

TOWN OF CORNISH
State of Maine



PLANNING BOARD

BY LAWS AND RULES OF CONDUCT

ADOPTED: December 6, 2010

Any provision/procedure not addressed in these articles will be governed by Robert's Rules of Order, latest edition available to the Board Secretary.

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ARTICLE I - ESTABLISHMENT

Pursuant to Art. VIII, Pt. 2, Sec. 1 of the Maine Constitution and 30-A M.R.S.A. § 3001, the Town of Cornish hereby established a planning board at the 2009 Cornish Annual Town Meeting. The board, which has been acting as a planning board for the Town of Cornish, is hereby reestablished as the legal planning board for the purposes of this ordinance. The actions which the board took prior to the adoption of this ordinance are hereby declared to be the acts of the legally constituted planning board of the Town of Cornish.

ARTICLE II - INTRODUCTION

Business of the Board shall be conducted in accord with Maine Statutes, Town Ordinances and Roberts' Rules of Order as well as the Planning Board Standards for Reviewing Land Subdivisions.

All proposals shall be examined equally and equitably. If for any reason an individual Board member feels that he/she has a particular bias or conflict of interest either for or against a particular proposal, he/she shall abstain from participating in consideration of the proposal.

Planning Board members are expected to be reasonably knowledgeable in the applicable laws, regulations and Board policies and to abide by them.

ARTICLE II - MEMBERSHIP OF PLANNING BOARD

Board members shall be full time legal residents of the Town of Cornish, appointed by the municipal officers and sworn in by the Town Clerk or by a designee of the Town Clerk who is authorized by law to administer an oath. The Town Clerk shall make a record that the member was sworn in.

The board shall consist of five (5) full members and two (2) associate members.

The term of each full member shall be three (3) years. The term of associate members shall be three (3) years.

When there is a permanent vacancy, the municipal officers shall, within 60 days of its occurrence, appoint a person to serve for the unexpired term. A vacancy shall occur upon the resignation or death of any member, or when a member ceases to be a legal resident of the town, or when a member fails to attend four (4) consecutive regular meetings, or fails to attend at least 60% of all meetings during the preceding twelve (12) month period.

When a vacancy occurs, the chairperson of the board shall immediately so advise the municipal officers in writing. The board may recommend to the municipal officers that the attendance provision be waived for the cause, in which case no vacancy will then exist until the municipal officers disapprove the recommendation.

The municipal officers may remove members of the planning board by unanimous vote, for cause, after notice and hearing.

An elected municipal officer may not be a member or associate member.

ARTICLE III - SELECTION AND AUTHORITY OF OFFICERS

Section 1. The board shall elect a chairperson and a vice chairperson from among its members. The board may either elect a secretary from among its members or hire a non-board member to serve as secretary.

- Section 2. The election of officers shall be held at the first regular planning board meeting following the annual town meeting.
- Section 3. The Chair and Vice-Chair shall each be elected with no less than Three (3) affirmative votes of Board members.
- Section 4. The term of all offices shall be one (1) year with eligibility for re-election. Their term shall begin upon election.
- Section 5. The duties of the officers shall be as follows:
- a. The Chair shall preside at all meetings and hearings of the Planning Board and shall be eligible to vote on all matters.
 - b. The Chairperson shall call at least one regular meeting of the board each month.
 - c. The Vice-Chair shall preside at all meetings of the Planning Board in the absence of the Chair and shall possess the powers and perform the duties of the Chair in the Chair's absence.
- Section 6. Upon the vacancy of the Chair or Vice-Chair, a special election shall be held by the Planning Board to fill such vacancy.

ARTICLE IV - ADMINISTRATIVE AND PROFESSIONAL SUPPORT

- Section 1. The Planning Board's administrative support shall be defined in the annual municipal budget of the Town of Cornish. This support shall include, but not be limited to a secretary, legal counsel, supplies, etc.
- Section 2. The board shall adopt rules for transaction of business and the secretary shall keep a record of its resolutions, transactions, correspondence, findings and determinations. All records shall be deemed public and may be inspected during regular business hours.
- Section 3. The retention of legal counsel and other professional assistance shall be coordinated by the Chair and/or designees of the Chair with the Town Selectmen.

ARTICLE V - CONDUCT OF MEETINGS, WORKSHOPS & EXECUTIVE SESSIONS

- Section 1. Regular Business meetings of the Planning Board shall be held on the first Monday of every month. The regular meeting date will be rescheduled to the following Monday when the first Monday falls on a legal holiday. Workshop meetings are normally held on the third Monday of every month.
- Section 2. Meetings shall be open to the public, except when the Planning Board is in executive session.
- Section 3. An associate member should attend all meetings of the board and participate in its proceedings, but may vote only when he or she has been designated by the chairperson to sit for an absent member.
- Section 4. When a member is unable to act because of interest, physical incapacity, absence or any other reason satisfactory to the chairperson, the chairperson shall designate an associate member to sit in that member's stead.

- Section 5. No meeting of the board shall be held without a quorum consisting of three (3) members or associate members authorized to vote. The board shall act by majority vote of the members present and voting.
- Section 6. The consideration of each application, by the Board, shall be done in the context of a hearing. Conduct of hearings is further described in Article VIII of these by-laws.
- Section 7. “Conflict of interest” means direct or indirect pecuniary interest.
- a. Direct pecuniary interest shall be when the applicant is a member of the Board or an owner of abutting or other property that is the subject of the application or directly affected by the Board’s decision.
 - b. 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 of the applicant or of the applicant’s immediate family, or is employed by a member of the applicant’s immediate family. Immediate family shall mean spouse, parents, siblings, children and grandchildren.
 - c. Pecuniary interest shall also include a situation where the Board member, by reason of his/her interest is placed in a situation of temptation to serve his/her own personal interest instead of the public’s interest.
 - d. Any question of whether a member shall be disqualified from voting on a particular matter shall be decided by a majority vote of all members except the person who is being challenged.
 - e. 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.
 - f. If a Board member abstains, he/she has the right to participate as a member of the public.
- Section 8. All comments addressed to the Board shall be made through the Chair.
- Section 9. The board shall perform duties and exercise such powers as are provided by the Town of Cornish Land Use Ordinance and the laws of the State of Maine
- Section 10. 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 and in no event shall a motion pass without a minimum of 2 (two) votes in the affirmative. When a motion results in a tie vote, the motion fails. A motion to reconsider any item of business shall be made at the same meeting or at the next regular meeting. Once a motion to reconsider has been denied, the item shall not be reconsidered. No motion to reconsider a vote passed at a previous meeting shall be in order for reconsideration at the next meeting unless an item to that effect is contained on the agenda for such next meeting.
- Section 11. 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, provided that the conditions in Article VIII, Section 4 have been met.

- Section 12. A record will be kept of meetings where official business is being conducted.
- Section 13. Workshops are scheduled for the purpose of updating or to take under advisement; the Comprehensive Plan, subdivision regulations, zoning ordinances, Planning Board By-Laws and other work relating to the Board's activities, providing the public is notified.
- Section 14. All workshops are open to the public. The general public shall be barred from addressing the Board unless a majority of the Board members permits the public to speak.
- Section 15. In the event that the topic of the work session involves such matter in which the Board has requested that a Citizen Advisory Group be established to aid the Board in its findings and deliberations, said group shall be allowed to contribute its comments during the discussion phase of the meeting.
- Section 16. Any officials, citizens, etc. who have been specifically requested by the Board to have input to that meeting may do so when called upon. Input from other interested citizens shall be reserved for a time designated within the Regular Meetings of the Planning Board, or for a specific time designated by the Planning Board.
- Section 17. The Board upon a vote of at least 3/5 of the members present and voting may call for an executive session in accordance with Maine Revised Statutes.
- Section 18. The motion to go into Executive Session shall indicate the nature of the business of that session, and no other matters may be considered. No ordinances, regulations, contracts, appointment or other official action shall be finally approved at such Executive Session, which may be held only for consultation between the Planning Board and its attorney concerning the legal rights and duties of the Planning Board, pending or contemplated litigation, settlement offers and matters where the duties of the Planning Board's Counsel or his/her client pursuant to the code of professional responsibility clearly conflicts with the Maine Right to Know Law, or where premature general public knowledge would clearly place the state, municipality or other public agency or person at a substantial disadvantage.
- Section 19. The board may obtain goods and services necessary to its proper function within the limits of appropriations made for the purpose.
- Section 20. Within the Executive Session it shall be the Chairman's responsibility to ensure that only that business for which the session was called will be discussed.
- Section 21. The order of Business shall be in accordance with the established agenda as stated in ARTICLE VI, Section 1.

ARTICLE VI - APPLICATION SUBMISSION AND DEVELOPMENT OF AGENDA

- Section 1. Regular Business meeting agendas shall be organized in the following format:
 - 1. Open meeting:
 - a. *Call to order*
 - b. *Opening Statement* - The presiding officer shall open the hearing by describing, in general, the purpose of the hearing and the general procedure governing its conduct.

c. *Declaration of a Quorum*

2. Minutes - The Presiding officer will request approval of the minutes of the previous meeting (s).
3. Communications - The Board will review all communication. Communications will include, but not be limited to: comments and correspondence from the public, Town and State agencies, requests for workshops, requests for site walks, and pre-application conferences. All applicants requiring action from the Board must deliver the appropriate paperwork (Mylars, applications, lists, maps, etc.) to the Planning Board Secretary no later than the third Monday of the month or 14 days prior to the Planning Board Meeting you wish to make application at, whichever is later.
4. Hearings:
 - 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 and public hearings in accordance with established time constraints.
5. Other Business - This category shall include non-application items which require formal action.
6. Public Comment – At the discretion of the Chair, time will be set aside to allow applicants, abutters and general public to voice ideas, concerns, explanations and general information regarding the hearings and other current agenda items and within established time constraints.
7. Agenda Items for Next Meeting
8. Announcements
9. Adjournment

Section 2. Meeting agendas shall be posted at the Town Hall prior to the meeting. The new business items, only, shall be advertised in at least one publication of general circulation. The first advertisement shall be at least 6 days prior to the meeting date.

Section 3. No item on the agenda may be brought up for discussion after 8:30 PM. Items not brought up for discussion because of this time deadline are to be placed first 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 unanimous vote of the members present.

Section 4. Applications, upon receipt at the municipal office, if deemed complete, will be placed on the next agenda as an item under new business. The applicant shall be duly notified of the date, time and place of the meeting.

- a. The required application fee and site plan must be submitted with each application. This fee is non-refundable.

- b. The deadline for all new application submissions is no later than the third Monday of the month, at least 14 days prior to the first meeting date of the following month. A complete site plan and all other information needed for review must be submitted at this time.
- c. The expiration date on all applications will be 60 days from the first hearing. No extensions will be given unless a delay is caused by governmental agencies.
- d. The applicant or a designee must attend the hearing.
- e. If the property owner is not the applicant for any given application, the applicant or his/her designee must have a letter 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 VII - PROCEDURES TO GIVE NOTICE TO PUBLIC AND ABUTTERS

Section 1. New Applications - Notice of the time and place of such hearing, the location of the building or lot, and the general nature of the request and shall be:

- a. Published in at least one publication of general circulation. The first publication shall be at least 6 days before such hearing.
- b. Posted at Town Hall
- c. Mailed, via first class, to the property owners of record abutting that property for which the application is taken, prior to the date of the hearing.

1. Abutting property shall mean - Real Estate which shares a common boundary, or portion of a boundary in direct connection to property in the new application. Owners of a property, sharing common boundary with another property, or within 500 feet of a given piece of property, whether or not these properties are separated by a public or private way shall be considered abutters. Owners shall be considered to be parties listed by the Tax Assessor of Cornish and the ones against who taxes are assessed.

Section 2. Regular Meetings - All regular meetings shall be published and open to the public with the new business agenda as stated in section 1. a. and b. of this article.

Section 3. Workshops - Regularly scheduled workshops will be advertised with the new business agenda as stated in section 1. a. and b. of this article.

Section 4. The Board shall make a record of all meetings by an appropriate means. Any individual or organization may obtain a copy of the record from the municipal office upon prepayment of the cost of transcription, reproduction, and postage. The request forms shall be available at the municipal office. Records / transcripts can be read during regular Town office hours at no charge.

ARTICLE VIII - CONSIDERATION OF APPLICATIONS IN A HEARING FORMAT

- Section 1. The consideration of any application by the Board shall be done in the context of a hearing as described in this article.
- Section 2. The Presiding Officer at all public hearings shall either be the Chair or Vice-Chair or member of the Planning Board who is selected by those members present at the hearing. The Presiding Officer shall have authority to:
- a. rule upon issues of evidence
 - b. regulate the course of the hearing
 - c. rule upon issues of procedure
 - d. take such other actions as are necessary for the efficient and orderly conduct of the hearing, consistent with these rules and applicable statutes.
- Section 3. 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.
- Section 4. Continuances - All hearings conducted pursuant to these rules may be continued for reasonable cause. Continuances may be granted at the request of any person participating in such hearing if it is determined that a continuance is necessary. No continuance will be granted for a time period to exceed the 60 day expiration date unless the delay is caused by governmental agencies. All orders for continuances shall specify the time and place at which such hearing shall be reconvened.
- Section 5. 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 Chair or the Presiding Officer so as to avoid interference with the orderly conduct of the hearing.
- Section 6. Evidence
- a. Generally - 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 admissible. Evidence which is irrelevant, immaterial, or unduly repetitious shall be excluded.
 - b. 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.
 - c. Documentary and Real Evidence - All documents, material and objects offered as evidences shall, if accepted, be numbered or otherwise identified. Documentary evidence may be received in the form of copies or excerpts if the original is not readily available. The Planning Board or the Presiding Officer may require, after prior oral or written reasonable notice, that any party offering any documentary or photographic evidence shall provide the Planning Board with an appropriate number of copies of such documents or photographs unless such documents or photographs are determined to be of such form, size or character as not to be reasonably susceptible to reproduction. All documents, materials and objects accepted into evidence shall also be available for public examination, with due notice, at the municipal office during normal business hours.
 - d. Objections - All objections to rulings of the Presiding Officer regarding evidence or procedure shall be timely made during the course of the hearing. If after the close of the hearing and during its deliberations the Planning Board determines that any ruling of the Presiding Officer was in error, it may reopen the hearing or take such other action as it deems appropriate to correct such error. The

Board may rescind any approval, with due cause, within 30 days of the original approval. A meeting may be called by 3 members of the Board and the applicant must be duly notified.

Section 7. Testimony, Questions, Rebuttal and Submissions

- a. The applicant shall be given the opportunity to present his/her case without interruption and may introduce documentary, photographic and real evidence including maps, studies, reports, analyses and other information compiled for the purpose of the hearing.
- b. The Board and interested parties may ask questions through the Chair. Interested parties are those persons who request to offer testimony and evidence and to participate in oral cross-examination. 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. Municipal officers and Governmental agencies shall offer testimony at this time. All interested parties shall be given the opportunity to refute or rebut statements throughout the hearing.
- c. The Presiding Officer 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.
- d. The Presiding Officer 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 Presiding Officer may impose reasonable limitations on the number of witnesses to be heard and on the nature and length of their testimony and questioning.

ARTICLE IX - LEGAL EFFECT OF BY-LAW

Nothing in these By-Laws 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 By-Laws if they should conflict.

ARTICLE X - AMENDMENTS

The Planning Board shall have the power to amend these By-Laws by four (4) affirmative votes at a Planning Board meeting provided that Planning Board members have received written notice of potential by-law amendments at least 7 days prior to scheduled consideration of the proposed amendments (s).

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

Any prior inconsistent provision or portion of the Planning Board By-Laws of the Town of Cornish, as amended, is hereby saved and remains in effect in the event of all or any portion of these By-Laws is found to be unlawful by a court of competent jurisdiction.

AMENDED

ADOPTED BY VOTE OF THE PLANNING BOARD: DECEMBER 6, 2010

These regulations are effective as of December 6, 2010, when amendments were adopted by the Town of Cornish Planning Board.

Daniel Sherman - Chairman

William Hoxie

Kenneth Hall

Lynn Harding

Thomas Magno

John Morrissey, Alternate