

BYLAWS

Of THE TOWN OF CHAPLIN, CONNECTICUT PLANNING & ZONING COMMISSION

ARTICLE I: Statutory Authorization and Purposes

The objectives and purposes of the Planning and Zoning Commission of Chaplin, Connecticut are those set forth in *Chapter 124 and 126 of the Connecticut Statutes*, (1958 Revisions) as amended, and those powers and duties delegated to the Chaplin Planning and Zoning Commission by the aforementioned statutes by Town Ordinances in accordance with the above enabling law.

ARTICLE II: Name

The Commission shall be known as the Chaplin Planning and Zoning Commission. In these Bylaws it is referred to as "the Commission".

ARTICLE III: Office of the Agency

The office of the Chaplin Planning and Zoning Commission shall be at the Chaplin Town Hall where all Commission records shall be kept. Copies of all official documents, records, maps, etc. shall be filed or recorded with the Town Clerk.

ARTICLE IV: Membership

1. The Commission membership and their terms of office shall be as specified in the Chaplin Town Ordinance establishing the Commission published April 6, 1964, and the afore mentioned Connecticut General Statutes. A full Commission shall consist of seven regular members. There shall be three alternate members (as specified in Chaplin Town Ordinance published on May 18, 1973 and became effective June 2, 1973. See attached.)
2. If a regular member of the Commission is absent, or disqualified, the Chairman of the Commission must designate an alternate to so act, choosing alternates in rotation, so that they can act as nearly equal a number of times as reasonably possible. Such alternate members shall, when seated, have all powers and duties of regular members as set forth in the General Statutes and Town Ordinances. When not seated, alternate members may discuss items of business. However, after a motion is made, or after the close of a Public Hearing, discussion on the motion or on the subject's application shall be limited to voting members. (Chapter 124.Sec 8-1b)
3. Alternate members are encouraged to attend all meetings and executive sessions of the Commission, and they shall have the right to be members of Commission sub-committees.

ARTICLE V: Duties

1. The Officers of the Commission shall consist of a Chair, (Chairperson) and a Vice-chair.
2. The **Chairman** shall preside at all meetings and hearings of the Commission and shall have duties normally conferred by parliamentary usage on such officers. The Chairman shall have the authority to appoint committees, call special meetings, certify the expenditure of funds up to \$75 without prior approval of the Commission and generally perform other duties as may

be prescribed by these *Bylaws*. The Chairman shall be one of the Commission members. He or she shall have the privilege of discussing all matters before the Commission and of voting thereon. The chairman shall have the authority to have a **Recording Clerk** who attends Commission meetings take the minutes of meetings and submit such minutes to the Town Clerk.

3. The **Vice-Chairman** shall act in lieu (the capacity) of the Chairman when the Chairman is absent at meetings or hearings.
4. The Staff shall keep the records and minutes of each Commission meeting, and hearing and shall be responsible for submitting legal notices for publication and sending notifications as required by certified mail. The Staff shall also record public hearings on a recording device and attend to Commission correspondence. Staff shall notify members and alternates of meetings, post Commission meeting notices and agendas with the Town Clerk and distribute drafts of minutes to members and alternates.
5. The Commission shall submit the Planning and Zoning Commission Annual Report to the Board of Finance.

ARTICLE VI: Election of Officers

1. After the Town election, the Commission shall hold an organizational meeting in December at the time of its regular meeting. At this meeting officers shall be elected, and **Bylaws shall be reviewed** and made part of the Minutes.
2. Seven seated members must be present before election of officers can take place; a majority vote is required to elect any officer.
3. Nominations shall be made from the floor and the election of the officers specified in Article V shall follow immediately thereafter.
4. A candidate receiving a majority vote from the entire membership of the Commission shall be declared elected, and shall serve for the next two years, or until his/her successor shall take office.

ARTICLE VII: Vacancies in Office

1. Vacancies in Office shall be filled by regular election procedures prescribed in the ordinance (*April 6, 1964-Article 9-1 and June 2, 1973, Item H*) establishing the Commission.
2. Resignation from the Commission shall be in written form and be transmitted to the Chairman, who shall then forward the same to the Town Clerk and the Board of Selectmen.

ARTICLE VIII: Meetings

1. **Regular meetings** will be held on the Second Thursday of each month at the Chaplin Town Hall at 7:00 p.m. In the event of conflict, the meeting will be held on the next available time to ensure a quorum. Staff shall notify the membership of the change of date and/or location of such a rescheduled regular meeting not less than 24 hours before that meeting.
2. Notice of a **Special Meeting** shall be communicated to members and alternates not less than 24 hours before such a meeting.
3. An Emergency Meeting of the Commission does not require an agenda to be posted in advance of the meeting. Minutes of an Emergency Meeting must be filed within 72 hours of the close of the meeting.
4. A **quorum** is required to conduct business. Specifically, a quorum is the majority of the membership seated which may be four (4) regular members, or three regular members and a seated alternate member, or two regular members and two seated alternate members.

5. A **majority vote** of the quorum is required to pass a motion, which is more than half of the votes cast by those present and voting, excluding abstentions. An abstention is not a vote "cast". It is a non-vote. (Source: Robert's Rules) The following chart is an example of how votes are counted if a member abstains.

Members present	Abstentions	Votes remaining	Yes vote required to pass motion
7	1	6	4
6	1	5	3
5	1	4	3
4	1	3	2

6. All Commission meetings shall be open to the public when in session and can be open to the public when the Commission is in executive session when so voted by a majority of the Commission members present and voting.
7. Unless otherwise specified, Roberts' Rules of Order shall govern the proceedings at the meetings of the Commission.

ARTICLE IX: Disqualification (SOURCE: Chapter 126 – Sec. 8-21)

1. No member of the Planning and Zoning Commission or any town employee of the Town of Chaplin shall appear for or represent any person, firm, Corporation, or other entity in any matter pending before the Commission whether or not he or she is a member of the Commission hearing such matter. No member or alternate of the Commission shall participate in a hearing or decision of the Commission upon any matter in which he or she is directly or indirectly interested in a personal or financial sense. Such a member or alternate shall disqualify him-or herself from the hearing and decision on the matter in question.

2. In the event of such disqualification, such fact shall be entered into the minutes of the Commission. Also, the Chairman shall temporarily appoint an alternate in attendance to act in lieu of a disqualified member for voting purposes on the matter in question.

3. If the matter of disqualification is questionable, i.e., the voting member or alternate in question does not think he should disqualify him-or herself, while other commission members feel circumstances warrant disqualification, then the member or alternate in question may call for a vote on the matter of disqualification. Disqualification shall be accomplished by majority vote.

ARTICLE X: Order of Business at Regular Meetings

1. Unless otherwise determined by the Chairman, the order of business at regular meetings shall be:
- A. Call to order
 - B. Roll call. Seat Alternate(s) if necessary.
 - C. Approve minutes of previous meetings(s).
 - D. Citizens Having New Business Before the Commission.
 - E. Old Business
 - F. New Business
 - G. Correspondence
 - H. Report of the Zoning Officer
 - I. Items *pro re nata*
 - J. Adjourn

ARTICLE XI: Public Hearings

1. The Commission may hold public hearings, in addition to required hearings, when it decides that such a hearing will be in the public interest.
2. All public hearings prescribed by law shall be held in accordance with the requirements set forth for such hearings in Chapters 124 and 126 of the Connecticut General Statutes.
3. The matter before the Commission may be presented in summary by a member of the Commission designated by the Chairman, or a staff member, and parties of interest shall have the privilege of the floor under conduct rules read aloud at the start of the hearing by the Chairman or other Commission officer.
4. The proceedings of every hearing shall be recorded by the Commission on a recording device., The recording or transcription of the proceedings shall be the legal record of the hearing and will be placed on file with the town Clerk and maintained in conformity with state law.

ARTICLE XII: Conduct of Public Hearings

1. The chairman of the commission shall preside at public hearings. In the advent of the Chairman's absence, the Vice-Chairman or a member appointed by the Chair shall act as Presiding Officer.
2. The Presiding Officer shall read the legal notice advertising the hearing and note the dates and the newspapers in which the notice appeared.
3. The Presiding Officer shall state a summary of the question or issue at the opening of the hearing. Comments shall be limited to subjects advertised for the hearing. The Presiding Officer shall describe the method of conduct of the hearing.
4. The Presiding Officer shall first call for comments from the proponents of the issue, to be followed by comments by those opposed to the issue. At the discretion of the Presiding Officer, this order of testimony may be reversed. In any case, each group shall make its statements without allowing an intermixture of comments pro and con. Rebuttal statements shall be permitted in their turn. This procedure may be varied at the discretion of the Presiding Officer.
5. It shall be made clear at the hearing that all questions and comments must be directed through the Presiding Officer only after being properly recognized by the presiding Officer. Each speaker commenting on the issue shall first clearly state his or her name and address.
6. The Presiding Officer shall assure an orderly hearing and shall take necessary steps to always preserve decorum and order. The Presiding Officer shall reserve the right to adjourn or close the hearing in the event the discussion becomes unruly and unmanageable.
7. The hearing shall be conducted only for the purpose of taking testimony to be considered in deliberations at regular meetings of the Commission.

ARTICLE XIII: Employees

1. Within the limits of the funds available for its use, the Commission may retain such staff personnel and/or consultants as it sees fit to aid the Commission in its work. Appointments shall be made by a majority vote of the members present and voting The Chairman may be authorized to sign contracts for retaining personnel and to contract for planning services as might be approved by the Commission.
2. The term of office of the **Zoning Enforcement Officer** shall be on a continuing basis until he or she is replaced. The performance of the Zoning Enforcement Officer shall be reviewed by the Commission every year at the May regular meeting.
3. The Commission shall notify the Board of Selectman regarding its decision on the retention or replacement of staff.

ARTICLE XIV: Committees

The Chairman may appoint committees for purposes and terms of which the commission approves.

ARTICLE XV: Public Relations

The Chairman or a duly appointed Commission member shall act as public relations officer for the commission. Duties of the public relations officer include the preparation of Commission position letters to legislators and other officials, and the writing of press releases.

ARTICLE XVI: Amendments

These *Bylaws* may be amended by an affirmative vote of at least four (4) Commission members only after the proposed changes have been read and discussed at a previous regular meeting, except that the *Bylaws* may be changed at any time by a unanimous vote of the members of the Commission present and voting, i.e., Excluding Abstentions. The *Bylaws* shall be reviewed biennially and made part of the minutes at the organizational meeting to elect officers.

ARTICLE XVII: Documents in the **Appendix** are used for reference purposes only.

Appendix

1. Town Ordinance Establishing the Planning and Zoning Commission (March 31, 1964)
2. Town Ordinance Establishing the Election of Alternate Members (May 11, 1973)
3. Zoning Complaint Form
4. Zoning violations Ordinance (October 21, 2012)
5. "Guidelines for Hearing Officer" at Public Hearings
6. Robert's Rules of Order: An Outline of Basic Parliamentary Procedure

DATE OF ADOPTION: Jan.17, 1995

Date of Revision: November 10, 2022

This is to certify that the following ordinance was duly adopted by a legally warned and held Town Meeting of the Town of Chaplin held in the auditorium of the Chaplin Elementary School on March 31st, 1964:

BE IT ENACTED:

- P+7
- ZBA
- ZBA
A14
- A. That the Planning Commission shall henceforth be designated as the Planning and Zoning Commission and shall consist of seven members, said Planning and Zoning Commission to be created in manner set forth below.
 - B. That the original seven members shall be those persons designated therefore by the town meeting of March 31st from a list of fifteen names or more to be submitted by the Board of Selectmen, with minority party representation as required by law.
 - C. That initially of the original seven members two shall be elected for the period from March 31st to the regular town election in 1965, two for the period from March 31st to the regular town election in 1967, and three for the period from March 31st to the regular town election in 1969; and thereafter each new member shall be elected for a term of six years, the election of new members to be at regular town elections and in the same manner for electing regular town officers with minority party representation as required by law.
 - D. That there shall be a Zoning Board of Appeals consisting of five regular members and three alternate members.
 - E. That the town meeting of March 31st shall designate the members of said Board of Appeals from the list of names submitted by the Selectmen mentioned above.
 - F. That of the original five regular members of the Zoning Board of Appeals, one member shall be elected for the period from March 31st to the regular town election in 1965, two members for the period from March 31st to the regular town election in 1967, and two members for the period from March 31st to the regular town election in 1969.
 - G. That of the original three alternate members of the Zoning Board of Appeals, one member shall be elected for the period from March 31st to the regular town election in 1965, one member for the period from March 31st to the regular town election in 1967, and one member for the period from March 31st to the regular town election in 1969, and thereafter each regular member and alternate member shall be elected for a term of six years at regular town elections and in the same manner for electing regular town officers with minority party representation as required by law.
 - H. That the Planning and Zoning Commission and the Zoning Board of Appeals shall each have power to fill vacancies for its respective commission or board for the unexpired portion of any term.

Above ordinance is published in accordance with Sec. 7-157 of the General Statutes and shall become effective fifteen days after publication thereof in some newspaper having a circulation in the Town of Chaplin.

Published April 6, 1964

B. M. CHURCH, Town Clerk

(May 11, 1973 concluded)

Article 8: Moved by Mrs. Ruth Landeck and duly seconded that the town adopt the following ordinance:

"That the Town of Chaplin acting under the authority of and in accordance with Sec. 9-198 of the General Statutes of Connecticut hereby enacts the following ordinance:

1. The terms of the present members of the Board of Assessors of the Town of Chaplin heretofore elected be and they are hereby terminated as of July 1, 1973;
2. The Board of Selectmen be and they are hereby empowered to appoint a single Assessor for the Town of Chaplin from and after July 1, 1973, provided that no term or appointment shall be for a longer period than two years; and such Assessor shall have the authority to appoint clerical and other assistants within the limits of the appropriation therefor by the Board of Finance;
3. That the Board of Finance shall establish the qualifications for such Assessor, set the rate of compensation for his office, and shall provide funds for such clerical or other assistants as may be deemed necessary or desirable."

Ordinance was then discussed and was adopted by acclamation.

(The above ordinance was published in the Willimantic Daily Chronicle on May 18 1973 and is effective as of June 2, 1973)

Article 9: Moved by Mrs Ruth Landeck and duly seconded that the town adopt the following ordinance:

"That the Town of Chaplin acting under the authority of and in accordance with Sec. 8-1(b) of the General Statutes of Connecticut enacts the following ordinance:

1. Three alternate members shall be elected to the Planning and Zoning Commission of the Town of Chaplin on November 6, 1973, the date of the regular biennial Town election, one such alternate member to be elected for a term of six years, the second such alternate member to be elected for a term of four years, and the third such alternate member to be elected for a term of two years. That at each regular biennial election to be held after November 6, 1973, one alternate member shall be elected for a term of six years;
3. Any vacancies occurring among the three alternate members of the Planning and Zoning Commission, herein provided for, shall be filled by the Planning and Zoning Commission for the unexpired portion of such unexpired term."

The proposed ordinance was then discussed. A motion to amend it by having the Selectmen make the appointments to fill vacancies instead of the Planning and Zoning Commission was defeated by a show of hands.

The original ordinance was then voted upon by acclamation and duly adopted. (The above ordinance was published in the Willimantic Daily Chronicle on May 18, 1973 and is effective as of June 2, 1973)

Article 10: Moved by Mrs. Ruth Landeck and duly seconded:

"That the sum of \$12,771.00 be and it is hereby appropriated to the Board of Education out of surplus of prior years for the purpose of fixing the Chaplin Elementary School to meet the requirements of fire regulations."

Very brief discussion. Voted by acclamation and the question and appropriation was duly adopted.

The meeting then voted and was adjourned sine die at 9:30 P.M.

A true record,

Attest:

[Signature]

Town Clerk

TOWN OF CHAPLIN

CONNECTICUT 06235

INCORPORATED 1822



ZONING COMPLAINT FORM

Date: _____

Location of Alleged Violation: _____

Map: _____ Block: _____ Lot: _____ (attach assessor's field card)

Name & Address of Property Owner: _____

Nature of Alleged Zoning Violation: _____

Applicable Section(s) of the Chaplin Zoning Regulations: _____

Complainant: _____

Complainant's Address: _____

Complainant's Telephone Number: _____

The Planning & Zoning Official is a part-time employee and will investigate substantiated zoning violations in the order in which they are received, and as time permits. You may submit a revised complaint form and/or additional information at any time.

FOR OFFICIAL USE ONLY

Visual Site Inspection(s) (attach photos if necessary):

First Notice (attach):

Official Notice of Violation & Order (attach):

Referral to Town Counsel for Legal Remedy (attach):

Town of Chaplin, CT
Zoning Violations Ordinance

Section 1: Title.

This Ordinance shall be known and may be cited as the Town of Chaplin "Zoning Violations Ordinance."

Section 2: Legislative Authority.

This Ordinance is enacted pursuant to Sections 8-2, 8-12a and 7-152c of the Connecticut General Statutes.

Section 3: Intent.

The purpose of this Ordinance is to better ensure compliance with the Zoning Regulations of the Town of Chaplin. In furtherance of this purpose, this Ordinance is designed to establish fines for violations of the Zoning regulations of the Town of Chaplin, authorized by Sections 8-2 and 8-12a of the Connecticut General Statutes, and a hearing procedure for the appeal and enforcement of such fines.

Section 4: Appointment of Hearing Officers

The Board of Selectmen shall appoint at least two persons who are electors of the Town of Chaplin to serve as zoning violation hearing officers to conduct hearings regarding the violation of the zoning regulations. No zoning agent or zoning enforcement officer, building inspector or employee of the municipal body exercising zoning authority may be appointed to be a hearing officer.

Section 5: Notice of Violation

The zoning agent is authorized to issue citations for each violation of the Zoning Regulations of the Town of Chaplin as follows:

A. Notification

Upon determination of a violation, the zoning agent shall provide notice, by certified mail, return receipt requested, to the person(s) in control of the subject property upon which the violation exists or, in the case of a business use, the owner or operator or manager of such business. Such notice of violation shall state the violation, the date by which the violation must be remedied, and the fact that a fine of thirty dollars (\$30.00) will be imposed for each day of violation subsequent to the date by which the violation must be remedied. Such date shall be not less than ten (10) days after the date of verifiably completed service of the notice or twenty (20) days after it is sent, whichever is the latest. Upon failure to remedy the violation within the stated time, the zoning agent may issue a citation as provided for in subsection B, below. If the person in control of the

subject property is not the owner of record, the zoning agent may provide notice to such owner in the same manner.

B. Citation.

In the event such violation persists notwithstanding such notice of violation, the zoning agent may thereupon issue a citation. Such citation shall be served by certified mail, return receipt requested, upon the person named therein and shall cite this ordinance, specify the violation(s) and the fine(s) therefore and require payment of the fine(s) within thirty (30) days of verifiably completed service of the citation or forty (40) days after it is sent, whichever is the latest. The zoning agent shall retain a copy of each such citation, certified to be a true copy of the original thereof by the Clerk of the Town of Chaplin.

Section 6: Fine for Violation

The fine that may be imposed for any such violation of the Zoning Regulations shall be thirty dollars (\$30.00) for each day a violation continues, payable to the treasurer of the Town of Chaplin.

Section 7: Failure to Respond; Judgment

At any time within twelve months from the expiration of the final period for the uncontested payment of fines set forth in Section 5.B., above, the zoning agent may send notice to the person(s) cited, informing such person(s):

- A. Of the allegations against the cited person(s) and the amount of the fine(s) due;
- B. That the cited person may contest liability before a hearing officer appointed by the board of selectmen by delivering in person or by mail written notice of demand for a hearing to the office of the first selectman at the Chaplin Town Hall within fifteen days of the date thereof;
- C. That if a hearing is not so demanded, an assessment and judgment shall be entered against the cited person; and
- D. That such judgment may issue without further notice.

Section 8: Admission of Liability.

If a person who is sent notice pursuant to Section 7 wishes to admit liability for an alleged violation, the cited person may, without requesting a hearing, pay the full amount of the fines in person or by mail to the town treasurer at the address specified in the notice. Any cited person who does not deliver or mail written notice of demand for a hearing within fifteen days of the first notice provided for in Section 7, above, shall be deemed to have admitted responsibility and the office of the first selectman shall certify

such person's failure to respond to the hearing officer. The hearing officer shall thereupon enter and assess the fine(s) and shall follow the procedures set forth in Section 9, below.

Section 9: Hearing Procedure.

A. Any cited person who requests a hearing shall be given written notice of the date, time and place of the hearing. Such hearing shall be held not less than fifteen days nor more than thirty days from the date of the mailing of such notice, provided the hearing officer shall grant upon good cause shown, any reasonable request by any interested party for postponement or continuance. An original or certified copy of the initial notice of violation issued by the zoning agent shall be filed and retained by the Town, be deemed to be a business record within the scope of General Statutes section 52-180, and be evidence of the facts set forth therein. The zoning agent or the zoning agent's designee shall appear and present evidence on behalf of the Town of Chaplin. A person wishing to contest their liability or their designee shall appear at the hearing and present evidence in their own behalf.

B. If the cited person or their designee fails to appear, the hearing officer may enter an assessment by default against the cited person upon a finding of proper notice and liability under the applicable zoning regulations. The hearing officer may accept from the cited person or their designee copies of written statements, police reports, investigatory and citation reports and other official documents by mail or hand delivery, and may determine thereby that the appearance of such person is unnecessary. The hearing officer shall conduct the hearing in the order and form and with such methods of proof as the hearing officer deems fair and appropriate. The rules regarding the admissibility of evidence shall not be strictly applied, but all testimony shall be given under oath or affirmation. The hearing officer shall announce a decision at the end of the hearing. If the hearing officer determines that the cited person is not liable, the matter shall be dismissed and the decision of the hearing officer entered in writing accordingly. If the hearing officer determines that the cited person is liable for the violation, said officer shall forthwith enter and assess the fine(s) against such person as provided by this Ordinance.

Section 10: Notice of Assessment and Judgment.

If such assessment is not paid within three (3) business days of the date of its entry, the hearing officer shall send by first class mail and by certified mail, return receipt requested, a notice of the assessment to the person found liable and shall file, not less than thirty days or more than twelve months after such mailing, a certified copy of the notice of assessment with the clerk of the appropriate court, which is now the Superior Court for the Windham Judicial District, together with the appropriate entry fee, which is now eight dollars. The certified copy of the notice of assessment shall constitute a record of assessment. Within such twelve month period, assessments against the same person may be accrued and filed as one record of assessment. The clerk shall enter judgment in the amount of said record of assessment and court costs against the cited person, in favor of the Town. Notwithstanding any other provision of the Connecticut General Statutes,

the hearing officer's assessment, when so entered as a judgment, shall have the effect of a civil money judgment and a levy of execution on such judgment may issue without further notice to such person.

Section 11: Appeal.

A cited person against whom an assessment has been entered pursuant to this Ordinance is entitled to judicial review by way of appeal. An appeal shall be instituted within thirty days of the mailing of notice of such assessment by filing a petition to open assessment, together with an entry fee in an equal amount to the entry fee for a small claims case pursuant to General Statutes section 52-259, at the appropriate court, which is now the Superior Court for the Windham Judicial District, which shall entitle such cited person to a hearing in accordance with the rules of the judges of the Superior Court.

Section 12: Other Remedies.

No action taken pursuant to this Ordinance shall preclude the Town of Chaplin from pursuing other enforcement remedies, either in addition to those specified in this Ordinance or separately, in order to achieve lawful compliance with the Zoning Regulations of the Town of Chaplin. No action or inaction shall preclude any cited person whose case is being processed per this Ordinance from pursuing any other legal remedy or defense in addition to those set forth in this Ordinance; however, subject to provisions of Connecticut General Statutes section 8-7 allowing the possible stay or reversal of any order, requirement or decision of the zoning agent, no such pursuit by the cited person shall interfere with the processes set forth herein, absent the contrary ruling of a court of law. No fine may be assessed or enforced by the Town of Chaplin against any person in any instance in which the action of the zoning agent upon which such fine, assessment or enforcement action is based has been reversed by the Zoning Board of Appeals per Connecticut General Statutes section 8-7.

TOWN OF CHAPLIN HEARING OFFICERS MANUAL

1. Zoning Violation Hearing Officers are extremely important public officials of the Town of Chaplin. We sincerely appreciate the public service of these dedicated and capable volunteers, willing and able to assume such important responsibilities.
2. The Town of Chaplin needs Hearings Officers to help enforce zoning regulations authorized by State Law and enacted by our Planning & Zoning Commission to better ensure public health, safety and quality of life in our Town. A "Respondent" cited for violation of the regulations by our Zoning Officer is given a printed citation and assessed a fine which should appear on the face of the citation. The Respondent is entitled by law to a chance to prove to a Hearing Officer that they have not violated the Ordinance, and therefore should not be fined. A Hearing Officer is appointed by the Board of Selectmen and serves at the discretion of the Board.
3. Being a Hearing Officer is an extremely important responsibility. A Hearing Officer is just like a judge in the cases that come before them. Accordingly, a Hearing Officer must always act in a professional, non-adversarial, dignified, fair and objective manner when they are engaged in their official duties.
4. Zoning Violations Hearing Officers must base all decisions on the facts of each individual case as it presented to them by the Zoning Officer of Chaplin in person or in documentation only and also by the Respondent, the person accused of a violation who is facing and contesting a possible fine.
5. This Manual has been developed to familiarize each Hearing Officer with their basic responsibilities under the Law, and the general way in which they should handle each case that comes before them. Every case is different and so each Hearing Officer must fine tune their approach to the circumstances of each particular case. Fundamental fairness is paramount. The Respondent must be given a full and fair opportunity to prove their case and avoid a fine if the Hearing Officer concludes they did not violate the law.
6. Each Hearing Officer must take the time to carefully study this Manual and become familiar with it, including the Town of Chaplin Zoning Regulations. The Manual is the basis of the training program to be provided by Town staff including the Town Attorney, in which each Hearing Officer must participate from time to time.
7. Prior to any hearing the Hearing Officer will be required to take a reasonable amount of time to review the case file. This should include studying the regulation(s) on which the Citation is based, a copy of which should be placed in the case file by the Zoning Officer. More important, the Citation or a copy of it should be in the Town file also. The Citation is the basis of the Zoning Officer's

case against the Respondent, stating the regulation that was allegedly violated, and the amount of the proposed fine.

8. The hearing is supposed to be held within 15 to 30 days of the date on which the Notice of Hearing is sent to the Respondent by the Town. Nevertheless, the Hearing Officer has the authority to postpone and/or delay any case in response to a reasonable request for good cause shown by any party, including the Respondent or the Zoning Officer who issued the Citation. Any such postponement is to be avoided unless it is absolutely necessary.
9. If the Respondent fails to show up for the hearing without requesting a postponement the Hearings Officer may enter **Assessment** of the fine by default upon a finding of proper notice and liability under the applicable zoning regulation. The Hearing Officer has the authority to request additional information from the Respondent. The Hearing Officer must also take the time to review any documentation submitted by the Zoning Officer in support of the citation or by the Respondent in opposition.
9. It cannot be overemphasized that it is essential that the Hearing Officer study and become familiar with the details of the Zoning Regulation(s) which the Zoning Officer used to cite the Respondent for a violation and propose a fine. Prior to any hearing the Hearing Officer should give the Respondent in each case or their attorney if they have one, a reasonable amount of time to view the evidence that the Town will be presenting in support of the Town's case.
10. A Hearing Officer should recuse or remove him or herself from any case in which they feel that they cannot be impartial. (Examples: personal knowledge; relationship good or bad with the Respondent etc.)
11. The Hearing Officer must have an up to date copy of this Manual with them at all hearings. This Manual will serve as the official guideline during all hearings. The Manual will be updated as necessary. Copies of the official Manual including the Appendix will be kept in the files of the Zoning Officer and the Office of the Board of Selectmen.
12. At the beginning of any hearing, the Hearing Officer will start by introducing him or herself to the Respondent, and to any other participants in the hearing, and by explaining the role of the Hearing Officer and how the hearing will proceed.
13. The next order of business is to explain to any witnesses including the Respondent that all testimony will be given under oath and subject to penalty for perjury, and then to swear all potential witnesses in simultaneously by having them stand, if possible, and raise their right hands.

14. Next, the Hearing Officer will state the oath as follows: **“You solemnly swear or solemnly and sincerely affirm, as the case may be, that the evidence you shall give concerning this case shall be the truth, the whole truth and nothing but the truth; so help you God or upon penalty of perjury.”**
15. It is essential that all Hearings Officers familiarize themselves with the **Zoning Violations** Ordinance and consult it frequently. For the most part, the Ordinance simply requires that “The hearing officer shall conduct the hearing in the order and the form and with such methods of proof as the hearing officer deems fair and appropriate.” This Manual includes requirements Hearings Officers must follow that are “fair and appropriate” in accordance with the standards of the Town of Chaplin. Once all witnesses are sworn in the Hearings Officer will allow any Town Official present in support of the citation, usually the Zoning Officer, to make a verbal presentation and be questioned by the Respondent. In the interests of determining the truth and doing justice, the Hearing Officer should also question the Zoning Officer.
16. The purpose of the hearing is to determine the truth and make a just decision and the Hearings Officer should do all they can to find out all they need to know about what happened in the case. Often it will be the Hearings Officer who will ask most or all of the questions of both sides of the case, keeping an open and fair mind at all times. After the Zoning Officer presents the Town side of the case, the Respondent must be allowed to present their side with documents and testimony, and be questioned in a calm, courteous and professional manner by the Zoning Officer and the Hearing Officer, if need be.
17. After the first round of questioning, the process may be repeated for a second time to allow each side to rebut any evidence which has been presented. All evidence presented must be accepted by the Hearing Officer as part of the record of the case, but may be discounted or even disregarded in making the decision if in the judgment of the Hearing Officer the evidence lacks credibility or relevance.
18. After all the evidence has been submitted, the Hearings Officer should allow each side to make a closing argument, summing up the case as they see it. The law requires the Hearings Officer to render a decision at the end of the Hearing at least verbally or preferably in writing, either affirming or overruling the citation. A form decision is provided in the Appendix for each possible result.
19. If a written decision cannot be rendered right after the hearing the Hearing Officer will have no more than five (5) business days to render their final decision, which must be consistent with their oral decision provided at the hearing. Personal opinions, feelings and thoughts are to be left out of any decision made. Simply stated, the law of the case, i.e., the regulation(s) allegedly violated, must be professionally applied to the facts of the case to get a proper result.

20. Hearing Officers will document their findings on a pre-designated Town approved form. The completed form will be kept in the Zoning Officer's file for at least one year. Copies of the form will be forwarded to the office of the Selectmen at Town Hall, and to the Town Treasurer. Ideally, another copy of such completed form shall be presented to the Respondent at the conclusion of said hearing and, if not, through the U.S. Mail within 72 hours after the hearing so it will be provided to the Respondent within five business days as required by law.
21. Hearing Officers have no discretion as it pertains to fine amounts. The amount of each fine is thirty dollars (\$30) a day for each day a violation continues, payable to the treasurer of the Town of Chaplin.
22. In addition to their principal responsibility to hear and determine cases appealed to them by Respondents to Citations, Hearing Officers must play a vitally important role in the Town's efforts to collect uncontested unpaid fines as well as any fine upheld by a Hearing Officer, on appeal. State law allows towns to bring such cases to the Superior Court and get a Judgment that may result in real estate lien or wage execution.
23. Each Citation issued by the Zoning Officer should include a deadline for the payment of the fine to the Town of Chaplin. from the date of issuance of the Citation to the Respondent. Once that deadline is past, the fine is not paid and no appeal has already been taken, the Town must provide written notice to the Respondent and offer them the right to request a hearing within fifteen days or an **Assessment** and Judgment may be issued against them without further notice.
24. Next, if written notice is given and more than fifteen days pass without payment of the fine by the Respondent, a Hearings Officer may sign an **Assessment** against the Respondent for the full amount of the fine. As noted above, a written **Assessment** must be signed by a Hearing Officer, following failure of a Respondent to timely request a hearing after being given written notice of their opportunity to do so, after a Respondent fails to show up for a scheduled hearing without requesting a continuance for good cause, or after a hearing and determination by the Hearing Officer that the Citation and fine were properly issued by the Zoning Officer.
25. Once an **Assessment** is signed by a Hearing Officer, the Zoning Officer or Town Attorney will prepare a Superior Court form (Form JD-CV-20, "Proceedings for Enforcement of Municipal Regulations and Ordinances") which also must be signed by the same Hearings Officer who signed the **Assessment**. The signed assessment and Court form and case file will be provided by the Zoning Officer to the Town Attorney who will review the paperwork and file the **Assessment** and Court Form JD-CV-20 in Superior Court or ensure that this is done. A copy of Form JD-CV-20 is included in the Appendix to this Manual

ROBERT'S RULES OF ORDER



What are Robert's Rules of Order?

The first edition of the book was published in February, 1876 by U.S. Army Major Henry Martyn Robert. Its procedures were loosely modeled after those used in the United States House of Representatives. Robert wrote *Robert's Rules of Order* after presiding over a church meeting and discovering that delegates from different areas of the country did not agree about proper procedure. The book is now in its 10th edition; *Robert's Rules of Order Newly Revised (RONR)*.

Robert's Rules of Order provides applicable rules governing key matters of meeting and general procedures, including:

Establishing a **Constitution and Bylaws** for your student organization.

Structure of the meeting **Agenda** and debate.

Motions; including making, seconding, debating, modifying and amending motions.

Sufficient majority and simple majority and which decisions are appropriate to them.

Establishment of a **quorum**.

Definition of **membership**.

Voting rights of presiding officer and voting procedures.

AN OUTLINE OF BASIC PARLIAMENTARY PROCEDURE

Prepared by Douglas N. Case

Parliamentary Authority: Robert's Rules of Order, Newly Revised, Tenth Edition, 2001.

I. Rules Governing an Organization

State and Federal Law - governing corporations, tax-exempt organizations, public legislative bodies, etc.

Articles of Incorporation - applicable to corporations

Governing Documents of Parent Organizations - applicable to chapters, affiliates, etc. of larger organizations

D. Local Constitution and Bylaws - defines the organization's basic structure and fundamental rules. Normally requires a 2/3 vote and prior notice for amendment and are not subject to suspension.

E. Standing Rules - operating procedures consistent with all of the above. Normally can be amended by majority vote at any business meeting and can be suspended.

F. Rules of Order - parliamentary authority, superseded by any of the above that conflict.

Precedent and Custom - apply when there are no written rules governing a situation.

II. Purposes of Parliamentary Procedure

Ensure majority rule

Protect the rights of the minority, the absentees and individual members

Provide order, fairness and decorum

Facilitate the transaction of business and expedite meetings

III. Basic Principles of Parliamentary Procedure

All members have equal rights, privileges and obligations.

A quorum must be *present* for the group to act – if the bylaws of the organization do not establish a quorum, the general rule is that a majority of the entire membership must be present in order to transact business.

Full and free discussion of every motion is a basic right.

Only one question at a time may be considered, and only one person may have the floor at any one time.

Members have a right to know what the immediately pending question is and to have it restated before a vote is taken.

No person can speak until recognized by the chair.

Personal remarks are always out of order.

A majority decides a question except when basic rights of members are involved.

A two-thirds vote is required for any motion that deprives a member of rights in any way (e.g., cutting off debate).

Silence gives consent. Those who do not vote allow the decision to be made by those who do vote.

The chair should always remain impartial.

IV. Typical Order of Business

- A. Call to Order
- B. Opening Exercises, if applicable
- C. Roll Call/Determination of a Quorum
- D. Adoption of the Agenda
- E. Reading and Approval of the Minutes of the Previous Meeting
- F. Reports of Officers
- G. Reports of Standing Committees
- H. Reports of Special (Ad hoc) Committees
- I. Special Orders
- J. Unfinished Business and General Orders
- K. New Business
- L. Program, if applicable
- M. Announcements
- N. "Good of the Order"
- O. Adjournment

V. Role of the Presiding Officer

- A. Remain impartial during debate - the presiding officer must relinquish the chair in order to debate the merits of a motion
- B. Vote only to create or break a tie (or 2/3 for matters requiring a 2/3 vote) – exception: the presiding officer may vote on any vote by ballot
- C. Determine that a quorum is present before transacting business
- D. Introduce business in proper order
- E. Recognize speakers
- F. Determine if a motion is in order
- G. Keep discussion germane to the pending motion
- H. Maintain order
- I. Put motions to a vote and announce results
- J. Employ unanimous consent (general consent) when appropriate

VI. General Procedure for Handling a Motion

- A. A member normally must obtain the floor by being recognized by the chair.
- B. Member makes a motion.
- C. A motion must normally be seconded by another member before it can be considered.

Before the motion is restated by the chair, any member can rise, without waiting to be recognized, and suggest a modification of the wording to clarify the motion. The maker of the motion can choose to accept or reject the modified wording (does not require a second).

If the motion is in order, the chair will restate the motion and open debate (if the motion is debatable).

The maker of a motion has the right to speak first in debate.

Debate is closed when:

1. Discussion has ended, or
 2. A two-thirds vote closes debate ("Previous Question")
- H. The chair restates the motion, and if necessary clarifies the consequences of affirmative and negative votes.
- I. The chair calls for a vote.
- J. The chair announces the result.
- K. Any member may challenge the chair's count by demanding a "Division of the Assembly."

VII. General Rules of Debate

- A. No members may speak until recognized by the chair.
- B. All discussion must be relevant to the immediately pending question.
- C. No member may speak a second time until every member who wishes to speak has had the opportunity to do so.
- D. No member can speak more than twice to each motion.
- E. No member can speak more than ten minutes.
- F. All remarks must be addressed to the chair – no cross debate is permitted.
- G. It is not permissible to speak against one's own motion (but one can vote against one's own motion).
- H. Debate must address issues not personalities – no one is permitted to make personal attacks or question the motives of other speakers.
- I. The presiding officer must relinquish the chair in order to participate in debate and cannot reassume the chair until the pending main question is disposed of.
- J. When possible, the chair should let the floor alternate between those speaking in support and those speaking in opposition to the motion.
- K. When a large number of people wish to speak to a motion it may be advisable for the chair to make a speakers' list.
- L. Members may not disrupt the assembly.
- M. Rules of debate can be changed by a two-thirds vote.

VIII. Motions in Ascending Order of Precedence

Only one main motion may be on the floor at a time, but more than one secondary motion may be on the floor. When any of the motions on the following list is the immediately pending motion (i.e., the last motion made), any motion listed below it on the list can be made at that time and any motion above it on the list cannot be made at that time. Pending motions must be disposed of in descending order of precedence.

- A. **Main Motion** - introduces business to the assembly for its consideration. A main motion can only be made when no other motion is pending. A main motion yields to privileged, subsidiary and incidental motions.
- B. **Subsidiary Motions** - change or affect how the main motion is handled (voted on before the main motion)
1. **Postpone Indefinitely** - made when the assembly does not want to take a position on the main question. Its adoption kills the main motion for the duration of the session and avoids a direct vote on the question. It is useful in disposing of a poor motion that cannot be either adopted or expressly rejected without possibly undesirable consequences. Unlike other subsidiary motions, debate on the motion to postpone indefinitely can go into the merits of the main motion.
 2. **Amend** - changes the wording of the main motion before it is voted upon. An amendment must be germane to the main motion. Its acceptance does not adopt the motion thereby amended; that motion remains pending in its modified form. Rejection of an amendment leaves the pending motion worded as it was before the amendment was offered. An amendment can: delete words, phrases, sentences or paragraphs; strike out words, phrases or sentences and insert new ones; add words, phrases, sentences or paragraphs; or substitute entire paragraph(s) or the entire text of the motion and insert another.
When an entire motion is substituted for another, the chair must first call for a vote on the

Motion to Substitute to determine the advisability of substituting a new motion. If the Motion to Substitute passes, the chair then throws the Substitute Motion open to debate. The **Substitute Motion** in turn must be voted upon, and is subject to amendment. *Note: There is no provision in Robert's Rules for a "Friendly Amendment." The only way a motion can be modified without a vote, after it has been stated by the Chair, is with the unanimous consent of the members present.*

3. **Secondary Amendment** - An amendment can be offered to an amendment (amendment of the second order). Amendments of the third order are not permitted.
 4. **Refer (Commit)** - sends a pending motion to a standing committee, or to an ad hoc (special) committee to be appointed or elected, for consideration. The motion to refer may include instructions to investigate, recommend, or take action, and may specify the composition of the committee.
 5. **Postpone Definitely (Postpone to a Certain Time)** - delays action until a certain time specified in the motion (not beyond the next regular business meeting).
 6. **Limit or Extend Debate** - is used (1) to reduce or increase the number or length of speeches permitted or (2) to require that debate be closed at a specified time. It requires a two-thirds vote.
 7. **Previous Question ("Call for the Question")** - immediately closes debate if passed. Requires a second and a two-thirds vote.
 8. **Lay on the Table** - enables the assembly to lay the pending question aside *temporarily when something else of immediate urgency has arisen*. It is not debatable. *A motion to lay on the table is out of order if the evident intent is to avoid further consideration of the motion.* Frequently when one indicates a desire "to table" a motion, the correct motion is either to Postpone Indefinitely or Postpone Definitely.
- C. **Privileged Motions** - *do not relate to the pending business but have to deal with urgent matters which, without debate, must be considered immediately.*
1. **Call for the Orders of the Day** - requires the assembly to conform to the agenda or to take up a general or special order that is due to come up at the time ("time certain"), unless two-thirds of those voting wish to do otherwise. A member can interrupt a speaker to call for the orders of the day.
 2. **Raise a Question of Privilege** - permits a request or main motion relating to the rights and privileges of the assembly or any of its members. Examples include requests relating to members' ability to hear a speaker or a request to go into "executive session" (closed session). A member may interrupt a speaker to raise a question of privilege.
 3. **Recess** - used to request an intermission which does not close the meeting.
 4. **Adjourn** - used to close the meeting immediately. Not debatable.
 5. **Fix the Time to Which to Adjourn** - sets the time, and sometimes the place, for another meeting ("adjourned meeting") before the next regular business meeting to continue business of the session.

IX. **Incidental Motions** (*Questions of procedure that arise out of other motions and must be considered before the other motion*)

- A. **Point of Order** - used when a member believes that the rules of the assembly are being violated, thereby calling on the chair for a ruling and enforcement of the rules. A member can interrupt a speaker to raise a point of order.
- B. **Appeal** - used to challenge the chair's ruling on a question of parliamentary procedure. A member can interrupt a speaker to appeal from the decision of the chair.
- C. **Suspend the Rules** - used to make a parliamentary rule or special rule of an organization temporarily inoperative. The motion cannot be applied to the constitution and bylaws unless those documents include specific provisions for suspension. Normally requires a two-thirds vote.
- D. **Withdraw** - permits the maker of a motion to remove it from deliberation after the motion has been stated by the chair. If there is not unanimous consent, the motion is debated and voted upon.
- E. **Point of Information** - requests to the chair, or through the chair to another officer or member, to provide information relevant to the business at hand. *A point of information must be in the form of a question.* A request for information regarding parliamentary procedure or the organization's rules bearing on the business at hand is referred to as a **Parliamentary Inquiry**.
- F. **Objection to the Consideration of a Question** - suppresses business that is irrelevant or inappropriate and undesirable to be discussed. The objection must be made immediately

(acceptable to interrupt a speaker). Does not require a second, is not debatable, and requires a two-thirds vote opposed to consideration in order to pass.

- G. **Division of a Question** - divides a motion containing two or more provisions that can stand alone so that each provision can be considered and voted upon separately. Not debatable.
- H. **Division of the Assembly** - used to demand a rising vote to verify the vote count. The motion can be made without obtaining the floor, does not require a second, is not debatable, and does not require a vote.

X. **Main Motions That Bring a Question Back Before the Assembly**

- A. **Take from the Table** - resumes consideration of a motion laid on the table earlier in the same session or in the previous session. Not debatable.
- B. **Reconsider** - reopens a motion to debate that has already been voted upon in the same session. The motion to reconsider can only be made by a member who voted on the prevailing side. It suspends action on the motion to which it is applied until it has been decided. It cannot be postponed beyond the next regular business session.
- C. **Rescind (Annul or Repeal) or Amend Something Previously Adopted** - repeals or amends a motion for which it is too late to reconsider. Normally requires a two-thirds vote of those present or a majority vote of the entire membership; however, if previous notice has been given then only a majority vote of those present is required. A motion to rescind cannot be applied to action that cannot be reversed.

XI. **Voting**

- A. **Majority vote** - defined as more than half of the votes cast by those present and voting (i.e., excluding abstentions) unless the organization's rules specify otherwise (e.g., majority of those present, or majority of the entire membership)
- B. **Two-thirds vote** - defined as at least two-thirds of those present and voting, unless otherwise specified by the organization's rules. Examples of motions that require a two-thirds vote: to close, limit, or extend debate; to suspend the rules; to amend the constitution and bylaws; to close nominations; to remove an officer or expel a member; or to object to the consideration of a motion.
- C. **Voting by the Chair** - except when there is a ballot vote, the chair only votes when his/her vote would affect the result.
- D. **Methods of Voting**
 - 1. Voice vote - method normally used
 - 2. Show of hands or rising vote - used to verify an inconclusive voice vote or on motions requiring a two-thirds vote
 - 3. Ballot - normally used for election of officers and when ordered by a majority vote
 - 4. Roll call vote - used when it is desired to have a record of how each member voted. Can be ordered by a majority vote unless the organization's bylaws specify otherwise.
- E. **Proxy voting** is prohibited unless specifically provided for in the charter or bylaws.

Recommended Books

Robert's Rules of Order, Newly Revised, Tenth Edition, 2000

Robert's Rules of Order, Newly Revised, In Brief, 2004

The Complete Idiot's Guide to Robert's Rules, Nancy Sylvester, 2004

Robert's Rules for Dummies, C. Alan Jennings, 2004

Recommended Web Sites

www.robertsrules.com

parliamentarians.org

www.rulesonline.com

www.parlipro.org