

Bylaws of the Planning Board

Town of Durham, ME 04222

Section 1. Purpose and Scope

The purpose of these bylaws is to establish reasonable rules of procedure for Board meetings and to promote the fair, orderly and efficient conduct of the Board's proceedings and affairs. These bylaws shall govern the Board's practices and procedures except as otherwise provided by law and shall be liberally construed so as to accomplish their purpose.

Section 2. Membership & Officers' - Duties

The Durham Planning Board is to be comprised of five (5) Regular members and two (2) Associate members appointed by the board of Selectmen. Terms will be of 5 years duration with staggered expiration dates. Officers of the Board shall consist of a Chairman, and Vice Chairman to be chosen annually at the first regular meeting in each year by and from among Board members. The Chairman shall preside at all Board meetings and shall have authority to rule on questions of evidence and procedure, to maintain order and determine the course of proceedings, and to take such other action as may be necessary; and not inconsistent with these bylaws or other law to enable the Board to perform its duties and conduct its affairs. The chair also shall, together with the Administrative Assistant, set the agenda for each meeting. In the absence of the Chairman, the Vice-Chairman shall preside and shall have the same authority as the Chairman. An appointed Secretary to the Planning Board shall maintain a permanent record of all Board meetings and all correspondence of the Board, which shall be a public record except as otherwise provided by law. This person shall not be a member of the Board.

Vacancies: Board members who are absent for more than 3 regular meetings without prior notice or prearrangement shall be deemed as having given notice as to their intention to resign their membership on the Board.

Section 3. Meetings

Regular meetings of the Board shall be held on the First Wednesday of each month or as otherwise necessary or required by law. Special meetings

Approved January 4, 2006rev6-09

may be called at the discretion of the Chairman or upon the request of a majority of the Board, provided, however, that notice thereof shall be given to each member and to representatives of the press at least 36 hours in advance and that no business may be conducted other than as specified in said notice.

Notice of all Board meetings shall be given as required by law, and all such meetings shall be open to the public except as otherwise provided by law.

Exception: Site Walk: A site walk is a continuation of the monthly business meeting and may be conducted by representatives duly authorized as representatives of the Planning Board.

No business may be conducted by the Board except at a duly called and noticed meeting or without a quorum consisting of a majority of the Board being present. The order of business at regular meetings shall be as follows:

1. Roll call and determination of a quorum.
2. Amendments to the agenda.
3. Acceptance of Minutes
4. Informational exchange.
 - Town Officials
 - Residents
 - Non-Residents
5. Continuing Business.
6. New Business.
7. Other Business.
8. Adjournment.

Section 4. Hearings

Public hearings of the Board shall be called as required by law or on such other occasions, as a majority of the Board may deem appropriate. Notice of all such hearings shall be given as required by law and shall include the date, time and place of the hearing and a general description of the subject matter.

Approved January 4, 2006rev6-09

The Chairman shall convene all hearings by describing the purpose of the hearing and the general procedures to be followed. The Board may receive any oral or documentary evidence but shall exclude irrelevant, immaterial or unduly repetitious evidence, provided. Every party shall have the right to present its case in the order determined by the Chairman and without interruption, provided, however, that the Chairman may impose such reasonable time limits as may be necessary to ensure that all parties have an adequate opportunity to be heard. In any adjudicatory proceeding, including proceedings on permits or other approvals, every party shall also have the right to submit rebuttal evidence and to conduct cross-examination of any other party through the Chair, provided however, that the Chairman may impose such other reasonable limitations as may be necessary to prevent an abuse of process.

Section 5. Participation and Voting

Any action of the Board shall require the affirmative vote of a majority of its membership unless otherwise provided by law.

No member may participate or vote in any matter in which the member has a conflict of interest or other disqualification as defined by law. Any question of whether a member has such a conflict of interest or other disqualification shall be decided by majority vote of the remaining members.

No member may participate or vote in any adjudicatory proceeding, including proceedings on permits or other approvals, unless the member was present during all hearings thereon.

Associate members may not participate or vote in any matter except as provided herein. If a regular member is absent or disqualified as provided herein, the Chairman shall designate an associate member to serve and to vote in the place of the regular member. Once an associate member serves in the place of a regular member on a particular application or matter, the associate member shall continue to hear and act on this matter until the Board action is completed.

All members who are present and not disqualified as provided herein shall vote in every matter to be voted upon unless excused by the Chairman for good cause shown.

Section 6. Decisions

All decisions of the Board shall be made within the time limits, if any, established by law. All final decisions shall be in writing, shall become a part of the Board's permanent record, and shall, where required by law, include a statement of findings and conclusions and the reasons or basis therefore. All such decisions, together with any electronic recording or transcript of testimony and deliberations and any documents and exhibits offered to the Board, shall constitute the record of the proceedings and shall be a public record, except as otherwise provided by law.

Notice of any decision, if required, shall be given as prescribed by law.

The Board may reconsider any decision at the same meeting or at a subsequent meeting within 30 days of its original decision, provided, however, that both a vote to reconsider and any action taken pursuant thereto shall occur and be completed within said 30 days. Notice of any reconsideration shall be given to any party thereto a reasonable time in advance of the reconsideration. The Board may conduct additional hearings and receive additional evidence and testimony as provided herein.

Section 7. Reconsideration

- A. The board may reconsider any decision. The board must decide to reconsider any decision, notify all interested parties and make any change in its original decision within 30 days of its prior decision. The board may conduct additional hearings and receive additional evidence and testimony.
- B. Reconsideration should be for one of the following reasons:
 - 1. The record contains significant factual errors due to fraud or mistake regarding facts upon which the decision was based; or
 - 2. The board misinterpreted the ordinance, followed improper procedures, or acted beyond its jurisdiction.

Section 8. Conflict with Laws

Any conflict or inconsistency between these bylaws and any applicable law shall be resolved in favor of the law.

Section 9. Waivers; Amendments

These bylaws, or any provision thereof, may be waived on any occasion by majority vote of the Board unless otherwise provided by law. These bylaws may be amended at any time in writing by majority vote of the Board after notice and public hearing on the proposed amendment.