

Planning Board By-Laws Town of Frye Island, Maine

Article 1 General Provisions

- 1.1 Business of the Board shall be conducted in accordance with Maine Revised Statutes Annotated, Town Ordinances, Planning Board Standards for Reviewing Land Subdivisions, and Roberts' Rules of Order.
- 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 Municipal Officers.
- 2.1.2. The Board shall consist of 5 members and 2 associate members
- 2.1.3. The term of each full voting member shall be 3 years. The term of associate members shall be 1 year.
- 2.1.4. When, there is, a permanent vacancy of either a full or an associate member, the Board Chairperson shall notify the Municipal Officers 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. The Chairperson, Vice Chairperson and Secretary shall be full members of the Board.
- 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, designate which associate member shall serve in place of a regular member, and to preside over executive sessions.
- 2.2.3. The Vice-Chairperson shall act for the Chairperson in his or her absence. .
- 2.2.4. The Secretary shall be responsible for the minutes and records of the Board, agendas of regular meetings and special meetings with the Chairperson, 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. Nominations of officers shall be made from among full voting members of the Board at the annual organizational meeting which shall be held on the first regular Planning Board meeting after the annual appointments by the Municipal Officers.
- 2.3.2. The candidate receiving a majority vote shall serve for one year or until his or her successor shall take office.
- 2.3.3. Vacancies of officers shall immediately be filled by regular election procedures.

2.4 Other Board Members

- 2.4.1. An associate member may attend all meetings and participate in the proceedings but may vote only when designated by the Chairperson to sit for a member.
- 2.4.2 When a member is unable to participate because of a conflict of interest, absence or any other reason satisfactory to the Chairperson, the Chairperson shall designate an associate member to act for the regular member until the case is decided.

2.5. Employees

2. 5. 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

4.1 Regular meetings

- 4.1.1. Meetings shall be held on the 4th Saturday of the month from May through September. Meetings shall be at 8:30 am [Rev 2002] in the Community Center. 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 3 members. It shall not include anyone who cannot participate due to a conflict of interest. Conflict of interest means direct or indirect pecuniary interest, which shall include 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's 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 roll call vote. A majority of the regular voting members is needed to pass any motion. When a motion results in a tie vote the motion fails

Maine State Law requires a majority of the entire Board for affirmative action unless the Town Ordinance only requires a majority of those present.

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 is scheduled}
3. Minutes of the previous meeting and correspondence.
4. Old Business.
5. New Business.
6. Other
7. Adjournment.

4.2.2. Agendas shall be posted in the Town Office and mailed to the board members at least 7 days before the meeting.

4.2.3. Agendas shall include not more than 1 new subdivision or site plan application, 1 in process subdivision/site plan application, and 5 other applications. No item on the agenda may be brought up for discussion after 10:30 am or 2 hours after the meeting has started. This rule may be waived by unanimous vote.

4.2.4. Presentations to the Planning Board must be submitted to the board a minimum of four (4) days prior to the next scheduled meeting which would allow the board sufficient time to study the issue. All agenda or new business items must be

highlighted along with having all the documentation or other government regulations that they may refer to so the board has all of the appropriate information at hand to make a timely decision.

- 4.2.5. No one subject will be allowed more the thirty (30) minutes discussion time at a given meeting. If the board is aware that the discussion will be lengthy and possibly tabled for more information then the board will attend to the housekeeping items first. This rule may be waived by unanimous vote
- 4.2.6. 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 that initial meeting the Board shall make written findings whether the application is complete, and take all necessary steps to notify the application of the board s determination. No application may be scheduled for consideration by the Board if there is not sufficient time for a timely decision before the Island closes in the fall. Such applications shall be scheduled for a regularly scheduled Planning Board meeting starting the following spring.

4.3 Work Sessions

- 4.3.1. The Chairperson may, with the approval of the majority at the Board, call work sessions for the purpose of updating the Comprehensive Plan, subdivision regulations, zoning ordinances, Planning Board By-lows, 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.
- 4.3.2. Work sessions are open to the public. The general public shall be barred from addressing the Board unless a majority of the Board permits the public to speak.

4.4 Executive Sessions

- 4.4.1. Upon a vote of at least 3/5 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 Chairperson'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 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.
- 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 and to be published in a newspaper of

general circulation in the municipality at least 7 days prior to the hearing. The Board shall also cause notice of the hearing to be given to the municipal officers and the Code Enforcement Officer at least 20 days in advance. The owners of property abutting that property for which the application is taken shall be notified by mail at least 7 days; prior to the date of the hearing.

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

5.4 The order of business

- 5.4.1. The Chairperson calls the hearing to order and determines whether there is a quorum
- 5.4.2 The Chairperson then describes the purpose of the hearing, the nature of the case, and the general procedures to be followed.
- 5.4.3. The Board decides whether the applicant has sufficient right, title or interest to appear before the Board.
- 5.4.4. The Board determines whether it has jurisdiction over the application.
- 5.4.5. 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.
- 5.4.6. 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.
- 5.4.7. The applicant is given the opportunity to present his or her case without interruption.
- 5.4.8 The Board and interested parties may ask questions of the applicant through the Chair.
- 5.4.9. 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.
- 5.4.10. The applicant may ask questions of the interested parties and Board witnesses through the Chair.

- 5.4.11. All parties are given the opportunity to refute or rebut statements made throughout the hearing.
- 5.4.12. The Board shall receive comments and questions from all observers and interested citizens who wish to express their views.
- 5.4.13. 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.
- 5.4.14. 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.
- 5.4.15. Board members and its consultants have the right to prepare findings and conclusions at any public meeting prior to the decision being finalized.
- 5.5 The Board may waive any of the above rules upon good cause shown.
- 5.6 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 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/hearings 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 as the reasons or basis therefor upon all the material issues of fact, law or discretion presented and the appropriate order, relief or denial therefor. At a minimum, the record should specifically state that the applicant has/has not met all applicable state statutory requirements, all applicable municipal ordinances and 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, if any, 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 seven 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.

Revision ADOPTED BY VOTE OF THE
PLANNING BOARD at a regular meeting on

September 15, 2007
Date

David Treacy
Chairperson