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TO: FREEPORT TOWN COUNCIL

FROM: CAROLINE PELLETIER, TOWN PLANNER

**RE: PROPOSED AMENDMENTS TO THE RULES OF ORDER AND PROCEDURE
FOR THE FREEPORT PLANNING BOARD**

DATE: TUESDAY, DECEMBER 7, 2021

Background: Attached you will find proposed amendments to the Rules of Order and Procedure for the Freeport Planning Board. The main document was established in 2008, with the notification section (shown as item 26) being adopted by the Planning Board in 2016.

The proposed amendments have been reviewed and approved by the Planning Board with input from staff and review by the Town Attorney. The language incorporates changes to reflect Board practices, current meeting schedules, and legal requirements. If approved by the Council, the intent is to include this document on the website to help the public better understand the process and practices of the Planning Board.

RULES OF
ORDER AND PROCEDURE
FOR
FREEPORT PLANNING BOARD

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RULES OF ORDER AND PROCEDURE FOR THE FREEPORT PLANNING BOARD

Purpose of Rules of Order and Procedures; The purpose of these Rules of Order and Procedures are to assist the Board in managing meetings in an orderly manner while providing maximum input on issues from board members and the public. They are intended as guidance and are not binding; the Board may proceed outside of these Rules and Order if a majority of the Board agrees that by doing so the Board will function more effectively.

1. Regular Board Meetings: The Board shall meet in regular sessions at ~~a designated Room within the Town of Freeport, Maine at 6:30 p.m. on~~ the first Wednesday of each month ~~at 6:00 p.m.~~. If a different meeting time is required or if a second meeting is required in any given month, the Chair shall set the date and time. All meetings shall be posted and open to the public.
2. Board Meeting Agenda: All applications to be discussed by the Board shall be delivered to the Town Planner by 12:00 p.m. on the Wednesday ~~threetwo~~ weeks prior to the regular Wednesday meeting if they are to have consideration for that meeting agenda. All other agenda items shall be determined by the Board's Chairperson at least one week prior to the meeting. Agenda items must state clearly the scope and intent of the action to be taken. Notice of all meetings of the Board, ~~except public hearings,~~ shall be posted in the Town Offices, the Library, the town's website and cable TV at least 5 days before the meeting unless otherwise dictated by State Law. Public hearing notices shall be done in accordance with state law.
- ~~2.3.~~ Agenda Items: The order of business at each regular meeting of the Planning Board shall be as follows: Call to Order, Information Exchange, Review and Approval of Minutes, Tabled Items, Public Hearings, Discussion Items, Non-agenda Items, and Adjournment.
- ~~3.4.~~ Workshops: The Board may hold workshops on applications and planning issues to learn more about the application or issue and to develop policies relating to that issue. -

Certain special meetings and portions of other special or regular meetings may be designated as workshops, the purpose of which is to allow Board to discuss issues in depth or detail, to gather information, and to meet with invited individuals, entities, groups, or committees to discuss issues of mutual interest.

Established Rules of Order and Procedure shall apply except:

- a. Any information relevant to the workshop may be presented at the workshop;
- b. No votes shall be taken except on procedural items relevant to the workshop items under discussion;
- c. Public comment regarding issues under discussion may be allowed upon specific request of any Board member or by initiative of the Presiding Officer;

4. 5 Adjourned Sessions: Any session of the Board may be continued or adjourned to another day, but no adjournment shall be for a longer period than until the next regular meeting.
56. Presiding Officer: The Chairperson shall preside at meetings of the Board, and shall be entitled to vote on all questions. The Vice Chairperson shall act as Chairperson during the absence or disability of the Chairperson. The Chairperson shall take the chair at the time appointed for the meeting, call the members to order, and, a quorum being present, shall proceed in following the posted agenda.
67. Temporary Chairperson: In case of the absence of the Chairperson and Vice Chairperson, the Secretary shall call the Board to order and call the roll of members. If a quorum is found to be present, the Board shall proceed to elect, by a majority vote of those present, a Chairperson of the meeting, to act until the Chairperson or Vice Chairperson is present appears.
7. 8. Decorum and Order: The presiding officer shall preserve decorum and decide all questions of order and procedure, subject to appeal to the Board.
- a. When a member is about to speak, they he/she shall respectfully address the Presiding Officer Chairperson, and confine comments to the question under debate. No member speaking will be interrupted by another, except that the Presiding Officer Chair may interrupt to deal with errors, irrelevancy, or the length of comments.
 - b. Persons attending Board meetings also shall observe the same rules of propriety, decorum, and good conduct applicable to members of the Board. Any person making personal, impertinent, and slanderous remarks or who becomes boisterous while addressing the Board or while attending the Board meeting shall be removed from the meeting room by a police officer if so directed by the Presiding Officer.
 - c. Persons wishing to address the Board on an item which appears on the agenda shall wait until the presiding officer announces the consideration of such item, at which time they may address the Board on that particular item. Any person desiring to address the Board shall be recognized by the Presiding Officer Chair, shall state their name and address in an audible tone for record, and shall limit their remarks to the question under discussion. All remarks and questions shall be addressed to the Board as a whole and not to any individual member thereof. All remarks and questions regarding administrative procedures under town ordinances shall be addressed to the Town Planner and/or their designee. The Presiding Officer Chair shall decide if a person from the floor shall enter into any discussion. Persons wishing to address the Board on an item not appearing on the agenda shall do so only after the disposition of all items appearing on the agenda.
8. 9. Length of meetings - After 9:00 p.m., agenda items which have not yet been discussed may be tabled to a future meeting. The meeting will end no later than 10:00 p.m.

910. Quorum: A majority of the Board constitutes a quorum. ~~If less than a quorum convenes at any meeting, the meeting may be adjourned as provided by Rule 4.~~ Individual items may be heard without a quorum, provided a quorum was present to convene the meeting.

~~10. Rule of Necessity—If so many members are absent or disqualified due to a conflict of interest, bias, or other legal reason that the Board will not be able to meet its own quorum requirement, those members present may be able to participate under the legal theory of “Rule of Necessity”.~~

11. “Ex-Parte” Communications - Board members shall not allow themselves to be influenced by information provided to them outside of an advertised Board meeting. A Board member who is approached by an individual wanting to provide ~~them him/her~~ with information outside an advertised Board meeting should actively discourage the person from doing so and encourage the person to submit the information to the Board in writing or through oral testimony at the meeting. The Board member should explain that by providing information outside the public meeting, the person may be causing constitutional due process problems with the Board’s process and that the Board may not legally be able to consider the information the person is trying to present. Under NO circumstances should Board members communicate with someone regarding that person’s viewpoint on an issue pending before the Board outside a public meeting setting.

12. Participation by Board Members who mMiss Meetings - If a Board member has not been able to attend every meeting at which an application or issue has been discussed, the Board member should review the same materials as other members reviewed to prepare ~~themselveshim or herself~~ for the meeting and review the ~~recordingsvideo tape,~~ minutes, supporting documents, etc. as available. The Board member shall state publicly what ~~they have he/she has~~ done to prepare for the meeting. If a Board member hasn’t been able to adequately prepare, they shall abstain from voting on that issue.

13. Public Participation - If a meeting is not advertised as a “public hearing”, the Board may allow ~~30 minutes per agenda item~~ for relevant comments and questions from the public. The Board may limit comments to a certain amount of time for each speaker before the comment period starts to allow for more ~~speakersparticipants to have the opportunity to comment.~~ If a time limit other than three (3) minutes per speaker is going to be imposed, a majority vote of Board members present and voting is required.

14. Sequence of Presentations - For public hearings, the Board shall use the following sequence of presentations when appropriate. The Board may limit comments to a certain amount of time before the comment period starts to allow for more speakers. If a time limit other than three (3) minutes per speaker is going to be imposed, a majority vote of Board members present and voting is required.

1. Presentation by the applicant and ~~their his/her~~ representatives, or staff. The applicant shall be subject to questions through the ~~Presiding OfficerChairperson~~ to the applicant or ~~their his/her~~ representative by

- board members and requests for more detailed information, followed by questions from abutters and other interested parties.
2. Presentations by abutting property owners or property owners within the zone as applicable and/or their representatives who will be directly affected by the project. Those making presentations shall be subject to questions first from the Board, then from the applicant.
 3. Rebuttal statements are first from the applicant then by abutters and other interested parties.
 4. Comments or questions by other interested parties in the audience.
15. Town Planner: The Town Planner and/or their designee shall attend Board meetings and shall have the right to take part in discussions but may not vote.
 16. Excusal from Attendance: The Board Chairperson may excuse a member from attendance who has a valid reason.
 17. Motions To Be Stated By ~~Presiding Officer~~ ~~Chair~~ ~~Withdrawal~~: When a motion is made, it shall be seconded before any action may be taken. A second reading shall not be required. Withdrawal: A motion may not be withdrawn by the mover without the consent of the member seconding it.
 18. Agenda Items Out of Order: The Board may at any time permit a member to introduce an agenda item out of its order shown on the agenda.
 19. Procedure in Absence of Rule: In the absence of a rule to govern a point of procedure, it shall be determined by the Chair.
 20. Tie Vote: If a motion results in a tie vote, it shall be considered a defeat of the motion.-
 21. Suspension of Rules: Any provision of these rules may be temporarily suspended at any meeting of the Board by majority vote.
 22. Amendment of Rules: These rules may be amended or new rules adopted by majority vote of the Board. All amendments must be submitted in writing to the Town Council and shall be placed on the agenda of the next regular meeting under the consent agenda. Such rules and/or amendments shall not become effective until such time that there has been an affirmative vote by the Town Council.
 23. Public Hearings: Board members shall not make comments or debate the public. Board members may ask speakers questions of clarification.
 24. Requests for Public Documentation: The purpose of this rule is to recognize that, while Board members have the same right of access to public document or information as does the general public, that access must not be disruptive to staff or used to surprise other Board members.

Board members requesting copies of public documents or public information shall request it ~~from of~~ the Town Planner or fill out a “~~Request for Public Documents/Information~~ Town of Freeport Freedom of Information Request Form” provided by the Town Clerk’s or Town Manager’s office. Staff shall provide the information in the same time frame it would be provided to a member of the public, but shall be allowed up to five (5) working days to provide the information. If the information cannot be provided, staff shall state the reasons in writing within the same five (5) working days. All information or documents requested shall be available to all Planning Board members by the staff person(s) responding to the request.

25. Submission of Written Comments: ~~Any written comment received by 4:00 pm on the Wednesday before the meeting, will be included in the meeting packets sent to the Board. Any comments received after that time, and up until 48 hours before the meeting, will be collected and sent to the Board 48 hours before the meeting. All written comments will also be shared with the applicant. In any event, when the Board is discussing an applicant driven agenda item, the applicant will have 48 hours to respond to any comments made regarding their application. The Board will accept written comments on an issue or application until 4:00 PM on the Thursday before the meeting. Any written comments submitted after that time will be considered at the discretion of the Board.~~

26. Notification Requirements for Zoning Ordinance and Zoning Map Changes: ~~In addition to any requirements in applicable municipal ordinances and as required by State law, the following notice requirements shall be applicable:~~

~~1A.~~ An email group will be established for those that are beyond the notification zone for every topic the Board considers.

~~2B.~~ An email group will continue to be maintained to receive the Planning Board agenda every month ~~(currently there are 62 members).~~

~~3C.~~ Standard notification includes posting the monthly agenda on the town's website, at the town offices, library, public access TV and to the email group.

~~4D.~~ When uses within a District are proposed to be added, modified or dropped, the Planning Board will notify property owners of Zoning Ordinance changes as follows:

~~a.i.~~ Written notice via US mail will be sent to every property owner in the district. In addition, if the district where the amendment is proposed is adjacent to a residential district, written notice will be sent to all property owners of properties that directly abut that district for the first meeting and public hearings. To receive written notices of meetings in between the 1st meeting and the public hearing, any property owners must be part of the email group for the item, or request written notification.

~~5E.~~ When a new District is created or a District line is moved, the Planning Board will notify property owners of Zoning Ordinance changes as follows:

~~a~~i. Property owners within the proposed new District will receive written notice via US mail of every meeting at which the topic is discussed.

~~b~~ii. Property owners within 2,640 feet (1/2 mile) feet of the edge of the proposed district change will receive written notice via US Mail of every meeting. If the 2,640 feet (1/2 mile) radius crosses over 1-295 the extent of the written notification can stop at 1-295.

~~e~~iii. Property owners outside of the 2,640 feet (1/2 mile) radius that want to receive notification can join the email group for that item.

~~6~~F. Minor language changes in the Ordinance. the Planning Board will notify property owners of Zoning Ordinance changes as follows:

~~a~~i. A minor language change is considered re -wording that makes the intent of the Ordinance more clear, corrections, or other type of situation that the Board agrees is considered minor. In these cases, no additional notification will be given except in the standard notification.

~~7~~G. Shoreland Zoning map amendments - the Planning Board will notify property owners that are affected by the change along with all of the standard notification.

~~8~~H. These notification requirements may be modified if a majority of the Planning Board members present and voting agree to increased notification. The Planning Board must agree to the exact extent of the modification.