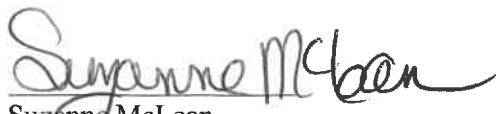


Code of Ordinances, City of Ellsworth

CHAPTER 18
PLANNING BOARD

A true copy, attest:


Suzanne McLean
City Clerk



The **FRIENDLY CITY**
Ellsworth
Maine

CHAPTER 18

PLANNING BOARD

ARTICLE 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 (the “Planning Board”).

ARTICLE 2 APPOINTMENT

201 APPOINTMENT

Board members shall be appointed by the City Council and sworn in by the City Clerk or other person authorized to administer oaths.

202 STRUCTURE

The Board shall consist of five (5) Regular members and two (2) Alternate members. The term “member(s)” as used in this Chapter 18 shall refer to both members and alternate members unless otherwise expressly stated.

203 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.

204 VACANCY

Where there is a permanent vacancy, the City Council 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 City Council in writing. The Board may recommend to the City Council that the attendance provision be waived for cause, in which case no vacancy will then exist until the City Council disapproves the recommendation of the Board. The City Council may remove members of the Board by a two-thirds majority vote, for cause, after notice and a hearing.

ARTICLE 3 ORGANIZATION AND RULES

301 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.

302 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.

303 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.

304 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.

305 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.

306 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.

307 PUBLIC RECORD

The secretary, or designee, shall keep a record of its resolutions, transactions, correspondence, findings and determinations.

308 RULES OF ORDER

The Board shall conduct business according to Rules For The Conduct of Public Proceedings in Article 5. The Board shall adopt and affirm annually additional rules and procedures necessary for the transaction of its business.

309 MANDATORY TRAINING

Board members shall attend all trainings mandated by state law. Without limiting the foregoing sentence, Board members shall attend a training on land use planning offered by a state agency or a statewide association representing municipalities or a regional council or municipality within 180 days of appointment or, if a training is not available within the 180-day period, the next available training.

ARTICLE 4 DUTIES AND POWERS

- 401** The Board shall perform such duties and exercise such powers as are provided by the City Code and state law.
- 402** 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 the City Code.

ARTICLE 5 RULES FOR THE CONDUCT OF PUBLIC PROCEEDINGS

501 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.

- 502 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.

503 GENERAL RULES FOR PUBLIC PROCEEDINGS

- 503.1 Rules of Order.** To supplement the basic rules of order written in this Section 503, the Board shall adopt and ratify annually additional rules and procedures necessary for the transaction of public proceedings.
- 503.2 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.
- 503.3 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.
- 503.4 Objections.** All objections to rulings of the Presiding Officer regarding evidence or procedure shall be timely made during the course of proceedings.
- 503.5 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.
- 503.6 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 ensure that reasonable notice will be given to the time and place of such reconvened proceedings.

504 SUBMITTALS

- 504.1 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.
- 504.2 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.
- 504.3 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.

505 PRESENTATIONS

- 505.1 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.
- 505.2 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 for their business or professional affiliation, the nature of their interest in the proceedings, and whom they represent.
- 505.3 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.
- 505.4 Time Limits for Speakers.** The Presiding Officer may impose limitations on the length of testimony and questioning.
- 505.5 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.
- 505.6 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:
1. Planning Board members
 2. City staff and consultants
 3. Other governmental representatives
 4. City residents and taxpayers
 5. Other interested persons

- 505.7 Varying Order of Appearance.** When circumstances warrant, the Presiding Officer may vary the order in which speakers appear or are questioned.
- 505.8 Questioning of Speakers.** The Presiding Officer may allow questioning of speakers by Planning Board members, staff, consultants, counsel and others at any time.
- 505.9 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.

ARTICLE 6 COMPENSATION

It is customary that the members of the 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 travel mileage and training fees. The City Planner shall use applicable provisions pertaining to expense reimbursement in Chapter 34 (Personnel Ordinance).