

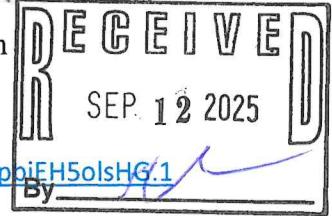
\MORRIS PLANNING & ZONING COMMISSION  
COMMUNITY HALL • 3 EAST STREET • MORRIS, CONNECTICUT 06763

Regular Meeting Morris Town Hall and Live on Zoom  
September 17th, 2025 at 7:00 pm  
Call in # 1-929-205-6099

<https://us02web.zoom.us/j/89978564674?pwd=B26n07TCJtMtDcZASxLpbiFH5olsHG.1>

Meeting ID: 899 7856 4674

Passcode: 433590



Barbara Bongolotti  
Helen White  
Veronica Florio  
Douglas Barnes (Secretary)

David Wiig Chairman  
Dylan Hovey  
William Ayles Jr. (Vice-Chairman)  
Marc Petzold  
Kim Dore  
Staff: ZEO Tony Adili  
Planner: Janell Mullen

Alternates:  
Noah Butler  
Geoff Paletsky  
Erika Leone

**Agenda**

1. **Call to Order**
2. **Agenda Review**
3. **New Business**
4. **Old Business**
  - a. **Bantam Lake Waterfront Overlay District as well as improve use of Low Impact Sustainable Development**
  - b. **Consider updates to Subdivision regulations that will include identifying archaeological, historical, or cultural resources that require a license professional to assess the impacts of development. Also restricting development on land with slopes of greater than 20 percent**
5. **Communications and Bills**
  - a. **Good Governance Packet from Steve Byrne**
6. **Adjourn**

Town of Morris, CT  
Planning & Zoning Commission  
**BANTAM LAKE OVERLAY**

*Prepared by Town Planner for Planning Workshop on June 18<sup>th</sup>, reviewed and discussed with BLPA on August 20<sup>th</sup>, and revised for Planning Workshop on September 17, 2025*

**BACKGROUND**

The Morris Town Plan of Conservation & Development includes the following recommendation: *Explore developing a Bantam Lake Waterfront Overlay District that would create restrictions for activities that negatively affect the water quality of Bantam Lake.*

In August of 2023, the Town Planner prepared a document for the Bantam Lake Protective Association (BLPA) that introduced the concept of the Bantam Lake Overlay Zone. It proposed that all properties located within five-hundred feet (500') of the mean high-water mark of Bantam Lake be included in this overlay district (see associated map). The mean-high water (MHW) mark is a line that water impresses on the shore that distinguishes the land from the waterbody.

An overlay district is a zoning mechanism that introduces additional development standards to areas of sensitive environmental concern (examples include the Flood Plain District in Morris, the Housatonic River Overlay Zone in neighboring towns). Additional provisions will be applied to portions of properties/properties that fall within this overlay in addition to the existing standards that currently exist in the underlying zone.

**PROPOSED TEXT AMENDMENT**

*It is suggested that the Bantam Lake Overlay District gets added within Article V Special Districts as **Section 56 – Bantam Lake Overlay District***

**Purpose**

To protect and preserve the quality and safety of waterbodies and shorelines within the Town of Morris and to promote the health, safety and welfare of all persons living adjacent to waterbodies and making use of them.

It is proposed that all properties/portions of properties within five-hundred feet (500') of the mean-high water (MHW) mark of Bantam Lake fall into the Bantam Lake Overlay Zone (BLOZ). All site grading, clearing, construction, and/or alteration of structures and site improvements such as the installation of pools, tennis courts, impervious surfaces, within this overlay will be subject to the BLOZ standards are outlined below.

Accordingly, it is the intent and purpose of the Town of Morris to adopt reasonable regulations and permitting procedures for docks, boat lifts and floats.

## **Definitions**

**BOAT LIFT** – a structure in the watercourse or attached to a dock, or shore, designed to lift a vessel out of the water and/or provide a platform for a vessel.

**DOCK** – a structure, other than a walkway, boat lift, vessel or float, projecting over a watercourse which is attached or adjacent to the shore.

**FLOAT** – a freestanding solid or inflatable platform other than a dock, walkway, vessel or boat lift attached to the bed of a watercourse by lines, cables or chains.

**IMPERVIOUS SURFACE** – an impervious surface is any of the follow surfaces which minimize or prevent the infiltration of rainfall into soil – buildings, roofs, hardscapes such as tennis courts and other sports courts, concrete or stone features such as patios and walkways, roads and driveways.

**MEAN-HIGH WATER MARK**- mark is a line that water impresses on the shore that distinguishes the land from the waterbody.

**VESSEL** – every type of watercraft, motorized and nonmotorized, other than a seaplane on water, used or capable of being used as a means of transportation on water.

## **Specific Requirements within the Bantam Lake Overlay Zone**

### **Docks, Floats, and Boat Lifts -**

1. All docks, floats, and boat lifts shall require a zoning permit.
2. All docks and floats require numbering in accordance with the listed street address. The street and number using reflective materials as least 3 inches high shall be affixed to the end of a dock or float so as to be visible from the water.
3. Only one dock, one boat lift, and either one rowing shell dock or one float is permitted per shoreline property. The maximum sizes allowed are as follows: dock – 360 square feet of total surface area including access ramp; boat lift – 12 feet by 20 feet; rowing shell dock – 4 feet by 25 feet; and float – 10 feet by 10 feet.
4. The use of marine structures (docks, floats, rowing shell dock and boat lifts) shall be recreational in nature, secondary to a private residential use, and not for commercial purposes.
5. Docks and other marine structures subject to destruction or damage by ice movement must be removed on a seasonal basis [before ice].
6. Any dock, boat lift, rowing shell dock, or float placed in a watercourse may not be permanently affixed or installed in the waters or lakebed and cannot have any permanent contact with the submerged land. Any marine structure must be built and installed to be temporary in nature and readily removed seasonally or otherwise.
7. Docks shall be no more than eight [8] feet in width at their junctures with the existing shoreline. This eight [8]-foot maximum width must not be exceeded within five [5] feet of the shoreline
8. The dock alignment must be perpendicular to the shore and remain so for at least five [5] feet from the shoreline.
9. The dock and rowing shell dock shall be fastened to the shoreline in a manner to minimize

any disturbance to the existing shoreline. There shall be no re-grading, re-contouring, or similar modification of the existing shoreline and surrounding land. The installation, placement, construction or maintenance of docks shall not include the obstruction, alteration, pollution, removal or disposition of material from or into Bantam Lake.

10. Material for the flotation of marine structures shall be as follows: non-toxic, noncorrosive, encapsulated impact resistant buoyancy material that is resistant to fragmentation. Metal or plastic containers that have previously been used for any other purpose are not permitted. Rust retardant hardware shall be used.
11. Docks and other marine structures shall be assembled from non-toxic rot resistant material [no pressure treated wood].
12. Docks, boat lifts, rowing shell docks, and marine structures shall not be located within ten feet [10 ft] of the abutter's side-yard.
13. Height above docks shall be minimized and there shall be free movement of water beneath all docks.
14. Marine and lakefront structures may not include appurtenances such as roofs, raised platforms, and decks. Removable fabric canopies or umbrellas and removable waterslides are allowed.

#### **Shoreline Setback**

1. All non-marine structures [such as decks, sheds, pools, accessory buildings] shall be setback from the shoreline by at least twenty-five feet (25') as measured from the MHW.

#### **Impervious Coverage**

1. Impervious surfaces within the Bantam Lake Overlay Zone shall be minimized. Impervious coverage in this overlay zone shall not exceed twenty-five percent (25%). Gravel driveways are counted as impervious.

#### **RECOMMENDATIONS**

1. Pre-existing non-conforming structures are expected. The Town of Morris Wetlands Regulations started regulating docks, floats, boat lifts, and rowing shell docks on June 16, 2004. It is recommended that property owners self-elect to obtain zoning permits for marine structures for the safe use of Bantam Lake and to properly abide by the dimensional requirements and the numbering system.
2. Discontinue lakefront use of lawn fertilizers and encourage residents to maintain lakefront vegetative buffers of twenty-five feet [25'] in width.
3. Residents should minimize the shorefront span of artificial beaches to ten-percent (10%) of the lot's frontage. [If the lot's subject frontage is 150', its shoreline beach shall no greater than fifteen feet [15 ft] in length.] Artificial beaches should not exceed fifteen feet [15'] in depth.
4. Adhere to the Dark Sky Principles within the BLOZ.



5. Properly maintain and upgrade on-site wastewater disposal systems and encourage private residents to get their septic's pumped regularly for optimum water quality of Bantam Lake.
6. In keeping with the Wakeboat Ordinance proposal, concentrate wake-boating and other comparable activities in the center of Bantam Lake to minimize shoreline erosion and habitat degradation.

# WORKSHOP MATERIALS ON GOOD GOVERNANCE

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## **I. Guidelines for Conducting Public Meetings and Hearings**

### **Freedom of Information**

1. Notice of meetings must adhere to Freedom of Information (FOI) requirements, codified in the Connecticut General Statutes (CGS) at Chapter 14 Sections 1-200 to 1-241, inclusive; staff can assist in interpreting or explaining FOI requirements applicable to municipal agencies; a separate set of guidelines prepared by the Town Clerk's office is attached.
2. Public business should never be discussed between or among members of a municipal agency outside of the agency's public meeting. If members meet by chance or at social functions, they should refrain from chatting about pending agency business.
3. Site visits pose special difficulties with respect to FOI requirements. If a municipal agency conducts a site walk or inspection as an agency, it must be treated as a special meeting; notice of it must be prepared and posted, minutes must be taken, and the public must be allowed to attend, however, because of the logistical difficulty of recording individuals' statements and questions in the open and among members who may be geographically dispersed while also providing open access by the public, members should not communicate with each other to share observations or opinions during the site walk: members should make whatever notes seem appropriate and discuss them only in open meeting at the agency's regular meeting location. Having members visit or walk a property individually avoid the public meeting problem and is recommended.

### **Conflict of Interest, Bias and Predetermination**

1. In general members of municipal regulatory agencies that have an actual or perceived conflict of interest in a matter before the agency should disclose it for the record. It is up to each member in such circumstances to determine whether a conflict exists that would disqualify him or her from consideration of the matter: a member has a right to declare that, despite an apparent or possible conflict of interest, he or she can maintain objectivity in evaluating the merits of the issue under consideration.
2. Members of municipal regulatory agencies should not publicly state a position on a matter to be considered by the agency until the matter is reviewed by the agency and comments by all members and, if a public hearing, the public are aired and considered.

### Right to Enter Private Property

Regulatory municipal agencies and their members do not gain the right to enter onto private property as a condition of accepting an application, permission to enter onto private property should always be obtained from the owner; members may, however, view land or buildings from a place where they have a right to be, such as from a public road, a neighbor's yard (with permission), an airplane, etc.; binoculars may be used.

### Conduct of Meetings and Hearings

1. Meetings should be conducted according to the agency's rules or bylaws, if any, and should follow the agenda; items may be added to a regular meeting agenda only by a two-thirds affirmative vote of members present and voting; no items may be added to the agenda of a special meeting.
2. Unless the agency's agenda allows for open public comment, the public has no right to speak at a public meeting; public comments should not be permitted on a matter before the agency that is not the subject of a public hearing.
3. In conducting public hearings, the agency should establish and follow a procedure for doing so; as a courtesy, the chairman should inform the public what that procedure is; it is up to the chairman to maintain order during the hearing and to keep the hearing moving; some general guidelines:
  - a. While trying to minimize redundant testimony, do not cut off or discourage speakers; when in doubt, let them speak;
  - b. Speakers must identify themselves;
  - c. An agency is not bound by rules of evidence; hearsay may be accepted but should be given less weight;
  - d. Cross-examination must be permitted;
  - e. Letters and correspondence received at public hearing should be noted for the record but need not be read aloud; there are some exceptions, such as reports from mandatory referrals to a regional planning agency;
  - f. Agency members do not have to believe expert's opinions on an issue before the agency; for example, personal knowledge of circumstances may be grounds for discrediting expert testimony; however, if members of the agency do not believe an expert's testimony, they should say so during the public hearing and state the reasons for disbelieving the expert;
  - g. Staff and other objective advisors, such as state agencies, may offer comments after the close of a public hearing so long as the comments are confined to issues raised during the public hearing; for example, the agency may ask staff to evaluate technical information presented at the hearing or to clarify conflicting testimony to help the agency better understand it;
  - h. A hearing may be continued and should be continued if the agency requests presentation of additional or clarifying evidence or if the hearing is prolonged

and/or runs late into the evening; statutory hearing deadlines must be observed.

### Making Decisions

1. Municipal regulatory agencies must render decisions on applications within time limits prescribed in the Connecticut General Statutes; extensions of time limits are available with the consent of the applicant.
2. Decisions should always be based on local regulations and standards that in turn are based on applicable provisions in the general statutes, agencies should be careful not to stray into arguments and reasons that reflect public or personal sentiments that are not found in the regulations.
3. An agency should openly discuss the merits of matters before it prior to making a decision so that the record supports the agency's decision; discussion of a motion made and seconded should state the reasons for the proposed action.

### Final Thoughts

If an agency encounters difficulties or questions in the course of conducting meetings or hearings, ask staff for assistance. Pending items may usually be tabled and hearings may usually be continued if assistance is not immediately available or if additional research into a question or issue is warranted.

## II. Conflict of Interest

Connecticut General Statutes Sec. 7-148t provides in part that “no member of any municipal commission or board having any jurisdiction or exercising any power over any municipal land use or purchasing decisions shall appear for or represent any person, firm, corporation or other entity in any matter pending before the commission or board. No member of any such commission or board shall participate in any hearing or decision of the board or commission of which he is a member upon any matter in which he knowingly has a pecuniary interest”.

In the event of such disqualification, such fact shall be entered on the records of the commission or board and any municipality may, by ordinance, provide that an elector may be chosen, in a manner specified in the ordinance, to act as a member of such commission or board in the hearing and determination of such matter, except that replacement shall be made first from alternate members of such commission or board designated pursuant to the general statutes or any special act or municipal charter or ordinance, if any.

The question of disqualification centers on maintaining the public’s trust in its public officials. Anything which tends to weaken this trust and to undermine the sense of security of individual rights which a citizen is entitled to feel runs against this public policy. It is the mere appearance of impropriety which must be avoided. Thus, it is not required that an actual conflict of interest exists, only that there appears to be such a conflict.

Where a commission member was correct to recuse himself from considering an application by his abutting neighbor for a certificate of appropriateness, it was not proper for him to offer testimony against the application as an expert witness on whether the planned addition to his neighbor’s home complied with the regulations. Such participation violated the principles of fundamental fairness and denied the applicant a fair hearing. Barry v. Historic District Commission, 108 Conn. App. 682 (2008).

“A personal interest has been defined as an interest in either ‘the subject matter or a relationship with the parties before the zoning authority impairing the impartiality expected to characterize each member of the zoning authority.’ A personal interest can take the form of favoritism toward one party or hostility toward the opposing party; it is a personal bias or prejudice which imperils the open-mindedness and sense of fairness which a zoning official in our state is required to possess ... the decision as to whether a particular interest is sufficient to disqualify is necessarily a factual one and depends on the circumstances of the particular case.” Thorne v. Zoning Commission, 178 Conn. 198, 204-205 (1979); Anderson v. Zoning Commission, 157 Conn. 285, 290-291 (1968).

“The administration of power of that nature, whether it be denominated legislative or quasi-judicial, demands the highest public confidence. Anything which tends to weaken such confidence and to undermine the sense of security for individual rights which the citizen is entitled to feel is against public policy.” Kovalik v. Planning & Zoning Commission, 155 Conn. 497, 499 (1967).



### III. Highlights of the Freedom of Information Act Connecticut General Statutes Sec. 1-200 et seq.

#### What is a Public Meeting

Under the Connecticut Freedom of Information Act (FOIA), “[m]eeting” means:

1. “any hearing or other proceeding of a public agency,”
2. “any convening or assembly of a quorum of a multimember public agency,” and
3. “any communication by or to a quorum of a multimember public agency, whether in person or by means of electronic equipment, to discuss or act upon a matter over which the public agency has **supervision, control, jurisdiction or advisory power.**”

Members of the public have a right to attend any meeting of a public agency by simply showing up at the meeting place. A public institution cannot require that a member of the public sign in or provide personal information, like their address or telephone number in order to attend a public meeting.

While the public has a right to attend public, members of the public do not have a right to speak at such meetings. As a courtesy, however, a public institution may permit members of the audience to comment at a designated time during a public meeting. The public has a right to tape record, photograph and broadcast public meetings, “as inconspicuously as possible and in such a manner as not to disturb the proceedings of the public [institution].” It should also be noted that public institutions may remove disruptive members of the audience pursuant to the FOIA.

#### Types of Public Meetings

There are three types of public meetings under the FOIA; **Regular**, **Special**, and **Emergency**. As discussed below, each type of public meeting has specific requirements under the FOIA.

##### *Regular Meeting*

**Regular** meetings of public institutions are regularly recurring meetings whose times, dates and places are set forth in a schedule of regular meetings filed with the Secretary of State by January 31 of each year and made available for public inspection at the institution’s regular office or place of business.

##### *Special Meeting*

A **Special** meeting is a meeting a public institution determines it must conduct before the next regular meeting and for which it must provide at least twenty-four (24) hours advance notice by making such notice available for public inspection at the institution’s regular office or place of business.

### *Emergency Meeting*

An **Emergency** meeting of a public institution is a meeting which the public institution determines must be convened within twenty-four (24) hours; therefore, insufficient time for notice of a special meeting. Note that there must be a bona fide emergency necessitating the meeting within 24 hours.

### Non-Public Meetings and Executive Sessions

#### *Non-Public Meetings* “‘Meeting’ does not include:”

1. “[a]ny meeting of a personnel search committee for executive level employment candidates;”
2. “any chance meeting, or a social meeting neither planned nor intended for the purpose of discussing matters relating to official business;”
3. “strategy or negotiations with respect to collective bargaining;”
4. “a caucus of members of a single political party notwithstanding that such members also constitute a quorum of a public agency;”
5. “an administrative or staff meeting of a single-member public agency; and”
6. “communication limited to notice of meetings of any public agency or the agendas thereof.”

#### *Executive Sessions*

“Executive session” means “[a portion of a] meeting of a public [institution] at which the public is excluded for one or more of the following purposes:

- (A) Discussion concerning the appointment, employment, performance, evaluation, health, or dismissal of a public officer or employee, provided that such individual may require that discussion be held at an open meeting;
- (B) strategy and negotiations with respect to pending claims or pending litigation to which the public agency or a member thereof, because of the member’s conduct as a member of such agency, is a party until such litigation or claim has been finally adjudicated or otherwise settled;
- (C) matters concerning security strategy or the deployment of security personnel, or devices affecting public security;
- (D) discussion of the selection of a site or the lease, sale or purchase of real estate by the state or a political subdivision of the state when publicity regarding such site, lease, sale, purchase or construction would adversely impact the price of such site, lease, sale, purchase or construction until such time as all of the property has been acquired or all proceedings or transactions concerning same have been terminated or abandoned; and
- (E) discussion of any matter which would result in the disclosure of public records or the information contained therein described in subsection (b) or section 1-210.”

Only public institution members may attend an executive session portion of a public meeting, with the exception of persons invited to testify or give opinion. However, the attendance of a person invited to testify or give opinion during the executive session

portion of a public meeting is limited to the time such persons are providing testimony or opinion. Members of a public institution must vote in public, by at least 2/3rds of those present and voting, to convene in executive session, and must state the purpose for executive session.

## Notices

### *Regular Meeting Notice*

Public institutions are required to annually file by January thirty-first (31) or each year, the schedule of its regular meetings in the Office of the Secretary of the State.

### *Special Meeting Notice*

The special meeting notice must be given not less than twenty-four hours prior to the time of such meeting by filing the notice... at institution's regular office or place of business. "The notice [must] specify the time and place of the special meeting and the business to be transacted."

### *Emergency Meeting Notice*

A public institution may hold an Emergency meeting without complying with the notice requirements under the FOIA, if there is a bona fide emergency justifying such emergency meeting.

## Agendas

A meeting agenda must "fairly appraise the public of the action proposed" and of the "matters to be taken up at the meeting in order to [permit the public] to properly prepare and be present to express their views." An executive session listed on agenda must also fairly apprise the public of the reason for such session. Thus, an agenda item stating "Executive Session – Personnel Matters" is inadequate and more specificity is required based on Freedom of Information Commission (FOIC) final decision precedents.

### *Regular Meeting Agenda*

A public institution must make the agenda of its regular and special meetings available to the public at least twenty-four (24) hours before the meetings to which they refer in such [institution's] regular office or place of business. Members of a public institution must vote in public, by at least 2/3rds of those present and voting, to add any business to the agenda to be considered and acted upon at such regular meeting.

### *Special Meeting Agenda*

A public institution must make the agenda of its special meetings, detailing the business to be transacted, available to the public at least twenty-four (24) hours before the meetings to which they refer: in such institution's regular office or place of business. Note that no other business may be added or considered at such special meeting.

### *Emergency Meeting Agenda*

A public institution may hold an Emergency meeting without complying with the agenda requirements under the FOIA, if there is a bona fide emergency justifying such emergency meeting. Note, however, that only emergency matters may be considered at such emergency meeting.

### Minutes

The FOIA requires that the following be included in the minutes of a public institution:

1. Time of convening and adjournment.
2. Date and place of the meeting.
3. Names of institution members attending and how they voted on each issue.
4. Statement of each issue discussed or acted on.
5. Purpose of any executive session and who attended such executive session.

### *Regular Meeting Minutes*

Minutes of a public institution's regular meeting must be made available for public inspection within seven (7) days of such meeting. Such minutes must adequately set forth the reason for the special meeting and the business transacted at such meeting.

### *Special Meeting Minutes*

Minutes of a public institution's special meeting must be made available for public inspection within seven (7) days of such meeting. Such minutes must adequately set forth the reason for the special meeting and the business transacted at such meeting.

### *Emergency Meeting Minutes*

Minutes of a public institution's emergency meeting must be made available for public inspection within seventy-two (72) hours of such meeting. Such minutes must adequately set forth the reason for the emergency meeting and the business transacted at such meeting.

### *Record of Votes*

A record of institution member votes must be "reduced to writing and made available for public inspection within forty-eight [(48)] hours." Note that the record of institution member votes must also be included in the minutes of public meetings.

REMOTE AND HYBRID PUBLIC MEETINGS

PA 21-2 Sec. 147 and 149

The Freedom of Information Act. Codified as Connecticut General Statutes Sec. 1-200 et seq., has been amended to allow public meetings remotely as well as in person as long as certain requirements are met. These changes to the FOIA remain in effect until April 30, 2022. The requirements for holding a remote or hybrid public meeting focus on providing access to the public through electronic means.

Before a public meeting can be held through electronic means, proper notice must be given. This is done by providing direct notice to each member of the municipal agency at least 48 hours before the meeting is to take place, that the meeting will be held fully or partially by electronic means. This same notice must also be posted 24 hours before the meeting is to take place either in the town clerk's office or its regular office and on the town's website. These notices are in addition to the usual requirements for posting a meeting agenda. The agenda must include directions so that the public can attend the meeting and provide comment via electronic means. In regard to providing comment, this is only required where such opportunity to comment is available to those attending in person.

If a municipal agency decides to hold a meeting solely or partially by electronic means, it must provide certain accommodations to the public. If a member of the public makes a written request to attend by electronic means, the agency must provide a physical location and the necessary electronic means for doing so. Said request must be provided at least 24 hours before the meeting is to take place. Any member of the municipal agency must be allowed to participate by electronic means. However, the meeting does not need to be continued due solely to an interruption of the electronic connection to the remote member unless the loss of this member results in the loss of a quorum.

When a meeting being held fully or partially by electronic means is interrupted by a failure, degradation or disconnection to electronic communication and the Chairman determines that this has made the electronic means unacceptable to the conduct of the meeting or the electronic connection to a member needed to constitute a quorum has similarly been degraded or disconnected, the meeting must be resumed not less than 30 minutes nor more than 2 hours from the chairman's determination. The resumed meeting can be done solely in person if the quorum exists or solely or partially by electronic means. If the meeting is resumed, notice of the resumption should be posted on the agency's website. Similarly, if the meeting is to be continued to a later date, this information should be posted in a similar fashion. The state law recommends that at the start of any meeting held partially or fully by electronic means, the agency should announce its procedures for when the degradation or failure of electronic communications cause the interruption of a meeting.

Any meeting held fully or partially by electronic means must be transcribed or recorded and such recording or transcription posted on the agency's website and made available in the agency's office or regular place of business not more than 7 days after the meeting and maintain them in place for 45 days thereafter. Any vote taken at a meeting during which any member participates by electronic means shall be taken by roll call unless the vote is unanimous. The minutes of the meeting shall record a list of members that attended such meeting in person and a list of members that attended such meeting by means of electronic equipment.

Sec. 147 of Public Act 21-2 defines the term 'electronic equipment' to include any technology which allows for real-time public access. The term includes, but is not limited to, telephones and video conferencing platforms. This section of the new law also defines what 'electronic transmission' means. The term includes any form or process of communication not involving the direct transfer of paper or other tangible medium and that is capable of being retained, retrieved, and reproduced. The recipient of any such transmission must be able to retrieve it in a paper form.



## Public Meetings Chart for Public Institutions

TYPE	NOTICE	AGENDA/ NOTICE CONTENTS	ADDING TO AGENDA/ NOTICE	FILING RECORD OF VOTES	FILING MINUTES
<b>Regular</b>	File yearly schedule with Sec'y Of State (state) or Town Clerk (municipal) by Jan.31 <sup>st</sup> .**	Agenda available at least 24hrs. before meeting.**	Agenda items may be added by 2/3 vote of those members present and voting.	Within 48 hrs. after meeting (if minutes not available within 48 hours).	Within 7 calendar days after meeting.***
<b>Special</b>	At least 24 hrs. before meeting, file at Sec'y Of State (state) or Town Clerk (municipal).*	At least 24 hrs. before meeting. Time, place and business must be included in notice.*	Not permitted	Within 48 hrs. after meeting (if minutes not available within 48 hours).	Within 7 business days after meeting.***
<b>Emergency</b>	None required if emergency is justified.	None required if emergency is justified.	Only emergency matters may be considered.	Within 48 hrs. after meeting (if minutes not available within 48 hours).	Within 72 hrs. after meeting. Must state reason for emergency.***

\*Available with Secretary of the State (state) or Town Clerk and in place of business. Also, must be posted on agency website.

\*\* Available with Secretary of the State (state) or Town Clerk and in place of business. Also, if a state agency, must be posted on agency website.

\*\*\* Must be posted on agency website if a state agency.

#### IV. Federal Limitations on Local Governance

There are several Federal Laws and Constitutional guarantees which place restrictions on local governance that can impose significant financial penalties if a municipality violates them. They will be addressed briefly.

##### A. Americans with Disabilities Act

The Americans with Disabilities Act [ADA] is codified as 42 U.S.C. Sec. 12131 et seq. and is divided into three parts. Title I deals with discrimination against the disabled in employment, Title II addresses discrimination in the area of public services while Title III handles discrimination in access to public accommodations and services by private entities. In the area of municipal governance, Title II applies to anything a public entity does and covers all governmental activities. *Innovative Health Systems v. City of White Plains*, 117 F.3d 37 (2<sup>nd</sup> Cir. 1997).

In order to have a violation of Title II of the ADA, a person must show that he or she is disabled, that he or she was denied or excluded from some program or benefit of a public entity or otherwise discriminated against, and that such denial, exclusion or discrimination was based upon the person's disability.

Where a disability has been shown, a public entity must reasonably modify its policies, practices, or procedures to avoid discrimination. When deciding whether a reasonable accommodation can be made, two factors must be considered: that there not be an undue financial burden on the community and that the accommodation would not alter the regulatory scheme of the public entity. If the public entity can demonstrate that the modifications would fundamentally alter the nature of its service, program, or activity, it is not required to make the modification.

For example, a municipal zoning ordinance requires a set-back of 12 feet from the curb in the central business district. In order to install a ramp to the front entrance of a pharmacy, the owner must encroach on the set-back by three feet. Granting a variance in the zoning requirement may be a reasonable modification of town policy.

##### B. Fair Housing Act

The Fair Housing Amendments Act [FHA] is codified at 42 U.S.C. Sec. 3601-3631 and protects people from discrimination when they are renting or buying a home, getting a mortgage, seeking housing assistance, or engaging in other housing-related activities. The 1988 amendments to the Act included handicapped persons as a protected class. The FHA requires public officials to make reasonable accommodations in their regulations and practices when addressing housing.

The terms 'reasonable accommodation' is not defined in the Act and is thus subject to interpretation. The term has been defined by a court to include changing a rule that is generally applicable so as to make it less burdensome. A balancing test has also been

used whereby “ ... the interest and benefit to the handicapped individual is weighed against the interest of and burden to the municipality in making accommodation based on the facts of each case.” *Robinson v. City of Friendswood*, 890 F.Supp. 616 (S.D. Tex. 1995).

It is not enough to show that a person is disabled and that a government regulation or practice denied him or her a housing opportunity, discriminatory intent must also be shown. “Congress intended that the FHA permit reasonable government limitations as long as they are applied to all groups and do not effectively discriminate on the basis of handicap.” *Robinson at 622*.

### C. Religious Land Use and Institutionalized Persons Act

This federal law, codified as 42 U.S.C. 2000cc et seq. and commonly referred to as RLUIPA is a civil rights law that protects individuals and religious assemblies and institutions from discriminatory and unduly burdensome land use regulations, which include historic district regulations. If the application of land use regulations creates a substantial burden on religious exercise, such application is invalid unless it is supported by a compelling governmental interest and is done so by the least restrictive means.

It is beyond question that the regulation of land use is a compelling governmental interest. Thus, the question of whether there is a RLUIPA violation usually centers on whether the governmental action complained of was the least restrictive means. There is no definition of least restrictive means, requiring courts to make a case by case decision on this issue.

RLUIPA also contains a separate legal test – whether or not the governmental regulation of practice is discriminatory. The Act describes discriminatory activity as treating religious uses on less than equal terms, by excluding religious land uses from a jurisdiction or by imposing unreasonable limitations on religious land uses within a jurisdiction.

### D. First Amendment-Free Speech

A comprehensive town ordinance regulating signs was challenged by a local church on the ground that the code violated its First Amendment Rights under the U.S. Constitution. The code generally required that a permit be obtained from the town before a sign could be installed. Certain exceptions to this permit requirement were included in the ordinance that allowed certain types of signs to be installed without a permit such as political signs, ideological signs and qualified events such as church service signs.

When one of the church’s signs was seized by the town and citations for violating the ordinance were threatened, the Church filed a lawsuit in federal court challenging the validity of the ordinance. The basis for the challenge was that the ordinance treated signs differently depending on what the sign advertised. For example, political signs were treated more favorably than signs that advertised events such as church services.

Since a person would need to read a sign to determine what provisions of the sign code would apply, the Supreme Court found the town's sign ordinance to be content based. The Court stated that the First Amendment of the U.S. Constitution provides that "a government, including a municipal government vested with state authority [such as a zoning commission] has no power to restrict expression because of its message, its ideas, its subject matter or its content." It went on the state that "Content based laws – those that target speech based on its communicative content – are presumptively unconstitutional." Since the town could not provide a compelling reason for treating the Church's signs more restrictively than other signs, such as political signs, the sign ordinance was struck down. See *Reed v. Town of Gilbert*, 135 S.Ct 2218 (2015).

E. Section 1983 – Civil Rights Violation

42 U.S.C. Sec. 1983 states that "Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress ... ."

A violation of any of the above discussed federal laws by the Borough would allow the person so harmed to claim both injunctive and monetary claims for relief in a lawsuit brought pursuant to these laws. The money damages can be substantial.

## V. Rules on Making and Amending Motions

### How to Make a Motion

1. ***Rise to address the presiding officer*** – Address him by title, as “Mr. President” or “Mr. (or Madam) Chairman.”
2. ***You are recognized by the presiding officer*** – He states your name or nods to you. Now you “have the floor.” You are the only member entitled to present or discuss a motion at this time.
3. ***You propose a motion*** – Introduce the motion by saying “*I move that,*” followed by a statement of the proposal. This is the correct way to say it. You cannot discuss the motion until it has been seconded by someone.
4. ***Another member seconds the motion*** – Another member, without rising or addressing the chairman, may say, “I second the motion.” Seconding a motion means that at least two people want to consider the motion. If no one seconds, the chairman may ask, “Is there a second to the motion?” If there is none, he must declare, “The motion is lost for want of a second.”
5. ***The presiding officer states the motion*** – When the motion has been properly made and seconded, the chairman repeats it to the group, or “states the motion.”
6. ***The members discuss or debate the motion*** – After your motion has been stated by the chairman, any member may discuss it. He must get the floor as you did when you made your motion. Normally the first person who asks to speak is recognized. When several members wish to speak at the same time, these guiding principles should determine the decision of the chairman.
  - a. The chairman should show preference to the one who made the motion.
  - b. A member who has not spoken has first choice over one who has already spoken.
  - c. If the chairman knows the opinions of members discussing the measure, he should alternate between those favoring and those opposing it.
  - d. The chairman should recognize a member who seldom speaks in preference to one who often claims the attention of the assembly.
7. ***The presiding officer takes the vote on the motion*** – When all members have finished discussing the motion, the chairman “puts the motion to a vote.” He may, before taking the vote, ask, “Is there any further discussion?” If no one rises, the discussion is closed. The chairman will take the vote by announcing, “All in favor of the motion (STATE THE MOTION) say ‘Aye’.” Following response from the members, the chairman says, “Those opposed say ‘No’.” If the chairman cannot tell from the volume of voices which way the majority has voted, he says: “The chair is in doubt. Those in favor of the motion please rise.” After counting, he says: “Be seated. Those opposed, rise. Be seated.” Other methods are to call for a show of hands or a written ballot.
8. ***The presiding officer announces the result of the vote*** – The chairman states, “The motion is carried” or “The motion is lost.” As soon as the vote has been announced by the chairman, another motion is in order.

### How to Change a Motion

When you want to change a motion that is on the floor, you say, “I move to amend the motion by (and state your change).” There are three ways to change a motion.

**Addition** – Add something to the motion.

**Subtraction** – Strike something from the motion at hand.

**Substitution** – Combine the first two methods by striking out something and inserting something else in its place. The substitution portion may be a word, a phrase, a clause, or an entirely new motion. But remember that an amendment must have direct bearing on the main motion.

An amendment may be opposed to the actual intent of the original motion. However, if it relates to the same subject matter, it is in order.

### ***Types of amendments***

Amendment of the First Rank – An amendment to a motion.

Amendment of the Second Rank – An amendment to the amendment. It must modify and relate directly to the amendment and NOT to the main motion. Otherwise, it is OUT OF ORDER. It is never in order to propose more than one amendment of each rank at one time. If you want to amend two separate and unrelated parts of a motion, you must propose two amendments of the first rank, but the first one must be voted upon before you propose the second. It is possible to have a motion, one amendment to the motion (amendment of the first rank), and one amendment to the amendment (amendment of the second rank) before the meeting at the same time.

**Order of voting** – Amendments are voted upon in order before the group can consider the main motion.

The amendment to the amendment (amendment of second rank) is discussed and voted on.

After discussion the vote is taken on the amendment to the motion (amendment of first rank).

After discussion on the original motion *as amended*, a vote is taken on it.



### CREDITS TO SOURCES

Except for that portion of this booklet which addresses Conflict of Interest and Federal Limitations on Local Governance, the materials have been prepared by persons other than myself. Thus, credit is given as follows:

The 'Guidelines for Conduct of Public Meetings and Hearings' comes from the corporation counsel's office for the town of Plainville Connecticut. A copy of this document is distributed to all new municipal officials and agents.

The "Highlights of the Freedom of Information Act" is taken from a document prepared by Board of Regents for the Connecticut State Colleges and Universities. Entitled "Freedom of Information Act – Public Meeting Guide", it applies equally well to municipal land use agencies.

Finally, the section on "Rules for Making and Amending Motions" comes from a pamphlet prepared by the Cooperative Extension Service of the University of Connecticut. Originally prepared for the 4 H Club, it has found its way to a larger audience.

