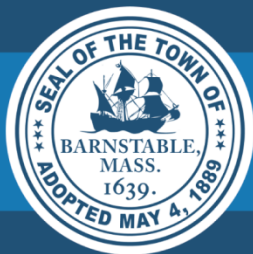


Board, Committee, & Commission Handbook



TOWN OF BARNSTABLE, MA

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Introduction

Thank you for volunteering to serve on a Board, Committee or Commission. Boards, Committees and Commissions serve as planning and implementation bodies for the Town and in some cases, as regulatory bodies, with authority to promulgate rules and regulations and decide individual cases in accordance with State statutes and local ordinances. The volunteer members who serve on these Boards, Committees and Commissions are representatives of the organization's mission and are an essential part of running an effective, efficient, and inclusive local government.

This Handbook has been prepared to provide general information to all Town Board, Committee and Commission members. It provides a brief description of procedures and an introduction to important State laws that govern the conduct of Boards, Committees and Commissions and their members, including the Open Meeting Law and the Conflict of Interest Law. This Handbook does not constitute legal advice. If you need legal advice, please contact the Town Attorney's Office.

Participation in Town Government

The Town Council actively encourages Barnstable residents to participate in local government by volunteering to serve on a Board, Committee or Commission. Through service to the community, members have an opportunity to learn about the workings of our Town and to support fellow members of our community. Town Council recognizes that serving on a Board or Committee takes dedication and commitment. We appreciate your volunteer service.

Types of Boards, Committees, and Commissions

Appendix A contains a listing of Town Boards, Committees and Commissions. This appendix identifies the type of Committee, the appointing authority and the number of regular, associate, and alternate members.

The Town Council generally serves as the appointing authority for the Town's multiple member Boards, Commissions and Committees, the "standing committees of the Town." From time to time, the Town Council may, by majority vote of its members, establish ad hoc committees to assist the Town Council in carrying out the Council's responsibilities. Ad hoc Committees shall be limited to a particular subject area and serve only in that capacity for a specific period of time.

There are four types of standing Boards, Committees and Commissions:

- **Advisory:** wherein the Committee has no legal authority to promulgate rules or regulations, decide individual cases or enact policy;
- **Regulatory:** wherein the Committee has legal authority to promulgate rules and regulations, decide individual cases and enact policy;
- **Ministerial:** wherein the Committee has legal authority to take actions which are essentially administrative in nature.
- Combinations of advisory, regulatory, and ministerial.

Statutory Boards, Committees and Commissions

State statutes outline some powers and duties of regulatory Boards, Committees and Commissions, such as the Board of Assessors, Board of Health, Licensing Authority, Commission on Disability, Conservation Commission, Council on Aging, Hyannis Main Street Waterfront Historic District Commission, Historical

Commission, the Planning Board and the Zoning Board of Appeals. The Town Administrative Code and appointing authorities may further define the work of these Committees.

Important Readings

All Board, Committee and Commission members, associate members and alternate members should read and be familiar with the following publications:

- [Town Administrative Code](#)
- [Town Council Strategic Plan](#)
- [Town Charter](#)
- [Annual Town Report](#)

These provide the foundation of Barnstable’s government, including the authority for most Boards, Committees and Commissions.

All Boards and Committees members should review and become familiar with the State and local laws pertaining to their Board, Commission or Committee. Questions regarding those laws should be referred to the Town Attorney’s office.

In addition, the Attorney General’s Open Meeting Law Guide and a Summary of the Conflict of Interest Law for Municipal Employees prepared by the State Ethics Commission are attached to this document. For more information on the Open Meeting Law, please contact the Town Clerk or the Town Attorney’s Office and for information on the Conflict of Interest law, please contact the Town Attorney’s office or you may call the “attorney of the day” at the State Ethics Commission directly for advice at 617-371-9500.

Members, Associate Members, and Alternate Members

The governing law for most Boards, Committees and Commissions specifies the number of full members and, in some cases, the number of alternate and/or associate members. Serving as an alternate or associate member is an excellent way to become familiar with the work of a particular Board or Committee before taking on the responsibility of a full member.

The exact role of alternate and associate members varies by Board and Committee but the general principles are:

- An associate or alternate member may be designated by the chairperson of a Board or Committee to sit for a particular matter or matters:
 - a) in the case of an absence, inability to act, or conflict of interest on the part of any regular Board or Committee member, or
 - b) in the event of a vacancy on the Board or Committee, until said vacancy is filled.
- For such public hearings, once an associate or alternate member has been designated to sit on a particular matter or matters, the associate or alternate member should continue to sit until the conclusion of the particular matter or matters even though the hearings span multiple meetings of the Board or Committee. Before the vote on the matter is taken, the chairperson will designate the members and/or associate or alternate members entitled to vote.
- Associate or alternate members may attend all open meetings of the Board or Committee, and may attend executive sessions conducted for the particular matter or matters on which the associate or alternate member is designated to sit.

- Associate or alternate members may participate in discussions at an open meeting but may not vote on Board or Committee business except for the particular matter or matters on which the associate or alternate member is designated to sit and vote.
- Associate or alternate members may be counted toward the quorum of the Board or Committee if the chairperson has designated them to hear the issue before the Board at that meeting.

Application Procedure

The goal of the appointing authority is to appoint qualified and interested Barnstable registered voters and residents (unless otherwise specified under the Administrative Code), who are not permanent full-time employees of the Town, (except where specifically allowed by Town Charter or Code) and who are broadly representative of the Town. In most cases, the Town Council is the appointing authority and potential board, committee, or commission members are vetted through the Town Council Appointments Committee.

Vacancies on Board, Committees and Commissions are advertised by a press release and posted on the Town's website: www.townofbarnstable.us. Individuals interested in being considered for appointment may complete and submit an application by either of the following methods:

- Email PDF copy found [online](#) to council@town.barnstable.ma.us or
- Hard Copy, (Attachment F) mailed to Town Council's Office, 367 Main Street, Hyannis, MA 02601

*Submission of an application does not guarantee an interview or appointment to the Board, Committee or Commission.

Appointment, Reappointment, Resignation and Removal

- **APPOINTMENT.** All appointments made by the Town Council are made by majority vote in an open, posted meeting. Term length is established by the Administrative Code.
- **REAPPOINTMENT.** A Committee member is under no obligation to accept reappointment, nor is the appointing authority obligated to offer such reappointment. However, Board, Committee and Commission members may be appointed for a specified term and may be reappointed for successive terms through a reappointment application process.
- **RESIGNATION.** A Board, Committee or Commission member who is no longer able to serve, or who moves out of Town, should resign promptly so that the vacancy may be filled as soon as possible. Any resignation should be submitted in writing to the Town Clerk's Office with a copy to the appointing authority and the chair of the Committee.
- **REMOVAL.** The Town Council may remove for cause any of the officers or members of Town Boards, Committees or Commissions appointed by them, subject to an investigation and hearing by the Town Council. Cause for removal may include, but not be limited to, repeated un-excused absence from regularly scheduled meetings, violation of State law or Town ordinances and failure to follow Town policies. Members shall be automatically removed if convicted of a felony or if absent from their duties for a period of one year.

Appointments to fill vacancies will cover the remaining term of the vacated position.

Orientation

Once appointed, every new appointee will receive written notification of appointment from the Town Council. To make arrangements to be sworn in, or for questions related to swearing in, please contact the Town Clerk's Office at 508-862-4044 for an appointment.

At the time of being sworn in, the Town Clerk's Office will provide each Committee member a copy of the following:

- The Attorney General's Open Meeting Law Guide, which will include: an explanation of the requirements of the Open Meeting Law; the Open Meeting Law, M.G.L. Chapter 30A §§18-25; and the Open Meeting Law Regulations, 940 CMR 29.00-29.11; and, if applicable, a copy of each Open Meeting Law determination issued to the board, commission or committee within the last five years in which the Attorney General found a violation of the Open Meeting Law (collectively, the "Open Meeting Law Materials"); provided that the Town Clerk may require the public body member to obtain the Open Meeting Law Materials from the Attorney General's website at: <http://www.oml.ago.state.ma.us/>;
- A Summary of the Conflict of Interest Law for Municipal Employees (MGL Chapter 268A);
- Town of Barnstable Board, Committee, Commission Handbook;
- Town of Barnstable Standards of Conduct;
- Town of Barnstable Harassment Policy

Within 2 weeks of receipt of the Open Meeting Law Materials, the appointee must certify, on the form prescribed by the Attorney General, that he or she has received and reviewed those materials and must provide the signed form to the Town Clerk. The Town Clerk shall maintain the signed certification for each appointee, indicating the date the person received the materials. An individual who serves on more than one public body must sign a separate certification for each public body. The Town Clerk will pass this information on to the Town Council Administrator as the keeper of Open Meeting Law Materials for Boards, Committees and Commissions.

Appointees must sign a written acknowledgment that they have been provided with the summary of the conflict of interest law within 30 days of appointment. Appointees should provide the signed acknowledgment to the Town Clerk. The summary of the conflict of interest law must be provided annually to all members of Town boards, committees and commissions, and the member must acknowledge receipt in writing.

The appointee must also sign to confirm receipt of the Town Harassment Policy.

In addition to the items listed above, all newly appointed members are required to complete a mandatory online conflict of interest training program within 30 days of appointment. Failure to complete the program may be considered cause for removal by the appointing authority. All board, committee and commission members must complete this training program every 2 years. Certificates of completion should be provided by the board member to the Town Council Administrator.

The newly appointed board member must be sworn in by the Town Clerk's Office prior to attending a Committee meeting as an official member.

The Town Council Office will notify existing chairs of any new appointments to its Board, Committee or Commission and encourage chairs to orient new members to Committee functions. New members are encouraged to connect with Town support staff, as many departments have orientation resources available.

Civil Discourse

Town Council recognizes the importance of civil discourse at all levels of the government including those who volunteer their time and services on behalf of the Town. Board, Committee and Commission members should conduct themselves so as to maintain public confidence in their local government and in the performance of the public trust. They should strive at every meeting to treat every person fairly and with respect. In turn, it is expected that those members from our community attending Town Board, Committee or Commission meetings will display respect to the public, Board, Committee and Commission members and Town staff. Professional respect does not preclude differences of opinion but requires respect for those differences and the people who express them; swearing, profanity, disparaging remarks, malicious gossip, slander, etc., both during a meeting and in other settings, is behavior unbecoming of a Town official and will not be tolerated. It is expected that the Chair of all Boards, Committees and Commissions will hold his/her membership to this standard. More information is within the Town of Barnstable Standards of Conduct document provided to each member when newly appointed. Please contact the Town Clerk's office for an additional copy.

Liaison with Town Council

Each multiple-member body shall have a liaison relationship with the Council. The chairperson of each multiple-member Board shall annually, upon election, meet with the member of the Town Council who is serving as liaison to the Board, for the purpose of defining an appropriate reporting relationship during the ensuing fiscal year. The meeting should review the following minimum areas: frequency and method of reporting, official or officials responsible for reporting, transmittal of monthly and quarterly summaries of Board actions, and Board and Council Committee roles in development of legislation and/or policy of interest to the Board.

Primary Staff Support

Most Boards, Committees and Commissions have primary staff support to provide administrative and technical assistance including attending and supporting public meetings, drafting and posting agendas, reserving meeting space, recording meeting minutes, preparing and circulating correspondence and information for meetings and other administrative duties.

Board, Committee and Commission Officers

- **ELECTIONS.** Boards, Committees and Commissions shall annually elect a chairperson, vice-chairperson and a secretary or a clerk. Newly formed Boards, Committees or Commissions should elect these officers at their first meeting. For standing multi-member boards, the annual election shall occur in July of each year, or as near after appointment of new members by the Town Council. It is the responsibility of the chair to notify the Town Council of changes in officers.
- **CHAIR.** The chair presides at all meetings, decides questions of order and calls special meetings and signs official documents that require the chair's signature. The chair has the same rights as other members to offer resolutions, make or second motions, discuss questions and vote thereon. The chair sets the tone of meetings, and should be respectful of individuals coming before their Committee and fellow members.
- **VICE-CHAIR.** The vice chairperson acts for the chairperson whenever the latter is absent from meetings, and performs other necessary duties.
- **SECRETARY/CLERK.** The Secretary/Clerk shall work with the Administrative staff in preparing the minutes of the Committee meeting and maintaining the minutes and exhibits for permanent record of Committee action, researching reports and activities and ensuring the legally required notice and operational procedures are followed by the Committee.

Meeting Definition

Meetings of Town Boards and Committees, including subcommittees of those bodies, are subject to the state Open Meeting Law. The purpose of the law is to ensure transparency in the deliberations on which public policy is based, and the law requires, with some exceptions, that meetings of public bodies be open to the public.

A meeting is defined as “a deliberation by a public body with respect to any matter within the body’s jurisdiction.” Deliberation is “an oral or written communication through any medium, including electronic mail, between or among a quorum of a public body on any public business within its jurisdiction.” A meeting occurs any time a quorum (usually a simple majority) of the members discusses or considers any public business or policy over which the Board, Committee or Commission has some jurisdiction or advisory power. A quorum shall not meet or have discussions in private on any matter within the board’s jurisdiction unless it does so in a valid Executive Session. (See the Open Meeting Law section about Executive Session.) Substantive discussions or deliberations on public business involving a quorum of members that occur via email, Zoom or other electronic meeting platform, by telephone, or by sequential communications violate the Open Meeting Law. Polling of Board members for a decision outside of an open meeting of the Board or Committee violates the Open Meeting Law.

Notice of a Board, Committee or Commission meeting must be posted at least 48 hours in advance, excluding Saturdays, Sundays and legal holidays. Meeting notices must contain the date, time and place of the meeting and must list all topics that the Chair reasonably anticipates, 48 hours in advance, will be discussed at the meeting. [Appendix B](#) is a sample meeting notice/agenda template.

Quorum

Except as otherwise specified by law, a majority of the regular members of the Board, Committee or Commission constitutes a quorum. A quorum must be present to call a meeting to order. In the absence of a quorum, the chair may designate an alternate or associate member to sit for the duration of the meeting. If a quorum cannot be achieved, even with an associate(s), it is not a valid meeting of the public body, and no discussion or action should take place.

Meeting Logistics

Meetings must be open to the public, unless an exception applies, and accessible to persons with disabilities either in person or online through Zoom; primary staff support is responsible for scheduling meeting space in a municipal building or occasional site visits.

Conducting a Meeting

All Committee members represent and serve the Town and should treat all meeting attendees, participants and other Committee members with courtesy.

The Open Meeting Law does not require that members of the public be allowed to participate in a meeting; however, members of the public may be allowed to speak at a Board or Committee meeting with permission of the Chair and with adherence to customary parliamentary procedures and time constraints.

Any person may record a meeting with a tape recorder or any other means of audio reproduction and/or videotape equipment provided he/she announces intention to do so and there is no active interference with the conduct of the meeting. At the beginning of the meeting, the Chair should inquire as to whether anyone is recording the meeting.

Public Hearing Process

Many Boards and Committees are required by Massachusetts General Laws to conduct formal public hearings on some issues that come before them. Others may choose to solicit public comment on a matter before them in order to receive input from the community. All formal public hearings must be conducted in accordance with the Massachusetts General Laws and the Town Code. [Appendix C](#) outlines requirements for written hearing notices, and procedural guidelines including minutes.

It is the responsibility of the chairperson to maintain order and decorum at the hearing. In the interest of consistency and fairness, the chairperson may put restrictions on the nature, number, and frequency of an individual's comments and questions.

Executive Session

An Executive Session is closed to the public and may only be held for the specific purposes set forth in the Open Meeting Law. There are procedural requirements that must be followed for Executive Sessions, and Board Chairs are advised to consult with the Town Attorney's Office before a meeting notice is posted if an Executive Session is anticipated. Executive session minutes must be kept and approved in a timely manner, just like open session minutes. Executive session minutes may be withheld from disclosure "as long as publication may defeat the lawful purposes of the executive session, but no longer." (M.G.L. c. 30A, § 22(f)).

Minutes

Meeting minutes must reflect the date, time and place of the meeting; the members present or absent; a summary of the discussions on each subject; a list of documents and other exhibits used at the meeting; and the decisions made and the actions taken at each meeting, including a the record of all votes.

The meeting summary does not need to be a transcript, but should provide enough detail so that a member of the public who did not attend the meeting could read the minutes and understand what occurred and how the public body arrived at its decisions.

Recusal Process

If a member believes that he/she has a conflict of interest or other reason that may require recusal as to any particular matter, the member should contact the Town Attorney's office in advance. Some potential conflicts are cured by filing a written disclosure prior to taking any official action in any matter; other conflicts of interest may require recusal. It is important for the member to understand and follow the proper course of action before proceeding.

- **IN PERSON PUBLIC MEETINGS.** If the Board, Committee or Commission member is recused, he/she should announce they are recusing themselves and should leave the room while the matter causing the conflict is being discussed.
- **ZOOM PUBLIC MEETINGS.** If board members need to recuse themselves during a Zoom meeting, they should announce they are recusing themselves and then either (a) disconnect from the meeting entirely and rejoin when the discussion/vote on that item has concluded, or (b) turn off BOTH their audio and their video until such time as they return to the meeting.

The person taking the minutes should note the recusal, along with the time the board member left the meeting and the time he or she rejoined the meeting in the minutes, **e.g., Board member X recused himself at 9:06 pm and returned to the meeting at 9:37 p.m.** It is recommended the Chair note that person's return to the meeting at the time they rejoin.

[Appendix C](#) outlines requirements issued by the Attorney General's Division of Open Government for posting a meeting notice, preparing and approving minutes, and entering into executive session.

Public Records, Email and Social Media

- **PUBLIC RECORDS LAW.** The Public Records Law gives a right of public access to “public records”, which includes any document, regardless of physical form or characteristics, made or received by a public official or employee, unless subject to a statutory exemption. Government records generated, received or maintained electronically, including electronic mail, constitute “public records” under this standard. No public record should be deleted or destroyed without first consulting the Town Clerk’s Office.
- **EMAIL.** It is important for all Board, Committee and Commission members to know that there is no distinction in the law between written and electronic records. As a result, unless an exemption applies, email messages written or received by a board member in his or her capacity as a board member are public records which must be made available for public inspection in the same manner as hardcopy documents. Use of one’s own home computer and personal email accounts may not exempt such communications depending on the context. In addition, the ease by which emails are sent and forwarded may facilitate the improper discussion of public policy issues. The discussion of public policy issues among a quorum of Board or Committee members via email is a violation of the Open Meeting Law. All electronic mail sent and received at a Town-issued email address should be considered a public record (except where an exemption applies) subject to inspection and disclosure and scheduled retention and disposition. Employees and Board and Committee members acting in their official capacity should have no expectation of privacy in their use of electronic mail as it relates to Board/Committee business. It is important for Boards and Committees to be responsive to emails that are sent to them in their official capacity. It is advised that the chairperson or clerk be assigned this responsibility. Boards and Committees need to be careful not to allow replies to citizens to become discussions among the members of the Board/Committee, as this may violate the Open Meeting Law.
- **SOCIAL MEDIA.** Board, Committee and Commission members using social media platforms (including, but not limited to: Facebook, Twitter, Instagram, YouTube, etc.) should not use social media to communicate with a quorum of other board members.

Speaking for a Board, Committee or Commission

An individual member has a right to speak publicly as a private citizen but should not purport to represent the Board, Committee or Commission or exercise the authority of the Board, Committee or Commission, except when specifically authorized by that body to do so. If members identify themselves as members when speaking as private citizens, it may be perceived that they speak for the Board, Committee or Commission. Such a perception should be avoided.

Annual Town Report

All appointed Committees must file an annual report of Committee activities for the Annual Town Report which is due to the Town Manager’s Office. The Annual Report is written based upon the fiscal year (July 1 - June 30). The chair or other designated member should coordinate with primary staff support content of the report including detail Committee membership including changes, and a one to three paragraph explanation of major accomplishments and future plans. A request for Committee reports is issued in August of each year and reports must be timely filed within the deadline specified by the Town Manager’s Office.

Questions regarding the Board and Committee Handbook can be referred to the Town Clerk’s Office, at 367 Main Street, Hyannis, 508-862-4044.

**This handbook is subject to revisions and updates as state statues or Town ordinances may change. Addendums will be issued as warranted or necessary.*