

**RULES OF PROCEDURE  
OF THE  
PLANNING BOARD  
NEW CASTLE COUNTY, DELAWARE**

**These Rules of Procedure, adopted April 20, 2021, supersede the Planning Board By-Laws and Special Rules of Order revised and adopted February 19, 2019.**

ARTICLE I.           Name of Organization

- §1.                   The name of the organization shall be the Planning Board of New Castle County.

ARTICLE II           Authorization

- §1.                   The Board is authorized by *9 Del.C. §1303*.

ARTICLE III          Members

- §1.                   The Planning Board shall consist of nine members.
- §2.                   The County Executive, with the advice and consent of County Council, shall appoint eight members who shall serve for terms of three years, provided that the terms of two members shall expire each year, one term to expire on January 31 and one term to expire on July 31. A member whose term has expired will continue to serve until a successor is duly appointed and qualified.
- §3.                   The County Executive, with the advice and consent of County Council, shall appoint one member who shall be Chair and who shall serve at the pleasure of the County Executive.

ARTICLE IV          Officers

- §1.                   The officers of the Planning Board shall consist of the Chair and the Vice-Chair.

- §2. The Chair shall designate a member as Vice-Chair who shall act for the Chair in the Chair's absence. The Vice-Chair shall serve at the pleasure of the Chair. In the absence of the Chair and the Vice-Chair, the members present shall elect one of their members to be the temporary chair for that meeting.
- §3. The Chair, or in his or her absence the Vice-Chair, shall preside at all meetings and hearings of the Planning Board, decide all points of order or procedure, and perform all duties required by law or these rules.
- §4. The Chair shall be a voting member of the Planning Board and may participate in all discussions.
- §5. The Chair shall serve as an ex officio voting member of the State Coastal Zone Industrial Control Board, pursuant to 7 Del.C. §7006.

#### ARTICLE V

#### Conduct of Members

- §1. A member of the Planning Board shall not be an officer or a substantive committee chair in a local or umbrella civic group; being an officer in an ownership or maintenance organization does not disqualify a member from serving on the Planning Board.
- §2. The Planning Board is subject to the New Castle County Code of Ethics, Divisions 2.03.100 and 2.04.100, administered by the New Castle County Ethics Commission. In the event of a potential conflict of interest or appearance of impropriety, as defined by the New Castle County Code of Ethics and as explicated by the New Castle County Ethics Commission, a Planning Board member shall recuse himself of herself and end participation in the matter. Recusal includes ending advice, input, direction, recommendations, or discussion, as well as refraining from any decision or vote.
- §3. No Planning Board member shall discuss or communicate, directly or indirectly with any person or party, respecting any issue of fact or law pertaining to a pending application,

except upon notice to and opportunity for all parties to participate.

- §4. No Planning Board member shall accept any compensation, gift, payment of expenses, promise of future financial benefit, or any other thing of monetary value which is intended or received to influence the vote, official action or judgment of the recipient or which creates the reasonable perception in the public that the vote, official action or judgment of the recipient would be influenced or impaired by the gift. An unsolicited gift which is promptly returned in its entirety is not considered accepted by the recipient.

ARTICLE VI Attendance

- §1. Any member of the Planning Board who fails to attend three regularly-scheduled meetings in a one-year period, except those where such absence is deemed by the Chair to be excusable, shall forfeit membership on the Planning Board.
- §2. The Chair of the Planning Board, upon the unexcused absence of a member at three regularly-scheduled meetings in a one-year period, shall inform the County Executive and Council President in writing that a vacancy exists on the Planning Board and include the name of the member who held the forfeited position.

ARTICLE VII Committees

- §1. Committees, subcommittees, and ad hoc committees may be established at the discretion of the Chair.
- §2. Each committee shall consist of at least two members appointed by the Chair. Each subcommittee shall consist of at least one member except that if the Chair is the subcommittee chair, an additional member of the Board shall be appointed to serve on the subcommittee. Committee members shall be appointed or reappointed at any business meeting of the Planning Board. The Chair of the Planning Board shall be an ex-officio member of each

committee; however, the Chair may appoint him/herself to any committee.

ARTICLE VIII      Public Hearings

- §1.      The primary purpose of the Planning Board is to conduct hearings and receive comments from the public regarding pending applications. The Board will not debate or negotiate with the speakers at the hearing but may question a speaker for clarification or to summarize relevant provisions of the law. The public is invited to attend public hearings on Appeals but is not permitted to make presentations to the Board in connection with the Appeals.
- §2.      The Planning Board and Department of Land Use may hold public hearings, in accordance with the Unified Development Code and state law, when they decide that such hearings will serve the public interest.
- §3.      Regularly-scheduled hearings will be held at a time and location agreeable to the Planning Board and Department of Land Use and shall be conducted jointly by the Board and the Department. Notice of time, location, and subject of discussion shall be given in accordance with applicable laws and regulations and shall be open to the public.
- §4.      The following land-use applications require Planning Board hearings:
- Major Land Development Exploratory Plan Reviews
  - Major Land Development Preliminary Land Use Service ("PLUS") Review
  - Statutory Text Changes
  - Rezoning
  - Deed Restriction Changes
  - Subdivision Variances
  - Appeals from Land Use Department Decisions
  - Agricultural Preservation Districts
- a. Exploratory Plan Reviews, Major Land Development Plan Reviews and PLUS Reviews require a joint*

public hearing with the Department of Land Use but do not require a Board recommendation, vote, or decision.

*b. Statutory Text Changes, Rezoning, and/or Deed Restriction Changes* require a joint public hearing with the Department of Land Use and require a Recommendation by the Board to County Council. The hearings will be held in conformity with the Procedure for Amendment of Zoning Regulations or Classifications, adopted by County Council.

*c. Subdivision Variances and Appeals from Department of Land Use Decisions* require a public hearing and a Board Decision.

§5. Joint Public Hearings of the Planning Board and Department of Land Use shall require a quorum of at least one member of the Department and a quorum of the majority of the sitting members of the Board.

§6. All public hearings shall be conducted pursuant to these Rules of Procedure and Robert's Rules of Order.

The Order of Business at Public Hearings is as follows:

- a. Call to Order
- b. Rules of Procedure and Attendance
- c. New Business
- d. Comments from Board Members
- e. Public Comment
- f. Adjournment

§7. Speaker Time Limits are as follows:

- a. Following the reading of the title and a description of each agenda item, the applicant (or representative) is given a total of fifteen minutes for relevant remarks.
- b. On Appeal applications, the Department of Land Use representatives are given a total of fifteen minutes for relevant remarks.

- c. Following the applicant's or Department's presentation, Board members may ask questions of the presenter. Board members shall address the Chair and wait to be recognized before proceeding to question a presenter.
- d. The public will then be invited to speak (except in the case of Appeals) in the following order:
  - those in favor of the application;
  - those in opposition; and
  - those with general comments.Each speaker will address the Board. Speakers are to avoid repetition of previous testimony.
- e. Each speaker is allowed one opportunity to comment on each application. Testimony is limited to five minutes and speakers may not yield their unused time to another speaker. Board members are not permitted to debate with any speaker but may ask questions. Speakers are limited to a two-minute response.
- f. Following public comments, the applicant will be given fifteen minutes for rebuttal response to issues raised by speakers.

§8. The record shall be held open as follows:

- a. For *Statutory Text Amendments and Deed Restriction Changes*, the record shall remain open to permit the applicant or members of the public to submit written testimony or other comments until the close of business on the Friday of the week of the Public Hearing. If the County offices are closed on that Friday for any reason, the record shall remain open until the next business day when the County offices are open. The Planning Board may, by motion, hold the record open for an additional period of time.
- b. For *Exploratory Plans, PLUS Reviews, or Rezoning Applications*, the record remains open after the public hearing without action by the Planning Board,

consistent with the requirements of the Unified Development Code.

ARTICLE IX      Business Meetings

- §1. Regular business meetings will be held monthly at a time and place agreeable to the Planning Board and the Department of Land Use. Notice of time, location, and subject of discussion shall be given in accordance with applicable laws and regulations and shall be open to the public.
- §2. To conduct a business meeting, at least five members of the Board shall be present. A motion is carried by the affirmative vote of a simple majority. If a member abstains from voting, that member still counts toward a quorum. If, however, a member recuses him/herself, that member does not count toward a quorum. If a quorum is lost at any point in the meeting, the meeting cannot continue. The application lacking a quorum may, however, be deferred so that the meeting can continue. Board members are prohibited from discussing pending applications among themselves outside of the public hearing.
- §3. The Planning Board shall discuss and then vote on matters under the Board's purview, as specified by the Unified Development Code. These matters include the recommendations of the Department of Land Use with respect to proposed amendments to the Code previously heard at a public hearing. A member shall not vote on an item that the applicant presented at a public hearing which that member did not attend, unless that member states on the record at the business meeting that he or she has reviewed the official transcript, or reviewed another verbatim and complete record of the hearing.
- §4. In any matter where the Planning Board is required to vote on an application upon which the Department of Land Use has offered its formal recommendation and wherein the