



# Town of Sudbury

## Planning Board

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### TOWN OF SUDBURY PLANNING BOARD PROCEDURES

2013

The purpose of these Procedures is to assist the Planning Board (the “Board”) and members of the public to better understand the procedures and requirements of the Sudbury Planning Board. These Procedures blend the directions and requirements that are found in State and Local laws. In the cases where Massachusetts General Laws are cited, the reader should refer to the most current Massachusetts regulations to determine changes in requirements.

#### ***Section 1 - Title; Amendment; Authority***

- 1.1 These rules may be cited as the Sudbury Planning Board Rules of Procedure.
- 1.2 These rules may be amended or modified, in part or in whole, at any duly constituted meeting after a public hearing has been held. Amendments or modifications to these Procedures shall be determined by a majority vote of the Board and shall become effective immediately upon the approval by the Planning Board.
- 1.3 These Procedures are adopted by the Sudbury Planning Board under the authority of and in compliance with the General Laws of the Commonwealth of Massachusetts, and are appended to the Board’s Rules and Regulations Governing the Subdivision of Land, Rules and Regulations for Senior Residential Communities, Rules and Regulations for Incentive Senior Developments, Rules and Regulations for Special Permits in the Water Resource Protection Districts and Stormwater Management Bylaw Regulations.
- 1.4 The Board is governed particularly by:
  - 1.4.1. The Bylaws of the Town, Article I-XXXI, Civil Defense
  - 1.4.2. The Zoning Bylaw, Article IX of the Town Bylaws
  - 1.4.3. The Zoning Enabling Act (M.G.L. Chapter 40A)
  - 1.4.4. The Subdivision Control Law (M.G.L. Chapter 41, s. 81)

#### ***Section 2 - Membership; Officers; Terms of Office***

- 2.1 The Planning Board shall consist of five (5) elected members, plus one Associate Member appointed by the Planning Board.
- 2.2 Selection, qualification, terms, removal of members, and filling of vacancies shall conform to Massachusetts General Laws.

- 2.3 The Planning Board shall elect the following officers from its members: Chairman, Vice Chairman and Clerk.
- 2.4 Officers are elected for a one (1) year term at the first regular meeting following the annual town meeting.
- 2.5 Board representatives to standing committees will be appointed annually as needed.
- 2.6 Regular duties of all Regular or Associate Members shall consist of, but not be limited to, the following:
  - 2.6.1. Attending all regular, workshop, or special meetings, unless excused by the Chair.
  - 2.6.2. Maintaining a working knowledge of all enabling statutes for permits granted by the Planning Board and the associated rules and regulations governing each, including but not limited to Subdivision of Land, Cluster Development, Flexible Development, Senior Residential Communities, Incentive Senior Developments, Special Permits in the Water Resource Protection Districts, Stormwater Management, Scenic Roads, Public Way Access Permits, M.G.L. c. 41, s. 81 (the Subdivision Control Law) and M.G.L. c. 40A (the Zoning Enabling Act).
  - 2.6.3. Applying the review criteria and performance standards of the ordinances that have been adopted by the Town in a consistent and objective manner to all development applications that come before the Planning Board.

### ***Section 3 - Duties of Officers***

- 3.1 The Chairman shall preside over meetings and shall be responsible for conduct and decorum of the meeting. The Chairman shall have the responsibility to ensure that all parties receive a full and fair hearing before the Board, to enforce the rules herein and applicable State laws, appoint such committees as directed by the Board and shall affix his/her signature in the name of the Board.
- 3.2 The Vice-Chairman shall preside over meetings and assume the duties of Chairman in the absence of the Chairman.
- 3.3 The clerk shall maintain a record of all meetings, transactions and decisions of the Board, and perform such other duties as the Board may direct by resolution.

### ***Section 4 - Meetings; Special Meetings; Place; Hours***

- 4.1 The Board shall hold regularly scheduled meetings throughout the year.
- 4.2 Special meetings of the Board shall be held at the call of the Chairman or by written request of a majority of the Board members.
- 4.3 Regular or special meetings of the Board may be recessed to a time and place as a continuation of said meeting without further notice.

- 4.4 All meetings are posted in Town Hall at least 48-hours before the time at which the meeting is to be held, in accordance with the current Massachusetts Open Meeting Law. Meeting agendas will be posted in a public space in the Town Hall Building 48-hours in advance of the meeting, in accordance with the current Massachusetts Open Meeting Law. Meetings will also be listed on the Town's website.
- 4.5 Regular meetings of the Board shall commence at 7:30 PM unless the Board shall vote to fix some different meeting time for a particular meeting.
- 4.6 No new business shall be taken up after 9:30 pm unless so required by a statutory deadline or at the discretion of the Chairman.
- 4.7 A quorum of three (3) members is required to conduct business.
- 4.8 An affirmative vote of a majority of members voting on a question shall be sufficient for adoption of the question with a majority requirement. An affirmative vote of a majority plus one member shall be sufficient for adoption of the question where a super-majority is required. Members of the Board present may be counted to determine whether a quorum is present although they may abstain from voting affirmatively or negatively. Persons abstaining shall not be considered "members voting" in determining whether a question has been adopted. Members are expected to vote on matters before the Board, unless that member has recused himself/herself. Abstaining from a vote is discouraged, unless the issue pertains to business that took place when the member was absent.
- 4.9 When the vote on a question is evenly divided, the question shall be deemed to have been defeated.
- 4.10 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.
- 4.11 An Associate Member shall only vote on Special Permit applications when appointed to sit in the place of an absent or disqualified member. An Associate Member may participate in the discussion of all matters before the Board.

## ***Section 5 - Agenda Management***

- 5.1 A person seeking to have an application for an Approval Not Required (ANR) plan, Subdivision, Stormwater Management Permit, Water Resource Protection District Special Permit, Senior Residential Community Special Permit, Incentive Senior Development Special Permit, Scenic Road Application, Public Way Access Permit, or any other permit granted by the Planning Board, placed on the agenda of a regular meeting must first submit the application form and required materials to the Planning and Community Development (PCD) Office and the Town Clerk.
- 5.2 Applications received for Planning Board consideration shall be kept in sequence of the time when the completed application is received in the office. The Planning and Community Development Director/Chairman shall not accept nor schedule for consideration by the Board an application which is not substantially complete.

- 5.3 Requests by an applicant to be placed on an agenda, for new applications, must be received not less than thirty days prior to the date of the meeting.
- 5.4 Persons wishing to discuss a matter with the Board, but not seeking action on an application, shall notify the PCD Office for the Board's schedule. The item will be placed on the agenda as an informal discussion item at the earliest date, subject to the approval of the Chair. Printed materials relating to the discussion shall be submitted to the PCD Office by 12:00 pm at least six (6) days prior to the meeting date (i.e. for a Wednesday evening meeting, materials must be submitted by noon on the Thursday prior to the meeting date). Any applications received after this deadline will not be considered accepted, and will be placed on the agenda of the following scheduled meeting.
- 5.5 Requests by an applicant to be placed on an agenda, other than a new application, must be received by 12:00 pm at least six (6) days prior to the date of the meeting.

## ***Section 6 - Public Hearings***

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

- 6.1 Notice of public hearings shall follow procedures in M.G.L. Chapter 40A, Section 11, Article IX of the Sudbury Zoning Bylaws and the General Bylaws of the Town of Sudbury.
- 6.2 Board members and Associate Members may be absent from one (1) public hearing session and still participate in the deliberation and decision of an application, subject to completion of a certification pursuant to G.L. c. 39, § 23D that the Board member has examined all of the evidence received by the Board at the one session of its adjudicatory hearing on the application which the member failed to attend, and that such evidence included an audio or video recording of the missed session, or a transcript, prior to participating in a vote on the matter.
- 6.3 Any Board member or Associate Member shall disqualify himself/herself in any case which represents a conflict of interest.
- 6.4 An Associate Member may participate in any meeting, but is only eligible to vote on Special Permit applications if so designated by the Chair to sit on the Board in the case of absence, inability to act, or conflict of interest on the part of any Board member, or in the event of a vacancy on the Board.
- 6.5 All public hearing materials shall be submitted by 12:00 pm at least six (6) days prior to a hearing or continuance. Any substantial materials not submitted within that time frame will not be considered for that hearing. No less than eight (8) copies of all materials are required. Please contact the PCD Office for specific instructions.
- 6.6 Hearing Procedure:
  - 6.6.1. The Chair shall call the hearing to order.

- 6.6.2. The Clerk shall read the Notice of Public Hearing and the Chair shall determine if all legal requirements have been complied with and the hearing is legally in session.
  - 6.6.3. The Board shall hear the petitioner or authorized representative. If the Petitioner or an authorized representative is not present, said discussion shall be continued to the next meeting unless the Chair consents to continue.
  - 6.6.4. The Board shall hear from members of the Board who wish to speak.
  - 6.6.5. The Board shall hear from members of the public both those in favor and those against each petition.
  - 6.6.6. All speakers shall address the Chair. The Chair shall keep order and may have an objectionable person removed from the hearing by the police.
  - 6.6.7. The Chair may administer oaths, summon witnesses and consultants, and call for submission of legal briefs and other documents.
  - 6.6.8. The Board may collect information itself which should be introduced as evidence at the hearing if pertinent to the Board's decision.
  - 6.6.9. Continuances may be granted at the discretion of the Board upon request of the applicant or by motion from any member of the Board. All requests from applicants will be documented in writing.
  - 6.6.10. A hearing is public and is opened and closed by the Chair of the Board and not by any motion from the floor.
  - 6.6.11. After notifying the chair of the public body, any person may make a video or audio recording of an open session of a meeting of a public body, or may transmit the meeting through any medium, subject to reasonable requirements of the chair as to the number, placement and operation of equipment used so as not to interfere with the conduct of the meeting. At the beginning of the meeting the chair shall inform other attendees of any such recordings.
- 6.7 Deliberation After the Public Hearing is Closed:
- 6.7.1 Once the public hearing has been closed, the Board shall deliberate on the information presented during the hearing. New information may not be considered once the public hearing has been closed.
  - 6.7.2. Participation in the deliberation of the Board after the completion of the public hearing shall be limited to those persons constituting the Board unless, at the discretion of the Board, additional clarification or information is required.
  - 6.7.3. Other attendees of the hearing may remain in the hall during deliberation, but may not participate.
  - 6.7.4. Whenever practicable, all deliberations shall terminate no later than 10:30 p.m.

## ***Section 7 - Decisions***

- 7.1 All Decisions of the Board shall be voted in a meeting which is open to the public.
- 7.2 The Board shall render a written decision on all applications within the statutory limits prescribed in the M.G.L. or Town Bylaws, subject to extensions as voted by the Board.
- 7.3 If the application is disapproved, the Board shall provide the applicant with written reasons for the disapproval.
- 7.4 True Attest copies of Decisions shall be mailed to the applicant for recording at the Middlesex South District Registry of Deeds in Cambridge, MA. For Decisions with an appeal period, said Decision shall be mailed at the expiration of the appeal period.
- 7.5 The Notice of Decision shall be mailed postage prepaid to those deemed by the Board to be interested parties.

## ***Section 8 - Records***

- 8.1 The records of the Board shall be kept at the Planning Board office and shall be made available for public inspection as required by M.G.L.
- 8.2 Minutes of the Board meetings shall be kept in accordance with the provisions of M.G.L and shall be available in the Planning Board office and on the Town's website. All Board members shall be eligible to approve the Minutes whether they voted for or against a motion.
- 8.3 Board members who were not present at a meeting shall not be eligible for voting to approve the minutes of such missed session.
- 8.4 One copy of the Board's Procedures shall be filed with the Town Clerk, one copy given to Town Counsel, Board members and Associates, and one copy filed as a record in the Board's file.

## ***Section 9 - Sitewalks***

- 9.1 A sitewalk 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.
- 9.2 When the Board deems it necessary for the adequate consideration of an application, the Board shall request the applicant to allow a sitewalk by the Board. Generally sitewalks shall be held prior to the opening of the public hearing.

- 9.3 Prior to a sitewalk, the applicant shall stake out the centerline of any proposed streets, the location of any proposed buildings and the limits of any proposed clearing.
- 9.4 Sitewalks are not deemed to be a “meeting” of the Board pursuant to M.G.L. c. 30A, s.18, and shall not require noticing as set forth in Section 4 above. At a sitewalk, Board members may inspect the site and ask questions of the applicant and its agents, but shall refrain from deliberating on the application.
- 9.5 The practice of an applicant directly contacting a Board member to invite that member to visit a property without prior Chairman notice shall be discouraged as an inappropriate course of conduct.
- 9.6 When the Board meets to consider an application, the Board and/or individual members of the Board shall disclose whether they have conducted a sitewalk on the location under consideration.
- 9.7 The Board shall refrain from making decisions on an application while on a sitewalk. Any comments, motions or direction to an applicant should be made at the public hearing.

## ***Section 10 - Joint Meetings and Hearings***

- 10.1 Joint meetings and hearings may be held with other boards at the discretion of the boards involved.

## ***Section 11 - Subcommittees***

- 11.1 The Planning Board, at its discretion, may create additional subcommittees for work on other Board projects, including Master Plan Updates, Zoning Bylaw amendments, updates to regulations, and other projects.

## ***Section 12 - Fees***

- 12.1 Application Fees shall be submitted as required under the regulations of each permit.
- 12.2 Professional Review Fees: For all applications the Board may require a fee to be held in escrow to be used to engage independent consultants should the Board determine this to be necessary based on the characteristics or complexity of the issues raised by the application. Such fees shall be governed and administered in accordance with M.G.L., c.44, § 53G or § 53E ½. The Board may waive or modify these fees at its discretion.
- 12.3 Professional Review Fee Adjustments: If prior to Board action on an application the Board finds that the initial deposit is not sufficient to cover actual costs incurred by the Town during the review of the plan, the applicant shall be required to submit forthwith such additional amount as is deemed required by the Board to cover such costs. The Board shall notify the applicant of such additional amount in writing by certified mail. Failure to submit such additional amount as required by the Board within fourteen (14) days of

receipt of said notice shall be deemed reason by the Board to deny said plan. If the actual cost incurred by the Town for review of said plan is less than the amount on deposit as specified above, the Board shall authorize that such excess amount be refunded to the applicant concurrently with final Board action on said plan.

- 12.4 Performance Bonds: The Planning Board may, at its discretion, require the applicant to post a bond to secure completion of certain improvements required by a Decision of the Board. The type of bond shall be approved by Town Counsel prior to acceptance by the Board. The bond can be reduced as completion of items progresses upon request of the applicant and submitted proof of completion. A majority vote of the Board is required to release or take the bond.
- 12.5 Application and review fees are due at time of initial application; additional fees must be received before an application will be approved.

### ***Section 13 - Applications***

- 13.1 All applications must be filled out on an official application form. No substitutions will be accepted. Forms can be obtained from the Town Clerk's office, the Planning Board Office, or from the town's web site.
- 13.2 All application materials shall also be submitted in a searchable electronic copy format via email to the Board, both initial application and all appended materials, including plans, forms and memorandum. The email address for such submittals is [pcd@sudbury.ma.us](mailto:pcd@sudbury.ma.us)
- 13.3 All application questions must be answered fully and completely, the requested documentation provided, the application signed and filing fee paid in accordance with the application instructions and Rules of the Board, or the application may be denied by the Planning Board after a public hearing is held.
- 13.4 Any application which requests a waiver of the Board's Rules and Regulations must be accompanied by an explanation/documentation that the action is in the public interest or that a public benefit will be attained. Such actions may include contributions to the Town for services or materials relating to the impact of the development on Town services, installation of infrastructure or other public amenities requested by a Town department or board, or fulfilling or contributing to a stated Town goal or need.

### ***Section 14 - Miscellaneous***

- 14.1 The Board shall prepare an Annual Report to be printed in the Town Annual Report.
- 14.2 These Procedures may be brought before the Board each year for the purpose of possible revision.
- 14.3 Checklists of required submissions may be developed by the Board to assist the applicant and to assist the Town staff in administering the bylaws under the Board's jurisdiction.

Voted on \_\_\_\_\_:

PLANNING BOARD MEMBERS:

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