

# ***BYLAWS***

## ***KITTERY PLANNING BOARD***

Adopted January 17, 1974  
Revised and approved, November 19, 1987  
Revised and Approved, May 23, 1991  
Revised and Approved October 11, 2007  
Revised and Approved February 28, 2008  
Revised and Approved, January 22, 2015  
Revised and Approved, December 10, 2015

The Planning Board of the Town of Kittery has been established under the Town Charter adopted in 1967 according to HP 521-LD768, Revised Planning and Zoning Statutes in Maine, 1969, and other applicable State Statutes.

Section 1. The Planning Board consists of seven (7) members appointed by the Town Council in accordance with the Town Charter adopted in 1967 and subsequent revisions. The term of office of a member is three (3) years. Upon appointment by the Town Council, and upon renewal of term, each member must take and subscribe to the oath of office as administered by the Town Clerk or any other person so authorized. Members must attend a planning board training session sponsored by the Maine Municipal Association (MMA) within one (1) year of appointment and once each subsequent term.

Section 2. At the first regularly scheduled meeting in December, the Board must elect from among its membership, a Chair, Vice-Chair and Secretary. Term of service is one year.

Section 3. Meetings of the Planning Board are held in the Town Hall at 6:00 p.m., on the second and fourth Thursdays of each calendar month, except November and December. During those months, one meeting will be held on the second Thursday and a second meeting on the third Thursday, at the Board's discretion. When a regularly scheduled meeting occurs on a holiday, the regular meeting for that date must be re-scheduled by the Board at its last regular meeting prior to the holiday. The date, time or location of any regular meeting may be changed by an affirmative vote of four (4) or more members, taken at any regular

meeting of the Board.

Section 4. Special meetings may be called by the Chair or, in case of the Chair's absence, disability or refusal, may be called by the Vice-Chair or by four (4) or more members of the Board. Notice of such special meeting must be made to Board members by telephone at least twelve (12) hours before the meeting and by email with confirmation by return email within the same twelve (12)-hour time restriction. The telephone call and text of the email must set forth the matter or matters to be discussed and/or voted on, and nothing else may be considered at such a special meeting.

Section 5. At the appointed time, the Chair, or in the absence of the Chair, the Vice-Chair, calls the members to order, calls the roll, leads the Pledge of Allegiance, and upon determining whether a quorum of members is present, proceeds with the business of the meeting. The order of business is as follows: (a) amendments to the agenda, (b) approval of the minutes of the preceding meeting(s), (c) public comment (d) old regular business (e) Board members' time (f) Planner's time (g) new regular business, (h) adjournment.

Section 6. Minutes of all meetings, workshops and site walks must be recorded. Review, correction and approval by the Board of such minutes occurs at the first meeting following transcription by the recorder and distribution to members. Upon approval, copies are furnished to the Town Manager, Town Council Chair, the Zoning Board of Appeals Chair, and the Conservation Commission Chair.

Section 7. A quorum consists of four (4) members. All decisions must be made by a minimum of four (4) like votes, except on procedural matters. A meeting may not be held with fewer than four (4) Board members present.

Section 8. Where a member may possess a conflict of interest pertaining to a matter before the Board, that member may not be permitted to vote on said matter, and that member may not be counted by the Board in establishing the quorum in the matter.–Public disclosure of any possible conflict must be made before

discussion of the agenda item in question. To an extent determined by the Chair, members of the public may be permitted to comment on this matter at this time. A majority vote of the Board members present, minus the member under challenge, decides whether the alleged conflict exists such that it: (a) may reasonably interfere with the affected member's ability to hear and act on the item impartially, or (b) whether participation by the member in question would give the appearance to the public of an inappropriate conflict of interest so as to undermine public confidence in the fairness of the meeting and the impartial treatment of the subject matter.

Section 9. Members are expected to attend all regular and special meetings and site walks. Where a member is absent from more than three (3) consecutive regular meetings, the Board may then vote to recommend to the Town Council that the position be declared vacant.

Section 10. Site walks called by the Chair, or by four (4) or more Board members, are public meetings. All site walks must be properly noticed to applicants, abutters and the general public according to ordinance requirements. A minimum of four (4) Board members must be present to hold a site walk. No formal motions may be made nor votes taken at a site walk. The Planner, or Planner's designee, is responsible for minutes of site walks. Site walk minutes must be included in the records of applications before the Board.

Section 11. Discussion between Board members of business before the Board may only be held at a public meeting. Such business may not be discussed in private whether or not a majority of the Board is involved, and whether the discussion occurs in person, by phone or by any other means. During a duly noticed public site walk, individual Board members may not hold private discussions among themselves, or with others, concerning substantive details of the site or plan. Private discussion of business before the Board could constitute illegal ex parte communication and jeopardize the due process rights of those excluded from such a discussion.

Section 12. The Chair shall preserve order, may speak to points of order in preference to other members, and shall decide all questions of order, subject to appeal to the Board by motion, regularly seconded, and

no other business may be transacted until the question on appeal is decided.

Section 13. The Chair shall declare all votes, but if any member doubts a vote, the Chair must cause a recount of the vote without debate.

Section 14. When a question is under debate, the Chair may receive no motion but to adjourn, or to move the previous question, or to lay on the table, or to postpone to a specified date, or to refer to a committee or some administrative official, or to amend, or to postpone indefinitely: which several motions have precedence in the order in which they stand arranged.

Section 15. The Chair shall consider a motion to adjourn as always in order except on immediate repetition; and that motion, and the motion to lay on the table, or to take from the table, must be decided without debate.

Section 16. When a vote is passed, it is in order for any member who voted on the prevailing side to move reconsideration thereof at the same meeting, or at the next succeeding meeting. When a motion of reconsideration is made and seconded, the subsequent vote is final.

Section 17. During a public hearing, at the time appointed on the agenda for a particular matter before the Board, any other person in attendance at the meeting wishing to address the Planning Board, must so signify by raising a hand. When recognized by the Chair, and before addressing the subject matter of the hearing, such person must state his or her name and address for the record and enter this same data in writing where and when requested. At any other time during a meeting, the Chair retains the discretion to invite further public comment. In all cases, the Chair, with consent of the Board, may set reasonable time limits on members of the public who choose to address the Board. Likewise, the Chair may limit public testimony to that deemed relevant and material to the subject matter of the hearing, or other Board concern.

Section 18. All meetings of the Board are public. However, the Board may recess for executive session, upon majority vote, consistent with the Maine Right to Know Law (MRSA Title 1, Sections 401-410), provided the motion to recess for executive session indicates the precise nature of the business to be conducted in such closed session, including any and all relevant statutory reference(s) to such power to recess, and that final action not be taken by the Board except in public session.

Section 19. Subcommittees are established by the Chair and may consist of no more than three (3) Board members. Planning Board subcommittee meetings are public meetings, and the date, time and location of such meetings must be posted in Town Hall and on the Kittery Town website.

Section 20. The Chair may, with the affirmative vote of a minimum of four (4) members, call special workshops for the purpose of updating regulations, ordinances, bylaws or addressing other work items. These workshops are open to the public but are not public hearings. Input from interested citizens may be allowed at the Chair's discretion or may be heard at a regular Board meeting.

Section 21. These bylaws may be revised by submission of a proposed change in writing to the Board, and consideration in at least two meetings of the Board. The change is effective upon adoption by the Board.

Section 22. Planning Board meetings are conducted according to Robert's Rules of Order. Conflicts are resolved in favor of the bylaws.