

Town of Mount Holly Planning Commission

PROCEDURES FOR HEARINGS

PURPOSE

These Procedures for Hearings (“Hearing Procedures”) are adopted by the Mount Holly Planning Commission (“Commission”) to ensure fair, consistent, and legally sound conduct of quasi-judicial proceedings.

As used in these Hearing Procedures, a “quasi-judicial proceeding” is a proceeding that is “a case in which the legal rights of one or more persons who are granted party status are adjudicated, which is conducted in such a way that all parties have opportunity to present evidence and to cross-examine witnesses presented by other parties, which results in a written decision, and the result of which is appealable by a party to a higher authority.” See 1 V.S.A. § 310(8).

These Hearing Procedures are intended to be consistent with applicable Vermont statutes, including 24 V.S.A. § 4461 and the Vermont Open Meeting Law (1 V.S.A. §§ 310–314), and with the Town of Mount Holly’s conflict of interest policy.

APPLICATION

These Hearing Procedures apply to Commission Hearings as defined below. The Commission’s separate “Rules of Procedure” govern all Commission meetings other than Hearings. Where a conflict exists between the Rules of Procedure and these Hearing Procedures, these Hearing Procedures control for Hearings.

DEFINITIONS

1. **Applicant** means any person or entity seeking action, recommendation, approval, or decision by the Commission.
2. **Ex Parte Communication** means a substantive communication outside of a Hearing between a Commission member and a Party, a witness, or member of the public regarding a matter pending or anticipated to be pending in a Hearing before the Commission.
3. **Hearing** means a warned public hearing on an application, proposal, or other defined matter that is quasi-judicial in nature and involves taking testimony and/or documentary evidence and the creation of a record, and results in the issuance of a written determination or recommendation.
4. **Interested Person** means a person with the right to participate as an interested person under applicable Vermont law, including 24 V.S.A. § 4465(b), as amended.
5. **Party** means the Applicant and any Interested Person recognized by the Commission as having party status for the Hearing.
6. **Record** means all materials constituting the Hearing record, including the warning, agenda, exhibits, written submissions accepted into the record, minutes, and any recording maintained by the Town.

WARNING, AGENDA, AND AVAILABILITY OF MATERIALS

1. The Town’s Administrative Officer shall be responsible for warning the Hearing.

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2. Hearings shall be warned and noticed in the manner required by law and by the Commission's Rules of Procedure. Pursuant to 24 V.S.A. § 4464(a)(1), the date, place, and purpose of the Hearing shall be publicly noticed by:
 - a. publication in a newspaper of general circulation, such as Vermont Journal;
 - b. posting on mounthollyvt.org;
 - c. posting in three or more public places within the municipality, such as the Town Office, and both post offices;
 - d. where the Hearing concerns an Applicant's real property, posting within view from the public right-of-way most nearly adjacent to the property, all as required by 24 V.S.A. § 4464(a)(1);
 - e. where the Hearing concerns an Applicant's real property, mailing to the Applicant and to owners of all adjoining properties without regard to any public right-of-way.
3. If a Hearing concerns a property within 500 feet of the town boundary, a notice shall be sent to the adjacent town's Town Clerk.
4. The week before the Hearing the notice shall be sent to the Mount Holly Newsflash.
5. The Hearing notice shall be sent to Okemo Valley Television and arrangements shall be made for recording and broadcast.
6. The warning and agenda shall identify the matter(s) to be heard with sufficient clarity to inform the public of the subject and purpose of the Hearing.
7. To the extent reasonably practicable, materials (such as plats or site plans) submitted in advance of a Hearing shall be made available to the public at the Town Office and on mounthollyvt.org.

CONFLICTS OF INTEREST; IMPARTIALITY; EX PARTE COMMUNICATIONS

1. **Conflict of Interest and Recusal.** Commission members shall comply with the Town of Mount Holly's conflict of interest policy, as amended. Members shall recuse themselves from participation in the Hearing and deliberation of any matter if they have an actual or potential conflict of interest or if for any other reason they cannot be fair and impartial in the matter that is the subject of the Hearing. Members also may recuse themselves to avoid the appearance of a conflict of interest or partiality in the matter.
2. **Disclosure at Start of Hearing.** At the start of each Hearing, the presiding officer shall request disclosure by members of:
 - a. any actual or potential conflict of interest;
 - b. any bias or inability to be fair and impartial; and
 - c. any Ex Parte Communications as defined above.
3. **Ex Parte Communications Prohibited.** Commission members shall not engage in any Ex Parte Communication as defined above. If a Party or a member of the public seeks to initiate a communication with a Commission member that is or seems likely to become an Ex Parte Communication, then as quickly as possible under the circumstances the Commission member shall instruct the Party or member of the public that such a communication is prohibited and cannot continue.
4. **Disclosure and Cure.** If a member receives an Ex Parte Communication, the member shall disclose it on the record at the Hearing (or as soon as reasonably practicable), including the substance of the communication and the identity of the communicator. The presiding officer may provide an opportunity for Parties to respond and may take any steps necessary to cure potential prejudice, including continuing the Hearing.
5. **Requests for Recusal.** A Party may request that a Commission member recuse themselves based on an actual conflict of interest or actual bias. The presiding officer

shall rule on the request, or if the request concerns the presiding officer, the Commission shall decide the request without the presiding officer's participation.

ORDER AND CONDUCT OF HEARING

1. **Presiding Officer.** The chair presides over Hearings. If the chair is absent or recused, the vice-chair presides. If the vice-chair is absent or recused, the Secretary presides. The presiding officer rules on procedure, maintains order, and ensures fairness.
2. **Decorum.** All participants must conduct themselves in a manner that is respectful toward the Commission, its members and staff, the Parties, and members of the public in attendance. The presiding officer may impose reasonable limits on time, prevent repetition, and exclude disrespectful or disruptive conduct consistent with law and fairness.
3. **Oaths.** The presiding officer shall administer an affirmation to any person providing factual testimony, and may do so whenever helpful to establish clarity and reliability of the record. *See Hearing Sequence § 3(c).*
4. **Evidence.** The presiding officer may compel the attendance of witnesses and the production of material germane to any issue under review, pursuant to 24 V.S.A. § 4461(a).

EXHIBITS AND WRITTEN SUBMISSIONS

1. **Admission.** The presiding officer may admit relevant exhibits and written submissions into the record.
2. **Identification.** Exhibits shall be clearly identified by the submitting Party, and the Commission shall ensure that the record reflects what was admitted. The Administrative Officer may assist a Party in labeling, organizing, and identifying exhibits for the record.
3. **Late Submissions.** The Commission may accept late exhibits and submissions only if doing so is fair to all Parties. The Commission may continue the Hearing to allow a reasonable opportunity to review and respond to late exhibits and submissions.

PUBLIC OBSERVATION AND COMMENT

1. **Hearings are open proceedings.** The public may observe the Hearing unless the Commission enters a lawful executive session under the Open Meeting Law. Following the close of the evidence and the close of the final Hearing, the Commission may deliberate in open session or in a closed deliberative session as permitted by law.
2. **Recording.** Hearings shall be electronically recorded as required by 1 V.S.A. § 312, subject to the exceptions provided in that section and other applicable law.
3. **Electronic Access.** Attendance shall be permitted by electronic means.
4. **Public Comment from Non-Parties.** Hearings are not a public forum. The presiding officer at their discretion may allow comment from a member of the public who is not a Party only if doing so will not compromise fairness or the integrity of the record, and only if the comment seems reasonably likely to aid the Commission in reaching a decision. Any public comment permitted under this Section shall be subject to reasonable time limits and shall be restricted to issues relevant to the warned matter.

INTERESTED PERSON DETERMINATIONS

1. **Request for Status.** Any person seeking recognition as an Interested Person should identify themselves on the record and state the basis for the request.

2. **Determination.** The presiding officer shall determine, on the record, whether the person qualifies as an Interested Person.
3. **Effect of Determination.** A person who is determined to be an Interested Person shall be recognized as a Party for purposes of participation as set forth in these Procedures.

HEARING SEQUENCE

Unless modified by the presiding officer for good cause (e.g., to ensure fairness, clarity, and efficient development of the record), the Hearing shall proceed in the following order:

1. **Opening.**
 - a. Call the Hearing to order and read the warning of the Hearing.
 - b. Explain the purpose of the Hearing.
 - c. Request disclosures of conflicts of interest, impartiality, and ex parte communications.
2. **Administrative Overview.** The Administrative Officer shall prepare and provide to the Commission the following in writing:
 - a. **Complete application form:** with all fields completed and verified to be correct;
 - b. **Permit Navigator Results;**
 - c. **Hearing notice:** date, time, and location (and remote access information, if any);
 - d. **Newspaper publication:** name of the newspaper, publication date(s), and a copy of the published notice;
 - e. **Public posting:** the date(s) posted, the public places where notice was posted, and, where applicable, confirmation of posting within view from the public right-of-way most nearly adjacent to the property;
 - f. **Mailed notice to adjoining landowners:** where applicable, the date mailed, the method of mailing, and a list of all adjoining landowners to whom notice was mailed (names and mailing addresses), consistent with 24 V.S.A. § 4464(a)(1);
 - g. **Other mailed notice:** any additional mailed notice required by law (e.g., applicant, municipalities, regional planning commission, state agencies, or other recipients), including dates and recipient lists;
 - h. **Record exhibits:** a list of the exhibits and written materials submitted or to be admitted into the record.
3. **Identify Parties**
 - a. **Identify Applicant and/or representative**
 - b. **Identify Interested Persons** as defined by 24 V.S.A. § 4465(b).
 - c. **Administer Oath.** Direct all Parties (the Applicant or his/her representative, and all Interested Persons) to raise their hand and affirm the following oath: "Do you hereby swear that the evidence you give in the cause under consideration shall be the whole truth and nothing but the truth under the pains and penalties of perjury?"
4. **Applicant Presentation.**
 - a. The Applicant presents the proposal, supporting information, and requested action.
 - b. The Applicant shall identify any materials the Applicant asks to have admitted as exhibits.

5. **Questions by the Commission.**
 - a. Commissioners may ask questions of the Applicant to clarify the proposal and the record.
6. **Party Participation.**
 - a. Parties other than the Applicant may present information relevant to the warned matter, subject to reasonable limits imposed by the presiding officer.
 - b. The presiding officer may structure Party presentations to avoid repetition and maintain a clear record.
 - c. Commissioners may ask questions of Interested Parties to clarify their information and the record.
7. **Public Comment (Non-Parties) if permitted.**
 - a. Non-Party comment may be allowed subject to the other provisions of these Hearing Procedures.
8. **Close of Evidence.**
 - a. The presiding officer shall state when the Commission has received sufficient information and announce that evidence is closed, unless the Hearing is continued.

CONTINUANCES AND RE-OPENED HEARINGS

1. The Commission may continue a Hearing to a date and time certain, or otherwise re-warn or re-notice the continued Hearing, consistent with law.
2. The Commission may re-open a closed Hearing when necessary to correct an error, receive newly discovered information, ensure fairness and completeness of the record, or when a Commission's decision provides for re-opening under specified circumstances.

SITE VISITS

1. The Commission may conduct a site visit when reasonably necessary to understand the property or subject matter of the Hearing.
2. Commission members may visit the site individually provided no Ex Parte Communications occur.
3. Site visits including a quorum of Commission members shall be publicly noticed in a manner reasonably calculated to inform interested persons, and shall be open to the public.
4. A site visit or field visit is not required to be recorded under the Vermont Open Meeting Law's site inspection/field visit exception. See 1 V.S.A. § 312(a)(3)(B) and § 312(a)(6)(A).
5. Any relevant and material observations and conversations that bear on the decision should be described on the record at a Hearing.

DELIBERATIONS

1. Upon the close of the final Hearing on a matter, the Commission shall proceed to deliberations as permitted by the Vermont Open Meeting Law.
2. Unless the presiding officer directs that deliberations occur in open session, the Commission shall deliberate in a closed deliberative session as authorized by law.

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3. The Commission shall be deemed to be in deliberative session from the close of the final Hearing until the issuance of a written decision signed in accordance with these Procedures.
4. The Commission shall ensure that deliberations are confined to the Hearing record and applicable standards.

MOTIONS AND VOTING

1. **Motions.** Motions shall be stated clearly so the record reflects the precise action proposed.
2. **Voting Standard.** For any final action, recommendation, or decision arising from a Hearing under these Procedures, a motion shall pass only upon the affirmative vote of a majority of the entire Commission, regardless of how many members are present, unless a different voting threshold is required by law.
3. **Abstentions and Recusals.** A recused member shall not be counted as voting. Abstentions should be recorded.
4. **Minor Procedural Matters.** The presiding officer may manage procedural steps consistent with fairness; however, final action shall be made by motion and vote as required by this Section.

WRITTEN DECISION

1. The Commission shall issue a written decision within 45 days after the final Hearing, or in accordance with such other timeframe as may be established by law or applicable bylaws.
2. The written decision/recommendation shall, as applicable:
 - a. identify the matter decided;
 - b. identify the applicable standards;
 - c. identify any terms, conditions or contingencies relating to the decision/recommendation;
 - d. include findings or a rationale sufficient to explain the outcome; and
 - e. be signed by the members who voted in favor of the decision.
3. The Administrative Officer shall send a copy of the decision as soon as practicable to all Parties, and any other person recognized to speak at the Hearing.
4. When the Commission approves a final plat or other instrument requiring signature, the chair is authorized to sign on behalf of the Commission in accordance with, and with specific reference to, the Commission's written decision. The signed plat shall identify the written decision by date and matter/application name (and, if available, book and page number in the Land Records), and shall be consistent with the terms, conditions and contingencies stated in that written decision. In the chair's absence or recusal, the vice chair (or presiding officer for the matter) is authorized to sign.

RECORDKEEPING

1. The written decision shall be the official record of the proceeding and shall be recorded in the Town Land Records.
2. The Commission shall ensure that the Hearing record is maintained as a Town record, including the warning, minutes, exhibits accepted into the record, and any recording maintained by the Town.

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3. The Administrative Officer shall maintain a clear list of exhibits admitted into the record.

ENFORCEMENT OF ORDER AND FAIRNESS

1. The presiding officer may take reasonable steps to maintain order and protect fairness, including but not limited to time limits, preventing repetitive questioning, and requiring participants to address comments to the presiding officer.
2. If disruption occurs, the presiding officer may warn the person, declare a recess, or take other actions consistent with law and the Commission's Rules of Procedure.

AMENDMENTS

1. These Hearing Procedures may be amended by majority vote of the entire Commission at a warned meeting, provided that the text of the proposed amendment is made reasonably available in advance.
2. The Commission may review these Hearing Procedures periodically and update them to remain consistent with Town policy and Vermont law.

EFFECTIVE DATE

These Hearing Procedures will become effective immediately upon their adoption by the Commission.

Adopted February 17, 2026