

# CHAPTER 18

## ELLSWORTH PLANNING BOARD

Adopted April 16, 2007  
Amended June 21, 2010

### 1. ESTABLISHMENT

Pursuant to the Maine Constitution Article VII, pt. 2, Section 1 and 30-A M.R.S.A § 3001, the City of Ellsworth hereby establishes the Ellsworth Planning Board.

### 2. APPOINTMENT

- A. **Appointment:** Board members shall be appointed by the City Council and sworn in by the City Clerk or other person authorized to administer oaths.
- B. **Structure:** The Board shall consist of five (5) Regular members and two (2) Alternate members. The term "member(s)" as used in this ordinance shall refer to both members and alternate members unless otherwise expressly stated.
- C. **Term:** The terms of the Planning Board members shall expire in different years. The five (5) Regular Planning Board members shall have a 5-year term with one (1) seat expiring every year. The two (2) Alternate Planning Board members shall have a 2-year term with one (1) seat expiring every year. Individuals appointed to fill unfinished terms will serve for the remaining time of the respective terms.
- D. **Vacancy:** Where there is a permanent vacancy the municipal officers shall, in a timely manner, appoint a person to serve the unexpired term. A vacancy shall occur upon the resignation or death of any member, when a member ceases to be a legal resident of the city (defined as eligible to vote in City elections) or when a member fails to attend four consecutive meetings or fails to attend at least 75 % 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 cause, in which case no vacancy will then exist until the municipal officers disapprove the recommendation of the Board. The municipal officers may remove members of the Board by a two-thirds majority vote, for cause, after notice and a hearing.

### 3. ORGANIZATION AND RULES

- A. **Officers:** The Board shall elect a chairperson, vice chairperson and secretary from among its members in January of each year. The term of each of these officers shall be for a maximum of one (1) year with eligibility for re-election.

- B. **Alternates:** Alternate members shall attend all meetings of the Board and participate in its proceedings, but may vote only when there are fewer than five (5) voting regular members present. Alternate members shall be designated by the chairperson to participate and vote when a member is unable to act because of a conflict of interest, physical incapacity, absence or any other reason satisfactory to the chairperson.
- C. **Disqualification:** Any question of whether a member shall be disqualified from voting on a particular matter shall be decided by a majority of the members of the Board present.
- D. **Meetings:** The chairperson or designee shall call at least one regular meeting of the Board each month. The chairperson or designee may also call a special meeting. The Board or designee may impose a fee upon an applicant to cover extra advertising costs to the city for a special meeting requested for the convenience of the applicant.
- E. **Quorum:** No meeting of the Board shall be held without a quorum consisting of at least four (4) members authorized to vote. The Board shall act by majority vote, calculated on the basis of the number of members present and voting. The lack of quorum for any agenda item shall not render the Board incapable of acting on that item at any meeting where there is a quorum present to hold that meeting. A tie vote by the Board shall be considered a denial of the request.
- F. **Public Notice:** The secretary, or designee, shall cause to be published, a notice for public hearings in a newspaper of general circulation in Ellsworth in accordance with the rules put forth in the Ellsworth Land Use/Subdivision Ordinances.
- G. **Public Record:** The secretary, or designee, shall keep a record of its resolutions, transactions, correspondence, findings and determinations.
- H. **Rules of Order:** The Board shall conduct business according to Rules For The Conduct of Public Proceedings in Section 6 below. The Board shall adopt and affirm annually additional rules and procedures necessary for the transaction of its business.

#### **4. DUTIES AND POWERS**

- A. The Board shall perform such duties and exercise such powers as are provided by the Ordinances of the City of Ellsworth and the laws of the State of Maine.
- B. The Board may obtain goods and services necessary to its proper function within the limits of appropriations made for that purpose by the City Council or as provided by applicable City ordinances.

#### **5. APPEALS**

- A. An aggrieved party may appeal any Planning Board final decision made pursuant to the Ellsworth Land Use Ordinance to the City of Ellsworth Board of Appeals.
- B. An aggrieved party may appeal any Planning Board final decision made pursuant to the Ellsworth Subdivision Ordinance to the State of Maine Superior Court pursuant to the rules of that Court.

- C. Any appeal made pursuant to this section must be submitted to the appropriate appellate authority within thirty (30) days of the Planning Board decision from which the appeal is taken.

## **6. RULES FOR THE CONDUCT OF PUBLIC PROCEEDINGS**

- A. **SCOPE OF RULES:** These rules govern the practice and conduct of Public Proceedings (including official meetings and hearings) held by the Planning Board of the City of Ellsworth hereinafter referred to as the “Planning Board.” These rules shall be liberally construed so as to enable the Planning Board to accomplish its duties and responsibilities.
- B. **PRESIDING OFFICER:** The Presiding Officer at all public proceedings shall either be the Chairman or Vice-Chairman of the Planning Board or a member of the Planning Board who is selected by those members present at proceedings.

### **The Presiding Officer shall have authority to:**

1. Participate in discussion, make or second a motion, and vote;
2. Regulate the course of proceedings;
3. Rule upon issues of evidence and procedure; and
4. Take such other actions that are necessary for efficient and orderly conduct of proceedings.

### **C. GENERAL RULES FOR PUBLIC PROCEEDINGS:**

1. **Rules of Order:** To supplement the basic rules of order written in this Section, the Board shall adopt and affirm annually additional rules and procedures necessary for the transaction of public proceedings.
2. **Regulation of Electronic Recordings:** The placement and use of cameras or microphones for the purpose of recording Planning Board proceedings may be regulated by the Presiding Officer so as to avoid interference with the orderly conduct of the proceedings.
3. **Public Record:** The Planning Board shall make a record of proceedings by appropriate means. All documents, materials, and objects accepted into evidence during the meeting shall become part of the public record.
4. **Objections:** All objections to rulings of the Presiding Officer regarding evidence or procedure shall be timely made during the course of proceedings.
5. **Corrections:** If, after the close of proceedings and during its deliberations, the Planning Board determines that any ruling was in error, it may reopen proceedings to take such other action, as it deems appropriate to correct the error.
6. **Continuances:** All proceedings conducted pursuant to these rules may be continued for reasonable cause and reconvened from time to time and from place to place as may be

determined by a majority of the Planning Board members present. Continuances may be granted at the request of any person participating in such proceedings if it is determined that a continuance is necessary. This provision shall not be used to cause unreasonable or needless delay in any proceedings. All orders for continuances shall specify the time and place at which such proceedings shall be reconvened. The Presiding Officer or designee shall notify interested persons and the public in such a manner as is appropriate to insure that reasonable notice will be given to the time and place of such reconvened proceedings.

#### **D. SUBMITTALS:**

1. **Submittal Requirements:** Materials that are submitted during public proceedings may be accepted only if determined by the Presiding Officer to be relevant, necessary, brief enough to be quickly assimilated and copies are provided in sufficient number and of a type that is compatible with information technology currently available at City Hall.
2. **Public Record Closed:** Following the conclusion of proceedings, no further evidence or testimony will be allowed into the public record of that proceeding except as required by the Board as part of a conditional approval or a continuance.
3. **Common Knowledge:** The Planning Board may, at any time, take notice of judicially cognizable facts, generally recognized facts and physical, technical, or scientific facts within the knowledge of the Planning Board members whether or not these facts are submitted into the public record by presenters.

#### **E. PRESENTATIONS:**

1. **Introduction:** The Presiding Officer shall open the proceedings by describing in general terms the purpose of the proceedings and the general procedures governing its conduct.
2. **Speaker Instructions:** All speakers shall be required to locate at a microphone and state for the record their name and residential address. The Chairperson may ask their business or professional affiliation, the nature of their interest in the proceedings, and whom they represent.
3. **Allowable Testimony:** The Presiding Officer may refuse to permit irrelevant, immaterial, or repetitious comments or questions or other remarks which do not advance or serve the purpose of the proceedings and shall state the basis for such refusal on the record when requested to do so by the party asking the question.
4. **Time Limits for Speakers:** The Presiding Officer may impose limitations on the length of testimony and questioning.
5. **Applicant Presentation:** The applicant, and such representatives as he chooses, shall present the proposal to the Board using duly submitted plans, documentary evidence, photographs, studies, reports, analyses, and other information as well as materials otherwise submitted according to this ordinance.

6. **Public Hearing:** Following the Applicant Presentation, the public shall be given an opportunity to comment on the proposal. Testimony and properly submitted material evidence shall be offered in the following order:

<b>Public Hearing Speaker Category:</b>
1) Planning Board members
2) City staff and consultants
3) Other governmental representatives
4) Ellsworth residents and/or tax payers
5) Other interested persons

7. **Varying Order of Appearance:** When circumstances warrant, the Presiding Officer may vary the order in which speakers appear or are questioned.
8. **Questioning of Speakers:** The Presiding Officer may allow questioning of speakers by Planning Board members, staff, consultants, counsel and others at any time.
9. **Follow-up Testimony:** At the conclusion of direct testimony and questioning of each speaker or category of speaker as determined by the Presiding Officer, all persons shall have the opportunity to submit follow up testimony according to the Presentation Order provided above. The Presiding Officer shall allow as many rounds of follow-up testimony as are necessary to provide a full and impartial hearing.

## **7. COMPENSATION**

It is customary that the members of the Ellsworth Planning Board receive no compensation for their services to the City. However, Members may submit to the City Planner, evidence of personal expenses associated with their Planning Board duties including, but not limited to, travel mileage and training fees. For administrative procedures, the City Planner shall use applicable provisions pertaining to expense reimbursement in the City's Personnel Ordinance.

## **8. ADOPTION**

These regulations, as amended, are effective as of the date of adoption by the City Council.