

# TOWN OF GEORGIA PLANNING COMMISSION

## Rules of Procedure and Conflict of Interest Policy

### Section I: Authority.

The Planning Commission of the Town of Georgia hereby adopts the following rules of procedure (hereinafter referred to as these Rules) in accordance with 24 V.S.A. § 4461(a) and 1 V.S.A. §§ 312(e), (f), and (h).

### Section II: Policy.

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

### Section III: Definitions.

- A. "Commission" means the Planning Commission
- B. "Commissioner" means a regular member of the Planning Commission.
- C. "Conflict of interest" means any one of the following:
  - 1. A direct or indirect personal interest of a commissioner, 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 commission.
  - 2. A direct or indirect financial interest of a commissioner 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 commission.
  - 3. A situation where a commissioner has publicly displayed a prejudgment of the merits of a particular proceeding before the commission. This shall not apply to a member's particular political views or general opinion on a given issue.
  - 4. A situation where a commissioner has not disclosed ex parte communications with a party in a proceeding before the commission, pursuant to Section XII of these Rules.

- D. "Deliberative session" means a private session of the commission to weigh, examine, and discuss the reasons for and against an act or decision, from which the public is excluded. There shall be no taking of evidence nor submission of testimony, nor shall a deliberative session be publicly noticed. The commission may enter deliberative session by majority vote, and shall be deemed to be in deliberative session from the close of the final public hearing until the issuance of a written decision.
- E. "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.
- F. "Ex parte communication" means direct or indirect communication between a member of an appropriate municipal panel and any party, party's representative, party's counsel or any person interested in the outcome of any proceeding before the panel, that occurs outside of a public proceeding, and concerns the substance or merits of the proceeding.
- G. "Official act or action" means any legislative, administrative or quasi-judicial act performed by any commissioner.
- H. "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.
- I. "Recuse" means to remove oneself from a particular commission proceeding because of a real or perceived conflict of interest.

#### **Section IV: Regular Officers.**

The Planning Commission shall consist of seven regular members. After Town Meeting but prior to May 1, or at other times throughout the year as needed, the 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 deliberative sessions, decide all points of order or procedure, and appoint members to any committee of the 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. The Clerk 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 commissioners 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 Secretary shall take minutes of all meetings.

## **Section V: Regular and Special Meetings.**

Regular meetings shall be held in the Town Office or Town Library at 7 p.m. on the second and fourth Tuesdays of the month, or as warranted. The Chair may cancel meetings at any time. Meetings shall not exceed three hours in length unless approved by a majority of members present.

- 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.
- B. A quorum shall consist of a majority of the entire 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 absent commissioner.
- D. All meetings shall be open to the public unless the commission has entered a deliberative or executive session. The 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, with time allotted for each item or group of items to be considered. Those who wish to be added to the agenda shall contact the Planning Assistant to arrange for a convenient time. The Chair shall determine the content of the agenda after consultation with Planning Assistant
- 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 the time allotted.
- 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).
- H. At each meeting, there shall be a ten minute period of time reserved for public comment near the end of the meeting. 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 commission sets a different time limit. The 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.

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

Public hearings shall be conducted as quasi-judicial proceedings pursuant to 1 V.S.A. § 310(5)(B). Hearings shall be publicly noticed in accordance with 24 V.S.A. §§ 4464(a)(1), (2), as amended.

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. Direct the applicant or his/her representative and all parties interested in the application to step forward and take the following oath: *I hereby swear that the evidence I give in the cause under consideration shall be the whole truth and nothing but the truth so help me God (or, under the pains and penalties of perjury).*
- E. Accept written information presented to the commission.
- F. Invite the applicant or applicant's representative to present such application or proposal.
- G. Invite commissioners to ask questions of the applicant or applicant's representative and Planning Assistant.
- H. Invite all parties interested in the application to present information regarding the application or proposal.
- I. Invite the applicant, applicant's representative, and/or all parties interested in the application to respond to information presented.
- J. Invite more questions or comments from members of the commissioners.
- K. Allow final comments or questions from the applicant or applicant's representative.
- L. Upon motion and majority approval, the Chair shall either adjourn the hearing to a time certain, or close the proceedings by stating that this is the final public hearing on the matter.
- M. Upon final adjournment, the commission shall be deemed to be in deliberative session until a written decision is issued.

## **Section VII: Site Visits.**

Site visits shall be open to the public; however, no testimony shall be taken and no ex parte communication shall occur. Site visits shall be held pursuant to the following conditions:

- A. If, prior to a hearing, the Chair determines that a site visit will be necessary, the site visit shall be scheduled immediately prior to a public hearing. Such site visits shall be publicly noticed in accordance with 24 V.S.A. §§ 4464(a)(1), (2).
- B. If necessary, the commission may recess a hearing and conduct a site visit at a property which is the subject of an application before the commission.
- C. If necessary, the commission may adjourn a hearing to a time certain to conduct a site visit at a property which is the subject of an application before the commission.
- D. The minutes of the proceeding shall reflect that a site visit was held, who was present, and the nature and duration of the site visit.

## **Section VIII: Service List.**

Planning Assistant shall create a list of individuals present at the hearing. The list shall include those who participated orally and those who participated in writing. All decisions of the commission shall be mailed to those on the list.

The list shall include:

- A. The names of those who participated.
- B. The mailing address of each of these persons.

## **Section IX: Decisions.**

The commission shall make decisions in deliberative session. Deliberative sessions are not open to the public and shall not be warned. 1 V.S.A. §§ 312(e), (f). Members of the commission who have not heard all testimony and reviewed all evidence submitted for a particular application or proposal shall not participate in that proceeding. Absent commissioners may review audiotapes of the proceedings, subject to the consent of the applicant and all interested persons. The following rules shall apply to voting on decisions:

- A. Motions shall be made in the affirmative.
- B. The chair has the same voting rights as other members and can make motions.
- C. No second shall be required for a motion to have the floor.
- D. All members present are expected to vote unless they have recused themselves.

- E. Abstentions are strongly discouraged and shall not count towards either the majority or the minority.
- F. For a motion to pass, it must receive the concurrence of a majority of the entire board, regardless of how many are present. 1 V.S.A. § 172; 24 V.S.A. § 4461(a).
- G. The commission shall issue a written decision within 45 days of the final public hearing.
- H. A commissioner absent from a public hearing must either be present for the deliberative session or participate by speaker phone during the deliberative session to participate in the vote. If the commissioner participates by phone all present commissioners must be able to hear the absent member and the absent member must be able to hear all commissioners.

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

Participation, disclosure of conflicts, and recusal shall be governed by the following procedures:

- A. **Participation.** A commissioner shall not participate in any official action where he or she has a conflict of interest in the matter under consideration. A commissioner 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 commissioners 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, 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 commissioner 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 commissioner who has recused him or herself from a proceeding shall not sit with the commission, deliberate with the commission, or participate in that proceeding as a commission member in any capacity.

3. If a previously unknown conflict is discovered, the commission may take evidence pertaining to the conflict, and if appropriate, adjourn to a short deliberative session to address the conflict.
4. The 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 commission. The commission may then resume the proceeding with sufficient members present.

### **Section XI: Ex Parte Communications.**

Ex parte communication is prohibited. Any commissioner who inadvertently conducts ex parte communication must disclose such communication as required below.

- A. **Disclosure.** At each hearing, the Chair shall request that members disclose any ex parte communications. Commissioners who have received written ex parte communications shall place on the record copies of all written communications received as well as all written responses to those communications. Commissioners shall prepare a memorandum stating the substance of all oral communications received, all responses made and the identity of each person making the ex parte communication.

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

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

- A. The Chair may meet informally with the commissioner to discuss possible conflict of interest violation.
- B. The commission may meet to discuss the conduct of the commissioner. Executive session may be used for such discussion. 1 V.S.A. § 313(4). The commission may request that this meeting occur in public. If appropriate, the commission may admonish the offending commissioner in private.
- C. If the commission decides that further action is warranted, the commission may admonish the offending commissioner at an open meeting and reflect this action in the minutes of the meeting. The commissioner shall be given the opportunity to respond to the admonishment.
- D. Upon majority vote, the commission may request that the offending commissioner resign from the commission.

**Section XIII: 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.

Dated at Georgia, Vermont, this \_\_\_\_\_ day of \_\_\_\_\_ 2006.

Approved by:

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Carrie Violette, Chair

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Paul Jansen, Vice Chair

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George Bilodeau, Clerk

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Tony Heinlein

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Brian Biron

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Fred Grimm

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Bill Bulter