

TOWN OF LONG ISLAND, MAINE PLANNING BOARD BY-LAWS
Rev July 14, 2009

Article 1 General Provisions

1.1 Business of the Board shall be conducted in accordance with Maine Revised Statutes Annotated, Town Ordinances, Planning Board By-Laws and Standards for Reviewing Land Subdivisions, and the rules of running a meeting as outlined in the Maine Moderators Manual.

1.2 Planning Board members are expected to be knowledgeable of laws, ordinances, regulations, and Board policies and to abide by them.

Article 2 Membership

2.1 Appointments

2.1.1. Appointments to the Board shall be made by the Selectmen.

2.1.2. The Board shall consist of seven (7) members.

2.1.3. The term of each full voting member shall be 3 years, alternating.

2.1.4. When there is a permanent vacancy, the Board Chairman shall notify the Selectmen who shall, within 60 days of its occurrence, appoint a person to serve for the unexpired term.

2.1.5 Any member of the Board may be removed for cause by the Municipal Officers before expiration of his/her term, but only after an advertised public hearing at which the member in question has had an opportunity to refute specific charges. The term "for cause" shall include failure to attend 3 consecutive Board meetings or hearings without sufficient justification, and voting when the member has a conflict of interest.

2.2 Officers and their Duties

2.2.1. The officers of the Board shall consist of the Chairperson, Vice-Chairperson and a Secretary.

2.2.2. The Chairperson shall preside at all meetings and hearings of the Planning Board. The Chairperson has the authority to appoint all committees, to call all work sessions, and to preside over executive sessions. The Chairperson, in consultation with the Board, shall be responsible for all official Board communications and for all communications with the Board's legal counsel.

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2.2.3. The Vice-Chairperson shall act for the Chairperson in his or her absence.

2.2.4. The Secretary, with the Chairperson, shall be responsible for the minutes and records of the Board, agendas of regular meetings and special meetings, notice of the meetings and hearings, correspondence of the Board, and other duties as are normally carried out by a secretary. The Secretary 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 during normal business hours.

2.3 Election of Officers

2.3.1. Nomination of officers shall be at the annual organizational meeting which shall be held on the first regular Planning Board meeting in June, and the election shall follow immediately thereafter.

2.3.2. The candidate receiving a majority vote shall serve for one year, starting in July.

2.3.3. Vacancies of officers shall immediately be filled by regular election procedures.

2.4 Employees

2.4.1. The Board may employ such staff and/or experts as provided in local ordinances or regulations within budget limitations and according to municipal contracting and personnel procedures to aid the Board in its work. Appointments shall be made by a majority vote of the entire membership.

Article 3 Powers and Duties

3.1 The Board shall perform such duties and exercise such powers as are provided in the municipal ordinances and the laws of the State of Maine.

3.2 The Board may obtain goods and services necessary to its proper function within the limits of appropriations made for the purpose.

Article 4 Meeting Organization and Application Format

4.1 Regular meetings

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4.1.1. Meetings shall be held at times posted at Town Hall, the waiting shed on Mariners Wharf and other locations to be determined. The meetings shall be at the Town Hall or other suitable meeting place. The Chairperson may schedule special meetings on 24 hours notice to the members and the press.

4.1.2. All meetings shall be open to the public.

4.1.3. No official business may be conducted without a quorum present. A quorum shall consist of 4 members. It shall not include anyone who cannot participate due to a conflict of interest. "Conflict of interest" means direct or indirect pecuniary benefit to any member of the person's immediate family, to his employer, or the employer of any member of the person's immediate family. It shall also include a situation where the Board member by reason of his interest is placed in a situation of temptation to serve his own personal interest instead of the public interest. Any question of whether a member shall be disqualified from voting on a particular matter shall be decided by a majority vote of the members present except the member who is being challenged.

4.1.4. In the event a quorum is not present the Board members are authorized to request that the Chairperson reschedule the meeting to another date and to adjourn the meeting. If the date is other than a regular meeting date the Secretary shall have the responsibility of providing adequate notice to the Board members, municipal officials, and the general public.

4.1.5. All comments addressed to the Board shall be made through the Chairperson.

4.1.6. All matters shall be decided by a voice vote. A majority of members present is needed to pass any motion. When a motion results in a tie vote the motion fails.

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

4.2. Agendas

4.2.1. Regular meeting agendas shall follow the following format:

1. Call to order and determine the presence of a quorum.
2. Public hearing (if any scheduled)
3. Minutes of the previous meeting and correspondence.
4. Report of the CEO
5. Committee Reports
6. Old Business.
7. New Business.
8. Other.
9. Adjournment.

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4.2.2. Agendas of new business items shall be posted at Town Hall, the waiting shed on Mariners Wharf, and other locations to be determined at least 5 days before the meeting. No final vote will be taken on any items not on the agenda.

4.2.3. No meeting shall be longer than 2 hours, unless a vote to extend is taken.

4.2.4. New applications, upon receipt at the municipal office, shall be placed on the next available slot for new applications on the Board's agenda, and the applicant so notified of the date and time. At the initial meeting the Board shall make written findings whether the application is complete, and take all necessary steps to notify the applicant of the Board's determination.

4.2.5. The deadline for all new application submissions is 30 days prior to the scheduled meeting. A complete site plan and all other information needed for review must be submitted at that time.

4.2.6. The required application fee and site plan must be submitted with each application. The fee is non-refundable.

4.2.7. The expiration date on all applications will be 90 days from the first hearing. No extensions will be given unless a delay is caused by governmental agencies.

4.2.8. The applicant or a representative must attend the hearing. A representative must present written authorization from the applicant to speak/act in his behalf. The Board may choose to recognize any member of the Town's staff as a representative.

4.2.9. If the property owner is not the applicant for any given application, the applicant or his/her representative must have a letter from the property owner, addressed to the Board, stating that the applicant/representative is authorized to represent the owner for the purpose of the application.

4.3 Work Sessions

4.3.1. The Chairperson may, with the approval of the majority of the Board, call work sessions for the purpose of updating the Comprehensive Plan, subdivision regulations, zoning ordinances, Planning Board by-laws, and other information work items relating to the Board's activities, providing the public is notified. A quorum shall be present to conduct any business.

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4.3.2. Work sessions are open to the public. The general public shall be barred from addressing the Board unless a majority or the Board permits the public to speak.

4.4 Executive Sessions

4.4.1 . Upon a vote of at least 4 of the members, present and voting, the Board may call for an executive session to meet with the Town Attorney about pending or potential litigation.

4.4.2. Within the executive session it shall be the chair's responsibility to ensure that only that business for which the session was called will be discussed, and that no official action be taken.

Article 5 Subdivision and Site Plan Review Hearings

5.1 The Board by majority vote at a regular or special meeting may schedule a public hearing on any application within the time limits established by state law or local ordinance. The consideration of any application by the Board shall be done in the context of a hearing as described in this article.

5.2 The Board shall cause notice of the date, time, and place of such hearing, the location of the building or lot and the general nature of the question involved, to be given to the person making the application at least 14 days prior to the hearing. The Board shall also cause notice of the hearing to be given to the selectmen at least 14 days in advance. The owners of property abutting that property (including but not limited to land separated by a public or private way and within 100' of land that is held in common ownership.) for which the application is taken shall be notified by first-class mail at least 14 days prior to the date of the hearing.

5.3 Notice of public hearings shall be published in the Portland Press Herald at least 7 days before such hearing.

5.4 The Board shall provide as a matter of policy for the exclusion of irrelevant, immaterial, or unduly repetitious evidence.

5.5 The order of business

5.5.1. The Chairperson calls the hearing to order and determines whether there is a quorum.

5.5.2. The Chairperson then describes the purpose of the hearing, the nature

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of the case, and the general procedures to be followed.

5.5.3. The Board decides whether the applicant has sufficient right, title or interest to appear before the Board.

5.5.4. The Board determines whether it has jurisdiction over the application.

5.5.5. The Board determines which individuals attending the hearing are "interested parties." "Interested parties" are those persons who request to offer testimony and evidence and to participate in oral cross-examination. They would include abutting property owners and those who might be adversely affected by the Board's decision. Parties may be required by the Board 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 officers and the Code Enforcement Officer shall automatically be made parties to the proceeding. Interested parties will be required to state for the record their name, residence, business or professional affiliation, the nature of their interest in the hearing and whether or not they represent another individual, firm, association, organization, partnership, trust, company, corporation, state agency or other legal entity for the purpose of the hearing.

5.5.6. The Chairperson gives a statement of the case and incorporates into the record correspondence and reports filed with the Board prior to the hearing. This material shall be available for public inspection. All documents, materials, and objects offered as evidences shall, if accepted, be numbered or otherwise identified. Any party offering any documentary or photographic evidence shall provide the Planning Board with eleven (11) copies unless the evidence is of a size or character as to not be reasonably susceptible to reproduction.

5.5.7. The applicant is given the opportunity to present his or her case without interruption.

5.5.8. The Board and interested parties may ask questions of the applicant through the Chair.

5.5.9 The interested parties are given the opportunity to present their testimony starting with the proponents followed by the opponents. The Board may call its own witnesses, such as the Code Enforcement Officer, planner, or its consultant.

5.5.10. The applicant may ask questions of the interested parties and Board witnesses directly.

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5.5.11. All parties are given the opportunity to refute or rebut statements made throughout the hearing.

5.5.12. The Board shall receive comments and questions from all observers and interested citizens who wish to express their views.

5.5.13. The hearing is closed after all parties have been heard. If additional time is needed, the hearing may be continued to a later date. All interested parties shall be notified of the date, time and place of the continued hearing, and the reasons for the continuance.

5.5.14 Upon such request made prior to or during the course of the hearing, the Chairperson may permit persons participating in any hearing pursuant to these by-laws to file written statements with the Board for inclusion in the record after the conclusion of the hearing within such time and upon such notification to the other participants as the Chairperson may require.

5.6 The Board may waive any of the above rules upon good cause shown.

5.7. Any participant or other member of the public may obtain a copy of the record from the board upon payment of the cost of transcription, reproduction, and postage.

Article 5a Land Use Ordinance Changes

The public shall be given an adequate opportunity to be heard in the preparation or amendment of a zoning ordinance. To accomplish this the Planning Board shall conduct a public hearing on any proposed changes to the Land Use Ordinance that will be considered at a Town Meeting subject to the notification requirements of M.R.S.A. Title 30-A Sections 4352.9 and 4352.10 and M.R.S.A. Title 38 Section 438-A Subsection 1-B.

Article 6 Decisions

6.1 Decisions by the Board shall be made within the time limits established by state law and local ordinances and regulations.

6.2 The final decision on any matter before the Board shall be issued as a written order signed by the Chairperson. The transcript of testimony, if any, and exhibits, together with all papers and requests filed in the proceedings, and signed minutes of the meetings/hearing shall constitute the record. All decisions shall become a part of the record and shall include a specific statement of findings and conclusions as well

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as the reasons or basis therefor, upon all the material issues of fact, law or discretion presented and should specifically state that the applicant has/has not met all applicable state statutory requirements, all applicable municipal regulations, and those legal documents shall be specifically referenced.

6.3 The Board, in reaching said decision, shall be guided by standards specified in the applicable statute, ordinance, or regulation as well as by community goals and policies as specified in a comprehensive plan and by the findings of the Board in each case.

6.4 Notice of any decision, including the findings and conclusions/minutes, shall be sent by mail or hand delivered to the applicant, his representative or agent within 14 days of being rendered.

6.5 Decisions of the Board shall be immediately filed in the office of the Town Clerk and shall be made public record. The date of filing of each decision shall be entered in the official records and minutes of the Board.

Article 7 Appeals

7.1 Appeal of the decision of the Board is governed by state and local laws.

Article 8 Amendments

8.1 The By-laws may be amended by a majority vote of the Board at a regularly scheduled meeting.

Article 9 Severability

9.1 The invalidity of any section or provision of these By-laws shall not be held to invalidate any other section or provision of these By-laws.

ADOPTED with amendments BY THE VOTE OF THE TOWN OF LONG ISLAND PLANNING BOARD at a regular meeting on July 14, 2009

Curtis Murley, Chairperson
Emily Jacobs, Vice-Chair
Nancy Berges, Secretary
Bradley Brown
Ruth Peterson