

TOWN OF KENNEBUNKPORT

PLANNING BOARD

RULES & REGULATIONS

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ARTICLE I. PURPOSE

The Rules and Regulations, authorized by Section 4.4.6. of the Kennebunkport Administrative Code, are intended to assist the Planning Board in exercising its responsibilities in a fair, orderly and efficient manner. These rules and Regulations supersede all prior Rules and Regulations of the Board.

ARTICLE II. GOALS

In the discharge of its responsibilities, the Planning Board seeks to be mindful of the best interests of the entire community, present and future, and to support the Town's comprehensive Plan and the state's goals for natural resource management, land use and development established by the Legislature ([see Appendix A](#)).

ARTICLE III. MEMBERSHIP

There are seven Members, of whom five are Regular Members and two are Alternate Members. Members are appointed by the Selectmen for staggered terms of three years each.

ARTICLE IV. ORGANIZATION

At the first meeting after each Annual Town Meeting, the board shall elect a Chair and a Vice Chair from among the Regular Members and a Secretary from among the Members. The Board may, in its discretion, elect two Co-Chairs instead of a Chair and a Vice Chair.

Section 4.01 Chair. The Chair shall:

- (a) Be responsible for the fair, orderly and efficient discharge of the Board's responsibilities;
- (b) Whenever present and eligible to vote, serve as Presiding Member at all meetings and hearings except when another Member has been designated as Presiding Member;
- (c) Designate a Member to act as Manager of each application received by the Board
- (d) Regulate the use and placement of television cameras, motion picture and still cameras, microphones and any other audio or video devices so as to avoid interference with the orderly conduct of the Board's work;
- (e) Seek to maintain close liaison with the Selectmen, Town Manager, Code Enforcement Officer and other appropriate Boards, committees and officials;
- (f) Insure that all persons entitle to address the Board have a fair and reasonable opportunity to do so;
- (g) Seek active participation and involvement by all Members; and
- (h) Insure that new Members receive appropriate indoctrination and are supplied with appropriate materials.

Section 4.02 Co-Chairs. If Co-Chairs have been elected, each shall have the powers and responsibilities of the Chair except only one shall act as Presiding member at any given time.

Section 4.03 Vice Chair. The vice Chair shall assume the powers and duties of the chair when the Chair is absent or not voting.

Section 4.04 Secretary. The Secretary shall be responsible for the records and minutes of the Board, but may be assisted by an employee of the Town.

ARTICLE V. VOTING MEMBERS

No more than five Members may vote on any matter. An Alternate Member may vote only in the place of an absent or non-voting Regular Member. If it becomes necessary to determine which Alternate Member should vote, precedence shall be given to the person with longer service on the Board.

ARTICLE VI. VOTING ELIGIBILITY

No Member is eligible to vote on a matter if he or she

- (a) Has a Conflict of Interest, or
- (b) Has withdrawn or been excused from voting, or
- (c) Was not present at a Public Hearing if the matter was the subject of such a Hearing.

Section 6.02 Conflict of Interest. A Member has a Conflict of Interest if any one or more of the following applies

- (i) Has any financial interest, direct or indirect, in the matter before the Board, or
- (ii) Has any ownership interest in land abutting or in close proximity to the real estate that is the subject of the matter before the Board;
 - a) The Member, or
 - b) Any person in the Member's immediate family, or
 - c) Any employer, employee or co-worker of the Member.

Section 6.03 Withdrawal from Voting. Members are encouraged to withdraw from voting, even if no formal Conflict of Interest exists, if there is reasonable possibility that the public might perceive a conflict or otherwise question the Members impartiality.

Section 6.04 Excused from Voting. A majority of the other Voting Members may excuse a Member from voting on a specific matter if they consider that a Conflict of Interest exists or that there is a reasonable possibility that the public might perceive or otherwise question the Member's impartiality.

ARTICLE VII. QUORUM

Three Voting Members constitute a quorum for the transaction of business. If less than three are present, the only action possible is a vote to adjourn.

ARTICLE VIII. MEETINGS

Section 8.01 Regular Meetings. Regular Meetings shall be held at 7:00 p.m. on the first and third Wednesdays of each month, except as the Board may otherwise vote. In order to provide a break for staff and Members, it is the policy of the Board to omit at least one Regular Meeting each year if circumstances permit.

Section 8.02 Special Meetings. Special Meetings may be called in writing by the Chair or by a majority of the Members.

Section 8.03 Site Visits. Site Visits are encouraged and may be scheduled by the Chair or by the Manager of the particular matter. If three or more Members are to participate in a Site Visit, it shall be treated as a Special Meeting, but no formal motions or votes will be in order.

Section 8.04 Workshop Meetings. The Board may schedule workshop Meetings for the purpose of updating regulations or ordinances, or discussing other work items relating generally to the Board's responsibilities. Likewise, the Board may move into a Workshop during, or in addition to, any Regular or Special Meeting.

Section 8.05 Unscheduled or "Inadvertent" Meetings. A meeting occurs whenever three or more Members (a Quorum) are together talking about the business of the Board. Because no lawful meeting can take place without proper public notice, no more than two Members may discuss board business at a social or other unscheduled occasion.

Section 8.06 Executive Sessions.

- (a) Upon the vote of three-fifths of the Voting Members, the Board may go into Executive Session. The precise nature of the business to be considered shall be indicated in the motion, no other matters shall be considered in such Executive Session, and no official actions shall be taken.
- (b) Deliberations may be conducted in Executive Session only on matters specifically authorized by Maine Law [1 M.R.S.A. sec. 405]. Among the matters authorized are:
 - (i) Consultation with the Board's attorney concerning pending or contemplated litigation
 - (ii) Consultation with the Board's attorney concerning the Board's legal rights and duties
 - (iii) Discussion or consideration of certain personnel matters as provided by clause 6.A. of 1 M.R.S.A. sec. 405

Section 8.07 Notice. It is the policy of the Board to give public notice of all Meetings at least seven days in advance.

- (a) Regular Meetings. Notice of Regular Meetings may be made by posting the schedule at the Municipal Offices and providing copies to the local representatives of the media.
- (b) Special and Work Session Meetings. Notice of Special and Workshop Meetings may be made by posting the notice at the Municipal Offices and by notifying local representatives of the media. In the unlikely event of an emergency that would require a Special Meeting to be held with less than a seven-day notice, representatives of the media shall be notified by the same or faster means used to notify the Members.

Article IX. Standard Meeting Agenda

Section 9.01 Standard Meeting Agenda

- (a) Call to order and presence of quorum
- (b) Approval of Minutes
- (c) Initial Review of Applications
- (d) Public Hearing (if scheduled)
- (e) Old business
- (f) New business
- (g) Adjournment

Section 9.02 Order in which Applications Considered. To the extent possible, matters shall be placed on the agenda in the order in which the applications have been received, and hearings shall be held in the order in which applications have been found to be complete. Any agenda item not considered at a meeting shall receive priority on the agenda of the next Regular Meeting.

Section 9.03 Time Limit on New Items. At any meeting scheduled to begin at 6:00 p.m. or later, no agenda item shall be taken up after 10:00 p.m. unless the Board waives this restriction with respect to a specific agenda item. At any meeting scheduled for an earlier time, the Board may set an appropriate time limit.

ARTICLE X. APPLICATION PROCEDURE

Section 10.01 Time for Submission. In order to be considered by the Board at any particular meeting, all initial applications, requests and related materials must be filed with the Town at least 14 Business days in advance unless the Board waives this requirement with respect to a specific item.

Section 10.02 Mailing or Delivery to Members. Promptly after filing with the Town, the Applicant shall mail or deliver to each Member a complete copy of the application and supporting materials. The Board may decline to consider an application at any meeting unless such materials have been received by the Members at least 14 days seven days in advance of such meeting. Additional materials or supplemental information related to an active application must be submitted to the Town at least 7 days prior to the next regularly scheduled meeting.

Section 10.03Inactive Applications. At any time after an application or request is filed, if for a period of six consecutive months the Applicant fails to take action or submit required materials, the application or request shall become void unless the Board votes an extension of time. One or more extensions of time may be granted by the Board, but the expiration date shall be no later than one year form the date of original filing.

ARTICLE XI. MANAGEMENT OF APPLICATIONS

A Member shall be designated as Manager of each application received by the Board. The Manager shall have the primary responsibility for the administration of the Application and for communications on behalf of the Board with the Applicant, the Code Enforcement Officer and other interested officials.

ARTICLE XII. MEETING PROCEDURE

It is the intent of the Board that the procedure at all meetings, including Public Hearings, be governed by fairness, openness and common sense. Rulings of the Presiding member shall be final unless a majority of the other Voting members vote otherwise.

Section 12.01 Motions. It is anticipated that all of the Boards business can be accomplished with the following motions, each of which shall require a second, may be debated, and shall be considered in the order listed. All motions require a majority vote of the Voting Members, except that a three-fifths vote is required for a motion to go into Executive Session. In the event that only a quorum of three Voting Members is present, all members must vote unanimously in order to render a decision. The Presiding Member may, at his or her discretion, limit the length of debate, and may decline to accept any motion that he or she considers to be unreasonably repetitious or to be otherwise inconsistent with the objectives of fairness, openness and common sense.

- (a) To adjourn
- (b) To “vote now” (also known as “the previous question” or “move the question”)
- (c) To amend
- (d) To postpone to a future date
- (e) To go into Executive Session
- (f) To approve or disapprove (the “main motion”)
- (g) To reconsider a previous vote

Section 12.02 Reconsideration. Motions to reconsider are discouraged. The motion must be made by a Voting Member who voted in the majority (or in the case of a tie vote, in the negative), must be made at the same meeting prior to any adjournment or continuance, and when voted cannot be reconsidered.

ARTICLE XIII. EVIDENCE

In considering the matters that come before it, the Board seeks the benefit of as much useful information and comment as is reasonably possible. To this end, the rules of evidence shall not be strictly applied and any doubts shall be resolved in a manner that best affords all members of the public a fair opportunity to be heard.

Section 13.01 Guidelines for Conduct. Out of consideration for the time of those attending, and to insure that everyone desiring to speak has an opportunity to do so, the Board discourages questions or statements that are repetitious or that do not advance the purpose of the proceedings. Personal attacks on the motives or character of another are not allowed and will not be permitted. In the event of disruptive behavior, the Presiding Member may require the offending person or persons to leave the meeting or the Board may choose to adjourn.

Section 13.02 Questions. The Presiding Member may refuse to allow any question that does not bear on the matter at hand (“irrelevant”), that has no reasonable significance (“immaterial”) or that is unduly repetitious, and shall state the basis for such refusal on the record if requested to do so by the person asking the question.

Section 13.03 Testimony and Other Evidence. In general, testimony and other evidence shall be admissible if it bears on the subject matter in a reasonably significant way and is of a type commonly relied upon by reasonable, prudent individuals. The Presiding member may refuse to admit evidence that is irrelevant, immaterial, or that is unduly repetitious and shall state the basis for such refusal on the record if requested to do so by the person asking the question.

ARTICLE XIV. PUBLIC HEARINGS

Section 14.01 Responsibilities of the Presiding Member. The Presiding Member shall:

- (a) Regulate the conduct of the Hearing
- (b) Rule on issues of procedure and evidence; and
- (c) Take actions necessary or desirable for the orderly and efficient conduct of the Hearing.

Section 14.02 Standard Hearing Agenda. Unless the Presiding Member otherwise determines, the order of presentation shall be as follows:

- (a) Opening statement by the Presiding Member
- (b) Presentation by Applicant
- (c) Comments and questions by Board Members, staff and consultants
- (d) Testimony, comments and questions by:
 - (i) Representatives of state and federal agencies
 - (ii) All others
- (e) Rebuttal testimony – limited to matters previously discussed; no new subject matter shall be introduced.
- (f) Closing statement by Applicant
- (g) Board vote to close Hearing.

SECTION 14.03 GENERAL PROVISIONS.

- (a) Record. A record shall be kept by appropriate means and shall be open to public inspection. Any participant or member of the public may obtain a copy of the record upon payment of the cost of transcription, reproduction and postage.
- (b) Participation by Members, Staff, Counsel, Consultants and the Public.
 - (i) Persons who wish to make a statement or ask a question shall be required to state, for the record, their name, address, the nature of their interest in the Hearing, if any.
 - (ii) All questions and comments shall be directed to the Presiding Member or to the Board, as appropriate. The only exceptions shall be:
 - a) Questions and comments by members; and
 - b) When specifically authorized by the Presiding Member, the examination and cross-examination of witness.
- (c) Continuances. A Hearing may be continued at the Board's discretion. In such a case, appropriate notice of the time and place of the reconvened Hearing shall be given to interested persons and to the public.
- (d) Objections. An objection to a ruling on issues of procedure or evidence may be made at any time prior to the close of the Hearing.
- (e) Conclusion of Hearing. A Public Hearing is closed by a vote of the Board, and no further testimony or other evidence shall be received, except as follows:
 - (i) Record Left Open. Upon a request made prior to the close of the Hearing, the Presiding Member may permit persons participating in the Hearing to file written statements with the Board for inclusion in the record, such time and upon such notification to the other participants as the Presiding Member shall determine.
 - (ii) Hearing Re-opened. At any time prior to final decision, the Chair or a majority of the Voting Members may re-open the record for further proceedings after proper notice has been given to interested persons and to the public.
- (f) Forms. To the extent practicable, all applications and other written or graphic submissions shall be printed or typewritten on letter size paper (8 ½ x 11 inches) and fastened on the upper left corner or bound along the left margin. The first page of each document shall bear the title "PLANNING BOARD, TOWN OF KENNEBUNKPORT, Maine", together with the title of the matter, the title of the document, the date and the name and address of the person or organization submitting the document.

ARTICLE XV. AMENDMENTS

These Rules and Regulations may be amended by a majority vote at any meeting, provided that the written text of such proposed amendment was provided to all Members no less than two weeks prior to such meeting.

ARTICLE XVI. CONFLICT WITH MUNICIPAL OR STATE LAW

In the event that a provision of these Rules and Regulations conflict with any Kennebunkport ordinance or Maine statute, such ordinance or statute shall govern.

ARTICLE XVII. STATE GOALS

The Legislature hereby establishes a set of state goals to provide overall direction and consistency to the planning and regulatory actions of all state and municipal agencies affecting natural resource management, land use and development. The Legislature declares that, in order to promote and protect the health, safety and welfare of the citizens of the State, it is in the best interests of the State to achieve the following goals:

APPENDIX A. STATE GOALS FOR LAND USE

STATE GOALS FOR NATURAL RESOURCE MANAGEMENT, LAND USE AND DEVELOPMENT MAINE REVISED STATUTES TITLE 30A, SECTION 4312, PARAGRAPH 3

Note: This law was enacted in 1989. The underlining is not included in the official text, but has been added for convenience to the reader.

- A. To encourage orderly growth and development in appropriate areas of each community, while protecting the State's rural character, making efficient use of public services and preventing development sprawl;
- B. To plan for, finance and develop an efficient system of public facilities and services to accommodate anticipated growth and economic development;
- C. To promote an economic climate which increases job opportunities and overall economic well-being;
- D. To encourage and promote affordable, decent housing opportunities for all Maine citizens;
- E. To protect the quality and manage the quantity of the State's water resources, including lakes, aquifers, great ponds, estuaries, rivers and coastal areas;
- F. To protect the State's other critical natural resources, including without limitation, wetlands, wildlife and fisheries habitat, sand dunes, Shoreland, scenic vistas and unique natural areas;
- G. To protect the States marine resource industry, ports and harbors from incompatible development and to promote access to the shore for commercial fishermen and the public;
- H. To safeguard the States agricultural and forest resources from development which threatens those resources;
- I. To preserve the States historic and archaeological resources; and
- J. To promote and protect the availability of outdoor recreation opportunities for all Maine citizens, including access to surface waters.