



TOWN OF WAKEFIELD

TOWN ADMINISTRATOR'S OFFICE

April 1, 2023

# HANDBOOK

**for Appointed Board, Committee, Commission, and Council Members**

*These guidelines are intended for public bodies appointed by the Town Council, and are superseded when in conflict with any federal or state law or Town bylaw. Please email the [Town Administrators office](#) whenever there is any uncertainty about appropriate procedure.*



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## Introduction

For ease of reading, this Handbook will refer to all public bodies appointed by the Town Council (which are variously called “boards”, “committees”, “commissions”, and “councils” as “Committees”).

The purpose of this Handbook is to promote among the Town’s Committees, a decision-making process that is open, thoughtful, fact-based, respectful, fair, and in compliance with Town bylaws and with all state and federal laws. This Handbook is designed to be viewed electronically so that the linked documents are easily referenced.

It is understood that elected public bodies, including the Board of Assessors, Board of Health, Library Board of Trustees, Planning Board, and School Committee, as well as committees for which the Town Council is not the appointing authority, such as the Finance Committee, possess independent authority to adopt these or separate governance guidelines consistent with law.

All Town of Wakefield Committee meetings are audio and video recorded via Zoom. Recordings are housed on the [Town of Wakefield](#) website under the Committee’s page.

The Town Council and the Town Administrator’s office thank the members of all Committees for giving their valuable time and effort to the improvement of the Wakefield community.

## Committee Organization and Responsibilities

### Appointment and Reappointment

Candidates for appointments and reappointments to Committees appointed by the Town Council (not including Youth Council) are to complete the [Application for Appointment](#) available on the Town website. Applicants are encouraged to be familiar with Town government and to attend a meeting of the Committee the applicant would like to join, as well as Town Meeting, before applying. See [APPENDIX E: Applicants Approval Criteria](#) for more information. If a member does not reapply to a Committee, all duties associated with the member and the committee will cease.

Once an application has been received by the Town Administrator’s office, the application will be forwarded to the appropriate Committee and they will discuss the application and possibly interview the applicant and vote whether to recommend the applicant be appointed by the Town Council. Applicants who are not recommended for an interview will be contacted by the Town Administrator’s office with suggestions and/or information about other openings.

The Town Council appoints members to Committees in April of every year for terms starting May 1<sup>st</sup> and ending June 30<sup>th</sup> with the exception of the Youth Council and Permanent Building Committee. Appointments to Committees are typically for a three-year term, except in the case of temporary and/or ad hoc committees, as well as the Youth Council. Youth Council applicants are to complete the [Youth Council Application for Appointment](#). Appointments to the Youth Council are in June of every year for one-year terms starting July 1<sup>st</sup> through June 30<sup>th</sup>. Appointments to the Permanent Building Committee are in November of every year for three-year terms starting January 1<sup>st</sup> through December 31<sup>st</sup> pursuant to [Wakefield Bylaw Chapter 9 Section 8](#).

## **Responsibilities Under Mission and Local and State Law**

Each appointed Committee will conduct its business under a Town bylaw, state statute, or an authorizing vote of the Town Council. All appointed Committee members are expected to observe the [Guidelines for Civil Discourse](#), Open Meeting Law ([MGL Chapter 30A Section 18-25](#)), and state ethics laws ([MGL Chapter 268A](#)). These documents are linked within this Handbook for easy reference.

## **Annual Organizational Meeting**

Appointed Committees must organize annually at the first scheduled meeting in May, or as otherwise required. Committees will elect a Chair and any other necessary officers, such as a Vice-Chair or Co-Chair, Clerk, and Assistant Clerk.

## **Rules of Procedure and Voting**

A quorum of a Committee must have convened before any meeting is called to order. [Details on quorum requirements can be found in Appendix D](#). Each Committee may establish rules of procedure and voting consistent with local, state, and federal law. The rules of procedure may include when public comment may be allowed by the Chair.

## **Relations Between Appointed Boards and Appointing Authority**

Once appointed, Committee members will receive their appointment letter via email from the Town Administrator's office. Committees must be free to act on their own without interference. If the Committee was appointed to advise the Town Council on a certain matter, however, a clear understanding should be set forth as to what, if any, independent authority the Committee may have. Committees should refrain from unilaterally seeking to place articles on the Town Meeting warrant, applying for grants (which should be facilitated through the Town Administrator's office), or representing the Town in an official capacity before municipal, state or federal agencies unless delegated by the Town Council or Town Administrator.

## Committee Roles

### Members

A member of any Committee will:

- Be sworn in by the Town Clerk before they can vote on any matter that is brought up in front of the Committee. Failure to comply will result in the revoking of your appointment letter.
- Execute the Handbook for Appointed Board, Committee, Commission, and Council Members Acknowledgement Form every time they are appointed and reappointed to a Committee and email to the [Town Administrator's office](#). Failure to comply will result in removal from the Committee.
- Complete the [Massachusetts State Ethics Training](#) test every two-years and the Massachusetts State Ethics Summary every year. Certificates do not need to be emailed to the Town Administrators office or Town Clerks office. Committee members must always avoid conflicts of interest and otherwise adhere to the State Ethics Law. Failure to comply will result in removal from the Committee.
- Be familiar with the Committee's charge, powers, and duties, as well as the rules, regulations, and any issues frequently encountered by the Committee. Such information should be provided by the appointing authority, Committee Chair, or a designee, to ensure successful integration of new members.
- Respect the role of the Chair in setting agendas and facilitating meetings.
- Respect decisions of the Committee, and recognize that members act as part of a Committee. Members may not conduct Town business independently of the Committee except as authorized by a vote of the Committee.
- Recognize that action at an official legal meeting is binding, and that an individual member cannot bind the Committee outside of such meeting.
- Not make statements or promises about how they will vote on matters that come before the Committee until they have had an opportunity to hear and discuss the issue during the Committee public meeting.
- Uphold the intent of Executive Sessions and respect the privileged communication that exists in Executive Session, holding it in confidence.
- Assume a high level of integrity, striving toward fact-based and objective public statements and deliberations. Make decisions only after all facts on a question have been presented and discussed.
- Work with Town staff at the direction of the Committee when collaborating on Town projects or initiatives, to ensure clarity and consistency of purpose.
- Committee's that have social media accounts must share their passwords with the Town of Wakefield's Communications Department.
- If appointed by a majority of the Committee, serve as a liaison to other Committees.

- Fulfill any training the Town Council may require, so members can effectively fulfill their duties. Training may be provided at a Town building; or over the internet, may require out-of-town travel, and may require multiple sessions. Whenever training is required by the Town so that a volunteer can serve on a Committee, the Town will pay for the costs of tuition and travel. All such costs must be submitted via email and approved in advance by the [Town Administrator's office](#) before the costs are incurred.
- When on Zoom and if possible, the member's video shall be enabled. Every board member is encouraged to be on video.
- If a member wishes to resign when no longer willing or able to serve before the end of a term, they must submit to the [Town Administrator's office](#) via email a signed letter of resignation. Upon resignation all duties associated with the member and the committee will cease.
- Follow the [Open Meeting Law](#).
- Committee reappointment is based upon the appointing authority's evaluation of the member's contribution to the Committee and the changing needs of the Committee and the Town. In cases where special training or expertise is required, longer periods of service may be appropriate. A Committee member is under no obligation to accept reappointment, nor is the appointing authority obligated to reappoint any member.
- Consider serving as a Chair of the Committee, as annual rotation of the Chair is encouraged.
- The Town Council encourages Committee members not to serve on multiple regulatory Committees (e.g., Planning Board, Conservation Commission, Zoning Board of Appeals, etc.), to avoid actual or potential conflicts of interest. The Town Council may choose not to reappoint members to such positions.

### **Chair and Vice Chair**

The Chair will call meetings, timely send agendas to the Town Clerk's office for posting, convene all meetings, and execute documents as authorized by the Committee. The Chair will act only under authority provided by a quorum of the Committee. The Chair will serve as the Committee's primary contact with Town staff. As a general rule, the Chair will solicit the opinions of all members prior to stating the Chair's personal opinion on any agenda item before the Committee. The Chair will be responsible for ensuring the proper preparation and disposition of all minutes under the Open Meeting Law. Please see [Appendix D](#) for a fuller delineation of the duties of the Chair.

The Vice Chair will fulfill the duties of the Chair in their absence.

### **Clerk**

The Committee is encouraged to elect a Clerk or individual member who takes responsibility for ensuring minutes are recorded, created, submitted for approval, and filed with the [Town Administrator's office via email](#) along with supporting documents as a permanent record once they are approved by the Committee. Committee's letterhead shall be used as supplied by the Town Administrator's office.

### **Liaisons**

Liaisons provide communication with Committees and have no voting authority.

# Meeting Procedures

## Notices and Frequency

Meeting frequency varies by Committee. A majority of Town Committees meet monthly, though some may meet more or less often, depending on their charge and level of activity.

## Agenda Preparation

The Chair or Clerk must email the [Town Administrator's office](#) for a Zoom link. The Chair prepares each meeting agenda on the Committee's letterhead. Agendas must be emailed to the Office the Town Clerk at [postings@wakefield.ma.us](mailto:postings@wakefield.ma.us) no less than 72 business hours (Maio Rule) prior to the meeting date, not including weekends and holidays. Agendas should cover all items that the Chair can reasonably expect to come before the Committee, and should be shared in advance with all Committee members and sent to Town staff to post on the Town website. Unless there is a Public Hearing, no times should be listed on an agenda other than the start time of the meeting. Agenda items should not state "other business", because they need to be detailed.

## Minutes

Consistent with the Open Meeting Law, Committees must maintain accurate records of both Open Meetings and Executive Session on the Committee's letterhead. At a minimum, the records must set forth "the date, time, place, members present or absent and action taken." Executive Session records shall remain confidential only "so long as the publication may defeat the lawful purpose of the Executive Session, but no longer." Thereafter they shall be open to the public. The Committee should periodically review its Executive Session minutes and vote to maintain confidentiality or release such records for public review following recommendations by Town Counsel. Meetings held remotely must reflect votes taken by roll call and made part of the records. All votes taken in Executive Session must be recorded roll call votes made part of the records of the Executive Session. ([See Appendix B for more information regarding Open Meeting Law and minutes.](#))

## Conduct of Meetings

Meetings are conducted in accordance with generally accepted rules of parliamentary procedure. Robert's Rules of Order is used as a guide in matters requiring clarification or definition. Discussions can be relatively informal due to the size of the group and the desirability of flexibility in the expression of opinion. A quorum generally consists of a majority of total potential members of the Committee, but as a practical courtesy, action on critical or controversial matters should be taken, whenever practicable, with the full Committee in attendance. ([See Appendix D: Quorum requirements for more information on quorums.](#)) Actions and decisions shall be by motion, second and vote. Split vote results will be identified by name. Remote participation is allowed under the provisions of the Town's Remote Participation Policy.

## Public Participation

Committees may invite members of the public to speak or otherwise contribute to meetings, at the discretion of the Chair. All members will treat the public, applicants before the Committee, Town employees, and other members with respect and courtesy. The Chair should make sure members of the public who are present act in a peaceable and orderly manner, giving others an opportunity to be heard uninterrupted. All members should be familiar with and abide by the Guidelines for [Civil Discourse noted in Appendix A.](#)



## **Zoom/Video Meeting Etiquette**

There was a time when those of us who worked in offices thought that the coronavirus pandemic would mean an end to meetings. Meetings continued despite social distancing thanks to video conference tools such as Zoom. Talking face-to-face (or face-to-screen) is still often necessary and beneficial. With this new era of video conferencing and online meetings, we have found that there are a new set of guidelines to follow – things that we might not have needed to discuss prior to our remote situation. Remote participation has become a vital component of public meetings. Please remember that though remote, the meeting should be treated with the same decorum as an in-person traditional meeting. The following is a list (not exhaustive) of best practices.

### **1. Use the video option when possible**

This lets people see you and confirm who is speaking. This is particularly important if you are a committee member. It shows that you are engaged in the conversation and are an active participant – whether speaking or simply listening. Looking into the camera while speaking gives the appearance of eye contact. If you are reading a document ensure the content is on the same screen as your camera.

### **2. Dress appropriately**

If you are in a position where you can put on something that is professional-looking, similar to what you would typically wear to work, it is probably a good idea.

### **3. Stage your video area**

Keep in mind people aren't just seeing you, they're also seeing whatever the camera is pointed at behind you. Make sure that the camera isn't facing something that you wouldn't want others to see. Proper lighting makes all the difference. Whenever possible, ensure the lighting behind your camera is brighter than the lighting behind you.

### **4. Stay on mute if you're not talking**

Essential video/audio meeting etiquette! Background noise can be distracting. If you aren't sharing anything at the moment, you should remain on mute until talking or presenting. When not on mute, avoid activities that could create additional noise, such as shuffling papers. Use the raise hand feature when you want to speak to avoid talking over others.

### **5. Don't eat during the meeting**

It can be distracting to watch other people eat. Try to hold off on eating if you can, or if not, consider turning off the video and audio until you are done eating and use mute when drinking water, coffee, etc.

### **6. Don't do other private things while on a meeting**

While in a meeting, try to remain focused and ensure that your audio and video are both turned off before tending to private matters.

### **7. Stay focused**

Try to stay on task and prevent meetings from going longer than they need to. Keep unnecessary conversations to a minimum. Limit distractions by turning off notifications, closing or minimizing running apps, and muting your smartphone. Refrain from replying to emails or text messages during the meeting. Prepare materials in advance and if sharing content during the meeting make sure you have the files ready to go before the meeting begins.

### **8. Show up on time**

Agendas are posting with a start time and avoid lounging or attending a remote meeting in bed.

## **Ethics and Conduct**

All members of public bodies are sworn in by the Town Clerk to uphold all state and local laws applicable to the public body's jurisdiction. Members must comply with the state ethics law ([MGL Chapter 268A](#)) regarding the conduct of public officials. [Members must complete required ethics training and online tests.](#) A member is required under the law to not vote or otherwise act on any matter in which the member or an immediate family member has a financial interest. Members are encouraged to recuse themselves if there is an appearance of a conflict of interest. If a member recuses himself, the best practice is for him to leave the room (in an in-person meeting) or disable his microphone and camera (if remote) during the discussion and not vote on the particular matter that is the subject of the recusal.

### **Abandonment**

Committee members who are absent from 5 consecutive meetings shall be considered to have willingly abandoned their position and the position will be deemed vacant until filled by the appointing authority as outlined in [Section 9.25 of the General Bylaws](#).

### **Personnel Policies and Law**

Members of Committees, when acting in their official capacity, are subject to any applicable state law and Town policies, including those prohibiting sexual harassment, discrimination, and workplace violence. Any allegation of misconduct made by the public, Town staff, or a fellow member will be reported immediately to the [Town Administrator's office](#) via email.

### **Removal**

The Town Council may remove a member from an appointed Committee for violations of ethics, chronic absences, or other misconduct, after a hearing before the Town Council.

### **Town Meeting and Committees**

Upon a majority vote, Committees may sponsor and submit to the [Town Administrator's office](#) via email articles for the Town Council's consideration for inclusion in Town Meeting warrants. Articles submitted by Committees that are advisory to the Town Council shall be submitted and sponsored by the Town Council.

### **Policy on Legal Services**

All requests for legal opinions will be made through the [Town Administrator's office](#) via email.

### **Purchases**

A Committee may incur expenditures only if money has been appropriated by Town Meeting. Purchases must be made in accordance with the Town Purchasing Procedures. Information regarding purchasing may be obtained from the [Town Administrator's office](#) via email.

### **Compensation**

There is generally no provision for compensation to Committee members. Their services are wholly voluntary unless otherwise indicated by law or by the appointing authority. If an expenditure is approved by the Town Administrator's office, and money has been appropriated for it, Committee members may be reimbursed for their necessary expenses in the performance of their duties while on Town business. All requests for reimbursements must be emailed to the [Town Administrator's Office](#).

## **Donations**

Donations that the public body receives must be accepted by the Town Council. Requests must be [emailed to the Town Administrator's office](#).

## **Email and Communication**

In order to comply with the Open Meeting Law and the spirit of open exchange, Committee members shall refrain from electronic and any other communication among a quorum of members regarding any Town business, including serial communications from one member to another to another, and any debates about policy or opinions on matters before the Committee whether or not among a quorum of members. Notwithstanding the foregoing, Committee members may share data without any comment to other members via email. Each Committee has a Town email address. Any emails among committee members regarding town business shall 'cc' the committee email. For further guidance email the [Town Administrator's office](#).

For more information and citations of relevant state laws, see the state's [FAQ regarding deliberation and electronic communication](#). When in doubt, it is better NOT to send the email.

Committees should not become involved in personnel issues or employee complaints received by email or other methods of communication. Such communications should be referred via email to the [Town Administrator's office](#).

Through social media channels, members may wish to communicate Committee and Town initiatives and decisions, as well as engage in conversations with residents. Committee members are reminded that the Civil Discourse Policy applies to social media interactions, and they should refrain from engaging in contentious exchanges. If an online interaction becomes difficult, they are encouraged to offer an alternate means of communications such as email or a phone call, or disengage with the other party if the exchange is particularly unproductive. Committee members are also reminded that they do not have individual authority to commit Town staff or resources to any actions, projects, or initiatives and should refrain from opining or overpromising on items that are expected to come in front of the Committee on social media. Committee members should also be mindful to avoid situations when a quorum of members of the same Committee may be participating in the same social media discussion thread or listserv. When in doubt, it is best not to participate in social media engagement.

## **APPENDIX A: Guidelines for Civil Discourse**

The Town of Wakefield respects and recognizes each citizen's right to free speech. In order to guarantee all people's right to free speech and to ensure productive civil discourse, we request that all citizens respect the following guidelines.

### **Show respect for others.**

- Discuss policies and ideas, not people.
- Only one person should be speaking at any given time.
- Use helpful, not hurtful language.

### **Speak as you would like to be spoken to.**

- Use courtesy titles (Mr., Ms., Sir, Pronouns, etc.), and ask if unsure.
- Restate ideas when asked.
- Use a civil tone of voice.

### **Agree to listen.**

- Respectfully hear and listen to differing points of view.
- When unsure, clarify what you heard.
- Realize that what you say and what people understand you to have said may be different.
- Recognize that people can agree to disagree.

### **Speak for yourself, not others.**

- Speak from your own experience.
- Use "I" statements ("I think that the ideas presented . . .").

### **Follow agreed-upon guidelines regarding who speaks when and for how long.**

## **APPENDIX B: Open Meeting Law (MGL Chapter 30A, Section 20)**

### **Requirement to Comply with the Open Meeting Law**

Public bodies must comply with all parts of the Open Meeting Law. Public bodies subject to the Open Meeting Law include any sub-committee of two or more members assigned by a public body to conduct business. Please refer to the MA Attorney General's [Open Meeting Law Guide](#), which includes the following information important for members to know:

- Definition of a public body
- Definition of a meeting, and 5 exceptions to the definition
- Definition of a meeting quorum
- Requirements for posting meetings
- Ten legal purposes for executive sessions
- Requirements to allow remote participation
- Public's rights to attend and record open sessions
- Required records for open and executive sessions
- Open Meeting Law complaint process

The Town Administrator's office is available to provide or obtain assistance on Open Meeting Law questions. You may also contact the Division of Open Government at (617) 963-2540 or email [OpenMeeting@state.ma.us](mailto:OpenMeeting@state.ma.us).

- Please see the attached [Public Bodies' Checklist in Appendix C](#) for requirements for posting meetings.
- Please see the [allowable reasons for conducting an Executive Session in Appendix C](#). You are encouraged to call the Town Administrator's office before posting an Executive Session to review the requirements who will refer questions to Town Counsel if required.

### **Meeting Notices**

All public bodies must comply with the Open Meeting Law, including but not limited to filing meeting agendas with the Town Clerk at least 72 hours (Maio Rule) in advance of the meeting. Saturdays, Sundays and legal holidays are excluded in the calculation of the 72 hours. The agenda must be filed with the Town Clerk by e-mail at [postings@wakefield.ma.us](mailto:postings@wakefield.ma.us). Agendas must be received by the Town Clerk at least sixty (60) minutes before the end of business in order to be posted the same day. Agendas received after the close of business will not be posted until the next day. The agenda must include a list of topics that is sufficiently specific to reasonably inform the public of the items to be discussed at the meeting. The agenda must also include any Executive Sessions planned, citing one of the 10 legal purposes for calling an executive session. Depending upon specific circumstances and the legal purpose of the Executive Session, the Executive Session notice must include specificity with regard, for example, to the name of a matter of litigation, the name of a collective bargaining unit, or identification of parcels of land. Whenever in doubt,

the Chairs of public bodies are encouraged to email the [Town Administrator's office](#) for appropriate language for meeting notices for Executive Sessions.

### **Revised Agendas**

If an agenda item is received by the Chair within 72 hours of a posted meeting, and the agenda item could not be reasonably anticipated by the Chair more than 72 hours before the meeting, the Chair may revise the posted agenda to include the new agenda item. It is preferred that agendas are revised only when the agenda item arises because of an emergency, which is defined as a sudden and generally unexpected occurrence or set of circumstances, demanding immediate action. All other matters should be heard at a later meeting of the public body. If you are filing a revised agenda it should be marked "REVISED" with the date and any changes or additions should be highlighted and emailed to [postings@wakefield.ma.us](mailto:postings@wakefield.ma.us).

### **Requirement for Meeting Minutes**

The Open Meeting Law requires public bodies to create and approve minutes in a timely manner. The Public Records Law requires that existing minutes be made available to the public within 10 days upon request, whether these minutes have been approved or are in draft form. Materials or other exhibits used by the public body in an open meeting must also be made available to the public within 10 days of request. Approved Minutes must be emailed to the [Town Administrator's office](#) to be posted on the Town website.

### **Contents of Minutes**

Minutes must include the name of the public body, the date, time, and place of the meeting, the names of members present and absent, the names of staff present, and the substance of all discussion including all subjects acted upon or heard. Minutes must include a full and complete record of all motions proposed for vote and will include the exact vote, the names of the mover and the seconder for each motion, and the outcome of each vote. When a meeting is held remotely all votes must be taken and recorded as roll call votes. Although a verbatim record of meetings is not required, the Open Meeting Law requires that the minutes include a summary of the discussion of each subject containing enough detail and accuracy that a member of the public who did not attend the meeting could read the minutes and have a clear understanding of what occurred. A list of all documents used by the public body must be included in the minutes.

- Please see [Public Body Checklist on Minutes in Appendix C](#) for more detailed requirements for meeting minutes.

### **Draft Minutes**

Draft regular meeting minutes are a public record available to the public, even if the minutes have not been presented at a meeting. In fact, if draft minutes have not been created, the handwritten notes of the clerk or other person responsible for composing them are treated as a public record.

### **Executive Session Minutes**

Minutes must be created for all Executive Sessions. Executive Session Minutes must not be released to the public until the reason for calling an Executive Session has ended, after which Executive Session Minutes must be reviewed and voted for approval and release by the public body. Each public body, or its chair or designee, must at "reasonable intervals" review the minutes of executive sessions to determine what, if any part, may be released as public record material. Such determinations must be announced at the body's next meeting and shall be included in the minutes of that meeting. Upon request by any person, a public body shall within 10 days release any executive session minutes that no longer require secrecy, provided that if the body has not yet reviewed the minutes, it must review them and release any non-exempt minutes not

later than the body's next meeting or 30 days, whichever occurs first.

### **Recording of Meetings**

Any member of the public has the right to make an audio or video recording of an open session of a public meeting, but must notify the Chair before recording. The Chair must inform attendees of any such recording at the beginning of the meeting including that the meeting will be broadcast on the government access channel. The Chair may impose reasonable requirements regarding audio or video equipment so recording does not interfere with the meeting.

### **Public Participation**

Under the Open Meeting Law, the public is permitted to attend open meetings of public bodies. The public is excluded from an executive session that is called for a valid legal purpose cited in the agenda. The amount of time a member of the public will be allowed to speak to a public body will be determined at the discretion of the Chair. While the public is permitted to attend an open meeting, an individual may not address the public body without permission of the Chair. An individual is not permitted to disrupt a meeting of a public body, and at the request of the Chair, all members of the public will be silent. If after clear warning, a person is disruptive, the Chair may order the person to leave the meeting, and if the person does not leave, the Chair may authorize a police officer to remove the person.

### **Remote Participation at Meetings**

The Town of Wakefield has adopted remote participation. Members of Town boards and committees may participate and vote by teleconference, audio-conference, or other means that allow all person's present, including the audience and the member participating remotely, to hear the proceedings. Under state regulation, remote participation is allowed if physical attendance by a member of a public body is unreasonably difficult. All votes taken at such meetings where a member participates remotely must be taken by roll call vote and a quorum of members must otherwise be present, not including the remote participant. No remote participant may chair a meeting. Currently, all Committee meetings are allowed to be held remotely consistent with the Governor's COVID orders concerning certain provision of the Open Meeting Law and legislation extending those orders.

### **Open Meeting Law Complaint Process**

Individuals who allege a violation of the Open Meeting Law must first file a complaint with the public body alleged to have violated the OML within 30 days of the date of the violation or the date the complainant could have reasonably known of the violation. The full complaint process, including the required response of the public body to the complainant within 14 days of receipt of the complaint is included in the Attorney General's Open Meeting Law Guide. Please provide a copy of all Open Meeting Law complaints to the [Town Administrator's office](#) via email.

Within 14 business days of the date on which the complaint was filed, the public body must review the complaint in open session and send to the [Attorney General's Office](#) (AGO) a copy of the complaint along with a description of any action taken to resolve the issue that was raised by the complaint. Within seven business days of the date that the complaint was filed, the public body may request additional information from the person making the complaint if necessary to resolve the complaint. The person making the complaint shall provide the additional information to the public body within 10 business days, and the public body shall have 10 additional business days (total of up to 24 business days from the date complaint was originally filed) to act on the complaint and notify the AGO. The process shall be coordinated through the Town Administrator's office and Town Counsel.

The public body may request additional time to consider taking remedial action and must make that request in writing to the AGO, to the Attention of the Director of the Division of Open Government. The AGO may, at its discretion, grant additional time to the public body if it determines there is a showing of good cause to grant the extension.



## **Use of Email to Conduct Business**

### **Email and Public Records Law**

E-mail communication created or received by a member of a public body while acting in his or her capacity as a member of the public body, is considered a public record and is subject to a public records request under the Public Records Law even if the email is received by or created on a private computer or sent to only one individual.

### **Email and Open Meeting Law**

Whenever one member of a public body uses email to discuss the public body's business (except for administrative matters such as scheduling and the transmission of documents) with a quorum of the members, it constitutes "deliberation" and is in direct violation of the Open Meeting Law. Email communication between less than a quorum of a public body is also in violation of the Open Meeting Law if the email between less than a quorum of members is later forwarded to or discussed with additional members outside of a public meeting, thus (whether intentionally or not) creating a quorum.

### **Guideline on Email**

To avoid violations of the Open Meeting Law and the Public Records Law, it is preferred that email between members of the Town's public bodies be restricted to scheduling meetings and distribution of agendas, documents and reports. Emails between members of public bodies should never contain any statement that is an opinion of any member and the members must cc the Town Committee email address.

## APPENDIX C: Checklists for Public Bodies

### Public Body Checklist for Posting a Meeting Notice

Issued by the Attorney General's Division of Open Government—September 25, 2017

#### Notice Contents

- ☐ The notice contains the date, time, and location of the meeting. [G.L. c. 30A, § 20\(b\)](#).
- ☐ If the meeting is a joint meeting of several public bodies, the names of all bodies meeting are listed at the top of the notice.
- ☐ The notice contains all of the topics that the chair reasonably anticipates will be discussed at the meeting. The topics are sufficiently specific to reasonably advise the public of the issues to be discussed at the meeting, including executive session topics. [G.L. c. 30A § 20\(b\)](#); 940 CMR 29.03(1)(b).
- ☐ The notice is printed in a legible, easily understandable format. [G.L. c. 30A, § 20\(b\)](#).
- ☐ The date and time that the notice is posted is conspicuously recorded on or with the notice. 940 CMR 29.03(1)(d). If the notice is amended within 72 hours (Maio Rule) of a meeting, not including Saturdays, Sundays, and legal holidays, then the date and time that the meeting notice is amended must also be conspicuously recorded on or with the notice. 940 CMR 29.03(1)(d).

#### Notice Posting

- ☐ The notice is posted at least 72 hours (Maio Rule) before the meeting, not including Saturdays, Sundays and legal holidays. [G.L. c. 30A, § 20\(b\)](#).
- ☐ The notice is posted with the proper authority:
  - Local public bodies — Filed with the municipal clerk, who must post it in a location conspicuously visible to the public at all hours in or on the municipal building where the clerk's office is located, or to the municipal website if adopted by the municipality as the official method of posting notices. [G.L. c. 30A, § 20\(c\)](#); 940 CMR 29.03.
  - State public bodies — Posted to a website, and a copy sent to the Secretary of State's Regulations Division. [G.L. c. 30A, § 20\(c\)](#).
  - Regional public bodies — Posted in every municipality within the region, unless the public body has adopted an alternative notice posting method. [G.L. c. 30A, § 20\(c\)](#); 940 CMR 29.03.

- County public bodies — Filed with the office of the county commissioners and a copy of the notice is publicly posted in a manner conspicuously visible to the public at all hours in such place or places as the county commissioners shall designate for the purpose, unless the county has adopted its website as the official method for posting notices. [G.L. c. 30A, § 20\(c\)](#); 940 CMR 29.03.

Note that this checklist is intended as an educational guide, and does not constitute proof of compliance with the Open Meeting Law. These checklists are updated periodically, so please check that you are using the most current version. For questions, please contact the Attorney General's Division of Open Government at 617-963-2540 or via email at [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us). For more information on the Open Meeting Law, please visit [www.mass.gov/the-open-meeting-law](http://www.mass.gov/the-open-meeting-law).

## Public Body Checklist for Creating and Approving Meeting Minutes

Issued by the Attorney General's Division of Open Government—September 25, 2017

- ☐ Minutes must accurately set forth the date, time, place of the meeting, and a list of the members present or absent. [G.L. c. 30A, § 22\(a\)](#).
- ☐ Minutes must include an accurate summary of the discussion of each subject. [See G.L. c. 30A, § 22\(a\)](#). The 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.
- ☐ The minutes must include a record of all the decisions made and the actions taken at each meeting, including a record of all votes. [G.L. c. 30A, § 22\(a\)](#).
- ☐ The minutes must include a list of all of the documents and other exhibits used by the public body during the meeting. [G.L. c. 30A, § 22\(a\)](#). Documents and exhibits used at the meeting are part of the official record of the session, but do not need to be physically attached to the minutes. [See G.L. c. 30A, §§ 22\(d\), \(e\)](#).
- ☐ If one or more public body members participated remotely in the meeting, the minutes must include the name(s) of the individual(s) participating remotely. 940 CMR 29.10(7)(b).
- ☐ If one or more public body members participated remotely in the meeting, the minutes must record all votes as roll call votes. 940 CMR 29.10(7)(c).
- ☐ Executive session minutes must record all votes as roll call votes. [G.L. c. 30A, § 22\(b\)](#).
- ☐ The minutes must be approved in a timely manner. [G.L. c. 30A, § 22\(c\)](#). A "timely manner" will generally be considered to be within the next three public body meetings or within 30 days, whichever is later, unless the public body can show good cause for further delay. 940 CMR 29.11(2).

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## Public Body Checklist for Entering into Executive Session

Issued by the Attorney General's Division of Open Government—March 12, 2013

- ☐ Executive session listed as a topic for discussion on meeting notice, including as much detail about the purpose for the executive session as possible without compromising the purpose for which it is called. [See G.L. c. 30A, § 20\(b\)](#); 940 CMR. 29.03(1)(b).
- ☐ Public body convened in open session first. [G.L. c. 30A, § 21\(b\)\(1\)](#).
- ☐ Chair publicly announced the purpose for executive session, citing one or more of the 10 purposes found at [G.L. c. 30A, § 21\(a\)](#).
- ☐ Chair stated all subjects that may be revealed without compromising the purpose for which the executive session was called. [G.L. c. 30A, § 21\(b\)\(3\)](#). For example, the Chair identified the party a public body may be negotiating with or the litigation matter the public body will be discussing.
- ☐ Chair stated whether the public body will adjourn from the executive session, or will reconvene in open session after the executive session. [G.L. c. 30A, § 21\(b\)\(4\)](#).
- ☐ For Executive Session Purposes 3, 6, and 8:
  - o Chair publicly stated the having the discussion in open session would have a detrimental effect on the public body's negotiating position, bargaining position, litigating position, or ability to obtain qualified applicants. [G.L. c. 30A, §§ 21\(a\)\(3\), \(6\), \(8\)](#).
- ☐ A majority of members of the body voted by roll-call to enter into executive session. [G.L. c. 30A, § 21\(b\)\(2\)](#).

Note that this checklist is intended as an educational guide, and does not constitute proof of compliance with the Open Meeting Law. Checklists are updated periodically, so please confirm that you are using the most current version. For questions, please contact the Attorney General's Division of Open Government at 617-963-2540 or via email at [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us). For more information on the Open Meeting Law, please visit <https://www.mass.gov/the-open-meeting-law>.

## **Purposes for Executive Session: MGL 30A, Section 21(a)**

### Section 21. (a) A public body may meet in executive session only for the following purposes:

- 1) To discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual. The individual to be discussed in such executive session shall be notified in writing by the public body at least 48 hours prior to the proposed executive session; provided, however, that notification may be waived upon written agreement of the parties. A public body shall hold an open session if the individual involved requests that the session be open. If an executive session is held, such individual shall have the following rights:
  - i) to be present at such executive session during deliberations which involve that individual;
  - ii) to have counsel or a representative of his own choosing present and attending for the purpose of advising the individual and not for the purpose of active participation in the executive session;
  - iii) to speak on his own behalf; and
  - iv) to cause an independent record to be created of said executive session by audio-recording or transcription, at the individual's expense.

The rights of an individual set forth in this paragraph are in addition to the rights that he may have from any other source, including, but not limited to, rights under any laws or collective bargaining agreements and the exercise or non-exercise of the individual rights under this section shall not be construed as a waiver of any rights of the individual.

- 2) To conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel;
- 3) To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares;
- 4) To discuss the deployment of security personnel or devices, or strategies with respect thereto;
- 5) To investigate charges of criminal misconduct or to consider the filing of criminal complaints;
- 6) To consider the purchase, exchange, lease or value of real property if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body;
- 7) To comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements;
- 8) To consider or interview applicants for employment or appointment by a preliminary screening committee if the chair declares that an open meeting will have a detrimental effect in obtaining qualified applicants; provided, however, that this clause shall not apply to any meeting, including meetings of a preliminary screening committee, to consider and interview applicants who have passed aprior preliminary screening;

- 9) To meet or confer with a mediator, as defined in section 23C of chapter 233, with respect to any litigation or decision on any public business within its jurisdiction involving another party, group or entity, provided that:
  - i) any decision to participate in mediation shall be made in an open session and the parties, issues involved and purpose of the mediation shall be disclosed; and
  - ii) no action shall be taken by any public body with respect to those issues which are the subject of the mediation without deliberation and approval for such action at an open session; or
- 10) to discuss trade secrets or confidential, competitively-sensitive or other proprietary information provided in the course of activities conducted by a governmental body as an energy supplier under a license granted by the department of public utilities pursuant to section 1F of chapter 164, in the course of activities conducted as a municipal aggregator under section 134 of said chapter 164 or in the course of activities conducted by a cooperative consisting of governmental entities organized pursuant to section 136 of said chapter 164, when such governmental body, municipal aggregator or cooperative determines that such disclosure will adversely affect its ability to conduct business in relation to other entities making, selling or distributing electric power and energy.

## APPENDIX D:

### **Town of Wakefield Committee Chairperson Responsibilities**

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#### **Schedule and Preside Over Meetings**

- Schedule Zoom meeting room reservations with the [Town Administrator's office](#) prior to posting a meeting.
- Post agenda on Committee letterhead at least 72 hours (Maio Rule) in advance (not counting weekends and holidays) with the Town Clerk's office. Agendas must be e-mailed to the Town Clerk's office at [postings@wakefield.ma.us](mailto:postings@wakefield.ma.us). Follow the rules of the Open Meeting Law ([email the Town Administrator's office for more info](#)).
- Notify all committee members in advance to ensure the presence of a quorum.
- Provide sign-in sheets for all visitors and attach these to the meeting minutes.
- Preside over meetings. Ensure that a quorum of members is present. If a quorum is not achieved, reschedule the meeting in accordance with the Open Meeting Law. See Quorum Requirements section below.
- Remind all members after their appointments that they cannot vote until they get sworn in by the Town Clerk's office and that their Massachusetts State Ethics training is current.
- Follow the agenda (note: the chair prepares the agenda for each meeting). Call the meeting to order at the time noted on the posted agenda if you have a quorum. Do not wait for committee members to join if a quorum is present.
- Follow the rules of the Open Meeting Law.
- Customarily, the Chair invites motions and seconds from members before the committee may vote on business or a question that is before the committee.
- Coordinate the committee's planning tasks and responsibilities.
- Ensure meeting minutes are taken at each meeting and approved at the next meeting. Minutes shall be on the Committee's letterhead and should indicate the meeting's date, time and location, the names of members and observers present, motions, votes and discussions. The approved minutes shall be error free and incorporate all amendments made pursuant to final approval. An electronic copy must be emailed to the [Town Administrator's office](#) for posting on the Town of Wakefield website.



- Follow proper procedures for holding public hearings and executive sessions. (This applies to only a few committees and boards.)
- Designate another committee member to serve as chair pro-tem in your absence if there is no Vice Chair.
- Conduct meetings in a professional manner. Ask that participants exercise courtesy so that meetings maintain a proper level of decorum. [Follow the guidelines for Civil Discourse, Appendix A.](#)

## Other Duties

- Remind committee members who resign that they are required to submit a resignation letter via email with the effective date to the [Town Administrator's office](#).
- Remind committee members of the importance of attending Town Meetings. As noted in the Charter "At least one member of each elected or appointed board, commission and committee shall attend all Annual and Special Town Meetings."
- Periodically remind committee members of their individual responsibility to follow the State Conflict of interest Law. Town Counsel is available through the Town Administrator's office to respond to any individual committee member's questions relating to compliance with this area of state law. [When there is a conflict of interest, file a disclosure with the Town Clerk's Office.](#)
- Should any long-term absences or resignations occur, the Chair must notify the [Town Administrator's office](#) via email in order for the appointing authority to take appropriate action.
- Encourage all members to attend any scheduled training course for committee members. Such training may cover the Open Meeting Law, the Ethics Law, the Procurement Law, and other regulations that apply to municipal employees and elected and appointed officials.
- [Hold an annual election at the first scheduled meeting in May to elect a Chair and a Clerk and any other officers.](#) Encourage an annual rotation of officers. Notify the [Town Administrator's office](#) via email with the results. Note: Elected Boards and Committees must reorganize after the Annual Town Election.
- Ensure that minutes of executive sessions are timely reviewed and, where appropriate, released.
- Donations that the public body receives must be accepted by the Town Council. Requests must be [emailed to the Town Administrator's office](#).

- Serve as the committee's liaison to all other Town Boards and Committees (unless the committee votes other members to that task).
- Coordinate requests for legal interpretations by any member and forward the requests via email to the [Town Administrator's office](#).
- Have all bills or expenditures that are authorized by the Town approved by the committee before submitting them via email to the [Town Administrator's office](#).

### **Quorum requirements**

- For purposes of appointed multiple member bodies, the [Town's bylaws define "Quorum"](#) as "greater than one-half of the total number of appointed members who have been appointed and taken the oath to serve."

### **Quantum of vote**

- The general rule for the quantum of vote required to pass a motion is a majority of the quorum.
- Please note that for a board to enter into Executive Session the Attorney General's, Division of Open Government, recommends that the best practice is to have a majority of the body as constituted vote to enter into executive session and the vote of each member is recorded by roll call and entered into the minutes. Note: This has been interpreted as the majority of the quorum.

## **Exceptions to quorum and quantum requirements**

### **Conservation Commission**

- In Wakefield, the only exception to the general rule for determining a quorum is the quorum of the Conservation Commission. The definition of a quorum for conservation commissions under the regulations of the Wetlands Protection Act ("WPA") is "a majority of the members then in office." 310 CMR 10.05(2) (Emphasis added). [Section 5.6](#) of the General Bylaws of Wakefield states in pertinent part that the "Conservation Commission shall consist of seven (7) members." Thus, if all positions have been filled, a quorum of the commission would be four (4) members. If there were two (2) vacancies, then there would be five (5) members in office, therefore, the quorum would be three (3) members, which follows the general rule.
- Pursuant to the WPA and the above regulations for all actions taken by the Conservation Commission, such as approving meeting minutes and scheduling meetings, the requirement is only that action must be taken by "more than half the members present at the meeting" which follows the general rule.
- On the other hand, the WPA and its regulations require that a "majority of the Conservation Commission then in office" must sign Orders of Conditions or Notifications of Determinations of Applicability, Certificates of Compliance, Extensions of Orders of

Conditions, and Enforcement Orders. The Department of Environmental Protection has interpreted their regulations to mean that only a majority of “the members present at a meeting” of a quorum must vote in favor of such actions at the meeting. Therefore, while some documents must be signed by a majority of the Conservation Commission, the vote at the meeting only requires more than half of the members present at the meeting.

### **Zoning Board of Appeals**

- [Section 190.64](#) of the General Bylaws of Wakefield states the Wakefield Zoning Board of Appeals shall consist of five (5) full members and three (3) associate members. Associate members are not counted when calculating votes unless one or more of them are filling in for vacancies or absences of full members.

## **APPENDIX E: Applicants Approval Criteria**

### **All Candidates**

1. Town resident
2. Registered voter (except for Youth Council members and any other Committee members currently serving on a Committee they were appointed to on or before April 1, 2023)
3. Attended at least one meeting of the committee applied for (if unable to attend, agrees to attend/view the next scheduled meeting and contacts the committee chair for more info)
4. Understands the time and commitment requirements
5. Has some type of skill/interest level of value to the committee of interest