



Town of Winthrop Maine Planning Board By-Laws

Adopted May 8, 2024
(11.03.04 version repealed and replaced)

1. General

The purpose of these Rules of Procedure is as follows:

- To establish a reasonable and consistent process for the Planning Board to consider, hear, and act upon the duties and responsibilities.
- To ensure fair and impartial treatment of each Applicant, Respondent, or Person who is interested in any proposed action of the Board;
- To promote the orderly and efficient conduct of public proceedings convened to decide such matters; and To comply with applicable federal, state, and local laws.

2. Adoptions and Amendments

These Rules of Procedure shall be adopted and may be amended by a majority vote of the Board.

3. Meetings

A. Regular Meetings

- i. Regular Meetings of the Planning Board (hereafter referred to as the "Board") are posted in a Board approved schedule available online on the Planning Board web page. Regular Meetings are generally the second (2nd) and fourth (4th) Wednesday of every month, with exceptions as indicated on the posted schedule.
- ii. Regular Meetings start at 7:00 PM. No new agenda items will begin after 9:00 PM.
- iii. At 9:00 PM, the Board shall, if necessary, temporarily suspend consideration of the agenda item currently under review in order to determine whether remaining agenda items will likely be reached before 9:30 PM. The Board shall at that time notify those in attendance for those agenda items which will not be reached that the items will be postponed until the next regularly scheduled meeting or at another date and time determined by the Board. Any item postponed under the provisions of this rule shall be considered as Unfinished Business at the next regularly scheduled meeting or at the meeting date specified by the Board.
- iv. Agenda items remaining after the 9:30 PM cut-off time shall be automatically continued to the next regularly scheduled meeting or to another date and time determined by the Board.

- v. The Regular Meeting of the Board follows the following Order of Proceedings:
 - A. Pledge of Allegiance
 - B. Roll call, declaration of quorum and determination of which associate member (s), if needed, will be voting.
 - C. Adjustment(s) of the Agenda
 - D. Unfinished Business
 - E. New Business
 - F. Other Business
 - G. Adjournment

B. Workshops:

- i. The purpose of Workshops is to discuss the Comprehensive Plan, Land Development Regulations and overall development review policies and procedures.
- ii. Workshops are also used for educational opportunities for the Board.
- iii. Workshops can either be a separate meeting or can be a part of a Regular Meeting.
- iv. Since the purpose of Workshops is for Board discussion, input from the general public, town staff, boards, and commissions is only permitted at the discretion of the Chairperson, or upon motion, by majority vote of the Board.

C. Special Meetings:

- i. Special Meetings may be called by the Chairperson or a majority of the Board.
- ii. Notice of Special Meetings shall be served to each Board member by email and phone call at least 48 hours prior to such a meeting.
- iii. Whenever possible, notice of a Special Meeting shall be announced at a prior meeting of the Board.

D. Site Walks

- i. Site walks may be scheduled at the discretion of the Board.
- ii. The purpose of a Site Walk is to collect information related to the physical factors of a site under consideration by the Board.
- iii. The Board shall not deliberate or make decisions during a Site Walk.
- iv. Members of the public may attend Site Walks, but generally are not permitted to provide input or to ask questions unless allowed by the Chairperson. Such comments and questions shall only be provided through the Chairperson.
- v. The applicant and their agent are expected to attend a Site Walk. In the event that the applicant and/or their agent fails to appear at a scheduled Site Walk, the Planning Board may postpone said Site Walk until another time, to be determined by the Chairperson.

4. Application review, public input and public hearings:

A. Public Input at Regular Planning Board Meetings:

- The Planning Board seeks public input in a fair and efficient manner that permits a thorough exploration of the issues of fact and law to be decided. Notice of meetings will be provided to Applicants and the public in order for them to review and prepare comments on applications.
- The decisions of the Planning Board on applications will be based on conformance with applicable legal standards, Federal, State, and local laws and ordinances, and the evidence and argument submitted into the record of the meetings, whether in written, oral, or exhibit form. The Board may also rely on the knowledge, experience, and observations of its members, and matters of common knowledge.

B. Formal Public Hearings:

- i. The Planning Board seeks to conduct public hearings in a fair and efficient manner that permits a thorough exploration of the issues of fact and law to be considered. Notice of hearings will be provided to Applicants and the public in order for them to review and prepare comments.
- ii. The Planning Board may also choose to hold a Public Hearing, upon majority vote, for any other item covered in the Scope of these Rules of Procedures.
- iii. The decisions of the Planning Board on applications will be based on conformance with applicable legal standards, Federal, State, and local laws and ordinances, and the evidence and argument submitted into the record of the meetings, whether in written, oral, or exhibit form. The Board may also rely on the knowledge, experience, and observations of its members, and matters of common knowledge.

C. Presiding Officer:

- i. The Chairperson is the presiding officer at any public meeting or hearing held by the Planning Board and has broad discretion to conduct meetings and hearings in any manner that establishes a complete administrative record and provides a reasonable opportunity for interested parties to be heard. In the event the Chairperson is absent for any reason, the Vice Chairperson or another member, as elected, of the Board will preside.

D. General Conduct of Public Hearings and Meetings:

- a. The Board welcomes testimony from the public and interested parties at its meetings and hearings. Where persons wish to bring to the Board's attention complex data, reports, or arguments, it will be helpful to the Board's consideration of this material if it is submitted in writing seven (7) days in advance of the hearing.
- b. Those providing input at public hearings and meetings are advised to observe general rules of decorum and address only the issues before the Board. Persons disrupting the proceeding may be asked to leave the room by the Chairperson.
- c. All questions from the public regarding an application shall be directed through the Chairperson. No direct discussion between the public and the applicant or their agents is permitted.

- d. Individuals and organizations with comparable positions in support or opposition are encouraged to be brief and not provide duplicative comments.
 - e. Representatives of organizations such as committees, homeowner's associations must state for the record at the outset of their presentation whether the organization has authorized the substance of what is being presented.
 - f. Individuals and organizations that have provided written comments or materials for Planning Board consideration are encouraged to avoid unnecessary duplication of the record by reading verbatim text as oral comments. They should instead use their oral comments to highlight important points contained in that text, or supplement the written comments with additional information that is relevant to the Planning Board decision.
- ii. Order of Proceedings and Time Limits:
- a. In any meeting or hearing convened where the Planning Board receives public comment members of the public are invited to speak. Depending on the agenda, speakers may have up to five (5) minutes to present comments or questions to the Board. Speakers' comments and questions will be addressed at the Planning Board's discretion after everyone who intends to speak is heard.
 - b. The time limits imposed shall take into account the total amount of time available to conduct the meeting or hearing, the number of persons likely to be heard, and the overall breadth and complexity of the matters to be considered by the Planning Board.
 - c. The Chairperson will announce any time limits imposed as soon as possible, but no later than when the public input session or hearing is convened.
 - d. Upon request, at the discretion of the Chairperson, the time limits may be lengthened if it will serve to better present information to aid the Board in its decisions.
- iii. Planning Board Questions:
- a. A question by a member of the Planning Board will be in order at any time during a public meeting (before and after the public comment period) or public hearing. Board members are encouraged to consolidate the questions put to any party in a manner that is efficient under the circumstances of each meeting or hearing.
 - b. In order to maintain order, all questions from members of the Planning Board shall be through the Chairperson. At the discretion of the Chairperson, Board members may be permitted to directly ask questions of individuals or groups, if it felt that the doing so will benefit the Board in making its decision.
- iv. Exhibits:
- a. Any exhibit, model, or demonstrative evidence presented by Planning Staff, the Applicant, or any other Person as an element of its oral or written testimony before the Planning Board, become the property of the Town of Winthrop and will not be returned.

- b. Persons who expect to present exhibits or other demonstrative evidence are encouraged to advise Planning Staff prior to the hearing so that appropriate arrangements can be made for its presentation.
- v. Continuance:
 - a. The Planning Board may continue a public hearing or an application to another date, place, and time.
 - b. A motion for continuance may be made by any member of the Planning Board on the member's own initiative, upon request or recommendation of the Planning Staff, or at the request of the Applicant.
 - c. A motion to continue a public hearing or application to another time must be approved by a vote of a majority of the members of the Board present and voting.
 - d. Continued items on a regular Board agenda shall be continued to another regularly scheduled meeting, unless the item is continued to a site walk, in which case the date, time, and place shall be announced and no further notice is required other than announcement on the Town website.
 - e. Public Hearings can be continued to any date, time, and place and if said date, time, and place is announced on the record, no further notice shall be required other than announcement on the Town Website.
- vi. Staff, Applicant, and Planning Board Responses and Planning Board Deliberations:
 - a. Members of the public may respond to new issues or substantive changes that are presented after the public comment period or public hearing is closed. It shall be within the discretion of the Chairperson to determine whether a response is appropriate. In making this determination, the Chairperson shall decide whether the response constitutes facts or information that could not have been presented during the public comment period and are related to such new issues or substantive changes.
- vii. Planning Board Decisions:
 - a. A quorum shall be four (4) members of the Planning Board, including Alternates if sitting in place of a Regular Member of the Board.
 - b. No member absent from a significant portion of a public hearing or review of an application shall be qualified to vote upon the matter heard unless that member first certifies for the record that they have reviewed the entire record of any such portion of the hearing or review of an application during which they were absent and has fully informed themselves of the essential facts and issues of the matter being heard so as to be able to cast an informed and independent vote.
 - c. The Planning Board may approve, with or without conditions, or disapprove an application or item on the motion by any Planning Board member other than the Presiding Officer. Any motion for approval of an Application subject to conditions shall specify the conditions to which the approval is subject by either stating the Conditions or by Reference to the Planning Staff's Report.
 - d. Where a vote on a matter results in a failure to approve, the Board shall immediately vote upon a motion to either table or deny the project. A

motion to table shall specify what would be required for the Board to consider removing the item from the table for future consideration.

- viii. Signatures of Plans, Findings of Fact, and Minutes
- a. All Board members, including Alternate Members, present for a decision that requires Board signatures shall sign all copies of approved plans.

It is the policy of the Planning Board of Winthrop to ensure that Board members:

- Are aware of their responsibilities as Board Members and representatives of the Town of Winthrop;
- Are aware of and avoid what constitutes a conflict of interest or breach of trust; and
- Are aware of and avoid what constitutes an “Ex Parte (outside) communication”.

A. Board Member Responsibilities:

i. To Serve the Public Interest:

- a. The Planning Board’s purpose is to implement the Comprehensive Plan and to foster coordinated and harmonious development of the Town of Winthrop that will, in accordance with present and future needs, best and most efficiently promote the public health, safety, and general welfare.
- b. Appointment to the Planning Board, therefore, represents a public trust, giving a Board member a responsibility to care for the general welfare of the Town and an opportunity to help in shaping the present and future quality of life in the Town of Winthrop.
- c. Each Board member's primary responsibility is to represent the best interests of the Town as a whole. Board members are therefore expected to keep consideration of the general public interest foremost during their deliberations. They should consider the interests of particular individuals or groups only in the context of their relationship to the general public interest.
- d. Board members are also expected to retain an open mind to all viewpoints. They should not act as delegates of the particular neighborhoods, occupations, interest groups, or socio-economic groups of which they are a part.
- e. Furthermore, the Planning Board often serves as a public forum for citizen participation and discussion of planning issues important to the community. At such times, the Board should attempt to draw out and clarify the positions of people on all sides of the issue, and to identify the relationship of such positions to the public interest.

ii. To Acquire Adequate Information and Knowledge:

- a. Each Planning Board member has the responsibility to acquire whatever information and knowledge is necessary to fully understand and make wise decisions and recommendations in the interest of the Town. To this end, a Board member is expected to depend on both his or her own personal background, experience, expertise, and familiarity with the Town (especially that part of the Town in which he or she

- resides), as well as the expertise and knowledge of, and information available to, Town staff members.
- b. Board members are expected to have a full understanding of the Town's Comprehensive Plan. They are expected to be familiar with the general scope, applicability, and organization of the Town's Land Development Regulations (Zoning Ordinance), Subdivision Regulations and review procedures.
 - c. Members are encouraged to expand their knowledge and understanding of planning issues through such means as attending planning workshops and conferences and reading planning-related literature. Board members may join the American Planning Association, which offers a number of workshops and conferences and provides the monthly Planning magazine. Furthermore, Board members may review books, periodicals, and other documents located in the Planning Office's small reference library.
 - d. Members are also encouraged to improve their understanding of current applications and issues by discussing them individually with Planning Staff, either over the phone or in person.
 - e. At Board meetings, members have the responsibility to insist that they are provided (by an applicant, interested party, or the staff) information of sufficient scope and depth to allow them to fully understand the issues before the Board and the alternative actions available to the Board. If the application, staff report, and other documents submitted to the Board regarding a particular item are insufficient to enable a Board member to fully understand the issues immediately before the Board, that Board member has the responsibility to ask questions of, or request additional information from, the applicant, other interested parties, and the staff (as appropriate) to acquire the necessary understanding.
- iii. To Be Fair:
- a. The Board also has the responsibility to ensure that its decision making process is fair. This means that persons likely to be interested in a particular subject coming before the Board must be provided adequate and timely notice of the meeting at which the Board will review the subject, an opportunity to attend that meeting and present views and information concerning the subject, and an opportunity to know the information and considerations on which the Board bases its action concerning the subject.
 - b. Fairness also requires that Board members avoid any bias or the appearance of any conflict of interest in their decisions, that the Board act in a timely manner, that the Board keep full and accurate records of its proceedings, and that the Board establish and make available the ground rules under which it conducts business (I.e., Rules of Procedure).
- iv. To Make Rational Decisions:
- a. The Planning Board has the responsibility to ensure that the decision-making process it applies to any issue before it is not only rational, but is also perceived as rational. This means the Board's decision should consist of conclusions that are based on findings related to the

- standards, policies, and considerations applicable to the particular type of decision.
- b. Furthermore, such findings should be supported by information available to the Board, whether it is information contained in an application, staff report, or other document submitted to the Board, or included in any testimony presented before the Board, or explicitly stated by a Board member from his or her personal observations, knowledge, or experience.
- v. To Take a Broad Perspective:
 - a. Board members have the responsibility to recognize the comprehensive and long-range nature of many of the Board's decisions. They must consider, as well as balance and integrate, not only the many physical aspects of the issue being decided, but often also its economic and social aspects. They must consider not only the decision's immediate impacts on those persons most affected, but also its future and secondary impacts on the Town as a whole. The Board should thus explicitly evaluate all facts, alternatives, means, and consequences relevant to its decisions.
 - b. As the Town's body of elected officials, the Town Council is principally occupied with resolving pressing current problems that usually demand immediate action and that often involve the need to balance competing interests. The Town Council, therefore, rely on the Planning Board to give them advice that reflects a broader and longer-range viewpoint than that demanded of them.

C. Conflict of Interest:

- To preserve public confidence in the integrity of the Planning Board and the Town's governmental process, each Board member shall have the duty to avoid even the appearance of a conflict of interest. A Board member, therefore, shall ask to be excused from participation in any matter before the Board in which the member's impartiality might reasonably be questioned, including, but not limited to, instances where:
 - a. Maine Statutory Conflict of Interest (Title 30-A, Section 2605): The Board member (1) is an "officer, director, partner, associate, employee or stockholder of a private corporation, business or other economic entity" which is making the application to the board and (2) is "directly or indirectly the owner of at least 10% of the stock of the private corporation or owns at least a 10% interest in the business or other economic entity"; or
 - b. The Board member has a personal bias or prejudice concerning any interested party, or representative of a party, to a matter before the Board; or
 - c. The Board member has a close personal or financial relationship with any party or party representative; or
 - d. The Board member, or a member of the member's household, has a personal or financial interest that may be substantially affected (directly or indirectly) by the Board's action on the matter.
- If a Planning Board member feels that they may have a conflict of interest on a particular item or issue, they shall declare the nature of such conflict and ask to be

excused from participating on the item or issue related to the conflict. The remaining Planning Board members, by majority vote, shall determine whether such a conflict exists and whether said member may excuse themselves from further deliberations on the item or issue. iii. If any other person questions the impartiality of a Board member before or during the Board's consideration of a matter, the Chairperson shall treat this as a request that the member be excused from participation. Any request that a Board member be excused from participation must disclose the basis for the request. The remaining Planning Board members, by majority vote, shall determine whether such a conflict exists and whether said member may excuse themselves from further deliberations on the item or issue. If the Board finds that an actual or apparent conflict of interest does not exist, the member shall be allowed to fully participate in the matter. No actual or apparent conflict of interest shall be deemed to exist where the matter would similarly affect all citizens of the Town of Winthrop, or where Maine Statutory Conflict of Interest does not exist or that the Board member's bias, prejudice, relationship, or interest is so insignificant or so remote that it is unlikely to affect the member's actions in any way.

- If excused from participation in a matter, a Board member may not sit with the Board during its consideration of the matter, and may not vote on the matter, but may take a seat in the audience and participate as a member of the public.
- In no instance shall a Planning Board member be excused from deliberations and voting on an item or issue merely due to unwillingness to vote on the issue at hand and where no conflict of interest is found to exist.

D. Ex Parte (Outside) Communications:

- i. To preserve public confidence in the fairness of Planning Board deliberations and decisions, the Board should ensure that the public and interested parties have the opportunity to know, and respond to, all information the Board considers in making its decisions. The Board should also ensure that each Board member has the opportunity to know and consider the information available to other Board members.
- ii. When considering items or issues in the public process, the Board deals with parties who are directly affected by the Board's decision (such as the applicant and neighbors of a proposed project). Each of these interested parties need the assurance that other interested parties will not have unfair advantage in presenting their version of the relevant facts or concerns to the Board. In such cases, therefore, Board members shall avoid communicating with applicants or other interested parties about the proposal except at the Board meetings (I.e., an "Ex Parte communication") at which the proposal is being considered.
- iii. Ex Parte communications can occur in person, via telephone, fax, e-mail, or other method of communication.
- iv. A Board member who is approached with an Ex Parte communication should actively discourage the person from doing so and encourage the person to submit the information to the board in writing or through oral testimony at a board meeting. The board member should explain that, by providing information outside the public meeting, the person may be causing constitutional due process problems with the board's process and that the board may not legally be able to consider the information the person is trying to present.

- v. If a Board member receives unsolicited communications about an item or issue, outside of a Board meeting, the member has the duty to reveal the communications during the Board's consideration of the proposal. This ensures that the communicated information will become part of the record and that other Board members and interested parties will have an opportunity to consider and refute the information.
- vi. Comprehensive Plan, Zoning Ordinance, or Subdivision Regulation amendments are legislative determinations to be made by the Town Council, and when considering such matters the Planning Board's role is purely advisory. When the Board considers such issues it often finds access to a broad range of public input helpful in making a decision on the issue. In such cases, therefore, Board members may communicate with interested persons outside of the meetings at which the issue is being considered, but each member has the duty to reveal the general nature and scope of relevant information and opinions gleaned from such communications during the Board's consideration of the issue. To ensure that each Board member's decision is based on the full range of information and public opinion available to the Board, members should avoid committing themselves to a position on the issue during any outside communications.
- vii. Under no circumstances should Board members meet with someone representing just one side of an item or issue outside a Public Meeting setting. Further, Board members should not discuss an application with a Code Enforcement Officer, Town Engineer, or other Town of Winthrop Staff Member, other than Planning Staff, outside a Public Board meeting in order to avoid due process problems. If a Board member has questions that involve Town of Winthrop Staff Members, other than Planning Staff, they shall only be directed through Planning Staff.
- viii. Planning Staff shall ensure that any communications between Board members and themselves that constitutes an Ex Parte communication is revealed to the entire Planning Board at the next available Public Meeting for which that item is discussed.