

1 **BYLAWS**
2 **KITTERY PLANNING BOARD**

3 Adopted January 17, 1974
4 Revised and approved, November 19, 1987
5 Revised and Approved, May 23, 1991
6 Revised and Approved October 11, 2007
7 Revised and Approved February 28, 2008
8 Revised and Approved, January 22, 2015
9 Revised and Approved, December 10, 2015
10 Revised and Approved May 12, 2022
11 **Revised May 2, 2024**

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

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

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

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26 Section 3. Meetings of the Planning Board are held in the Town Hall at 6:00 p.m., on the second and fourth
27 Thursdays of each calendar month, except November and December. During those months, one meeting
28 will be held on the second Thursday... The date, time or location of any regular meeting may be changed
29 by an affirmative vote of four (4) or more members, taken at any regular meeting of the Board.

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31 Section 4. Special meetings may be scheduled at a regular meeting, called by the Chair or, in case of the
32 Chair's absence, disability or refusal, may be called by the Vice-Chair or by four (4) or more members of
33 the Board. Notice of such special meeting not made at a regularly scheduled meeting must be made known
34 to Board members by telephone at least twelve (12) hours before the meeting and by email with
35 confirmation by return email within the same twelve (12)-hour time restriction. The telephone call and text
36 of the email must set forth the matter or matters to be discussed and/or voted on, and nothing else may be
37 considered at such a special meeting.

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

44
45 Section 6. Minutes of all meetings, workshops and site walks must be recorded. Review, correction and
46 approval by the Board of such minutes occurs at the first meeting following transcription by the recorder
47 and distribution to members. Upon approval, copies are furnished to the Town Manager, Town Council
48 Chair, the Board of Appeals Chair, and the Conservation Commission Chair, Port Authority Chair.

49
50 Section 7. A quorum consists of four (4) members. All decisions must be made by a minimum of four (4)
51 like votes, except on procedural matters. A meeting may not be held with fewer than four (4) Board
52 members present.

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54 Section 8. Where a member may possess a conflict of interest pertaining to a matter before the Board, that
55 member may not be permitted to vote on said matter, and that member may not be counted by the Board in
56 establishing the quorum in the matter. A member with a conflict of interest will inform the Chair of their
57 conflict of interest and recusal. If there is doubt regarding the conflict, the Board will vote on whether a

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

65
66 Section 9. Members are expected to attend all regular and special meetings and site walks. Where a
67 member is absent from more than three (3) consecutive regular meetings, the Board may then vote to
68 recommend to the Town Council that the position be declared vacant.

69
70 Section 10. Site walks called by the Chair, or by four (4) or more Board members, are public meetings. All
71 site walks must be properly noticed to applicants, at minimum direct abutters and the general public. A
72 minimum of four (4) Board members must be present to hold a site walk. No formal motions may be made
73 nor votes taken at a site walk besides a vote of adjournment. The Planner, or Planner's designee, is
74 responsible for minutes of site walks. Site walk minutes must be included in the records of applications
75 before the Board.

76
77 Section 11. Public comment and opinion are welcome during Planning Board meetings. **Public comment**
78 **is limited to land use and ordinances related to land use within the scope of the Planning Board's**
79 **responsibilities.** ~~However,~~ **Comments and opinions related to development projects currently being**
80 **reviewed by the Planning Board will be heard only during a scheduled public hearing when all interested**
81 **parties have the opportunity to participate.** **Any commentaries pertaining to projects currently in front**
82 **of the Board, or containing abusive or profane language, may be terminated by the Board Chair.**

83 Those providing comment must state clearly their name and address and record it in writing at the podium.
84 Further, the public may submit written public comments via email, US Mail, or by hand delivery to Town
85 Hall. Emailed comments should be sent to Town Planning Department Staff. Comments received by noon

86 on the day of the meeting will become part of the public record and may be read in whole or in summary
87 by the Planning Board or Town Staff.

88

89 Section 12. Discussion between Board members of business before the Board must only be held at a public
90 meeting. Such business must not be discussed in private whether or not a majority of the Board is involved,
91 and whether the discussion occurs in person, by phone or by any other means. During a duly noticed public
92 site walk, individual Board members must not hold private discussions among themselves, or with others,
93 concerning substantive details of the site or plan. Private discussion of business before the Board could
94 constitute illegal ex-parte communication and jeopardize the due process rights of those excluded from such
95 a discussion.

96

97 Section 13. The Chair shall preserve order, must speak to points of order in preference to other members,
98 and shall decide all questions of order, subject to appeal to the Board by motion, regularly seconded, and
99 no other business may be transacted until the question on appeal is decided.

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101 Section 14. The Chair shall declare all votes, but if any member doubts a vote, the Chair must cause a
102 recount of the vote without debate.

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104 Section 15. When a question is under debate, the Chair may receive no motion but to adjourn, or to move
105 the previous question, or to lay on the table, or to postpone to a specified date, or to refer to a committee or
106 some administrative official, or to amend, or to postpone indefinitely: which several motions have
107 precedence in the order in which they stand arranged.

108

109 Section 16. The Chair shall consider a motion to adjourn as always in order except on immediate repetition;
110 and that motion, and the motion to lay on the table, or to take from the table, must be decided without
111 debate.

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113 Section 17. When a vote is passed, it is in order for any member who voted on the prevailing side to move
114 reconsideration thereof at the same meeting, or at the next succeeding meeting. When a motion of
115 reconsideration is made and seconded, the subsequent vote is final.

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117 Section 18. During a public hearing, at the time appointed on the agenda for a particular matter before the
118 Board, any other person in attendance at the meeting wishing to address the Planning Board, must so signify.
119 When recognized by the Chair, and before addressing the subject matter of the hearing, such person must
120 state his or her name and address for the record and enter this same data in writing where and when
121 requested. At any other time during a meeting, the Chair retains the discretion to invite further public
122 comment. In all cases, the Chair, with consent of the Board, may set reasonable time limits on members of
123 the public who choose to address the Board. Likewise, the Chair may limit public testimony to that deemed
124 relevant and material to the subject matter of the hearing, or other Board concern.

125

126 Section 19. All meetings of the Board are public. However, the Board may recess for executive session,
127 upon majority vote, consistent with the Maine Right to Know Law (MRSA Title 1, Sections 401-410),
128 provided the motion to recess for executive session indicates the precise nature of the business to be
129 conducted in such closed session, including any and all relevant statutory reference(s) to such power to
130 recess, and that final action not be taken by the Board except in public session.

131

132 Section 20. Subcommittees are established by the Chair and may consist of no more than three (3) Board
133 members. Planning Board subcommittee meetings are public meetings, and the date, time and location of
134 such meetings must be posted in Town Hall and on the Kittery Town website.

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136 Section 21. The Chair may, with the affirmative vote of a minimum of four (4) members, call special
137 workshops for the purpose of updating regulations, ordinances, bylaws or addressing other work items.
138 These workshops are open to the public but are not public hearings. Input from interested citizens may be
139 allowed at the Chair's discretion or may be heard at a regular Board meeting.

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141 Section 22. These bylaws may be revised by submission of a proposed change in writing to the Board, and
142 consideration in at least two meetings of the Board. The change is effective upon adoption by the Board.

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