

Bylaws of the Planning Board of Eddington, Maine

Adopted: 08 August 2013

Amended: 11 August 2015

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ARTICLE I – GENERAL

1.1 Purpose

The purpose of these bylaws is:

- 1.1.1 To support the Constitution of the State of Maine, the Maine Revised Statutes Annotated, Town Ordinances, and Comprehensive Plan;
- 1.1.2 To provide the Planning Board with a clear and specific legal foundation to clarify its policies, objectives, and methods;
- 1.1.3 To establish a protocol for Planning Board members to use in keeping their activities consistent and legal;
- 1.1.4 To provide a publically accessible record outlining Planning Board procedures and policies, and to inform residents and the public of the Board’s general rules and operating expectations.

1.2 Effective Date

- 1.2.1 These bylaws shall be in effect immediately upon their adoption by the Town of Eddington Planning Board.
- 1.2.2 The effective date of these bylaws is 08 August 2013.

1.3 Jurisdiction

- 1.3.1 The provisions of these bylaws shall pertain exclusively to the Town of Eddington Planning Board (herein referred to as “the Board”).
- 1.3.2 The provision of these bylaws shall not be construed to overrule or annul the provisions of other ordinances or regulations (local, state, or federal) in effect in the Town of Eddington.
- 1.3.3 Nothing in these bylaws shall be deemed to modify or supplant any provision of any ordinance or statute governing the Planning Board; and the provision of any such ordinance or statute shall remain in full force and effect and control these bylaws if they should conflict.

1.4 Adoption and Amendments

- 1.4.1 The Board shall have the power to amend these bylaws by a simple majority of affirmative votes at a Board meeting provided that all Board members have received written notice (email is acceptable) of potential bylaws amendments at least fourteen (14) days prior to scheduled consideration of the proposed amendment(s).
- 1.4.2 All Board members, both regular and alternate, can propose changes to and vote on amendments to these bylaws.

1.5 Severability

- 1.5.1 The invalidity of any section or provision of these bylaws shall not be held to invalidate any other section or provision of these bylaws.

1.6 Waiver of Rules

- 1.6.1 In the case of extenuating circumstances, the Board may waive any provision of these bylaws by a unanimous vote of all members present.

ARTICLE II – PLANNING BOARD MEMBERSHIP AND STAFFING

2.1 Board Membership, Terms, and Appointment

- 2.1.1** The Board shall consist of five (5) regular members and two (2) alternate members who shall be appointed or reappointed by the Eddington Board of Selectmen.
- 2.1.2** The term of office for regular members shall be five (5) years. Initial appointments shall have staggered terms of three (3) years.
- 2.1.3** The term of office for alternate members shall be five (5) years.
- 2.1.4** All members shall be residents of Eddington throughout their entire term, and at least 18 years of age.
- 2.1.5** All members shall be sworn in by the Town Clerk or designee of the Town Clerk who is authorized by law to administer an oath. The Town Clerk shall make record that the member was sworn in and shall be responsible for keeping track of term expiration dates.
- 2.1.6** A municipal officer shall not serve as a regular or alternate member.

2.2 Board Vacancies

- 2.2.1** When a Board vacancy arises, the Selectmen shall, within sixty (60) days if possible, appoint a person to serve the remaining portion of the term. Any person appointed to fill a vacated term may be reappointed to a full term by the Selectmen.

2.3 Attendance

- 2.3.1** All members are expected to attend all meetings.
- 2.3.2** Attendance shall be recorded in the minutes.
- 2.3.3** When a member is not able to attend a meeting, the member shall be responsible for notifying the Board as far in advance as possible and shall request an excused absence.
- 2.3.4** When a member is not able to attend meetings for an extended period of time, the member shall discuss it with the Chair of the Board. Depending on the circumstances, an extended leave of absence may be granted or a letter of resignation may be requested.

2.4 Selection and Authority of Officers

- 2.4.1** Chair and Vice-Chair
 - 2.4.1.1** The Chair and Vice-Chair shall be nominated and elected from the Board's regular membership.
 - 2.4.1.2** The election of officers shall be held at the beginning of the Board's first meeting in January. If there are not sufficient regular members attending, the elections shall be held at the next meeting.
 - 2.4.1.3** The Chair and Vice-Chair shall each be elected by a majority vote of regular members.
 - 2.4.1.4** The term of the Chair and Vice-Chair shall commence immediately at the close of the meeting during which they were elected.
 - 2.4.1.5** In the temporary absence or disability of the Chair and Vice-Chair, the Board shall elect by a majority vote a Chair pro tempore from among its members. The Chair pro tempore shall exercise the powers of Chair during the absence or disability of the Chair and Vice-Chair.

2.4.1.6 Upon the vacancy of the Chair or Vice-Chair, a special election shall be held by the Board to fill such vacancy.

2.5 Town Staff Support

- 2.5.1 The Town Manager shall appoint a member of the town staff to act as a Secretary for the Board for the entire year. This shall be in addition to any involvement of the Code Enforcement Officer as required by Maine State Statutes.
- 2.5.2 The Secretary shall attend all meetings and record minutes.
- 2.5.3 The Town Manager or designee of his/her choosing shall be responsible for assembling the agenda for meetings and for disseminating any correspondence required by the Board.
- 2.5.4 Town staff shall be responsible for coordinating public notices of meetings, hearings, and abutter notifications.
- 2.5.5 Town staff shall be responsible for coordinating legal counsel or other technical or professional assistance and support as determined to be needed by the Board.

ARTICLE III – DUTIES AND RESPONSIBILITIES

- 3.1 The Board shall prepare and maintain the Comprehensive Plan in accordance with the current Maine Revised Statute Annotated title and section requirements. The Board shall prepare and recommend adoption or amendments to the Comprehensive Plan to the Board of Selectmen for consideration to send to Town Meeting.
- 3.2 The Board shall perform such duties and exercise such powers as are provided by the State of Maine Constitution, the laws of the State of Maine, Town Ordinances, and other laws or regulations that may be applicable.
- 3.3 The Board shall develop and maintain all land use and related ordinances, including but not limited to:
 - Zoning Ordinance
 - Subdivision Ordinance
 - Wind Energy Facility Ordinance – Large and Small Scale
 - Shoreland Zoning Ordinance
 - Floodplain Management Ordinance
 - Wireless Telecommunications Ordinance

ARTICLE IV – MEETING PROCEDURES AND RULES

4.1 General Conduct

All meetings, workshops, and public hearings will be conducted in an orderly fashion at the Chair's direction and discretion, guided by Robert's Rules of Order Newly Revised.

4.2 Time of Meeting

- 4.2.1 Regular meetings shall be held on the second and fourth Tuesday of each month at 6:00pm at the Eddington Municipal Building.
- 4.2.2 Special meetings shall be called by the Chair only. Notice of at least seventy-two (72) hours prior to the time set for a special meeting shall be given each member.

- 4.2.3 The date of any regular meeting may be changed by a unanimous vote of the Board at the previous meeting provided that the change in date allows for one regular meeting in each month.
- 4.2.4 Cancellation or postponement of meetings shall be the responsibility of the Chair. Town staff shall post notice of such cancellation or postponement on the town website and at the town office.

4.3 Conduct of Meetings and Workshops

- 4.3.1 All meetings will be conducted in an orderly fashion at the Chair's direction and discretion, guided by Robert's Rules of Order Newly Revised, in all cases to which they are applicable, and in which they are not inconsistent with these bylaws.
- 4.3.2 A quorum is required in order to conduct a meeting in all cases except for postponement and adjournment. A quorum shall consist of three regular members or alternate members for the transaction of all official business.
- 4.3.3 All meetings and workshops shall be open to the public except for executive sessions as pursuant to Maine Revised Statutes Annotated. Workshops are open to the public, but the general public shall be barred from addressing the Board during a workshop unless a majority of Board members permits the public to speak.
- 4.3.4 All comments addressed to the Board shall be made through the Chair.
- 4.3.5 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.
- 4.3.6 All actions of the Board shall be determined by a vote. A majority vote of the quorum present is needed to pass any motion and in no event shall a motion pass without a minimum of three votes in the affirmative. When a motion results in a tie, the motion fails.
- 4.3.7 The Secretary shall record all motions, seconds, and votes thereon.
- 4.3.8 Executive sessions may be entered into upon a vote of at least 3/5 of the members present and voting.

4.4 Conflict of Interest

Conflict of Interest means direct or indirect pecuniary interest.

- 4.4.1 Direct pecuniary interest shall be when the applicant is a member of the Board or an owner of property that is the subject of an application or is directly affected by the Board's decision.
- 4.4.2 Indirect pecuniary interest shall be when the Board member has an interest in the application due to being an officer, director, partner, associate, employee or stockholder of a corporate applicant, or other business entity. Also included shall be when a Board member is a part of the applicant's immediate family, an employer or employee of the applicant or the applicant's immediate family. Immediate family shall mean spouse, parents, siblings, children, and grandchildren.
- 4.4.3 Pecuniary interest shall also include a situation where the Board member, by reason of his/her interest is placed in a situation that may be viewed as temptation to serve his/her own personal interest instead of the public's interest.

- 4.4.4 The decision of whether a member shall be disqualified from voting on a particular matter shall be made by a majority vote of the remaining members present. For the Board to decide that pecuniary interest exists, a significant impact on the Board member, his/her family, employee and/or employer must exist.
- 4.4.5 The Board member shall make full disclosure of his/her interest, on the record, prior to any action being taken and shall abstain from voting and from other wise attempting to influence a decision in his/her capacity as a Board member.
- 4.4.6 If a Board member abstains, he/she has the right to participate as a member of the public.

4.5 Ex Parte Communication

Ex Parte Communication is “an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given...” and shall be avoided.

- 4.5.1 All Board members shall refrain from discussing pending or potential applications with each other outside of the Board meetings. Communications with residents regarding pending applications or potential applications shall also be avoided. Where communications take place inadvertently, they must be disclosed completely to the Board in the next scheduled public session. This includes all email communication.
- 4.5.2 Any gathering of three members (whether regular or associate) outside of scheduled meetings where any Planning Board case matters are discussed, shall be avoided as it would likely be considered Ex Parte Communication. Any inadvertent gathering where Planning Board case matters were inadvertently discussed, shall be reported publicly and completely at the next scheduled meeting for purposes of proper disclosure.
- 4.5.3 No Board member may conduct site visits to project locations. All such visits must be conducted as part of a scheduled Planning Board Site Visit.
- 4.5.4 No determination of the Board shall be made except in a duly called regular or special meeting and every decision or determination of the Board shall be filed as a part of the minutes of the meeting.
- 4.5.5 A duly called and scheduled site visit shall be considered a special meeting. Minutes of such meeting shall be kept by the Chair or Chair’s designee.

4.6 Code of Ethics

Members must also abide by the Town of Eddington’s Code of Ethics.

4.7 Public Hearings

Public hearings will be conducted in accordance with the provisions of the relevant town ordinance (usually Zoning or Subdivision) and applicable state laws. The following procedures apply unless waived by a majority vote of the regular members of the Board.

- 4.7.1 All public hearings shall be tape recorded and the recording of the hearings kept in the permanent record of the Board.
- 4.7.2 All information submitted, recordings, and other materials made part of the public hearing shall be maintained as part of the permanent record of the hearing. Costs of transcription of the hearing shall be borne by the party requesting the transcript.
- 4.7.3 Major proponents and opponents shall be encouraged to present written information for distribution in advance and at such public hearing.

4.7.4 All interested parties shall be given an opportunity to be heard. The Chair may limit discussion to new information and pertinent information. The order of presentations shall be as follows unless the Chair decides otherwise:

- 1) Major proponent – 20 minute limitation
- 2) Other proponent – 5 minute limitation
- 3) Major opponent – 20 minute limitation
- 4) Other opponent – 5 minute limitation
- 5) Appropriate town officials
- 6) Rebuttal – 5 minute limitation

ARTICLE V – APPLICATION SUBMISSION AND DEVELOPMENT OF AGENDA

It is the duty of the Planning Board, in part of the capacity of the services it provides to the citizens of this town, to thoroughly and adequately review an application in accordance with the relevant and applicable ordinance(s). It is unreasonable to expect Planning Board members, who all have other outside full-time commitments, to review an application with just a day or two's time.

It matters not the length or complexity of the application; this policy applies to all applications. "For projects of sufficient complexity, it is advisable to request a pre-application meeting with the Planning Board. This may be initiated by the applicant, the Code Enforcement Officer or the Planning Board." (Eddington Zoning Ordinance, sec. 404.1.1)

5.1 "The applicant shall submit 9 copies of a complete application to the Town Manager or Code Enforcement Officer at least 14 calendar days before a regular scheduled meeting of the Planning Board. The Code Enforcement Officer shall place the application for consideration on the Planning Board agenda and distribute copies of the application to the Planning Board." (Eddington Zoning Ordinance, sec. 404.1.2) [Note: Subdivision applications must be submitted 20 days before a regular scheduled meeting, per sec. 305.2 & 306.2 of the Eddington Subdivision Ordinance.]

5.1.1 Applications submitted after the 14 day mark (20 days for subdivisions) prior to the Planning Board meeting date will not be accepted for that meeting. Under absolutely no circumstances will an application be submitted to be accepted, reviewed, and decided upon the night of a Planning Board meeting.

5.1.2 The Town Office will not make photocopies for an applicant.

5.1.3 The Town Manager or Code Enforcement Officer will stamp "Received" and the date on each application.

5.1.4 Town staff shall distribute applications immediately, either by hand delivery or first-class mail. Planning Board will not be responsible for delays in town staff distributing applications.

5.2 Applications will only be reviewed after all applicable fees are paid.

5.3 Applications must be as complete as possible. It is the duty of the Planning Board to determine if an application is complete, and this will be done at the Planning Board meeting. All required components of an application are described in the ordinances. Planning Board shall not be responsible for incomplete applications.

5.4 Agendas

5.4.1 Agendas will be set six days prior to the Planning Board meeting date. Applications must still be received 14 days (20 for subdivisions) prior to the Planning Board meeting date to guarantee a place on the agenda and to ensure adequate review time.

5.4.2 Order of Business:

- Public Hearing (if any)
- Call to Order
- Roll Call
- Minutes
- Unfinished Business
- New Business
- Staff Reports
- Planning Board Comments
- Public Access
- Adjournment

5.4.3 Agendas shall be posted on the website and at the town office prior to the meeting, no less than 48 hours before the meeting.