

Town of Milton Handbook for Appointed Committees



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Town of Milton Commonwealth of Massachusetts



Acknowledgement of Receipt of Handbook of Appointed Committees

I hereby acknowledge that I have received a copy of the “Town of Milton Handbook for Appointed Committee Handbook,” and agree to familiarize myself with the contents thereof.

Signature

Name of Board/Committee

Print Name

Date

Email Address

Please sign and return this page to the Town Clerk’s Office

1.0 INTRODUCTION

1.1 Purpose

The Handbook for Appointed Committees (hereafter, “Handbook”) is provided to assist the Town of Milton’s many appointed boards, committees, and commissions (hereafter referred to as “Committees”). The Handbook provides a description of procedures and information about important state statutes, such as the Open Meeting Law, the Conflict of Interest/Ethics Law, the Public Records Law, and Standards of Conduct.

The Handbook does not attempt to duplicate all the details available online, including the Town’s website, Charter, and Bylaws. In addition, the Town of Milton Annual Report provides a summary of Committee activities as well as other details of Town activities for each fiscal year (July 1 thru June 30).

The Chair shall provide new Committee members with a copy of the charge/purpose and other written information about the Committee’s specific role, duties, rules, and regulations, as well as any issues frequently encountered by the Committee.

Please visit www.townofmilton.org for more information about town government.

2.0 COMMITTEE APPOINTMENTS

2.1 Appointment

The goal of the Appointing Authorities is to appoint qualified and interested Milton residents who are broadly representatives of the Town. The Appointing Authorities carefully consider the application and other relevant factors to ensure a diverse representation of the Town is made. Selections are based on current composition, qualifications, experience, recommendations, available space, attendance record and previous performance, when available. Further, no person should be disadvantaged on account of inherent personal characteristics such as race, color, religion, gender, national origin, age, membership in or application for uniformed military service, disability, genetic information, sexual orientation, or any other status protected by law.

Volunteers are only able to be appointed to no more than two Committees at one time.

Upon making a new appointment, the Appointing Authority shall send a communication to the Town Clerk listing the appointee(s), address and phone number. All appointees receive notification of appointment from the Appointing Authority.

Committee members with excess absences may be subject to removal from the Committee or may not be reappointed by the Appointing Authority.

2.2 Term of Office

The full term of office for most positions on Committees is one year, July 1st ending on June 30th unless defined differently in the Committee charge/purpose. If a vacancy occurs in the membership of an appointed Committee (excepted for the Warrant Committee), the appointing

authority shall appoint a new member to serve for the balance of the unexpired term, regardless of what maybe publicly stated and voted on.

2.2.1 Vacancies

The Appointing Authority shall publish notifications regarding vacancies on the Town of Milton website under Boards and Committees and shall be announced by the Committee Chair. All appointments will only serve for the balance of the unexpired term of the appointee they replace, regardless of what maybe publicly stated and voted on.

2.2.2 Term Limits

A committee's authorizing legislation (State Law, Milton Town Bylaw, Milton Town Meeting article) typically set a committee's and its member's term of office. If not specified, the initial term of a Committee member is one year. At the conclusion of a member's term, it is up to the Appointing Authority to review members' reappointments. A Member may be eligible to serve additional terms depending on the work of the Committee and the number of volunteer applications that have been received.

2.3 Oath of Office

The Appointing Authority will provide notification of appointment to newly appointed Committee members and the Town Clerk. Appointees must schedule an appointment with the Town Clerk to be sworn to the faithful performance of their duties prior to taking any official action as a member of a Committee (MGL Chapter 41, §107). The Town Clerk will give appointees information about Open Meeting Law, as required by MGL Chapter 30A, §§ 18-25. Members are required to sign a Certificate of Appointment which will be kept on record by the Town Clerk.

If litigation results from some action taken by a board, the case may be lost if all board members involved in the action have not taken the required oath.

Each appointment has its own Certificate of Appointment. If an individual serves on more than one Committee in various capacities, a Certificate of Appointment must be signed, and the individual must be sworn in for each of those membership roles.

The Town is required to provide Committee members a copy of the summary of Conflict of Interest within 30 days of appointment and annually thereafter. Committee members must acknowledge in writing that they received the summary of the conflict of interest law within 30 days of their appointment. In addition, Committee members must complete the online training program within 30 days of their appointment and then every 2 years thereafter.

Committee members must self-registering to access the conflict of interest law online training program on the State Ethic Commission's learning platform (<https://www.mass.gov/new-conflict-of-interest-law-online-training-program-now-open>).

2.4 Orientation

Committee Chairs are encouraged to hold an orientation for all members of the Committee to

inform of the specific roles, rules, regulations, and any issues frequently encountered by the Committee.

2.5 Conflict of Interest Statute as It Applies to Committee Appointees

(also considered municipal Employees)

M.G.L. Chapter 268A, see also the State Ethics Commission Website: <http://www.mass.gov/ethics/>

2.5.1 Purpose

According to *A Practical Guide to the Conflict of Interest Law for Municipal Employees (2001)* published by the State Ethics Commission, the “purpose of the conflict law is to ensure that public employees’ private financial interests and personal relationships do not conflict with their public obligations. The law is broadly written to prevent a public employee from becoming involved in a situation which could result in a conflict or give the appearance of a conflict.”

“The law restricts what a public employee may do: (1) on the job; (2) after hours (or ‘on the side’); and (3) after leaving public service.

2.5.2 Provisions

The law prohibits a variety of actions, including bribery, extra pay, receipt of gifts or privileges because of a Committee member’s official action, and acting as an agent or attorney for anyone in a claim against or doing business with the Town. The law prohibits all Committee Appointees from participating in a particular matter in which Committee members or any of the following have a financial interest:

- Immediate family
- Partner or business associate
- A business organization in which Committee member serves as an officer, director, trustee, partner, or employee (including a non-profit organization)
- Any person or organization with which Committee members are negotiating or have any arrangement concerning prospective employment.

If Committee members have a conflict of interest or an appearance of conflict in any matter before the Committee, he/she should not be counted in the quorum and should recuse themselves and should not be present for or participate in any discussion or votes. The law provides for the legal determination of conflict of interest status for any Committee member submitting a request to the Appointing Authority or State Ethics Commission. The law also provides for continued service in certain circumstances if full disclosure is made or a special exemption is granted by the Appointing Authority with advice from Town Counsel. If Committee members have any questions about their activities, they should file a written request to Town Counsel and the Town Administrator. The answer to the request will be in writing and become a matter of public record.

2.5.3 Persons the Conflict of Interest Governs

Municipal Employees: “The conflict law regulates the conduct of public officials and employees (referred to collectively in the law as ‘employees’) at the state, county, and municipal levels of government. The term ‘employee’ at each level is defined expansively. You are considered a municipal employee if you hold any office, position, employment, or membership in any municipal agency. It does not matter whether you are paid or unpaid or whether you serve full-time or part-time. People who work as consultants or on an intermittent basis are generally covered, as well. For example, unpaid members of local town or city boards or commissions are municipal employees, as are private citizens serving on a special advisory committee (emphasis

added) appointed by the Select Board to make recommendations on specific issue.”

2.6 Responsibility

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

2.7 Reappointment

A Committee member is under no obligation to accept reappointment, nor is the Appointing Authority obligated to offer reappointment. Some Committees may have a term limit requirement as outlined in its bylaw or charge/purpose. In cases where special training or expertise is required, longer periods of service may be appropriate.

2.8 Resignation

A Committee member who is no longer able to serve should resign promptly so that the vacancy may be filled. A written resignation must be submitted to the Chair of the Committee and the Appointing Authority with a copy submitted to the Town Clerk.

2.9 Termination

In rare circumstances such as continued, unexplained absences or conflict of interest, the Appointing Authority may ask for a member’s resignation or, if necessary, revoke the appointment. Also, the appointment of a Committee member who fails to attend three consecutive meetings without sufficient reason may be terminated. Written notification to the Committee member will be given in the event of such action. Generally, before such action is required, the Appointing Authority should contact the member to see if the problem can be justified and/or corrected.

2.10 Associate Membership

From time to time, a Committee may find it useful to appoint non-voting associate members to assist the Committee in the successful completion of its mission. Appointments of associate members are made by the Appointing Authority, provided the Committee submits written substantiation of the need for associate members. Associate members are appointed for terms of one (1) year unless a longer term is otherwise agreed upon by the appointing authority and the Committee.

2.11 Charge/Purpose

The Committee shall review the charge/purpose approved by the Appointing Authority at an early meeting and periodically thereafter to keep its work focused and moving toward its goals.

The Committee, with advice from the Appointing Authority, should develop a plan of action to accomplish the objectives. The plan should include major reporting milestones so that the Committee and the Appointing Authority may assess the Committee’s progress.

3.0 COMMITTEE OFFICERS

3.1 Elections

Unless State law, Milton Town Bylaw or Milton Town Meeting articles state otherwise, committees shall elect a new Chair, Vice-Chair and Secretary annually; usually at the first meeting after new terms begin in

July. It is the responsibility of the Chair to notify the Appointing Authority and the Town Clerk of changes in officers.

3.2 Chair

The Chair's primary responsibility is the fair facilitation of meetings. The Chair presides at all meetings, assists with setting the agenda, decides questions of order, calls special meetings, and signs official documents that require Chair's signature. The Chair has the same and no more rights as other members to offer resolutions, make or second motions, discuss questions, and vote thereon. The Chair should allow other members to make and second motions and should be mindful in offering amendments to motions and in discussion since the Chair's primary role is to facilitate a full range of opinion from the Committee and, in a public hearing, from the Public.

The duties of the Chair typically include:

- Preparing agendas
- Assuring needed material will be available to the Committee
- Assuring the lists of topics is posted in accordance with Open Meeting Law
- Establishing the calendar
- Reserving meeting space
- Ensure that each Committee member is compliant with completing; oath of office, and state ethics before the start of meeting.
- Making sure meeting minutes are created and submitted as required.
- Notifying the Appointing Authority of important changes to the Committee
- Submitting the Annual Report
- Approving request for remote participation
- Updating website

3.3 Vice Chair

The Vice Chair serves as the Chair whenever the latter is absent or steps down from meetings and performs other necessary duties.

3.4 Secretary/Clerk

If the Committee has a Secretary/Clerk, he/she is responsible for taking and transcribing the Committee's minutes, recording any amendments, posting the approved minutes online and filing the approved minutes with the Appointing Authority's Designee or ensuring that these functions are performed by staff.

In accordance with MGL c 30a, sec 22, Committees shall create and approve minutes of all open sessions in a timely manner. Upon approval, said minutes shall, within 10 days, be posted on the Town's website and filed with the Town Clerk; minutes of all open sessions, whether approved or in draft form, will be made available upon request by any person within 10 days.

4.0 COMMITTEE MEETINGS

4.1 Definition

A meeting occurs at any time a quorum of the Committee (or Subcommittee) members come together to discuss or consider public business or policy over which the Committee has jurisdiction or advisory power. A quorum is necessary for conducting official business. A quorum consists of greater than 50% of the appointed membership: i.e., quorum for a 6-member Committee is 4; quorum for a 7-person

Committee is also 4.

4.2 Open Meeting Law (OML) – M.G.L. c30A, §§ 18-25

4.2.1 Purpose The purpose of the Open Meeting Law is to ensure transparency in the deliberations on which public policy is based. Because the democratic process depends on the public having knowledge about the considerations underlying governmental action, the Open Meeting Law requires, with some exceptions, that meetings of public bodies be open to the public. It also seeks to balance the public’s interest in witnessing the deliberations of public officials with the government’s need to manage its operations efficiently.

The Massachusetts Open Meeting Law (<http://www.mass.gov/ago/government-resources/open-meeting-law/>) requires that all meetings of elected or appointed Committees be open to the public except in specific situations where Executive Session is permitted. Refer to Section 4.4.

Votes taken in open session by a governmental body may not be by secret ballot. The law does not apply to chance meetings or social occasions; however, such meetings cannot be used to circumvent the requirement of discussing and deliberating at public meetings.

4.2.2 Recordings

Any person may record a meeting (except for Executive Session) with audio and/or video equipment provided there is no active interference with the conduct of the meeting and with verbal permission of the Chair and a public announcement. The manner in which this right is to be exercised is subject to the reasonable direction of the Chair but is usually done at the onset of the meeting.

4.3 Meeting Guidelines

4.3.1 General Guidelines

A Committee may adopt formal rules of order, such as Robert’s Rules of Parliamentary Procedure. Although some Committee discussions may seem too casual to be called debate, it is advisable for the Committee to observe a minimum of generally accepted procedures. Attentive guidance by the Chair and adherence to adopted procedures can increase efficiency as well as maintain objectivity.

The Chair should limit all participants to concise, non-repetitive statements. In some cases, establishing time limits may be advisable. All who wish to speak should be allowed to do so before anyone is invited to speak a second time. Although desirable, it is not necessary for the Committee to continue discussion until complete consensus is achieved. Other actions such as calling for a vote, postponing until more information is available, or referring to a subcommittee are options to a final vote.

The Town of Milton expects mutual respect among individuals of diverse points of view during vigorous discussions. Committees discuss the merits of issues; personal comments are considered out of order. Visitors may be allowed to participate if recognized by the Chair; time constraints and agendas often require brevity (OML 20(f)). It may be advisable for the Chair to remind speakers of time and repetition limits.

No one may speak at a Committee meeting without permission of the Chair and should identify themselves and their address or residency before speaking. In accordance with M.G.L. Chapter 30A Section 20(g), if a speaker or someone attending a public meeting refuses to be silent after a

warning from the Chair, the Chair has the authority to order the speaker removed from the meeting. Nevertheless, all Committee members represent and serve the Town. They should treat all visitors and other Committee members with courtesy and consideration. It is strongly recommended to permit public participation in some form, such as a short period reserved for comment at each meeting or on a particular issue on the agenda. Public participation is expected during scheduled public hearings.

4.3.2 Meeting Process

Chair calls meeting to order and attendance is taken. First item on agenda is identified and Chair asks for discussion. Once recognized by the Chair, any member of the Committee may make a motion for consideration and action. For clarity, motions should be made in the affirmative. To advance discussion of the motion, the motion must be seconded by another member of the Committee. Discussion does not proceed if there is no second to the motion.

During discussion, the Chair allows for each member to comment or ask questions. Members of the public may be invited to comment on a motion if recognized by the Chair. The Chair may set standards and limit time for public comments. The Chair is not required to entertain public comment, except as may be required for public hearings.

The member who made the motion may revise or withdraw the motion depending on the discussion by other members and the public, if applicable. Once the motion is finalized, the Chair calls for a vote of the Committee. The revised wording of the motion requires a second.

A voice vote will be taken, and Committee members could vote in favor of the motion, oppose the motion, or can abstain. A motion is passed when a simple majority is affirmed. A motion fails if the vote is tied. If a meeting is being held remotely, or if any Committee member is participating remotely, all votes must be taken by a roll call.

4.3.3 Out of Meeting Communication

Deliberations on matters that are under the purview of the committee by a quorum of a Committee, whether by email, text, telephone, in person, or otherwise, is a violation of the Open Meeting Law. There is no distinction between written and electronic records. The ease with which email messages are sent or forwarded may facilitate the improper discussion of Committee issues. While it is important for Committee members to be responsive to the public, members must be careful that their replies do not become quorum discussions, which would violate Open Meeting Law.

Use of one's own computer and personal email accounts for Committee business are also subject to the Public Records Law. Generally, all electronic communication (for example, emails and texts whether on a Town-issued email address or personal email address) related to matters before the committee is a public record subject to inspection, disclosure, scheduled retention, and disposition. Employees and committee members acting in their official capacities should not have an expectation of privacy in their use of electronic mail.

4.4 Executive Session

Generally, most Committees will not need to or meet the legal threshold to meet in Executive Session, except for the Select Board and School Committee. Committees are required to consult with Town Counsel prior to scheduling a meeting with an Executive Session to review the permissibility of entering Executive Session and to review the process.

4.5 Meeting Schedule

The frequency of meetings depends on a Committee's workload. Most meetings are held weekly, monthly, or bimonthly. The Chair calls each meeting. When possible, a regular meeting day, hour, and location should be established. Except in cases of emergency, it is not encouraged that Town Committees meet if Town Hall is closed due to snow. It is strongly recommended that Committees do not meet on Election Days or other religious or cultural holidays.

4.6 Meeting Location

Meetings must be held in a place which is open to the public and accessible in accordance with the Americans with Disabilities Act. A Committee may reserve a room in any Town building, subject to availability.

Subject to state law, the Chair may call for meetings to be held in person, virtually via the Town's Zoom account, or in a hybrid format with in person and remote attendance. If any Committee member attends the meeting virtually or by phone, the Chair will call a roll call for all votes.

To reserve meeting space or to obtain access to the Town's Zoom account, committees need to contact the Select Board/Town Administrator's office.

4.7 Public Meeting vs. Public Hearing

A public meeting is any Committee meeting as they are considered "open meetings" to the residents of the Town. The public is welcome to attend and observe; however, they do not have the right to participate unless they are invited to do so by the Chair. If a resident wants to participate and is recognized to do so by the Chair, he/she must first state his/her name and address.

A public hearing is held for the purpose of obtaining information from which the board can reach a determination, usually regarding the issuance of a license or permit or some other approval. Abutters are often, but not always, required to be notified and may attend to observe and participate in the public testimony portion of the hearing.

The Select Board, Planning Board, Warrant Committee, Zoning Board of Appeals, Conservation Commission, and Board of Health are sometimes required by state law or local regulation to hold public hearings. Hearings are held for the purpose of obtaining information from which the board can use to reach a determination, usually regarding the issuance of a license or permit.

Such hearings may have requirements and timeframes for advertising and posting public notice of the hearing, notifying abutters, rendering, and filing a decision and the purpose for filing an appeal. These requirements vary depending on the type of hearing. It is the responsibility of the Chair to assure that the requirements of the public hearing process are properly followed.

4.8 Posting

It is the responsibility of the Committee to give notice to the Town Clerk two (2) full days (48 hours), not including Saturdays, Sundays, or legal holidays (OML section 20b) prior to the meeting. The Town Clerk has established timeframes, forms and requirements for posting meetings that must be followed. The Town Clerk must post the Committee's meeting time, date, place, and a list of topics (agenda) to be discussed.

Committee members will also be provided a copy of meeting materials required for any given meeting.

4.9 Joint Committee Meetings

There may be occasions when two or more Committees meet to conduct business in a joint session. Each Committee must separately post advance notice of their respective meeting; each must have their own quorum present; and the Chair of each Committee may receive motions or call for votes only from the members they chair.

4.10 Recordkeeping

Committees should strive for transparency, posting minutes as soon as they become available. State law requires that a Committee keep accurate records of its public meetings. The Committee must vote to accept all minutes. These records are public information, and a copy of all approved minutes must be filed with the Town Clerk.

The [Open Meeting Law](#) (M.G.L. Chapter 30A, Section 22) states:

“Minutes of all open sessions shall be created and approved in a timely manner. The minutes of an open session, if they exist and whether approved or in draft form, shall be made available upon request by any person with 10 days” and “The minutes of any open session, the notes, recordings, or other materials used in the preparation of such minutes and all documents and exhibits used at the session, shall be public records in their entirety and not exempt from disclosure except in certain personnel evaluations.

Minutes must include (see OML Section 22):

- The date, time, and location of the meeting
- The members present or absent
- A summary of the discussions on each subject
- The decisions made and the actions taken at each meeting including the record of all votes
- Documents and other exhibits, such as photographs, recordings, or maps, used by the body at an open or executive session shall, along with the minutes, be maintained as part of the official record of the session
- A list of documents and other exhibits used at the meeting

Minutes should include:

- Names of additional participants (not press or observers)
- Name of recorder
- Time convened and time adjourned

Minutes may include:

- A schedule of future meeting(s)

Minutes do not need to include:

- Who moved and seconded motions, although this information on the individual votes does add to the transparency

4.11 Public Records Law

The Massachusetts Public Records Law – MGL Chapter 4, Section 7(26) and any amendments provides right of access to public records, broadly defined to include all documentary materials except eleven specific exemptions such as personnel and medical files, proposals and bids, and appraisals of property. Electronic communications regarding matters before a Committee as well as minutes, informational data, memoranda and circulating materials of any Town board or committee are mostly all public information.

The Committee should consult Town Counsel if questions arise concerning the public records law.

5.0 COMMITTEE REPORTING STRUCTURE

5.1 Appointing Authority

The Committee Chair reports to the Appointing Authority about the Committee's action plans. The Town Administrator is helpful in maintaining communication between the Committee and the Appointing Authority. If needed, the Chair may request a meeting with the Appointing Authority to report progress and/or resolve problems.

5.2 Town Meeting

If relevant, a Committee should be prepared to make a presentation to Town Meeting at the discretion of the Town Moderator. The Committee should make these reports clear, concise, and brief, keeping in mind the large volume of materials Town Meeting attendees receive.

5.3 Annual Report

All appointed Committees must file an annual report of the Committee's activities for the Annual Town Report. The Chair or other designated member should detail Committee membership, the mission of the Committee, and an explanation of major accomplishments and future plans. Annual Reports cover the period beginning July 1st through June 30th and are due prior to Annual Town Meeting in the spring.

SOURCES OF INFORMATION

Chapter 30A, §§18-25: Open Meeting Law:

<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleIII/Chapter30A/Section18>

“Open Meeting Law Guide,” Commonwealth of Massachusetts Office of the Attorney General. July 1, 2010: <https://www.mass.gov/doc/open-meeting-law-guide-and-educational-materials-0/download>

Massachusetts General Laws

Chapter 66: Public Records Law: <https://malegislature.gov/Laws/GeneralLaws/PartI/TitleX/Chapter66>

A Guide to the Massachusetts Public Records Law

<https://www.mass.gov/files/2017-06/Public%20Records%20Law.pdf>

Chapter 268A: Conflict of Interest:

<https://malegislature.gov/Laws/GeneralLaws/PartIV/TitleI/Chapter268A>

Chapter 268A, Section 23: Standards of Conduct:

<https://malegislature.gov/Laws/GeneralLaws/PartIV/TitleI/Chapter268A/Section23>

Massachusetts Conflict of Interest Law, State Ethics Commission:

<https://www.mass.gov/learn-more-about-the-conflict-of-interest-law>

State Ethics Commission Conflict of Interest Law Training:

<https://massethicstraining.skillburst.com/User/index.php>

Records Retention Manual: https://www.sec.state.ma.us/arc/arcpdf/MA_Statewide_Records_Schedule.pdf