

**TOWN OF WELLESLEY**  
**MUNICIPAL EMPLOYEE/COMMITTEE HANDBOOK**

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**INTRODUCTION**

Volunteer citizen participation is the backbone of our local governance. The Town of Wellesley is grateful for the many hours contributed by our many board and committee members.

This handbook has been prepared by the Town Clerk for use by appointed and elected boards, committees and commissions involved in Town Government. It provides information concerning legal obligations, procedural matters, and advice for the effective operation of these groups.

Suggestions for improvements and/or additions to this handbook may be sent to:

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**GENERAL (see also Town Bylaws Sections 1-8 for general bylaws applicable to committees)**

**1.1 TYPES OF COMMITTEES**

There are two types of appointed committees involved in the Town of Wellesley Government; namely;

- A. **PERMANENT COMMITTEES OF THE TOWN** – These are established by Vote of Town Meeting (See TBL) or State Statute. These Committees are assigned specific responsibilities for certain function of the Town. Elected Boards are considered permanent committees.
- B. **AD HOC or STUDY COMMITTEES** – These Committees are established by Town Meeting vote or by a permanent committee to study problems facing the Town and to bring back recommendations to the establishing agency.

The Term “Establishing Agency” as used in this Handbook refers to the particular body (either by Town Meeting vote, elected board or Town Official) which initially creates the appointed committees.

**1.2 APPOINTMENTS**

Appointments to committees in Wellesley are made by any one of several elected boards, the Board of Selectmen, Town Moderator, or by some combination thereof (hereinafter referred to as the “appointing agencies”). The appointed individual receives formal written notification of his or her appointment from the appointing agency. Permanent committee appointments/elections are generally for three year terms or as designated by the appointment papers. New committee members must appear before the Town Clerk for swearing in and to formalize their appointment. The chair or a staff member should inform the Town Clerk of any changes to membership as soon as possible. Committee members are expected to serve the term of appointment.

Most committee appointments require the member to be a resident of Wellesley. Certain appointments require voter registration or specific professional backgrounds. Appointees who move from Wellesley are no longer eligible and should submit a letter of resignation as soon as the move is certain.

**1.3 OFFICERS**

Committees may, at their option, establish various officers within the committee. At a minimum, a chairman and secretary should be elected. A record of committee officers should be submitted annually in writing to the Town Clerk.

**1.4 CONFLICT OF INTEREST DISCLOSURE**

Members are advised to seek guidance before acting on any issue where a conflict may be perceived and to publically disclose any such conflicts. In some cases a form may be filed with the Town Clerk to disclose formally disclose conflicts. Town Counsel may be of assistance in determining the correct course of action in such cases.

**1.5 RESIGNATIONS**

All resignations should be submitted in writing (not via email) to the Appointing Authority, with a copy to the Town Clerk and the committee to which appointment was made when the individual does not intend to continue to participate. Sample form attached to this handbook.

**1.6 RE-APPOINTMENTS**

If a person chooses not to be re-appointed, the appointing agency should be advised in advance. Appointing agencies may, at their discretion, choose not to re-appoint a person to a committee, and shall inform the person.

**1.7 COMPOSITION**

The composition of most appointed committees is specified by the Town Bylaw or Town Meeting vote.

## **MEETINGS (see “Open Meeting Law”)**

### **2.1 FIRST MEETING**

The first meeting of a committee will be called by the chairman of the committee or, being none, then by the appointing agency. At that time it is advisable to review the Bylaw Provisions if applicable, or the charge of the Committee so that all members understand and agree upon the objectives of the committee. Copies of the charge shall be distributed to all committee members, and a copy to be placed on file with the Town Clerk.

### **2.2 TIME, PLACE, FREQUENCY**

To accomplish committee objectives, regular meeting times and locations should be established. Depending on committee workload, meetings may be held weekly, biweekly or monthly. A regular night of the week and a time for the meeting is advisable. By law, meetings must be conducted in a public building, and not scheduled for holidays or Sundays. Committees are responsible for reserving their own meeting rooms.

### **2.3 MEETING NOTICES**

All committee members should be notified in writing of each committee meeting, if the committee is operating on an irregular schedule, and of each special meeting.

### **2.4 PUBLIC POSTINGS (see ‘Open Meeting Law’)**

By law, public notice of all committee meetings must be posted with the Town Clerk a minimum of 48 hours before any meeting (Excluding Saturdays, Sundays, and legal holidays.) Postings are only accepted during the office hours of the Town Clerk. For example, a notice for a meeting to be held on Monday evening must be posted on the preceding Thursday, not later than 4 pm.

Public meeting notices must contain the name of the committee, the date, time and place of the meeting and a list of topics reasonably expected to be discussed. The posting should give the public a reasonable idea of the topics for the meeting.

A sample notice is attached to this booklet.

Posting may be submitted by paper or email. ([dinnes@wellesley.ma.gov](mailto:dinnes@wellesley.ma.gov)) The Clerk’s office will send a confirmation of receipt for postings submitted by email. The general practice is for the posting to be added to the web calendar as soon as it is received. If you check the calendar for your meeting and it does not appear then please call the Town Clerk. Do not rely on e-mail alone. The Clerk’s office accepts postings 8 am – 4 pm. If you are later than 4 pm please call to see if a staff member will be available to receive your posting.

The Clerk’s office will accept “save a date” listings to inform the public of the dates of future meetings. Such listings do not meet the requirement of a Posting until a list of items to be discussed (Agenda) is submitted.

### **2.5 USE OF TOWN BUILDINGS**

Meetings should be held in public places that are accessible to all members of the public.

Public meeting rooms are available for Committee and Board use in various Town Buildings, and reservations should be made in advance by contacting the appropriate staff as follows:

- Town Hall – Board of Selectmen’s office coordinates room reservations. Custodial staff is responsible for room setup and securing of the building at the close of the meeting. 781-431-1019 Ext 2204
- Police Station meeting room – Contact Police Administrative offices 781-235-1212 ext 5128
- Library – Room reservation system is coordinated by Director’s office 781-235-1610 ext 1100
- Schools – make request directly through the principal’s office of the building desired

## **2.6 MINUTES**

A written record of each committee meeting is required by law and becomes part of the public record. Minutes must contain names of members present and absent, all formal votes of the committee and a reasonable summary or discussion (7/1/2010). Minutes must also contain a list of any documents relied upon for the discussion. Documents, exhibits and plans used at the meeting become a part of the permanent record of the meeting.

Minutes must be formally accepted by the committee. The Chairman, or the designee, must maintain a copy of all approved minutes for public inspection, if required. Minutes are maintained by each board/committee which has a physical office in the town. Boards/Committees who do not have a physical office should file their minutes with the Town Clerk, within a reasonable time of the occurrence of the meeting. It is highly recommended to develop a process to post minutes to the town web site.

## **2.7 QUORUM**

A committee should establish a quorum necessary for conducting business. This quorum must be greater than fifty percent (50%) of committee membership. This may deviate depending on the criteria used to establish the committee. State statute may dictate a quorum.

## **2.8 EMAIL**

E-mail communications are prohibited except for housekeeping or administrative purposes or distribution of documents. Email received in the course of committee service related to committee matters should be retained as a public record.

## **2.9 OPEN MEETING LAW SUMMARY (see attachment)**

The Open Meeting Law gives the public and media a legal right to attend all meetings of state, county and municipal boards and committees, except when the board votes to go into Executive Session.

Before an Executive Session can be called, the following procedures must be followed:

- An open session, for which notice has been given, must be convened.
- The presiding officer must cite the purpose for the Executive Session and state whether the Board will reconvene thereafter in open session.
- A majority of Board members must vote, by roll-call, to go into Executive Session and the vote must be recorded in the committee minutes.

Executive Sessions can be held only when the following matters are being discussed or considered:

1. The reputation and character, physical condition or mental health, rather than the professional competence of a single individual. Individuals involved must receive 48 hours notice, in writing, of proposed Executive Session.
2. Discipline or dismissal or the hearing of complaints or charges against an individual. Individuals involved must receive 48 hours notice, in writing, of the proposed Executive Session.
3. Strategy for collective bargaining or litigation where open discussion of the same may have a detrimental effect; collective bargaining itself may be conducted in Executive Session.
4. Deployment of security personnel or devices.
5. Allegations of criminal misconduct.
6. Transactions in real property where open discussion may have a detrimental effect on such transactions.
7. Matters required by statute or other law to be kept private.
8. Interviews.

9. To meet or confer with a mediator, as defined in section twenty-three C of chapter two hundred and thirty-three, with respect to any litigation or decision on any public business within its jurisdiction involving another party, group or body, provided that: (a) any decision to participate in mediation shall be made in open meeting session and the parties, issues involved and purpose of the mediation shall be disclosed; and (b) no action shall be taken by any governmental body with respect to those issues which are the subject of the mediation without deliberation and approval for such action at an open meeting after such notice as may be required in this section.
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.

Votes and proceedings in Executive Session may be kept private, as long as privacy will serve the purpose for which the Executive Session was called. When the reason for Executive Session has been satisfied the minutes for Executive Session Meetings must be released.

## **FINANCES**

### **3.1 SOURCE OF FUNDS**

- A. Town Meeting Committees (standing committees of the Town Meeting and study committees established by the Town Meeting).
  1. Budget – Town Meeting will decide what sums, if any shall be appropriated; provides modest sums for general office supplies, postage and clerical assistance; requires authorization of a majority of the committee before funds can be released.
  2. Special Articles – provide large sums for specific projects resulting from recommendations of particular committees. These funds may be disbursed by majority vote of the committee.
- B. Permanent Appointed Committees
  1. Individual elements of the budget provide the funds for the ongoing activities of the committee. These may be disbursed by majority vote of the committee.
  2. Special Articles – see above.

### **3.2 PAYMENT OF BILLS**

After a vote of approval, bills should be signed by a majority of the members of the committee and submitted to the Town Accountant's office for processing and payment, when authorization by the Town Administrator or Selectmen is required, his/her signature should be added to the bill before submission for payment. The Town Accountant will review the specific paperwork needed to process bills.

- 3.2.1 Purchase Orders – all purchases over \$500 require an approved purchase order in advance of purchase.
- 3.2.2 Quotes – All purchases over \$1000 should have three written quotes if possible.

### **3.3 PUBLIC BIDDING REQUIREMENTS**

All purchases \$5,000.00 and over are subject to MGL Chapter 30B. These purchases must be coordinated through the Financial Services office (3d floor Town Hall). Invitations to bid must be published. Steps should be taken to secure prices or bids from sufficient producers or dealers in such equipment or supplies, or in a position to furnish such services in order to enable the Town to avail itself of the lowest obtainable prices. The lowest bid shall be accepted, provided that the bidder is financially responsible and the bid is reasonable and complies with any conditions imposed and it is in the best interests of the town. The Town reserves the right to reject any or all bids.

### **3.4 CONTRACTS**

Copies of contracts are to be filed with the Town Clerk annually.

## **ANNUAL REPORTS**

### **4.1 TOWN REPORTS**

All appointed committees are expected to file an annual report of committee operation which will appear in the Annual Town Report. The report should detail committee membership; including changes, and explain the major accomplishments of the committee over the calendar year and highlight plans for the ensuing year. The report is due in the fall when specified by the Board of Selectmen.

Ad Hoc committees should file both interim and final reports with their appointing authority and the Town Clerk.

## **TOWN MEETING**

### **5.1 ARTICLES for WARRANT**

Committees who wish to bring an article before Town Meeting should inform the Board of Selectmen as early as the decision is known. The Board of Selectmen generally open the warrant for Annual Town Meeting in December and close it in early January. Committees who plan to place an article on the warrant should pay attention to deadlines set by the Board of Selectmen for submitting warrant articles and motions. The Advisory Committee should also be apprised of the committee's intention to allow for adequate review and deliberation on the merits of the proposal.

Committee reports to be included with the Advisory Committee booklet must meet Advisory Committee publication deadlines. Written Committee reports must be filed with the Town Clerk under Article 2 of the Town Meeting agenda and must be signed by all members of the Committee.

### **5.2 DEADLINES**

Warrant articles for the Annual Town Meeting shall be submitted in writing to the Board of Selectmen prior to the closing of the warrant. Early submission is preferable. Articles for any Special Town Meeting shall be submitted upon notification from the Board of Selectmen that Warrant articles are due. Full documentation of the background and reasons for the proposed articles should accompany the article request.

### **5.3 SUBMISSION**

The Board of Selectmen shall prepare the warrant for all Town Meetings. Draft articles may be submitted, in writing, in the following forms:

1. By an elected official or by a member of an elected Board or Committee, with the approval of the Board of Selectmen.

2. By an appointed committee or board, acting by a majority vote of its members, with the approval of the Board of Selectmen.
3. Any person or agency authorized through the by-laws or in any other legal manner, with the approval of the Board of Selectmen.
4. A written petition to the Board of Selectmen by any ten voters of the Town for inclusion of any article in the warrant for the Annual Town Meeting, and a petition of at least one hundred registered voters for inclusion of an article in the warrant for any Special Town Meeting.

#### **5.4 BUDGET REQUESTS**

In the fall of each year, each committee should determine the necessary budget for committee operation over the next Fiscal Year, which begins on July 1. Budget Guidelines are published by the Selectmen's Office, typically in late September. The budget requests, with appropriate narrative, are due on the date to be set by the Advisory Committee who shall inform all committees.

Committees which operate under appropriations voted under Special Articles at Town Meeting should check their balances with the Financial Services office to be sure they will have sufficient funds to continue their operations.

Requests for an appropriation to cover the cost of Capital Outlay should be submitted on the appropriate forms to the Advisory Committee. For purposes of smaller committees a Capital Outlay item can be defined as any item costing in excess of \$5,000.00 and having a useful life of three years or more. Major departments should refer to Financial Services Department guidelines for capital items.

### **PLANNING/OPERATIONS**

#### **6.1 GOALS/PURPOSES**

A committee is expected to formally document its understanding of the committee's goals and purposes. Verification of their goals with the appointing agency will preclude wasted effort through a misdirection of initiatives.

#### **6.2 PLAN OF ACTION**

A plan of action should be developed, outlining how the committee is to accomplish its goals. Reporting of major accomplishments should be done so that the appointing agency may audit the committee's progress toward its goals.

#### **6.3 PROCEDURE**

Each committee should draw up a list of procedures, fees and appropriate information to be made available to assist others in knowing how to work with the committee.

#### **6.4 DISSOLUTION**

When an AdHoc or Study Committee has completed its assigned goals, the committee should request dissolution by the appointing agency or Town Meeting.

After dissolution the committee should deliver to the Town Clerk all records deemed by them to be appropriate for inclusion in the permanent records.

## **CONFLICT OF INTEREST LAW**

A Committee member who believes they may have a conflict of interest may file a disclosure form with the Town Clerk to state such conflict and still be able to perform their duties. Such Conflicts can be discussed with Town Counsel prior to filing.

The State Conflict of Interest Law is very complex. It can be summarized as follows: No appointed committee member should do business either directly or indirectly with the Town of Wellesley. This restriction shall apply for two years after service on a committee is completed.

Each individual shall be responsible for his or her actions in this regard. Any individual having a question concerning their own individual positions, should request an opinion from Town Counsel or the Ethics Commission (see below for contacts)

A Summary of the Conflict of Interest Law is attached to this handbook.

All elected and appointed Committee members are deemed to be Municipal Employees even though uncompensated. All Municipal employees are required to acknowledge receipt of the Summary of the Conflict of Interest Law and complete an online training program offered by the State Ethics Commission. The training program can be accessed at [http://db.state.ma.us/ethics/quiz\\_MEthics/index.asp](http://db.state.ma.us/ethics/quiz_MEthics/index.asp). The training must be completed within three weeks of qualifying for your appointment. The training program concludes by producing a certificate of compliance. Please file this certificate, either electronically or on paper with the Town Clerk. In addition all Municipal Employees will be required to renew the training every two years. The Town Clerk will give you notice of how this re-certification is to be accomplished.

### Legal Advice on conflict of Interest Issues

The Legal Division gives advisory opinions pursuant to G.L. c. 268B, § 3(g) and 930 CMR 3.01.

1. Call the "Attorney-of-the-Day" (617) 371-9500/(888) 485-4766
2. Send a Letter Requesting an Informal Written Advisory Opinion

To request an informal written opinion from the Legal Division, please include all relevant facts and a specific question. You generally will receive an informal written advisory opinion from the Legal Division within 30 days. Please mail your request to:

State Ethics Commission  
Legal Division, Room 619  
One Ashburton Place  
Boston, MA 02108.

# TOWN OF WELLESLEY

## UNLAWFUL HARASSMENT POLICY AND PROCEDURE (2003)

### I. Introduction

It is the goal of the Town of Wellesley to promote a workplace that is free of unlawful harassment. Harassment of employees because of their race, color, gender, age, disability, religious creed, national origin, ancestry, sexual orientation, or genetic information occurring in the workplace, or in other settings in which employees may find themselves in connection with their employment, is unlawful and will not be tolerated. Further, any retaliation against an individual who has complained about such harassment or retaliation against individuals for cooperating with an investigation of a harassment complaint is similarly unlawful and will not be tolerated. To achieve our goal of providing a workplace free from unlawful harassment, the conduct that is described in this policy will not be tolerated and we have provided a procedure by which inappropriate conduct will be dealt with, if encountered by employees.

Because the Town of Wellesley takes allegations of unlawful harassment seriously, we will respond promptly to complaints of harassment and where it is determined that such inappropriate conduct has occurred, we will act promptly to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate.

Please note that while this policy sets forth our goals of promoting a workplace that is free of unlawful harassment, the policy is not designed or intended to limit our authority to discipline or take remedial action for conduct that we deem unacceptable, regardless of whether that conduct satisfies the definition of unlawful harassment.

### II. Definition of Sexual Harassment

Sexual harassment means sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature when:

- a) submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions; or
- b) such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment.

Under these definitions, direct or implied requests by a supervisor for sexual favors in exchange for actual or promised job benefits such as a favorable review, salary increases, promotions, increased benefits, or continued employment constitutes sexual harassment.

The legal definition of sexual harassment is broad and, in addition to the above examples, other sexually oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating a work place environment that is hostile, offensive, intimidating, or humiliating to male or female workers may also constitute sexual harassment.

While it's not possible to list all those additional circumstances that may constitute sexual harassment, the following are some examples of conduct which if unwelcome, may constitute sexual harassment depending upon the totality of the circumstances including the severity of the conduct and its pervasiveness;

- Sexual advances--whether they involve physical touching or not;
- Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life; comment on an individual's body, comment about an individual's sexual activity, deficiencies, or prowess;
- Displaying sexually suggesting objects, pictures, cartoons;
- Leering, whistling, brushing against the body, sexual gestures, suggesting or insulting comments;
- Inquiries into one's sexual experiences; and
- Discussion of one's sexual activities.

All employees should take special note that, as stated above, retaliation against an individual who has complained about sexual harassment, and retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is unlawful and will not be tolerated.

### III. Complaints of Unlawful Harassment

If any of our employees believes that he or she has been subjected to unlawful harassment, the employee has the right to file a complaint with our organization. This may be done in writing or orally.

If you would like to file a complaint you may do so by contacting your Department Head or the Human Resources Director, Town Hall, 525 Washington Street, Wellesley, MA (617-431-1019, x244) or Town Counsel, Attorney Albert Robinson, 40 Grove Street, Wellesley, MA 02181 (617-235-3300). These persons are also available to discuss any concerns you may have and to provide information to you about our policy on unlawful harassment and our complaint process.

### IV. Harassment Investigation

When we receive a complaint of unlawful harassment we will promptly investigate the allegation in a fair and expeditious manner. The investigation will be conducted in such a way as to maintain confidentiality to the extent consistent with a fair and full investigation and practicable under the circumstances. Our investigation will include private interviews with the person filing the complaint, and with witnesses. We will also interview the person alleged to have committed the harassment. When we have completed our investigation, we will, to the extent appropriate inform the person filing the complaint and the person alleged to have committed the conduct of the results of that investigation.

If it is determined that inappropriate conduct has occurred, we will act promptly to eliminate the offending conduct, and where it is appropriate we will also impose disciplinary action.

### V. Disciplinary Action

If it is determined that inappropriate conduct has been committed by one of our employees, we will take such action as is appropriate under the circumstances. Such action may range from counseling to termination from employment, and may include such other forms of disciplinary action as we deem appropriate under the circumstances.

### VI. State and Federal Remedies

In addition to the above, if you believe you have been subjected to unlawful harassment, you may file a formal complaint with either or both of the government agencies set forth below. Using our complaint process does not prohibit you from filing a complaint with these agencies. Each of the agencies has a 300-day period for filing a claim.

#### 1. The United States Equal Employment Opportunity Commission (EEOC)

1 Congress Street, 10th Floor  
Boston, MA 02114

(617) 565-3200

#### 2. The Massachusetts Commission Against Discrimination (MCAD)

Boston Office:  
1 Ashburton Place, Rm. 601  
Boston, MA 02108  
(617) 994-6000

Springfield Office:  
424 Dwight Street, Rm. 220  
Springfield, MA 01103  
(413) 739-2145

**THE OPEN MEETING LAW**  
**Chapter 30A Sections 18-25**

**Section 18: Definitions**

As used in this section and sections 19 to 25, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:

"Deliberation", 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; provided, however, that "deliberation" shall not include the distribution of a meeting agenda, scheduling information or distribution of other procedural meeting or the distribution of reports or documents that may be discussed at a meeting, provided that no opinion of a member is expressed.

"Emergency", a sudden, generally unexpected occurrence or set of circumstances demanding immediate action.

"Executive session", any part of a meeting of a public body closed to the public for deliberation of certain matters.

"Intentional violation", an act or omission by a public body or a member thereof, in knowing violation of the open meeting law.

"Meeting", a deliberation by a public body with respect to any matter within the body's jurisdiction; provided, however, "meeting" shall not include:

- (a) an on-site inspection of a project or program, so long as the members do not deliberate;
- (b) attendance by a quorum of a public body at a public or private gathering, including a conference or training program or a media, social or other event, so long as the members do not deliberate;
- (c) attendance by a quorum of a public body at a meeting of another public body that has complied with the notice requirements of the open meeting law, so long as the visiting members communicate only by open participation in the meeting on those matters under discussion by the host body and do not deliberate;
- (d) a meeting of a quasi-judicial board or commission held for the sole purpose of making a decision required in an adjudicatory proceeding brought before it; or
- (e) a session of a town meeting convened under section 9 of chapter 39 which would include the attendance by a quorum of a public body at any such session.

"Minutes", the written report of a meeting created by a public body required by subsection (a) of section 22 and section 5A of chapter 66.

"Open meeting law", sections 18 to 25, inclusive.

"Post notice", to display conspicuously the written announcement of a meeting either in hard copy or electronic format.

"Preliminary screening", the initial stage of screening applicants conducted by a committee or subcommittee of a public body solely for the purpose of providing to the public body a list of those applicants qualified for further consideration or interview.

"Public body", a multiple-member board, commission, committee or subcommittee within the executive or legislative branch or within any county, district, city, region or town, however created, elected, appointed or otherwise constituted, established to serve a public purpose; provided, however, that the governing board of a local housing, redevelopment or other similar authority shall be deemed a local public body; provided, further,

that the governing board or body of any other authority established by the general court to serve a public purpose in the commonwealth or any part thereof shall be deemed a state public body; provided, further, that "public body" shall not include the general court or the committees or recess commissions thereof, bodies of the judicial branch or bodies appointed by a constitutional officer solely for the purpose of advising a constitutional officer and shall not include the board of bank incorporation or the policyholders protective board; and provided further, that a subcommittee shall include any multiple-member body created to advise or make recommendations to a public body.

"Quorum", a simple majority of the members of the public body, unless otherwise provided in a general or special law, executive order or other authorizing provision.

**Section 19.** (omitted Division of Open Government established)

**Section 20. Meetings of a Public Body to be Open to the Public; Notice of Meeting; Remote Participation; Recording and Transmission of Meeting; Removal of Persons for Disruption of Proceedings**

- (a) Except as provided in section 21, all meetings of a public body shall be open to the public.
- (b) Except in an emergency, in addition to any notice otherwise required by law, a public body shall post notice of every meeting **at least 48 hours prior to such meeting**, excluding Saturdays, Sundays and legal holidays. In an emergency, a public body shall post notice as soon as reasonably possible prior to such meeting. Notice shall be printed in a legible, easily understandable format and shall contain the **date, time and place of such meeting and a listing of topics that the chair reasonably anticipates will be discussed at the meeting.**
- (c) For meetings of a local public body, notice shall be filed with the municipal clerk and posted in a manner conspicuously visible to the public at all hours in or on the municipal building in which the clerk's office is located. (OR may be posted to Town Calendar on Website)
- (d) The attorney general may by regulation or letter ruling, authorize remote participation by members of a public body not present at the meeting location; provided, however, that the absent members and all persons present at the meeting location are clearly audible to each other; and provided, further, that a quorum of the body, including the chair, are present at the meeting location. Such authorized members may vote and shall not be deemed absent for the purposes of section 23D of chapter 39. (not yet approved by Wellesley Board of Selectmen)
- (e) After notifying the chair of the public body, any person may make a video or audio recording of an open session of a meeting of a public body, or may transmit the meeting through any medium, subject to reasonable requirements of the chair as to the number, placement and operation of equipment used so as not to interfere with the conduct of the meeting. At the beginning of the meeting the chair shall inform other attendees of any such recordings.
- (f) No person shall address a meeting of a public body without permission of the chair, and all persons shall, at the request of the chair, be silent. No person shall disrupt the proceedings of a meeting of a public body. If, after clear warning from the chair, a person continues to disrupt the proceedings, the chair may order the person to withdraw from the meeting and if the person does not withdraw, the chair may authorize a constable or other officer to remove the person from the meeting.
- (g) Within 2 weeks of qualification for office, all persons serving on a public body shall certify, on a form prescribed by the attorney general, the receipt of a copy of the open meeting law, regulations promulgated pursuant to section 25 and a copy of the educational materials prepared by the attorney general explaining the open meeting law and its application pursuant to section 19. Unless otherwise directed or approved by the attorney general, the appointing authority, city or Town Clerk or the executive director or other appropriate administrator of a state or regional body, or their designees, shall obtain such certification from each person

upon entering service and shall retain it subject to the applicable records retention schedule where the body maintains its official records. The certification shall be evidence that the member of a public body has read and understands the requirements of the open meeting law and the consequences of violating it.

## **Section 21. Executive Sessions**

(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 a prior 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.

(b) A public body may meet in closed session for 1 or more of the purposes enumerated in subsection (a) provided that:

- (1) the body has first convened in an open session pursuant to section 21;
- (2) a majority of members of the body have voted to go into executive session and the vote of each member is recorded by roll call and entered into the minutes;
- (3) before the executive session, the chair shall state the purpose for the executive session, stating all subjects that may be revealed without compromising the purpose for which the executive session was called;
- (4) the chair shall publicly announce whether the open session will reconvene at the conclusion of the executive session; and
- (5) accurate records of the executive session shall be maintained pursuant to section 23.

## **Section 22. Meeting Minutes; Records**

(a) A public body shall create and maintain accurate minutes of all meetings, including executive sessions, setting forth the date, time and place, the members present or absent, a summary of the discussions on each subject, a list of documents and other exhibits used at the meeting, the decisions made and the actions taken at each meeting, including the record of all votes.

(b) No vote taken at an open session shall be by secret ballot. Any vote taken at an executive session shall be recorded by roll call and entered into the minutes.

(c) 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 within 10 days.

(d) 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 part of the official record of the session.

(e) 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 pursuant to any of the exemptions under clause Twenty-sixth of section 7 of chapter 4. Notwithstanding this paragraph, the following materials shall be exempt from disclosure to the public as personnel information: (1) materials used in a performance evaluation of an individual bearing on his professional competence, provided they were not created by the members of the body for the purposes of the evaluation; and (2) materials used in deliberations about employment or appointment of individuals, including applications and supporting materials; provided, however, that any resume submitted by an applicant shall not be exempt.

(f) The minutes of any executive session, the notes, recordings or other materials used in the preparation of such minutes and all documents and exhibits used at the session, may be withheld from disclosure to the public in their entirety under subclause (a) of clause Twenty-sixth of section 7 of chapter 4, as long as publication may defeat the lawful purposes of the executive session, but no longer; provided, however, that the executive session was held in compliance with section 21.

When the purpose for which a valid executive session was held has been served, the minutes, preparatory materials and documents and exhibits of the session shall be disclosed unless the attorney-client privilege or 1

or more of the exemptions under said clause Twenty-sixth of said section 7 of said chapter 4 apply to withhold these records, or any portion thereof, from disclosure.

For purposes of this subsection, if an executive session is held pursuant to clause (2) or (3) of subsections (a) of section 21, then the minutes, preparatory materials and documents and exhibits used at the session may be withheld from disclosure to the public in their entirety, unless and until such time as a litigating, negotiating or bargaining position is no longer jeopardized by such disclosure, at which time they shall be disclosed unless the attorney-client privilege or 1 or more of the exemptions under said clause Twenty-sixth of said section 7 of said chapter 4 apply to withhold these records, or any portion thereof, from disclosure.

(g)(1) The public body, or its chair or designee, shall, at reasonable intervals, review the minutes of executive sessions to determine if the provisions of this subsection warrant continued non-disclosure. Such determination shall be announced at the body's next meeting and such announcement shall be included in the minutes of that meeting.

(2) Upon request by any person to inspect or copy the minutes of an executive session or any portion thereof, the body shall respond to the request within 10 days following receipt and shall release any such minutes not covered by an exemption under subsection (f); provided, however, that if the body has not performed a review pursuant to paragraph (1), the public body shall perform the review and release the non-exempt minutes, or any portion thereof, not later than the body's next meeting or 30 days, whichever first occurs. A public body shall not assess a fee for the time spent in its review.

### **Section 23. Enforcement of Open Meeting Law; Complaints; Hearings; Civil Actions**

(a) Subject to appropriation, the attorney general shall interpret and enforce the open meeting law.

(b) At least 30 days prior to the filing of a complaint with the attorney general, the complainant shall file a written complaint with the public body, setting forth the circumstances which constitute the alleged violation and giving the body an opportunity to remedy the alleged violation; provided, however, that such complaint shall be filed within 30 days of the date of the alleged violation. The public body shall, within 14 business days of receipt of a complaint, send a copy of the complaint to the attorney general and notify the attorney general of any remedial action taken. Any remedial action taken by the public body in response to a complaint under this subsection shall not be admissible as evidence against the public body that a violation occurred in any later administrative or judicial proceeding relating to such alleged violation. The attorney general may authorize an extension of time to the public body for the purpose of taking remedial action upon the written request of the public body and a showing of good cause to grant the extension.

(c) Upon the receipt of a complaint by any person, the attorney general shall determine, in a timely manner, whether there has been a violation of the open meeting law. The attorney general may, and before imposing any civil penalty on a public body shall, hold a hearing on any such complaint. Following a determination that a violation has occurred, the attorney general shall determine whether the public body, 1 or more of the members, or both, are responsible and whether the violation was intentional or unintentional. Upon the finding of a violation, the attorney general may issue an order to:

- (1) compel immediate and future compliance with the open meeting law;
- (2) compel attendance at a training session authorized by the attorney general;
- (3) nullify in whole or in part any action taken at the meeting;
- (4) impose a civil penalty upon the public body of not more than \$1,000 for each intentional violation;
- (5) reinstate an employee without loss of compensation, seniority, tenure or other benefits;
- (6) compel that minutes, records or other materials be made public; or
- (7) prescribe other appropriate action.

(d) A public body or any member of a body aggrieved by any order issued pursuant to this section may, notwithstanding any general or special law to the contrary, obtain judicial review of the order only through an

action in superior court seeking relief in the nature of certiorari; provided, however, that notwithstanding section 4 of chapter 249, any such action shall be commenced in superior court within 21 days of receipt of the order. Any order issued under this section shall be stayed pending judicial review; provided, however, that if the order nullifies an action of the public body, the body shall not implement such action pending judicial review.

(e) If any public body or member thereof shall fail to comply with the requirements set forth in any order issued by the attorney general, or shall fail to pay any civil penalty imposed within 21 days of the date of issuance of such order or within 30 days following the decision of the superior court if judicial review of such order has been timely sought, the attorney general may file an action to compel compliance. Such action shall be filed in Suffolk superior court with respect to state public bodies and, with respect to all other public bodies, in the superior court in any county in which the public body acts or meets. If such body or member has not timely sought judicial review of the order, such order shall not be open to review in an action to compel compliance.

(f) As an alternative to the procedure in subsection (b), the attorney general or 3 or more registered voters may initiate a civil action to enforce the open meeting law.

Any action under this subsection shall be filed in Suffolk superior court with respect to state public bodies and, with respect to all other public bodies, in the superior court in any county in which the public body acts or meets.

In any action filed pursuant to this subsection, in addition to all other remedies available to the superior court, in law or in equity, the court shall have all of the remedies set forth in subsection (c).

In any action filed under this subsection, the order of notice on the complaint shall be returnable not later than 10 days after the filing and the complaint shall be heard and determined on the return day or on such day as the court shall fix, having regard to the speediest possible determination of the cause consistent with the rights of the parties; provided, however, that orders may be issued at any time on or after the filing of the complaint without notice when such order is necessary to fulfill the purposes of the open meeting law. In the hearing of any action under this subsection, the burden shall be on the respondent to show by a preponderance of the evidence that the action complained of in such complaint was in accordance with and authorized by the open meeting law; provided, however, that no civil penalty may be imposed on an individual absent proof that the action complained of violated the open meeting law.

(g) It shall be a defense to the imposition of a penalty that the public body, after full disclosure, acted in good faith compliance with the advice of the public body's legal counsel.

(h) Payment of civil penalties under this section paid to or received by the attorney general shall be paid into the general fund of the commonwealth.

#### **Section 24. Investigation by Attorney General of Violations of Open Meeting Law**

(a) Whenever the attorney general has reasonable cause to believe that a person, including any public body and any other state, regional, county, municipal or other governmental official or entity, has violated the open meeting law, the attorney general may conduct an investigation to ascertain whether in fact such person has violated the open meeting law. Upon notification of an investigation, any person, public body or any other state, regional, county, municipal or other governmental official or entity who is the subject of an investigation, shall make all information necessary to conduct such investigation available to the attorney general. In the event that the person, public body or any other state, regional, county, municipal or other governmental official or entity being investigated does not voluntarily provide relevant information to the attorney general within 30 days of receiving notice of the investigation, the attorney general may: (1) take testimony under oath concerning such alleged violation of the open meeting law; (2) examine or cause to be examined any documentary material of whatever nature relevant to such alleged violation of the open meeting law; and (3) require attendance during such examination of documentary material of any person having knowledge of the documentary material and take testimony under oath or acknowledgment in respect of any such documentary material. Such testimony and

examination shall take place in the county where such person resides or has a place of business or, if the parties consent or such person is a nonresident or has no place of business within the commonwealth, in Suffolk county.

(b) Notice of the time, place and cause of such taking of testimony, examination or attendance shall be given by the attorney general at least 10 days prior to the date of such taking of testimony or examination.

(c) Service of any such notice may be made by: (1) delivering a duly-executed copy to the person to be served or to a partner or to any officer or agent authorized by appointment or by law to receive service of process on behalf of such person; (2) delivering a duly-executed copy to the principal place of business in the commonwealth of the person to be served; or (3) mailing by registered or certified mail a duly-executed copy addressed to the person to be served at the principal place of business in the commonwealth or, if said person has no place of business in the commonwealth, to his principal office or place of business.

(d) Each such notice shall: (1) state the time and place for the taking of testimony or the examination and the name and address of each person to be examined, if known and, if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs; (2) state the statute and section thereof, the alleged violation of which is under investigation and the general subject matter of the investigation; (3) describe the class or classes of documentary material to be produced thereunder with reasonable specificity, so as fairly to indicate the material demanded; (4) prescribe a return date within which the documentary material is to be produced; and (5) identify the members of the attorney general's staff to whom such documentary material is to be made available for inspection and copying.

(e) No such notice shall contain any requirement which would be unreasonable or improper if contained in a subpoena duces tecum issued by a court of the commonwealth or require the disclosure of any documentary material which would be privileged, or which for any other reason would not be required by a subpoena duces tecum issued by a court of the commonwealth.

(f) Any documentary material or other information produced by any person pursuant to this section shall not, unless otherwise ordered by a court of the commonwealth for good cause shown, be disclosed to any person other than the authorized agent or representative of the attorney general, unless with the consent of the person producing the same; provided, however, that such material or information may be disclosed by the attorney general in court pleadings or other papers filed in court.

(g) At any time prior to the date specified in the notice, or within 21 days after the notice has been served, whichever period is shorter, the court may, upon motion for good cause shown, extend such reporting date or modify or set aside such demand or grant a protective order in accordance with the standards set forth in Rule 26(c) of the Massachusetts Rules of Civil Procedure. The motion may be filed in the superior court of the county in which the person served resides or has his usual place of business or in Suffolk county. This section shall not be applicable to any criminal proceeding nor shall information obtained under the authority of this section be admissible in evidence in any criminal prosecution for substantially identical transactions.

## **Section 25. Regulations; Letter Rulings; Advisory Opinions**

(a) The attorney general shall have the authority to promulgate rules and regulations to carry out enforcement of the open meeting law.

(b) The attorney general shall have the authority to interpret the open meeting law and to issue written letter rulings or advisory opinions according to rules established under this section.

## **PUBLIC RECORDS LAW (MGL Chapter 4 Section 7 and Chapter 66 Section 10)**

### **SUMMARY**

The Public Records Law provides that virtually all data made or received by a governmental entity is open to public inspection unless specifically exempted. All minutes, reports, correspondence, or other documents whether paper or electronic are public records and must be disclosed upon a proper request. Response to a Public Records request must be completed within 10 days either by producing the records or giving a specific reason why such request falls within an exemption.

**LETTER OF RESIGNATION  
TO THE TOWN OF WELLESLEY**

**Mail To:**

**Town Clerk  
525 Washington Street  
Wellesley, MA 02482**

\_\_\_\_\_  
Today's Date

Dear Town Clerk:

I, \_\_\_\_\_ hereby resign from my position from the Board/Committee known as  
Please print name here

\_\_\_\_\_ effective as of \_\_\_\_\_  
Please print the name of Board/Committee that you are resigning what date

My reason for this resignation is: \_\_\_\_\_ Relocation

\_\_\_\_\_ Personal

\_\_\_\_\_ Other:

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Sincerely,

\_\_\_\_\_  
your signature

Originals or copies to Chair of this Committee/Board  
And Appointing Authority

Sample meeting notice – or use template found online.  
(COMMITTEE LETTERHEAD)

## NOTICE OF MEETING

BOARD/COMMITTEE \_\_\_\_\_

LOCATION \_\_\_\_\_

DATE \_\_\_\_\_

TIME \_\_\_\_\_

The items reasonably expected to be discussed are as follows:

- 1.
- 2.
- 3.
- 4.

ADDITIONAL ITEMS AS NEEDED

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Authorized Signature