

Town of Allenstown New Hampshire



BY-LAWS AND RULES OF PROCEDURE

Adopted
July 18, 2001; Updated ~~February 8,~~
2012 September 6, 2017



Certificate of Adoption

In accordance with New Hampshire RSA 676:1, Method of Adopting Rules of Procedure, 675:6 and 675:7, the Allenstown Planning Board, having held a duly noticed public hearings on ~~June 20, 2001 and July 18, 2001~~ September 6, 2017 hereby adopts and certifies these "Planning Board By-laws and Rules of Procedure".

Member

Member

Member

Member

Member

Member

Member

Member

Member

Selectmen's Representative

This document was received and recorded by the Town Clerk on _____,
2017

Signed: _____
Allenstown Town Clerk

Seal:

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Pursuant to RSA 676:1, as amended, the Allenstown, New Hampshire Planning Board adopts the following Rules of Procedure.

Article 1 - Title; Adoption; Amendment

1. These Rules may be cited as the Allenstown Planning Board Rules of Procedure.
2. These Rules shall be adopted following a public hearing by the Planning Board. The hearing shall be noticed by a legal notice published not less than ten (10) days prior to the hearing and said notice shall contain a summary of the provisions herein, together with the notation that the full text is available upon request.
3. The rules shall be effective upon adoption by a majority of the Board and when they have been signed by a majority of the Board and filed with the office of the Town Clerk.
4. These rules may be amended and revised in the same manner as the initial adoption.

Article 2 - Membership; Terms of Office; Officers; Vacancies

1. Pursuant to RSA 673:2, the Planning Board shall consist of five (5) members; four (4) of whom shall be residents of the community appointed by the Board of Selectmen and the fifth member shall be a member of the Board of Selectmen.
2. Except for the Selectmen's representative, members shall be appointed in staggered terms pursuant to RSA 673:5. The membership of the Board shall be appointed in such a manner so that two (2) members shall be appointed each year.
3. Term of Office shall commence upon appointment and after the Board member has been sworn in, provided however, that term shall continue until successors have been appointed.
4. The Planning Board shall elect the following officers from its members, provided however, that the Selectmen's ex officio member shall not hold any office: Chairman, Vice Chairman, and Secretary.
5. Officers shall be elected for a one (1) year term at the first regular meeting following appointment by the Board of Selectmen.
6. Pursuant to RSA 673:12, vacancies in the membership of the Board occurring other than through the expiration of a term of office shall be filled by the Board of Selectmen by appointment by until the end of the unexpired term or start a new term, as appropriate.
7. The Board of Selectmen may appoint up to three (3) qualified alternates who shall be appointed to three (3) year terms. The initial appointments of alternates shall be staggered as per RSA 673:6.

8. Attendance: The Secretary shall keep a record of the attendance of all members at planning board meetings. Members are expected to attend all meetings and workshop sessions. Members shall be permitted to miss three (3) meetings in a single calendar year. Upon missing three (3) meetings, the Chairman shall notify the member by writing of the next upcoming meeting. Should the member miss a fourth meeting, the Planning Board may submit a request in writing to the Board of Selectmen to have said regular member removed from the Board in accordance with RSA 673:13.
9. Removal of Members: In accordance with 673:13, after public hearing, appointed members and alternate members of the Planning Board may be removed by the Board of Selectmen upon written findings of inefficiency, neglect of duty, or malfeasance in office.
 - The Board of Selectmen may, for any cause enumerated above, remove an elected member or alternate member after a public hearing.
 - The Board of Selectmen or the Planning Board shall file with the town clerk a written statement of reasons for removal under this section.
 - The Selectmen, may for any cause enumerated in RSA 673:13, remove the members selected by them.

Article 3 - Duties of officers; Minutes

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 and to enforce the rules herein and applicable State laws.
2. The Vice-Chairman shall preside over meetings and assume the duties of Chairman in the absence of the Chairman. This shall include signing plans and mylars for the Board in the absence of the Chairman. If the Vice-Chairman is also absent, then the Secretary shall assume the Chairman's duties.
3. The Secretary shall be responsible for the maintenance of Board minutes and records. However, the Board may retain a recording secretary whose records shall be reviewed by the Secretary for accuracy. In the event that the Secretary is acting Chairman of the meeting, a member of Board may be appointed to serve as Secretary. This shall include signing plans and mylars for the Board in the absence of the Chairman and Vice-Chairman.
4. 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.
5. Audio tape or video tape recordings may be made of the meeting at the discretion of the Chair, or by majority vote of the Board.

Article 4 - Meetings; Special Meetings; Place; Hours

1. The Board regularly holds meetings on the first and third Wednesdays of each month, except that the Board may vote to hold only one meeting in a month or may vote to set other dates.
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.
3. Regular or special meetings of the Board may be recessed to a time and place certain as a continuation of said meeting without further notice.
4. All meetings of the Board shall be held in Town Hall unless the Board shall vote to meet at some other different place for a particular meeting.
5. Regular meetings of the Board shall commence at 7:00 PM unless the Board shall vote to fix some different meeting time for a particular meeting.
6. The Board shall not commence any items of new business, which include public hearings later than 10:30 PM provided that the Board may continue to conclusion the public hearing of any item of business, which commenced prior to that hour. The Board may, by vote, determine to waive this rule and take up new business later than 10:30 PM. However, if the applicant or any abutter object to the Board hearing a specific plan after 10:30 PM, then the Board will continue that application until the next regularly scheduled meeting.

Article 5 - Quorums; Voting; Conduct of meetings

1. A quorum of three (3) members shall be required to conduct business.
2. 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 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.
3. When the vote on a question is evenly divided, the question shall be deemed to have been defeated.
4. 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.

5. Unless modified by a vote, the Board regularly follows the following Order of Business:
 - A. Call to Order
 - B. Attendance and Appointment of Alternates
 - C. Adoption of Agenda
 - D. Treasurer's Report
 - E. Adoption of Minutes of prior meetings
 - F. Correspondence / Report of Subcommittees
 - G. Conceptual Consultations
 - H. Design Reviews
 - I. Consideration of Old Business
 - J. Consideration of New Business
 - K. Other Business
 - L. Adjournment

6. Correspondence specific to an application before the Board will not be read with the general correspondence, but rather during the public hearing on that application.

7. The Agenda order for public matters shall be as follows:
 - A. Public matters will be placed on the Agenda in the order they are received by the Chairman / Planning Staff Person. The date received shall be the date when the signed form was submitted to the Chairman / Planning Department.
 - B. Any public matters that are continued from a previous meeting shall be first on the Agenda, in the same order as before.
 - C. Upon receipt of application by the Planning Board, no further material may be added to the file except at a public meeting or hearing of the Board where the application is posted to be heard.
 - D. If the Board determines that it does not have sufficient information to proceed with consideration and to make an informed decision, the application shall be voted incomplete and not be accepted by the Planning Board. The Board / Planning Staff Person will provide the applicant with the written reason for rejection and the rejected plan will be kept in a separate file in the Planning Department for no more than one year, unless otherwise directed by the Planning Board.
 - E. The Chairman shall enforce such order and decorum as may be necessary for the sufficient conduct of the Board's business, guided by a desire to maximize public input on matters before the Board. The Chairman shall regulate discussion among Board members, but refrain from participating in the debate. The Chairman's viewpoints may be expressed, but only after other members of the Board have spoken. If the Chairman wishes to participate in a specific discussion, he/she should hand the gavel to the Vice-Chairman and participate as a regular member. However, the Chair may vote on issues before the Board.
 - F. 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.

- G. When desired by the Board, the Town's Consultant Planner or Consultant Engineer shall present the plans to the Planning Board for review. At the option of the Board, the Developer's agent may be allowed to present the plans.
- H. Board members and members of the public shall be recognized by the Chairman before speaking on the plan. Members of the public shall address all comments and questions through the Chairman. All members of the Board and the public are encouraged to submit testimony, ask questions, and comment on applications. However, comments are encouraged to be concise and submitted in writing for the record. The Board shall have the authority to limit public comment and testimony to a 5 minutes per person, when in the Board's opinion, testimony being offered is redundant or not relevant to the application or issue before the Board.
- I. 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.

Article 6 - Sitewalks

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.
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.
3. When the Planning Board schedules a sitewalk for Board membership, it shall be posted as a meeting of the Board in accordance with RSA 91-A.
4. Sitewalks 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 sitewalk just as at any other meeting of the Board.
5. The practice of an applicant directly contacting a member to invite that member to visit a property without prior Chairman / Staff Person notice shall be discouraged as an inappropriate course of conduct.
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.
7. Minutes of sitewalks shall be kept only if there is a quorum of the Board conducting the sitewalk. Minutes shall be in accordance with Article 3.4.

8. The Board should 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.

Article 7 - Joint Meetings with Zoning Board, Conservation Commission, or other Land Use Board or Commission.

1. RSA 676:2 provides that the Planning Board may hold joint meetings and hearings with other "land use boards" including the Zoning Board of Adjustment, Historic District Commission, Conservation Commission, and each Board shall have the discretion as to whether or not to hold such a joint meeting or hearing.
2. Joint business meeting(s) with another local land use board may be held at any time when called jointly by the chairman of the boards convened.
3. A joint public hearing must be a formal public hearing when the subject matter of a hearing is within the responsibilities of boards convened.
4. The Planning Board chair shall chair all joint meetings and public hearings on subject matter of which involves the Planning Board.
5. The rules of procedure for joint meetings and public hearings, the subject matter of which involves the Planning Board, shall be the same as these rules of procedure except that the order of business shall be as follows:
 - A. Call to order by Chairman
 - B. Introduction of members of both Boards
 - C. Explanation of reason of joint meeting / hearing by Chairman
 - D. In the case of a public hearing relative to a requested permit or an application for plat approval, or both, the applicant shall be called upon to make his/her presentation.
 - E. Those in support of the application will be allowed to speak
 - F. Those in opposition of the application will be allowed to speak
 - G. In case of Zoning Board hearing, the Zoning Board will make its decision prior to Planning Board.
 - H. Adjournment.

Article 8 - Public Hearings; Workshops

1. The Board shall follow the statutory provisions for holding all public hearings on zoning amendments or changes in site plan/subdivision regulations.
2. In the case of zoning amendments or regulation changes proposed by the Board or Town staff, the Chairman / Planning Staff Person shall present the question and the public will be invited to comment.
3. When voting on proposed regulation changes, zoning amendments, land sale, or road acceptances, 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.

4. When voting on citizen zoning amendment proposals, the Board shall vote to approve or to disapprove said proposal. If the Board should be evenly divided or if a motion to approve fails to receive a majority vote, the proposal shall be noted as being "disapproved".
5. When voting on regulation changes or staff proposed zoning amendments, the proposal shall be adopted or submitted to the voters for adoption only if approved by a majority vote.
6. Workshop meetings of the Board shall be meetings of the Board to receive presentations on or study one or more selected topics.

Article 9 - Standards of Conduct

1. The primary obligation of Planning Board 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.
2. Members shall not directly or indirectly solicit any gifts or accept or receive any gift (whether in money, services, loans, travel, entertainment, hospitality, premises or in some other form), under circumstances in which it could be reasonably inferred that the gift was intended to influence them in the performance of their duties or was intended as a reward for any recommendation or decision on their part.
3. To avoid conflict of interest or even the appearance of impropriety, any member who may receive some private benefit from a public planning board decision must not participate in that decision. The private benefit may be direct or indirect, create a material personal gain or provide an advantage to relations, friends, groups or associations that hold a significant share of the official's loyalty. An official with a conflict of interest must make that interest public, abstain from voting on the matter, and except as specified below, leave the table when the Board members deliberate and vote on a matter. Further, the Board member may not discuss the matter privately with any other Board member voting on the matter or otherwise communicate directly or indirectly with Board members regarding the matter in question so as to attempt to influence the vote on said question.
4. In circumstances where the number of Board members who may not participate as a result of the provision in 9.3 results in less than a quorum being able to participate in a given question, the abstaining members may be counted as "present" although they are not allowed to participate in anyway other than abstaining. A Board member who is participating only for the purpose of being counted for the presence of a quorum shall be entitled to sit at the table provided that he/she not participate, comment, or make any indication of his/her position.

5. A Board member must not disclose or improperly use confidential information obtained in the course of his duties for financial gains or to further a personal interest.
6. Notwithstanding the above restrictions, a Board member who has an interest in a plan before the Board may, following recusing himself/herself from the Board, exercise his/her rights as a citizen and address the Board on the issue under review.
7. Ex parte communications (written or verbal communications from or to a Board member concerning a pending application) impair the procedural due process rights of interested parties and undermine public confidence in the Planning Board. Board members should refrain from initiating ex parte communications on any application. Any requests or inquiries by Board members should be made during public hearings or through appropriate town staff or Planning Board Chair. Members receiving ex parte communications should refrain from responding (citing this section) and refer the party initiating the communication to the appropriate town staff or Planning Board Chair. In appropriate circumstances, the town staff shall advise interested parties of the inquiry or attempted ex parte communication.
8. All Board members share a responsibility to enforce adherence to the standards or conduct herein. If a member believes that one or more members may either by intention or inadvertence be in violation of these standards, he/she shall call that fact to the attention of the Chairman who shall in turn call it to the attention of the member in question. In the event of a dispute as to whether a member should or should not participate, the question shall be posed to the Board, as to whether the member in question should or should not participate. Such a vote shall be advisory and non-binding and can not be requested by other than Board members.

Communication Policy

1. **Scope:** All communication that is made, or will be made to any member of the public (anyone other than the Planning Board members) including applicants, or potential applicants.

The following is an abbreviated list of communication that will be affected by this policy: Letters to applicants, Site Plan Reviews, Conceptual Reviews, Proposed changes to By-Laws, Zoning Ordinances, Rules of Procedures and process, Master Plan, Internal Planning Board memos, Letters of correspondence from any of the following sources: Board of Selectmen, Town Engineer/s, Town Attorney/s, CNHRPC, NHMA, Town Building Inspector, other Town Department Heads.

2. **Purpose:** The purpose of this policy is to ensure that all Planning Board members are aware of Planning Board Communication that may go public before it actually does. The intent of this policy is to allow each Planning Board member to become aware of, and educate themselves on all matters pertaining to Planning Board business, before they are approached on said matters by members of the Public or media.

3. **Procedure:** The Planning Board Chairman shall prepare for review any Communication mentioned above in the section titled “1 Scope.” The Planning Board Chairman or Secretary shall disseminate said communication to ALL Planning Board Members for their review during or in lieu of a regularly scheduled Planning Board meeting, prior to any disclosure to outside members of the Public. This should be done as early as possible after receiving any such Communication. Note: this review can be accomplished by either presenting the communication to all Planning Board members via a Planning Board Meeting, or by distribution of hard copy to each Planning Board Members (via mail, email, fax or hand-delivery).

If the communication is a time sensitive issue, and proper review cannot be held during a regular or SPECIAL Planning Board Meeting, the Planning Board Chairman or Secretary should at least obtain a verbal consent from the Vice Chairman and all other Planning Board Members prior to disseminating said communication to the public.

4. **Good Faith Clause:** The intent of this policy is to allow all Planning Board Members to be up to date with information relative to their position on the board. This is crucial in order to maintain credibility as a Planning Board Members. However, it may not be possible to strictly adhere to the policy at all times. It is therefore expected that, the Chairman of the Board and all members will make their4 best effort to adhere to the policy and or notify all Planning Board members of all said Communication as soon as humanly possible.
5. **Communication with the Town Attorney:** Any meetings or correspondence such as letters, faxes, emails or phone-calls with the Town Attorney as they pertain to any Planning Board business shall be followed up with a Letter to the Planning Board immediately after said meeting or correspondence takes place. This letter or memo is required in order to comply with the Communications Policy set forth above. All Planning Board Members shall be provided with this letter as soon as humanly possible (the only exception to this rule will be any legal correspondence on or pertaining to one of the Planning Board Members in which the Attorney/Client Privilege has been invoked).
6. **Communication Between the Board and Applicant(s):** Communication from an applicant to the Planning Board must first go through the Building Inspector or other Town Hall staff person designated by the Planning Board Chair in the absence of a Building Inspector. Communication will then move to the Town Planner or Circuit Rider Planner if such position is present and from there to the Planning Board Chair. If necessary, communication will then move to the Planning Board Chair. Whenever possible, issues shall be resolved at the level closest to the applicant (i.e., first by the Building Inspector, then with the Circuit Rider/Town Planner, and finally with the Planning Board Chair only when necessary). With the exception legal meetings, individual Planning Board

members should not be engaged in advising applicants outside of the chain of communication outlined in this Section, including Planning Board officers such as the Chair, Vice Chair and Secretary.

Article 10 - Subcommittees

1. The Planning Board having adopted a Master Plan, is authorized by the Board of Selectmen to prepare and amend a recommended program of municipal capital improvements per RSA 674:5.
2. The Planning Board shall establish a permanent subcommittee to be known as the Capital Improvement Program Subcommittee of the Allenstown Planning Board. The purpose of which is to aid the Board of selectmen in their consideration of the annual budget and fulfill the long-term capital needs of the town as defined in the Master Plan.
3. The subcommittee shall develop a Capital Improvements Program (CIP), projected over a period of at least six years, in a manner deemed appropriate by the Planning Board. The subcommittee is authorized to meet with all municipal departments, agencies, authorities, and boards to develop a statement of all capital projects proposed to be undertaken during the terms of the program.
4. The subcommittee shall utilize the information obtained to formulate a draft Capital Improvement Program consistent with the goals and needs of the community and shall present the draft, with supporting documentation, to the Planning Board for timely consideration to set the annual budget.
5. The subcommittee shall incorporate comments received from the Planning Board, and present the final Capital Improvements Program to the Planning Board.
6. The CIP subcommittee shall consist of the following members:
 - One (1) Selectman appointed by the chairman of the Board of Selectmen whose term shall be one (1) year.
 - One (1) School Board member appointed by the chairman of the School Board whose term shall be one (1) year.
 - Two (2) members of the Planning Board appointed by the chairman of the Planning Board whose term shall be one (1) year.
 - Three (3) members of the general public appointed by the chairman of the Planning Board whose terms shall be one (1) year.
7. The Planning Board, at its discretion, may create additional subcommittees for work on other Board projects, including Master Plan Updates, Zoning Ordinance Amendments, Site Plan Review Regulation Amendments, Subdivision Review Regulation Amendments, and other similar projects.

Article 11 - Fees: All required fees shall be provided to the Planning Board in the form of a check made to the "Town of Allenstown" at the time an application is filed, unless otherwise noted.

The following shall constitute the necessary filing fees for consideration of site development plans:

Site Plan Review

- **General Administrative Fee:** \$50.00 per 1,000 square feet of building, or fraction thereof - \$250.00 minimum fee.
- **Notification Fee:** Current fee charged by the United States Postal Service for Certified Mail per abutter notification fee. Notification fees are payable at time of initial application. For additional noticing, the Board may at its discretion require additional fees from the applicant.
- **Plat Recording Fee:** Applicants will be responsible for providing the Allenstown Planning Board with two mylar copies of the Final Approved Site Plan. Applicants will also be responsible for recording said plat/s with the Merrimack County Registry of Deeds, no longer than ten (10) business days upon signed final approval from the Planning board. Failure to do so will result in a maintenance fee of at least \$50.00, but no more than \$150.00. This fee will be assessed and based on the Town's cost for tracking and resolving any issues related to the registering of approve plats.
- **Professional Circuit Rider Planner Review Fees:** The Planning Board may, at its discretion, employ the services of an outside consultant planner to review plans submitted by applicants for conformity with local and state laws and regulations, as well as commonly accepted planning principles. The entire cost of such reviews shall be borne by the applicant(s). Prior to signing and recording of the plat, the applicant shall provide the Town with a check, made to the Town of Allenstown, for the entire cost of such reviews.
- **Notice of Decision Recording Fees:** When plats are not recorded at the Merrimack County Registry of Deeds, a notice of decision will be recorded to memorialize the Planning Board's action. Applicants will also be responsible for providing the fee for the recording of notices of decision with the Merrimack County Registry of Deeds, no longer than ten (10) business days upon signed final approval from the Planning board. Failure to do so will result in a maintenance fee of at least \$50.00, but no more than \$150.00. This fee will be assessed and based on the Town's cost for tracking and resolving any issues related to the registering of notices of decision.
- **Professional Engineering Review Fees:** The Planning Board may, at its discretion, employ the services of an outside consultant engineer to review roadway, drainage, utility, water line, sewage disposal, pedestrian facility, or any

other similar design. Said cost of such reviews shall be borne by the applicant. Prior to signing and recording of the plat, the applicant shall provide the Town with a check, made to the Town of Allenstown, for the entire cost of such reviews.

- **Legal Review Fees:** The Planning Board may, at its discretion, employ the services of the Town Attorney to review any proposed deed, easement, or other legal agreements as necessitated by an application. Said cost of such reviews shall be borne by the applicant. Prior to signing and recording of the plat, the applicant shall provide the Town with a check, made to the Town of Allenstown, for the entire cost of such reviews.

Subdivision and Lot Line Adjustment Review

- **General Administrative Fee:** \$250.00 per lot, including parent parcel - \$500 minimum fee.
- **Notification Fee:** Current fee charged by the United States Postal Service for Certified Mail per abutter notification fee. Notification fees are payable at time of initial application. For additional noticing, the Board may at its discretion require additional fees from the applicant.
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- **Legal Review Fees:** The Planning Board may, at its discretion, employ the services of the Town Attorney to review any proposed deed, easement, or other legal agreements as necessitated by an application. Said cost of such reviews shall be borne by the applicant. Prior to signing and recording of the plat, the applicant shall provide the Town with a check, made to the Town of Allenstown, for the entire cost of such reviews.

Lot Merger

- **General Administrative Fee:** \$250.00 per lot, including parent parcel - \$500 minimum fee.
- **Notification Fee:** Current fee charged by the United States Postal Service for Certified Mail per abutter notification fee. Notification fees are payable at time of initial application. For additional noticing, the Board may at its discretion require additional fees from the applicant.
- **Plat Recording Fee:** Applicants will be responsible for providing the Allenstown Planning Board with two mylar copies of the Final Approved Site Plan. Applicants will also be responsible for recording said plat/s with the Merrimack County Registry of Deeds, no longer than ten (10) business days upon signed final approval from the Planning board. Failure to do so will result in a maintenance fee of at least \$50.00, but no more than \$150.00. This fee will be assessed and based on the Town's cost for tracking and resolving any issues related to the registering of approve plats.

Adopted by the Allenstown Planning Board on May 4, 1992

Amended – July 18, 2001; ~~October ???, 2011~~ September 6, 2017