

RULES OF PROCEDURE: BOARD OF HEALTH:

SECTION I PURPOSE:

- A) The role of the Board of Health is to take precautions to protect the public health of the Town.
- B) These Rules of Procedure describe the duties and methods of operation of the Windham Board of Health.

SECTION II TITLE: ADOPTION

- A) These rules are cited as the Windham Board of Health Rules of Procedure.
- B) These rules shall be effective upon adoption and signing by a majority of the Board and recorded with the Office of the Town Clerk.

SECTION III ORGANIZATION:

- A) Pursuant to State Statute NH RSA 128:3, the Board of Health comprises of the Health Officer and the Selectmen.
 - 1. Responsibilities of members:
 - a. All members shall make every effort to attend each scheduled meeting.
 - b. Members of the Board have authority only when acting as a Board legally in session. The Board shall not be bound by any action or statement of any individual Board member.
 - 2. Officers:
 - a. The Health Officer is the secretary and executive officer of the Board of Health per NH RSA 128:3.
 - b. The Chairperson and Vice-Chairperson shall be the same as the Board of Selectmen.
 - 3. Duties:
 - a. The Chairperson's duties are as follows:
 - (1) To open the session at the time at which the Board is to meet by calling the members to order.
 - (2) To announce the business before the Board in the order in which it is to be acted upon.
 - (3) To recognize members entitled to the floor.
 - (4) To state and put to vote all the questions which are regularly called or necessarily arise in the course of the proceedings, and to announce the result of the vote.
 - (5) To assist in expediting all business in every way compatible with the rights of the members by:
 - (i) Allowing remarks when non-debatable motions are pending.
 - (ii) Calling a recess to permit restoration of order or clarification of an obscure point if s/he thinks it advisable.

- (iii) Guiding the members when engaged in a debate to stay within the rules of order.
 - (iv) Ensuring on all occasions the observance of order and decorum among the members.
 - (v) Deciding all questions of order subject to an appeal by any two (2) members, unless s/he prefers to submit the question for the decision of the Board.
 - (vi) The Chairman shall establish such rules of parliamentary procedure as are necessary, subject to the provision that the Chairman may be overruled by a majority vote of the Board.
 - (vii) Informing the Board on a point of order or practice pertinent to pending business.
 - (viii) To authenticate by his/her signature, when necessary all acts, orders, and proceedings as directed by vote of the Board.
 - (6) To authenticate by his/her signature, when necessary, all acts, orders, and proceedings as directed by vote of the Board.
 - (7) The Chairperson shall vote as a member of the board.
 - (8) The Chairperson shall take whatever action is necessary to achieve and maintain order, including ordering the removal of any person who continues disorderly conduct.
- b. The Vice-Chairman shall preside over meetings and assume the duties of Chairman in the absence of the Chairman.

SECTION IV OPERATION:

A) Meetings:

1. REGULAR MEETINGS – A formal meeting of the Board. There is no set schedule for the Board meetings. Many of these meetings are held on an as needed basis and meeting dates will be posted to act on requests for waivers to the regulations. Other meetings can be scheduled to review policy and/or regulatory matters.
2. NON-PUBLIC MEETINGS – A meeting of the Board held for town legal and personnel issues in accordance with RSA 91-A:3.
3. All meetings of the Board may be recessed to a time and place certain as a continuation of said meeting without further notice, as long as the time and place are announced in the meeting.
4. The Health Officer shall present any applicable plans to the Board of Health for review. At the option of the Board, the applicant's agent may be allowed to present the plans.
5. All meetings will be posted in accordance with NH RSA 91-A.

B) Minutes:

Minutes of the Board meetings shall be kept in accordance with the provisions of RSA 91-A. Minutes shall be considered a summary of events and business transacted once adopted by the Board with any corrections noted.

SECTION V RULES OF ORDER:

- A) QUORUM – A quorum shall consist of four (4) members of the Board.
- B) AGENDA – Shall be published with meeting notice, and included in the minutes. A suggested agenda is provided below. It may be changed by the Chair or by vote of the Board.
1. Non-Public(s), if necessary
 - a. A Non-Public session may be moved for at anytime during the session.
 2. Scheduled Agenda Issues
 3. Old Business/Tabled and Pending
 4. New Business
 5. Health Officer's Report
 6. Adjournment
 - a. A motion for adjournment will usually not be in order until after the completion of the order of business, unless a motion has been made at the start of the meeting to adjourn at a specified time.
- C) CONDUCT OF MEETINGS: Meetings shall be conducted in accordance with generally accepted practices of order and decorum.
- D) RECORDING OF VOTES: Votes shall be by a show of hands, or by a roll call. The vote of each member present shall be recorded.
- No action can be reconsidered except by a majority vote of the members present and voting. Substantial new evidence or petitioner's claim of technical error must be submitted as justification for the requested hearing. Documentation must be submitted in writing with rehearing application.
- E) REQUESTS FOR INFORMATION: Should it become apparent to the Chairperson or an individual Board member, in the interim between meetings, that additional information relative to a specific item may be needed for Board use at the next regularly scheduled meeting, a request for this information may be submitted to the Health Officer.

Any information provided to any individual Board member shall be provided to the rest of the Board and shall note the origin of the request.

SECTION VI QUORUMS/VOTING:

- A) An affirmative vote of a majority of members voting on a question shall be sufficient for adoption of the question. Members of the Board present may be counted to determine whether a quorum is present although they abstain from voting affirmatively or negatively. Persons abstaining shall not be considered "members voting" in determining whether a question has been adopted.
- B) When the vote on a question is evenly divided, the question shall be deemed to have been defeated.
- C) A motion to reconsider a previous vote by the Board shall be in order only if made by a member who voted with the prevailing side, or if the member did not vote on the original question.

- D) The Chairman shall have the discretion to cut-off the discussion at any point during the hearing. Should any member wish the discussion to continue the Chairman shall call for a vote of the board and the majority opinion will carry.

SECTION VII SITE WALKS:

- A) "Site walk" is defined as a visit by the Board or a member of the Board to a location which is the subject of an application before the Board, where the visit is in the company of the owner applicant, their agents or employees and involves going onto the property or visiting areas which are not customarily available for public inspection. (This does not include a view of a site from adjoining public highways or other observations that can be made without entering on the property.)
- B) When the Board deems it necessary for the adequate consideration of an application, the Board shall request the applicant to allow a site walk by the Board.
- C) When the Board of Health schedules a site walk for Board membership, it shall be posted as a meeting of the Board in accordance with RSA 91-A.
- D) The Board should refrain from making decisions on an application while on a site walk. Any comments, motions or direction to an applicant should be made at the public hearing.
- E) Site walks are public meetings of the Board and as such members of the public are allowed to attend. The Chairman has the authority to maintain decorum and order on a site walk just as any other meeting of the Board.
- F) The practice of an applicant directly communicating with a member to invite that member to visit a property or talk about the application shall be disallowed as an inappropriate course of conduct.
- G) When the Board meets to consider an application, the Board and/or individual members of the Board shall disclose whether they have conducted a site walk on the location under consideration or had any ex parte conversations with the applicant regarding same.
- H) Minutes of site walks shall be kept only if there is a quorum of the Board conducting the site walk. Minutes shall be in accordance with Section IV.B.

SECTION VIII FORMS:

All forms shall be prepared and kept up to date by the Health Officer and approved by the Board.

SECTION IX PUBLIC HEARINGS:

- A) The Board shall follow the statutory provisions for holding all public hearings on health ordinances, changes or amendments.
- B) In the case of health amendments or regulation changes proposed by the Board or Health Officer, the Health Officer shall present the proposed amendments and the public will be invited to comment.
- C) In voting on proposed changes to regulations or amendments the Board shall consider each separate item and vote on adoption or disapproval of each separate proposal at the conclusion of the presentations of that item.
- D) Workshop meetings of the Board shall be meetings of the Board to receive presentations on or to study one or more selected topics.

SECTION X PUBLIC NOTICE:

Public notice of public hearings and/or appeal shall be given in the newspaper of local distribution, and shall be posted at the Town Hall and the Community Development Department not less than seven (7) calendar days prior to the hearing, not counting the day of posting and the day of the hearing. Such notice shall include the name of the applicant, description of the request for waiver(s), appeal(s) or rehearing(s), as applicable, and location of the property, action desired by the applicant, description of the Health Ordinance concerned, and the time and place of the hearing.

SECTION XI WAIVERS AND APPEALS:

- A) Each application for a waiver(s) or appeal(s) shall be made on forms provided in Section VIII, and shall be submitted to the Health Officer for processing. Applicable fees shall be submitted at the time of application in accordance with Section XV.
- B) The Health Officer shall review all applications for supporting documentation.
- C) Upon successful completion of all applications, the Health Officer shall advise the Town Administrator or his/her designee of the application pending and request scheduling for Public Hearing at the earliest possible date.
- D) The Board shall hear and decide all cases within thirty (30) calendar days of receipt of the application unless the applicant agrees to a postponement or continuation.
- E) The Health Officer shall present waiver or appeal requests to the Board of Health for review. At the option of the Board, the applicant's agent may be allowed to present the plans.
- F) Notification of decisions shall be prepared by the Health Officer within five (5) business days and provided to the applicant, the Board Chair, and posted in the Community Development Department.

SECTION XII RE-HEARINGS:

- A) Applications for re-hearing must be filed with the Health Officer within twenty (20) calendar days of the date of decision being rendered. The request for re-hearing will be scheduled for the Board's consideration and a decision will be made within thirty (30) calendar days of receipt of the properly completed request.
- B) Re-hearings shall follow the same procedure as the original hearing for all notifications and fees.

SECTION XIII PERSONAL NOTICE:

- A) Abutters notice shall be made by certified mail to the owners of record of property abutting the property concerned. Said notice shall contain the same information as the public notice.
- B) The applicant will be responsible for obtaining a proper list of abutters from the Assessor's records and submitting them as part of the application.

SECTION XIV FILE INTEGRITY:

A separate file shall be kept on each case presented to the Board. The file shall contain all original forms, engineering drawings, abutter list, proof of abutter notification, correspondence, notice of decision, approved meeting minutes, and other relevant documentation.

SECTION XV FEES:

There shall be a fee as described by a fee schedule approved by the Board of Selectmen.

SECTION XVI EFFECTIVE DATE:

- A) These Rules of Procedure shall take effect immediately following a majority vote of the Board of Health at a regularly scheduled meeting.

SECTION XVII AMENDMENTS:

- A) The by-laws may be amended by a majority vote of all members provided such an amendment is read at two (2) successive meetings: read at the first meeting and approved at the second.

Adopted by the Board of Health – December 13, 1999.

Amended by the Board of Health – September 22, 2014

**Ross McLeod, Board of Selectmen Chair
Al Letizio Jr., Board of Selectmen Vice-Chair
Roger Hohenberger, Selectman
Bruce Breton, Selectman
Joel Desilets, Selectman
Laura Scott, Health Officer/Community Dev. Dir.**