
TOWN OF CHARLOTTE

PLANNING COMMISSION

RULES OF PROCEDURE

AND

ETHICS MANUAL

Adopted March 16, 2006

CHARLOTTE PLANNING COMMISSION

Rules of Procedure and Conflict of Interest Policy

Section I: Authority.

The Planning Commission [PC] of the Town of Charlotte 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 board member will gain a personal or financial advantage from his or her work for the board, so that the public trust in municipal government will be preserved.

Section III: Definitions.

- A. “Board” or “Commission” means the Planning Commission [PC].
- B. “Board member” or “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 board 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 PC.
 - 2. A direct or indirect financial interest of a board 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 PC.
 - 3. A situation where a board member has publicly displayed a prejudgment of the merits of a particular proceeding before the board. This shall not apply to a member’s particular political views or general opinion on a given issue.
 - 4. A situation where a board member has not disclosed ex parte communications with a party in a proceeding before the board, pursuant to Section XII of these Rules.
- D. “Deliberative session” means a private session of the board to weigh, examine, and discuss the reasons for and against an act or decision, from which the public may be excluded. There

shall be no taking of evidence or submission of testimony, nor shall a deliberative session be publicly noticed. The board may enter deliberative session by majority vote, and shall be deemed to be in deliberative session when discussing an application following the close of the final public hearing until the issuance of a written decision. The board may also, by motion and majority vote, enter deliberative session during a hearing to consider a matter before it.

- 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 the entire board.
- H. “Participation” means making or submitting a verbal or written communication (comment or question) to the Planning Commission at or prior to a public hearing.
- I. “Recuse” means to remove oneself from a particular board proceeding because of a real or perceived conflict of interest.

Section IV: Regular Officers.

The PC shall consist of seven regular members. After Town Meeting but prior to June 1, or at other times throughout the year as needed, the PC shall hold an organizational meeting and elect by majority vote a Chair and Vice Chair.

- A. The Chair shall preside at all meetings, hearings, and deliberations, decide all points of order or procedure, and appoint members to any committee of the board. 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. If both the Chair and Vice Chair are absent, Planning Commissioners present will elect an Acting Chair for that meeting by a majority of those present.
- C. Staff shall take minutes of all meetings.
- D. It shall be the duty of all members to review the minutes of PC meetings, and correct and ratify these when appropriate and necessary. Ratification of minutes will be by a majority of those who were present at the meeting for which the minutes were taken.

Section V: Regular and Special Meetings.

Regular meetings shall be held in the Town Hall at 7 PM on the first and third Thursdays of the month. The Chair may cancel meetings if a quorum of Planning Commissioners is not present or if no applications have been submitted for review.

- 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 board.
- 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 board member.
- D. All meetings shall be open to the public unless the board has entered a deliberative or executive session. The board 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 PC staff to arrange for a convenient time. The Chair shall determine the content of the agenda after consultation with PC staff.
- 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 five minute period of time reserved for public comment near the beginning 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. The board 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.

Public comment may be offered during the hearing with the permission of the chair. The board shall apply consistent time limits to all persons recognized to speak.

The Chair shall conduct the hearing in the following manner:

- A. Open the hearing.
- B. Review the order of events.
- C. Accept written information presented to the board.
- D. Invite the applicant or applicant's representative to present such application or proposal.
- E. Invite board members to ask questions of the applicant or applicant's representative.
- F. Invite interested persons and members of the public to present their information regarding the application or proposal.
- G. Invite the applicant or applicant's representative to respond to information presented.
- H. Invite more questions or comments from members of the board.
- I. Invite more questions from interested persons and members of the public.
- J. Allow final comments or questions from the applicant or his/her representative or members of the board.
- K. Upon motion and majority approval, the Chair shall either adjourn the hearing to a time certain, or close the proceedings.
- L. Upon final adjournment, the board shall be deemed to be in deliberative session for that application until a written decision is issued.

Section VII: Site Visits.

Site visits shall be open to the public, however no official testimony shall be taken. Discussion will be limited to questions and answers regarding the site, and how the development proposal is related to the site. 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.
- B. If necessary, the board may recess or adjourn to a time certain a hearing and conduct a site visit at a property which is the subject of an application before the board.

- C. 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.
- D. Planning Commissioners may conduct site visits individually if they cannot attend a scheduled site visit.

Section VIII: Service List.

Staff shall create a list of all individuals who participated. The list shall include those who participated orally and those who participated in writing. All decisions of the board shall be mailed to those on the list. The list shall include:

- A. The names of those who participated in the proceedings.
- B. The nature and content of participation by those who participated.
- C. The mailing address of each of these persons.

Section IX: Decisions.

The board shall normally make decisions in deliberative session. Deliberative sessions are not required to be open to the public and need not be warned. 1 V.S.A. §§ 312(e), (f). Members of the board who have not heard portions of the testimony for a particular application or proposal shall not participate in that proceeding, except that absent board members may participate if they have reviewed the evidence submitted and the minutes or audio tape of the proceedings; the “best practice” is for absent board members to listen to an audio tape of the proceeding.

The following rules shall apply to voting on decisions if a voice vote is called and the motion passes:

- A. Motions shall be made in the affirmative.
- B. The chair has the same voting rights as all members; and the chair may make motions, or request or suggest motions be made by other board members.
- C. A second of the motion shall be required for the motion to have the floor.
- D. All members present are expected to vote unless they have recused themselves because of a conflict of interest.
- 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. Whether or not a voice vote has been taken, the board shall issue a decision within 45 days of closing the final public hearing.

Section X: Conflicts of Interest.

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

- A. **Participation.** A board member shall not participate in any official action where he or she has a conflict of interest in the matter under consideration. A board 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 PC.
- B. **Recusal.** A board 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 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 board member who has recused him or herself from a proceeding shall not sit with the board, deliberate with the board, or participate in that proceeding as a board member in any capacity.
 3. If a previously unknown conflict is discovered, the board may take evidence pertaining to the conflict, and if appropriate, adjourn to a short deliberative session to address the conflict.
 4. The board may adjourn the proceedings to a date and time certain if, after a recusal, it may not be possible to take action through the concurrence of a majority of the board. The board may then resume the proceeding with sufficient members present.

Section XI: Ex Parte Communications.

Ex parte communication is prohibited. Any board member who conducts ex parte communication, even inadvertently, must disclose such communication.

Section XII: Consequences for Failure to Follow the Conflict of Interest Procedures, Ex Parte Procedures, or Frequent Absences.

In cases where a board member has failed to follow the conflict of interest or ex parte procedures, or a board member has had frequent absences, the board may discipline the offending board member by taking the following steps:

- A. The board may meet to discuss the conduct of the board member in executive session. 1 V.S.A. § 313(4). Board members may request that subsequent discussion occurs in public

session. Prior to the next meeting on an application, the board will reach a conclusion with regard to the conflict of interest.

- B. If appropriate, the board may admonish the offending board member in private. If the board decides that further action is warranted, the board may admonish the offending board member at an open meeting and reflect this action in the minutes of the meeting. The board member shall be given the opportunity to respond to the admonishment.
- C. Upon majority vote, the board may request that the offending board member resign from the board.
- D. Upon majority vote, the board may request that the legislative body remove a board member from the PC. Planning commissioners may be removed at any time by unanimous vote of the legislative body. 24 V.S.A. § 4323(a).

Section XIV: Amendments.

These rules may be amended at any regular or special meeting by a majority vote, provided that each PC member has been presented a written copy of the proposed amendment at least one meeting 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.