote of the members present, except the member who is being challenged. In this determination, the Board shall consider whether the alleged conflict is such that it:

- a. may reasonably interfere with the affected member's ability to hear and act on the item impartially; and
- b. whether it would give the appearance to the public of an inappropriate conflict of interest so as to undermine public confidence in the fairness of the meeting.

11. BIAS

A Board member shall abstain from the discussion and vote on any matter or question if they are biased in any way for or against the applicant or project so that they cannot make an impartial decision. In the event of a dispute, the final determination on whether a member shall be disqualified from participating or voting on a particular matter or question on the grounds of bias shall be decided by a majority vote of the members present and authorized to vote.

12. ETHICS

Members shall not solicit information or comments regarding a matter known to be coming before the Board from an applicant or other proponents or opponents outside of the public hearing and public meeting process. Board members shall not contact members of the public or other Board members about upcoming agenda items or discuss agenda items with the public or other Board members outside the public hearing and public meeting process. Members wishing to exercise their rights as a resident of the city to take an advocacy position on a matter coming before the Board must abstain from all hearings, discussions and

deliberations of the Board in their official capacity as a Board member. Members contacted by citizens prior to a public hearing shall not discuss the matter and should advise the citizen that any discussion of the matter prior to the public hearing would be inappropriate. The citizen may be advised that if they have an opinion or issue, they may make it known at the public hearing. Nothing in this section shall be construed as prohibiting Board members from asking questions of town staff about agenda items prior to meetings or public hearings.

13. WAIVER OF RULES

If the circumstances warrant and it would not be contrary to the Code of Ordinances or State law, any portion of these rules may be waived by a two-thirds vote of members present and authorized to vote.

14. AGENDA ITEMS No agenda item will be taken up at a meeting after 10:00 p.m. The lateness rule may be waived for just cause by consent of the majority of Board members present and voting.

B. MOTIONS

1. Every motion shall be reduced to writing by the Clerk of the Board.
2. Any member may require the division of a question when it makes sense to do so.
3. All questions relating to the order of agenda items shall be decided without debate.

C. DECORUM AND ORDER

The Chair shall preserve decorum and decide all questions of order and procedure, subject to appeal to the Board. When a member is about to speak, they shall respectfully address the Chair, confine themselves to the question under debate and avoid personalities. No member speaking shall be interrupted by another, but by a call to order or to correct a mistake.

D. PUBLIC HEARINGS

Public comment is encouraged at all public hearings. Rules governing the conduct of public hearings are as follows:

Persons wishing to address the Board on an item which appears on the agenda shall wait until the Board considers such item. The Chair may recognize a member of the public to speak to a particular question of the item under consideration. When a person is recognized by the Chair, they shall address the Board, shall state their name and address in audible tone for the record, and shall limit their remarks to the particular question under discussion. All remarks and questions shall be addressed to the Board as a whole and not to any individual member thereof. No member of the public shall interrupt the person having the floor.

As a means to moderate this participation, the Board will conduct the meeting as follows:

- a. The Chair will announce the nature and purpose of hearings and summarize hearing rules.
- b. The town staff will summarize the development proposal. Board members may ask questions of the staff.
- c. The applicant or the applicant's representative will make a presentation. Board members may ask questions of the applicant or his representative.
- d. Those persons in favor of the proposal will be called to speak. Board members may ask questions of the speakers.
- e. Those persons against the proposal will be called to speak. Board members may ask questions of the speakers.
- f. Those persons who are neither for nor against the proposal will be called to speak. Board members may ask questions of the speakers. The applicant will be allowed to address any questions which have arisen from public comment or board discussion. Board members may ask further questions of the applicant or his representative.
- g. The public hearing will be closed and no further testimony or comments will be allowed from the audience unless specifically called for by the Chair.
- h. The Board shall deliberate, state whether they will vote in favor or against and why, and then vote.
- i. The Chair may limit time allotted for testimony in the following way:
5 minutes.....for Individuals
20 minutes.....for Applicants
10 minutes.....for Applicant's rebuttal
- j. All comments should be directed to the Board.
- k. The Chair will announce when the hearing is closed, and thereafter, no further statements may be made unless specifically called for by the Chair.

E. RECORDS OF PROCEEDINGS

The votes for and against the passage of a motion shall be taken and entered upon the record of the proceedings of the Board by the Clerk of the Board. Minutes of all regular and special meetings of the Board, except workshop meetings and site walks, shall be kept by the Clerk of the Board and shall take effect upon acceptance by the Board. An amendment by the Board of the minutes of a previous meeting shall not effect a previous vote of the Board.

SECTION IX - AGENDA PROCEDURE¹

- A. Procedures as described by ordinance shall be followed in establishing the agenda for Planning Board meetings. The following are methods for creating the agenda.
 1. Public Hearings are placed at the beginning of the Agenda. Items tabled at previous meetings will generally receive scheduling priority over new applications, in order of how long each has been pending, and new applications will be placed on the Agenda on a first-come, first-served basis.
 2. No new or revised documentary information or plans shall be presented at the meeting.

¹ As amended November 6, 2023

3. Consent Agenda. Certain administrative or noncontroversial items of business considered routine may be placed on the Consent Agenda if it is anticipated that there is no need for Board discussion and there will be no public comment on the item. Staff recommended conditions of approval that might be attached by the Board should be available in advance. Any item on the Consent Agenda can be taken off the Consent Agenda and discussed as a regular item at the request of any member of the Board or any member of the public. Individual items on the Consent Agenda should be removed from the Consent Agenda by formal vote. The items on the Consent Agenda should be approved by a single motion and vote. Items which have been removed from the Consent Agenda should be discussed immediately following the approval of the Consent Agenda, in the order in which they appeared on the Consent Agenda.
 - a. Minor amendment to previously Board-approved application.
 - b. Routine preapproval of previously Board-approved application.
 - c. Town comments upon application under review by the Maine Department of Environmental Protection or other State agency.
 - d. Routine business relating to Planning Board administration.
 - e. Site plan review of new non-residential use in a single or multi-unit, non-residential building, if such building has previously been granted site plan review approval by the Board.
 - f. Street Acceptance Reports.
 - g. Final approval of items considered by the Board at the previous meeting if the Board, by affirmative vote at that meeting, rules that the items should be placed on the Consent Agenda for final review of conditions or revised plans.

4. Old business pending from previous meetings will receive scheduling priority over new business, generally in order of the length of time each application has been pending. New final subdivision plan applications shall be considered new business. Certain business will always be afforded agenda priority over all other business, as follows:
 - a. Advertised public hearings.
 - b. Business tabled at the previous meeting because of lateness.
 - c. Requests for reconsideration of action taken at previous meeting.

5. New complete applications will be placed on the agenda on a first-come, first-serve basis. If more items qualify for scheduling that can be considered by the Board at a single meeting because of the number or complexity of previously scheduled items, then excess items will be carried over to be scheduled on the second (2nd) meeting of the month. Space on an agenda may not be reserved by a call, letter or partial submission. Applications will qualify for agenda slots only when the Town has received a complete application. Applications or projects of special significance to the Town of Gorham may receive scheduling priority on the Planning Board agenda at the discretion of the Town Council.

6. The final recording plan for any subdivision, site plan or private way plan may be signed by the Planning Board at the close of the meeting only if the plan and the required number of copies have been filed with the Planning Division in an appropriate time to review the plan prior to the meeting.

SECTION X - MISCELLANEOUS

- A. Absence or disability of Board Chair - In the temporary absence or disability of the Board Chair, the Vice Chair of the Board shall be and is hereby designated as Board Chair Pro Tempore.
- B. In the event the Clerk of the Board is absent, or the position is vacant, the Town Planner or their designee, shall serve as Acting Clerk of the Board.
- C. The rules of the Board shall not be dispensed with or suspended unless at least four members of the Board consent thereto, except as otherwise specified herein.
- D. No rule of the Board shall be amended or repealed without the Board giving notice of such action, through the minutes, at the preceding meeting. Such amendment or repeal shall require the consent of at least four members of the Board.
- E. A Board member shall be counted absent from a meeting only for those items of business for which they are not present.
- F. Public availability of application materials - All written materials submitted to the Town for Planning Board review are public documents and, as such, are available for public inspection in the Planning Division during normal business hours. At least one copy of each plan or document shall always be available for public inspection. Arrangements can be made to provide for photocopying of documents twenty-five pages or less at the Town's normal photocopying charge. Photocopies of longer documents or larger plans will have to be made by special arrangements with the Town's staff. The Town will do everything reasonably possible to accommodate such requests subject only to maintaining at all times at least one copy of each submission document in the planning file.
- G. New member mentoring/training - The Town Planner shall provide a packet of orientation materials for new Board Members and shall be available as necessary to assist new members in understanding the procedural and substantive duties of the Board.

AMENDMENT TO RULES

Amendments to the rules shall be proposed at least thirty (30) days prior to taking any action. A majority vote of all members of the Board is needed to pass an amendment and any changes approved by the Planning Board shall be adopted immediately.

EFFECTIVE DATE

These rules, and any amendments thereto shall become effective immediately upon adoption by the Board.