

**Town of Epping  
Planning Board  
Regulations and Rules of Procedure**

**Adopted: January 6, 2005**

Amended to December, 2006

Cite as:  
Epping PB Rules, Section 1(A)(1).



## **PLANNING BOARD MEMBERSHIP AND GENERAL PROCESS**

### **Section 1: AUTHORITY**

These regulations and rules of procedure shall govern the method of conducting business, in accordance with RSA 676:1, and actions of the planning board in accordance with the procedural requirements of RSA 676:4 for all plats or applications submitted under Title LXIV Planning and Zoning of New Hampshire State Law including but not limited to: subdivision applications (RSA 674:35-36), site plan review applications (RSA 674:43-44), special or conditional use permits (RSA 674:16 & 674:21), and waivers for impact fees (RSA 674:21). These regulations are adopted for integration into and considered a legal part of the Epping Planning Board Subdivision and Site Plan Review Regulations and meant to provide one location for all procedural requirements before the Board. The intent is to provide consistency for the Board's operation and clarity for applicants.

- A. Amendment. These regulations and rules may be amended at any time, in accordance with State law.
- B. Adoption. These regulations and rules were on January 6, 2005 and replace any and all existing regulations and/or rules of procedure.

### **Section 2: PLANNING BOARD MEMBERS**

- A. Membership. There shall be five members of the planning board per RSA 673:2. The members shall be elected, and one shall be a member of the Board of Selectman serving as an ex officio member of the planning board. The term of elected members shall be three years. The term of the ex officio member shall be determined by the Board of Selectmen per RSA 673:5.
- B. Officers. The planning board shall elect a chair and vice-chair at the first meeting following the annual town election of new members. Officers shall serve for one year, and are eligible for re-election without limit. An ex officio member or alternate shall not serve as an officer.
- C. Duties. The chair shall: preside over all meetings and hearings; call emergency meetings as needed; appoint committees as deemed necessary; affix her/his signature in the name of the planning board as required; and shall designate an alternate member to act in place of a regular member in the event of an absence or disqualification. The vice-chair shall preside in the absence of the chair, and shall have full powers of the chair in such cases.
- D. Voting. The chair shall have full voting rights as a member of the board.
- E. Alternates. The planning board may appoint up to three alternate members. The term of an alternate member shall be three years. In addition, the Board of

Selectmen may appoint an alternate for the ex officio position per RSA 673:6, and no other alternate shall serve on behalf of the ex officio member. It is necessary and proper for alternate members to conduct business, review plans and make comments at the same table as regular members, and only voting privileges shall be restricted when the chair does not designate the alternate member.

- F. Standards of conduct. The primary obligation of 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.
1. Where a thoughtful assessment of the situation would reveal conflicting interests, or even apparently conflicting interests, it shall be the duty of the member to disclose the existence of the conflict and disqualify himself/herself from acting on such business. In the event that the member is uncertain about a possible conflict of interest, they may request the non-binding advice of the whole board. RSA 673:14 offers further guidance on this matter. An official with a conflict of interest must inform the board and public of the conflict, abstain from voting on the matter, and leave the table when the board deliberates and votes on the matter.
  2. Members shall not solicit, accept or receive any gift (in any form) under circumstances in which it could be reasonably inferred that the gift was intended to influence or reward the member.
  3. Members shall also conduct themselves in accordance with the requirements of the Town of Epping Ordinances, as applicable.
  4. The chair shall appoint an alternate member, if present, to act on behalf of a member for that business which causes the disqualification.

**Section 3: PLANNING BOARD MEETINGS**

- A. Meetings. The planning board shall meet at least once each month, per RSA 673:10. Generally, the planning board will meet on the third Thursday of each month at 7:00 pm in the town offices, but this is subject to change to serve the needs of the board. Additional meetings may be scheduled by the board at their convenience.
- B. Emergency meetings. In the event of an emergency, the chair may call an emergency meeting per the requirements of RSA 91-A.
- C. Meeting notice. All meetings (other than emergency meetings) shall be preceded by public notice posted in at least two public places at least 24 hours prior to the meeting, excluding Sundays and holidays, per RSA 91-A. Additional requirements may be imposed by statute, regulation, or as otherwise determined by the board.

- D. Meeting cancellation. In the event there are conditions of weather, traffic hazard, public emergency, or other such occurrence, the meeting or scheduled site visit may be canceled by the chair. Notice of the cancellation shall be posted in the town offices and the post office. Staff in the offices of planning, administration, town clerk and dispatch shall be notified. The chair, or staff if so directed by the chair, shall notify all planning board members, staff, applicants, and others scheduled to attend of the cancellation to the extent reasonably possible.

**Section 4: MEETING PROCEDURES**

- A. Quorum. There shall be a quorum for any meeting of the planning board. A quorum shall consist of three members or designated alternate members of the planning board. A member disqualified from acting on a particular agenda item shall not be counted in the quorum.
- B. Voting. Where the Board is acting to amend or adopt regulations (i.e., amending the master plan, adopting site plan regulations, etc.) the vote shall be in accordance RSA 675:6 where a majority of the membership of the Board is needed to pass a motion, not just a majority of those present (a quorum).
- C. If the board is acting on an application, in accordance with RSA 676:4 (subdivision, site plan, etc.) a simple majority of the members present to vote on an issue is required to pass a motion. Tie votes shall be considered a failure to pass.
- D. It is the policy position of the Planning Board in support of these regulations that passing upon regulations is a much more important function and the whole board should be involved, or at least there should be unanimous approval by the board where only 3 members are present.
- E. Order of business. The order of business shall be determined by the chair, and may be changed at the discretion of the chair, but shall generally proceed as follows:
  - 1. Public input: time made available for the public to briefly discuss non-agenda items with the planning board.
  - 2. Appoint alternates to fill vacancies.
  - 3. Regularly scheduled business: includes application reviews, public hearings, and other such business of the planning board.
  - 4. Approval of minutes.

5. Business of other municipal boards and committees: an opportunity for the board to review the actions of other municipal entities.
  6. Other business: including unfinished business from previous meetings, new business raised by board members or staff, review of correspondence, and so forth.
  7. Adjourn.
- F. Minutes and records. Per RSA 91-A, all minutes and records of the planning board shall be made available to the public for review, except as provided in the section on non-public session. Revisions to minutes shall only occur at a public hearing and as approved by the Planning Board.
- G. Tape availability. Video tapes of the Planning Board's meetings shall be made available in accordance with the rules and regulations set by the Board of Selectmen. Audio tapes may be copied after the minutes of the meeting are completed – this is meant to preserve the integrity of the tapes themselves. Attendees and the public may record public meetings in accordance with state law (NH RSA 91-A).
- H. Minutes. Minutes shall be available in accordance with the requirements of New Hampshire State law. See RSA 676:3, 676:4 and 91-A. Minutes shall include: the names of members present; the names of alternative members present, and which board member they have been designated to replace, if applicable; the names of other people appearing before the board; a brief description of subjects discussed; and decisions reached by the board, with the language of each motion, the names of the people who made and seconded the motion, and the actual vote. Filings made with the board, documents, or other items referenced in the hearings of the board shall be considered a part of the record.
- I. Decisions on applications. Notices of decision on applications shall be provided for in accordance with New Hampshire State Law. See RSA 676:3.
- J. Non-public session. In general the planning board shall conduct all business in public session. However, there may be occasions where a non-public session is required, and the such non-public sessions shall comply with RSA 91-A. The motion to enter into non-public session shall cite the specific authorizing provision of RSA 91-A. A roll call vote shall be required prior to entering a non-public session. Minutes of the session shall be kept, and shall be made available to the public in accordance with New Hampshire State Law unless 2/3 of the planning board members vote to seal the records. However, the planning board shall release the records of the non-public session as soon as it is appropriate to do so, per RSA 91-A.

## **APPLICATION PROCESSING (RSA 676:4)**

**DEFINITIONS.** Definitions shall be those provided in the Epping Zoning Ordinance, and the additional definitions as follows:

**Abutter:** abutter shall be defined as in NH RSA 672:3, as amended.

**Applicant:** applicant shall mean the owner of record of the land which is proposed to be subdivided, including any subsequent owner of record who proposes such development, or the duly authorized, in writing, agent of any such owner.

**Approval:** action by a majority of the planning board signifying that the proposal meets all applicable regulations (including waivers) and that there are no unresolved concerns requiring further board consideration.

**Approval with Conditions Precedent:** action by a majority of the board that signifies that not all of the applicable regulations have been met but that require only minor revisions or non-discretionary issues such as receiving state permits, bonds to be posted with the town, or payment of fees. This action is not a final action of the board and plats shall not be signed. Such approvals may have reasonable time limits for compliance. However, in certain circumstances, such action may result in a “final action” for purposes of appealing the decision to the courts.

**Approval with Conditions Subsequent:** action by the board which includes conditions that appear on the plat or within the minutes or decision which place restrictions on the use of the property or safeguards that must be observed during development of the parcel or once the project is in use. Such issues might include the location of a road, preservation of vegetation and stone walls, etc. Such action is a final action and can result in the signing of plats as long as other issues are met.

**Board:** shall mean the Planning Board of the Town of Epping, New Hampshire as established under the provisions of RSA 673:2 (as amended).

**Completed Application:** this term refers to the application form with all information completed as requested on the form (with the exception of requested waivers from applicable regulations), all attachments, drawings, approvals, additional studies, and other paperwork as requested in the form, elsewhere in these regulations, or required by the planning board, and all fees and administrative expenses as indicated in these regulations. The information provided shall provide sufficient information to allow the Board to proceed with consideration and to make an informed decision. Once accepted an application shall become a public document and carries no restriction as to reproduction or availability.

**Plat or Plan:** refers to the complete set drawings, reports, and accompanying information that comprises a submittal in accordance with these regulations. Statements made by the applicant or applicant’s agent at public hearings shall also be considered an integral part of the plat or plan upon which a decision was made.

**Public Hearing:** is any meeting on an application that requires public notice in accordance with the minimum requirements of RSA 676:4 (as amended), or these regulations, as applicable.

**Public Meeting:** is any meeting of the planning board that has been properly noticed in accordance with these regulations and/or RSA 91-A (as amended), as applicable.

**Subdivision:** Shall be defined as found in NH RSA 672:14, as amended.

**Submission:** this term refers to the process of applying to the Board for review, formal submission is the formal presentation of an application to the Board at a public hearing, submission is a prerequisite for acceptance of a complete application.

## **Section 5: PRELIMINARY CONCEPTUAL CONSULTATION.**

This meeting shall be directed at a review of the basic concept of the proposal and suggestions, which might be of assistance in resolving problems with meeting requirements during final consideration. The Board and 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. The presentation to the Board of new surveys, engineering plans or similar materials shall require the Design Review process to be followed, so the Chairman must be careful to keep these discussions at a general level. Typically, maps from the Master Plan, tax maps, county soil survey maps and the like are acceptable levels of generality upon which to base these discussions. Such consultation shall not bind either the applicant or the Board, and statements made by Board members shall not be the basis for disqualifying said members or invalidating any action taken. Such discussion may occur without the necessity of giving formal public notice, but such discussions may occur only at formal meetings of the Board. Preliminary conceptual consultation meetings are strictly optional to the applicant.

## **Section 6: DESIGN REVIEW.**

The Board and applicant may engage in non-binding discussions beyond conceptual and general discussions, addressing more specific design, planning and engineering details, provided that the design review may proceed only after formal public notice is provided. Statements made by Board members shall not be the basis for disqualifying said members or invalidating any action taken. The applicant shall pay appropriate public notice fees as specified in these regulations, and shall provide all required materials and information required for public notice. Design Review meetings are strictly optional to the applicant, but such meetings can be helpful in identifying and resolving problems in an application prior to major design investments by the applicant.

## **Section 7: GENERAL APPLICATION REQUIREMENTS.**

Applications shall be made to the Board and shall follow the process specified in these Regulations and the ordinance, regulation and or law granting the Board authority to act on the matter. Approved plans shall be signed by the Board or its designee and may be recorded at the Rockingham County Registry of Deeds.

A. The applicant shall submit to the Board the following:

1. Correctly completed application form, signed by the owner.
2. Abutters list, with: correct abutters, dated within five days of submittal, and signed by preparer, with accompanying adhesive mailing labels.
3. Payment of required fees.
4. 3 complete sets application materials regardless of size and 5 complete sets of 11” by 17” plans of any full size plan set for reproduction and distribution.
5. Applications for major Site Plans and Subdivisions shall include an electronic version of plan sets and all application materials shall be provided. The application package shall include an electronic copy of the application form (available from the Planning Office or Town of Epping website) supplemental information and plans. Format of electronic submittal shall be in generally recognizable file structures suitable for web deployment such as common program formats for word processing files, spreadsheets, image files, and/or .pdf files. Final copies of the approved plan shall be submitted in a format that is keyed for integration into the Town of Epping GIS system and referenced to the NH State Plane Coordinates, NAD83.
6. Documentation that the following applications and correspondence has been submitted at the time of filing with the board:
  - a. Letters to the appropriate Town officials regarding local permits and reviews, for issues including but not limited to connection to the municipal water and/or sewer systems, connection to the municipal storm water drainage system, connection to and impacts upon the local roadway system, and emergency services review (fire and police).

**Section 8: FEES.**

In accordance with RSA 673:13, 676:4(I)(d), 676:4(I)(g), the applicant shall be required to pay reasonable fees, as set by the Board from time to time in accordance with the adoption procedures of RSA 675:6. These fees shall cover the Board’s expenses in processing, noticing, and reviewing each application. Additional fees shall be assessed 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. The following fees shall be required to compensate the Town. The Board shall adopt a separate fee schedule as part of the application forms and package to be

updated on a more frequent basis to represent the actual expenses incurred in processing applications.

1. Administrative fee. This fee shall be set to offset the reasonable proportional cost of running the planning office to the extent it is utilized for the processing of applications. Such costs include but are not limited to those expenses associated with the processing of applications including; copies for board members, staff time required for processing and support, communication expenses, phone requests and inquiries, mailings, internet distribution of materials, and materials and infrastructure for the storage and maintenance of records, documents, and filings; maintenance of the physical plant necessary for meetings, offices, and storage; etc.
2. Public Notice. This fee shall be set to offset the costs associated with discharging legal requirements for notification to the public through posting and certified mailings, including direct expenses and staff time necessary for preparation and distribution.
3. Recording. This fee shall be set to offset the costs associated with the recording of approved plans, notices of decision, and other documents. This fee shall include actual RCRD expenses and reasonable cost estimates for staff time and travel expense.
4. Other associated costs. This fee shall be set on a case-by-case basis in direct relation to the expenses necessary to review an application before the Board. This fee shall be charged for any application that requires technical assistance and/or special studies to adequately and properly evaluate an application or to perform subsequent inspections, the Board shall secure such professional assistance and maintain fees as escrow accounts as needed in accordance with RSA 673:16 & RSA 676:4. This may include outside planning reviews, engineering review, legal reviews, special studies, and other such assistance. The applicant shall escrow the estimated cost of such review with the Town for the cost of such assistance. The individual or company engaged shall work for, and report directly to, the planning board. No approval shall be deemed final until all fees are paid.

## **Section 9: SUBMITTAL OF APPLICATION MATERIALS.**

All materials to be submitted to the Board for consideration shall be submitted prior to the meeting so that Board members, the public, and staff may have sufficient opportunity to review the application without unnecessarily rushing the review and/or delaying the proceedings of the meeting. The following shall apply:

- A. Application Acceptance. In accordance with RSA 676:4(I)(b), all materials required to constitute a complete application shall be submitted to the Board at

least 15 days prior to the meeting at which it will be considered for application acceptance.

- B. Other Public Hearings. New materials shall be submitted to the Board at least 14 days prior to a meeting when a new public notice is required.
- C. Continued Meetings. When consideration of an application is continued and new information is required, the information shall be submitted within 7 days of the continued hearing. The Board may specify such other deadline as reasonable. In no case shall it be less than 48 hours prior to the meeting. The revised deadline shall be stated in the motion to continue. Materials presented for the first time at a meeting of the Board is strongly discouraged and may be rejected in their entirety for review until the next meeting.
- D. Failure to properly adhere to these deadlines may result in further continuation of the application, or application denial, to be determined on a case-by-case basis upon review of whether an abutter, party-in-interest, or the Town has been prejudiced by the lack of timeliness for submission of the information.

**Section 10: APPLICATION FOR OTHER PERMITS/APPROVALS.**

- A. The Board shall not grant final approval to an application until all other government permits and approvals are completed. The only exception to this requirement shall be when State or Federal permits require prior local approval. Conditional approval may be granted pending issuance of other governmental permits or approvals provided the final state and federal permits are reviewed for consistency with the board's action.
- B. Concurrent Application. Where the proposed development requires approval under both the Subdivision Regulations and the Site Plan Review Regulations, a concurrent application may be required by the Board. The applicant shall provide all materials required for complete applications for both regulations, except that the public notice fees shall not be paid twice.

**C. PROCEDURES FOR CONSERVATION SUBDIVISIONS**

Process Overview. The sequence of actions prescribed in this article is as listed below. These steps shall be followed sequentially and may be combined only at the discretion of the Planning Commission:

1. Pre-application discussion - technical review.
2. Environmental resource and yield plan submittal
3. Yield equation and yield plan review and recommendation.
4. Submission hearing, preliminary plan, and yield equation/plan approval.
5. Sitewalk.

6. Application Review.
7. Decision.

1. Pre-Application Discussion. A pre-application discussion is strongly encouraged between the applicant, the site designer(s), and members of the Planning Board. The purpose of this informal meeting is to introduce the applicant and the site designer(s) to the regulations and procedures and to discuss the applicant's objectives in relation to the town requirements. The town may designate a consultant experienced in development design and in the protection of natural features and greenway lands to meet with the applicant and to attend meetings as authorized under these regulations and RSA 676:4.
2. Environmental Resource and Yield Plan submittal. The purpose of a Yield Plan is to determine the number of units that an applicant could reasonably be expected to build on the parcel being proposed for Residential Open Space Development under current zoning and current state regulations, without the flexibility offered by the Residential Open Space Provisions of the zoning ordinance.

At the Pre-application discussion the applicant shall submit the yield equation and environmental resource yield plan for technical review. The submissions shall not be required to meet engineering specifications or surveying standards for purposes of the yield plan, however, the environmental characteristics of the site shall be determined and delineated in accordance with applicable professional standards. This application shall also be filed with the Town of Epping Conservation Commission for review and comment.

- a. Environmental Resource and Yield Plan. The application shall include a sketch plan showing the delineation of environmental resources on the site and the maximum number of dwelling units that would be reasonably achievable under the zoning ordinance and subdivision regulations for a conventional design, consistent with the minimum lot size, lot widths, set backs, and all other applicable provisions, purposes, and objectives of the zoning ordinance and subdivision regulations in place at the time of the submission and compare it to the number of dwelling units proposed. This plan is intended to utilize required design information for the open space application and overlay a sketched conventional subdivision. At a minimum, the following information shall be provided:
  - i. Property boundaries;
  - ii. Streams, rivers, lakes, wetlands, as defined in this ordinance and associated zoning buffers;

- iii. Topographic contours at 2-foot intervals;
- iv. General vegetation characteristics;
- v. General soil types showing with reasonable certainty, the ability to provide on-site septic facilities if not on public sewer service;
- vi. A sketch of lot lines and setbacks showing reasonable building envelopes;
- vii. A sketch of potential rights-of-ways for roads and utilities in compliance with the subdivision regulations;
- viii. Archaeological sites, cemeteries and burial grounds
- ix. Land on the parcel that has been set aside from development as part of a conservation easement, development agreement, or other similar legal restriction;
- x. Existing roads and structures;
- xii. Existing abutting conservation land and trails.
- xiii. Waivers that would be required for approval and statement of justification for the waiver under the relevant provision of the applicable subdivision regulation.
- xiv. Wetland impacts that would be required for conventional design.
- xv. A Yield Plan may not utilize:
  - Land for which the applicant does not possess the right to develop (such as otherwise restricted land).
  - Land within utility rights-of-ways.
- xvi. To the extent a Yield Plan would require permits from other agencies, such as a State Wetlands Permit, the applicant shall have the burden of establishing by clear and convincing evidence that the permit will likely be approved.
- xv. Lands that are restricted from use or development by a deed restriction or any other legally applicable limitation on development rights or use, such lands shall not be considered eligible for development.

- b. Delineation of Minimum Required Open Space. The calculation of the Minimum Required Open Space, as required by Section 15.23 of the Epping Zoning Ordinance sets the baseline for the open space calculations. This calculation is meant to be a numerical calculation that relates to an actual physical description of the area of the parcel to be protected as open space. The area of the parcel that is to be set aside must meet the minimum requirements of the developable land base calculations. As a practical matter, the open space will likely be larger given the inclusion of wetlands in the final parcel. The calculation insures that adequate uplands and

“developable” land is set aside to further the multiple purposes of the open space design ordinance.

3. Yield plan review and recommendation. The Planning Department shall use the environmental resource and yield plan submission to make a recommendation on the validity of the yield plan and a preliminary recommendation on the delineation of the restricted open space in accordance with these regulations and the Open Space Design Ordinance. The Planning Department shall forward a recommendation on for Planning Board review at the submission hearing.
4. Submission hearing, preliminary plan, yield plan approval. “Preliminary Plan” refers to a preliminarily engineered sketch plan drawn to illustrate initial thoughts about a conceptual layout for open space lands, house sites, and street alignments. This is the stage where drawings are *tentatively* illustrated, before heavy engineering costs are incurred in the design of any proposed subdivision layout. The approval of the yield plan shall be consider “acceptance” in accordance with RSA 676:4.
5. A submitted Yield Plan may be approved by the planning board only after a public hearing with notice per RSA 676:4(I)(d).
6. Sitewalk. The Planning Board may schedule a mutually convenient date to walk the property with the applicant and site designer. The purpose of this visit is to familiarize town officials with the property's special features, and to provide an informal opportunity to offer guidance (or at least a response) to the applicant regarding the tentative location of the conservation land and potential house locations and street alignments.
7. Application Review. Four-Step Process. Each sketch plan or Conceptual Preliminary Plan shall follow a four-step design process, as described below. When the conceptual Preliminary Plan is submitted, applicants shall be prepared to demonstrate to the Planning Board that these four design steps were followed by their site designers in determining the layout of their proposed streets, houselots, and greenway lands. This process shall be accomplished during the first 30 days of the statutory review period for applications before the board.
  - a. *Designating the Open Space.* During the first step, all potential conservation areas are identified and shall delineate all wetlands, floodplains, and slopes over 25%, and shall include identification of the most sensitive and noteworthy natural, scenic, and cultural resources on that remaining half of the property. The applicant shall locate the restricted open space using the location criteria

contained in the Open Space Development Ordinance and these regulations.

- b. *Location of House Sites.* During the second step, potential house sites are tentatively located. Because the proposed location of houses within each lot represents a significant decision with potential impacts on the ability of the development to meet the evaluation criteria contained above, subdivision applicants shall identify tentative house sites on the preliminary plan.
- c. *Street and Lot Layout.* The third step consists of aligning proposed streets to provide vehicular access to each house in the most reasonable and economical way. When lots and access streets are laid out, they shall be located in a way that avoids or at least minimizes adverse impacts on both the Conservation Areas. To the greatest extent practicable, wetland crossings and streets traversing existing slopes over 15% shall be strongly discouraged. Street connections shall generally be encouraged to minimize the number of new cul-de-sacs to be maintained by the town and to facilitate easy access to and from homes in different parts of the property. Where cul-de-sacs are necessary, those serving six or fewer homes may be designed with "hammer-heads" facilitating three-point turns. Cul-de-sacs serving more than six homes shall generally be designed with a central island containing indigenous trees and shrubs (either conserved on site or planted).

In situations where more formal, "neo-traditional," or village-type layouts are proposed, Steps Two and Three may be reversed, so that the location of house sites follows the location of streets and squares.

- d. *Lot Lines.* The fourth step is simply to draw in the lot lines (where applicable). These are generally drawn midway between house locations and may include L-shaped "flag-lots".
7. Decisions. For each preliminary step the decision shall be in the form of a vote. Decisions that are made on limited submission of information, as contemplated by this development approach, shall not be binding if further information is discovered during the process that results in modifications to the result. The conditional and final approval shall be issued in accordance with RSA 676:3 and 676:4.

**Section 11: PUBLIC NOTICE.**

Notice to the public and abutters shall be provided in strict conformity with RSA 676:4, including notice of continued hearings. Notice to the general public shall be given by posting in two public places, newspaper publishing shall not be required, unless required by the Board due to the potential impact of the application.

It shall be the responsibility of the applicant to supply the names and addresses of all the abutters upon filing the subdivision application with the Board. The abutter list shall not be submitted more than five days prior to filing the application. Per RSA 676:4(I)(d), as amended, notification shall also be given to the applicant and all professionals, including every engineer, architect, land surveyor, or soil scientist, whose seals are affixed to the plan, as well as any holder of a conservation or agricultural easement on the subject parcel. The board will not conduct a review of submitted names for determination of complete abutter notification. Furthermore, the Board takes no responsibility or liability for improperly noticed hearings resulting from applicant-generated abutter lists. Abutter lists shall be completed in compliance with the Town of Epping *Official Abutters Notification Form* and RSA 676:4, as amended.

**Section 12: REGIONAL IMPACT & NOTICE.**

All applications for any permit before the Planning Board shall be reviewed to determine if there is a regional impact. Regional Impact & Notice shall be administered in accordance with RSA 36:54-58.

**Section 13: COMPLETE APPLICATION.**

The applicant must deliver to the Board a complete application in order for the Board to have authority to approve the application, per RSA 676:4(I)(b). The date of delivery shall be 15 days in advance of the hearing.

- A. The Board shall determine whether an application is complete in accordance with RSA 676:4 (as amended).
  - 1. The delivery date in the above section shall be the last date upon which any portion information necessary to determine completeness was received by the board. It shall not be the date upon which most of the information was first filed or any date in between.
  - 2. The Board shall vote to accept the application only if it determines that the application is complete in accordance with the Specific Application Regulations under which the action is requested and any waivers for required submittals, voted upon favorably by the Board. Generally, the

Board shall require information that is sufficient to make an informed decision.

3. A determination of completeness does not eliminate or reduce the burden on the applicant to produce additional information that results in an application that permits the Board to make an informed decision. Where the applicant fails to provide such additional information, the Board shall deny the application. Additional studies and the provision of additional information shall be governed and directed under the specific regulations that apply to the application.
- B. Incomplete applications. If an application is found to be incomplete and no waivers for submission of information are granted by the Board, the Board may proceed in accordance with the following:
1. The Board may continue the acceptance process and proceed with Design Review discussions provided proper notice has been given.
  2. The Board may continue the acceptance process upon making a determination that a submitted application is incomplete according to the board's regulations, and 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.
  3. The Board, upon agreement with the applicant, may continue the review for determination of completeness in order to receive further information required by these regulations. This section is intended to provide limited flexibility and avoid undue burden and expense associated with reapplication required by rigid compliance with the requirements of RSA 676:4(I)(as amended). This section requires the Board to act upon the application within 30 days whether the application is complete or not. Strict compliance with these requirements would require the Board to deny an application if it is not complete, thus forcing the applicant to pay all fees and notice costs associated with a re-application. An agreed upon extension, provided for in RSA 676:4(I)(f)(as amended), avoids this situation.
  4. An application determined to be incomplete may be denied. 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 shall not require a

public hearing. A denial shall be provided in accordance with RSA 676:3 (as amended).

5. The Board shall begin formal consideration only upon determination that an application is complete. Acceptance of the completed application shall trigger jurisdiction over the plans and shall be made by a majority of the voting members present at a hearing noticed to abutters in accordance with RSA 676:4 (as amended).
- C. Compliance with general design requirements and principles shall be determined during the formal consideration. The formal consideration phase of the application process is an intense fact-driven process that is intended to assess known impacts and discover additional unforeseen impacts that may relate to the proposal. As part of formal consideration, the Planning Board may determine that additional impacts or other such triggering factors require the need for additional studies or information.
- D. A completed application shall be reviewed for compliance with the Town of Epping Zoning Ordinance. To the extent feasible, under the law and the specifics of the situation, all applications shall receive required variances and special exceptions prior to submission to the Planning Board. Reasonable exceptions to this requirement are possible. Applications violating an ordinance, therefore requiring a variance, must be accepted if they are complete in order for the Board to take jurisdiction on the matter. Denials or conditions of approval requiring further ZBA review may be implemented at the discretion of the board in such cases.
- E. Application materials. The following application types may be submitted to the board. Any other type of application that is submitted will be reviewed on a case-by-case basis to determine whether the application contains sufficient information for the board to make an informed decision.
1. Subdivision application information shall be submitted in accordance with the Subdivision Regulations.
  2. Site Plan Review application information shall be submitted in accordance with the Site Plan Review Regulations.
  3. Special or Conditional Use Permit applications shall be submitted with sufficient information regarding each and every criterion for the relevant decision.
    - a. Where the information submitted requires determination of economic considerations or specific environmental resources, such as wetlands, aquifers, shorelands, and other resources, a state

licensed professional in the relevant field shall be required to attest to the application materials, studies, and delineations.

- b. Where a state license is not issued for particular professions, the Board shall be authorized to consider the credentials of the professional submitting application materials.
  - c. The Board shall be authorized, in accordance with RSA 676:4 to have any application for a special or conditional use permit to be reviewed by a third-party with costs to be borne by the applicant.
4. Waiver of Impact Fee applications shall include information necessary to determine whether the application meets the requirements of the waiver provision of the Impact Fee for Public Capital Facilities Ordinance (Epping Zoning Ordinance, Article 21, as amended). In addition to an application form, the applicant shall submit materials specific to a claim for waiver, such as, but not limited to:
- recorded instrument for age-restrictions;
  - amount and type of in lieu payment or facilities; sufficient evidence of a valid previous assessment;
  - attorney's opinion regarding the legality of conditions or restrictions where no increase in demand shall occur – lease provisions restricting occupation of accessory or rental units by children are not valid for this provision as a matter of public policy, law, and enforceability unless the units comply with federal and state fair housing laws;
  - independent studies of sufficient detail to determine departure for the adopted methodological structure in a level of detail that is at least the same as that of the existing impact fee methodology study;
  - detailed, itemized narrative and supporting documentation that provides the Board with sufficient detail to assess compliance with the applicable provisions of RSA 674:39.

#### **Section 14: ADDITIONAL TOWN REVIEW.**

The planning department shall be permitted to send all plans filed with the board to the Highway Agent and the Conservation Commission prior to acceptance by the planning board where such review and comment may assist the planning board during its process. The board may send applications and copies of such plans to the Conservation Commission, building inspector, health officer, highway department, fire department, police department, board of selectmen, and/or any other department or board for review and comment at any point in the application process where the Board determines such input is prudent for the review of the application. The initial notification of the application shall not be construed so as to prevent this action since issues are often more

refined during the board's process, it is merely meant as notice that an application has been filed and to receive preliminary comments.

**Section 15: PUBLIC HEARING.**

The board shall hold at least one public hearing in accordance with RSA 676:4, as amended. No application may be 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. Per RSA 676:4, I(e) (as amended), a public hearing shall not be required when the Board disapproves an application based upon an applicant's failure to supply information required by these regulations, including abutter's identification, failure to meet reasonable deadlines established by the board, or failure to pay costs of notice or other fees required by the board.

**Section 16: DELIBERATION.**

The board shall deliberate as necessary to determine the appropriate decision. The deliberation does not necessarily follow the public hearing, and may be interspersed with the public hearing, or may occur prior to the public hearing. This is the appropriate forum for the applicant and board to discuss specific issues. Deliberation is a process whereby the board may inquire of any party and is not meant to be an interactive process with the public or the applicant. The deliberation is the process whereby the board forms the basis for its decisions.

**Section 17: DECISION.**

The board shall issue a decision within the time required by RSA 676:4, subject to lawful time extensions. Applications, which are not accepted, require no decision. The board must approve, conditionally approve, or disapprove the application as follows:

- A. Approval with Conditions. The Board shall grant approval to an application when it fully complies with the standards and processes of these regulations and other applicable laws. Additional conditions governing the construction process, conditions necessary to secure the intent of these regulations, conditions reflecting the deliberative process and agreements made during review, and other reasonable conditions shall be included in the decision.
- B. Conditional Approval. The Board may grant conditional approval without further review to an application when additional action by the applicant will bring the application into full compliance for approval. This may include the posting of financial securities, payment of fees, minor changes in the plat, and other matters, subject to the requirements of RSA 676:4(I)(i), as found below:
  - 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 governmental units.
4. If not otherwise specified in the action of the board, the Conditional Approvals shall be valid for a period of not more than six months. If the conditions of the approval have not been satisfied within this time, the conditional approval shall automatically lapse. The Planning Board may grant a single six-month extension to accommodate unusual circumstances, but the applicant is required to provide a written request for extension to the Board before the expiration date. The Board shall consider the request at its next regular meeting, and such action shall not require a public hearing.

- C. Disapproval. The Board shall disapprove an application when it fails to comply with the standards and/or procedures of this Regulation, for failure to meet reasonable deadlines established by the Board, or for failure to pay fees.

If the Board includes the phrase, "without prejudice" in the motion to disapprove, it signifies that the application was denied solely for procedural reasons, and that it may be re-submitted to the Board at a later date without design changes, but shall be subject to the codes in effect at the time of the new application. Applications disapproved without this stipulation shall not be considered again by the Board unless the applicant demonstrates that there have been design changes or changes in regulations affecting the application.

## **Section 18: NOTICE OF DECISION.**

As required by RSA 676:3, the Board shall issue a Notice of Decision which states the final decision reached by the Board regarding the application.

- A. In the case of a Conditional Approval, the Notice of Decision shall state all conditions to be met for final approval.
1. In the event that the conditions are satisfied, the Board shall issue a supplemental Notice of Decision stating that the application is approved since all conditions have been satisfied, and shall sign and record the plat(s) if applicable.

2. In the event that the conditions are not satisfied, the Board shall issue a supplemental Notice of Decision stating that the application is denied for failure to comply with the conditions of approval in a timely manner.
- B. In the case of a disapproval, the Notice of Decision shall state the reasons for denial as required by RSA 676:4(I)(h) and RSA 676:3.

**Section 19: APPEALS.**

Any person aggrieved by any decision made in the course of applications pursuant to this chapter may appeal in accordance with state law: including but not limited to RSA 676:5, as amended, and RSA 677:15, as amended. Timing for appeals must be in accordance with applicable state law.

**Section 20: REVOCATION OF APPROVAL.**

The Board may act to revoke an approval per the requirements of RSA 676:4-a.

**Section 21: FORMS.**

**The planning department shall be authorized to adopt and modify forms for the purpose of application processing. No provision or requirement of any form shall exceed the requirements of these regulations unless the form has been adopted by the Planning**

Waiver Forms  
Application Forms  
Fee Schedules