

Adopted: 9/10/18

Amended: 9/19/22

Bylaws of the Damariscotta Planning Board

1. Purpose and Scope

The purpose of these bylaws is to establish reasonable rules of procedure for Planning Board (“Board”) meetings and to promote the fair, orderly and efficient conduct of the Board's proceedings and affairs. These rules shall govern the Board's practices and procedures except as otherwise provided by law and shall be liberally construed so as to accomplish their intended purpose. Authority to adopt such rules is articulated within the Town Charter (Article II, Section 2.03 A4). These rules are intended to supplement those contained within the Town Charter and the various land use related ordinances.

2. Board Structure and Officers

The Planning Board is composed of five regular members and two alternate members appointed by the Select Board for staggered three-year terms. All members of the Planning Board shall be legal residents of the Town of Damariscotta and are expected to have a clear understanding of the ordinances which they are required to administer and, in particular, the Land Use, Site Plan Review and Subdivision Ordinances. At the Planning Board's annual organizational meeting, the five regular members of the Board shall elect a Chair and by separate vote the Vice-Chair.

The Chair shall preside at all Board meetings and shall have authority to rule on questions of evidence and procedure, to maintain order and determine the course of proceedings, and to take such other action as may be necessary and not inconsistent with these bylaws or other law to enable the Board to perform its duties and conduct its affairs. In the absence of the Chair, the Vice-Chair shall preside and shall have the same authority as the Chair.

The Secretary of the Board is the Deputy Town Clerk or her/his designee and shall maintain a permanent record of all Board meetings including resolutions, transactions, correspondence, findings and determinations of the Board. All records shall be deemed public and may be inspected at reasonable times. The Town Planner shall provide staff support to the Board under the direction of the Chair and the Town Manager. Except as otherwise provided by law, the Town Planner, or designee, in consultation with the Chair shall set the Planning Board's agenda. All agenda item materials shall be submitted to the Town Planner. Items shall be placed on the agenda on a first come, first served basis (as determined by time and date of completed application). Any items which cannot be fit on the agenda because of the number or length of previously scheduled items, shall receive priority in scheduling for the next regularly scheduled meeting.

All materials for the Board's review shall be posted to the Town's website at least one week prior to the Planning Board meeting on which they will be heard. Agendas of all meetings will be posted at the Town Office. Notifications related to public hearings shall be posted in the Lincoln County News and mailed to abutting property owners (as applicable), in accordance with all Ordinance requirements.

3. Meetings

- a. **Regular Meetings.** Regular meetings of the Board shall generally be held at the Damariscotta Town Office on the first Monday of the month at 6:00 p.m. unless the date conflicts with a holiday or the meeting is rescheduled by the Board at the prior month's meeting.
- b. **Annual Organizational Meeting.** The annual organizational meeting of the Board shall be the first regular meeting of the year in July.
- c. **Special Meetings.** A special meeting may be called by the Chair or by a request of any three regular Board members. The Chair shall call a special meeting within fourteen (14) days of receipt of a written request from any three regular members of the board, which request shall specify the matters to be considered at such special meeting. To schedule a special meeting, at least thirteen (13) days written notice of the time, place and business of the meeting shall be given each member of the Planning Board, Select Board, Town Planner and Code Enforcement Officer. Public notice of any special meeting shall be provided in accordance with State Statutes, posted in Town Hall at least ten days prior to the meeting and be on the Town website.
- d. **Agenda.** The order of business (agenda) at regular meetings of the Board shall be as follows: (a) Pledge of Allegiance; (b) Call to Order and determination of a quorum; (b) Public Hearings (when scheduled); (c) Approval of the Minutes of the preceding meeting(s); (d) Old Business (action on unfinished cases); (e) New Business; (f) Other Business (including questions from the public and staff reports; no board decisions on questions or sketch plans are allowed unless they are specifically published as part of the agenda for that meeting under old or new business); (g) Adjournment.

In order for an application to be included on the Planning Board's agenda, it must be deemed complete by the Town Planner at least two weeks prior to the scheduled meeting (unless an alternative timeline is required by the Town's Ordinances).

No new agenda items will be begun after 9:00PM. If, during the course of a Planning Board meeting, it becomes apparent that the Board will not reach certain agenda items, the Board may, prior to its established 9:00 PM cut-off, offer to the applicants present for such items the opportunity to have their items tabled immediately to the beginning of the next regularly scheduled meeting. Any agenda items remaining after the 9:00PM cut-off time will automatically be tabled to the next regularly scheduled meeting.

- e. **Open to the Public.** All meetings of the Board shall be open to the public, except executive sessions. No votes may be taken by the Board except in public meeting. The Board shall not hold executive sessions except as permitted by the Right to Know Law.
- f. **Work Sessions.** Informal work sessions may be held immediately prior to regular meetings or may be called as special meetings from time to time. The purpose of this type of meeting is to discuss business which may appear on the agenda of an immediate or future regular meeting of the Board or to discuss updates to ordinances and regulations or other matters of Board administration or procedure. All work session meetings shall be open to the public in accordance with State Law.

- g. **Site Visits.** Site visit meetings may be called by the Chair, Acting Chair or a majority of the Board for the purpose of allowing the Board and interested public to inspect the site of a pending proposal. Site visits are encouraged for all applications before the Board. The Vice Chair or her/his designee is responsible for minutes of site visits. To ensure full and fair disclosure of Board actions to all members of the public, no formal motions shall be made nor votes taken at a site visit. At least a week prior, public notice shall be given of all site visits.

4. Voting

- a. A quorum shall consist of three regular members including any alternate members voted onto the Board.
- b. All members who are present and not disqualified as provided herein shall vote in every matter to be voted upon unless excused by a quorum of the regular Board for good cause shown.
- c. Quorum. No hearing or meeting of the Board shall be held, nor any action taken, in the absence of a quorum; however, when no quorum exists, those members present shall be entitled to request the Chair to call a special meeting for a subsequent date. All matters shall be decided by a show of hands vote, unless otherwise required by law. Decisions on matters before the Board shall require the affirmative vote of a quorum (3) of regular voting members of the Board.

A tie vote or favorable vote by a lesser number than the required majority shall be considered a rejection of the application under consideration.

- d. Conflict of Interest. No member may participate or vote in any matter in which the member has a conflict of interest or other disqualification as defined by law. Any questions of whether a member has such a conflict of interest or other disqualification shall be decided by a majority vote of the remaining members including an alternate voted onto the Board as a regular member for the particular matter. If a member has a conflict of interest as defined by State Statute, that member shall not be counted by the Board in establishing the quorum for the matter in which he or she has a conflict.

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

- e. If there are alternate members in attendance, the Board shall vote to designate an alternate member to act for a regular member who is: disqualified from voting, unable to attend the hearing, or absent from a substantial portion of the hearing due to late arrival. The alternate member will act for the regular member until the case is decided.
- f. If a Board meeting has no alternate members present, no regular member shall vote on the determination of any matter requiring public hearing unless he or she has attended the public hearing thereon; however, where such a member has familiarized himself or herself with the matter by reading the record and listening to or watching any audio or video recording of the meeting(s) from which the member was absent and represents on the record that he or she has done so, that member shall be qualified to vote on that matter.

- g. Records of Proceedings. The votes for and against the passage of a motion shall be taken and entered upon the record of the Minutes of the Board by the Clerk. Minutes of all regular and special meetings of the Board, except workshop meetings and site visits, shall be kept by the Clerk and shall take effect upon acceptance by the Board. An amendment by the Board of the minutes of a previous meeting shall not affect a previous vote of the Board.
- h. Notice of Decision. The Board's decision on a development application is contained in a Notice of Decision (NOD) that may contain Conditions of Approval (COA). The findings of fact and any conditions of approval shall be expressly voted upon by the Board.

5. Reconsideration

- a. The Board may reconsider any decision.
 - i. The Board must decide to reconsider any decision, notify all parties and make any change in its original decision at the same meeting or no later than the next monthly regular meeting or thirty-five (35) days at the latest after the original decision was made.
 - ii. After a vote for reconsideration and prior to a vote on a revised or amended action, the Board may conduct additional hearings and receive additional evidence and testimony.
- b. Reconsideration should be for one of the following reasons:
 - i. The record contains significant factual errors due to fraud or mistake regarding facts upon which the decision was based; or
 - ii. The Board misinterpreted the ordinance, followed improper procedures, or acted beyond its jurisdiction.

6. Public Hearings

Public hearings of the Board shall be called as required by law or on such other occasions, as a majority of the Board may deem appropriate. Notice of all such hearings shall be given as required by law and shall include the date, time, and place of the hearing and a general description of the subject matter.

a. Notice of Public Hearings

Notice of all public hearings shall be published in the Lincoln County News. The date of publication shall be at least seven (7) days before such hearing and the notice shall be posted in at least the Town Hall. The notice shall set forth the nature of the hearing, the time, date and the place of the hearing. (Note: This needs to be consistent with applicable land use ordinances and statutes, such as 30-A M.R.S.A. § 4403 regarding subdivisions, and with 1 M.R.S.A. § 601.)

b. Presiding Officer

The Presiding Officer shall, at all public hearings, either be the Chair or Vice-Chair of the Board or a member of the Board who is selected by those members present at the hearing.

The Presiding Officer shall have authority to:

- i. Rule upon issues of evidence;
- ii. Regulate the course of the hearing;
- iii. Rule upon issues of procedure;
- iv. Take such other actions as may be ordered by the Board or that are necessary for the efficient and orderly conduct of the hearing, consistent with these rules and applicable statutes.

c. Order of Business and Testimony

The order of business at a public hearing shall be as follows:

- i. The Presiding Officer calls the hearing to order.
- ii. The Presiding Officer determines whether there is a quorum.
- iii. The Presiding Officer, or a designee (such as the Town Planner), gives a statement of the application and reads all correspondence not previously included in the record (such as correspondence received after the meeting packet was posted).
- iv. The applicant or their representative and witnesses are given the opportunity to present their application without interruption.
- v. The Board is provided the opportunity to ask questions of either the applicant, the applicant's representative, or Town staff.
- vi. A Board member makes a motion to open the public hearing. Once the motion is seconded and voted affirmatively upon, the public hearing shall be considered open.
- vii. The Board shall receive comments and questions from all observers and interested citizens who wish to express their views. Every party shall have the right to speak in the order determined by the Presiding Officer and without interruption, provided, however, that the Presiding Officer may impose such reasonable time limits as may be necessary to ensure that all parties have an adequate opportunity to be heard.
- viii. The Board shall receive and retain copies of any written statements, documents, photographs or renderings offered to Board by any and all parties. These submissions shall become a matter of public record.
- ix. The Presiding Officer should provide an opportunity for Town staff or the applicant/the applicant's designee to answer any questions raised during the public hearing.

- x. Members of the public may speak a second time only with permission of the Presiding Officer. Speakers may only speak a second time to present new information or to ask questions not yet answered. Repeat testimony is strongly discouraged.
- xi. The hearing is closed after all parties have been heard. If additional time is needed, the date and place of the continued hearing shall be announced before adjournment of the initial hearing.

12. No votes by the Board shall be taken until the conclusion of a public hearing, if one is required.

d. Official Notice

The Board may, at any time, take notice of judicially cognizable facts, generally recognized facts of common knowledge to the general public, physical, technical and/or scientific facts within the specialized knowledge of the Board.

e. Documentary and Real Evidence

1. Upon Board's acceptance, all documents, materials, and objects offered as evidence shall be numbered or otherwise identified.
2. Board shall exclude irrelevant, immaterial, and/or unduly repetitious evidence, provided however that formal rules of evidence shall not apply. This pertains to all oral, illustrative, and documentary submissions.
3. Documentary and illustrative evidence may be received in the form of copies if the original is not readily available.
4. Board or Presiding Officer shall require that any party offering documentary, illustrative, and/or photographic evidence shall provide Board with an appropriate number of copies of said evidence, unless these documents, illustrations, or photographs are determined to be of such form, size, or character as not to be reasonably susceptible of reproduction.
5. All documents, materials, and objects accepted into evidence shall be made available during the course of the hearing for public examination and explanation.
6. All accepted evidence shall become part of proceeding's public record.

f. Objections

All objections to rulings of the Presiding Officer regarding evidence or procedure shall be made during the course of the hearing. If after the close of the hearing and during its deliberations the Board determines that any ruling of the Presiding Officer was in error, it may reopen the hearing or take other action as it deems appropriate to correct the error.

g. Conclusion of Hearing

At the conclusion of the hearing, no further evidence or testimony will be allowed into the record except as provided in Section 6.H.

h. Leaving the Record Open

Upon such request made prior to or during the course of the hearing, the Presiding Officer may permit persons participating in any hearing pursuant to these regulations to file proposed findings, determinations, or other written statements with the Board for inclusion in the record after the conclusion of the hearing within such time and upon such notification to the other participants as the Presiding Officer may require.

i. Other

At any time prior to a final decision, the Board or the Chair may reopen the record for further proceedings consistent with these Rules, provided, however, that the Chair shall give public notice of such further proceedings at least two weeks in advance to the participants and the public in such manner as is deemed appropriate.

j. Record

The record of the hearing shall consist of the recording of the hearing, all exhibits, all briefs, proposed findings and rulings thereon, and any proposed findings of fact and conclusions of the Presiding Officer. Such record shall be reported to the Board for its decision.

Any participant or other member of the public may obtain a copy of the records and files of the Board by routing a request through the Town Clerk and upon payment to the Town Office of the cost of transcription, reproduction, and postage.

7. Standard Conditions of Approval

a. The following Standard Conditions of Approval will be attached to all Planning Board approvals:

| | Condition | Staff Assigned | Must be Completed By: |
|----|--|-----------------------|----------------------------------|
| 1. | This approval is dependent upon and limited to the proposals and plans contained in the application and supporting documents submitted and affirmed to by the applicant. Any variation from the plans, proposals and supporting documents are subject to the review and approval of the Planning Board prior to implementation. | Town Planner | Ongoing |
| 2. | All adopted conditions of approval and any waivers granted shall appear on the face of the plans submitted for building permits, and the face of the subdivision plan, if applicable. | Code Officer | Prior to Issuing Building Permit |
| 3. | Prior to the issuance of a building permit, or release of the recording subdivision plat (if applicable), the applicant shall pay all outstanding review escrow account fees, post the necessary performance guarantee(s) in such amount(s) as established by the Town and hold a pre-construction meeting with the Town if necessary. | Town Planner | Prior to Issuing Building Permit |
| 4. | This Planning Board approval is valid for 12 months from the date of approval and shall expire if work has not substantially commenced within that time period. | Code Officer | Ongoing |

| | Condition | Staff Assigned | Must be Completed By: |
|-----|--|-----------------------|---------------------------------------|
| 5. | Prior to submitting a building permit, the applicant shall submit three hard-copy plans at 24" x 36" size to the Town Planner with all conditions and waivers listed on the plans. | Town Planner | Prior to Submitting a Building Permit |
| 6. | The applicant shall secure a Building Permit from the Code Enforcement Officer in coordination with the Town Planner, Fire Department, and all relevant review authorities, prior to commencing any construction activities. | Code Officer | Prior to Issuing Building Permit |
| 7. | A waiver has been granted pursuant to Section , which allows | Town Planner | Ongoing |
| 8. | Only the topsoil directly impacted by proposed buildings, access ways, and parking areas may be removed from the site without returning to the Planning Board for further review, per Section 102.6(A). | Town Planner | Ongoing |
| 9. | All exterior lighting fixtures shall be full cut-off (shielded) fixtures in accordance with Section 102.6(D). | Town Planner | Ongoing |
| 10. | All noise associated with the proposed development shall be regulated in accordance with the provisions of Sec. 102.6. Applicants and their contractors are well-advised to familiarize themselves with that section of the Town's Ordinances. | Code Officer | Ongoing |

Final Subdivision Applications

| | | | |
|-----|--|--------------|--------------------|
| 11. | Prior to the issuance of any Certificates of Occupancy for the project, except as otherwise allowed by the Planning Board through a granted waiver, the applicant shall submit an inspection report to the Code Enforcement Officer documenting that the stormwater facilities have been installed and are functioning as designed and approved and are fully operational. This inspection report must be prepared by a qualified third-party inspector. | Code Officer | Prior to Occupancy |
| 12. | All underground utilities, including stubbing out all utilities to all lots, shall be completed prior to the final coat of paving. | Code Officer | Prior to Occupancy |

Applications Proposing Wetland Impacts

| | | | |
|-----|---|--------------|---------------------------------------|
| 13. | Prior to holding a pre-construction meeting and submitting a building permit, wetlands and associated setbacks and stream setbacks are to be staked to ensure that all erosion and sedimentation controls and site disturbance and construction activities avoid the protected wetland. | Town Planner | Prior to Submitting a Building Permit |
|-----|---|--------------|---------------------------------------|

Projects with Landscaping Plans

| | | | |
|-----|--|--------------|--------------------|
| 14. | The landscaping plan shall only use native plant species and shall not include trees and shrub species listed on the State’s Advisory List of Invasive Plants. | Town Planner | Prior to Occupancy |
|-----|--|--------------|--------------------|

Projects with New or Updated Lot Lines

| | | | |
|-----|--|--------------|----------------------------------|
| 15. | Prior to the issuance of a Building Permit, the applicant shall submit to the Town Planner an AutoCADD dataset, ArcGIS Shapefile dataset, or other equivalent geospatial dataset that may be readily converted to AutoCADD and ArcGIS-compatible files, of the approved parcel boundaries. | Town Planner | Prior to Issuing Building Permit |
|-----|--|--------------|----------------------------------|

Site Plan Review for Structures with 3+ Units per 30-A M.R.S § 4402(6)

| | | | |
|-----|---|--------------|----------------------------------|
| 16. | The Damariscotta Planning Board finds that (a) Section 102.6 et seq. of the Site Plan Ordinance, governing standards for site plan review, is at least equivalent to the Town’s subdivision review standards contained within the Subdivision Ordinance (Chapter 103), and addresses all statutory review criteria established in 30 A M.R.S. § 4402(6); and (b) the Project meets the requirements of 30-A M.R.S. § 4402(6). Therefore, the Project is subject to municipal site plan review only and does not require subdivision review. | Town Planner | Prior to Issuing Building Permit |
|-----|---|--------------|----------------------------------|

8. Application Forms

All applications for Planning Board review shall be submitted on the Application Form which has been attached as Appendix A.

9. Amendments/ Waivers

These bylaws, or any provision thereof, may be waived on any occasion by majority vote of the Board unless otherwise provided by law. These bylaws may be amended at any time in writing by majority vote of the Board after notice and public hearing on the proposed amendment.

Adopted by the Board on: _____

Planning Department
Damariscotta Town Office
21 School Street,
Damariscotta, ME 04543



Isabelle Oechsle
Town Planner
Phone: (207) 563-5168
IOechsle@damariscottame.com

PLANNING BOARD APPLICATION

OFFICE USE ONLY

Application Fee: _____ PID: _____

Date Received: _____

Applications will be accepted electronically, though the Planning Board reserves the right to request physical submissions. Please email your full submission binder to the Town Planner.

SITE DETAILS

Street Address: _____

[Deed Book and Page:](#) _____

Existing Subdivision Name: _____

Not Applicable

Lot within subdivision: _____

Not Applicable

[Tax Map & Lot:](#) _____

[Zoning district:](#) _____

Existing land use(s): _____

PROPERTY OWNER INFORMATION

Property Owner Name: _____

Mailing Address: _____

Phone Number: _____

Email: _____

APPLICANT INFORMATION (IF DIFFERENT FROM ABOVE)

Applicant Name: _____

Mailing Address: _____

Phone Number: _____

Email: _____

CONTACT PERSON / AGENT INFORMATION

The Planner will only contact one designated person regarding the application. Please identify the primary contact:

- Property owner Applicant Other (fill out section below):

Applicant Name: _____
Mailing Address: _____

Phone Number: _____
Email: _____

PROJECT INFORMATION

Description: _____

Is the project located within any of the following? (Please select all that apply):

- [Special Flood Hazard Area](#) [Shoreland Zoning Area](#)
 Historic District

APPLICATION TYPE

Please select **ALL** that apply:

- | | |
|--|--|
| <input type="checkbox"/> Conditional Use Application | <input type="checkbox"/> Site Plan Application |
| <input type="checkbox"/> Small Wind Energy System | <input type="checkbox"/> Site Plan Pre-application |
| <input type="checkbox"/> Conditional Use Application | <input type="checkbox"/> Preliminary Major Subdivision |
| <input type="checkbox"/> Final Major Subdivision | <input type="checkbox"/> Minor Subdivision |
| <input type="checkbox"/> Sketch Plan Pre-application (Subdivision) | |
| <input type="checkbox"/> Zoning Map Amendment | <input type="checkbox"/> Zoning Text Amendment |

Note: Please consult with the Planner if you are unsure about which applications you will need.

SIGNATURES

PROPERTY OWNER'S CONSENT REQUIRED:

I declare under penalty of perjury that I am the owner of said property. I certify that all of the submitted information is true and correct to the best of my knowledge and belief. I understand that any misrepresentation of submitted data may invalidate any approval of this application.

Signature of Property Owner

Date

I, _____, authorize the noted applicant or agent
named on this application to file this application on my behalf.

OWNER
INITIAL

APPLICANT / AGENT CERTIFICATION:

I certify that all of the information provided within this application form and accompanying materials is true and accurate to the best of my knowledge. I understand that any misrepresentation of submitted data may invalidate any approval of this application.

Signature of Applicant

Date

Print Name and Title