

Town of Aberdeen Planning Board Rules of Procedure*

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Rule 1. Regular Meetings

The board shall hold a regular meeting on the third Thursday of each month, except that if a regular meeting day is a legal holiday, the meeting shall be held on the next business day. The meeting shall be held at the Town of Aberdeen Town Hall and shall begin at 6:00 p.m. A copy of the board's current meeting schedule shall be filed with Town Clerk.

Rule 2. Special, Emergency, and Recessed Meetings

- (A) Special Meetings. The Chair or a majority of the members may at any time call a

* **Cross Reference** – Aberdeen Code of Ordinances Art. III, Part 1, "Planning Board."

special meeting of the board. A special meeting may also be called or scheduled by vote of the board in open session during another duly called meeting. At least forty-eight (48) hours before a special meeting, written notice of the meeting stating its time and place and the subjects to be considered shall be (1) given to each board member; (2) posted on the board's principal bulletin board; and (3) mailed, emailed or delivered to each newspaper, wire service, radio station, television station, and person who has filed a written request for notice with the Town Clerk. Notice shall also be mailed, emailed or delivered at least forty-eight (48) hours before the meeting to each board member who either did not call for the special meeting or was not present at the meeting at which the special meeting was called

Only those items of business specified in the notice may be discussed or transacted at a special meeting, unless all members are present or have signed a written waiver of notice.

(B) Emergency Meetings. The Chair or a majority of the members may at any time call an emergency meeting of the board by signing a written notice stating the time and place of the meeting and the subjects to be considered. Written or oral notice of the meeting shall be given to each board member and to each local newspaper, local wire service, local radio station, and local television station that has filed a written emergency meeting notice request with the Town Clerk and whose request includes the telephone number of the newspaper, wire service, radio station, or television station.

Emergency meetings may be called only because of generally unexpected circumstances that require immediate consideration by the board. Only business connected with the emergency may be considered at an emergency meeting.

(C) Recessed Meetings. A properly called regular, special, or emergency meeting may be recessed to a time and place certain by a motion made and adopted as provided in Rule 18(B), Motion 2, in open session during the regular, special, or emergency meeting. The motion shall state the time and place when the meeting will reconvene.

(D) Web Site Notice of Meetings. The regular meeting schedule of the Planning Board shall be posted on the Town of Aberdeen Web site. Notice of any special or recessed meeting shall be posted on the Town of Aberdeen Web site prior to the beginning of the meeting, and if practicable, notice of any emergency meeting shall be posted on the Town of Aberdeen Web site prior to the beginning of the meeting.

State law reference – G.S. § 143-318.12 (required notice for special, emergency and recessed meetings).

Rule 3. Oaths of Office and Organizational Meeting

(A) A newly appointed board member shall take and subscribe to the oath of office as the first order of new business of the first meeting following the appointment of the member to the Planning Board.

(B) Except when an oath of office is required pursuant to subsection 3(A), the first order

of new business of the first meeting on or after August 1 of each year shall be to elect the Chair and Vice-Chair. The board shall, by majority vote of its membership (excluding vacant seats) elect one of its members to serve as Chair and one member to serve as Vice-Chair. The board should follow the nomination and voting procedures set out in Rule 26. The people so elected shall serve in these capacities for terms of one (1) year, unless their terms of appointment to the board expire sooner. Vacancies in these offices may be filled for the unexpired terms only by majority vote of the board membership.

State law reference – G.S. 160A-61 (oath of office required).

Cross reference – Aberdeen Unified Development Ordinance § 152-24(A) (Chair and Vice-Chair elected in August).

Rule 4. Quorum

A majority of the actual membership of the board, excluding vacant seats, shall constitute a quorum. A majority is more than half. The chair shall be considered a member of the board for the purposes of determining the number on which a majority is based and in counting the number of members actually present. A member who has withdrawn from a meeting without being excused by majority vote of the remaining members present shall be counted as present for purposes of determining whether or not a quorum is present.

Rule 5. Conflicts of Interest

(A) **Quasi-Judicial Decisions.** A member of the board shall not participate in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to,

- (1) A member having a fixed opinion prior to hearing the matter that is not susceptible to change;
- (2) Undisclosed ex parte communications;
- (3) A close familial, business, or other associational relationship with an affected person; and
- (4) A financial interest in the outcome of the matter.

If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

(B) **Other Decisions – Mandatory Recusal.** For all non-quasi-judicial matters, a member of the board shall not participate in or vote on a matter if he or she has a direct, substantial and readily identifiable financial interest in the matter being considered. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

(C) **Other Decisions – Optional Recusal.** At the request of the affected member, the board may, but is not required to, excuse a member of the board from participating in and voting

on a non-quasi-judicial matter due to any other conflict of interest other than the conflict identified in subsection (B).

State law reference – G.S. § 160A-388(e1) (establishing conflicts of interest standards for quasi-judicial matters); G.S. § 160A-381(d) (advisory board members may not vote on zoning matters in which they have a financial interest).

Rule 6. Agenda

(A) Proposed Agenda. The Planning Department staff liaison to the board shall prepare a proposed agenda for each meeting. A request to have an item of business placed on the agenda must be received at least two (2) working days before the meeting. The Chair or Planning Director may waive this two-day requirement for any proposed agenda item. Any board member may, by a timely request, have an item placed on the proposed agenda. A copy of all proposed agenda items, including attachments, shall be included with the proposed agenda. An agenda package shall be prepared that includes, for each item of business placed on the proposed agenda, as much background information on the subject as is necessary to a full understanding of the issue. Each board member shall receive a copy of the proposed agenda and agenda package and they shall be available for public inspection when they are distributed to the board members.

(B) Adoption of the Agenda. Except when other matters must be considered first in accordance with Rule 3, as its first order of business at each meeting, the board shall, as specified in Rule 7, discuss and revise the proposed agenda and adopt an agenda for the meeting. The board may by majority vote add items to or subtract items from the proposed agenda, except that the board may not add items to the agenda of a special meeting unless all members are present or have signed a written waiver of notice.

(C) Open Meetings Requirements. The board shall not deliberate, vote, or otherwise take action on any matter by reference to a letter, number or other designation, or other secret device or method, with the intention of making it impossible for persons attending a meeting of the board to understand what is being deliberated, voted, or acted on. However, the board may deliberate, vote, or otherwise take action by reference to an agenda, if copies of the agenda sufficiently worded to enable the public to understand what is being deliberated, voted, or acted on, are available for public inspection at the meeting.

State law reference – G.S. § 143-318.13(c) (prohibiting acting by reference, except for references to an agenda).

Rule 7. Order of Business

Items shall be placed on the agenda according to the order of business. The order of business for each regular meeting shall be as follows:

- (1) Discussion and revision of the proposed agenda;
- (2) Adoption of the agenda;
- (3) Approval of the minutes;

- (4) Public hearings;
- (5) Unfinished business;
- (6) New business;
- (7) Committee reports;
- (8) Informal discussion and public comment on matters not otherwise scheduled for the meeting; and
- (9) Administrative reports.

By vote of the board, items may be considered out of order.

Rule 8. Public Address to the Board

Any individual or group who wishes to address the board shall, prior to the meeting, submit a request to be on the agenda to the Planning Department staff liaison to the board. However, the board shall determine at the meeting whether it will hear the individual or group.

In addition to requests submitted prior to the meeting, the board may, but is not required to, allow individuals and groups wishing to speak to sign a sign-up sheet at the beginning of the meeting.

Rule 9. Presiding Officer

(A) Conduct of the Meeting.

- (1) The Chair shall preside at board meetings if he or she is present. If the Chair is absent or has been excused from voting, the Vice-Chair shall preside, and if both the Chair and Vice-Chair are absent, another member designated by vote of the board shall preside. In the event that both the Chair and Vice-Chair are absent from a meeting, either the staff liaison to the board or any member of the board may direct a vote to determine which remaining Board member shall preside over the meeting. The presiding officer retains the right to vote on all matters.
- (2) In order to address the board, a member must be recognized by the presiding officer.
- (3) If the presiding officer becomes actively involved in debate on a particular matter, he or she may designate another board member to preside over the debate. The presiding officer shall resume presiding as soon as action on the matter is concluded.

(B) Powers. The presiding officer shall have the following powers:

- (1) To rule motions in or out of order, including any motion patently offered for obstructive or dilatory purposes;
- (2) To determine whether a speaker has gone beyond reasonable standards of courtesy in his or her remarks and to entertain and rule on objections from other members on this ground;
- (3) To entertain and answer questions of parliamentary law or procedure;

- (4) To call a brief recess at any time; and
- (5) To adjourn in an emergency.

A decision by the presiding officer under any of the first three powers listed may be appealed to the board upon motion of any member, pursuant to Rule 18(B), Motion 1. Such a motion is in order immediately after a decision under those powers is announced and at no other time. The member making the motion need not be recognized by the presiding officer, and the motion, if timely made, may not be ruled out of order.

Cross reference – Aberdeen Code of Ordinances § 152-22(C) (the board shall use quasi-judicial procedure when considering special use permit applications).

Rule 10. Action by the Board

(A) The board shall proceed by motion, except as otherwise provided for in Rules 3, 6, and 26. Any member, including the Chair, may make a motion.

(B) Notwithstanding subsection (A), no motion shall be required for the board to discuss any item.

(C) A second shall be required before the board may vote on any motion, and a motion shall fail if there is no second.

Rule 11. One Motion at a Time

A member may make only one motion at a time.

Rule 12. Substantive Motions

A substantive motion is out of order while another substantive motion is pending. For the purposes of these rules, a “substantive motion” is any motion other than the procedural motions listed in Rule 18. Substantive motions are the same as “main motions” or “principal motions,” as those terms are used in *Robert’s Rules of Order*.

Rule 13. Adoption by Majority Vote

All motions, including substantive motions in quasi-judicial proceedings, shall be adopted by a majority of the votes cast, a quorum being present, unless otherwise required by these rules or the laws of North Carolina. A majority is more than half.

Rule 14. Debate

The Chair shall state the motion and then open the floor to debate. The Chair shall preside over the debate according to the following general principles:

- (4) The maker of the motion is entitled to speak first;

- (5) A member who has not spoken on the issue shall be recognized before someone who has already spoken; and
- (6) To the extent possible, the debate shall alternate between proponents and opponents of the measure.

Rule 15. Ratification of Actions

To the extent permitted by law, the board may ratify actions taken on its behalf but without its prior approval. A motion to ratify is a substantive motion.

Rule 16. Procedural Motions

(A). Certain Motions Allowed. In addition to substantive proposals, only the following procedural motions, and no others, are in order. Unless otherwise noted, each motion is debatable, may be amended, and requires a majority of the votes cast, a quorum being present, for adoption. Procedural motions are in order while a substantive motion is pending and at other times, except as otherwise noted.

(B) Order of Priority of Motions. In order of priority, the following are the allowable procedural motions:

- Motion 1. To Appeal a Procedural Ruling of the Presiding Officer.
- Motion 2. To Adjourn or Recess.
- Motion 3. To Take a Brief Recess.
- Motion 4. To Follow the Agenda.
- Motion 5. To Suspend the Rules of Procedure.
- Motion 6. To Go into Closed Session.
- Motion 7. To Leave Closed Session.
- Motion 8. To Divide a Complex Motion and Consider It by Paragraph
- Motion 9. To Postpone to a Certain Time and Day.
- Motion 10. To Call the Question.
- Motion 11. To Refer a Motion to a Committee.
- Motion 12. To Amend.
- Motion 13. To Reconsider.
- Motion 14. To Rescind or Repeal.
- Motion 15. To Prevent Reintroduction for Six (6) Months.

Motion 1. To Appeal a Procedural Ruling of the Presiding Officer. A decision of the presiding officer ruling a motion in or out of order, determining whether a speaker has gone beyond reasonable standards of courtesy in his or her remarks, or entertaining and answering a question of parliamentary law or procedure may be appealed to the board, as specified in Rule 9. This appeal is in order immediately after such a decision is announced and at no other time. The member making the motion need not be recognized by the presiding officer and the motion, if timely made, may not be ruled out of order.

Motion 2. To Adjourn or Recess. This motion may be made only at the conclusion of action on a pending substantive matter; it may not interrupt deliberation of a pending matter. A motion to recess to a time and place certain shall also comply with the requirements of Rule 2(c). If the board wants to recess or adjourn before completing a final action on a matter, it may use a motion to defer consideration (*see*, Motion 9), to refer to a certain committee (*see*, Motion 12), or to suspend the rules of procedure (*see*, Motion 5).

Motion 3. To Take a Brief Recess. A motion to take a brief recess is in order at any time except when a motion to appeal a procedural ruling of the presiding officer or a motion to adjourn is pending. Also, the Chair has the power to call a brief recess at any time pursuant to Rule 9.

Motion 4. To Follow the Agenda. If adopted, this motion prevents the board from deviating from a proposed agenda. The motion must be made at the first reasonable opportunity or it is waived.

Motion 5. To Suspend the Rules of Procedure. For adoption, this motion requires an affirmative vote equal to two-thirds (2/3) of the entire membership of the board. The board may not suspend provisions of the rules that state requirements imposed by law on the board.

Motion 6. To Go into Closed Session. The board may go into closed session only for one or more of the permissible purposes listed in G.S. § 143-318.11(a). The motion to go into closed session shall cite one or more of these purposes and shall be adopted at an open meeting. A motion based on G.S. § 143-318.11(a)(1) shall also state the name or citation of the law that renders the information to be discussed privileged or confidential. A motion based on G.S. § 143-318(a)(3) shall identify the parties in each existing lawsuit concerning which the board expects to receive advice during the closed session, if in fact such advice is to be received.

Motion 7. To Leave Closed Session. This motion provides a procedural mechanism for returning from closed session to open session. The board shall return to open session once it has concluded its closed session business, even if it has no other business to transact except adjourning the meeting. A motion to adjourn (*see*, Motion 2) shall not be in order during a closed session.

Motion 8. To Divide a Complex Motion and Consider It by Paragraph. The motion is in order whenever a member wishes to consider and vote on subparts of a complex motion separately.

Motion 9. To Postpone to a Certain Time and Day. This motion is also sometimes referred to as a “motion to table.” If the board approves a motion to postpone to a certain time and day, the substantive matter under consideration will be suspended until a time and date in the future, as determined by the board. A person who wishes to revisit the substantive matter must either wait until the specified time and day or move to suspend the rules of procedure (*see*, Motion 5).

Motion 10. To Call the Question. Sometimes referred to as a “motion for the previous question,” this motion is used to bring the board to an immediate vote on a pending question. The motion is not in order until there have been at least twenty (20) minutes of debate and every member has had an opportunity to speak once.

Motion 11. To Refer a Motion to a Committee. The board may vote to refer a substantive matter to a committee for its study and recommendations. Sixty (60) days or more after a substantive motion has been referred to a committee, the introducer of the substantive motion may compel consideration of the measure by the entire board, whether or not the committee has reported back to the board on the matter.

Motion 12. To Amend.

(A) An amendment to a motion must be pertinent to the subject matter of the motion. An amendment is improper if adoption of the motion with that amendment added would have the same effect as rejection of the original motion. A proposal to substitute completely different wording for a motion or an amendment shall be treated as a motion to amend.

(B) Only a single proposed amendment to a motion may be considered at a time. The board shall vote on a pending motion to amend before considering another motion to amend.

Motion 13. To Reconsider.

(A) The board may vote to reconsider its action on a matter. The motion to do so must be made by a member who voted with the prevailing side (the majority, except in the case of a tie. In the case of a tie, the “no’s” prevail) and only at the meeting during which the original vote was taken, including any continuation of that meeting through a recess. The motion cannot interrupt deliberation on a pending matter but is in order at any time before final adjournment of the meeting.

(B) Notwithstanding subsection (A), a motion to reconsider a decision to approve or deny a special use permit is not in order, except in accordance with Aberdeen Unified Development Ordinance § 152-66.

Motion 14. To Rescind or Repeal. The board may vote to rescind actions it has previously taken or to repeal items that it has previously adopted. The motion is not in order if rescission or repeal of an action is forbidden by law.

Motion 15. To Prevent Reintroduction for Six (6) Months.

(A) The motion shall be in order immediately following the defeat of a substantive motion and at no other time. The motion requires for adoption a vote equal to a majority of the entire membership of the board, excluding vacant seats. If adopted, the restriction imposed by the motion remains in effect for six (6) months or until the next organizational meeting of the board, whichever occurs first.

(B) Notwithstanding subsection (A), a motion to prevent reintroduction is not in order with regard to a decision to approve or deny a special use permit. Whether the board can reconsider the decision to approve or deny a special use permit application shall be governed by Aberdeen Unified Development Ordinance § 152-66.

(C) Notwithstanding subsection (A), a motion to prevent reintroduction is not in order with regard to any matter referred to the board by the Board of Commissioners.

Rule 17. Renewal of Motion

A motion that is defeated may be renewed at any later meeting unless a motion to prevent reconsideration has been adopted.

Rule 18. Withdrawal of Motion

A motion may be withdrawn by the introducer at any time before it is amended or before the Chair puts the motion to a vote.

Rule 19. Duty to Vote

Every member must vote unless excused by the remaining members of the board. A member who wishes to be excused from voting shall so inform the Chair, who shall take a vote of the remaining members. No member shall be excused from voting except in cases involving conflicts of interest, as defined by the board or by law, or the member's official conduct, as defined by the board. In all other cases, a failure to vote by a member who is physically present in the board chamber, or who has withdrawn without being excused by a majority vote of the remaining members present, shall be recorded as an affirmative vote.

Rule 20. Closed Sessions

The board may hold closed sessions as provided by G.S. § 143-318.11(a), and only those actions authorized by statute may be taken in closed session. The board shall commence a closed session only after a motion to go into closed session has been made and adopted during an open meeting. (see, Motion 6). The motion shall state the purpose of the closed session. If the motion is based on G.S. 143-318.11(a)(1) (closed session to prevent the disclosure of privileged or confidential information or information that is not considered a public record), it must also state the name or citation of the law that renders the information to be discussed privileged or confidential. If the motion is based on G.S. 143-318.11(a)(3) (consultation with attorney; handling or settlement of claims, judicial actions, mediations, arbitrations, or administrative procedures), it must identify the parties in any existing lawsuits concerning which the public body expects to receive advice during the closed session. The motion to go into closed session must be approved by the vote of a majority of those present and voting. The board shall terminate the closed session by a majority vote using Motion 7.

Rule 21. Public Hearings

(A) Generally. The following rules apply to all public hearings:

- (1) At the time appointed for the hearing, the Chair shall call the hearing to order and then preside over it.

- (2) When the allotted time expires, or earlier, if no one wishes to speak who has not done so, the Chair shall declare the hearing ended.
- (3) The Chair shall have the authority either during or prior to the hearing to establish procedural rules for the hearing, provided that such rules may not conflict with these rules or any other applicable law. Procedural rules adopted pursuant to this subsection may govern, but are not limited to, the following matters:
 - (a) Rules fixing the amount of time allotted to opening and closing arguments;
 - (b) Rules fixing the maximum time allotted to each speaker or group;
 - (c) Providing for the designation of spokespersons for groups of persons supporting or opposing the same positions;
 - (d) Providing for the selection of delegates from groups of persons supporting or opposing the same positions when the number of persons wishing to attend the hearing exceeds the capacity of the meeting place of the board (so long as arrangements are made for those excluded from the meeting place to listen to the hearing);
 - (e) and providing for the maintenance of order and decorum in the conduct of the hearing.
- (4) These requirements also apply to hearings conducted by committees of the board.

(B) Quasi-judicial Hearings. Quasi-judicial hearings for special use permit applications shall be noticed and conducted in accordance with Aberdeen Unified Development Ordinance Articles IV and VI.

(C) Other Matters. For matters that are not quasi-judicial in nature, the board may, but is not required to, hold a public hearing, unless a public hearing is otherwise required by law. Notice shall be in accordance with applicable law, if any, and shall be reasonably calculated to provide interested members of the public notice of the hearing. No particular form or type of notice shall be required by this subsection, however.

Rule 22. Minutes

(A) Full and accurate minutes of the board proceedings, including closed sessions, shall be kept. The board shall also keep a general account of any closed session so that a person not in attendance would have a reasonable understanding of what transpired. These minutes and general accounts shall be open to inspection of the public, except as otherwise provided in this rule. The exact wording of each motion and the results of each vote shall be recorded in the minutes, and on the request of any member of the board, the entire board shall be polled by name on any vote. Members' and other persons' comments may be included in the minutes if the board approves.

(B) Minutes and general accounts of closed sessions may be withheld from public inspection so long as public inspection would frustrate the purpose of the closed session.

State law reference – G.S. § 143-318.10(e) (minutes of all sessions to be kept).

Rule 23. Vacancies

Vacancies on the board shall be filled in accordance with Aberdeen Unified Development Ordinance § 152-21(A).

Rule 24. Appointments

The board may consider and make appointments to other bodies, including its own committees only in open session.

The board shall use the following procedure to make appointments to various other boards and committees: The chair shall open the floor for nominations, whereupon the names of possible appointees may be put forward by the board members. The names submitted shall be debated, and when the debate ends, each member shall cast his or her vote.

The nominee(s) receiving the highest number of votes shall be appointed. If more than one appointee is to be selected, then each member shall have as many votes as there are slots to be filled. A member must cast all of his or her votes and cast them for different nominees.

Rule 25. Committees

The board may establish and appoint members for such temporary and standing committees as are required by law or needed to help carry on the board's work. Any specific provisions of law relating to particular committees shall be followed, including the North Carolina open meetings law which shall apply to the meetings of committees.

State law reference – G.S. Chpt. 143, Art. 33C (North Carolina open meetings law).

Rule 26. Amendment of the Rules

These rules may be amended at any regular meeting or at any properly called special meeting that includes amendment of the rules as one of the stated purposes of the meeting, unless a statute, ordinance or other law provides otherwise. Adoption of an amendment shall require an affirmative vote equal to a majority of the actual membership of the board, excluding vacant seats.

Rule 27. Reference to *Robert's Rules of Order*

The board shall refer to the current edition of *Robert's Rules of Order Newly Revised*, to answer procedural questions not resolved in these rules, so long as *Robert's Rules of Order Newly Revised* does not conflict with North Carolina law, Town of Aberdeen ordinances or these rules.