

TOWN OF BETHEL
MAINE

PLANNING BOARD
RULES OF PROCEDURE

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ARTICLE I PURPOSE OF RULES OF PROCEDURE AND GENERAL PROVISIONS

Section 1. The purpose of these Rules is to set forth guidelines for the proper conduct of the Planning Board.

Section 2. These Rules are consistent with Maine Revised Statutes Annotated (MSRA), Town Ordinances, and Comprehensive Plan of the Town of Bethel.

Section 3. Planning Board members are expected to be reasonably knowledgeable in the applicable laws, regulations and Board policies and to abide by them.

Section 4. Any provision/procedure not addressed in these Rules will be governed by the most readily available version of *Robert's Rules of Order*.

ARTICLE II ADOPTION AND AMENDMENTS

The Selectboard shall have the power to adopt these Rules of Procedure.

The Planning Board shall have the power to recommend to the Selectboard amendments to these Rules by four (4) or more affirmative votes at a Planning Board meeting provided that Planning Board members have received written notice of potential by-law amendments at least seven (7) days prior to scheduled consideration of the proposed amendments (s). Selectboard-initiated changes to these Rules shall be coordinated with the Planning Board.

ARTICLE III MEMBERSHIP AND OFFICERS OF PLANNING BOARD

Section 1. Membership of the Planning Board shall be in accordance with the Administrative Ordinance of the Town of Bethel.

A Board vacancy may occur as a result of one of the following conditions:

- a. Absences - Three (3) consecutive unexcused absences by a Board member at regularly scheduled meetings shall constitute cause for the Planning Board to recommend removal by the Selectboard.
- b. Resignation - When a Board member proposes to resign, he/she shall give written notice of his/her intent with an effective date to the Selectboard.
- c. Expiration of term

In the event of a vacancy caused by either the removal of a Board member by the Selectboard or the resignation of a Board member, the Selectboard shall select from among a pool of qualified applicants, an individual to fill the vacancy for the duration of the vacancy's unexpired term.

Section 2. Officers

- a. The Planning Board officers shall consist of the Chairman and Vice-Chairman. The Chairman and Vice-Chairman shall be nominated and elected from the voting membership of the Board.
- b. The election of officers shall be held at the beginning of the first meeting in January following the annual appointment of Board members.
- c. The officers shall each be elected with no less than four (4) affirmative votes of Board members.
- d. The officers shall be elected to serve one (1) year or until their successors are elected. Their term shall begin upon election.
- e. The Planning Board shall have the authority to establish committees on an as-needed basis.
- f. The duties of the officers shall be as follows:
 1. The Chairman shall preside at all meetings and hearings of the Planning Board and shall be eligible to vote on all matters. The Chairman has the authority to appoint members to committees of the Planning Board, to call all work sessions, and to set the agenda.
 2. The Vice-Chairman shall preside at all meetings of the Planning Board in the absence of the Chairman and shall possess the powers and perform the duties of the Chair in the Chair's absence.
 3. Upon the vacancy of either the Chairman or the Vice-Chairman, a special election shall be held by the Planning Board to fill such vacancy.

ARTICLE IV ADMINISTRATIVE AND PROFESSIONAL SUPPORT

Section 1. The Planning Board's administrative support shall be defined in the annual municipal budget of the Town of Bethel. This support shall include, but not be limited to, support of the Planning Assistant, the Code Enforcement Officer (CEO), the Town Manager, legal counsel, and supplies.

Section 2. The Planning Assistant or designee shall be responsible for the minutes and records of the Board, agendas of regular meetings and special meetings, notice of the meetings and hearings, scheduling of facilities, correspondence of the Board and other duties as required by the Planning Board, but subject to the approval of the Town Manager. The Planning Assistant shall keep a record of all resolutions, votes, transactions, correspondence, findings and conclusions of the Board. All records shall be deemed public and may be inspected at the Town Offices during normal business hours, subject to procedures defined by the Town Manager.

Section 3. The retention of legal counsel and other professional assistance shall be coordinated by the Chairman and/or designees of the Chairman in conjunction with the Town Manager.

Section 4. Training and Mentoring - Planning Board members shall be strongly encouraged to participate in periodic training designed to impart information regarding State rules and local code. New members shall be mentored in terms of Planning Board procedures as delineated in these Rules of Procedure.

ARTICLE V CONDUCT OF MEETINGS

Section 1. Board meetings may take the following forms:

- a. Regular meeting
- b. Special meeting
- c. Workshops
- d. Site walks
- e. Executive sessions
- f. Public hearing

Section 2. The Planning Board shall hold at least one regular meeting monthly. Regular meetings of the Planning Board nominally shall be held on the second and fourth Wednesday of every month, unless otherwise scheduled by the Board. Regular meetings shall normally convene at 7 PM. The regular meeting date may be rescheduled at the discretion of the Chairman. Special meetings may be called by the Chairman or by four (4) or more of the members and public notice shall be given in accordance with applicable statutes.

Section 3. Meetings shall be open to the public, except when the Planning Board is in executive session.

Section 4. Ex parte communication - Ex parte communication among Board members and alternates is prohibited. Examples of typical practices which violate the “Right to Know Law” (1 M.R.S.A § 401 et seq.) shall be avoided by Board members and alternates:

- a. Polling Board members and alternates by telephone to vote on or discuss an application;
- b. Taking an application house to house to have it approved or leaving it at the Town Office for Board members to approve and sign;
- c. Chance meetings of Board members at which those members discuss an application;
- d. Making decisions in a “closed door” meeting or excluding the public when not authorized by law;
- e. Board members conducting discussions about Board business or making discussions by e-mail.

Section 5. No official business may be conducted without a quorum present. A quorum shall consist of four (4) members. The determination of a quorum for any application shall not include any member who cannot participate due to a conflict of interest.

Section 6. All members present at any meeting shall vote either in the affirmative or negative on all matters brought to a vote, unless a conflict of interest exists as defined by Section 8 of this ARTICLE. Members shall abstain from a vote on the minutes of previous meetings if they were not in attendance. Members seeking to abstain from a vote must state the reason for abstention.

Section 7. The consideration of each application, by the Board, shall be done in the context of a hearing. Conduct of hearings is further described in ARTICLE VIII of these Rules.

Section 8. Conflict of Interest - A Board member shall abstain from the discussion and vote on an application, if a conflict of interest is found to exist by the Planning Board. Any question of whether a member should abstain from discussion and the vote on a particular application or matter

Section 8. Conflict of Interest (cont.)

before the Board shall be by a majority vote of the members, excluding the member who is being challenged. The Board member shall make full disclosure for the record of his/her interest prior to any action being taken by the Planning Board. If a Board member is required to abstain, he/she has the right to participate as a member of the public.

“Conflict of interest”, meaning direct or indirect pecuniary (financial) interest in the project (such as subdivision), exists when the Board member is one or more of the following:

- a. The applicant;
- b. Abutter;
- c. An officer, director, partner, associate, employee or stockholder of a private business or other economic entity that has an interest in the project and owns directly or indirectly at least 10% (ten percent) of the stock of the private business or corporation, or owns at least 10% (ten percent) interest in the business or other economic entity that has an interest in the project;
- d. Immediate family by blood, marriage or adoption (mother, father, husband, wife, son, daughter, father-in-law, mother-in-law, brother, or sister);
- e. Is placed in a situation of temptation to serve his/her own direct or indirect personal pecuniary interest which shall include pecuniary benefit to any member of the person’s immediate family to his/her employer or the employer of any member of the person’s immediate family.

Section 9. Reserved

Section 10. All comments addressed to the Board shall be made through the Chairman.

Section 11. All actions of the Planning Board shall be determined by a vote. A majority vote of the quorum present is needed to pass any motion. When a motion results in a tie vote, the motion fails. A motion to reconsider any item of business shall be made at the same meeting or at the next regular meeting, but not afterwards. Once a motion to reconsider has been decided upon, the item shall not be reconsidered. No motion to reconsider a vote passed at a previous meeting shall be in order for reconsideration at the next meeting unless an item to that effect is contained on the agenda for such next meeting or unless four (4) of the Board members consent to such reconsideration.

Section 12. All decisions must be based on whether the applicant has provided sufficient evidence to prove that all applicable law and ordinance requirements have been met.

- a. An applicant may request, in writing, that an item be tabled prior to the meeting.
- b. An applicant may request that an item be tabled during the meeting.

Section 13. The Board shall make a record of all meetings where official business is conducted by an appropriate means. Any individual or organization, upon written request to the Planning Assistant, may obtain a copy of the record from the municipal office upon prepayment of the cost of transcription, reproduction, and postage.

Section 14. Workshops

- a. The Chairman may call workshops for the purpose of conducting work relating to the Board's activities.
- b. The general public shall be barred from addressing the Board unless a majority of the Board members permits the public to speak.
- c. All workshops are open to the public.

Section 15. Upon an affirmative vote of four (4) or more members present and voting, a Site Walk may be conducted. All site walks are open to the public. The general public shall be barred from addressing the Board unless a majority of the members permits the public to speak.

Section 16. The Board, upon a vote of at least three-fifths (3/5) of the members present and voting, may call for an executive session in accordance with Maine Revised Statutes.

Section 17. The order of business shall be in accordance with the established agenda as stated in ARTICLE VI, Section 1.

ARTICLE VI APPLICATION SUBMISSION AND DEVELOPMENT OF AGENDA

Section 1. Regular meeting agendas shall be organized in the following format:

- a. Open meeting:
 1. Call to order
 2. Opening Statement - The Chairman shall open the meeting by describing, in general, the purpose of the meeting and the general procedure governing its conduct.
 3. Declaration of a Quorum - A roll call with recording of members present and absent and others at the meeting shall be conducted.
 4. Minutes - The Chairman will request approval of the minutes of the previous meeting(s).
 5. Communications - The Board will review all communication. Communications will include, but not be limited to the following non-voting matters: comments and correspondence from the public and Town agencies, and Board administration (to include mylar signing). In order for a communication to be placed on the agenda, the request must be made in writing seven (7) days prior to the Board meeting. If an applicant is requesting the Board to sign mylars or copies of an approved application, all copies and Conditions of Approval to be signed must be delivered to the Planning Assistant at least seven (7) days prior to the meeting date.
 6. Determination of Applicability
 7. Action on Applications
 - a. Old Business – The Board will continue the review of applications tabled at prior meetings. Applications whose time limit has expired shall be removed from the agenda by formal action of the Board.

- 7. Action on Applications (cont.)
 - b. New Business – The Board will review all new applications in accordance with Town ordinances and State statutes.

- 8. Non-Application Items
 - a. Other Business - This category shall include non-application items which require formal action.
 - b. Announcements

- 9. Adjournment

Section 2. No new business on the agenda may be brought up for discussion after 9:00 PM. Items not brought up for discussion because of this time deadline are to be placed on the agenda of the next regular meeting or on the agenda of a special meeting held at the convenience of the applicant and Board members. This rule may be waived by a majority vote of the members present.

Section 3. An application, upon receipt and review by the Planning Assistant at the Town Office, will be placed on the next agenda as an item under new business. The applicant shall be duly notified of the date, time and place of the meeting through the submission of the meeting agenda..

- a. The required application fee (non-refundable) and appropriate application materials must be submitted with each application.
- b. The deadline for all new application submissions is fourteen (14) days prior to the scheduled meeting. The deadline for the submission of materials associated with new sign applications is fourteen (14) days. The deadline for all old business submissions is seven (7) days prior to the scheduled meeting.
- c. The applicant or a designee named by the applicant must attend the hearing. The Board may choose to also recognize any member of the Town’s staff as a designee. If the property owner is not the applicant for any given application, the applicant or his/her designee must have a letter or email from the property owner, addressed to the Board, stating that the applicant/designee is authorized to represent the owner for the purpose of the application.

ARTICLE VII PROCEDURES TO GIVE NOTICE TO PUBLIC AND ABUTTERS

Section 1. Public notification - Meeting agendas shall be posted at the Town Office and on the Town’s website prior to the meeting, and made available and distributed to the “Bethel Citizen” and the “Lewiston Sun Journal”.

Section 2. Abutter notification - Notification to abutters shall be made in accordance with either the Site Plan Review Ordinance or the Subdivision Ordinance, as appropriate.

ARTICLE VIII CONSIDERATION OF APPLICATIONS

Section 1. Application Submittal - The Board shall review the application, make a determination as to its completion and notify the applicant in accordance with the appropriate ordinance(s).

Section 2. Application Consideration - Upon finding the application complete, the application shall be considered by the Board.

- a. The consideration of all applications by the Board shall first be done in the context of a hearing as described in this article.
- b. An opening statement shall be made in accordance with Section 1.a.2 of ARTICLE VI and identification of conflict of interest (if any).
- c. The Chairman shall have authority to:
 1. Rule upon issues of evidence
 2. Regulate the course of the hearing
 3. Rule upon issues of procedure
 4. Take such other actions as may be ordered by the Planning Board or that are necessary for the efficient and orderly conduct of the hearing, consistent with these rules and applicable statutes.
- d. Witnesses - Witnesses shall be required to state, for the record, their name, residence address, business address, business or professional affiliation, the nature of their interest in the hearing, and whom they represent.
- e. Continuances - All hearings conducted pursuant to these rules may be continued for reasonable cause. Continuances may be granted at the request of any person participating in such hearing if it is determined that a continuance is necessary. No continuance will be granted for a time period to exceed the ninety (90) day expiration. All orders for continuances shall specify the time and place at which such hearing shall be reconvened.
- f. Regulation of certain devices - The placement and use of television cameras, still cameras, motion picture cameras or microphones at Planning Board hearings, for the purpose of recording the proceedings thereof may be regulated by the Chairman so as to avoid interference with the orderly conduct of the hearing.
- g. Evidence
 1. General - Evidence which is relevant and material to the subject matter of the hearing of a type commonly relied upon by reasonably prudent individuals in the conduct of their affairs shall be admissible. Evidence which is irrelevant, immaterial, or unduly repetitious shall be excluded.
 2. Official Notice - The Planning Board may, at any time take notice of judicially cognizable fact, generally recognized facts of common knowledge to the general public and physical, technical or scientific facts within the specialized knowledge of the Planning Board.
 3. Documentary and Real Evidence - All documents, material and objects offered as evidences shall, if accepted, be numbered or otherwise identified. Documentary evidence may be received in the form of copies or excerpts if the original is not

3. Documentary and Real Evidence (cont.)

readily available. The Planning Board or the Chairman may require, after prior oral or written reasonable notice, that any party offering any documentary or photographic evidence shall provide the Planning Board with an appropriate number of copies of such documents or photographs unless such documents or photographs are determined to be of such form, size or character as not to be reasonably susceptible to reproduction. All documents, materials and objects accepted into evidence shall also be available for public examination, with due notice, at the Town Office during normal business hours.

4. Objections - All objections to rulings of the Chairman regarding evidence or procedure shall be timely made during the course of the hearing. If after the close of the hearing and during its deliberations the Planning Board determines that any ruling of the Chairman was in error, it may reopen the hearing or take such other action as it deems appropriate to correct such error.

h. Testimony, Questions, Rebuttal and Submissions

1. Applicant - The applicant shall be given the opportunity to present his/her case without interruption and may introduce documentary, photographic and real evidence including studies, reports, analyses and other information compiled by the staff or consultants for the purpose of the hearing.
2. Interested parties - The Board and interested parties may ask questions through the Chairman. Interested parties are those persons who request to offer testimony and evidence and to participate in oral cross-examination. Parties may be required to consolidate or join their appearances in part or in whole if their interests or contentions are substantially similar and such consolidation would expedite the hearing. Municipal officials and governmental agencies shall offer testimony at this time. Interested parties may be given the opportunity to refute or rebut statements during the hearing at the discretion of the Chair or majority of the Board.
3. The Chairman may refuse to permit irrelevant, immaterial or repetitious questions or other questions which do not advance or serve the purpose of the hearing and shall state the basis for such refusal on the record when requested to do so by the party asking the questions.
4. The Chairman may require that such questioning be conducted at the conclusion of the testimony of each category of witness rather than at the conclusion of the testimony of each witness. The Chairman may impose reasonable limitations on the number of witnesses to be heard and on the nature and length of their testimony and questioning.

Section 3. Deliberation and Approval of Application - Upon declaring the hearing closed, the Planning Board shall make, in a non-hearing format, a decision granting or denying approval of the project/subdivision, or granting approval on such terms and conditions as it may deem advisable to satisfy the criteria contained in the appropriate ordinance(s) and State statutes. During this deliberation, the Board reserves the right to call interested parties for further evidence and testimony, if required. The general public shall be barred from addressing the Board unless a majority of the Board members permits the public to speak.

Section 4. Rescinding of Application Approval - Upon reconsideration (see Section 11, ARTICLE V) of an application approval or any part thereof, the Board may rescind the approval of that application, with due cause, within thirty (30) days of the original approval.

ARTICLE IX LEGAL EFFECT OF RULES OF PROCEDURE

Nothing in these Rules of Procedure shall be deemed to modify or supplant any provision of any ordinance or statute providing for the Planning Board; and the provision of any such ordinance or statute shall remain in full force and effect and control these Rules of Procedure if they should conflict.