

DEVELOPMENT REVIEW BOARD

Rules of Procedure

Section I: Authority.

The Development Review Board of the Town of Chester 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" means the Development Review Board.
- B. "Board member" means a regular or alternate member of the Development Review Board.
- 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 Development Review Board.
 - 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 Development Review Board.
 - 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 is excluded. There shall be no taking of evidence nor 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 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 board member.
- 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 board proceeding because of a real or perceived conflict of interest.

Section IV: Regular Officers.

The Development Review Board shall consist of five (5) regular members. The first meeting after Town Meeting but prior to May 1, or at other times throughout the year as needed, the Development Review Board 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 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. 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 members to review the minutes and other official records of Development Review Board meetings and actions, and correct and ratify these when appropriate and necessary.

D. The Clerk of the Development Review Board shall take minutes of all meetings.

Section V: Alternate Members.

The Selectboard shall annually, or as needed, appoint up to two alternates who may temporarily serve as Development Review Board members in the event of a recusal or absence of one or more members.

- A. An alphabetical roster of all alternate members shall be kept by the Development Review Board. The assignment of alternates for active duty will begin with the first alternate in alphabetical order and rotate through the list until all alternates have served and rotation will be repeated.
- B. Whenever a regular member has a conflict of interest or is expected to be on extended absence from the Development Review Board, the chairperson of the Development Review Board, or his or her designee, shall appoint an alternate to serve as an active member of the Development Review Board by selecting an individual from the roster as provided in paragraph A.
- C. If the chairperson of the Development Review Board does not appoint an alternate as required under paragraph B, a majority of the members of the Development Review Board present and voting may appoint an alternate to serve in accordance with paragraph B.
- D. An alternate member who is called upon to serve shall be required to be a part of the Development Review Board until a final decision is made on any application heard by the Development Review Board while serving as an active member. Participation includes attending deliberative sessions and any continuance of a public hearing if the application has been tabled or adjourned to another date.

Section VI: Regular and Special Meetings.

Regular meetings shall be held in the Town Hall at 7 p.m. on the second and fourth Mondays 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.
- 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 Zoning Administrator to arrange for a convenient time. The Chair shall determine the content of the agenda after consultation with the Zoning Administrator.
- 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 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 board sets a different time limit. 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 VII: 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. Hearings shall not exceed three hours in length unless approved by a majority of members present. Public comment may be offered during the hearing with the permission of the chair. Such comment, if recognized, shall be limited to 3 minutes per speaker, unless by majority consent the Board sets a different time limit. 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 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. Review the definition of interested persons in 24 V.S.A. § 4465(b).
- E. Explain that, pursuant to 24 V.S.A. § 4471(a), only an interested person who has participated in this proceeding may take an appeal of any decision issued in this proceeding.

- F. The board shall not make any determination as to party status in all proceedings except for appeals of administrative officer decisions. As these Rules do not differentiate between persons with interested party status and those without, anyone seeking to participate in a proceeding may do so, subject to these Rules and those established by the Chair.
- G. Direct the applicant or his/her representative and all interested persons 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).*
- H. Accept written information presented to the board.
- I. Invite the applicant or applicant's representative to present such application or proposal.
- J. Invite board members to ask questions of the applicant or applicant's representative.
- K. Invite interested persons and members of the public to present information regarding the application or proposal.
- L. Invite the applicant, applicant's representative, or interested persons to respond to information presented.
- M. Invite more questions or comments from interested persons and members of the public.
- N. Allow final comments or questions from the applicant or his/her representative or members of the Board.
- O. Allow final comments or questions from the applicant or applicant's representative.
- P. 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.
- Q. Upon final adjournment, the board shall be deemed to be in deliberative session until a written decision is issued.

Section VIII: 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. Unless, prior to a hearing, the Chair determines that a site visit is not necessary, site visits shall be scheduled for all hearings and shall be held immediately prior to the public hearing. All hearings shall be publicly noticed in accordance with 24 V.S.A. § 4464(a)(1), (2).
- B. If necessary, the board may recess a hearing and conduct a site visit at a property which is the subject of an application before the board.

- C. If necessary, the board 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 board.
- 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 IX: Service List.

The Clerk 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 board shall be mailed to those on the list. The list shall include:

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

Section X: Decisions.

The board 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 board who have not heard all testimony and reviewed all evidence submitted for a particular application or proposal shall not participate in that proceeding. Absent board members may review audiotapes of the proceedings, subject to the written 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 board shall issue a written decision within 45 days of the final public hearing.

Section XV: Amendments.

These rules may be amended at any regular or special meeting by a majority vote, provided that each Development Review Board 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.

These Rules of Procedure are effective as of the date adopted set forth in Section 14, above

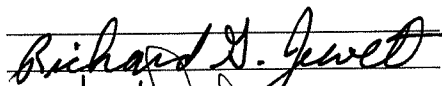




These Rules of Procedure may be repealed or amended after public hearing, upon public notice by the Selectboard.

The Selectboard, upon petition of five percent of the legal voters filed with the clerk of the Town of Chester, shall hold a public hearing for consideration of amendment or repeal of these Rules of Procedure.

Date of Adoption: June 6, 2007

Effective Date: June 27, 2007

The Board of Selectmen

	s/Seeley Morton
	s/Richard Jewett
	s/Michael LeClair
	s/Derek Suursoo
	s/William Lindsay