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# TOWN OF ESSEX PLANNING COMMISSION RULES OF PROCEDURE AND CONFLICT OF INTEREST POLICY

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Adopted September 12, 1985  
Last Amended: July 10, 2025

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**Section I: Authority.**

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The Planning Commission of the Town of Essex hereby adopts the following Rules of Procedure and Conflict of Interest Policy (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).

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**Section II: Policy.**

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These Rules are adopted to ensure consistent and fair treatment of Essex residents, property owners, 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.

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**Section III: Definitions.**

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

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- 45 D. “Executive session” means a session of a public body from which the public is  
46 excluded, pursuant to 1 V.S.A. § 313. Such private session may only be held for one  
47 of the reasons permitted by the statute, and no binding action may be taken in  
48 executive session.  
49
- 50 F. “Ex parte communication” means direct or indirect communication between any  
51 Commission member, a Commission member and any party, party’s representative,  
52 party’s counsel or any person interested in the outcome of any proceeding before the  
53 Commission, that occurs outside of a public proceeding, and concerns the substance  
54 or merits of the proceeding, or any other matter pending before the Commission.  
55
- 56 G. “Official act or action” means any legislative, act performed by the Commission or  
57 any Commission member.  
58
- 59 H. “Recuse” means to remove oneself from a particular Commission proceeding, or any  
60 other matter pending before the Commission because of a real or perceived conflict of  
61 interest.  
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63 **Section IV: Regular Officers.**

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65 The Commission shall consist of seven regular members appointed by the Selectboard.  
66 The Commission shall hold an organizational meeting on or around July 1st each year  
67 and elect by majority vote, a Chair, Vice Chair and Clerk.  
68

- 69 A. The Chair shall preside at all meetings, hearings, and deliberations, decide all points  
70 of order or procedure, and appoint members to any committee of the Commission.  
71 The Chair may administer oaths and may request the attendance of witnesses and the  
72 production of material germane to any issue under consideration.  
73
- 74 B. The Vice Chair shall assume the duties of the Chair whenever the Chair is absent, or  
75 at the Chair’s request. The Clerk shall assume such duties whenever the Chair and the  
76 Vice Chair are absent, or at their request.  
77
- 78 C. The clerk shall conduct all official correspondence of the Commission that has not  
79 been delegated to Community Development staff.  
80

81 **Section V: Attendance Policy.**

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83 Less than 75% attendance in any fiscal year or two unexplained absences by a  
84 Commissioner in a row is grounds for recommendation of dismissal to the Selectboard.  
85

86 **Section VI: Regular and Special Meetings.**

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88 Regular meetings to conduct business of the Commission shall be held in the Town Hall  
89 at 6:30 p.m. on the second Thursday of the month, or as warranted. The Chair may cancel  
90 meetings at any time.

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- 91 A. A quorum shall be required to open any meeting. A quorum consists of a majority of  
92 the members of the entire Commission regardless of vacancies or disqualifications.  
93
- 94 B. Members may participate by video conference, with the exception that the camera is  
95 on and as if present in the room, as long as the absent member can hear everything  
96 that is occurring at the meeting and everyone present at the meeting can hear the  
97 Commission member.  
98
- 99 C. All meetings shall be open to the public unless the Commission, by majority vote,  
100 enters into an executive session. The Commission may only hold an executive  
101 session pursuant to the reasons permitted by 1 V.S.A. § 313, and only after a majority  
102 vote to enter executive session.  
103
- 104 D. All business shall be conducted in the same order as appears on the agenda, except  
105 that by majority consent, the Chair may alter the order of items to be considered  
106 and/or the time allotted.  
107
- 108 E. The Chair shall rule on all questions of order or procedure and shall enforce these  
109 rules pursuant to 1 V.S.A. § 312(h).  
110
- 111 F. At each meeting, there shall be a period of time reserved for public comment near the  
112 beginning of the meeting. The Chair may extend or reduce this period of time as  
113 necessary. Speakers may participate at other times throughout the meeting but only  
114 when recognized by the Chair. Such comment shall be limited to three minutes per  
115 speaker, unless by majority consent the Commission sets a different time limit. The  
116 Commission shall apply consistent time limits to all recognized to speak.  
117
- 118 G. Notice for hearings on the adoption, amendment, or repeal of the bylaws and other  
119 regulatory tools shall be pursuant to 24 V.S.A. § 4444, as amended.  
120
- 121 H. Open meetings: The Commission shall conduct all meetings and business in  
122 accordance with the Vermont Open Meeting Law. 1 V.S.A § 310 et seq. *Robert's*  
123 *Rules, Newly Revised* shall be used for reference.  
124
- 125 I. Executive Session: The Commission may enter into Executive Session to discuss  
126 matters as permitted by statute, provided that all decisions shall be made in public.  
127
- 128 J. Minutes: Meeting minutes shall be taken by staff or the Commission clerk if staff is  
129 unavailable. After a Commission meeting, minutes shall be made available to the  
130 public and placed by staff on the Town's website in accordance with *1 V.S.A. § 312*  
131 *(b)(2)*. Unapproved minutes shall be marked "draft." Such "draft" minutes will meet  
132 the requirements of *1 V.S.A. § 312(b)(1)* and will contain, at a minimum, the names of  
133 all Commission members present at the meeting, all active participants, all motions,  
134 proposals, and resolutions made, and their disposition, and the results of any votes  
135 taken.  
136

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137 Staff may prepare more detailed “draft” minutes and provide them to the Commission  
138 prior to its next meeting. It shall be the duty of all members to review the “draft”  
139 minutes and correct and approve those minutes.

140  
141 Comments by the public on any set of “draft” minutes may be submitted to staff in  
142 writing. Such comments will be provided to the Commission prior to its next  
143 meeting. The Commission will also entertain comments on the “draft” minutes in  
144 person at the meeting. The Commission will not amend the minutes after they have  
145 been approved.

146  
147 All Commission minutes and official papers shall be filed promptly by staff with the  
148 Town Clerk as a public record.

149  
150 The Commission Chair shall sign and date the minutes with the date of approval by  
151 the Commission.

152  
153 K. Digital recordings of meetings will be made available for the Commission’s use, or  
154 for the public, for a period of two years after the official minutes of the meeting have  
155 been approved.

156  
157 L. For the conduct of any hearing and the taking of any action, a quorum shall not be  
158 less than a majority of the members of the Commission, and any action of the  
159 Commission shall be taken by the concurrence of a majority of the Commission  
160 pursuant to 24 V.S.A. § 4461(a).

161  
162 M. Tie vote: A tie vote constitutes failure of a motion by the Commission.

163  
164 N. Special meetings may be called by the Chair, provided at least 24 hours notice is  
165 given to each member and the time and place of each special meeting is publicly  
166 announced at least 24 hours before the meeting.

167  
168 **Section VII: Public Hearings and Order of Business.**

169  
170 Public hearings shall be publicly noticed in accordance with 24 V.S.A. §§4464(a)(1),(2),  
171 as amended. Hearings shall not exceed three and one-half hours in length unless approved  
172 by a majority of members present.

173  
174 Public comment may be offered during the hearing with the permission of the Chair.  
175 Such comment, if recognized, shall be limited to three minutes per speaker, unless by  
176 majority consent the Commission sets a different time limit. The Commission shall apply  
177 consistent time limits to all persons recognized to speak.

178  
179 The Chair may conduct the hearing in the following manner:

180 A. Open the hearing by referencing the agenda item.

181

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- 182 B. Review the order of events, remind all present that the proceeding will be conducted  
183 in an orderly manner, and make copies of these Rules available.  
184  
185 C. Request Commission member disclose any conflicts of interest.  
186  
187 D. Accept written information presented to the Commission and staff comments and  
188 input.  
189  
190 E. Invite questions from members of the public.  
191  
192 F. Upon motion and majority approval, the Chair shall either adjourn the hearing to a  
193 time certain or close the proceedings by stating that this is the final public input on  
194 the matter.  
195  
196 G. After the hearing is closed, the Commission may discuss and/or decide any topics on  
197 the warned agenda in open or closed executive session. Participation by members of  
198 the public in these discussions will be at the option of the Chair.  
199

200 **Section IX: Site Visits.**

- 201  
202 Site visits shall be open to the public; however, no testimony shall be taken, and no ex  
203 parte communication shall occur. Site visits shall be held pursuant to the following  
204 conditions:  
205  
206 A. The Commission determines if a site visit will be necessary and if so, the site visit  
207 shall be scheduled and publicly noticed in accordance with 24 V.S.A. §§  
208 4464(a)(1),(2).  
209  
210 B. Site visits shall be open to the public.  
211  
212 C. The minutes of a site visit shall reflect that a site visit was held, who was present, and  
213 the nature and duration of the site visit.  
214

215 **Section XIII: Conflicts of Interest.**

- 216  
217 Participation, disclosure of conflicts, and recusal shall be governed by the following  
218 procedures:  
219  
220 A. **Participation.** A Commission member shall not participate in any official action  
221 where he or she has a conflict of interest in the matter under consideration as defined  
222 in Section III(D) of these Procedures.  
223  
224 B. **Disclosure.** At all meetings and hearings, a Commissioner shall disclose all potential  
225 conflicts of interest. When recognized by the Chair, any person may request  
226 disclosure of potential conflicts of interest.  
227

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228 Nonetheless, after disclosing potential conflict, a member who believes that he or she  
229 is able to act fairly, objectively, and in the public interest, shall disclose the nature of  
230 the potential conflict of interest, and the reason(s) why he or she is able to act in the  
231 matter fairly, objectively, and in the public interest. This shall be noted in the minutes  
232 of the proceeding.

233

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

236

237 1. Any person may request that a member recuse him or herself due to a conflict of  
238 interest. Such request shall not constitute a requirement that the member recuse  
239 him or herself.

240

241 2. A Commission member who has recused him or herself from a proceeding shall  
242 not sit with the Commission, deliberate with the Commission, or participate in  
243 that proceeding as a Commission member in any capacity, nor remain physically  
244 present in the room.

245

246 3. If a previously unknown conflict is discovered, the Commission may take  
247 evidence pertaining to the conflict, and if appropriate, adjourn to a short  
248 deliberative session to address the conflict.

249

250 4. The Commission may adjourn the proceedings to a time certain if, after a recusal,  
251 it may not be possible to take action through the concurrence of a majority of the  
252 Commission. The Commission may then resume the proceedings with sufficient  
253 members present.

254

255 **Section XIV: ETHICS.**

256

257 When commenting on Town of Essex business or applications, be transparent and state  
258 that you are a Commission member for the Town of Essex. Make it clear that you are  
259 speaking for yourself and not on behalf of the Commission or the Town of Essex; use a  
260 disclaimer such as *“the views expressed here are my own and do not necessarily*  
261 *represent the views of the Planning Commission or the Town of Essex.*

262

263 Do not represent yourself, the Commission, or the Town of Essex in a false or misleading  
264 way.

265

266 **Section XV: Progressive Consequences for Failure to Follow the Conflict of Interest**  
267 **Procedures.**

268

269 In cases where the conflict of interest procedures in Section XII have not been followed,  
270 the Commission may take progressive action with respect to an offending Commission  
271 member. In the discipline of a member, the Commission shall follow these steps, in  
272 order:

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274 A. The Chair shall meet informally, in private, with the Commission member to discuss  
275 the possible conflict of interest situation.

276  
277 B. If the Commission decides that further action is warranted, the Commission may  
278 admonish the offending Commission member at an open meeting and reflect this  
279 action in the minutes of the meeting. The Commission member shall be given the  
280 opportunity to respond to this admonishment.

281

282 **Section XVI: Ex Parte Communications.**

283

284 Ex parte communication is prohibited. Any Commission member who inadvertently  
285 conducts ex parte communication must disclose such communication as required below.

286

287 A. **Disclosure.** Commission members who have received written ex parte  
288 communications shall place in the record copies of all written communications  
289 received as well as all written responses to those communications. Members shall  
290 prepare a memorandum stating the substance of all oral communications received, all  
291 responses made and the identity of each person making the ex parte communication,  
292 which shall become a part of the record of the proceedings.

293

294 **Section XVII: Communication with Commission**

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296 All communication to the Commission from members of the public, including emails,  
297 shall be coordinated through the Community Development Department staff, or be  
298 provided directly to the Commission at public meetings.

299

300 **Section XVIII: Removal.**

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302 Upon majority vote, the Commission may request that the legislative body remove a  
303 Commission member from the Commission. Commissioners may be removed at any time  
304 by unanimous vote of the legislative body. 24 V.S.A. § 4323 (a).

305

306 **Section XIX: Use of Social Media**

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308 Members of the Commission shall not post on any type of social media or submit a letter  
309 to the editor representing themselves as a member of the Commission or representing the  
310 views of the Commission without prior approval by majority vote by the Commission at a  
311 public meeting. Should the Commission approve a letter or posting, they will direct staff  
312 to submit the letter or posting on its behalf.

313

314 If a majority of the Commission agrees that a violation of this policy has occurred, it may  
315 recommend to the legislative body that the violator of this policy be removed from the  
316 Commission.

317

318 **Section XX: Amendments.**

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320 These rules may be amended at any regular or special meeting by a majority vote,  
321 provided that each Commission member has been presented a written copy of the  
322 proposed amendment at least 24 hours before the meeting at which the vote is taken.  
323

324 These Rules of Procedure and Conflict of Interest Policy were adopted by the Planning  
325 Commission on the 9<sup>th</sup> day of January 2025.  
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330 \_\_\_\_\_  
Chair

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333 Clerk

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