

ASK THE LEAGUE

Which land use boards are required to adopt rules of procedure?

An appropriate municipal panel (AMP) must adopt “rules of ethics with respect to conflicts of interest” and adopt “rules of procedure” [hereinafter called Rules of Procedure and Ethics]. 24 V.S.A. § 4461(a). An AMP could be a planning commission that conducts site plan or subdivision review, a zoning board of adjustment, or a development review board. Which boards conduct development review depends on the municipality and its bylaws. 24 V.S.A. § 4460. When AMPs conduct development review they hold quasi-judicial proceedings which are “[cases] in which the *legal rights* of one or more persons who are granted party status are adjudicated....” [Emphasis added.] 1 V.S.A. § 310(5). Vermont law requires these land use boards to adopt Rules of Procedure and Ethics to ensure that the legal rights of interested persons are protected during the land use review process. Adopting and applying these ensure that proceedings are free from conflict of interests, are run in a fair and orderly fashion, and can reduce appeals if the public’s expectations for fairness are met.

A planning commission that only acts in a legislative capacity and does not conduct development review is *not* required to adopt Rules of Procedure and Ethics. It is only required to “adopt ... rules as it deems necessary and appropriate for the performance of its functions.” 24 V.S.A. § 4323(b). These could be rules that address the order of the meeting and voting procedure and manage public participation and the creation of an agenda. However, they must be reasonable. 1 V.S.A. § 312(h).

For more information about adopting rules of procedure for quasi judicial boards and

making determinations of interested person status, please review the *Rules of Procedure and Ethics Manual* at www.vpic.info, or contact the VLCT Municipal Assistance Center at 800-649-7915.

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