



TOWN OF PONCE INLET
PLANNING BOARD

BY-LAWS, RULES AND PROCEDURES *(w/Revisions 1/18/17)*

THESE BY-LAWS are adopted in accordance with Section 6.2.2 of the Town of Ponce Inlet Land Use and Development Code. They shall be considered to be supplemental to any Ordinance or Resolution adopted by the Town Council which affects the Town of Ponce Inlet Planning Board (hereinafter, referred to as the "Planning Board"). Should there be a conflict between these Bylaws and any Town Ordinance or Resolution, in effect, at any time, then the Ordinance or Resolution shall control.

The Planning Board of the Town of Ponce Inlet, Florida shall be governed by the Charter and Code of the Town of Ponce Inlet and the rules of procedures set forth herein and adopted by the Planning Board.

CREATION

A Planning Board is hereby created which shall have the power and duties of a Planning Commission and a Board of Adjustment, consistent with Section 7.01 of the Charter. It shall also have the power and duties of the local planning agency in accordance with the Community Planning Act (2011), F.S. Ch. 163.3161 et. seq. It shall be referred to in the Articles as the Planning Board. It shall have the following membership, duties, responsibilities, and limitations:

**ARTICLE I
OFFICERS, MEMBERS AND DUTIES**

1. **MEMBERSHIP, TERMS OF OFFICE.** The Planning Board shall consist of seven (7) regular members and two (2) alternates appointed by the Town Council. Each regular member shall be appointed for a three-year term, in staggered sequence. Alternate members shall be appointed for a term of one (1) year. No official or employee of Town government shall serve on the Planning Board. Each member of the Planning Board shall be a qualified elector of the Town of Ponce Inlet. Preference will be given to full-time residents.

2. **REMOVAL FROM OFFICE, VACANCIES.** All members of the Planning Board shall serve at the sole pleasure of the Town Council and may be removed at any time without cause and without a hearing. If a Board member has either three consecutive absences from regular meetings or five absences within one rolling year from regular meetings, that member shall be automatically removed from the Board. The Town shall not attempt to differentiate between what one might consider an excused absence vs. an unexcused absence. However, a Board member may appeal to the Town Council for reinstatement if the situation was temporary in nature and he/she is able to resume their responsibilities to the Board. In addition, as a preemptive measure, a Board member may request in writing a leave of absence from the Town Council for illness, family emergencies, etc. A granted leave of absence will not be counted towards the absences of that member for that rolling year.

Any vacancy occurring during an unexpired term shall be filled ~~by the Town Council for the remainder of the term. The Town Council shall consider filling any vacancy~~ with an alternate member or advertising the vacancy until filled with an applicant.

3. CHAIRPERSON. A Chairperson shall be elected by the Planning Board from among its members. The Chairpersonship shall be for (1) one year beginning on the first regularly scheduled meeting. The Chairperson shall decide upon all points of order and procedure, subject to these rules, unless directed otherwise by a majority of the Planning Board in session at the time. The Chairperson shall appoint from the Planning Board membership any committee found necessary to investigate matters not quasi-judicial in nature before the Planning Board. ~~The Chairperson shall sign all minutes of the Planning Board and all pertinent documents and correspondence on behalf of the Planning Board.~~

4. VICE-CHAIRPERSON. A Vice-Chairperson shall be elected by the Planning Board from among its members at its first regularly scheduled meeting or whenever the position becomes vacant. The Vice-Chairperson shall serve as Chairperson in the absence of the Chairperson. Upon vacancy of the Chair, the Vice-Chairperson will serve as Chairperson until a new Chairperson is elected at the next regular meeting.

5. SECRETARY. Town staff shall assign a Secretary. The Secretary shall be an employee of the Town of Ponce Inlet. The Secretary shall keep all records, conduct all correspondence of the Planning Board, cause to be given the required legal notice of each public meeting, and shall generally take charge of the clerical work of the Planning Board. The Secretary shall open the meeting in the absence of the Chairperson and Vice-Chairperson.

The Secretary shall take, or cause to be taken, the minutes of every meeting of the Planning Board. These shall show the record of all important facts pertaining to each meeting and hearing, every resolution acted upon by the Planning Board and all votes of members of the Planning Board upon any resolution or upon the final determination of any question, indicating the names of members absent or failing to vote. The Secretary shall present the draft copy of the minutes to the Planning Board for approval at the next regular meeting. The Secretary shall keep as a permanent record the minutes of every meeting of the Planning Board. The Secretary shall keep all records open to the public at all times during normal business hours but, in no event, shall relinquish the original of any record to any person except as provided by law.

6. COMPENSATION. Planning Board members shall serve as volunteers without compensation, but may be reimbursed for such travel, mileage, and per diem expenses as may be authorized by the Town Council, or as otherwise provided by law.

7. POWERS AND DUTIES. The Planning Board shall have powers and duties as stated in Section 6.2.2.D of the Town's Land Use and Development Code and Section 163.3174, Florida Statutes (attached hereto).

ARTICLE II APPOINTMENT PROCEDURES

The procedure to be followed by all Town Boards for making recommendations for appointment of individuals to the Town's Boards shall be as follows:

1. Whenever a vacancy occurs on any Town Board, the Chairperson of the Board will notify the Town Hall staff as expeditiously as possible or vice versa. Town Council shall be notified promptly.

2. Staff will advertise the vacancy on the Town's website and on the Town bulletin board and in any other locations which are is deemed economically appropriate to use at minimal cost in an effort to fill the vacancy within 60 days.

3. Staff will provide the interested candidate(s), the appropriate information about the various boards.

4. Staff will create and maintain an application for Boards which has been approved by the Town Council. This application must be completed by any potential applicant whether for initial appointment or re-appointment. Boards which are required pursuant to state regulations to complete an affidavit of financial disclosure must submit this as well but only with their initial his/her application. Staff will collect the completed forms from the interested applicant(s). The applications will be forwarded to the respective boards for review and recommendation at a public meeting. Applicants are strongly encouraged to attend both the Board meeting and the Council meeting for consideration of their application. accepted by staff, who will verify residency through voter registration before forwarding them to the Town Council for consideration.

5. Each board member will complete a ballot ranking the candidates 1 to however many applied (1 being first choice.) Scores are tabulated by a staff member and the candidate with the lowest number is recommended. When there are three or more candidates, a runoff ballot will be completed by each board member ranking the two candidates with the lowest numbers on the first tabulation (1 being first choice.) Scores are tabulated by a staff member and the candidate with the lowest number is recommended. NOTE: if a candidate is ranked as first choice by a majority of board members, no runoff ballot is needed regardless of total score. Though all board members serve at the pleasure of Council, preference for re-appointment shall be given to the current seat holder. Board members seeking re-appointment shall submit in writing to the Town their interest in re-appointment at least 30 days prior to the expiration of their term. The board secretary will re-confirm their residency and will provide the Town Council information regarding the appointee's attendance and training.

This procedure shall be taken individually for each available seat, beginning with the seat which holds the longest time left on a term and ending with the second alternate seat (if available).

~~Should the end result be a tie-vote, staff will calculate the votes for the two individuals who are tied from both the primary and the general ballot; the individual with the lowest total number will then be determined as the selected candidate. If that calculation determines that a tie still exists, a coin toss shall be conducted by the Chair — the applicant whose last name alphabetically precedes the other shall be “Heads” in this lot.~~

~~6. Each board will forward its recommendation for appointment or re-appointment to the Town Council. New applicants are strongly encouraged to attend the Town Council meeting for consideration of their application.~~

~~7. Upon receipt of the written recommendation of each board, the Town Council, at a public meeting, shall consider appointing applicants to fill the vacancies, giving consideration to the board recommendations. Any member appointed as Alternate #1 to a specific board shall automatically progress to the first available regular seat on that board, without having to go back to the Town Council for promotional appointment. Alternate #2 shall then automatically progress to the Alternate #1 seat.~~

ARTICLE III MEETINGS

1. REGULAR MEETING. Regular meetings of the Planning Board shall be held once each month, on the 4th Tuesday of the month. Board meetings in which no **public Quasi-Judicial** hearings are held shall begin at 10:00 AM, while meetings involving a **public Quasi-Judicial** hearing shall begin at 5:30 P.M. at the **Ponce Inlet Town Hall Council Chambers**. The time and place of the regular monthly meeting may be changed by affirmative vote of four (4) members. At least twenty-four (24) hours notice of the time and place of the regular meetings shall be given by the Secretary or by the Chairperson to each member of the Planning Board.

2. SPECIAL MEETINGS. Special meetings of the Planning Board may be called at any time by the Chairperson, Town staff, or by affirmative vote of any four (4) members. At least forty-eight (48) hours notice of the time and place of special meetings shall be given by the Secretary to each member of the Planning Board.

3. CANCELLATION OF MEETINGS. Whenever there are no applications, appeals or other business for the Planning Board, or whenever so many members notify the Secretary of inability to attend that a quorum will not be available, the Chairperson, at his or her discretion, may dispense with the regular meeting and provide a written or oral notice to all members as soon as possible prior to the time set for the meeting.

4. QUORUM. A quorum shall consist of four (4) members of the Planning Board for the transaction of business.

5. CONDUCT OF MEETINGS. All meetings shall be open to the public. The order of business at regular meetings shall be as follows:

1. Call to order and Pledge of Allegiance

2. Roll Call and Determination of Quorum
3. Adoption of Agenda
4. Approval of Minutes
5. Report of Staff
6. Correspondence, Communications, and Disclosure of Ex-Parte Communications
7. Hearing of Cases
8. Business Items/Public Hearings
- 9i. Public Comment
- 10j. Board Discussion
- 11k. Adjournment

6. **ADJOURNED MEETINGS.** The Planning Board may adjourn a regular meeting or special meeting if all business cannot be disposed of on the day set, and no further public notice shall be necessary for resuming such a meeting if the time and place of its resumption is stated at the time of adjournment and is not changed after adjournment.

7. **EX-PARTE COMMUNICATIONS.** In accordance with Section 286.0115, Florida Statutes, Town Council has passed Resolution 2007-18. Disclosure of ex-parte communications made pursuant to the Resolution and this paragraph should, if possible, be made at the beginning of the public hearing at which a vote is taken so that persons who have opinions contrary to those expressed in the ex-parte communication are given a reasonable opportunity to explain or respond to the communication. Adherence to the following guidelines, as set forth in Resolution 2007-18, shall remove the presumption of prejudice from ex-parte communications with Planning Board members.

a. *Communications between staff and public.* Oral and written communications between staff and members of the public shall be permitted and encouraged.

b. *Communication between the Planning Board and the public.* Members of the Planning Board of the Town shall not be prohibited from receiving and participating in oral or written ex-parte communications regarding quasi-judicial matters before the Planning Board, if all requirements of Resolution 2007-18 are followed as to any ex-parte communication, and any presumption of prejudice arising out of such ex-parte communications is hereby removed and declared non-existent.

1. Any oral ex-parte communication with a Planning Board member relating to pending quasi-judicial action shall not be presumed prejudicial to the outcome of the matter if the subject matter of the communication and the identity of the person, group or entity with whom the communication took place is disclosed and made a part of the record in the quasi-judicial proceeding before final action on the matter.

2. Any written communication to a Planning Board member from any source regarding a pending quasi-judicial matter shall not be deemed prejudicial to the

outcome of the matter, if the written communication is made part of the record in the quasi-judicial proceeding before final action on the matter.

3. Planning Board members shall not be prohibited from conducting site visits or receiving expert opinions regarding quasi-judicial matters pending before them, and such activities shall not be presumed prejudicial to the outcome of the matter if the existence of the investigation, site visit, or expert opinion is disclosed and made a part of the record in the quasi-judicial proceeding before final action on the matter.

4. Resolution 2007-18 does not subject Planning Board members to Part III of Chapter 112, Florida Statutes, for not complying with the Resolution.

c. *Communication between Planning Board members and staff.* Written and oral communications between Planning Board members and staff shall be limited to the facts of the application or case. Ex-parte discussions of the positions or arguments of the applicant or any opposing party are discouraged. All such communications shall be disclosed and made a part of the record in the quasi-judicial proceeding before final action on the matter.

d. *Communication between Planning Board members and Town Attorney(s).* Attorneys for the Planning Board may render legal opinions when requested, but shall not engage in factual determinations or advocate one party's position over another, except to the extent necessary to respond fully to a purely legal question.

ARTICLE IV VOTING

1. VOTE. A simple majority of the Planning Board members present shall be necessary to render a decision. The Chairperson shall have one (1) vote in all issues voted upon by the Planning Board.

2. CONFLICT OF INTEREST. Pursuant to Section 112.3143, Florida Statutes, no Planning Board member may vote on a matter in which (s)he has a voting conflict of interest. If a Planning Board member has a voting conflict of interest, (s)he must orally declare the conflict in the meeting and abstain from voting. The member may participate in discussions, but only if (s)he first orally declares his/her conflict of interest. Staff will provide the Planning Board member with a form to fill out within 15 days of the meeting. An Alternate member may be required to sit in as a voting member for that case.

ARTICLE V APPEALS

1. APPEALS. The Planning Board shall hear and decide appeals from any interpretation, order, requirement, decision, or determination of the Planning and Development Director in the administration and enforcement of the Land Use and Development Code. Appeals may be taken by any person aggrieved or by any officer, board, department or agency of Town government adversely affected by any decision of

the Planning and Development Director. Aggrieved parties must file a notice of appeal specifying the grounds with the Planning and Development Director and the Town Clerk within thirty (30) days after rendition of the order, requirement, decision or determination. The notice of appeal shall be on a form prescribed by the Planning and Development Director.

2. PROCEDURE FOR FILING APPEALS. Upon receipt of the Notice of Appeal and payment of any appeal fee established by resolution of the Town Council, and after due public notice and notice to all owners of contiguous property, the Planning and Development Director shall transmit to the Planning Board all documents, plans, papers or other materials relating to the appealed decision.

3. WITHDRAWAL OF APPEALS. If appeal is withdrawn before public notice is given, the appeal fee shall be returned to the applicant, minus the application processing fees. In such event, the fact of withdrawal shall be noted on the original and both copies of the application with the signature of the applicant attesting withdrawal. The original shall be retained by the Secretary for the files of the Planning Board and one (1) copy shall be returned to the applicant.

ARTICLE VI HEARINGS

Witnesses may be called, sworn and cross-examined at hearings. Factual evidence may be submitted. The Planning Board shall not be limited to consideration of such testimony and evidence as would be admissible in a Court of Law. However, the Planning Board shall only consider the sort of evidence on which reasonable, prudent persons would be accustomed to rely on in the conduct of their affairs. Hearsay evidence may be used to supplement or explain other evidence, but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions. Irrelevant and unduly repetitious evidence shall be excluded. The Chairperson may establish appropriate time limits for arguments but such time limits shall be equal for the Planning and Development Director and the applicant. The Chairperson may request that only a representative or representatives speak on behalf of an entire group or portions of a group presenting arguments to the Planning Board. The applicant, agent or attorney shall direct all presentation, questions and arguments to the Planning Board only. Arguments between the parties shall not be permitted. The Planning Board reserves the right to ask questions at any time. Only where alternative documentary evidence, such as drawings or photographs, cannot adequately portray the issues under consideration may the applicant, Planning and Development Director, or any Planning Board member request a view of the site. If a majority of the Planning Board determines that a view of the site is necessary, then the matter shall be continued until the Secretary coordinates a convenient time for all parties and members of the Planning Board to reconvene.

ARTICLE VII DECISIONS

Pursuant to Section 10.2.6 of the Land Use and Development Code, if a variance does not begin to serve the purpose for which it was granted within 12 months from the date of rendition of the written order, or if its use is thereafter abandoned for 12 consecutive months, it shall expire. A shorter or longer period of time may be set by the Planning Board so long as the applicant applies for an extension prior to the expiration.

**ARTICLE VIII
REHEARING**

1. REHEARING. If it is alleged that the Planning Board has overlooked or misunderstood certain facts or points of law, a rehearing of any decision of the Planning Board may be granted to rehear its prior decision. The rehearing may be proposed either on the motion of any member voting on the prevailing side, or on the motion of any person aggrieved by its decision. The motion shall be in writing, filed with the Planning and Development Director within ten (10) working days after the rendition of the decision, and shall state its grounds. The person requesting the rehearing shall send a notice by Certified Mail to all interested persons, stating the date, time and place the motion for rehearing will be heard by the Planning Board.

2. If the Planning Board grants such a motion, it shall state its reason for doing so and set a time, date and place for another public hearing upon due public notice pursuant to the Land Use and Development Code.

3. The Planning Board shall not otherwise hear any matter based upon the same facts or issues as were previously decided by the Planning Board until at least one (1) year has elapsed from the date of rendition.

**ARTICLE IX
AMENDMENTS**

Amendments or modifications shall be submitted to the Town Council for final approval.

Reviewed and approved as amended for exclusive use by the Town of Ponce Inlet, FL
this _____ day of _____.

Town of Ponce Inlet

Gary L. Smith, Mayor

Attest:

Jeaneen Witt, Town Manager/CMC

Attachment(s):

1. LUDC, section 6.2.2.D – Planning Board Powers & Duties
2. FS Chapter 163 – Local Planning Agency

Attachment #1

PONCE INLET LAND USE AND DEVELOPMENT CODE, SECTION 6.2.2.D - PLANNING BOARD POWERS AND DUTIES

The Planning Board shall have the powers and duties set forth in Section 6.6 (Specific Procedures) and the following:

1. As the local planning agency, to review proposed land development regulations, determine their consistency with the comprehensive plan, and make recommendations to the Town Council as to whether the regulations should be adopted;
2. To hear, review, and make recommendations on the approval of quasi-judicial land use and development applications and whether the applications meet the general criteria of Section 6.3.6, including consistency with the Comprehensive Plan.
3. To hear and decide variances and appeals of orders, administrative decisions, or determinations in the enforcement and interpretation of this Code. On appeal, the Planning Board may reverse, affirm, or modify any administrative order, requirement, decision or determination.
4. To perform other duties and functions consistent with FS §163.3161 et. seq., the Comprehensive Plan, Code of Ordinances, or this Code, and as directed by the Town Council.

Attachment #2

FS CHAPTER 163, INTERGOVERNMENTAL PROGRAMS

§163.3174 – LOCAL PLANNING AGENCY -

(1) The governing body of each local government, individually or in combination as provided in §163.3171, shall designate and by ordinance establish a “local planning agency,” unless the agency is otherwise established by law. Notwithstanding any special act to the contrary, all local planning agencies or equivalent agencies that first review rezoning and comprehensive plan amendments in each municipality and county shall include a representative of the school district appointed by the school board as a nonvoting member of the local planning agency or equivalent agency to attend those meetings at which the agency considers comprehensive plan amendments and rezonings that would, if approved, increase residential density on the property that is the subject of the application. However, this subsection does not prevent the governing body of the local government from granting voting status to the school board member. The governing body may designate itself as the local planning agency pursuant to this subsection with the addition of a nonvoting school board representative. All local planning agencies shall provide opportunities for involvement by applicable community

college boards, which may be accomplished by formal representation, membership on technical advisory committees, or other appropriate means. The local planning agency shall prepare the comprehensive plan or plan amendment after hearings to be held after public notice and shall make recommendations to the governing body regarding the adoption or amendment of the plan. The agency may be a local planning commission, the planning department of the local government, or other instrumentality, including a countywide planning entity established by special act or a council of local government officials created pursuant to §163.02, provided the composition of the council is fairly representative of all the governing bodies in the county or planning area; however:

(a) If a joint planning entity is in existence on the effective date of this act which authorizes the governing bodies to adopt and enforce a land use plan effective throughout the joint planning area, that entity shall be the agency for those local governments until such time as the authority of the joint planning entity is modified by law.

(b) In the case of chartered counties, the planning responsibility between the county and the several municipalities therein shall be as stipulated in the charter.

(2) Nothing in this act shall prevent the governing body of a local government that participates in creating a local planning agency serving two or more jurisdictions from continuing or creating its own local planning agency. Any such governing body which continues or creates its own local planning agency may designate which local planning agency functions, powers, and duties will be performed by each such local planning agency.

(3) The governing body or bodies shall appropriate funds for salaries, fees, and expenses necessary in the conduct of the work of the local planning agency and shall also establish a schedule of fees to be charged by the agency. To accomplish the purposes and activities authorized by this act, the local planning agency, with the approval of the governing body or bodies and in accord with the fiscal practices thereof, may expend all sums so appropriated and other sums made available for use from fees, gifts, state or federal grants, state or federal loans, and other sources; however, acceptance of loans must be approved by the governing bodies involved.

(4) The local planning agency shall have the general responsibility for the conduct of the comprehensive planning program. Specifically, the local planning agency shall:

(a) Be the agency responsible for the preparation of the comprehensive plan or plan amendment and shall make recommendations to the governing body regarding the adoption or amendment of such plan. During the preparation of the plan or plan amendment and prior to any recommendation to the governing body, the local planning agency shall hold at least one public hearing, with public notice, on the proposed plan or plan amendment. The governing body in cooperation with the local planning agency may designate any agency, committee, department, or person to prepare the comprehensive plan or plan amendment, but final recommendation of the adoption of such plan or plan amendment to the governing body shall be the responsibility of the local planning agency.

- (b) Monitor and oversee the effectiveness and status of the comprehensive plan and recommend to the governing body such changes in the comprehensive plan as may from time to time be required, including the periodic evaluation and appraisal of the comprehensive plan required by §163.3191.
 - (c) Review proposed land development regulations, land development codes, or amendments thereto, and make recommendations to the governing body as to the consistency of the proposal with the adopted comprehensive plan, or element or portion thereof, when the local planning agency is serving as the land development regulation commission or the local government requires review by both the local planning agency and the land development regulation commission.
 - (d) Perform any other functions, duties, and responsibilities assigned to it by the governing body or by general or special law.
- (5) All meetings of the local planning agency shall be public meetings, and agency records shall be public records.