

UNITY PLANNING BOARD ORDINANCE

1. Establishment

Pursuant to Article VIII, Pt. 2, Sec. 1 of the Maine Constitution, and 30-A MRSA §3001, the Town of Unity hereby establishes a planning board. The board which has been acting as a planning board for the Town of Unity is hereby reestablished as the legal planning board for the purposes of this ordinance. The actions which that board took prior to the adoption of this ordinance are hereby declared to be the bona fide acts of the legally constituted planning board of the Town of Unity.

2. Purpose

The purpose of the planning board is to monitor and regulate growth, development and land use within the Town of Unity as directed by Town ordinance and State statute. The board shall advise landowners and developers upon request without prejudice to final action, interpret applicable laws and ordinances, and work closely with the Unity code enforcement officer to issue permits, review subdivisions and conduct other regulatory duties as directed by law and ordinance.

The board shall monitor growth and development in relation to the Town's adopted goals and objectives, participate in periodic revisions of the Unity Comprehensive Plan and make recommendations to the Comprehensive Plan Committee and townspeople regarding adjustments to Unity's land use ordinances and related policies and regulations.

The board shall not be involved in the enforcement of land use regulations; any alleged violations shall be referred to the code enforcement officer.

3. Appointment

- A. Board members shall be appointed by the selectmen and sworn in by the clerk or other person authorized to administer oaths.
- B. The board shall consist of seven members.
- C.
 - (1) The term of each member shall be three years. Terms will be staggered, with three members appointed in 1995, and two members appointed in 1994 and 1996. The cycle of appointments shall be repeated every three years.
 - (2) Those members serving on the planning board at the time this ordinance is enacted shall be considered to have been properly appointed until their respective terms of office expire.
- D. When there is a permanent vacancy, the municipal officers shall within 60 days of its occurrence appoint a person to serve for the unexpired term. A vacancy shall occur upon the resignation or death of any member, or when a member ceases to be a legal resident of the town, or when a member fails to attend four consecutive regular meetings, or fails to attend at least 75% of all meetings during the preceding twelve 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. The municipal officers may remove members of the planning board by unanimous vote, for cause, after written notice and hearing.

- E. All members shall be residents of the Town of Unity.
- F. The following municipal offices are considered to be incompatible with concurrent service on the planning board. If any of the following persons or their spouses are appointed to the planning board, they will be considered to have resigned the other position: persons holding elected municipal office and persons serving on the board of appeals.

4. Organization and Rules

- A. The board shall elect a chairperson and vice chairperson from among its members. The board may either elect a secretary from among its members or hire a non-board member to serve as secretary. The term of all offices shall be one year with eligibility for re-election. Elections shall be held at the first meeting following annual appointment of members.
- B. Any question of whether a member shall be disqualified from voting on a particular matter shall be decided by a majority vote of the members present and authorized to vote, except the member whose potential conflict is under consideration.

The term "conflict of interest" shall be construed to mean direct or indirect pecuniary interest, which shall include pecuniary benefit to any member of the person's immediate family (grandfather, father, wife, son, grandson, e.g.) or to his or her employer, or the employer of any member of the person's immediate family.

- C. The board shall schedule at least one regular meeting each month, which shall be posted in the municipal office. If no permit applications or other business have been filed in the town office as of two business days before the meeting, the chairman may cancel the meeting.
- D. No meeting of the board shall be held without a quorum of four members. On any specific piece of business, four members must be eligible to vote or the matter must be postponed. The board shall act by majority vote calculated on the basis of the number of members present and voting.
- E. The board shall adopt rules for transaction of business and the secretary shall keep a record of its resolutions, transactions, correspondence, findings and determinations. All records shall be deemed public and may be inspected.

5. Duties and Powers

- A. The board shall perform such duties and exercise such powers as are provided by Unity ordinance 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 the purpose.
- C. Board members may be compensated for their service as authorized and appropriated by the legislative body in any given year.

6. Effective Date

Having been enacted on March 26, 1994, this ordinance is effective as of May 1, 1994.

UNITY PLANNING BOARD BYLAWS
(Adopted April 12, 1994)

1. General Provisions

- A. These bylaws are written to provide guidance for the conduct of planning board business beyond that prescribed by the Unity Planning Board Ordinance and specific procedural requirements of other laws and ordinances directed to the planning board.
- B. These bylaws are internal to the planning board and may be amended by majority vote of the board.
- C. These bylaws will be posted at the town office and made available to members of the public upon request.
- D. Business of the Board shall be conducted in accordance with Maine Revised Statutes Annotated (MRSA), Unity ordinances and Robert's Rules of Order.
- E. Planning board members are expected to be knowledgeable of laws, ordinances, regulations and these bylaws and to abide by them. When a new member is appointed to the board, the secretary (or chairperson, in absence of the secretary) shall provide the new member with a copy of all Unity land use ordinances and these bylaws. The board may require new members to attend available training sessions; the Town will pay for any registration fees of such sessions.

2. Officers and their Duties

- A. The officers of the board shall be a chairperson, vice-chairperson and a secretary. The chairperson and vice-chairperson must be members of the board. The secretary may either be a board member or be hired by the board to perform necessary functions.
- B. The chairperson shall preside at all meetings and hearings of the board. The chairperson has the authority to call meetings, schedule work sessions and appoint committees.
- C. The vice-chairperson shall act for the chairperson in his or her absence.
- D. The secretary shall be responsible for the minutes and records of the board, notice of meetings and hearings to board members and the general public, correspondence of the board and other duties as are normally carried out by a secretary. The secretary shall keep a record of all resolutions, votes, permits and approvals granted and/or denied and reasons therefor, transactions, correspondence, findings and conclusions of the board. All records shall be available for public inspection during town office hours, at a time reasonably convenient for the official responsible for the records. Records in the secretary's personal possession shall be filed at the town office as soon as practicable.

- E. The chairperson and secretary shall jointly develop meeting agendas; based upon anticipated old business, new applications and other board business known as of two days prior to a scheduled meeting.
- F. Nominations of officers shall be made from among members of the board at the first regular meeting following annual appointments. This will generally fall on the April meeting. Each candidate receiving a majority vote shall be elected and serve a term of one year or until the next election.
- G. Vacancies shall be filled by the board at the earliest opportunity.

3. Meetings

- A. Regular meetings of the board shall be held on the second Tuesday of the month at 7:00 PM in the Unity Union Church. If no business is known as of 48 hours prior to a regular meeting, the chairperson may cancel the meeting. The secretary shall notify members and the general public of the cancellation.
- B. All meetings of the board shall be open to the public. Notice of meetings other than regularly scheduled monthly meetings shall be posted at least three days in advance at the town office. When possible, notice will also be posted at the Unity Post Office and in the *Central Maine Morning Sentinel* and *Bangor Daily News*.
- C. If it is known prior to a meeting that there will not be a quorum in attendance, the chairperson and secretary shall work together to find an alternate date upon which to hold the meeting. At least three days' notice shall be given for such meeting changes to members and the public.
- D. In the event a quorum is not present when a meeting has been called to order, the members present and other interested parties present who have business to transact with the board shall find a suitable alternate date and reschedule the meeting accordingly. The secretary shall notify the absent members, municipal officials, and general public of the new meeting date and agenda.
- E. All matters shall be decided by a roll call vote. A majority of the voting members is needed to pass any motion. When a motion results in a tie vote the motion fails.
- F. All decisions must be based on whether the applicant has provided sufficient evidence to prove that all applicable law and ordinance requirements have been complied with.
- G. New business will generally be taken up in the order in which applications were filed at the town office. This policy may be adjusted to accommodate personal schedules if agreed upon by those affected. If there is too much business to be conducted within a reasonable time period (3 hours), remaining applications may be postponed to the next regular meeting or to an interim meeting if one is called.

- H. No action will be taken on any application until the application is complete and any fee due is paid to the Town.
- I. Upon a majority vote of those present and voting, the board may call for an executive session to meet with the town attorney about pending or potential litigation.

4. Hearings

A. Notification Requirements

- (1) The board may schedule a public hearing on any application within the time frames established by applicable state law or local ordinance. The board shall hold a hearing on all applications for subdivision approval.
- (2) The board shall cause notice of the date, time and place of such hearing, the location of the building and lot, and the general nature of the question involved, to be given to the person making the application, the municipal officers, and abutters and/or other interested parties if called for by statute or ordinance. The notice shall be published in the *Central Maine Morning Sentinel* and in the *Bangor Daily News*. If the schedule allows, the notice will also be placed in the *Waldo Independent* and in the *Republican Journal*.
- (3) Unless statute or ordinance specify otherwise, one notice shall be published and delivered 14 days prior to the hearing.

B. Order of Business

- (1) The chairperson calls the hearing to order and determines whether there is a quorum.
- (2) The chairperson then describes the purpose of the hearing, the nature of the case, and the general procedures to be followed.
- (3) The board determines whether the applicant or applicant's agent has sufficient right, title or interest to appear before the board.
- (4) The board determines whether it has jurisdiction over the application.
- (5) The board determines which individuals attending the hearing are "interested parties." "Interested parties" are those persons who request to offer testimony and evidence and to participate in oral cross-examination. They would include abutting property owners and others who might be adversely affected by the board's decision. Parties may be required by the board to consolidate or join their appearances in part or in whole if their interests or contentions are substantially similar and such consolidation would expedite the hearing. The municipal officers and code enforcement officer shall automatically be made parties to the proceeding.

Interested parties will be required to state for the record their name, residence, business or professional affiliation, the nature of their interest in the hearing and whether or not they represent another individual, firm, association, organization, partnership, trust, company, corporation, state agency or other legal entity for the purpose of the hearing.

- (6) The chairperson gives a statement of the case and incorporates into the record correspondence and reports filed with the board prior to the hearing. This material shall be available for public inspection.
- (7) The applicant is given the opportunity to present his or her case without interruption.
- (8) The board and interested parties may ask questions of the applicant through the chair.
- (9) The interested parties are given the opportunity to present their testimony, starting with the proponents, followed by the opponents. The board may call its own witnesses, such as the code enforcement officer, planner or its consultant.
- (10) The applicant may ask questions of the interested parties and board witnesses directly.
- (11) All parties are given the opportunity to refute or rebut statements made throughout the hearing.
- (12) The board shall receive comments and questions from all observers and interested citizens who wish to express their views.
- (13) The hearing is closed after all parties have been heard. If additional time is needed, the hearing may be continued to another date. All interested parties shall be notified of the date, time and place of the continued hearing, and the reasons for the continuance.
- (14) Upon such request made prior to or during the course of the hearing, the chairperson may permit persons participating in any hearing to file written statements with the board for inclusion in the record after the conclusion of the hearing within such time and upon such notification to the other participants as the chairperson may require.
- (15) Board members and consultants of the board have the right to prepare findings and conclusions at any public meeting prior to the decision being finalized.
- (16) The board may waive any of the above rules.
- (17) Any participant or other member of the public may obtain a copy of the record from the board upon payment of the cost of transcription, reproduction and postage.

5. Decisions

- A. Decisions by the board shall be made within the time limits established by state law and local ordinances and regulations.
- B. When the board is not sure of the meaning of a law or regulation, a decision should be tabled until necessary research is done or technical assistance is obtained to clarify the question. Any member of the board may be authorized by the chairman to contact the Maine Municipal Association, Kennebec Valley Council of Governments, or other source of technical assistance that will not result in a fee charged to the Town. Hiring of other expertise will only be done upon majority vote of the board and approval of the board of selectmen.
- C. Final decision on any application before the board shall be made by recorded roll call vote. A majority of those present and voting is required to pass any motion.
- D. The final decision on any matter before the board shall be issued as a written order, or permit, and signed by either the chairperson or the secretary. Abstention from voting on the matter by absence or conflict shall not interfere with an officer's signing of the order/permit on behalf of the board.
- E. The transcript of testimony, if any, and exhibits, together with all papers and requests filed in the proceedings, and signed minutes of the meetings/hearing shall constitute the record and shall include a specific statement of findings and conclusions as well as the reasons or basis therefor. At a minimum, the record should specifically state that the applicant has or has not met all applicable state statutory requirements, all applicable municipal ordinances and all applicable municipal regulations. Each law or regulation will be specifically referenced in the decision.
- F. The board, in reaching said decision, shall be guided by standards specified in the applicable statute, ordinance or regulation, as well as by community goals and policies as specified in the Unity Comprehensive Plan.
- G. A copy of any decision, including the findings, conclusions and minutes, shall be sent by mail or hand delivered to the applicant or to his/her agent, within 21 days of being rendered.
- H. Decisions of the board shall be immediately filed in the town office and shall be made public record. The date of filing of each decision shall be entered in the municipal records and minutes of the board. A copy of each decision shall be distributed to the code enforcement officer and to the fire chief.
- I. Within 30 days of receiving approval for a subdivision, the subdivider shall file at the town office a copy of the receipt for recording the subdivision in the Waldo County Registry of Deeds. This will complete the file on a subdivision application.

6. Amendments

These bylaws may be amended by majority vote of the board at a regularly scheduled meeting.

7. Severability

If any portion of these bylaws is found to be invalid, no other portion of these bylaws shall be affected.

THESE BYLAWS WERE DISCUSSED AT A PUBLIC HEARING ON MARCH 8, 1994 AND ADOPTED AT THE REGULARLY SCHEDULED PLANNING BOARD MEETING ON APRIL 12, 1994.