CORINTH PLANNING COMMISSION (CPC)

Rules of Procedure and Conflict of Interest Policy I

Section I: Authority.

The Corinth Planning Commission of the Town of Corinth 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 and 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 CPC.

B. "Board member" means a regular or alternate member of the CPC.

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 CPC.

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 CPC.

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 or submission of testimony, nor need a deliberative session be publicly noticed. By motion and majority vote, the board may 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 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 CPC shall consist of seven regular members. At its first meeting following March 31, or at other times throughout the year as needed, the CPC shall hold an organizational meeting and elect by majority vote, a Chair, Vice Chair and Secretary.

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. The Secretary 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 CPC meetings and actions, and correct and ratify these when appropriate and necessary.

D. The Secretary shall take minutes of all meetings, unless delegated to board members, or an administrative assistant employed by the CPC.

Section V: Alternate Members.

The Selectboard shall annually, or as needed, appoint up to two alternates who may temporarily serve as CPC 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 CPC. 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 CPC, the chairperson of the CPC, or his or her designee, shall appoint an alternate to serve as an active member of the CPC by selecting an individual from the roster as provided in paragraph A.

C. If the chairperson of the CPC does not appoint an alternate as required under paragraph B, a majority of the members of the CPC present and voting may appoint an alternate to serve in accordance with paragraph B.

An alternate member who is called upon to serve shall be required to be a part of the CPC until a final decision is made on any application heard by the CPC 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 to conduct business of the CPC shall be held on the dates and at times set by the CPC at its first meeting following March 31.

November – April: First Tuesday of the Month

March: Third Tuesday of the Month

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, by majority vote, 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 CPC chair to arrange for a convenient time. The Chair shall determine the content of the agenda.

F. All business shall be conducted in the same order as it appears on the agenda, except that by majority consent, 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 beginning of the meeting. The Chair may extend or reduce this period of time as necessary. Speakers may participate at other times throughout the 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 two 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 five 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. Ask all who believe they meet the definition of interested person to identify themselves and to provide contact information. 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 person 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 their information regarding the application or proposal.

L. Invite the applicant or applicant's representative to respond to information presented.

M. Invite more questions or comments from members of the board.

N. Invite more questions from interested persons and members of the public.

O. Allow final comments or questions from the applicant or his/her representative or members of the board.

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. The board shall then conduct public deliberations, or may vote to enter deliberative session. See Section III-D of these Rules, 1 V.S.A. § 312(e).

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. 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 board may recess a hearing to 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 Secretary or appointed board member 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 X: Decisions.

The board shall make its decisions by public deliberation, unless by majority vote it has determined to make a decision in deliberative session. Deliberative sessions are not open to the public and need 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 participate if they have reviewed the audiotape of the proceedings, and any evidence submitted, 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 all 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 decision within 45 days of the final public hearing.

Section XI: 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 CPC.

B. **Disclosure.** At all hearings, the Chair shall request that board members disclose all potential conflicts of interest. When recognized by the Chair, any person may request disclosure of potential conflicts of interest.

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

C. **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 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 XII: Ex Parte Communications.

Ex parte communication is prohibited. Any board member 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. Board members who have received written ex parte communications shall place in the record copies of all written communications received as well as all written responses to those communications. Members 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, which shall become a part of the record of the proceedings.

Section XIII: Removal.

Upon majority vote, the board may request that the legislative body remove a board member from the CPC. Board members may be removed for cause by the legislative body upon written charges and after public hearing. 24 V.S.A. § 4460(c). 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 CPC member has been presented a written copy of the proposed amendment at least 24 hours before the meeting at which the vote is taken.

TOWN OF CORINTH
RULES OF PROCEDURE I INTERESTED PERSON INFORMATION SHEET

Who are interested persons?

Interested persons are those persons who, under Vermont law, have the right to appeal an act or decision of the Town of Corinth zoning administrator or planning commission. Interested persons include:

- The applicant or, if the applicant does not own the subject property, the person owning title to property.

- A municipality that has a plan or bylaw at issue in an appeal, or any municipality adjoining that municipality.

- A person owning or occupying property in the immediate neighborhood of a property that is the subject of any zoning decision or act who can demonstrate a physical or environmental impact on the person's interest under the criteria reviewed, and who alleges that the decision or act, if confirmed, will violate the municipal plan or bylaw.

- Any ten persons, either voters or landowners, who, by signed petition to the planning commission, allege that the decision or act, if confirmed, will violate the municipal plan or bylaw. The petitioners must designate one person to serve as their representative.

- Any department or administrative subdivision of the State owning property within the municipality, and the Agency of Commerce and Community Development.

Why is interested person status important?

Though many members of the public may be interested in a zoning permit application, only statutorily-defined interested persons may appeal a decision of a zoning administrator or planning commission. If an interested person fails to make a timely appeal, all interested persons are bound by the officer's or planning commission decision or act.

Interested persons must participate in a hearing to protect their appeal rights.

Only those interested persons who have participated in a planning commission proceeding may appeal a decision rendered in that proceeding to the Environmental Court. Pursuant to State statute, participation consists of offering, through oral or written testimony, evidence or a statement of concern related to the subject of the proceeding.

***Applicant*_____ *Application No.*_____**

***Date of Hearing*_____**

TOWN OF CORINTH

INTERESTED PERSONS RECORD AND SERVICE LIST

Under the 2004 revisions to Chapter 117, the Planning Commission has certain administrative obligations with respect to interested persons. At any hearing, there must be an opportunity for each person wishing to achieve interested person status to demonstrate compliance with the applicable criteria. 24 V.S.A. § 4461(b). The Planning Commission must keep a written record of the name, address and participation of each person who has sought interested person status. 24 V.S.A. §4461(b). A copy of any decision rendered by the Planning Commission must be mailed to every person or body appearing and having been heard by the Planning Commission. 24 V.S.A. § 4464(b)(3). Upon receipt of notice of an appeal to the environmental court, the Planning

Commission must supply a list of interested persons to the appellant in five working days. 24 V.S.A. §4471(c).

This Interested Persons Record and Service List is intended to be used by the Secretary, or designated staff of the Planning Commission, to record information regarding persons who have sought interested person status. A separate Interested Persons Record and Service List should be used for each application considered by the Planning Commission. This Interested Person Record and Service List can be used in conjunction with a separate sign in sheet.

Name	Address	Participated in Hearing?	Evidence/Statement of Concert Offered
_____	_____ _____ _____	⑧ Yes ⑧ No	_____ _____ _____
_____	_____ _____ _____	⑧ Yes ⑧ No	_____ _____ _____
_____	_____ _____ _____	⑧ Yes ⑧ No	_____ _____ _____
_____	_____ _____ _____	⑧ Yes ⑧ No	_____ _____ _____
_____	_____ _____ _____	⑧ Yes ⑧ No	_____ _____ _____
Name	**Address**	**Participated in Hearing?**	**Evidence/Statement of Concert Offered**
_____	_____ _____ _____	⑧ Yes ⑧ No	_____ _____ _____
_____	_____ _____ _____	⑧ Yes ⑧ No	_____ _____ _____
_____	_____ _____ _____	⑧ Yes ⑧ No	_____ _____ _____

_____	_____ _____ _____	⑧ Yes ⑧ No	_____ _____ _____
_____	_____ _____ _____	⑧ Yes ⑧ No	_____ _____ _____
_____	_____ _____ _____	⑧ Yes ⑧ No	_____ _____ _____
_____	_____ _____ _____	⑧ Yes ⑧ No	_____ _____ _____
_____	_____ _____ _____	⑧ Yes ⑧ No	_____ _____ _____
_____	_____ _____ _____	⑧ Yes ⑧ No	_____ _____ _____
_____	_____ _____ _____	⑧ Yes ⑧ No	_____ _____ _____
_____	_____ _____ _____	⑧ Yes ⑧ No	_____ _____ _____