

# TOWN OF YORK PLANNING BOARD BY-LAWS

## ARTICLE 1 – GENERAL PROVISIONS

- 1.1 These By-laws are adopted to establish standard procedures for the performance of the prescribed duties of the York Planning Board, to ensure orderly conduct of meetings and provide for open discussions, public review and comments.
- 1.2 Business of the Board is conducted in accordance with Maine Revised Statutes Annotated (MRSA), York Home Rule Charter (Charter), Town Ordinances and standards, Planning Board (Board) Regulations and Roberts' Rules of Order.
- 1.3 Planning Board members are expected to be knowledgeable of laws, regulations and Board policies and to abide by them.
- 1.4 The Planning Board hereby incorporates the Town of York Selectmen's Policy, Code of Ethics, (as adopted by the Board of Selectmen on November 26, 2001, and with 3 revisions made by the Planning Board on July 21, 2005) into these By-Laws. This document, as revised, is included as Appendix A at the end of this document.

## ARTICLE 2 – MEMBERSHIP

- 2.1 Appointments
  - 2.1.1 Appointments to the Board are made by the Board of Selectmen.
  - 2.1.2 Appointees must be legal residents of the Town when appointed and while serving.
  - 2.1.3 The Board consists of five (5) voting members and two (2) alternate members.
  - 2.1.4 The term of each member is three (3) years.
  - 2.1.5 When there is a permanent vacancy, the Board of Selectmen shall, within 30 days of its occurrence, appoint a person to serve for the unexpired term.
  - 2.1.6 Any member of the Board may be removed for cause in accordance with Charter provisions for Forfeiture of Office.
- 2.2 Officers and Their Duties
  - 2.2.1 The officers of the Board shall include: the Chair; the Vice-Chair, and the Secretary.
  - 2.2.2 The Chair presides at all meetings and hearings of the Board. The Vice-Chair shall preside in the Chair's absence or inability to participate. In the absence of both the Chair and the Vice Chair, the Board shall elect a temporary Chair for the meeting.
  - 2.2.3 The Planning Department shall provide staff to serve as the recording secretary for the Board, and is responsible for the minutes, keeping records of all votes and actions of the Board, and of all correspondence and submittals to the Board. All records are deemed public and may be inspected during regular business hours at the Town's offices.

- 2.2.4 The Secretary shall coordinate with the recording secretary to ensure the quality of the minutes and to help ensure the integrity of the minutes as the official record of the Board, shall take minutes of meetings in the event staff are unable to do so, and shall fulfill other duties relating to the position as assigned by the Board.
- 2.3 Election of Officers
  - 2.3.1 Nominations of officers shall be made from among the full-voting members of the Board at the annual organizational meeting which shall be held at the first regular Board meeting on or about July 1 and the election shall be held at the same meeting.
  - 2.3.2 The candidate receiving a majority vote is elected to serve for a term of one (1) year and until the officer's successor takes office. None may serve for more than two (2) consecutive years in the same position.
- 2.4 Other Board Members
  - 2.4.1 Alternate members may attend all meetings and participate in the proceedings, but may vote only when designated by the chair to sit for a member.
  - 2.4.2 When a member is unable to participate for any reason, the Chair shall designate an alternate member to act for the regular member until the action is decided, or until the regular member affirms their ability to resume deliberation.
- 2.5 Employees
  - 2.5.1 The Board may employ staff and experts within budget limitations and in accordance with Town contracting and personnel procedures to aid the Board in its work.
- 2.6 Quorum
  - 2.6.1 No official business shall be conducted without a quorum present. A quorum consists of three (3) members, including any appointed alternates, present and voting. It does not include anyone who cannot participate due to a conflict of interest, as defined in the Charter.
- 2.7 Decision-Making
  - 2.7.1 All matters shall be decided by a roll call vote.
  - 2.7.2 A majority of members present and voting shall be required to pass a motion, except where Roberts Rules of Order requires a supermajority.

### **ARTICLE 3 - POWERS AND DUTIES**

- 3.1 The Board shall perform duties and exercise the powers provided in MRSA, the Charter and other Town ordinances.
- 3.2 The Board may obtain goods and services necessary to its proper function within the limits of appropriations made for that purpose.

### **ARTICLE 4 – MEETING ORGANIZATION**

- 4.1 Regular Meetings
  - 4.1.1 Meetings are held at times and suitable locations as determined by the Board.
  - 4.1.2 Public notice shall be provided for all Board meetings in compliance with state law and town standards.
  - 4.1.3 All meetings are open to the public.
  
- 4.2 Agendas
  - 4.2.1 Agendas shall be posted for public notice in compliance with Town standards.
  - 4.2.2 Regular meetings shall be conducted in accordance with the following schedule, except as may be varied with approval of the majority of the Board:
    - 1. Call to order, determination of the presence of a quorum, and appointment of alternates.
    - 2. Field Changes
    - 3. Public Forum, to permit the public to raise issues not scheduled for a public hearing on the meeting agenda.
    - 4. Public hearing(s), and/or workshop items.
    - 5. Minutes of the previous meeting(s).
    - 6. Other business
  - 4.2.3 All meetings shall be adjourned no later than 10:30 pm, except by unanimous consent of the Board.
  
- 4.3 Work Sessions
  - 4.3.1 With approval of the majority of the Board, work sessions may be called to consider amendments to the Comprehensive Plan, Zoning Ordinance, Site Plan and Subdivision Regulations, By-Laws and other items related to the Board's activities.
  - 4.3.2 Work sessions shall be open to the public. The public is not permitted to address the Board at work sessions except with permission of the Board.
  
- 4.4 Executive Session
  - 4.4.1 The Board may meet in executive session upon vote of three-fifths (3/5) of the members present and voting.
  - 4.4.2 Executive sessions shall be held only for purposes expressly authorized by State law or the Town Charter. No other matters shall be considered in any session.

## **ARTICLE 5 - HEARINGS**

- 5.1 The Board shall hold a public hearing on any application or other planning action as required by state law or Town ordinance.
- 5.2 Notice of all public hearings shall be given in accordance with state and Town standards.
- 5.3 As a matter of policy, all irrelevant, immaterial or unduly repetitious evidence and comment shall be excluded from hearings.
- 5.4 Order of Business

- 5.4.1 Upon vote of the Board, the Chair opens the hearing.
- 5.4.2 A representative of the Code and Planning Department describes the purpose of the hearing, the nature of the application, correspondence and reports received and recommendations for Board action.
- 5.4.3 The applicant is given the opportunity to present the application personally and may have experts or spokespersons to assist in the presentation.
- 5.4.4 On completion of the presentation, Board members may question the applicant through the Chair.
- 5.4.5 Members of the public then have the opportunity to express their views and ask questions of the applicant through the Chair. Written statements may be submitted at the hearing or at subsequent time prior to the Board's decision. Each speaker shall give identification and state if another party is being represented.
- 5.4.6 In case of controversial matters or large attendance, the Board reserves the right to set time limitations on public testimony and to ask parties to consolidate or join appearances if their interests are substantially similar and such consolidation will expedite the hearing.
- 5.4.7 The hearing is closed by vote of the Board after all parties have been heard. The hearing may be continued to a later date if additional time is necessary to complete testimony.
- 5.4.8 The Board may require submittal of additional information by the applicant and refer to qualified consultants for reviews before reaching a decision.

## **ARTICLE 6 – DECISIONS**

- 6.1 Decisions by the Board shall be made within the time limits established by state law and Town ordinances after determining that a complete application has been received.
- 6.2 The final decision on any matter before the Board shall be issued in writing. All decisions are part of the record and shall include a specific statement of findings and conclusions.
- 6.3 In reaching any decision, the Board shall comply with the applicable statutes, ordinances and regulations. It shall be guided by the community goals and policies specified in the Comprehensive Plan.

## **ARTICLE 7 – APPEALS**

- 7.1 Any decision by the Board may be submitted to the Board of Appeals for relief in accordance with the provisions of state law and Town ordinances.

## **ARTICLE 8 - WAIVERS OF THE BY-LAWS**

- 8.1 The Board may waive or modify any of the above rules for cause. A written record shall be made of such action.

**ARTICLE 9 – AMENDMENTS**

9.1 The By-laws may be amended by majority vote at a regular scheduled meeting when prior notice is given to the members.

**ARTICLE 10 – SEVERABILITY**

10.1 The invalidity of any section or provision of these By-laws shall not invalidate any other section or provision.

**Adopted by vote of the York Planning Board at its regular meeting on June 22, 2000, and amended on July 21, 2005, July 13, 2006, June 28, 200, and January 14, 2021.**

 1/27/2021  
Chair

## APPENDIX A – CODE OF ETHICS

**This Appendix contains the Town of York Selectmen’s Policy, Code of Ethics, adopted November 26, 2001, with three supplemental changes made by the Planning Board on July 21, 2005.**

### Preamble

To ensure that the Citizens and businesses of York have fair, impartial, ethical, and accountable local government that is responsive to the needs of the people and each other and that has the Citizens’ full confidence in the integrity of the Town’s government, the Board of Selectmen has adopted this Code of Ethics. In keeping with a commitment to excellence, the effective functioning of democratic York Town government requires that:

- i. elected and appointed public officials comply with both the letter and spirit of laws and policies affecting the Town Government;
- ii. elected and appointed public officials be independent, impartial, and fair in judgment and action;
- iii. elected and appointed public office be used for the public good and not personal gain;
- iv. public deliberations and processes be conducted openly, unless legally confidential and;
- v. all discussions and debate be conducted in an atmosphere of respect and civility.

This Code of Ethics applies to members of the Board of Selectmen and to all elected and appointed members of Town boards, committees, and commissions (hereinafter referred to as “Members”) except for the School Committee and their appointees. The Town’s boards, committees, and commissions consist of all statutory and non-statutory boards, commissions or committees now existing or hereafter created.

The Town Manager shall endeavor to ensure that all Town employees adhere to the standards of this Code of Ethics.

### Code of Ethics

#### 1. Actions in the Public Interest

Recognizing that stewardship of the public interest must be their primary concern; Members will work for the common good of the Citizens of York and not for any private interest or personal gain. Members shall provide fair and equal treatment of all persons, claims, and transactions that come before the Board of Selectmen or any Town board, committee, or commission.

#### 2. Compliance with the Law

Members shall comply with the laws of the United States, the State of Maine, and the Town of York in the performance of their public duties. These laws include, but are not limited to, the United States and Maine State constitutions and statutes; the York Town Charter; laws pertaining to conflicts of interest, election campaigns, financial disclosures, employer responsibilities, and open processes of government; and Town ordinances and policies, all of which are hereby incorporated herein by reference and made applicable.

### **3. Conduct of Members**

The professional and personal conduct of Members must be above reproach and must avoid any appearance of impropriety. Members shall refrain from abusive conduct, from making personal charges or disparaging remarks, or from verbal attacks upon the character or motives of Members of Town boards, committees, or commissions, of Town Staff or the Citizens.

### **4. Respect for the Process**

Members shall perform their duties in accordance with the processes and rules of order established by the Board of Selectmen and by the other Town boards, committees, and commissions. Each member shall be committed to respect the democratic process that encourages meaningful involvement of the public and that governs the deliberation of public policy issues in the Town of York. Members must abide by any lawful decision made by a majority of the board, commission, or committee. Members should strive to thoughtfully consider the opinions and recommendations of other Members, Citizens, and Town staff appearing before Town boards, committees, or commissions and shall remain respectful in all interactions with these individuals. Members shall have no legal authority outside of the meetings of their respective board, commission, or committee unless this authority has been specifically delegated to the Member through an adopted policy or majority vote of the board.

### **5. Conduct of Public Meetings**

Members shall prepare themselves for open discussion of public issues, shall listen courteously and attentively to all public discussions before the body, and shall focus on the business at hand. Members shall refrain from unnecessarily interrupting other speakers, from making personal comments not germane to the business of the body, and from otherwise interfering with the orderly conduct of meetings. The Chairman of each board, committee, or commission shall use his or her best efforts to ensure that the public who attend such meetings adhere to the same standards of conduct in this Code of Ethics as outlined for Members.

### **6. Decisions Based on Merit**

Members shall base their decisions on the merits and substance of the matter at hand. No member shall make promises in advance as to how they will vote on a matter, which shall properly come before the board, committee, or commission as a whole.

### **7. Communication**

Members shall publicly share information that is relevant to any matter under consideration by a board, committee, or commission. Concerns involving the conduct of Town employees shall be communicated to the Town Manager.

### **8. Conflict of Interest**

#### **A. General Standard**

Members shall avoid any situation that may give rise to an actual or perceived conflict of interest. Where circumstances may cause a reasonable person to question the Member's impartiality or may otherwise give rise to an appearance of a conflict of interest, the Member shall not participate in a matter unless the Member has appropriately disclosed the situation and there has been a determination by the Member's board, committee, commission, staff official, or the Board of Selectmen that the Member's participation is appropriate.

## **B. Definitions**

Immediate Family. The Immediate Family of a Member shall include the Member's spouse, children, parents, in-laws, siblings, and those with whom they share a committed relationship.

Financial Interest. Financial Interest shall mean any direct or indirect interest having monetary or pecuniary value, including but not limited to the ownership of shares or stock.

Special Interest. Special Interest includes a direct or indirect interest having value peculiar to a certain individual or group, whether economic or otherwise, which value may accrue to such individual or group as a result of the passage or denial of any order, ordinance, or resolution. An employer or supervisor – employee relationship between a Member and any person appearing before that Member's particular agency, shall be considered to be a Special Interest of that Member.

## **C. Disclosure of Conflict**

Any Member who believes that they or a member of their Immediate Family has a Financial Interest or a Special Interest, other than an interest held by the public generally, in any agenda item before their collective body, shall disclose the nature and extent of such interest. Additionally, any Member who believes that any fellow Member, or any member of such fellow Member's Immediate Family has a Financial Interest or a Special Interest, other than an interest held by the public generally, in any agenda item before their collective body, shall disclose such interest. Such disclosure shall be made no later than the date of the first meeting of the applicable board, committee, or commission at which the agenda item concerned is to be taken up for consideration, recommendation, discussion, or vote and at which the Member is present.

## **D. Determination of Conflict**

Once disclosure has been made as provided above or the issue of conflict has been raised relative to a Member, the Member's fellow board, committee, or commission members shall review the facts and shall vote on whether or not such Member has a Financial Interest or a Special Interest with respect to the agenda item concerned. All conflict-of-interest questions relating to a particular agenda item shall be resolved prior to any consideration of the item concerned, and each Member of that board, committee, or commission shall be entitled to vote on all conflict-of-interest questions relating to that Town board, committee, or commission except those questions pertaining to that Member's alleged conflict of interest.

All votes of conflict-of-interest questions shall be recorded. A majority vote shall determine the question except that a tie vote shall have the effect of determining that a conflict exists. If there is a determination that a conflict of interest in fact exists, the Member concerned shall be excused from participating in discussion, deliberation, or vote on the relevant agenda item for so long as the agenda item shall appear on the agenda.

## **E. Record of the Conflict of Interest Decision**

A written record by the Chairperson of the Town board, committee, or commission making the determination, explaining and summarizing any consideration of conflict of interest or intervention and the action taken shall be promptly forwarded to the Chairman of the Board of Selectmen for review by the Board of Selectmen. The Town Manager shall maintain these records on behalf of the Board of Selectmen for a period of five years.

## **F. Avoidance of Appearance of Conflict of Interest**

Once any Member is determined to have a conflict of interest in respect to any agenda item, and once all conflict-of-interest questions relating to the agenda item concerned have been determined,



as provided in this Code, the Member shall immediately leave the meeting room. The Member shall not return to the meeting room and their regular seat as a member of the body until deliberation and action on the item has been completed. Nothing herein shall require an individual Member to remove himself or herself for any item on which there is no deliberation, on which the individual's conflict has been determined by the other members, and on which the right to abstain from voting on the item has been granted. *[This is one of 3 paragraphs amended by the Planning Board]*

#### **G. Incompatible Offices**

No Member shall occupy any other elected or appointed office when the duties of such office are incompatible with the proper discharge of the Member's official duties to the Town. The occupancy of any other office by a Member is prohibited by any one of the following circumstances:

1. where the duties of the other office make it impossible to discharge the duties of the Town office, or
2. where one office is subordinate of the other, or
3. where one office carries the power of appointment or removal of the other, or
4. where the occupancy of both offices is prohibited by Charter or by law.

Notwithstanding the foregoing, a Member may serve as a non-voting liaison or ex-officio Member of a board, committee, or commission with the approval of the Board of Selectmen; or in special circumstances a member may serve as a voting member of a board, committee, or commission if so designated by the Board of Selectmen.

#### **9. Gifts and Favors**

Members shall not take advantage of services or opportunities for personal gain, by virtue of their public office that are not available to the public in general. Members shall refrain from accepting gifts, favors, or promises of future benefits that might compromise their independence of judgment or action, or that might give the appearance of such compromise.

No Member shall accept any thing of value unless it can be clearly established that it has a de minimus market value (\$25 or less) and is received infrequently from any source.

#### **10. Confidential Information**

No member shall, without proper legal authorization, discuss or disclose confidential information concerning the property, personnel, government or affairs of the Town, nor shall any member use such information to advance the private or financial interests of himself or herself or members of his or her immediate family. Members shall not discuss the privileged knowledge, executive sessions, or confidential business of the board, committee, or commission with unauthorized parties, either orally or in writing. For purposes of this subsection, "confidential information" shall mean any information, oral or written, which comes to the attention of or is available to such Member due to his or her position with the Town and is not a matter of public record. Information received and discussed during any executive session shall be considered within the constraints of this section and shall not be disclosed to any party unless permitted by affirmative vote of a majority of such board.

#### **11. Use of Public Resources**

Members shall not use public resources not available to the general public for private gain or personal purposes, such as Town staff time, equipment, supplies, or facilities.

## **12. Representation of Third Party Interests**

As stewards of the public interest, Members of the Board of Selectmen, the Planning Board, and the Board of Appeals shall not represent the interests of third parties before any Town board, committee, or commission, nor shall they appear before any of these bodies on behalf of the interests of third parties on matters related to the areas of service of these bodies. Members of all boards, committees, or commissions shall give notice to the Board of Selectmen prior to any representation of any third party interests before any Town board, committee, or commission. Nothing herein shall be construed to prohibit any Member from representing his or her own personal interest, or the interest of immediate family, by appearing before any Board on any item except the Board on which he or she serves. *[This is one of 3 paragraphs amended by the Planning Board]*

## **13. Advocacy**

Members shall represent the official policies and positions of the Board of Selectmen and of other Town boards, committees, and commissions when designated as delegates for this purpose to the best of their ability. When presenting personal opinions and positions Members shall explicitly state that these opinions and positions do not represent their body or the Town of York, and they shall not allow any inference that they do.

## **14. Policy Role of Members**

Members shall respect and adhere to the Town Manager Structure of Town government, as outlined in the York Town Charter. The Board of Selectmen shall determine the policies of the Town, with advice, information, and analysis provided by Town staff, by the Town's boards, committees, and commissions, and by the Citizens.

Members shall therefore not interfere with the administrative functions of the Town or with the professional duties of Town staff, nor shall they impair the ability of Town staff to implement the policy decisions of the Board of Selectmen except as provided by the Town Charter.

## **15. Independence of Boards, Committees, and Commissions**

Members shall refrain from using their positions to unduly influence the deliberations or outcomes of any board, committee, or commission proceedings or to inhibit free discussion and exchange of ideas of these groups.

## **16. Positive Workplace Environment**

Members shall support a positive and constructive workplace environment for Town employees and for Citizens and businesses dealing with the Town. Members shall recognize their special role when dealing with Town employees and shall in no way create the perception of inappropriate direction of staff.

## **17. Implementation**

This expression of the standards of conduct expected of Members of boards, committees, and commissions is intended to be self-enforcing. It is most effective when Members are thoroughly familiar with it and embrace its provisions.

For this reason, this Code of Ethics shall be included in the orientation of candidates for, or applicants to boards, committees, and commissions; and of newly elected or appointed Town officials. Members entering office shall sign a statement acknowledging that they have received a copy, and read, and understand the Town of York Code of Ethics. This Code of Ethics shall be reviewed regularly by the Board of Selectmen as well as by the Town's other boards, committees, and commissions. The Board of Selectmen shall consider recommendations from these bodies in updating the Code of Ethics as necessary.

## **18. Compliance and Enforcement**

The Town of York Code of Ethics expresses standards of conduct expected of Members of the Town's boards, committees, and commissions. Members themselves have the primary responsibility for ensuring that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government.

The Chairs and Vice-Chairs of boards, committees, and commissions have the responsibility for intervening, in accordance with Robert's Rules of Order, when actions of Members appear to be in violation of this Code of Ethics. *[This is one of 3 paragraphs amended by the Planning Board]*

In addition to any other penalties or remedies as may be provided by law, the Board of Selectmen may intervene and counsel Members whose conduct does not comply with the Town's ethical standards and may censure Members or remove them from office, after notice and hearing conducted by the Board of Selectmen. The Board of Selectmen may issue interpretative policy statements to clarify any ambiguities in this Code. Members of boards, committees, and commissions may seek clarifying opinions from, or appeal decisions of their boards, committees, and commissions to the Board of Selectmen on particular situations addressed by this Code of Ethics.

A violation of this Code of Ethics shall not be considered a basis for challenging the validity of a board, committee, or commission decision but may be used as a basis for the board, committee, or commission to reconsider its decision.

## **19. Separability**

If any section, subsection, sentence clause or phrase of this Code is for any reason held to be invalid or unconstitutional, such validity or unconstitutionality shall not affect the validity of the remaining portions of this Code.

**MEMBER STATEMENT**  
**TOWN OF YORK**  
**MODEL OF EXCELLENCE**

As a Member of the Planning Board, I agree to uphold the Town of York Code of Ethics for elected and appointed officials and to conduct myself by the following Model of Excellence. I will:

- ❖ recognize the worth of individual members and appreciate their individual talents, perspectives, and contributions;
- ❖ create an atmosphere of respect and civility, where individual members, Town staff, and the public are free to express their ideas and to work to their full potential;
- ❖ conduct my personal and public affairs with honesty, integrity, fairness, and respect for others;
- ❖ respect the dignity and privacy of individuals and organizations;
- ❖ keep the common good as my highest purpose and focus on achieving constructive solutions for the public benefit;
- ❖ have all discussions and debate conducted in an atmosphere of respect and civility, and;
- ❖ treat all people with whom I come in contact as an official of the Town with respect and courtesy.

I acknowledge that I have received a copy, and read, and understand the Town of York Code of Ethics.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Position