



**Department of Land Use**

**RESOURCE PROTECTION AREA TECHNICAL**  
**ADVISORY COMMITTEE (RPATAC)**  
**RULES OF PROCEDURE**

**AUTHORITY AND PURPOSE**

RPATAC is an administrative agent created for the purpose of providing technical support and recommendations to the Department of Land Use concerning certain land use matters. RPATAC is authorized pursuant to New Castle County's Unified Development Code (UDC), Section 40.30.430.

**APPOINTMENT**

Members shall be appointed by the County Executive for a four-year term. The members may be reappointed, and each member shall serve until a successor is appointed.

**MEMBERSHIP CRITERIA**

The Resource Protection Area Technical Advisory Committee (RPATAC) is composed of thirteen members, one representative of each of the following: (UDC, Appendix 6)

- 1) Chemical Industry
- 2) Consulting Engineers' Council
- 3) DNREC
- 4) Delaware Geological Survey
- 5) New Castle County Chamber of Commerce
- 6) New Castle County Department of Land Use
- 7) New Castle County Department of Public Works
- 8) Water Company Representative
- 9) University of Delaware's Water Resources Agency
- 10) Environmental Advocacy Group
- 11) Private Sector Representative
- 12) New Castle Conservation District
- 13) Private Sector Environmental Professional

## **OFFICERS**

The Chair shall be designated by the County Executive. The Chair may designate a Vice-chair, who shall act for the Chair in the Chair's absence. The Chair shall be in charge and take such action as necessary to preserve order and integrity of all proceedings. 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.

## **COMPENSATION**

Committee members are unpaid and donate their time and resources.

## **QUORUM AND VOTING**

A majority of sitting RPATAC members (including those sitting as substitutes to appointed members). All actions shall require a simple majority of the quorum. If a member abstains from voting, that member still counts toward the quorum. If, however, a member recuses himself or herself, that member does not count toward a quorum. If a quorum is lost at any point in the meeting, the meeting cannot continue.

## **SUBSTITUTES**

A member may designate a substitute for up to four (4) meetings in a calendar year. The substitute must meet the same membership criteria as the member.

## **CONDUCT**

RPATAC 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 RPATAC member shall recuse himself or 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.

RPATAC members are prohibited from discussing pending applications among themselves outside of the public hearing. Members shall not engage in discussions with an applicant or his or her representatives regarding applications outside of the public hearing; however, the Department of Land Use representative may communicate with the applicant or his or her representative concerning application requirements and deficiencies.

## **FUNCTION**

The functions and duties of RPATAC may be adjusted periodically and include the following.

- A. Provide technical support and recommendations to the Department of Land Use concerning the technical definition and criteria of any resource protection area or level as depicted in Table 40.10.010.

- B. Advise the Department of Land Use when it is determined that environmental standards contained in Article 10 should be amended.
- C. Provide technical support and recommendations to the Department of Land Use, Board of Adjustment and Planning Board concerning any application concerning an Article 10 standard.
- D. Advise the Department of Land Use when the RPATAC determines that Article 10, or any regulations, interpretations or policies promulgated pursuant to Article 10, should be amended.
- E. Assist the Department of Land Use as requested.
- F. Provide technical support, review and recommendations on all floodplain variance applications and variance applications concerning the reduction of the required open space ratio (OSR) for major residential land developments depicted in Table 40.04.110.
- G. Upon the request of the Department of Land Use, RPATAC shall provide recommendations regarding application of the standards to rezoning, subdivision, and land development submissions relative to any issue involving a protected resource.
- H. Provide technical support and recommendations to the Department of Land Use concerning the transfer of development rights from one water resource protection area (WRPA) to another.

## **NOTICE AND MEETING REQUIREMENTS**

All meetings and public hearings shall be open to the public. The Department of Land Use will provide notice in accordance with the UDC Section 40.31.340. The Department of Land Use shall keep a record of RPATAC proceedings and recommendations.

## **CONTINUANCE**

An applicant may seek a continuance of a scheduled public hearing in accordance with the UDC Section 40.31.350. When requesting a continuance, the applicant shall be considered to have waived its right to the issuance of a recommendation report within 45 days from the date of filing its variance application.

## **PUBLIC HEARINGS**

The primary purpose of the RPATAC hearing is to, further evaluate pending applications through a presentation of the environmental impact assessment and responses to questions of the applicant, and to receive comments from the public. RPATAC 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.

Regularly scheduled hearings will be held at a time and location agreeable to RPATAC and Department of Land Use. Notice of time, location, and subject of discussion shall be given in accordance with applicable laws and/or regulations and shall be open to the public. Meetings may be held virtually.

## **SPEAKER TIME LIMITS**

Following the reading of the title and a description of each agenda item, the Department of Land Use shall provide a brief summary of the application, the environmental impact assessment and any pertinent revisions that occurred as a result of the submission process.

The applicant (or representative) is then given a total of fifteen minutes for a presentation of their proposed land development application, their environmental impact assessment, and relevant remarks.

Following the applicant's presentation RPATAC members may ask questions of the applicant. Members shall address the Chair and wait to be recognized before proceeding to question the applicant.

The public will then be invited to provide comment on the application. Each speaker will address RPATAC and is allowed one opportunity to comment on each application. Speakers are limited to five minutes and speakers may not yield their unused time to another speaker. RPATAC members shall refrain from debating with any speaker but may ask questions. Speakers are limited to a two-minute response.

Following the last public comment speaker, the applicant will be given fifteen minutes to respond to issues raised by speakers.

## **RECOMMENDATIONS**

Once the applicant has concluded his or her presentation and answered any RPATAC members' questions, a motion shall be made and seconded by a member. Motions should refer to the Department of Land Use's assigned application number. Examples:

- *"I move to recommend approval (or denial) of Application Number \_\_\_\_."*
- *"I move to recommend approval of Application Number \_\_\_\_ subject to the following conditions."*
- *"I move to continue Application Number for the applicant to supplement their EIA with the following data, so that RPATAC is able to render a Recommendation."*

Once a motion has been made and seconded, only RPATAC members may participate in a discussion on the motion. If, during the Committee's discussion, a member wishes to ask the Department of Land Use or the Applicant a question, that member shall first address the Chair and wait to be recognized by the Chair before proceeding.

All votes on the motion shall be by roll-call vote of all members present. The result of the vote on the motion shall constitute RPATAC's recommendation on the application. A tie vote or failure to take action shall constitute a recommendation for a denial of the motion. All recommendations shall be accompanied by a written summary of the recommendations that will

be submitted to the Department of Land Use, the Board of Adjustments, or Planning Board, as appropriate for the subject matter.

### REQUIREMENTS FOR REVIEW OF ARTICLE 10 VARIANCE REQUESTS

Unless waived by an applicant, RPATAC shall issue its recommendation report within forty-five (45) days from the date of the filing of a variance application seeking relief from a UDC Article 10 provision.

### RULES OF ORDER

All committee meetings and hearings shall be conducted pursuant to Robert's Rules of Order and these Rules of Procedure. The Chair and Vice-chair are voting members and may participate in all discussions. The order of business at regular committee meetings shall include the following:

- a. Call to Order
- b. Roll Call
- c. Old Business
- d. New Business
- e. Comments from Public
- f. Adjournment

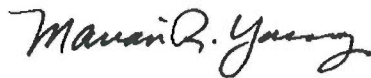
### SUB-COMMITTEES

Subcommittees may be established at the discretion of 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 RPATAC shall be appointed to serve on the subcommittee.

The Chair shall be an ex-officio member of each sub-committee; however, the Chair may appoint him/herself to any sub-committee.

### RULES OF PROCEDURE AMENDMENTS

RPATAC shall, by a majority vote of the membership and with the consent of the County Executive, adopt rules of procedure for the transaction of business. Amendments shall be adopted by a majority vote of RPATAC and not become final until approved by the County Executive.



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Marian Young  
Chair, RPATAC


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June 3, 2021  
Date



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Matthew Meyer  
County Executive



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June 16<sup>th</sup>, 2021  
Date