

May 14, 2002

**CITY OF AUBURN  
PLANNING BOARD  
BY-LAWS**

**ARTICLE I. Objectives**

The objectives and purpose of the Planning Board of the City of Auburn, Maine, are those set forth in the Auburn City Charter, those powers and duties delegated to the Planning Board by the City Council in Chapter 60 of the Auburn City Ordinances and those objectives and powers set forth in Maine Revised Statutes.

**ARTICLE II. Planning Board Makeup**

- (a) The membership and composition of the Planning Board shall be defined in the City of Auburn Code of Ordinances under Chapter 2, Article V, Division 4, Section 2-466.
- (b) Rules regarding the appointment of Planning Board members shall be defined in the City of Auburn Code of Ordinances under Chapter 2, Article V, Division 4, Section 2-466. In addition, Planning Board members shall serve for no more than three consecutive terms.
- (c) Attendance at all Planning Board meetings (Public Hearings and Workshops) shall not drop below 50% within a 12 month period. If attendance does drop below this level, the Planning Board Chairperson may forward a recommendation to the City Council to remove that Board member.
- (d) If situations occur that does not allow a Board member to attend a meeting, a call to the Planning and Development staff is required in order to be considered for an excused absence.
- (e) The Planning Board Chairperson may forward a recommendation to the City Council to remove a single Board member for cause at any time given that such action is taken under the consensus of the Board.

### **ARTICLE III. Officers and Their Duties**

- (a) The Officers and their Duties of the Planning Board shall be defined in the City of Auburn Code of Ordinances under Chapter 2, Article V, Division 4, Section 2-467.
- (b) The Chairperson shall preside at all meetings and hearings of the Planning Board and shall have the duties normally conferred by parliamentary usage as written in "Roberts Rules of Order."
- (c)
- (d) The Chairperson shall have the privilege of discussing all matters before the Board and to vote thereon.

### **ARTICLE IV. Election of Officers**

- (a) Officers shall be nominated from the floor and elected at the regular February meeting.
- (b) If more than one member is nominated for the same position, then the Board shall vote by private ballot
- (c) A candidate receiving a majority vote of the membership of the Planning Board present at the meeting shall be declared elected and shall serve one year or until his/her successor shall take office.
- (d) Vacancies in offices shall be filled at the first possible regular meeting after the occurrence of the vacancy in the manner described in the previous Sections of this Article.

### **ARTICLE V. Planning Board Submissions**

- (a) In order to be placed on the Planning Board agenda, an application, petition or amendment must satisfy the conditions contained in Chapter 60 of the City of Auburn Code of Ordinances. The Planning and Development Staff shall notify the applicant of any deficiency within 5 working days of submission.
- (b) All revised plans and documents must be submitted to the Planning and Permitting Services Department at least ten (10) days prior to the meeting.
- (c) Additional applicant communications to the Board must be submitted to the Planning and Permitting Services Department no later than the end of day Wednesday before the Planning Board meeting.

- (d) The Board may nonetheless, in accordance with state and local law and at its own discretion, consider an application, petition or amendment that fails to meet sections (a) through (c), if the Board finds initially that failure to satisfy this Article was justified or due to excusable error or neglect.

## **ARTICLE VI. Meetings**

- (a) Meetings will be held on the second Tuesday of each month at 6:00 p.m. at the Auburn City Building provided that the Board, by resolution, may vote to hold its meeting on any other day in the month, or at any other place, or at any other time of day or upon confirmation of a majority of the Board members, the Department of Planning and Permitting Services may schedule a meeting for a different day, or place or time.
- (b) The basis for meeting a quorum, as well as taking action by voting, shall be defined in the City of Auburn Code of Ordinances under Chapter 2, Article V, Division 4, Section 2-469. In addition, a tie vote shall be considered final action by the Board and an application, petition or proposed amendment shall be deemed denied if the Board's final action results in a tie vote. Voting shall be by roll call where requested by any member except on unanimous vote. A record of the roll call vote shall be kept as part of the record.
- (c) Special meetings may be called by the Chairperson. Special meetings shall be called by the Chairperson when requested to do so by four of the members of the Board. The notice of such a meeting shall specify the purposes for which it is called and no other business shall be considered except by unanimous consent if all Board members are present. The Staff Secretary shall notify all members of the Board at least two (2) days in advance of such special meeting.
- (d) No new agenda items will begin after 9:00 p.m. except with the unanimous consent of all Board Members present.
- (e) If during the course of a Planning Board meeting it becomes apparent that the Board will not reach certain agenda items, the Board, prior to or after the 9:00 p.m. cut-off may postpone items or portions of items to the next scheduled meeting of the Board by majority vote of members present at the meeting.
- (f) If seven regular Planning Board Members are not present, then the Associate Board Members will take the place of the absent members for voting purposes in an alternating manner. The participating Associate Member(s) will have full voting privileges

## ARTICLE VII. Order of Business

- (a) The normal order of business for the Board shall be as follows:
- A. Roll Call
  - B. Approval of Minutes
  - C. Public Hearings
  - D. Old Business
  - E. New Business
  - F. Miscellaneous
  - G. Adjournment
- (b) The normal order of business may be altered by consent of the Board.

## ARTICLE VIII. Public Hearings

- (a) In addition to those required by law, the Board may, at its discretion, hold public hearings when it decides that such hearings will be in the public interest.
- (b) Notice of all public hearings shall be in accordance with State law and local ordinances.

(The following is from Chairman Bowyer's draft Policies and Procedures)

### **PUBLIC HEARING**

#### Notification to Interested Parties

- Post legal notice, as required by State law and City Ordinance
- Send legal notice to abutters, neighbors within a reasonable distance (greater than minimum required by law), to identified community/neighborhood groups, to City Councilors, city departments boards or committees, other public agencies that might be interested/affected. (Does the Board have the authority to do this?)
- In addition to the legal notice, create and send an explanation, in English, of the proposal and its potential effects. Advise recipients more information will be available, shortly before the hearing, on the City of Auburn/Planning Board web site that will have staff analysis, relevant documents or data submitted by applicant and PB's Policies And Procedures for conduct of public hearing

- (c) Preparation for the Public Hearing- All the information, plans, reports and the like that may be presented or used at the public hearing shall be available by the close of business on the Friday preceding the hearing. The objective is to provide time for the staff, the Board and the public to have a reasonable time period to review and analyze all the material. No last minute information, plan, report or the like may be submitted on the day of, or at the public hearing. It will not be admitted in the hearing or considered because it has not been available to be reviewed by the staff, the Board or the public.

The staff shall post the staff report, and other relevant material, on the City of Auburn/Planning Board web site by the close of business on the Friday preceding the hearing. The staff may also, at the same time, post material submitted by the petitioner/applicant, such as a summary of the proposal or any accompanying documentation. The staff shall include the title and a brief description of all the documentation submitted by the petitioner/applicant and indicate it is available for inspection in the offices of the Planning and Permitting Department during business hours.

Similarly, if members of the public have prepared written material or reports about a petition or application, they may submit it to be included in the material to be posted.

If the applicant or members of the public have written material to be posted, they should coordinate with the staff and submit the material in a compatible electronic format.

These Policies and Procedures will be posted on the web site so that the applicant/petitioner and the public will be aware how the hearing will be conducted.

- (d) Conduct of the Public Hearing

- 1. Status of Board Members:** Any regular Board member may want to recuse him/her self from acting on the application/petition because of a conflict of interest or personal reason. Any member who does shall surrender his/her seat and either leave the chamber or sit in the back of the room. Such member shall not communicate with other members of the Board who are acting on an application/petition and shall not address the Board if they are a party at interest who is potentially affected by the application/petition.

In the case where a member does not have a conflict of interest, as defined by ([Maine Revised Statutes, Title 1, Chapter 25 and M.R.S.A. Section 2605, Chapter 30-A, Conflict of and Auburn Code of Ordinances-, Chapter 2 – Administration, Article III, Officers and Employees, Division 2, Ethics and Conflicts of Interest](#)) but believes he/she may have the appearance of a conflict, the member shall state the situation and the remaining regular members of the Board shall vote whether they believe a conflict does exist and the member should sit or not.

One Associate member shall be selected to hear and act upon the application/petition for each regular member who is absent or recuses him/her self. Sitting in a public hearing shall be alternated between the two Associate members.

In the case where a hearing is continued to a subsequent meeting and all of the members who sat on the original hearing are not present, a regular member who was absent at the earlier hearing may sit on the continued meeting provided he/she certifies that he/she has familiarized themselves with the testimony and proceedings of the previous hearing.

**2. Staff Report:** A member of the staff shall present the report prepared by the staff or any other relevant information. Board members may ask questions and seek clarification of the application/petition, potential impacts of the development, if approved, provisions of the Zoning Ordinance or of other applicable regulations and laws. It is not appropriate, at this time, for Board members to comment on the merits of the application/petition and whether it should be approved or not. Those comments should be reserved until after the presentation by the applicant and testimony given by the public.

**3. Participation by the Public:** A public hearing is an open meeting as described in ([M.R.S.A., Title 1, Section 403 and Auburn Code of Ordinances-, Chapter 2 – Administration, Article V, Boards, Commissions and Committees, Divisions 4, Planning Board](#)) The public is entitled to listen to the proceedings. The public is invited to participate in the proceedings at times designated herein. An open meeting does not mean the public is allowed to participate in an ongoing dialogue with the Board or the staff throughout the meeting.

The applicant, any member of the public, or any public official addressing the Board shall use the microphones in the chamber. They shall first give their name and address and if representing and speaking in behalf of another party shall so state. All public hearings are recorded to be available for the record. If a person does not use the microphone their comments may not be recorded.

Any member of the public or any public official addressing the Board shall be limited in speaking to five minutes. At the Chair's discretion, an additional five minutes may be granted. A speaker should not repeat, at length, arguments or points made by previous speakers. They should briefly state their agreement or support for those positions. Reading of prepared speeches is not encouraged. The Board welcomes submittal of prepared written statements that will be included in the record.

In the interests of an orderly public hearing all persons speaking shall seek recognition from the chair and shall not speak directly to Board members, staff or other members of the public except as the Chair may direct. Board

members and staff shall also seek recognition from the chair before speaking to other persons.

The objective of the hearing is to hear testimony. There will be time for dialogue and debate on the merits of the application/petition later.

**4. Presentation by the Petitioner/Applicant** After the presentation of the staff report and questions about it from the Board, the applicant shall make the case for approval of the application/petition and any analysis of the potential impacts of the proposed development. The applicant shall be prepared to respond to questions from the Board or the staff.

In the case of a petition to amend the Zoning Ordinance or the Zoning Map, everyone should be aware that the potential impacts are not limited to the property of the petitioner but would be applicable to all properties in the city in the same zoning district classification. Similarly everyone should be aware that approval of the petition does not limit the extent of development to a specific proposal described by the petitioner. A change of zoning district designation, or the text of the Zoning Ordinance, entitles the petitioner, or all property owners in the same zoning district classification elsewhere in the city to the full development potential described for that zoning district classification. Other uses or a more intensive development, different than a petitioner's specific proposal, may be authorized in that zoning district classification.

**5. Public Comment:** After presentation by the application/petition and questions from the Board and planning staff, the public is invited to speak. Any person may speak; it is not limited to nearby neighbors or to residents of Auburn. All people who speak are required to use the microphones provided and give their name and address.

Any person who speaks may support, or oppose, the application/petition or ask questions of the staff, the Board or the applicant

This part of the hearing is not intended to be a debate, dialogue or rebuttal between the speaker and the Board or staff. Primarily the Board will listen to the testimony but may ask questions of the speaker for clarification of his/her position.

Speakers are requested to not restate, at length, points made by previous speakers. They should refer to them briefly to underscore those points.

Speakers will be recognized in the order in which they come forward. The hearing is not arranged to hear all of the proponents and then all of the opponents, or vice versa.

It is not the practice of the Board to take a poll of those in favor and those opposed. The number of people with a particular position is not a factor; the strength of their arguments is what matters.

After all persons who want to speak have done so, the Board will move to close the public comment part of the hearing. After that motion discussion will be limited to Board members and staff.

**6. Discussion, Action by the Board:** After the presentation by the applicant and public comment, the Chair will call for a general discussion among the Board to gauge their perspective on the application/petition. Members may, through the chair, direct a question to the applicant for clarification. Also, members may think the application/petition might be acceptable if subjected to certain limiting conditions. Through the chair, the member may ask the applicant whether such condition is acceptable.

After general discussion, if it appears there is a consensus, a motion will be in order. After a motion is made and seconded, there will be discussion on the specific motion. Other members may suggest amendment to the original motion and ask the maker of the motion if it is acceptable.

Following parliamentary procedure the Board will decide, by vote, whether to approve, with or without conditions, disapprove or defer action on the application/petition. The vote of the Board on the motion constitutes the decision of the Board and for determining the timing of subsequent actions, such as appeals.

**7. Written Decision** After approval of a motion duly made and seconded, a written decision needs to be drafted. Given the complexity of some applications and the likelihood that the Board may want to attach limiting conditions, it would be challenging to produce a written decision instantaneously. The staff will prepare the draft of a written decision, incorporating the intent of the motion approved by the Board. The draft of the decision will then be circulated to members of the Board for their review. If the draft is considered acceptable by the members, the written decision will then be filed. If one or more members does not agree with the language of the draft prepared by the staff, they shall submit alternative language, that shall then be circulated to the Board for their additional review.

This procedure for subsequent review of the draft of a written decision is necessary because the alternative would be to schedule a review of the draft at the next scheduled meeting of the Board. That could result a delay of a month or more and would be unfair to all concerned.

(End of Chairman's Bowyer's Policies and Procedures)



## **ARTICLE IX. Jurisdiction and Duties**

- (a) The jurisdiction and duties of the Planning Board shall be defined in the City of Auburn Code of Ordinances under Chapter 2, Article V, Division 4, Section 2-475.

*Should we use this space to define "how" we are going to complete some of the tasks outlined in the ordinance?*

## **ARTICLE IX. Amendments**

These By-Laws may be amended by a majority vote of the membership of the Planning Board present, to include both Regular and Associate members of the Board, provided that a quorum, consisting of four members is met. An affirmative vote by at least four members shall be necessary to authorize any action to amend the By-Laws. at least three affirmative votes are required to amend these By-Laws. Any amendments must be submitted prior to the meeting.