

# General Provisions

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## ARTICLE 2 ORDINANCE PREPARATION

This document is provided to establish a standardized procedure for the preparation of ordinances, review by appropriate groups, presentation at a Town Meeting and preparation of a final document for insertion in the Farmingdale Code of Ordinances. This document is an effort to attempt, wherever possible, to standardize the form and format of numerous ordinances. However, certain documents, especially those prepared by the state or federal governments, may be included in the Code of Ordinances as originally prepared for ease of future reference with the original preparers.

The form and format of draft documents may not necessarily reflect the final presentation filed in the Code of Ordinances. However, compliance with the requested guidelines will standardize the outline of future documents plus minimize the effort to prepare the final document for insertion into the Farmingdale Code of Ordinances. This document may eventually consist of two parts:

- Ordinance Development / Preparation
- Computer Formatted Details. Phase 1 is presented. Phase 2 may be prepared in the future.

### 1. Ordinance Development / Preparation

Ordinances are the means by which a municipality may specify certain requirements or procedures which may be required or unique for that community. An ordinance, or revision to an existing ordinance, may be requested by an individual, group or municipal officials. The Board of Selectmen may require that an individual obtain a petition under certain circumstances; if for no other reason than to assure that sufficiently others share similar concerns to justify the effort to prepare such a request. A request to prepare or revise an ordinance does not make the request a personal or private ordinance to be prepared solely as requested. Normally a request for a new ordinance, or revision to an existing ordinance, shall be accompanied with a written statement expressing what is desired, rationale for the request and available substantiating information to assist in the preparation of a document.

The Farmingdale Planning Board normally reviews requests to prepare or revise an ordinance. Under certain circumstances other Farmingdale Boards may prepare or revise an ordinance due to specialized expertise but with the knowledge of the Planning Board. Upon preparing or reviewing an ordinance it is the responsibility of the Planning Board, as well as other Boards and the Selectmen, to prepare a document which is considered best for Farmingdale. Therefore, a request considered to be a rather minor revision to an ordinance may initiate consideration within the ordinance for revisions or amendments not previously contemplated.

Most ordinances require a public hearing followed by a vote of Farmingdale residents at a scheduled Town Meeting. Under a limited number of circumstances the Board of Selectmen may approve an ordinance; this does not require a public hearing or a vote by the Town's residents. The Planning Board normally conducts the public hearing to address a specific ordinance. The Planning Board may request another Board or others to be available to respond to questions or concerns if the material may be of a specialized nature or technical advice may be desired.

Farmingdale has assembled existing ordinances into a document entitled "Farmingdale Code of Ordinances"; sometimes referred to as the "Farmingdale Code". Unless

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specifically addressed, any official, valid ordinance shall be posted or filed in the “Code of Ordinances”.

## 2. Form & Format.

The format of any proposed ordinance document shall be prepared as follows:

Text. The text shall be Ariel. The size of print shall be 12 pt.

Paragraph structure. Paragraph structure shall be block style.

Margins:

Top	1.0”.
Bottom	0.5”
Left side	1.0”
Right side	0.75”

A. Indents, Final Document. Indents of any final document shall be accomplished only by using the Bulleted Styles.

B. The margins for multiple indents shall be three (3) spaces as noted below (built into the style):

1) Section number:           **Sec. X-XXX** – Using Style FdaleSecX-X

2) Primary subdivision:    1,2,3 - Using Style Fdale1

1) Secondary subdivision: A,B,C from item 1 – Using Style FdaleA

2) Tertiary subdivision:    1),2).3) from item 2 – Using Style FdaleSub1

3) Fourth subdivision:     a),),c) from item 3 – Using Style FdaleSuba

C. Indents, Draft Documents. Indents of any draft document are preferred to be accomplished by using the Bulleted Styles but the use of the “Tab” key may be utilized. The margins for multiple tab indents shall be 0.25” each as noted below:

1) Primary subdivision: 1., 2., 3. (followed by one space). No indent.

2) Secondary subdivision: A., B., C. from item 1. (followed by one space). One (1) Indent of 0.25” total from left margin.

3) Tertiary subdivision: 1), 2), 3) from item 2. (followed by one space). Two (2) indents. Indent 0.50” total from left margin.

4) Fourth subdivision: a), b), c) from item 3. (followed by one space). Three (3) indents. Indent 0.75” total from left margin.

Indent examples:

1. (Primary Subdivision)

2.

3.

A. (Secondary Subdivision)

B.

C.

1). (Tertiary Subdivision)

2).

3).

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- a). (Fourth Subdivision)
- b).
- c).

## D. Format, Final Document:

- 1) Chapter Heading. Using Heading 1. The header's chapter indicator text and footer's page number are dependent on this style.
- 2) Article Numbers. Using Heading 5. The footer's article indicator text is dependent on this style.
- 3) Section Numbers. Using Custom Style FdaleSect1-1, FdaleSect 1-2 and so on. Sometimes these can be stubborn when incrementing past 10 or 100 so using the bold NORMAL style is acceptable. Nothing is dependent on this style.

## E. Format, Draft Document:

F. Chapter, Article and Section numbers are not expected for draft documents.

G. Title of Document: All cap, centered. Example: "**BOARD OF APPEALS**"

- 1) Major Section Title. Initial Cap. All bold. No underline. No period at end.  
Example: "**Sec. X-XXX General Provisions**". Include Section number if known.
- 2) Primary subdivision. (1, 2, 3) No indent. Initial Cap., No underline. Period at end.
- 3) Secondary indent. (A, B, C) Underline of heading acceptable but not necessary.  
Depends on document.
- 4) Exception. Definition names are underlined
- 5) Spaces between sentences; 2

Approved: June 28, 2014

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Sample 1. Board of Appeals Ordinance. **Partial version as prepared.**  
**This is considered an excellent example of a document which is well written.**  
**Suitable for consideration of draft review and at Town Meeting**

## **FARMINGDALE BOARD OF APPEALS ORDINANCE**

### **I. GENERAL PROVISIONS:**

A. Business of the Board shall be conducted in accord with Maine Statutes, Town Ordinances and Roberts' Rules of Order.

B. It shall be the responsibility of the Board to become familiar with all the duly enacted ordinances of the town which it may be expected to act upon as well as with the applicable state statutes.

### **II. APPOINTMENTS:**

A. The Board shall consist of five (5) members appointed by the municipal officers of the Town of Farmingdale for terms of three (3) years.

B. Neither a municipal officer nor his or her spouse may be a member of the Board.

C. Any member of the Board may be removed from the Board, for cause, by the municipal officers before expiration of his or her term, but only after notice and an opportunity for a hearing at which the member in question has an opportunity to refute specific charges against him or her. The term, "for cause" shall include failure to attend four (4) consecutive Board meetings or hearings without sufficient justification, or voting when the member has a "conflict of interest."

D. When there is a permanent vacancy, the Chair shall immediately notify the Town Clerk. The municipal officers shall within 60 days appoint a person to serve for the unexpired term.

### **III. OFFICERS AND DUTIES:**

A. The officers of the Board shall consist of a Chair and an Acting Chairperson, who shall be elected annually by a majority of the Board.

B. CHAIRPERSON. The chairperson shall perform all duties required by law and these by-laws and preside at all meetings of the Board. The Chairperson shall rule on issues of evidence, order, and procedure, and shall take such other actions as are necessary for the efficient and orderly conduct of hearings, unless directed otherwise by a majority of the Board. The Chairperson shall appoint any committees found necessary to carry out the business of the Board.

C. ACTING CHAIRPERSON. The Acting Chairperson shall serve in the absence of the Chairperson and shall have all the powers of the Chairperson during the Chairperson's absence, disability or disqualification.

D. SECRETARY. The Secretary, who shall not be a regular member of the Board, shall keep minutes of all Board proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact. The Secretary shall also arrange proper and legal notice of hearings, attend to correspondence of the Board, and to other duties as are normally carried out by a secretary. The Secretary shall keep a record of all resolutions, transactions,

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correspondence, findings and determinations of the Board, and shall prepare a complete record of each hearing, including: date(s), time(s), place(s) of the hearing(s); subject of the hearing; identification of each participant; any agreements made between parties and the Board regarding procedures; the testimony presented; findings of fact and conclusions; the decision of the Board; and the date of issuance of the decision. All records are public and may be inspected at reasonable times.

## IV. CONFLICT OF INTEREST:

Any question of whether a particular issue involves a "conflict of interest" sufficient to disqualify a member from voting thereon, shall be decided by a majority vote of the members, except the member whose potential conflict is under consideration.

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 (grandfather, father, wife, son, grandson, e.g.) or to his employer or the employer of any member of the person's immediate family.

## V. POWERS AND LIMITATIONS

A. The Board shall have the following powers to be exercised only upon receipt of a written application for variance by the affected landowner or application for appeal by an aggrieved party: A request for a variance is a request to authorize something not allowed in the Farmingdale Code of Ordinances. A request for the appeal is a request for reconsideration of a decision made by others pertaining to the Farmingdale Code of Ordinances.

1. **VARIANCE.** Any person requesting a variance must file an application for such variance, in writing, on a form provided at the Town Clerk's office. The Board may grant a variance only where strict application of Articles VI and VII of the Farmingdale Code of Ordinances would cause undue hardship. The words "undue hardship" as used in this subsection mean:

- a. That the land in question cannot yield a reasonable return unless a variance is granted;
- b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
- c. That the granting of a variance will not alter the essential character of the locality; and
- d. The hardship is not a result of action taken by the applicant or prior owner.

If the Board grants a variance under this section, a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed in its chain of title and indicating the fact that a variance, including any conditions on the variance, has been granted and the date of the granting, shall be prepared in recordable form. This certificate must be recorded in the local registry of deeds within 90 days of the date of the final written approval of the variance or the variance is void. The variance is not valid until recorded.

Notwithstanding the general variance standard provided above, the Board of Appeals may grant a variance to a property owner for the purpose of making that property accessible to a person with a

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Sample 2. Board of Appeals Ordinance.

**Partial version as prepared. Revised partial version to comply with established Form & Format. Suitable for consideration of draft review and at Town Meeting. Section numbers have been added but not expected in draft document.**

## **FARMINGDALE BOARD OF APPEALS ORDINANCE**

### **Sec. 4-701 General Provisions**

1. Business of the Board shall be conducted in accord with Maine Statutes, Town Ordinances and Roberts' Rules of Order.
2. It shall be the responsibility of the Board to become familiar with all the duly enacted ordinances of the town which it may be expected to act upon as well as with the applicable state statutes.

### **Sec. 4-702 Appointments**

1. The Board shall consist of five (5) members appointed by the municipal officers of the Town of Farmingdale for terms of three (3) years.
2. Neither a municipal officer nor his or her spouse may be a member of the Board.
3. Any member of the Board may be removed from the Board, for cause, by the municipal officers before expiration of his or her term, but only after notice and an opportunity for a hearing at which the member in question has an opportunity to refute specific charges against him or her. The term, "for cause" shall include failure to attend four (4) consecutive Board meetings or hearings without sufficient justification, or voting when the member has a "conflict of interest."
4. When there is a permanent vacancy, the Chair shall immediately notify the Town Clerk. The municipal officers shall within 60 days appoint a person to serve for the unexpired term.

### **Sec. 4-703 Officers and Duties**

1. The officers of the Board shall consist of a Chair and an Acting Chairperson, who shall be elected annually by a majority of the Board.
2. Chairperson. The chairperson shall perform all duties required by law and these by-laws and preside at all meetings of the Board. The Chairperson shall rule on issues of evidence, order, and procedure, and shall take such other actions as are necessary for the efficient and orderly conduct of hearings, unless directed otherwise by a majority of the Board. The Chairperson shall appoint any committees found necessary to carry out the business of the Board.
3. Acting Chairperson. The Acting Chairperson shall serve in the absence of the Chairperson and shall have all the powers of the Chairperson during the Chairperson's

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absence, disability or disqualification.

4. Secretary. The Secretary, who shall not be a regular member of the Board, shall keep minutes of all Board proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact. The Secretary shall also arrange proper and legal notice of hearings, attend to correspondence of the Board, and to other duties as are normally carried out by a secretary. The Secretary shall keep a record of all resolutions, transactions, correspondence, findings and determinations of the Board, and shall prepare a complete record of each hearing, including: date(s), time(s), place(s) of the hearing(s); subject of the hearing; identification of each participant; any agreements made between parties and the Board regarding procedures; the testimony presented; findings of fact and conclusions; the decision of the Board; and the date of issuance of the decision. All records are public and may be inspected at reasonable times.

## **Sec. 4-704 Conflict of Interest**

1. Any question of whether a particular issue involves a "conflict of interest" sufficient to disqualify a member from voting thereon, shall be decided by a majority vote of the members, except the member whose potential conflict is under consideration.

2. 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 (grandfather, father, wife, son, grandson, e.g.) or to his employer or the employer of any member of the person's immediate family.

## **Sec. 4-705 Powers and Limitations**

1. The Board shall have the following powers to be exercised only upon receipt of a written application for variance by the affected landowner or application for appeal by an aggrieved party:

2. Variance. A request for a variance is a request to authorize something not allowed in the Farmingdale Code of Ordinances.

A. Any person requesting a variance must file an application for such variance, in writing, on a form provided at the Town Clerk's office. The Board may grant a variance only where strict application of Articles VI and VII of the Farmingdale Code of Ordinances would cause undue hardship. The words "undue hardship" as used in this subsection mean:

- 1) That the land in question cannot yield a reasonable return unless a variance is granted;
- 2) That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
- 3) That the granting of a variance will not alter the essential character of the locality; and
- 4) The hardship is not a result of action taken by the applicant or prior owner.

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Sample 3. Board of Appeals.

**Partial version as prepared. Final partial version included in the Farmingdale Code of Ordinances.**

The following document reflects the final version of the Farmingdale Board of Appeals Ordinance to be enclosed in the Farmingdale Code of Ordinances. The emphasis of this document is to show the final form and format.

## **FARMINGDALE BOARD OF APPEALS ORDINANCE**

### **Sec. 4-701 General Provisions**

1. Business of the Board shall be conducted in accord with Maine Statutes, Town Ordinances and Roberts' Rules of Order.
2. It shall be the responsibility of the Board to become familiar with all the duly enacted ordinances of the town which it may be expected to act upon as well as with the applicable state statutes.

### **Sec. 4-702 Appointments**

1. The Board shall consist of five (5) members appointed by the municipal officers of the Town of Farmingdale for terms of three (3) years.
2. Neither a municipal officer nor his or her spouse may be a member of the Board.
3. Any member of the Board may be removed from the Board, for cause, by the municipal officers before expiration of his or her term, but only after notice and an opportunity for a hearing at which the member in question has an opportunity to refute specific charges against him or her. The term, "for cause" shall include failure to attend four (4) consecutive Board meetings or hearings without sufficient justification, or voting when the member has a "conflict of interest."
4. When there is a permanent vacancy, the Chair shall immediately notify the Town Clerk. The municipal officers shall within 60 days appoint a person to serve for the unexpired term.

### **Sec. 4-703 Officers and Duties**

1. The officers of the Board shall consist of a Chair and an Acting Chairperson, who shall be elected annually by a majority of the Board.
2. Chairperson. The chairperson shall perform all duties required by law and these by-laws and preside at all meetings of the Board. The Chairperson shall rule on issues of evidence, order, and procedure, and shall take such other actions as are necessary for the efficient and orderly conduct of hearings, unless directed otherwise by a majority of the Board. The Chairperson shall appoint any committees found necessary to carry out the business of the Board.
3. Acting Chairperson. The Acting Chairperson shall serve in the absence of the Chairperson and shall have all the powers of the Chairperson during the Chairperson's absence, disability or disqualification.



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4. Secretary. The Secretary, who shall not be a regular member of the Board, shall keep minutes of all Board proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact. The Secretary shall also arrange proper and legal notice of hearings, attend to correspondence of the Board, and to other duties as are normally carried out by a secretary. The Secretary shall keep a record of all resolutions, transactions, correspondence, findings and determinations of the Board, and shall prepare a complete record of each hearing, including: date(s), time(s), place(s) of the hearing(s); subject of the hearing; identification of each participant; any agreements made between parties and the Board regarding procedures; the testimony presented; findings of fact and conclusions; the decision of the Board; and the date of issuance of the decision. All records are public and may be inspected at reasonable times.

## Sec. 4-704 Conflict of Interest

1. Any question of whether a particular issue involves a "conflict of interest" sufficient to disqualify a member from voting thereon, shall be decided by a majority vote of the members, except the member whose potential conflict is under consideration.
2. 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 (grandfather, father, wife, son, grandson, e.g.) or to his employer or the employer of any member of the person's immediate family.

## Sec. 4-705 Powers and Limitations

1. The Board shall have the following powers to be exercised only upon receipt of a written application for variance by the affected landowner or application for appeal by an aggrieved party.
2. Variance. A request for a variance is a request to authorize something not allowed in the Farmingdale Code of Ordinances.
  - A. Any person requesting a variance must file an application for such variance, in writing, on a form entitled "Application for Variance" provided at the Town Clerk's office. Reference is made to "Appendix A" Application for Variance of this Article. The Board may grant a variance only where strict application of Articles VI and VII of the Farmingdale Code of Ordinances would cause undue hardship. The words "undue hardship" as used in this subsection mean:
    - 1) That the land in question cannot yield a reasonable return unless a variance is granted;
    - 2) That the need for a variance is due to the unique circumstances of the property and not to the general conditions in the neighborhood;
    - 3) That the granting of a variance will not alter the essential character of the locality; and
    - 4) The hardship is not a result of action taken by the applicant or prior owner.
    - 5) If the Board grants a variance under this section, a certificate indicating the name of the current property owner, identifying the property by reference to the last recorded deed in its chain of title and indicating the fact that a variance,