



EXTRAORDINARY
OFFICIAL GAZETTE
THE BAHAMAS
PUBLISHED BY AUTHORITY

NASSAU

10th January, 2011

(A)

TOWN PLANNING COMMITTEE RULES, 2011

Arrangement of Rules

Rules

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**PLANNING AND SUBDIVISION ACT, 2010
(No. 4 of 2010)**

TOWN PLANNING COMMITTEE RULES, 2011

The Minister, in exercise of the powers conferred by section 5(8) of the Planning and Subdivision Act, 2010, makes the following Rules —

PART I

PRELIMINARY

1. Citation.

These Rules may be cited as the Town Planning Committee Rules, 2011.

2. Interpretation.

In these Rules —

“**Act**” means the Planning and Subdivision Act, 2010¹;

“**Chairman**” means the Chairman of the Committee;

“**Committee**” means the Town Planning Committee appointed under section 5(1) of the Act;

“**Department**” means the Department of Physical Planning established under section 6(1) of the Act;

“**Minister**” means the Minister responsible for the Environment.

PART II

TOWN PLANNING COMMITTEE

3. Constitution and procedures of Committee.

(1) The Committee is constituted in accordance with section 5(2) of the Act.

(2) The *Schedule* shall have effect with respect to the procedures of the Committee.

¹No. 4 of 2010.

PART III

HEARINGS BY COMMITTEE

4. Sitting of hearing.

- (1) In accordance with section 37(1) of the Act, the Committee shall hold public hearings to hear and decide on applications for development of land at least once in every month at such times and places within The Bahamas as the Chairman may designate and shall conduct its proceedings in such manner as it may consider most convenient for the efficient and effectual dispatch of its duties.
- (2) The Committee may —
 - (a) impose time constraints on parties appearing before the Committee where time constraints are in the interest of the resolution of matters before the Committee; and
 - (b) give directions to parties with respect to the conduct of a hearing.
- (3) The Committee may schedule a special hearing in addition to a Committee hearing, if so required.
- (4) Unless otherwise directed, the hearing of an appeal shall take place on the island to which the application applies in accordance with the Subdivision and Development Appeal Board Regulations.

5. Right to be heard.

- (1) An applicant and all interested parties shall be given the right to be heard by the Committee and may be represented by counsel or an agent.
- (2) Any person may make written submissions to the Committee before the Committee makes a decision and such submissions shall be considered by the Committee in their determination of the application.
- (3) Within twenty-one days of receiving notice of an application, all relevant referral agencies shall submit comments, if any, on applications made to the Department for circulation to members of the Committee.

6. Technical support.

- (1) Where the Committee is of the opinion that policy advice or planning expertise is required, the Committee may request a representative of the Department to attend the hearing to provide information to assist the Committee in understanding the aspects of an application and in reaching its decision.
- (2) Where the Committee is of the opinion that an outside expert is required, the Committee may request the assistance of an external expert to provide

information to assist the Committee in understanding the aspects of an application and in reaching its decision.

PART IV

DECISIONS OF COMMITTEE

7. Consideration of submissions.

Every submission (whether an objection or representation) —

- (a) made in writing and received by the Department on or before the date stated in the notice; or
- (b) made in person before the Committee during the hearing,

in respect of a proposed development, shall be considered by the Committee in its deliberation of the application.

8. Committee to act judicially.

In considering whether or not to issue approval under the Act, the Committee shall hear the application in as judicial a manner as possible having regard to all the circumstances of the particular application.

9. Decisions of Committee.

- (1) The Committee may exercise any power conferred on it under the Act or under any other Act.
- (2) The Committee shall orally render its decision at the conclusion of a hearing of an application and where approval has been granted, the Committee shall state the conditions, if any, which have been imposed.
- (3) Notwithstanding paragraph (2), the Committee may refer the rendering of an oral decision at the conclusion of a hearing of an application.
- (4) The Committee shall within seven days of its decision, give written notice of its decision and any conditions imposed to the Department, the applicant and every person or referral agency that made a written request to be notified of the decision.
- (5) All decisions made or issued by the Committee shall be signed by the members presiding.
- (6) The Committee shall cause to be published its decisions in accordance with section 5(9) of the Act and in any other manner in which in its opinion is considered appropriate.
- (7) Where the Committee grants approval to an application, that approval shall be valid for one year from the date on which the approval was given

unless action has been taken by the applicant within the twelve month period to further the necessary approvals for, or development of, the site to which the application applies, failing which the decision shall lapse and become null and void.

- (8) Where the Committee has made a decision which contravenes these Rules, whether through inadvertence or by reason of an error in judgment made in good faith, that decision shall be deemed void and the application shall be reconsidered by the Committee as a new application.
- (9) A decision of the Committee is final and binding, subject only to an appeal to the Subdivision and Development Appeal Board in accordance with section 65 of the Act.

PART V

MISCELLANEOUS MATTERS

10. Documents issued by Committee.

All documents (other than decisions) issued by the Committee shall be signed by the Chairman or acting Chairman.

11. Effect of false information.

The supply of incorrect or false information in the making of an application or presentation to the Committee may result in that application and any decision of the Committee being rendered null and void.

12. Exemption from liability.

- (1) No action, suit, prosecution or other proceeding shall be brought or instituted personally against the Chairman or members of the Committee in respect of any act done *bona fide* in pursuance or execution or intended execution of the provisions of these Regulations.
- (2) No member of the Committee or any of its officers, servants and agents is required to give testimony in any civil suit with regard to information obtained in the discharge of official duty.

13. Minister may appoint experts.

The Minister may from time to time, upon the recommendation of the Committee, appoint one or more experts or persons having technical or special knowledge of matters or subjects within the jurisdiction of the Committee or in respect of any particular matter or subject before the Committee to assist the Committee in an advisory or other capacity.

SCHEDULE

1. Appointment of officers.

- (1) The Committee shall appoint and employ at such remuneration and on such terms and conditions as it thinks fit, a Secretary to the Committee and such officers as it thinks necessary for the proper performance of its functions under the Act.
- (2) The Secretary to the Committee shall —
 - (a) keep a record of all applications and proceedings before the Committee and every decision in relation thereto;
 - (b) keep proper books of record in which shall be entered a true copy of every decision made by the Committee and of every other document that the Committee may require to be entered therein, and such entry constitutes and is the original record of every such decision or document;
 - (c) have the custody and care of all records and documents pertaining to the business of the Committee; and
 - (d) carry out such other functions and duties as may from time to time be assigned.

2. Conflicts of interest.

- (1) Any member of the Committee who —
 - (a) holds an interest, directly or indirectly, in any share, stock or other security of a Bahamian owned public utility;
 - (b) makes use of any privileged information for personal gain or the gain of others; or
 - (c) accepts any remuneration, fee, gift, gratuity or other benefit which could reasonably be considered to influence his decision in respect of the performance of his functions,has a conflict of interest.
- (2) Any member who has a conflict of interest pursuant to paragraph 1(a) shall resolve such conflict by dissolving that interest.
- (3) Any member who has a direct or indirect pecuniary or other personal interest in a matter before the Committee shall declare such interest and —
 - (a) shall immediately leave the meeting or that part of the meeting during which the matter is under consideration;
 - (b) shall not take part in the discussion of the matter;
 - (c) is not entitled to vote on the matter; and

- (d) shall not attempt in any way, whether before, during or after the meeting, to influence the voting on any question in respect of the matter.
- (4) When a declaration pursuant to paragraph (1) is made —
 - (a) the secretary shall record the member's declaration, and
 - (b) the Chairman shall ensure that the member is not present at the meeting during which time the matter is under consideration or at the time of any vote on the matter.
- (5) A member of the Committee who contravenes paragraph (1) or (3) is disqualified from continuing to hold office as a member unless the contravention was done through inadvertence or of an error in judgement made in good faith, such to be determined by the Minister.

3. Resignation of member.

The Chairman or any member of the Committee may at any time resign office by instrument in writing addressed to the Minister and from the date of the receipt by the Minister of such instrument the Chairman or member shall cease to be a member.

4. Remuneration.

There shall be paid to the members of the Committee such remuneration (whether by way of honorarium, salary, fees or allowances), as the Minister may determine.

5. Revocation of appointment.

The Governor-General may at any time by instrument in writing revoke the appointment of any member if such member —

- (a) becomes of unsound mind or becomes permanently unable to perform his functions by reason of ill health;
- (b) is convicted and sentenced to a term of imprisonment;
- (c) fails without reasonable excuse to carry out any of the functions conferred or imposed on him under the Act or these Regulations; or
- (d) engages in such activities as are reasonable considered prejudicial to the interest of the Committee.

6. Gazetting of membership.

The names of all members of the Committee as first constituted and every change thereafter shall be published in the Gazette.

7. Protection from liability.

No. member of the Committee or any of its officers, servants or agents shall be —

- (a) required to give testimony in any civil suit with regard to information obtained in the discharge of official duty;
- (b) personally liable for anything done under the authority of this or any other Act.

Made this 4th day of January, 2011.

Signed
EARL D. DEVEAUX
Minister responsible for the Environment