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**RULES OF PROCEDURE  
AND CONFLICT OF INTEREST POLICY**

**UNDERHILL PLANNING COMMISSION**

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**Adopted May 16, 2012**

Readopted March <sup>4<sup>th</sup></sup>1 2015

# **Rules of Procedure and Conflict of Interest Policy**

## **Section I: Authority.**

The Planning Commission of the Town of Underhill hereby adopts the following rules of procedure (hereinafter referred to as these Rules) in accordance with 24 V.S.A. §4323(b).

## **Section II: Policy.**

These Rules are adopted to ensure orderly and efficient public proceedings, consistent and fair treatment of participants and interested persons, and compliance with state and federal law. These Rules shall also ensure that no Planning Commission member will gain a personal or financial advantage from his or her work for the Planning Commission, so that the public trust in municipal government will be preserved.

## **Section III: Definitions.**

- A. "Commission" means the Planning Commission of the Town of Underhill.
- B. "Conflict of interest" means any one of the following:
  - 1. A direct or indirect personal interest of a Planning Commission member, his or her spouse, household member, child, stepchild, parent, grandparent, grandchild, sibling, aunt or uncle, brother or sister in law, business associate, employer or employee, in the outcome of a cause, proceeding, application or any other matter pending before the Planning Commission of the Town of Underhill.
  - 2. A direct or indirect financial interest of a Planning Commission member, his or her spouse, household member, child, stepchild, parent, grandparent, grandchild, sibling, aunt or uncle, brother or sister in law, business associate, employer or employee, in the outcome of a cause, proceeding, or any other matter pending before the Planning Commission of the Town of Underhill.
  - 3. A situation where a Planning Commission member has publicly displayed a prejudgment of the merits of a particular proceeding before the Planning Commission. This shall not apply to a member's particular political views or general opinion on a given issue.
  - 4. A situation where a Planning Commission member has not disclosed ex parte communications with a party in a proceeding before the Planning Commission.
- C. "Executive session" means a session of a public body from which the public is excluded, pursuant to 1 V.S.A. §313. Such private session may only be held for one of the reasons permitted by the statute, and no binding action may be taken in executive session.
- D. "Ex parte communication" means direct or indirect communication between a member and any party, party's representative, party's counsel, or any person interested in the outcome of any

proceeding before the Commission, that occurs outside of a public proceeding, and concerns the substance or merits of the proceeding.

- E. "Member" means a member of the Planning Commission of the Town of Underhill.
- F. "Official act or action" means any legislative or administrative act performed by any Planning Commission member.
- G. "Public deliberations" means the weighing, examining, and discussing, in a public proceeding, the reasons for and against an act or decision, but expressly excludes the taking of evidence and the arguments of parties.
- H. "Recuse" means to remove oneself from a particular Planning Commission proceeding because of a real or perceived conflict of interest.

#### **Section IV: Members and Officers.**

The Planning Commission shall consist of nine (9) regular members. Members of the Commission shall be appointed by, and any vacancy filled, by the Selectboard. Members shall be appointed for a four-year term. After Town Meeting but prior to May 1, or at other times throughout the year as needed, the Planning Commission shall hold an organizational meeting and elect by majority vote a Chair, Vice Chair, and Clerk.

- A. The Chair shall preside at all meetings, hearings, and executive sessions, decide all points of order or procedure, and appoint members to any committee of the Planning Commission. The Chair may administer oaths and may request the attendance of witnesses and the production of material germane to any issue under consideration.
- B. The Vice Chair shall assume the duties of the Chair whenever the Chair is absent, or at the Chair's request. A member who is not Chair or Vice Chair, and who is so voted by the membership shall assume such duties whenever the Chair and the Vice Chair are absent, or at their request.
- C. It shall be the duty of all members to review the minutes and other official records of Planning Commission meetings and actions, and correct and ratify these when appropriate and necessary.
- D. The Clerk or designee shall take minutes of all meetings.

#### **Section V: Duties.**

The Planning Commission shall have all powers granted municipal planning commissions under the general laws of the State of Vermont, including, but not limited to the following:

- A. To prepare a Municipal Comprehensive Plan and amendments thereof for consideration by the Selectboard and to review any amendments thereof initiated by others, as set forth in subchapter 5 of 24 V.S.A. Chapter 117;

- B. To prepare and present to the Selectboard proposed bylaws and make recommendations to the Selectboard on proposed amendments to such bylaws as set forth in subchapter 6 of 24 V.S.A. Chapter 117;
- C. To undertake capacity studies and make recommendations on matters of land development, urban renewal, transportation, economic and social development, urban beautification and design improvements, historic and scenic preservation, the conservation of energy and the development of renewable energy resources and wetland protection. Data gathered by the Planning Commission that is relevant to the geographic information system (GIS) shall be compatible with, useful to, and shared with that system;
- D. To review and present findings on a recommended capital budget and program for a period of five years, as set forth in §4440 of 24 V.S.A. Chapter 117, for action by the Selectboard, as set forth under §4443 of 24 V.S.A. Chapter 117; comments will be made annually.
- E. To hold public meetings;
- F. To require from other departments and agencies of the Town such available information as relates to the work of the Planning Commission;
- G. To enter upon land to make examinations and surveys in the performance of its functions;
- H. To participate in regional planning programs;
- I. To retain staff and consultant assistance in carrying out its duties and powers;
- J. To undertake comprehensive planning, including related preliminary planning and engineering studies;
- K. To perform such other acts or functions as it may deem necessary or appropriate to fulfill the duties and obligations imposed by, and the intent and purpose of, 24 V.S.A. Chapter 117;
- L. To perform any other duties which may be assigned to it by the Selectboard;
- M. To establish sub-committees to carry out its work; and
- N. To advocate for, monitor, and actively engage in the implementation of the Comprehensive Plan.

#### **Section VI: Signature.**

The Chairperson's signature shall be the official signature of the Commission and shall appear on all applicable documents pertaining to actions of the Commission which were made at meetings of the Commission when the Chairperson was present and presiding. The Vice Chairperson's or acting Chairperson's signature shall appear on all documents pertaining to actions of the Commission which were made when the Chairperson was not present or when the Chairperson was not presiding.

#### **Section VII: Regular and Special Meetings and Staff Support.**



Regular meetings shall be held in the Underhill Town Hall, or at other locations as the Planning Commission decides, at 6:30 p.m. on the first and third Wednesdays of the month, or as warranted. The Chair may cancel meetings at any time.

- A. Special meetings may be called by the Chair, provided at least 24 hours notice is given to each member and the time and place of each special meeting is publicly announced at least 24 hours before the meeting. In the absence of the Chair, three members may call a special meeting.
- B. A quorum shall consist of a majority of the entire Planning Commission.
- C. Members may participate by telephone as long as the absent member can hear everything that is occurring at the meeting and everyone present at the meeting can hear the Planning Commission member.
- D. All meetings shall be open to the public unless the Planning Commission has entered an executive session. The Planning Commission may only hold an executive session pursuant to the reasons permitted by 1 V.S.A. § 313, and only after a majority vote to enter executive session.
- E. There shall be an agenda for each meeting. Those who wish to be added to the agenda shall contact the Underhill Zoning & Planning Office to arrange for a convenient time. The Chair shall determine the content of the agenda after consultation with the Underhill Zoning & Planning Office.
- F. All business shall be conducted in the same order as it appears on the agenda, except that by majority vote, the Chair may alter the order of items to be considered and/or allot time for the consideration of the item.
- G. The Chair shall rule on all questions of order or procedure and shall enforce these rules pursuant to 1 V.S.A. § 312.
- H. At each meeting, there shall be time reserved for public comment. The Chair may extend or reduce this period of time as necessary. Speakers may participate at other times throughout a meeting but only when recognized by the Chair. Such comment shall be limited to three minutes per speaker, unless by majority consent the Planning Commission sets a different time limit. The Planning Commission shall apply consistent time limits to all recognized to speak.
- I. Notice for hearings on the adoption, amendment, or repeal of the bylaw and other regulatory tools shall be pursuant to 24 V.S.A. § 4444, as amended.
- J. The Planning Administrator, or his/her designee, who shall not be a member of the Commission, shall be the Administrative Officer for the Planning Commission. In that role, the Administrative Officer shall be responsible for the orderly and efficient administrative processes concerning the Commission's function and have the following duties:
  - 1. Conduct research, compile reports, and provide guidance to the Commission on potential projects, grant opportunities, updates to the Town Plan and local regulations, etc.;
  - 2. Conduct official correspondence subject to these rules and at the direction of the Commission;

3. Issue forms, compile information, maps, and records for the Commission's review;
4. Send out notices required by law and these rules of procedure;
5. Inform persons who come before the Commission of these rules of procedure and the laws or bylaws which pertain to that person's appearance before the Commission;
6. Receive and maintain minutes and records of examination and other official actions.

#### **Section VIII: Public Hearings and Order of Business.**

Public hearings conducted pursuant to 24 V.S.A. § 4384 or 24 V.S.A. § 4444, or hearings conducted for any other purpose, shall be publicly noticed in accordance with applicable state law. Any such hearings shall not exceed three hours in length unless approved by a majority of members present.

The Chair shall conduct the hearing in the following manner:

- A. Open the hearing by reading the warning of the hearing.
- B. Review the order of events, remind all present that the proceeding will be conducted in an orderly manner, and make copies of these Rules available.
- C. Request disclosure of conflicts of interest and ex parte communications.
- D. Invite Staff and/or consultants to present information about the subject of the hearing.
- E. Invite members of the public to present testimony and/or other information regarding the subject of the hearing.
- F. Invite questions or comments from members of the Planning Commission.
- G. Upon motion and majority approval, the Chair shall either adjourn the hearing to a time certain, or close the proceedings.

#### **Section IX: Conflicts of Interest.**

All members of the Planning Commission shall abide by these rules. No disqualified member shall preside at a hearing or be counted by the Commission in establishing the required quorum. If the Chairperson is disqualified, the Vice Chairperson shall preside. In the event the Vice-Chairperson is unable to preside, a majority of the remaining Commission shall appoint an Acting Chairperson for the proceeding. Participation, disclosure of conflicts, and recusal shall be governed by the following procedures:

- A. **Participation.** A Planning Commission member shall not participate in any official action where he or she has a conflict of interest in the matter under consideration. A Planning Commission member shall not, personally or through any member of his or her household, business associate, employer or employee, represent, appear for, or negotiate in a private capacity on behalf of any person or organization in any proceeding pending before the Planning Commission.

- B. **Disclosure.** At all hearings, the Chair shall request that Planning Commission members disclose all potential conflicts of interest. When recognized by the Chair, any interested person may request disclosure of potential conflicts of interest.

Nonetheless, after disclosing a conflict or perceived conflict, if a member who believes that he or she is able to act fairly, objectively, and in the public interest, they shall submit a one-paragraph statement describing the matter under consideration, the nature of the potential conflict of interest, and the reason(s) why the member believes he or she is able to act in the matter fairly, objectively, and in the public interest.

This statement shall be signed by the member, and filed as part of the minutes of the proceeding pertaining to the matter under consideration.

- C. **Recusal.** A Planning Commission member shall recuse him or herself from any matter in which he or she has a conflict of interest, pursuant to the following:

1. The applicant or any interested person may request that a member recuse him or herself due to a conflict of interest. Such request shall not constitute a requirement that the member recuse him or herself.
2. A Planning Commission member who has recused him or herself from a proceeding shall not sit with the Planning Commission, deliberate with the Planning Commission, or participate in that proceeding as a Planning Commission member in any capacity.
3. If a previously unknown conflict is discovered, the Planning Commission may take evidence pertaining to the conflict, and if appropriate, adjourn to a short Executive session to address the conflict.
4. The Planning Commission may adjourn the proceedings to a time certain if, after a recusal, it may not be possible to take action through the concurrence of a majority of the Planning Commission. The Planning Commission may then resume the proceeding with sufficient members present.
5. If a member is unsure whether a conflict of interest exists, the member shall disclose the potential conflict and the Planning Commission shall determine whether the member may participate in the proceeding.

#### **Section X: Progressive Consequences for Failure to Follow the Conflict of Interest Procedures.**

In cases where the conflict of interest procedures in Section IX have not been followed, the Planning Commission may take progressive action to discipline an offending Planning Commission member. In the discipline of a member, the Planning Commission shall follow these steps in order:

- A. The Chair shall meet informally, in private, with the Planning Commission member to discuss possible conflict of interest violation.
- B. The Planning Commission may meet to discuss the conduct of the Planning Commission member. Executive session may be used for such discussion. 1 V.S.A. § 313(4). The Planning Commission



member may request that this meeting occur in public. If appropriate, the Planning Commission may admonish the offending Planning Commission member in private.

#### Section XI: Removal.

Upon majority vote, the Planning Commission may request that the legislative body remove a Planning Commission member from the Planning Commission. Planning Commission members may be removed for cause by the legislative body upon written charges and after public hearing. 24 V.S.A. § 4460(c). Planning commissioners may be removed at any time by unanimous vote of the legislative body. 24 V.S.A. § 4323(a).

#### Section XVII: Amendments.

These rules may be amended at any regular or special meeting by a majority vote, provided that each Planning Commission member has been presented a written copy of the proposed amendment at least 24 hours before the meeting at which the vote is taken. Only those amendments which are presented to the members prior to the meeting may be amended at that meeting.

#### Section XVIII: Adoption.

These rules of procedure were adopted by the Underhill Planning Commission pursuant to the requirements of 24 V.S.A. §4323.

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|---------------------------|----------------|
| <u>Cynthia T. Seagull</u> | <u>3/18/15</u> |
| Chair                     | Date           |
| <u>Daniel Edman</u>       | <u>3/4/15</u>  |
|                           | Date           |
| <u>Robert Vaughan</u>     | <u>3/4/15</u>  |
|                           | Date           |
| <u>Edw. Adams</u>         | <u>3/4/15</u>  |
|                           | Date           |
| <u>Carolyn Sager</u>      | <u>3/4/15</u>  |
|                           | Date           |

|                          |               |
|--------------------------|---------------|
| <u>William D. Patton</u> | <u>3/4/15</u> |
| Vice Chair               | Date          |
| <u>Ken C. Fenske</u>     | <u>3/4/15</u> |
|                          | Date          |
|                          | Date          |
|                          | Date          |