

# RAYMOND, MAINE

## PLANNING BOARD

### BY LAWS AND RULES OF CONDUCT

ADOPTED: March 20, 1999

AMENDED: November 13, 2002

AMENDED: November 4, 2009

## **TABLE OF CONTENTS**

	Page
Article I Purpose of Bylaws and General Provision	1
Article II Membership of Planning Board	1
Article III Attendance Policy	1
Article IV Selection and Authority of Officers	2
Article V Administrative and Professional Support	3
Article VI Conduct of Meetings, Workshops and Executive Sessions	3
Article VII Application Submissions and Development of Agenda	6
Article VIII Procedures to Give Notice to Public and Abutters	7
Article IX Consideration of Applications in a Hearing Format	8
Article X Planning Board Protocol	10
Article XI Legal Effect of Bylaws	11
Article XII Amendment of Bylaws	11

## **ARTICLE I - PURPOSE OF BYLAWS AND GENERAL PROVISIONS**

- Section 1 The purpose of these Bylaws is to support the Maine Revised Statutes Annotated, Town Ordinances, and Comprehensive Plan to outline Standards for Review of the Planning Board of the Town of Raymond.
- Section 2 Planning Board members are expected to be reasonably knowledgeable in the application of these laws, regulations and Board policies and to abide by them.

## **ARTICLE II - MEMBERSHIP OF PLANNING BOARD**

- Section 1 The Planning Board shall consist of seven (7) members who shall be appointed or reappointed by the Selectboard. Members shall serve three (3) year terms. Members shall be legal residents of the Town.
- Section 2 When a Board vacancy arises, the Town Selectboard shall, within sixty (60) days, if possible, appoint a person to serve the remaining portion of the term. Any person appointed to fill a vacated term may be re-appointed to a full term by the Selectboard.
- Section 3 Before assuming the duties of office, members shall be sworn in by the Town Clerk or by a designee of the Town Clerk who is authorized by law to administer an oath. The Town Clerk shall make a record that the member was sworn in.

## **ARTICLE III - ATTENDANCE POLICY**

- Section 1 When a member is not able to attend a scheduled Planning Board meeting, notification will be made to Planning Board Secretary, in advance, if at all possible, in order to facilitate the work of the Planning Board at that meeting. If an extended absence is necessary, that member will discuss it with the Board in advance, if possible.
- Section 2 The Secretary will record the attendance at each meeting.
- Section 3 If a member is absent for three (3) consecutive meetings (without acceptable reason, or prior arrangement), the chairman will contact that member to ascertain if that member is able to continue on the Board. If the response is negative, the chairman will notify the Board of Selectmen to accept that member's resignation. A written letter of resignation shall be required in order that it may be included in both Boards' files.
- Section 4 If a member is unable to attend on a regular basis, the Chairman shall contact that member to discuss the situation and ascertain if the member, in the future, can attend on a regular basis. If response is negative, the procedure will be the same as #3.
- Section 5 If the response to the for reasons outlined in #3 and #4 is positive, that member will continue to serve on the Board.

Section 6 If the conditions outlined in section 3 and 4 develop a second time, the chairman shall contact that member and ask for that member's written resignation, present the resignation to the Board of Selectmen, and request the Selectmen to appoint a new member.

#### **ARTICLE IV - SELECTION AND AUTHORITY OF OFFICERS**

- Section 1 The Planning Board officers shall consist of the Chair and Vice-Chair. The Chair and Vice-Chair shall be nominated and elected from the Board membership.
- Section 2 The election of officers shall be held at the beginning of the Board's regular meeting in June. If there are not sufficient members attending, the elections shall be held at the next available duly posted public meeting of the Board.
- Section 3 The Chair and Vice-Chair shall each be elected by a two-thirds majority vote of a minimum of five Board members. If five (5) members do not meet at the June meeting, the elections will be held at the next available duly posted public meeting when the five (5) members are in attendance.
- Section 4 The Chairman shall preside at all Board meetings and shall have the authority to rule on questions of evidence and procedure, to maintain order and determine the course of proceedings, and to take other such action as may be necessary and not inconsistent with these by-laws or other law to enable the Board to perform its duties and conduct its affairs. In the absence of the Chairman, the Vice-Chairman shall preside and have the same authority. If the Chairman and the Vice-Chairman are absent, the most senior member, based on uninterrupted years of service, shall preside as Chairman pro-tem. If there were more than one senior member, a vote of the remaining members would choose a Chairman pro-tem. The temporary Chairman is to have and exercise any and all authority conferred upon the permanent Chairman.
- Section 5 Upon the vacancy of the Chair or Vice-Chair, a special election shall be held by the Planning Board to fill such vacancy.

## **ARTICLE V - ADMINISTRATIVE AND PROFESSIONAL SUPPORT**

- Section 1 The Planning Board's administrative support shall be included in the annual municipal budget of the Town of Raymond. This support shall include, but not be limited to a secretary, legal counsel, contract planner, supplies, etc.
- Section 2 The Secretary shall be responsible for the minutes and records of the Board, agendas of regular meetings and special meetings. Notice of the meetings and hearings, scheduling of facilities, correspondence of the Board and other duties are carried out by a secretary. The Secretary shall keep a record of all resolutions, votes, transactions, correspondence, findings and conclusions of the Board. All records shall be deemed public and may be inspected at the municipal office during normal business hours. Meetings are broadcast live on the public access channel and/or rebroadcast at a later time. The DVD is the official legal record of the meeting (per 12/12/06 Selectman order). Copies may be signed out at the Town Office.
- Section 3 The Chair and/or designees of the Chair in conjunction with the Town Manager shall coordinate the retention of legal counsel and other professional assistance.

## **ARTICLE VI - CONDUCT OF MEETINGS, WORKSHOPS & EXECUTIVE SESSIONS**

- Section 1 Meetings shall be conducted according to Robert's Rules of Order Newly Revised in all cases to which they are applicable, and in which they are not inconsistent with these bylaws. No official business may be conducted without a quorum present. A quorum shall consist of four (4) members. The determination of a quorum for any application shall not include any member who cannot participate due to a conflict of interest.
- Section 2 Meetings shall be open to the public, except when the Planning Board is in executive session.
- Section 3 Regular meetings of the Planning Board shall be held on the second Wednesday of every month. The Chair may reschedule the meeting date when the second Wednesday falls on a holiday. The Chair may call special meetings.
- Section 4 The consideration of each application, by the Board, shall be done in the context of a hearing. Conduct of hearings is further described in Article IX of these bylaws.
- Section 5 "Conflict of interest" means direct or indirect pecuniary interest.
- a. Direct pecuniary interest shall be when the applicant is a member of the Board or an owner of abutting or other property that is the subject of

the application or directly affected by the Board's decision.

- b. Indirect pecuniary interest shall be when the Board member has an interest in the application due to being an officer, director, partner, associate, employee or stockholder of a corporate applicant, or other business entity. Also included shall be when a Board member is a part of the applicant's immediate family, an employer or employee of the applicant or the applicant's immediate family. Immediate family shall mean spouse, parents, siblings, children, and grandchildren.
- c. Pecuniary interest shall also include a situation where the Board member, by reason of his/her interest is placed in a situation that may be viewed as temptation to serve his/her own personal interest instead of the public's interest.
- d. The decision of whether a member shall be disqualified from voting on a particular matter shall be made by a majority vote of the remaining members present. For the Board to decide that pecuniary interest exists, a significant impact on the Board member, his/her family, employee and/or employer must exist.
- e. The Board member shall make full disclosure of his/her interest, on the record, prior to any action being taken and shall abstain from voting and from other wise attempting to influence a decision in his/her capacity as a Board member.
- f. If a Board member abstains, he/she has the right to participate as a member of the public.

- Section 6 All comments addressed to the Board shall be made through the Chair.
- Section 7 All actions of the Planning Board shall be determined by a vote. A majority vote of the quorum present is needed to pass any motion and in no event shall a motion pass without a minimum of three (3) votes in the affirmative. When a motion results in a tie vote, the motion fails.
- Section 8 A motion to reconsider any item of business shall be made at the same meeting or at the next regular meeting, but not afterwards. Once a motion to reconsider has been decided upon, the item shall not be reconsidered. No motion to reconsider a vote passed at a previous meeting shall be in order for reconsideration at the next meeting unless an item to that effect is contained on the agenda for such next meeting or unless five of the Board members consent to such reconsideration.
- Section 9 All decisions must be based on whether the applicant has provided sufficient evidence to prove that all applicable law and ordinance requirements have been met.
- Section 10 An applicant may request, in writing, that an item be tabled, provided that the conditions in Article IX -, Section 4 have been met.
- Section 11 A record will be kept of meetings where official business is being conducted.

- Section 12 The Chair may call workshops for the purpose of updating zoning ordinances and other work relating to the Board's activities, providing the public is notified. The Board may have regular scheduled work sessions for development reviews.
- Section 13 All workshops are open to the public. The general public shall be barred from addressing the Board during a workshop unless a majority of the Board members permits the public to speak.
- Section 14 The Board, upon a vote of at least 3/5 of the members present and voting, may call for an executive session in accordance with Maine Revised Statutes.
- Section 15 The order of Business shall be in accordance with the established agenda as stated in ARTICLE VII, Section 2
- Section 16 No new item of business on the agenda may be brought up for discussion after 10:00 PM. Items not brought up for discussion because of this time deadline are to be placed on the agenda of the next regular meeting or on the agenda of a special meeting held at the convenience of the applicant and Board members. This rule may be waived by unanimous vote of the members present.
- Section 17 The Planning Board may delegate any member of the Town's staff as their designee.

## **ARTICLE VII - APPLICATION SUBMISSION AND DEVELOPMENT OF AGENDA**

### Section 1

- a. Town staff shall ensure that applicant is aware of required submission dates, meeting date(s) and time(s), fees (including application, review escrow and possible third party), and applicable information/materials for the application.
- b. Application deadlines for New Business or any pre-application request shall be twenty-six (26) days prior to the meeting date. The deadline for all other business is fourteen (14) days prior to the meeting date unless a public hearing needs to be noticed (including final plans to be signed). Requests for public hearings need to meet the twenty-six (26) day deadline. All - fees, escrow and materials for a complete application (less waivers requested) must be received by the deadline in order to be considered.
- c. Provided that a complete application (less waivers requested) is received by the applicable submission deadline, town staff will schedule a meeting and forward a complete copy of the application to Planning Board members and other appropriate staff (i.e. Fire Department, Code Enforcement, Public Works, Portland Water District, and Town Planner).
- d. Town staff comments (i.e. Fire Department, Code Enforcement, Public Works, and Town Planner) are forwarded to Planning Board and applicant/owner not less than five (5) days prior to the meeting.
- e. The applicant or their duly authorized designee must attend the hearing. The applicant is responsible for ensuring that their designee has the appropriate documents to represent the application before the Board.
- f. If the property owner is not the applicant for any given application, the applicant or his/her designee must have a letter from the property owner, addressed to the Board, stating that the applicant/designee is authorized to represent the owner for the purpose of the application.

### Section 2 Regular meeting agendas shall be organized in the following format:

1. Open meeting:
  - a. Call to order
  - b. Opening Statement - The presiding officer shall open the hearing by describing, in general, the purpose of the hearing and the general procedure governing its conduct.
  - c. Declaration of a Quorum
2. Minutes - The Presiding officer will request approval of the minutes of the previous meeting (s).
3. Communications - The Board will review all communication. Communications will include, but not be limited to: comments and correspondence from the public and Town agencies, requests for

workshops, requests for site walks, and pre-application conferences. If an applicant is requesting the Board to sign mylars or copies of an approved application, all copies to be signed must be delivered to the Planning Board secretary at least fourteen (14) days prior to the meeting date.

4. Hearings:

- a. Unfinished business - The Board will continue the review of applications tabled at prior meetings. Applications whose time limit has expired shall be removed from the agenda by formal action of the Board.
- b. New business - The Board will review all new applications in accordance with established time constraints.

5. Other Business - This category shall include non-application items which require formal action.

6. Announcements

7. Adjournment

Section 3 Meeting agendas shall be posted at the Town Hall prior to the meeting. Only the public hearing items shall be advertised in "Lakes Region Weekly" and the "Bridgton News" at least seven (7) days prior to the meeting date. In accordance with title 30-A, MSRA, Section 4403, Subdivisions shall be published in the Lakes Region Weekly" and the "Bridgton News", at least two times, at least 7 days before the public hearing.

**ARTICLE VIII - PROCEDURES TO GIVE NOTICE TO PUBLIC AND ABUTTERS**

Section 1 New Application:

The notice shall set forth the time and place of such hearing, the location of the building or lot, and the general nature of the request and shall be:

- a. Published in the "Lakes Region Weekly" at least seven (7) days before such hearing. In accordance with title 30-A, MSRA, Section 4403, Subdivisions shall be published in the "Lakes Region Weekly" and the "Bridgton News", at least two times, at least seven (7) days before the public hearing.
- b. Posted at Town Hall
- c. Mailed, via first class, to the owners of record of property abutting that property for which the application is taken prior to the date of the hearing. The owners of record shall be the property owner(s) listed in the Town's most current property owner database.

Abutting property shall mean Real Estate, which shares a common boundary. Abutting land includes, but is not limited to, land separated by a public or private way and within 250' of land that is held in common ownership.

- Section 2 Regular Meetings - All regular meetings shall be advertised as stated in Section 1 of this Article.
- Section 3 Workshops - Workshops will be announced at the regular meetings and will be posted at Town Hall.
- Section 4 The Board shall make a record of all hearings by an appropriate means. By a Selectboard vote on December 12, 2006, the official record is the recorded DVD of the meeting. Any individual or organization may obtain a copy of the record from the municipal office upon prepayment of the cost of reproduction, and postage. The request forms shall be available at the municipal office.

**ARTICLE IX - CONSIDERATION OF APPLICATIONS IN A HEARING  
FORMAT**

- Section 1 The consideration of any application by the Board shall be done in the context of a hearing as described in this article.
- Section 2 The Presiding Officer at all public hearings shall be either the Chair or Vice-Chair, or a member of the Planning Board who is selected by those members present at the hearing. The Presiding Officer shall have authority to:
  - a. Rule upon issues of evidence
  - b. Regulate the course of the hearing
  - c. Rule upon issues of procedure
  - d. Administer oaths of affirmations, as necessary
  - e. Take such other actions as may be ordered by the Planning Board or that are necessary for the efficient and orderly conduct of the hearing, consistent with these rules and applicable statutes.
- Section 3 Witnesses - Witnesses shall be required to state, for the record, their name, residence address, business address, business or professional affiliation, the nature of their interest in the hearing, and whom they represent.
- Section 4 Continuances - All hearings conducted pursuant to these rules may be continued for reasonable cause. Continuances may be granted at the request of any person participating in such hearing if it is determined that a continuance is necessary. No continuance will be granted for a time period to exceed the ninety (90) day expiration date, unless the delay is caused by governmental agencies. All orders for continuances shall specify the time and place at which such hearing shall be reconvened.
- Section 5 Regulation of certain devices- The placement and use of television cameras, still cameras, motion picture cameras or microphones at Planning Board hearings, for the purpose of recording the proceedings thereof may be regulated by the Chair or the Presiding Officer so as to avoid interference with the orderly conduct of the hearing.
- Section 6 Evidence
  - a. Generally - Evidence, which is relevant and material to the subject matter of the hearing of a type commonly, relied upon by reasonably

prudent individuals in the conduct of their affairs shall be admissible. Evidence, which is irrelevant, immaterial, or unduly repetitious, shall be excluded.

- b. Official notice - The Planning Board may, at any time take notice of judicially cognizable fact, generally recognized facts of common knowledge to the general public and physical, technical or scientific facts within the specialized knowledge of the Planning Board.
- c. Documentary and Real Evidence - All documents, material and objects offered as evidences shall, if accepted, be numbered or otherwise identified. Documentary evidence may be received in the form of copies or excerpts if the original is not readily available. The Planning Board or the Presiding Officer may require, after prior oral or written reasonable notice, that any party offering any documentary or photographic evidence shall provide the Planning Board with an appropriate number of copies of such documents or photographs unless such documents or photographs are determined to be of such form, size or character as not to be reasonably susceptible to reproduction. All documents, materials and objects accepted into evidence shall also be available for public examination, with due notice, at the municipal office during normal business hours.
- d. Objections - All objections to rulings of the Presiding Officer regarding evidence or procedure shall be timely made during the course of the hearing. If after the close of the hearing and during its deliberations the Planning Board determines that any ruling of the Presiding Officer was in error, it may reopen the hearing or take such other action, as it deems appropriate to correct such error. The Board may rescind any approval, with due cause, within thirty (30) days of the original approval. Five members of the Board may call a meeting and the applicant must be duly notified.

#### Section 7 Testimony, Questions, Rebuttal and Submissions

- a. Applicant - The applicant shall be given the opportunity to present his/her case without interruption and may introduce documentary, photographic and real evidence including studies, reports, analyses and other information and therefore compiled by the staff or consultants for the purpose of the hearing.
- b. Interested parties - The Board and interested parties may ask questions through the Chair. Interested parties are those persons who request to offer testimony and evidence and to participate in oral cross-examination. Parties may be required 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. Municipal officers and Governmental agencies shall offer testimony at this time. All interested parties shall be given the opportunity to refute or rebut statements throughout the hearing.
- c. The Presiding Officer may refuse to permit irrelevant, immaterial or repetitious questions or other questions which do not advance or serve the purpose of the hearing and shall state the basis for such refusal on the record when requested to do so by the party asking the questions.

d. The Presiding Officer may require that such questioning be conducted at the conclusion of the testimony of each category of witness rather than at the conclusion of the testimony of each witness. The Presiding Officer may impose reasonable limitations on the number of witnesses to be heard and on the nature and length of their testimony and questioning.

## **ARTICLE X -PLANNING BOARD PROTOCOL**

Section 1. Planning Board meetings shall be conducted according to Robert's Rules of Order Newly Revised”:

a. All Planning Board members' comments and questions must be directed through the Chair and the Chair must recognize members before speaking.

b. After an applicant's presentation, the Chair shall poll the Board for comments and questions. The Chair shall be the last to comment or question.

c. Comments shall be succinct and non-repetitive.

Section 2. Motions:

a. Motions shall be stated in the affirmative.

b. After a motion is made and seconded, the Chair shall state it clearly and ask; “Are you ready for the question?”

c. No member shall speak twice to the question until after each Boardmember has had a turn.

d. When the debate wanes, the Chair shall clearly restate the motion and put it to a vote.

e. Motions shall be amended by the same process.

**ARTICLE XI LEGAL EFFECT OF BYLAWS**

Nothing in these Bylaws shall be deemed to modify or supplant any provision of any ordinance or statute providing for the Planning Board; and the provision of any such ordinance or statute shall remain in full force and effect and control these Bylaws if they should conflict.

**ARTICLE XII AMENDMENTS**

The Planning Board shall have the power to amend these Bylaws by five (5) affirmative votes at a Planning Board meeting provided that all Planning Board members have received written notice of potential Bylaws amendments at least seven (7) days prior to scheduled consideration of the proposed amendments (s).

**EFFECTIVE DATE**

These regulations are effective as of March 20, 1998 when the Planning Board of the Town of Raymond adopted them.

Paul J. White - Chair  
Patrick R. Cayer

Steven J. Harvey  
William C. Haskell  
Harold L. Larson

Charles F. Lester  
Mark G. Reed

These amended regulations are effective as of November 4, 2009 when amended by the Planning Board of the Town of Raymond.

Patrick Clark- Chair  
Robert O'Neill- Vice-Chair

Samuel Gifford  
Virginia Wallace  
Bruce Sanford

Greg Foster  
William Priest