

Town of Bethel, Maine
Planning Board Rules of Procedure
Approved by Select Board July 15, 2026

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ARTICLE I Purpose of Rules

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) and The Town of Bethel Ordinances.

Section 3. Planning Board members are expected to be reasonably knowledgeable in the Town Code and Board policies and to abide by them.

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

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

A 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. The Selectboard shall select an individual to fill the vacancy for the duration of the vacancy's term.
- c. Expiration of term- The Selectboard shall select an individual to fill the vacancy.

Section 2. Officers

- a. The Planning Board officers shall consist of the Chairman and Vice-Chairman.
- 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.
- e. 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 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. Should both the Chair and the Vice-Chair be absent from a Board meeting, a temporary Chair shall be elected by a majority of the Board present at the meeting.
 4. 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

Ex Parte Communication

An *ex parte* communication occurs when a board member in a quasi-judicial proceeding communicates, directly or indirectly, with any person or party in connection with a matter before the board, absent of notice and opportunity for all parties to participate. The term *ex parte* literally means “one-sided.”

“To avoid violations of the Freedom of Access Act (FOAA) and the constitutional right to due process, board members should not have discussions with other board members regarding an application or other substantive board business outside an advertised board meeting. The FOAA requires discussion, deliberation and voting by the board to be done at a public meeting so that the public can hear and observe what is said and done by the board. Discussion between board members about board business outside a public meeting should not occur, whether or not a majority of the board is involved, and whether or not the discussion occurs by phone, by email, at a sports event or grocery store or after the board meeting is adjourned. Any such communications should be limited to non-substantive issues; for example, calling or emailing board members to set a meeting date or agenda items.” MMA Manual for Planning Boards, February 2017 Revised Edition
Ex parte communication among Board members, applicants and the public is prohibited.

Examples of typical practices which violate the Freedom of Access Act (FOAA)

- a. Polling Board members by telephone or other electronic means to vote on or discuss an application;
- b. Chance meetings of Board members at which those members discuss an application;
- c. Making decisions in a “closed door” meeting or excluding the public when not authorized by law.
- d. Board members conducting discussions about Board business or having discussions electronically or in person.

ARTICLE V

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.

Section 3. The retention of legal counsel and other professional assistance shall be coordinated 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.

ARTICLE VI

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. 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 6:00 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. 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 5. 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 6. of this article. Members shall abstain from a vote on the minutes of previous meetings if they were not in attendance. Provided, however, that the Board may vote to allow participation by a member not in attendance at a prior meeting if the member demonstrates that he or she has reviewed the meeting record and all relevant materials and affirms his or her ability to participate in the review of the application.

Section 6. 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 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 and shall leave the board table and sit in the audience.

“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 7. All comments addressed to the Board shall be made through the Chairman.

Section 8. 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.

Section 9. 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 10. 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. The board has the right to table an application upon majority vote.

Section 11. Upon an affirmative vote of four (4) or more members present and voting, a Site Walk may be conducted.

Section 12. 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.

ARTICLE VII Application Submission and Development of an Agenda

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

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.

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 such as signing previously approved plans. In order for a

communication to be placed on the agenda, the request must be made seven (7) days prior to the Board meeting.

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.

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 8:00 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 available agenda as an item under new business. The Planning Department reserves the right to limit the agenda. 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 twenty- one (21) days prior to the scheduled meeting. The deadline for all old business submissions is fourteen (14) days prior to the scheduled meeting.

c. The applicant or a designee named by the applicant must attend the hearing. 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 VIII 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.

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.

Section 3. Abutter notification for building permit in the historic district- Notification of abutters shall be made to all abutters of a parcel seeking a building permit in the historic district.

ARTICLE IX Consideration of Applications

Section 1. Application Submittal - The Board shall review the application in accordance with the appropriate ordinance(s).

Section 2. Application Consideration

- a. The consideration of all applications by the Board shall be done in the context of a hearing.
- b. Any conflict of interest should be disclosed.
- 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. 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.
- f. 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 considered.
 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 - Documentary and real evidence that were not included in the materials submitted pursuant to Article VII, Section 3b. will not be considered unless a majority of members approve a motion to read the material into the record.
 4. Objections - All objections to rulings of the Chairman regarding evidence or procedure shall be timely made during the course of the hearing.
- h. Testimony, Questions, Rebuttal and Submissions
 1. Applicant - The applicant shall be given the opportunity to present his/her application without interruption.
 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. 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.

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 begin deliberations and issue 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. Reconsideration

a. The board may reconsider any decision, following a vote on a motion to reconsider made by a member who voted on the prevailing side in the original vote. The board must decide to reconsider any decision, notify all parties and make any change in its original decision within 30 days of the original 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.

ARTICLE X Legal Effects 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.

ARTICLE XI Remote Participation Policy

Pursuant to 1 M.R.S. § 403-B, and after public notice and hearing, the Planning Board adopts this policy governing remote participation in public meetings and proceedings.

PURPOSE

The purpose of this policy is to provide a framework for when remote participation is allowed for members of the Planning Board as well as members of the public and Town staff and to outline acceptable methods of remote communication.

A. LIMITED IN SCOPE

The Planning Board members are expected to be physically present for meetings except when being physically present is not practicable, including but not limited to the following circumstances:

1. The existence of an emergency or urgent issue that requires the full Planning Board to meet remotely.
2. Illness, other physical condition or temporary absence from the Town that causes a member of the Planning Board to face significant difficulties traveling to and attending in person.

A Planning Board member who is unable to attend a meeting in person shall notify the Chair as far in advance of the meeting as possible. The Chair is authorized to make a determination as to whether remote participation by the Planning Board or certain Planning Board member(s) is permissible under the circumstances.

B. REMOTE PARTICIPATION REQUIREMENTS

1. Remote Methods of Participation

The remote method of participation may be through telephonic or video technology that allows for the simultaneous reception of information and may include other means when such means are necessary to provide reasonable accommodation to a person with a disability. Methods of participation cannot be by text-only means such as e-mail, text messages or chat functions.

2. Planning Board

- a. A Planning Board member who participates in a public proceeding by remote methods is present for purposes of a quorum and voting.
- b. All votes taken during any public proceeding when one or more members of the Planning Board are participating by remote means shall be by roll call vote that can be seen and heard if using video technology and heard if using only audio technology.

3. Members of the Public

- a. Members of the public must be given meaningful opportunity to participate remotely when a member of the Planning Board is participating remotely.
- b. Members of the public and Town staff may be given the opportunity to participate remotely at any Planning Board meeting, regardless of whether any Planning Board members are participating remotely.
- c. If the Planning Board allows or is required to provide an opportunity for public input during the meeting, an effective means of communication between the members of the body and the public must be provided.

- d. The Planning Board may not determine that public attendance at a proceeding will be limited solely to remote methods, except in the case of an emergency or urgent issue that requires the full Planning Board to meet remotely.

4. Notice Requirements

- a. Notice of all Planning Board meetings must be provided in accordance with 1 M.R.S. § 406 and applicable Town requirements.
- b. When the public may attend via remote methods the notice must include the means by which the public can participate remotely.
- c. Unless the entire Planning Board is meeting remotely, due to an emergency or urgent issue, the notice shall include the physical location of the meeting for those that would like to attend in person.

5. Meeting Materials

All documents and materials considered by the Planning Board must be made available to the public who attend remotely, electronically or otherwise, to the same extent they are customarily made available to members of the public who attend in person, as long as additional costs are not incurred by the Town.

Board of Selectmen Approved: