

By-Laws of the Planning Board of the Village of South Glens Falls in the State of New York, as amended [DECEMBER 10, 2003] [2007] [2011] (Adopted from an “Outline of Articles of By-Laws for a Planning Commission”, PLANNING COMMISSIONERS JOURNAL / NUMBER 14 / SPRING 1994.)

South Glens Falls Planning Board
By-Laws
[PROPOSED FOR 2011]¹

Article 1: Authority (Creation of Planning Board and Professional Staff Support)

The Village Board of Trustees shall create and maintain the Planning Board pursuant to 7-718 of Village Law.

Article 2: Jurisdiction

- The political geographic jurisdiction of the board shall be the Village of South Glens Falls as per the Zoning Map in the Village of South Glens Falls, Saratoga County, New York, and last [modified] *revised 03-29-06.*
- Specific definition of the time limit to make recommendation or decision by the Planning Board and policy for referral.
 - Any referral by the Village Board of Trustees required pursuant to Chapter 153-36 of Village Code or request shall be addressed at the next scheduled meeting of the Planning Board.
 - Any requests for a scoping session [or a review pursuant to Chapter 119 of the Village Code;]; the applicant shall submit *a request to the Village Clerk or the Village Code Enforcement Officer [an APPLICATION FOR REVIEW]* seven (7) calendar days in advance of the planning board meeting.
 - Application(s) *received* for review [may] *shall* be made public in the report of the Planning Board Chairman [or], *Code Enforcement Officer or* Village Board Liaison at [the next] regularly scheduled public meetings of the Village Board. *Applications for site plans or subdivisions that need County referral and county review pursuant to 239m and 239n respectively must be received with payment five 5 weeks prior to village planning board review. Upon receipt the application it shall be reviewed as complete (pursuant to the county referral form) by the village code enforcement officer or the village planning board chair and forwarded to the county. Currently regularly scheduled Village Planning Board meetings are held on the second Wednesday of the month. Currently Saratoga County Planning meetings are held the third Thursday of the month.*

¹ [matters in brackets to be deleted] matters underlined and in italics are recent and to be added

- Upon receipt of **Applications requiring Site Plan Review** for; *Subdivision of land, building permits for buildings used for any nonresidential (principal) purpose or use, building permit to construct new multiple dwellings, and application as may be determined by the Zoning Board of Appeals for a special use permit, area or use variance* - the Planning Board Chairman and / or Code Enforcement Officer shall refer matters to appropriate agencies and / or designated consultants to facilitate receipt of more complete consideration / information and coordination. (See Site Plan Review Checklist)

Article 3: Appointment and terms of members

- Appointments are made by the Mayor and approved by the Board of Trustees. (See annual organizational meeting of the Village Board – April meeting).
- Planning Board members need to be residents of the Village of South Glens Falls.
- Appointments are overlapping terms. The terms are five years each.
- Planning board members may not serve on the Zoning Board or Village Board.
- Removal of a planning board member “for cause.”²
- A new planning board member may be appointed by the Mayor and approved by the Board of Trustees to complete an unexpired period of appointment.
- Compensation (Pursuant to Village Adoption of Budget). Planning Board members each receive \$30.00 per attended meeting that is held and attended. Planning Board Chairman shall receive \$45.00 per meeting that is held and attended.
- An Oath of Office is required of all members and then filed with Village Clerk at the beginning of their term.

Article 4: Planning board officers and staff and their duties³

- Chairperson, who is appointed by the Mayor- presides at all hearings and meetings of the board, assures proper order of the board and the public in all proceedings, signs all documents of the board, prepares the agenda of the board, and represents the board before legislative and administrative bodies. The Chairperson may at his discretion cancel a regular scheduled meeting seven (7) days in advance of the meeting. Public notice shall be posted at the Village Municipal complex five (5) days in advance of the date the meeting had been scheduled.
- Vice-Chairperson, who is appointed by the Mayor – prepares the annual report of planning board activities, coordinates the annual meeting of the planning board, and provides orientation to new planning board members, and, in the absence of the chairperson, performs all of the chairperson’s duties.
- Chairperson-pro-temp – where both the chairperson and the vice-chairperson are absent from a hearing or meeting, the remainder of the citizen members of the planning board shall elect a chairperson-pro-temp from among their own number by majority vote.
- Village Staff or Official: Secretary (Deputy Clerk) – prepares all official instruments of the planning board, records the proceedings of all hearings and meetings in person or electronically recording, and prepares the minutes of the board hearings and meetings. Together with the chairperson signs all documents of the planning board, and assures the proper indexing of all planning board documents as public records.
- Village Staff or Official: The Village Clerk shall maintain all Planning Board Records. The Village Clerk shall maintain all Applications, Review Forms (SEQR,

² While the great majority of planning board members conscientiously and capably fulfill their duties, it is nevertheless useful to spell-out in the by-laws the conditions under which a boarder should be removed. Continuing unpreparedness, continuing absence from meetings, biased participation, and conflict of interest are all causes for removal because they impair the quality of decision-making and diminish the integrity of the planning board. Some conflicts of interest may only require an abstinence from discussion, not removal from Planning Board.

Site Plan Review checklist), and Referral Forms. The Planning Board Chair shall prepare Planning Board's agenda in advance of all meetings. Copies of the agenda shall be made available to the public.

Article 5: Staff of the board and their duties²

Article 6: Hearings of the Planning Board⁴

- Public hearing for Subdivision review is published 5 days prior to the hearing, the express and limited purpose of which is to provide an equitable opportunity for the public to speak on the matter before the planning board, for which publicly-accessible minutes must be prepared; The hearing on the preliminary plat shall be advertised at least once in an official newspaper in the village (The Post Star and/or Chronicle). The planning board may neither deliberate nor take a substantive vote during a public hearing.
- Other Public Hearings (as required for Site Plan Review or SEQRA) shall provide the public as well as the applicants with an opportunity to be heard. Public meetings shall be scheduled (time and place) at least ten (10) days before such public hearing if no hearing is held on the draft environmental impact statement, or fourteen (14) days before a hearing held jointly therewith. The planning board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such preliminary plat. The hearing on the preliminary plat shall be closed upon motion of the planning board within one hundred twenty (120) days after it has been opened.
- Informational Meeting/Session – is a noticed official hearing open to the public to discuss specific matters before the board; the intent of the working session is informal; the planning board may neither deliberate nor take a substantive vote during a working session.

Article 7: Meetings of the planning board³

- Regular meeting – a noticed official meeting, open to the public, during which the planning board deliberates and may take substantive votes on specific items. The

² It is helpful in the by-laws to specify the duties of the relations among both the officers of the board and the staff. Contingency provisions are important so that the work of the board can proceed in the event of unavoidable absence (this is currently not applicable in the Village of South Glens Falls).

⁴ It is not unusual for planning board members to forget that a hearing is designed to obtain testimony from the applicant and the members of the public, while a meeting of the planning board is one where cases are deliberated and decided. By-laws must clearly establish and reinforce separate procedures for hearings and meetings.

South Glens Falls Planning Board shall meet regularly once every month (currently second Wednesday of each month at 7:00 p.m.). Planning Board Meetings shall be conducted according to Roberts Rules of Order.

- Emergency meeting – in the event of a true emergency, the chairperson, with the assent of a majority of the citizen planning board members contacted by telephone, may call an emergency meeting without notice; such meeting is open to the public; publicly-accessible minutes shall carry specific justification for such meeting.⁵
- Executive meeting – a noticed official meeting, closed to the public, whose topics of deliberation are truly confidential in nature; there shall be neither deliberation nor vote on agenda items before the board.

Article 8: ORDER OF A PUBLIC HEARING⁶

1. Sign-in sheets by agenda items, listing printed name, signature, and address of persons wishing to testify.
2. Call to order and determination of quorum.
3. Presentation by the staff (code enforcement or other appointed Village official) summarizing the item.
4. Testimony of agencies related to the item.
5. Presentation by the applicant.
6. Testimony of the proponents.
7. Testimony of the opponents.
8. Concluding comments of the applicant.
9. Concluding comments of the staff.
10. Request of the Chairperson for a motion to close the public hearing.

Article 9:

ORDER OF A REGULAR MEETING

7:00 P.M. PLANNING BOARD AGENDA DATE

FOR REGULAR MEETING

DAY

1. Chairman's call to order and determination of quorum
2. Review agenda addition(s) and correspondence.
3. Review and approve a presentation of minutes for previous Public Meeting.
4. Review(s) site plans/referrals in Progress:
 - a) Matters regarding the comprehensive plan,

⁵ Provision should be made for calling emergency meetings. Such a provision reduces public suspicions and avoids contentious disputes about how to proceed when emergency action is needed.

⁶ It is very important to follow a prescribed order when holding a public hearing. This serves to ensure equitable and consistent treatment of all applicants. Moreover, it permits interested parties to arrange for such practical matters as time off from work, childcare, and travel to the hearing.

- b) Matters regarding capital improvements,
 - c) Matters regarding subdivision of land,
 - d) Matters regarding zoning of land,
 - e) Matters regarding other regulatory action.
5. Application(s) for Review:
 6. Old Business
 7. New Business
 8. Review correspondence and periodicals.
 9. Review of Planning Board calendar and announcement of future meetings
 10. Request of Chairperson for a motion to adjourn.

Article 10: Form and character of motions⁷

- The form and character of the motions shall conform to those offered within Robert’s Rules of Order, Revised, except as specified below.
- Upon review of the full public record and due deliberation among the members of the planning board, any of its members, except the chairperson, may make a substantive motion. The motion shall include not only direction (Approval, Approval with specified conditions, or Disapproval) but also a recitation of findings which support the motion.
- A second, citing compatible findings shall be required
- Other board members may support the motion with other compatible findings.
- A motion shall die for lack of second.
- Where a motion to disapprove an item has been defeated, a member of the planning board initially in the opposition may make a motion to approve or approve with conditions.

Article 11: Quorum and voting requirements⁸

- A quorum is a majority of the entire board (consisting of five (5) members). Three (3) shall constitute a quorum. To take an action, a majority of the entire board must agree;
- To pass a motion, the vote must be an affirmative majority vote of a fully constituted planning board (a vote of 3 to 0 if 3 are present, a vote of at least 3 to 1 if 4 are present, and a vote of at least 3 to 2 if 5 are present).⁹

⁷ Motions should be brief, clear, and complete. A board should not, for example, simply move approval of a project, but should move approval with specific, stated reasons.

⁸ A suprisingly large number of planning chairpersons do not have a clear sense of their quorum and voting requirements. A question such as “What happens if there is a tie vote?” usually comes up when the case is controversial. To avoid both embarrassment and frustration, clearly specify both quorum and voting requirements in the by-laws.

⁹ In 2001, the NYS Court of Appeals ruled that, when a quorum of the board is present and participates in a vote on an application for a variance, a vote of less than a majority of the board is deemed a denial of the application in the case of *Tall Trees Construction Corp. v. Zoning Board of Appeals of the Town of Huntington*, 96 N.Y. 2d 710, 726 N.Y.S. 2d 373 (2001).

- The Secretary shall take all votes in random order, except that the chairperson shall vote last.
- Abstention from voting shall not be counted in the determination of a motion but shall be recorded.
- In the event of a tie vote, the motion shall have been defeated.
- Where a referral to the county planning board is required (pursuant to General Municipal Law 239-m and n) and the County (an interested party pursuant to SEQRA) recommends denial or modification, the local agency cannot act contrary except by a vote of a majority plus one and must state reasons.

Article 12: Requirements for the submission of requests

- The planning board shall adopt standard forms for the submission of each type of request required for its consideration; such forms shall specify the schedule of submission, form and content of complementary materials, and scale and content of drawings.
- The Chairman of the Planning Board and/or the Code Enforcement Officer shall certify the completeness of the submissions.
- Certified requests shall be fully noticed under requirements of law and agendized on the planning board calendar on the same day.
- The same requests disapproved by the planning board shall not be resubmitted for a period of six months.
- The Village Board has established a fee schedule as part of their annual Organizational Meeting of the Village in order to recover costs associated with notice publication, request processing, agenda, staff report and related materials duplication and distribution. (See site Plan Review section 119-6 and 119-7)
- The Planning Board Chairman and Code Enforcement Officer shall co-ordinate all referrals and application(s) for review. From time to time the village attorney or planning consultant, with any reimbursable costs paid to the Village by the applicant, may review applications for technical matters associated with said applications.
 - a) The applicant shall receive a numbered application
 - b) Site plan review check list
 - c) Any special instruction and/or references to sections of the CodeBook of the Village of South Glens Falls.

Article 13: Instruments and documents of the planning board

- The official instruments of the planning board are the record of notice, the agenda, and the minutes of hearings and meetings. Where in special cases the planning board wishes to provide advice to the legislative body or administrative agency, it may do so by resolution.
- Any and all material submitted to the planning board regarding an item shall be entered into the public record by a motion to “Accept for the record.”
- All notices, agendas, requests, agency or consultant letters or reports, minutes of hearings and meetings and resolutions shall constitute the documents of the planning board and shall be indexed as a matter of public record.

Article 14: Administrative calendar

- Notice for all hearings and meeting shall conform to requirements of law.
- The planning board shall hold an **Annual Meeting (first meeting of the calendar year)** to review both the activities of the previous year [and], decide the work program¹⁰ and publish a calendar showing proposed meeting dates for both village and Saratoga County planning boards¹¹ for the coming year.
- The election of planning board officers for the coming year shall occur at the annual meeting of the planning board. This shall include the Chairman, Vice-Chairman and the Social Chairman.
- The regular meeting schedule for the coming year shall be determined at the annual meeting of the planning board.
- Copies of the agendas, requests, staff reports, and related documents shall be delivered to each planning board member prior to a public hearing and regular meeting.

Article 15: Conduct of the members of the planning board¹²

- **Members of the planning board shall be required to obtain 4 hrs. of training credits each year¹³**
- Members of the planning board shall prepare themselves for hearings and meetings.
- Any citizen member of the planning board absent from three consecutive regular meetings or any four regular meetings within a calendar year, without being excused by the chairperson, may be removed for cause.
- A planning board member with a conflict of interest in an item before the board must state that a conflict of interest exists and withdraw from participation in the public hearing, working session, or regular meeting on that item.¹⁴

¹⁰ Given the sheer number of cases decided by many planning boards, it makes sense to hold an annual meeting to review the previous year and to develop a work program for the coming year. If the by-laws require such a meeting, it will not be forgotten.

¹¹ **Many of the village's site plan reviews require a county referral pursuant to General Municipal Law section 239m & 239n because of real property improvements of commercial uses that are in close proximity to NYS Route 9.**

¹² Defining the proper conduct of the members of the planning board is critical importance in helping to ensure that the public has confidence in the board's integrity. For that reason, the appointment of conscientious citizens is essential. Each planning boarder must retain objectivity in the face of prejudice, impartiality in the face of contentious interests, and reasonableness in the face of strident disputes.

¹³ **Chapter 662, Laws of 2006 Requires that a minimum of four hours of training be received by municipal planning and zoning officials including county planning board members, each year**

¹⁴ Conflicts of interest can be extraordinarily sensitive. If a member of a planning board has declared a conflict of interest, that member should leave the board chambers so as not to have an indirect but undue influence upon deliberations. If a member of a planning board wishes to have personal interests stated, the member should still leave the board chamber, entrusting that presentation to a competent third party.

- The interests of that planning board member may be represented before the planning board by a specifically designated representative or legal agent at the public hearing or working session, and testimony entered into the public record.
- Participation of a planning board member under cloud of a conflict of interest is cause for removal.

Article 16: Conduct of persons before the planning board

- During all public hearings and work sessions, members of the public shall be given equitable opportunity to speak. Comments should be addressed to the item before the planning board. Where a comment is irrelevant, inflammatory, or prejudicial, the chairman may instruct the planning board to “disregard” the comment, which nevertheless remains in the public record.¹⁵
- During all regular and emergency meetings of the planning board, the public may be present but shall remain silent unless specifically invited by the chairperson to provide comment.
- During all planning board proceedings, members of the public have the obligation to remain in civil order. Any conduct which interferes with the equitable rights of another to provide comment or which interferes with the proper execution of the board affairs may be ruled by the chairperson as “out-of-order” and the offending person directed to remain silent. Once having been so directed, if a person persists in disruptive conduct, the chairperson may entertain a motion to “eject” from the planning board hearing or meeting. Where the person fails to comply with the successful motion to eject, the chairperson may then call upon civil authority to physically remove the individual from the chamber for the duration of the hearing or deliberation on the item.¹⁶

Article 17: Separability

- Should any article of the planning board by-laws be found to be illegal, the remaining articles shall remain in effect.

Article 18: Adoption and amendment of the by-laws¹⁷

¹⁵ In order for the work of the planning board to be both impartial and efficient, members of the public should be informed of their responsibilities to each other and to the board in all hearings and meetings. The board must protect the integrity of its deliberations by explicitly disregarding demeaning, hateful, or vulgar language.

¹⁶ While very rare in occurrence, where the conduct of a member of the public interferes with the rights of others or impairs the orderly work of the board, that person may be ejected from the hearing or meeting on the matter.

¹⁷ Planning chairpersons need to remember that their by-laws are a public document. Consideration of any amendment to the by-laws should come only after review by legal counsel and full discussion in public hearing. It is only fair those members of the public, whether future applicants, proponents, or opponents fully understand the rules which guide their conduct before the board.

- By-law adoption or amendment shall be made following review by the legal counsel and public notice.
- The by-laws shall be adopted or amended upon a vote of a majority plus one of the citizen members of the planning board.
- Adoption or amendment of by-laws takes effect immediately following a successful vote.

Having read and understood the Articles of By-laws for the Village of South Glens Falls Planning Board; we the constituted board hereby intends to implement, to the best of our ability, the aforementioned Articles.
