

# **TOWN OF FARMINGTON**

## **Planning Board Ordinance**

**ENACTED: September 12, 2001**

**Certified By: Leanne Pinkham  
TOWN CLERK**

## **Chapter 2 - Administration**

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## **Chapter 2**

### **Administration**

#### **Article 7. Planning Board Ordinance**

##### **7-1.1 AUTHORITY, ESTABLISHMENT & TITLE**

Pursuant to Title 30-A M.R.S.A. Section 3001 et. seq. (Home Rule) and Section 4312 et. seq. (Planning and Land Use Regulations), the Town of Farmington hereby adopts this Ordinance that shall be titled "Planning Board Ordinance", hereinafter referred to as "this Ordinance". This Ordinance shall repeal and supercede the Planning Board Ordinance adopted March 13, 1978 and any subsequent amendments thereto.

##### **7-1.2 PURPOSE AND INTENT**

The purpose of this Ordinance is to define the organizational structure and procedural requirements which shall apply to the Planning Board.

##### **7-1.3 JURISDICTION, POWERS AND DUTIES**

- A. The Planning Board shall have jurisdiction to review and make determinations upon applications as required under the Town of Farmington's Land Use Ordinances including but not limited to the Zoning Ordinance, Site Review Ordinance, Shoreland Zoning, Floodplain Management Ordinance, Telecommunication Facility Siting Ordinance, Sexually Oriented Business Ordinance, Soil Erosion Control and Storm Water Runoff Management Ordinance, Bio Solids and other Residuals Management Ordinance, Sign Ordinance and Wellhead Protection Ordinance, and State Subdivision Laws. The Board shall perform such duties and exercise such powers as are provided by Farmington ordinances and laws of the State of Maine.
  
- B. The Board shall maintain, review, and update a Comprehensive Plan as defined by 30A MRSA § 4301-4457. Said review shall be accomplished at least once every five years in a special Planning Board meeting to be held in January of the fifth year

following the establishment of the Plan and every five years there after or sooner if the Board deems necessary.

- C. The Board may obtain goods and services necessary to perform its proper function within the limits of Town Meeting appropriations made for such purpose.

#### **7-1.4 EFFECTIVE DATE**

The effective date of this Ordinance shall be the date this Ordinance is adopted by the voters at Town Meeting.

#### **7-1.5 VALIDITY AND SEVERABILITY**

Should any section or provision of this Ordinance be declared by any court to be invalid, such decision shall not invalidate any other section or provision.

#### **7-1.6 APPOINTMENT, TERM AND COMPOSITION**

- A. There shall be a Planning Board consisting of seven (7) regular members and two (2) alternate members, one (1) first alternate and one (1) second alternate, all of whom shall be residents of the Town. The members of the Board, who shall serve without compensation, shall be appointed by the municipal officers and sworn into office by the Town Clerk, or other person authorized to administer oaths, before performing any official duties as a Planning Board member.
- B. The term of each member shall be three (3) years, except the initial appointment which shall be two (2) members for one (1) year, two (2) members for two (2) years, and three (3) members for three (3) years.
- C. The enactment of this Ordinance shall not affect the terms of the members of the existing Planning Board. The members shall serve until their successors are appointed and sworn. The alternate members shall be appointed for a term of one (1) year and shall act on the Planning Board in place of members who are unable to act due to a conflict of interest, absence or physical incapacity. The first alternate would serve in the stead of an absent or excused member; the second alternate shall serve similarly in the place of the first alternate if absent, or in the

stead of a regular member who is absent or excused. Alternate members shall have no voting rights until such time as they are designated by the Chairman to fill the vacancy.

- C. Terms shall run from July 1<sup>st</sup> through June 30<sup>th</sup>.
- D. No person who is a Municipal Officer, Town Manager, Code Enforcement Officer, Town Planner, member of the Zoning Board or Board of Appeals or who is a father, mother, spouse, sister, brother or child of one of the above may be appointed as a regular or alternate to the Planning Board.
- E. A member of the Planning Board may be removed for cause after notice and hearing by the municipal officers before the expiration of his or her term. The term "for cause" shall include, but shall not be limited to, failure to attend three (3) consecutive board meetings or hearings without sufficient justification, or voting when the member has a "conflict of interest" as determined by a majority of the remaining members of the Planning Board (See 7-1.8D for definition of Conflict of Interest).
- F. When there is a permanent vacancy of either a regular or alternate member, the Code Enforcement Office shall immediately notify the Town Clerk who shall inform the municipal officers. Within sixty (60) days of the existence of the vacancy, the municipal officers shall appoint a person to serve for the unexpired term.

### **7-1.7 MEETINGS AND PUBLIC HEARINGS**

- A. The Board shall conduct regular monthly meetings to be held on the second Monday of each month unless a legal holiday falls on that date, in which case, the meeting shall be held on the third Monday. Notice of these meetings shall be posted in the Municipal building seven (7) days prior to the meeting.

The annual organizational meeting and election of officers shall be in the month of July or as soon as possible, thereafter.

- B. All meetings of the Planning Board shall be open to the public except executive sessions. No votes may be taken by the Planning Board except in public meeting. Executive sessions shall be held only to transact legal consultation, internal

disciplinary proceedings and other business acceptable under the "Right to Know" laws (1 M.R.S.A. Section 401-410).

- C. Members of the Planning Board shall avoid ex parte communications with any party-in-interest pertaining to any matter that is under consideration or may come under consideration before the Planning Board. If a party-in-interest has such a communication with a Planning Board member outside of a public meeting, the Planning Board member shall make the communication and the contents thereof known to the other members of the Planning Board and public at the next Planning Board meeting regarding that matter.
- D. If the Board decides to hold a public hearing it shall publish notice of the day, time and place of the hearing in a newspaper of general circulation in the municipality at least twice, the date of the first publication to be at least fifteen (15) days prior to the hearing. Notice of the public hearing shall be sent to all abutters of the proposed development fifteen (15) days prior to the hearing by the Town Of Farmington.

### **7-1.8 ORGANIZATIONAL STRUCTURE AND VOTING PROCEDURES**

- A. The Planning Board shall elect annually a Chairman and a Vice Chairmen from its membership and shall create and fill other offices as it may determine appropriate. The term of all offices shall be one year with eligibility for re-election. No alternate member shall be a voting member unless designated to take the place of an absent member by the acting Chairman.
- B. The Chairman shall call at least one regular meeting of the Board each month, the Chairman shall also call meetings of the Planning Board when requested to do so by a majority of the members of the Planning Board or by the Board of Selectmen. The Chairman shall preside at all meetings of the Planning Board. In the event the Chairman is indisposed or otherwise absent, the Vice Chairman shall preside. The Chairman or his/her designee shall be the official speaker for the Planning Board.
- C. The Code Enforcement Office shall maintain a permanent record of all Planning Board meetings through transcription or electronic recording and all correspondence of the Planning Board. The

Code Enforcement Office shall also be responsible for maintaining those records that are required as part of the various proceedings brought before the Planning Board. All records prepared or maintained by the Code Enforcement Office in reference to any public proceedings are deemed public and shall be filed in the Town Clerk's office and may be inspected at reasonable times. The Code Enforcement Office shall be responsible for making all notifications and announcements as are required.

- D. Any question of whether a Board member has a "conflict of interest" sufficient to disqualify that member from participating in a matter shall be decided by a majority vote of the remaining members present and voting. If the Board votes that a member is disqualified because of a conflict of interest, that member shall not participate in any Board discussion or deliberation and shall not vote on the matter. In the case of a tie vote on the conflict of interest question, the member may continue to participate. As used in this section, the term "conflict of interest" includes, but is not limited to, bias, family relationship and financial interest. "Bias" means the inability of a Board member to decide fairly and impartially because of a predisposition to decide the matter for reasons not related to the merits, such as, but not limited to, prior or present personal involvement of the Board member in the matter, a personal relationship between the Board member and the applicant or a party-in-interest, the Board member's prior public expressions of opinion on the subject matter of an application, or intentional ex parte communication between the Board member and the applicant or a party-in-interest. "Family relationship" means that the Board member is a spouse, parent, grandparent, child, grandchild or sibling of the applicant or a party-in-interest, whether by blood, marriage or adoption. "Financial interest" means that the outcome of the proceeding is likely to result in financial gain or loss to the Board member, the Board member's employer, the Board member's spouse, parent, grandparent, child, grandchild or sibling, or the employer of the Board member's spouse, parent, grandparent, child, grandchild, or sibling.
- E. A quorum shall consist of four (4) members. A decision to support an application requires four (4) affirmative votes.
- F. A tie vote or favorable vote by a lesser number than the required

majority shall be considered a rejection of an application under consideration.

- G. No regular or alternate member shall vote on the determination of any matter that was the subject of public hearing unless the member has attended the public hearing thereon; however, where such a member has familiarized himself or herself with such matter by reading the record, reviewing tapes of the hearing and reviewing documents, he or she shall be qualified to vote.
- H. The Planning Board may adopt rules of administration and procedure for the conduct of its affairs, provided such rules are not contrary to or inconsistent with this Ordinance.
- I. The Planning Board may prepare and submit to the Town Manager an annual budget relating to the operation of the Planning Board.

#### **7-1.9. AMENDMENTS**

- A. Initiation of Amendments: An amendment to this Ordinance may be initiated by:
  - 1. The municipal officers, provided a majority of the municipal officers has so voted; and
  - 2. Written petition of a number of voters equal to at least 10% of the number of votes cast in the municipality at the last gubernatorial election.
- B. Public Hearing: The municipal officers shall hold a public hearing on the proposed amendment in accordance with 30-A M.R.S.A Section 4352 (9). Notification of the hearing shall be posted and advertised twice in a newspaper of general circulation in the municipality. The date of the first publication must be at least at least seven (7) days prior to the hearing. Notice of the hearing must be posted in the municipal office at least thirteen (13) days before the hearing.
- C. Adoption of Amendment: An amendment to this Ordinance shall be adopted by majority vote of the Town Meeting.

### **7-1.10 APPEALS**

Administrative appeals and variance applications submitted under this Ordinance shall be subject to the standards and procedures established by the Town of the Farmington Board of Appeals Ordinance.

Any person aggrieved by the action of the Code Enforcement Officer or Planning Board may appeal to the Board of Appeals by filing a notice of appeal within thirty (30) days after receipt of the Code Enforcement Officer or Planning Board's notification.

### **7-1.11 DEFINITIONS**

1. Bias: "Bias" means the inability of a Board member to decide fairly and impartially because of a predisposition to decide the matter for reasons not related to the merits, such as, but not limited to, prior or present personal involvement of the Board member in the matter, a personal relationship between the Board member and the applicant or a party-in-interest, the Board member's prior public expressions of opinion on the subject matter of an application, or intentional ex parte communication between the Board member and the applicant or a party-in-interest.
2. For Cause: "Cause" implies a reasonable ground of demotion or removal as distinguished from a frivolous or incompetent ground.
3. Party-in-interest: "Party-in-interest" means any individual who has a vested interest in any issue before the Planning Board.