

CHARLEMONT PLANNING BOARD

RULES AND REGULATIONS

On July 7, 2005, pursuant to M.G.L. Chapter 40A, Section 9, the Charlemont Planning Board voted to adopt the following Rules and Regulations as the official Charlemont Planning Board Rules and Regulations. They were revised on March 29, 2012 and revised and adopted on December 17, 2015.

- Article 1: Adoption and Amendments
- Article 2: Powers and Duties of the Planning Board
- Article 3: Organization: Membership/Terms of Office/Officers/Vacancies
- Article 4: Duties and Responsibilities of Officers
- Article 5: Minutes
- Article 6: Meetings: Time/Location/Agenda//Executive Session
- Article 7: Conduct of Meetings and Public Hearings
- Article 8: Quorums and Voting
- Article 9: Special Permit Hearings
- Article 10: Site Plan Review Process
- Article 11: Standards of Conduct for Planning Board Members
- Article 12: Site Visits

Article 1: Adoption and Amendments

- 1.1 These Rules & Regulations shall be duly adopted and amended from time to time by a majority vote of the Planning Board (hereafter “Board”) after a public hearing.
- 1.2 They shall be effective upon adoption by the Board and when signed by a majority of the Board and filed with the Town Clerk.

Article 2: Powers and Duties of the Planning Board (including, but not limited to the following):

- 2.1 The Board is the zoning approval authority, the Special Permit Granting Authority and the Site Plan Review Authority for the town, having the powers and rights granted to it under local zoning by-laws in accordance with the General Laws of the Commonwealth of Massachusetts and Annual Town Meeting.
- 2.2 Prepare, adopt, amend and implement a Master Plan for the Town. (M.G.L. Chapter 41, Section 81 D)
- 2.3 Draft and submit zoning amendments for consideration by Town Meeting or make recommendations on zoning amendments filed by resident petition to Town Meeting.
- 2.4 Adopt, administer and amend Subdivision Rules & Regulations.
- 2.5 Approve Site Plans when applicable.

Note: The procedural rules detailed in this document are presented to provide the Board and other interested parties with clarification on how the Board conducts its business.

Article 3: Organization: Membership/ Terms of Office/ Officers/ Vacancies

- 3.1 The Board shall consist of five members, each with a five-year term in office, and one Associate Member with a three-year term. These members shall be elected in accordance with the Town bylaws and the Massachusetts General Laws.
- 3.2 Terms of office shall commence immediately upon election and qualification and after being sworn in by the Town Clerk.
- 3.3 The Board shall elect the following officers from its members: Chair (and either Co-Chair or Vice Chair, if desired) and Clerk. The election of new officers shall be the first order of business of the first meeting after the Town election each year.
- 3.4 Officers shall be elected for one-year terms, with eligibility for re-election.

- 3.5 The Associate Member may vote on Special Permits and other administrative business in the absence of a Board member, but may not vote on subdivision plans.
- 3.6 A vacancy in membership on the Board shall be filled by a nominee of the Board with a roll call vote for approval by the Board within four weeks after annual elections and by a joint appointment of the Board of Selectmen and the Board thereafter acc. to Chapter 41 Sect. 81A.

Article 4: Duties and Responsibilities of Officers

- 4.1 The Chair shall preside over meetings and shall be responsible for the conduct and decorum of the meeting. The Chair shall ensure enforcement of the rules herein and all applicable State statutes.

The Chair shall also be responsible for:

- all monies and securities deposited with the Board;
 - preparation of annual budget and report,
 - filing decisions with the Town Clerk
 - timely publishing of all legal notices;
 - maintaining records and supervising the Board Secretary
 - complying with the Open Meeting Law, and
 - making administrative decisions in between meetings.
- 4.2 In the absence of the Chair, the Vice-Chair shall assume the responsibilities of the Chair.
- 4.2 The Clerk shall be responsible for taking Board minutes, for final editing of the minutes as well as for filing them and submitting them to be posted on the town website.
- 4.3 The Board is responsible for managing the budget and accounts of the Board.
- 4.4 The Board secretary is responsible (under the supervision of the Chair) for:
- mailing notices to abutters and posting legal notices in the newspapers;
 - drafting the agenda and sending it to the Chair for review;
 - providing and reviewing Special Permit application forms;
 - filing decisions with the Town Clerk,
 - providing the Chair with current budget information, and invoices.

Article 5: Minutes (Required Record of Proceedings)

- 5.1 Minutes of all Board meetings shall be kept in accordance with the provisions of the Massachusetts Open Meeting Law (M.G.L. Chapter 30A, section 20) and the Public Records Law (MGL Chapter 4, §7) which state that : A public body shall

create and maintain accurate minutes of all meetings, including executive sessions, setting forth the date, time and place, the members present or absent, a summary of the discussions on each subject, a list of documents and other exhibits used at the meeting, the decisions made and the actions taken at each meeting, including the record of all votes.

- 5.2 Minutes of open meetings shall become public record immediately, regardless of form. The minutes of an open session, whether in draft or approved form, shall be made available upon request within ten days.
- 5.3 Approval and edits of minutes of previous meetings shall be made in open session by a majority vote of the Board. Draft minutes may be e-mailed to the Board for review before the meeting to expedite revisions at the meeting.
- 5.4 Official minutes should be released within a reasonable time. Exception: Executive Session minutes remain closed to the public for as long as their publication would defeat the purpose of the session. Executive Session minutes must be made public as soon as the reason for secrecy no longer applies.
- 5.5 Any person may make a video or audio recording of an open session after notifying the Chair.

Article 6: Meetings (Time/Location/Agenda/Executive Session)

- 6.1 Regular meetings of the Board shall be held in accordance with the provisions of the Massachusetts Open Meeting Law and the ADA. Notice of the meeting must be posted at least 48 hours in advance not including weekends and holidays, filed with the town clerk and must include all items the Chair can reasonably anticipate to be discussed.
- 6.2 The term "meeting" has two statutory exceptions (see M.G.L. Chapter 30A, Section 18-25).
 - a. On-site inspection (site visit) of a property that is the subject of a permit application provided there is no deliberation.
 - b. Attendance by a quorum at a conference, training program, social or other event provided that the members do not deliberate.
- 6.3 The Board shall hold regular meetings twice a month on the first and third Thursdays throughout the year, unless by decisions of the Chair meetings are changed or cancelled in accordance with proper posting time requirements.
- 6.4 All meetings of the Board shall be held in the Town Hall unless space is unavailable or insufficient; in which case a particular meeting will be held in another posted location.

- 6.5 Meetings of the Board shall begin at 7:00 p.m. unless the Board shall by majority vote set a different time for a particular meeting. The secretary of the Board, in consultation with the Chair, shall provide an agenda to each member prior to the meetings both hardcopy and electronically. Requests by members of the public to be placed on the agenda must be received no later than the Monday before the next meeting.
- 6.6 Members of the public arriving unannounced at an open meeting to make specific comments (Citizen Comments) or to bring something to the attention of the Board to be addressed at a later meeting will be accommodated in the first fifteen minutes if there is flexibility in the agenda; if the Board has a public hearing scheduled, they have to wait to the end of the session
- 6.7 Submittal of Approval Not Required (ANR) Plans must be made in person at a regular Board meeting.
- 6.8 The Board shall not schedule any matter of business later than 10:00 p.m. Meetings will adjourn no later than 11 p.m.
- 6.9 Board meetings shall be open to the public unless the Board shall vote to go into executive session following the requirements of M.G.L. Chapter 30A, section 21 and by taking the following steps:
- Provide proper notice of the open meeting at which the executive session will be entered;
 - Convene in an open meeting;
 - Vote by simple majority to enter executive session;
 - Record the vote of each member on a roll call vote
 - Announce whether the public hearing or meeting will reconvene after the executive session ends.

Article 7: Conduct of Meetings

- 7.1 The Chair shall enforce such order and decorum as may be necessary for the conduct of the Board's business, guided by a desire to maximize public input on matters before the Board. No individual shall address a meeting of the Board without leave of the Chair and all individuals shall, at the request of the Chair, conduct themselves in a civil manner.
- 7.2 The Chair shall establish such rules of parliamentary procedure as are necessary subject to the provision that the Chair may be overruled by a majority vote of the Board.

Article 8: Quorums and Voting

- 8.1 A quorum of three members of the Planning Board shall be required to conduct business.

- 8.2 All votes must take place in person at a Board meeting. Remote participation by a Board member is allowed under the procedures spelled out in MGL Chapter 30A section 20 provided that a quorum of the Board, including the Chair, is present.
- 8.3 Board members present may be counted to determine whether a quorum is present even if they abstain from voting. Exception: If the Board member is abstaining due to conflict of interest, he/ she cannot be counted as being present for the quorum for that portion of the meeting for which he/ she is disqualified by reason of conflict of interest.
- 8.4 A tie vote defeats a motion.
- 8.5 Board votes shall be a simple majority of those present and voting except for Special Permits, which require a “super majority” by statute. A “super majority” of the five member Board is four. This number is required for passage of a motion even if not all five members are present and voting.

Article 9: Special Permit Hearings

As the Planning Board is the Special Permit Granting Authority (SPGA) in Charlemont, much of the Board’s time is spent in public hearings – ‘quasi-judicial’ procedures affecting an individual’s rights and privileges. A public hearing is not the same as a public meeting. State Law (CH 40A) has detailed procedures and timelines established. The Board has laid those out in the Special Permit application package available from the town website and the town offices; it is part of these Rules and Regulations.

Potential applicants need to know that even the speediest special permit will take 7 weeks or more from start to finish.

- 9.1 Applicants for a Special Permit are encouraged to meet with the Board for an informal meeting before they submit their application to discuss possible submission requirement waivers, timelines, or involvement of other town Boards. An applicant may appear on her/his behalf or be represented by an agent or attorney. The Board will vote on waivers where applicable.
- 9.2 Applicants may, however, submit their application directly to the town clerk without prior involvement of the Board to set off the response requirements for the Board. Incomplete applications will necessarily lead to continued hearings until all information has been submitted in the eyes of the Board.
- 9.3 The secretary to the Boards in coordination with the Chair will set the posting and hearing schedule for the application.
- 9.4 The Chair shall establish such rules of parliamentary procedure as are necessary subject to the provision that the Chair may be overruled by a majority vote of the Board. Such procedures usually establish that the applicant shall be recognized for presentation, followed by questions and comments by Board members, questions

and comments by abutters, and questions and comments by other members of the public, in that order.

- 9.5 The Board may request additional information in the course of the hearing or expert advice from outside consultants in coordination with the applicant and according to procedures laid out by State law in MGL Ch. 44 S 53G or require bonding or other financial security.
- 9.6 In presentation by abutters and the public, the Board shall allow wide latitudes in allowing persons to speak, reserving the right to limit presentations which are not relevant to the matters being discussed or are repetitive of points previously made.
- 9.7 No more than two public hearings may be scheduled on the agenda of a particular Board meeting unless voted otherwise by a majority of Board members.
- 9.8 A public hearing may be continued to a time, place, and date certain, announced during the hearing and properly posted without repeated individual notification of the abutters
- 9.9 If a full Board member is absent, the Associate Board member may sit on a public hearing and as long as they have attended all sessions of the hearing.
- 9.10 All votes must take place in person at a Board hearing. Remote participation by a Board member is allowed under the procedures spelled out in MGL Chapter 30A section 20 provided that a quorum of the Board, including the Chair, is present.
- 9.11 Votes on Special Permit applications require a 2/3 vote or a 'super majority', which – with a five member Board – means that a permit has to be approved with at least four votes in favor.
- 9.12 A denied permit application cannot be brought back before the Board within two years from the date of the vote to deny.

Article 10: Site Plan Review Process

The Planning Board is the Site Plan Review Authority in Charlemont. The Board has laid out the Site Plan Review (SPR) procedure in the SPR application package available from the town website and the town offices; it is part of these Rules and Regulations.

- 10.1 Applicants for a Site Plan Review are encouraged to meet with the Board for an informal meeting before they submit their application to discuss possible submission requirement waivers, timelines, or involvement of other town Boards. An applicant may appear on her/his behalf or be represented by an agent or attorney. The Board will vote on waivers where applicable.

- 10.2 Applicants may, however, submit their application directly to the Board Secretary. The secretary to the Boards in coordination with the Chair will set the posting and hearing schedule for the application.
- 10.3 The Board may request additional information in the course of the hearing or expert advice from outside consultants in coordination with the applicant and according to procedures laid out by State law in MGL Ch. 44 S. 53G or require bonding or other financial security.
- 10.4 A public hearing may be continued to a time, place, and date certain, announced during the hearing and properly posted without repeated individual notification of the abutters
- 10.5 Votes on SPR applications require a simple majority of a quorum. If a full Board member is absent, the Alternate Board member may sit on a public hearing and as long as they have attended all sessions of the hearing.
- 10.6 All votes must take place in person at a Board hearing. Remote participation by a Board member is allowed under the procedures spelled out in MGL Chapter 30A section 20(d) provided that a quorum of the Board, including the Chair, is present.

Article 11: Standards of Conduct for Planning Board Members

- 11.1 The primary obligations of Board members are to serve the public interest, to conduct themselves so as to maintain public confidence in the Board, to meet the fundamental responsibility of fairness, and to comply with all statutory regulations.
- 11.2 A member of the Board shall conduct himself/ herself in accordance with M.G.L. Chapter 268A (Conflict of Interest). This includes but is not limited to:
 - Not accepting anything (regardless of value) if it is offered in exchange for agreeing to perform or not perform an official act;
 - Not accepting any “gift” worth \$50.00 or more from anyone with whom he/she has official dealings;
 - Not taking any action that could create an appearance of conflict unless he/she makes a proper public disclosure;
 - Not disclosing confidential information; and
 - Not taking official action, which will affect the financial interest of a Board member, his/her family, a business, partner, etc.

Article 12: Site Visits

- 12.1 A ‘site visit’ or on-site inspection is defined as a visit by the Board to a location which is the subject of an application before the Board, or to ascertain compliance with the terms of an existing Special Permit. The site visit can take place prior to

or during the public hearing. The visit shall be in the company of the owner, applicant or their agent when it involves visiting areas, which are not customarily available for public inspection.

12.2 Site visits do not require 48 hour posting

12.3 No formal motions shall be made nor votes taken at a site visit.

Attachments:

1. The Special Permit application package, including required submission forms, fee schedule and a flow chart/ timeline are hereby made part of the Rules and Regulations.
2. The Site Plan Review application package, including required submission forms, fee schedule and a flow chart/ timeline are hereby made part of the Rules and Regulations.

These rules were adopted on December 17, 2015 by a..... vote of the Charlemont Planning Board.

All former Rules including those adopted on March 29, 2012 are hereby repealed.

Charlemont Planning Board:

Robert Malone, Chair

Gisela Walker, Member

Michael Kane, Member

Carlene Hayden, Member

Daniel Miller, Associate Member

Filed with the Office of the Town Clerk on

Kathy Reynolds, Town Clerk