

**TOWN OF HOPKINTON
ZONING BOARD OF ADJUSTMENT
E-MAIL AND OTHER BETWEEN-MEETING COMMUNICATIONS.**

A. Purpose. The aims of this policy are:

- To ensure compliance with the letter and spirit of the Right-to-Know Law, RSA 91-A, and with the Due Process rights of parties before the Board;
- To clarify Board members' ability, between meetings, to research issues and prepare motions or other potential Board actions, thus promoting efficient use of meeting time, but only to the extent allowed by law; and
- To clarify the role of electronic media such as E-mail in achieving these goals.

B. Definitions. In this policy:

- "Communication" means a transfer of information, objective or subjective, from one person to another. It includes face-to-face or phone conversations, letters, memos, E-mails, web sites, or any other medium, regardless of the location or ownership of any device or equipment used.
- Any between-meeting communication involving more than one Board member shall be considered either a "Distribution" or an "Exchange."
- A "Distribution" is a one-way communication, where no between-meeting response (except acknowledgment of receipt) occurs or is expected.
- An "Exchange" is a between-meeting communication, or series of them, which involves a between-meeting response, or expectation of response.
- "Ex Parte communication" is communication, other than at a legally-noticed meeting, between a Board member and a person with an interest in, or affected by, a pending or future case.

C. Between-Meeting Activities Of Individual Members. Individual Board members may, between meetings, prepare drafts of motions or other potential Board actions. They may also research or investigate general or specific factual issues. However, if the research pertains to a case, the member shall, at the public hearing, report all findings to the Board, and parties to the case shall be given a meaningful opportunity to respond.

D. Distributions. A Distribution may be made to any number of Board members, so long as it does not become an Exchange. Whenever a member makes a Distribution concerning a pending or future case, and it involves a quorum of the Board (counting all senders and recipients):

- A copy shall be forwarded to the Town Planner, who shall determine, under RSA 91-A or other applicable law, whether the Distribution is

subject to public disclosure, and shall place the copy in the appropriate file;

- Unless the information is exempt from disclosure under RSA 91-A, the member making the Distribution shall report on it, and its contents, at the public hearing on the case; and
- Parties to the case shall be given a meaningful opportunity to respond to the information in the Distribution.

E. Exchanges. Exchanges involving a quorum or more of the Board, or of any subcommittee as defined below, are prohibited. Such Exchanges shall be considered deliberations, and shall occur only at meetings noticed in accordance with RSA 91-A. An Exchange pertaining to any activity allowed under paragraph C is permitted if the number of Board or subcommittee members involved is *less* than a quorum; however:

- Each member involved shall be responsible for preventing the number of members involved from reaching a quorum;
- Information discussed in, or generated by, an Exchange shall not be subject to further Distribution; and
- No Exchange shall include any vote or straw vote, or any Ex Parte communication.

F. Ex Parte Communications. Board members shall not initiate Ex Parte communications. If an Ex Parte communication is initiated by another person, the Board member contacted shall:

- Refrain from discussing the substance or merits of a case;
- Inform the person, if necessary, that such a discussion could lead to disqualification;
- Refer the person to the Planning Office or to a Board meeting, as appropriate; and
- Report on the conversation to the Board at a public meeting.

G. Scheduling and Agenda. Notwithstanding paragraphs D, E and F, nothing in this policy prevents any Distributions, Exchanges or Ex Parte communications which pertain solely to:

- Scheduling of meetings or hearings;
- The determination or ordering of agenda items or topics to be taken up at meetings or hearings; or
- General procedural requirements pertaining to such scheduling and agenda matters.

H. Subcommittees. A subcommittee is any group of two or more persons, including at least one Board member, to which the Board has assigned a specific task related to Board business. A subcommittee shall be considered

a public body, and all provisions of RSA 91-A and this policy, applicable to a quorum of the Board, shall also apply to a quorum of a subcommittee.

Effective Date: October 7, 2008

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