



# COMMITTEE HANDBOOK

As of June 2022

## COMMITTEE HANDBOOK

### FOREWORD

This handbook has been prepared by the Select Board and the Town Clerk as a general informational aid to all Town committees and boards. Many residents have served the Town in its two hundred and fourteen plus year history. Their contributions of time and thoughtful consideration of the many issues and challenges confronting the Town are greatly appreciated. Through service to the community you will have a unique opportunity to get to know the workings of your Town from an insider's viewpoint. It will be a rewarding and informative experience.

The Select Board, in carrying out their duties as prescribed by Charter, State Law and by the votes of Town Meetings, expend considerable time and effort to make logical and sensible appointments to committees. You will be working with people who, like yourself, have volunteered to address specific problems and bring back to the Select Board—or perhaps Town Meeting—recommendations for a course of action and/or a solution that is best for the Town.

It is important that the good of the Town, present and future, be of primary consideration in your deliberations. It is also important to remember that you represent the entire Town, not just one segment of the Town. A solution that makes sense from the perspective of your committee may not always be what is best for the Town. Therefore, all plausible solutions need to be explored while considering many factors such as the impact on other programs or plans. The ultimate cost in tax dollars is of the utmost importance to all Townspeople and committees need to be cognizant of that fact.

Your committee or board should use the Town Administrator to facilitate communications and answer any questions you believe pertinent to your assignment. The Select Board wishes to thank you for giving of your time and effort in the improvement of our community.

Even though this handbook has been published for use by committees and boards appointed by the Select Board, we would hope that this handbook is of use to other elected officers and the citizens at large.

## Table of Contents

### I. STRUCTURE OF BURLINGTON'S GOVERNMENT

- A. Overseeing Entities
- B. Listing of Boards and Committees and Terms
- C. Responsibilities of Boards—Elected and Appointed

### II. COMMITTEE MEMBERSHIP

- A. Appointments
- B. Duration of Appointments
- C. Duties of Board or Committee
- D. Committee Leadership
- E. Resignations
- F. Committee Code of Conduct

### III. MEETINGS

- A. Location
- B. Posting of Meetings
- C. Minutes
- D. Meetings and Deliberations
- E. Public Participation
- F. Staff Support
- G. Public Hearings
- H. Executive Session and Checklist
- I. Checklist for Chairs & Members

### IV. FINANCIAL MATTERS

- A. Budget
- B. Submission of Bills
- C. Turning in Receipts

### V. CONDUCT OF PUBLIC OFFICIALS

- A. Conflict of Interest Law
- B. Financial Conflicts
- C. Misuse of Position
- D. Revolving Door Restrictions

### VI. ANNUAL LOCAL GOVERNMENT CALENDAR

- A. Sample Calendar

APPENDIX A - Sample Meeting Notice and Agenda

APPENDIX B - Network and Electronic Resources Usage Policy

APPENDIX C - Public Records Law and Guidelines

#### SUPPLEMENTAL HANDOUTS

- 1) Open Meeting Law Guide
- 2) Summary of Conflict of Interest Law

Every one of Massachusetts's 351 Cities and Towns shares a common governmental structure and function. Each local governmental body has a person or group of persons in the executive role, the tax assessment role, the tax collection role, the record-keeping role, and the health board role. Through specific local needs, and with the vote of the people, other elected positions and committees have been established through time.

## **I. Structure of Burlington's Government**

### **A) Overseeing Entities**

#### **1) Select Board**

The Executive body of Burlington's Town government is the Select Board. This board consists of five members elected for three years, with overlapping terms. Meetings are held twice a month at the Town Hall Main Hearing Room. Select Board, as the principal officers in town, have general supervision over all matters that are not specifically delegated by law or vote to some other officer or board.

#### **2) Town Administrator**

The Town Administrator is responsible for the administration and coordination of all matters under the jurisdiction of the Select Board and acts as the Personnel Director. The Town Administrator is responsible for implementing policies, directives, and votes of the Select Board, and makes all appointments under the jurisdiction of the Select Board.

#### **3) Town Meeting**

The Legislative body of Burlington's Town government is Town Meeting. This is a unique form of government in New England that sets it apart from all other sections of our country. Here, New Englanders still maintain the practice of operating local government as a democratic process. The town is divided into seven precincts, and each precinct votes for 18 representatives to the Town Meeting. There are a total of 126 elected Town Meeting Members. The Town Meetings are held three times each year in January, May (Annual), and September. Articles of the warrant (agenda items) must be presented to the Select Board 45 days before the meetings by Town Meeting Members or by ten registered voters, and Zoning Articles must be presented 90 days before the meeting. The decisions reached at Town Meeting affect the lives and the purses of all citizens of Burlington. Town Meeting Members vote on the annual operating budget of the Town, land use issues, capital expenditures, and Zoning and General Bylaws.

Town Meeting is conducted at the Burlington High School, Fogelberg Performing Arts Center, three times a year on Monday and Wednesday evenings until all the articles have been acted upon. A Quorum of 64 members is mandatory. The public is invited to attend and may speak on issues being considered upon the recognition of the Moderator. Burlington Cable Access Television (BCAT) broadcasts meetings live on the local government channel 10 (COMCAST), 15 (RCN) and 41 (VERIZON) and Facebook.

Lists of Town Meeting Members, elected officials, and appointed officials are available at the Town Clerk's office and on the Web at [www.burlington.org](http://www.burlington.org).

**B) Listing of Boards and Committees and Terms**

**Elected Boards**

- Five Select Board Members for three-year terms.
- Three Assessors for three-year terms.
- Five members of the School Committee for three-year terms.
- Six Library Trustees for three-year terms.
- Seven members of the Planning Board for five-year terms.
- Five members of the Board of Health for three-year terms.
- Four members of the Burlington Housing Authority for five-year terms.
- Three members of the Recreation Commission for three-year terms.
- Two members of the Shawsheen Valley Technical School District Committee for three-year terms.

**Select Board/Town Administrator-Appointed Committees and Commissions**

	No. of Members	Length of Term
Beautification Committee	5	1 year
Board of Appeals	5	5 years
Board of Registrars	4	3 years
Community Life Center	7	2 years
Conservation Commission	7	3 years
Council on Aging	7	3 years
Cultural Council	5-22	3 years
Disabilities Access Commission	9	1 year
Historical Commission	7	3 years

**Moderator-Appointed Committees**

Bylaw Review Committee	5	1 year
Capital Budget Committee	7	3 years
Facilities Committee	7	2 years
Human Services Committee	7	3 years
Land Use Committee	9	3 years
Rules Committee	13	1 year
Ways & Means Committee	15	3 years

## **C) Responsibilities of Boards—Elected**

### **Board of Assessors**

The Assessors determine the tax rate and determine the valuation for all real and personal property in the Town. The Board of Assessors is responsible for appointing the assessor and has all the powers and duties given to boards of assessors by the laws of the Commonwealth not inconsistent with the Charter. Burlington's Board has three (3) members.

### **Board of Health**

To promote the health and well-being of the inhabitants of the Town, the Board assumes all responsibilities, enforces all regulations, and performs all duties stated in the Sanitary Code of the Massachusetts Department of Public Health and the applicable provisions of the General Laws and Town Bylaws. The Board of Health is responsible for appointing the health agent and for the formulation and enforcement of rules and regulations concerning public health. It conducts investigations of health and environmental problems and manages and coordinates health programs and services within the Town. The Board has five (5) members.

### **Housing Authority**

The Authority was created for the purpose of providing housing for elderly persons of low income. Its functions are described by the provisions of Massachusetts General Laws. This is an independent agency from the Town.

### **Library Trustees**

The Board of Library Trustees' main role is to govern and set policies for the library, appoint the director, and have custody and management of such. All money and property that the Town may receive for library purposes, by gift or bequest, is administered by the Board in accordance with the provisions of the gift or bequest. The Board is comprised of six (6) members.

### **Planning Board**

The Planning Board shall be responsible for appointing the Town planner and shall have all the powers and duties vested in planning boards by the laws of the Commonwealth or by bylaw, including drawing up zoning bylaws, holding hearings on bylaws, appointing subcommittees, and having responsibility for the Town Master Plan. Planning Board is comprised of seven (7) members established pursuant to Chapter 41, Section 81A of the General Laws.

### **Recreation Commission**

The Recreation Commission consists of one (1) member from the Planning Board, one (1) member from the School Committee, and three (3) elected members for three-year terms. Recreation Commission duties and functions include appointing of a Recreation director, authority to approve or disapprove the acquisition of lands, and all other powers and duties of a park commission as described in Massachusetts General Laws.

### **School Committee**

The School Committee, consisting of five (5) members, has the powers, duties, and responsibilities given to school committees by the laws of the Commonwealth, and additional powers and duties as may be authorized by Bylaw or by other Town Meeting vote.

## **Select Board**

The executive powers of the Town are assigned to the Select Board which serves as the chief policy-making agency of the Town. The Select Board has and exercises all the powers and duties vested in boards of Select Board by the laws of the Commonwealth and such additional powers and duties authorized by the Bylaws or by vote of the Town. The Select Board responsibilities include the laws and orders for the government of the Town to be enforced, and requires a record of all its official acts to be kept. To administer its policies and aid the Board in its official duties, the Select Board shall appoint a Town Administrator, as provided in the Bylaws. The Select Board shall appoint Town Counsel, the Registrars of Voters, and other such officers, boards, commissions, and committees as they are directed to appoint by Massachusetts General Law, Bylaw, or vote of the Town, and temporary or ad hoc committees as in its judgment shall from time to time be deemed necessary. The Select Board may investigate or may authorize the Town Administrator to investigate the affairs of the Town and the conduct of any Town agency. The Select Board is the licensing board of the Town and shall have the power to issue licenses, to make all necessary rules and regulations regarding the issuance of such licenses, and to attach such conditions and restrictions thereto as it deems to be in the public interest. The Select Board shall enforce the laws relating to all businesses for which it issues any licenses.

## **Shawsheen Valley Technical School District**

Burlington is a member of a Regional School District, together with the Towns of Bedford, Billerica, Tewksbury, and Wilmington. The Shawsheen Valley Tech School Board has two (2) members from Burlington. They are given all the powers, duties, and responsibilities as laid out by the laws of the Commonwealth. They oversee the maintenance and operation of Regional School in accordance with the provisions agreed on by member towns.

## **Responsibilities for Committees—Select Board-Appointed**

### **Beautification Committee**

This five (5) member committee's responsibilities include studying and preparing programs for the improvement and beautification of the public lands. They work with the Building Inspector, DPW, and Recreation Maintenance to maintain these lands.

### **Board of Appeals**

The Board has five (5) permanent members and two (2) alternates, and was created under Section 9.5.1 of the Town's Zoning Bylaw, pursuant to Chapter 40A of the Massachusetts General Laws (MGL). Its purpose is to hear and decide appeals from an adverse decision of the Building Inspector or any Town Board, to hear and decide petitions for variances, to make determinations in Flood Hazard Districts, and to issue comprehensive permits under MGL Chapter 40B. In order to grant a variance from the strict requirements of the applicable Zoning By-Laws, the Board of Appeals must review the hardships as submitted by the petitioner.

### **Board of Registrars**

The Board, consisting of three (3) members plus the Town Clerk, processes and maintains voter registrations and certifies the names on nominations and petition forms, with the assistance of the Town Clerk's staff. The Board oversees and examines all ballots upon request for a recount and certifies all ballots or performs other such duties required in the General Laws.

### **Community Life Center**

The Burlington Community Life Center (BCLC) is a Town department responsible for providing mental health and social services to families with adolescents and young adults. BCLC also provides information and referral services for ALL residents regardless of age.

### **Conservation Commission**

The Conservation Commission has seven (7) members whose responsibilities including the promotion and development of natural resources and the protection of watershed resources. The Conservation Commission is directed by the Massachusetts Wetlands Protection Act and the associated Burlington Bylaws.

### **Council on Aging**

The Burlington Council on Aging is comprised of seven (7) members from the community. They, working with the Director, help set Policies and Procedures to provide a fuller way of life for seniors sixty and over.

### **Cultural Council**

The Council is set up to work with Massachusetts Cultural Council, a state agency to support community-based projects and activities in the arts, humanities, and interpretive sciences to benefit the residents of Burlington. They oversee the dispensing of public funding allocated by MCC, inform the public about the availability of public funding for cultural projects, and review and approve applications. The budget of the MCC is determined annually by the state Legislature.

### **Disabilities Access Committee**

The Burlington Disability Access Commission (BDAC) was established in order to focus more attention upon the needs of the disabled community and to bring about full and equal participation of people with disabilities in their interaction with the Town and the schools. The Committee consists of nine (9) members from Residents of Burlington.

### **Historical Commission**

The Commission consists of seven (7) members and is established for the preservation, promotion, and development of the historical assets of the Town. The Commission's powers and duties are described in Chapter 40 of the General Laws.



### **Responsibilities for Committees—Moderator-Appointed**

All appointments made by the Moderator should be made within thirty days after each Annual Town Meeting.

#### **Bylaw Review Committee**

The Bylaw Review Committee has five (5) members. Its function is to review and recommend proposed Bylaws for Town Meeting's consideration. It also periodically reviews the Town's Bylaws in respect to Massachusetts General Laws.

#### **Capital Budget Committee**

The Capital Budget Committee is charged with considering all matters relating to proposed expenditures of money by the Town for capital terms and projects. It also makes recommendations to Town Meeting on these expenditures.

#### **Facilities Committee**

This Committee is responsible for being familiar with the long-term issues of care and capacity of town facilities. It reviews and makes recommendations to Town Meeting on the use, maintenance, construction, and disposition of town buildings, physical plant, and infrastructure. It also provides input regarding long-term facilities issues and plans on behalf of Town Meeting to the Select Board, Recreation Commission, Planning Board, Ways and Means Committee, Capital Budget Committee, and other Town boards and committees.

#### **Human Services Committee**

The HSC works with town departments to consider proposed human service programs and make recommendations to the Town Meeting. It also promotes coordinated action and cooperation regarding human services among the various Town officials and departments.

#### **Land Use Committee**

This committee reviews and makes recommendations regarding warrant articles dealing with land use in the Town. It works with the Planning Department on presenting proposed articles to Town Meeting.

#### **Rules Committee**

The Rules Committee reviews matters and makes recommendations relating to the conduct of the Town Meeting. It can also assist the Moderator in the selection of appointees to committees of the Town Meeting.

#### **Ways & Means Committee**

Ways and Means, also known as the Finance Committee, makes written recommendations to the Town Meeting on all Articles contained in any warrant which involve the appropriation, transfer, expenditure, and raising and borrowing of money; it may make recommendations on any and all questions involving Town affairs.

## **II. COMMITTEE MEMBERSHIP**

### **A) Appointments**

All appointments made by the Select Board or other elected boards are made by majority vote in a regular meeting. All appointees generally are registered voters in the Town with exceptions outlined in Chapter 41 Section 109 for ex-officio or non-voting members. Usually committees will have an odd number of participants to help avoid a deadlocked vote situation. In all decisions the Chairman is expected to vote. Initial appointments by the Select Board are usually made from a list of volunteers indicating their areas of interest or expertise kept on file in the Select Board's office. Citizens can be added to this list by filing a talent bank form or by sending a basic letter of application to the Select Board requesting an appointment when a vacancy occurs. Generally speaking, the Select Board likes to meet with new appointees to discuss interests of the individual. Written notification of an appointment is made by the Select Board or the appointing officials. When you receive notification of an appointment, you must contact the Town Clerk to be sworn in and to receive copies of the Open Meeting Law and the Conflict of Interest Law. You will be asked to sign an acknowledgment of your receipt of them.

### **B) Duration of Appointments**

Depending upon the need, vacancy, and/or Town Meeting vote, appointment length varies. Some appointments are made for the duration of a project, some yearly, but the most common term for standing committees are terms of either one or three years.

### **C) Duties of Board or Committee**

Many committees, such as the Conservation Commission, Historical Commission, and Zoning Board of Appeal, are charged by the applicable laws of the Commonwealth to act and consider matters in a very narrowly-defined way. If you have been appointed to one of those positions, please ensure that you obtain a copy of these laws. Other standing or single-need committees will usually receive a letter of duties and responsibilities from the appointing authority or will be charged in accordance to the Code of Bylaws of the Town.

### **D) Committee Leadership**

Unless otherwise specified by Town Meeting vote, the Chairman and other officers of every board and committee are chosen by the voting members of that committee. The name of the Chairman should be made known to the office of the Select Board to enhance communication with the group.

Some committees have responsibility for financial recommendations and budgets. These committees may choose to appoint a financial member who has the responsibility to work as liaison to the Select Board and/or Finance Committee on financial matters. This member should also be made known to the Select Board.

If the appointments are made by an elected board other than the Select Board, the members' names must also be given to the Select Board's and the Town Clerk's offices.

## **E) Resignations**

Any resignation must be submitted in writing. That resignation may be transmitted in person or by email to the Committee Chairman and the Town Clerk's office. Without a formal notification, a vacancy cannot exist and a replacement member cannot be appointed. If a vacancy occurs, the remaining committee members may recommend individuals who have demonstrated an interest in the work of the committee for consideration as a replacement member. They will be considered along with others who have expressed interest.

## **F) Committee Code of Conduct**

A member of any committee who has accepted appointment by the Select Board, the Town Administrator, or the Town Moderator to a committee position is expected to comply with the following code of conduct. Failure to adhere to this code will be considered when making re-appointment decisions.

1. Realize that your function is to follow the mission statement of the committee.
2. Realize that you are one of a team and should abide by all decisions of the Committee once they are made.
3. Be well informed concerning the duties and responsibilities of the Committee.
4. Remember that you represent the entire community at all times.
5. Accept that the role of a committee member is a means of unselfish service, not a way to benefit personally or politically from your Committee activities.
6. Abide by the ethics guidelines established by the State.
7. Refrain from participating as either a member of the Committee or as a member of the public in matters in which you have a personal interest.
8. Abide by all policies established by the Select Board, PARTICULARLY the email communications policy.
9. Request assistance from Town staff only through the staff person assigned to the committee.
10. Refrain from statements or promises of how you will vote on matters that will come before the Committee until you have had an opportunity to hear the pros and cons of the issue during a public meeting of the Committee.
11. Make decisions only after all facts on a question have been presented and discussed.
12. Refrain from communicating the position of the committee to reporters or state officials unless the full Committee has previously agreed on both the position and the language conveying the statement.
13. Treat with respect and courtesy all members of the Committee despite differences of opinion.
14. Treat with respect and courtesy any member of the public, including anyone they have brought to represent them, who comes before the Committee for any reason, but particularly in matters related to regulatory issues.
15. Never publicly criticize an employee of the Town. Concerns about staff performance should only be made to the Town Administrator through private conversation.
16. Ensure that any materials or information provided to a committee member from Town staff should be made available to all committee members.
17. If circumstances change so that meeting attendance on a regular basis becomes difficult, the committee member will offer his or her resignation to the Board, so that someone who can regularly attend meetings can be selected by the Board.

Additional suggestions to improve committee relationships:

- When you are talking with members of the community, learn to listen without making promises or implying action will be taken by committee.
- Advocate at the meeting until a vote is taken, then support the majority view.
- If you have a minority view and want to continue to publicly state it, be sure to identify that it is the minority view, describe the majority view and its rationale and why you disagree.
- Present no public criticism of the overall committee or individual committee members that you don't agree with.
- Honor the past. Try to gain a sense of where the committee has been and what it has tried to do before you begin actively advocating a different path.

### **III. MEETINGS**

Massachusetts General Laws, (MGL) Chap. 30A, Sections 18-25 is included in this booklet for your information (See Appendix A). Commonly called the sunshine law, it specifies the parameters of the public notice of meetings.

#### **A) Location**

Every committee should establish a regular meeting schedule to suit the needs and convenience of the members; however, they must be scheduled for public locations, and some coordination with other boards and committees for meeting space may be necessary. Space is available in the Town Hall. Meetings in Town Hall must be scheduled with the Select Board's Office by calling 781-270-1600.

#### **B) Posting of Meetings**

Except in cases of emergency, a public body must provide the public with notice of its meeting 48 hours in advance, excluding Saturdays, Sundays, and holidays. Notice of emergency meetings must be posted as soon as reasonably possible prior to the meeting. The threshold for an emergency meeting is high. It must be a threat to public health or safety in most situations. Please contact the Town Administrator's Office or Town Clerk for advice prior to holding a meeting under these circumstances. Notices must be posted in a manner that is accessible to disabled persons to the extent required by federal and state law.

Please see the attached sample of a meeting notice (Appendix A) that is to be used when posting meetings with the Town Clerk. This form is available electronically and all notices should be e-mailed to the Town Clerk as it eases our posting capabilities. The email for all meeting postings is [meetings@burlington.org](mailto:meetings@burlington.org). Please remember that if a posting is made well in advance of a meeting, an agenda will need to follow for posting purposes. For example, many boards and committees post their meetings for an entire year by stating that a board will meet every first Monday of a month. If that is done, an agenda still needs to be posted as well 48 hours in advance for the meeting to be legal. A sample agenda is attached to this memorandum. We ask that you give more notice than the 48 hours required as the Town Clerk's office must comply with a proper posting. The 48 hours only starts when the Town Clerk gets to post the meeting. If you are meeting on Wednesday night at 7:00 pm and you e-mail an agenda or posting to the Town Clerk on Monday evening at 6:59 pm, that posting will not get handled by the Monday 7:00 pm requirement which would make a Wednesday 7:00 pm meeting illegal. Please give enough lead time to the Town Clerk's office.

#### **C) Minutes**

Public bodies are required to create and maintain accurate minutes of all meetings, including executive sessions. Meeting minutes are required within 30 days after the meeting, by Town Bylaw. The minutes

must state the date, time and place of the meeting, a list of the members present or absent, and the decisions made and actions taken including a record of all votes. While the minutes must also include a summary of the discussions on each subject, a transcript is not required. No vote taken by a public body, either in an open or in an executive session, shall be by secret ballot. All votes taken in executive session must be by roll call and the results recorded in the minutes. In addition, the minutes must include a list of the documents and other exhibits used at the meeting. While public bodies are required to retain these records in accordance with records retention laws, the documents and exhibits listed in the minutes need not be physically stored with the minutes.

The minutes, documents, and exhibits are public records, a permanent record and a part of the official record of the meeting. Whether records are subject to disclosure under the Open Meeting Law will depend on whether the records are from an open session or an executive session.

It is required that “documents and other exhibits, such as photographs, recordings or maps, used by the body at a meeting, along with the minutes, be part of the official record of the session.” Minutes are not allowed to be disposed of ever. If a subdivision is reviewed in 10 consecutive meetings, then copies of each iteration of those documents must be kept in a file. The minutes must include a list of the documents and other exhibits used at the meeting. While public bodies are required to retain these records in accordance with records retention laws, the documents and exhibits listed in the minutes need not be physically stored with the minutes.

**In Summary:**

A written record of all meetings is required by law and immediately becomes part of the public record. It must contain:

1. Date, time and place of meeting;
2. Names of members present or absent;
3. A record of all votes;
4. A record of any vote to enter an executive session and the reason;
5. A summary of the discussions.

Minutes should be approved by the members at the next regularly scheduled meeting. After approval, all minutes should be maintained in a permanent file and copies forwarded to:

Town Clerk and any other Town committee impacted by a decision.

If a tape recorder is used during meetings, that taped record is also part of the public record until formal minutes are adopted. The tapes can then be disposed of or reused.

**D) Meetings and Deliberations**

The Open Meeting Law (OML) defines deliberation as “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.” Distributing a meeting agenda, scheduling or procedural information, or reports or documents that may be discussed at the meeting will not constitute deliberation, so long as the material does not express the opinion of a member of the public body. E-mail exchanges between or among a quorum of members of a public body discussing matters within the body’s jurisdiction may constitute deliberation, even where the sender of the email does not ask for a response from the recipients.

To be a deliberation, the communication must involve a quorum of the public body. A quorum is usually a majority of the members of a public body. Thus, a communication among less than a quorum of the members of a public body will not be a deliberation, unless there are multiple communications

among the members of the public body that would together be a communication among a quorum of members. Courts have held that the Open Meeting Law applies when members of a public body communicate in a manner that seeks to evade the application of the law.

Thus, in some circumstances, communications between two members of a public body, when taken together with other communications, may be a deliberation.

There are five exceptions to the definition of a meeting under the Open Meeting Law.

1. Members of a public body may conduct an onsite inspection of a project or program; however, they cannot deliberate at such gatherings;
2. Members of a public body may attend a conference, training program or event; however, they cannot deliberate at such gatherings;
3. Members of a public body may attend a meeting of another public body provided that they communicate only by open participation; however, they cannot deliberate at such gatherings;
4. Meetings of quasi-judicial boards or commissions held solely to make decisions in an adjudicatory proceeding are not subject to the Open Meeting Law; and,
5. Town Meetings are not subject to the Open Meeting Law.

### **E) Public Participation**

Under the OML, the public is permitted to attend meetings of public bodies but is excluded from an executive session that is called for a valid purpose listed in the law. Any member of the public also has a right to make an audio or video recording of an open session of a public meeting. A member of the public who wishes to record a meeting must first notify the chair and must comply with reasonable requirements regarding audio or video equipment established by the chair so as not to interfere with the meeting. The chair is required to inform other attendees of such recording at the beginning of the meeting.

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 shall be silent. If after clear warning a person continues to be 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.

### **F) Staff Support**

Minutes of meetings and mailings are usually done by the clerk of the committee. Some committees have their member's take turns taking minutes so that one member is not overly taxed with the responsibility. Copiers are at your disposal for Town use at Town Hall.

Some committees may have paid employees working for that committee. All appointments of such personnel must be made by the Town Administrator. Committees appointed by the Select Board do not have the power of appointment. Please contact the Town Administrator on all matters relating to personnel.

### **G) Public Hearings**

If you serve on the Select Board, Planning Board, Zoning Board of Appeals, Conservation Commission, Historical Commission, or the Board of Health, occasionally you will be required to hold a public hearing in accordance with Massachusetts General Laws. Hearings are held for the purpose of gathering information from which your board or committee can draw a conclusion. Written notices, the initiation of the hearing, and the written conclusions of a hearing may have strict legal time limitations that vary with the nature of the hearing and the Board. Several procedures are common to all hearings.

The Chairman or other designated person should run the hearing and state the guidelines and time allowances—if restricted—**before** any testimony is given. All questions should be directed to the chair who in turn may ask for a response from the floor. We suggest that each board/committee develop written guidelines that:

1. Ground rules, time limits, directing all questions to chair, etc. are set;
2. During deliberations, findings of fact are noted;
3. Decision is written using notes of discussion, fact and findings;
4. Decision is filed in appropriate places.

A sample format for the hearing is as follows:

1. Open Public Hearing
2. The Chairman will announce the nature and purpose of the hearing, identify the particular matter, and recite the notice given.
3. Order of Presentation
  - a. Presentation by Proposer
  - b. Receipt of recommendations from any Town agency or officer
  - c. Questions from Board Members
  - d. Statements by members of the public
4. Close Public Hearing
5. Deliberate on Findings and Merit
6. Entertain Motions to render a decision or take the matter under advisement, announcing the intended date of decision.

An important aspect of the hearing process is that a decision must be based on the testimony and evidence submitted at the hearing or if written, entered into the record at the hearing. The decision must be based on facts and cannot be arbitrary. Hearsay and emotions are not evidential and should not impact the final decision.

A board member serving on a hearing panel must be neutral without having formed an opinion in advance. The purpose of the hearing is to determine all facts. Once fact finding is complete, the board can begin to develop a basis for an opinion based on those facts that have been identified and outlined. Any board member who is pre-disposed to a decision must consider recusing himself or herself from the hearing.

## **H) Executive Session**

Deliberations and votes held in private, commonly called executive session are allowed under strict circumstances outlined in the Open Meeting Law (See Appendix B). Executive sessions may only be held after convening in an open public session.

Executive sessions are allowed for discussions and negotiations of a land purchase; union negotiations; deployment of security measures, personnel or equipment; and certain actions concerning employees. A regular job performance review is not a reason for executive session, however, an executive session may be held if the nature of the discussion concerns the health and mental competence of an employee. If an employee is involved in any matter proposed for executive session, your board must be extremely careful that the rights of that person are not violated. Personal rights include advance notification and the right to have an attorney present. If your board considers such action concerning an individual, the Town Administrator must be consulted prior to the session.

## EXECUTIVE SESSION CHECKLIST

- 1. A quorum is present.
  
- 2. The meeting is convened in open session and:
  - A. notice and posting of the meeting was given, or
  - B. the meeting is an emergency meeting.
  
- 3. A roll call vote is taken to go into executive session.
  
- 4. After the executive session the meeting:
  - A. will reconvene, or
  - B. will not reconvene.
  
- 5. The purpose or purposes of this executive session is/are:
  - A. To deliberate upon matters involving an individual where the individual involved has been notified in writing of the meeting and has not requested on open meeting, and regarding:
    - 1) The reputation and character of the individual.
    - 2) The physical condition and mental health of the individual.
    - 3) The discipline or dismissal of a public officer, employee, staff member or individual.
    - 4) A complaint or charge brought against a public officer, employee, staff member or individual.
  - B. To deliberate upon matters which, if done in open meeting could detrimentally affect the position of the Town, and regarding:
    - 1) Collective bargaining.
    - 2) Strategy with respect to collective bargaining.
    - 3) Strategy with respect to litigation.
    - 4) The purchase, exchange, lease, or value of real property.
  - C. To deliberate matters regarding:
    - 1) The deployment of security personnel or devices.
    - 2) Allegations of criminal misconduct.
  - D. To comply with provisions of a General Law or special law or Federal Grant-in-Aid requirement, the specific law being:
  - E. To consider and interview preliminary applicant(s) for employment.
  - F. To meet or confer with a mediator with respect to any litigation or decision on any public business involving another party, group, or body.

For any questions relative to executive session, please consult the Town Administrator.



#### **D) Checklist for Chairs and Board/Committee Members**

- Meeting Notice must be posted at least 48 hours prior to the meeting, excluding Saturdays, Sundays, and legal holidays.
- In emergency situations, the 48-hour notice period may be waived; however, every effort should be made to update the Meeting Notice whenever possible. The threshold for an emergency meeting is high. It must be a threat to public health or safety in most situations. Please contact the Town Administrator's Office or Town Clerk for advice prior to holding a meeting under these circumstances.
- Notice must eventually include the agenda for the meeting and any other matters that the Chair reasonably believes will be discussed at the meeting. Please see the attached sample agenda. The agenda should include the phrase *"This agenda is subject to change."* The agenda may be added at a future date as long as it meets the 48-hour requirement.
- The Chair must announce at the beginning of each meeting if the meeting is being tape-recorded or video-taped by either the Board/Committee or a member of the audience.
- All exhibits presented at the meeting are public records and they become part of the record for the hearing.
- Meeting minutes must reflect all actions taken by the Board/Committee.
- Meeting minutes must include exhibits presented at the meeting.
- Minutes must be filed properly with the Town Clerk for permanent holding.
- Executive Sessions may only be held in accordance with the exceptions found in the Law (see attached). The Chair must announce all subjects that may be revealed during the executive session and whether the Board/Commission will reconvene in public at the close of the executive session.
- Emails are likely to lead to deliberations outside of a public meeting. Emails should therefore be utilized only to distribute meeting materials and to convey logistical meeting information.

### **IV. FINANCIAL MATTERS AND YOUR COMMITTEE**

#### **A) Budget**

Each year the Town prepares an operating budget to be presented at the Annual Town Meeting. You may be required to submit budget documentation to the Town Administrator prior. If your committee or board has financial needs or wishes to discuss capital items, please contact the Town Administrator's Office.

#### **B) Submission' of Bills**

All requests for payment of bills must be given to the TOWN ACCOUNTANT. There are very strict laws, regulations, and guidelines for collecting, accounting for, and expending public money. It is also in the best interest of the Town that we maximize our Financial Resources. Your committee may have an administrative budget voted at Town Meeting; otherwise you will have to seek funds for any goods or services through the Town Administrator. Large expenditures for goods or programs will have to be voted upon at Town Meeting, and in many instances competitive bidding is required by law. Committees will need guidance from the Town Administrator's Office on the proper bidding format.

#### **C) Turning in Receipts**

If your board or committee charges a fee for any of its services or programs, that money must be kept in a secure place and then turned over to the Town Treasurer, with a duplicate accounting of the receipts given to the Town Accountant. To eliminate security problems and facilitate a positive cash flow, plan to turn in the money whenever the amount exceeds \$100.00. For check protection, they all should be stamped "**For Deposit Only.**" Please keep in mind that unauthorized expenditures of public money for goods or services is illegal.

## V. CONDUCT OF PUBLIC OFFICIALS

### A) Conflict of Interest Law

In addition to the Open Meeting Law, the conduct of public officials is subject to the Conflict of Interest Law. The State Ethics Commission maintains a website which details all aspects of the Law. That site may be accessed at <http://www.mass.gov/ethics/>. If you have a doubt about a conflict, please consult with the Town Clerk who will relay the question to Town Counsel if warranted.

The Conflict of Interest Law was enacted in 1962 and the ethical conduct of public officials is now governed by this law. The Ethics Commission has ruled that the law applies to **all public officials paid or unpaid**. It also regulates the activities of public officials after their term of service is over. Its purpose is to ensure that the private interest of any individual does not conflict with the best interest of the community.

### Introduction to the Conflict of Interest Law for Public Officials and Public Employees

Chapter 268A of the General Laws governs your conduct as a public official or employee. Below are some of the general rules that you must follow. You could face civil and criminal penalties if you take a prohibited action. Many aspects of the law are complicated and there are often exemptions to the general rules. We encourage you to seek legal advice from the Commission or legal counsel regarding how the law would apply in a particular situation. See Appendix D for a more detailed summary.

#### In general:

- You may *not* ask for or accept *anything* (regardless of its value), if it is offered in exchange for your agreement to perform or not perform an official act.
- You may *not* ask for or accept anything worth \$50 or more from anyone with whom you have official dealings. Examples of regulated “gifts” include: sports tickets, costs of drinks and meals, travel expenses, conference fees, gifts of appreciation, entertainment expenses, free use of vacation homes and complimentary tickets to charitable events. *If a prohibited gift is offered:* you may refuse or return it; you may donate it to a non-profit organization, provided you do not take the tax write-off; you may pay the giver the full value of the gift; or, in the case of certain types of gifts, it may be considered “a gift to your public employer,” provided it remains in the office and does not ever go home with you. You may not accept honoraria for a speech that is in any way related to your official duties, unless you are a state legislator.
- You may *not* hire, promote, supervise, or otherwise participate in the employment of your immediate family or your spouse’s immediate family.
- You may *not* take any type of official action which will affect the financial interests of your immediate family or your spouse’s immediate family. For instance, you may not participate in licensing or inspection processes involving a family member’s business.
- You may *not* take any official action affecting your own financial interest, or the financial interest of a business partner, private employer, or any organization for which you serve as an officer, director or trustee. For instance: you may not take any official action regarding an “after hours” employer, or its geographic competitors; you may not participate in licensing, inspection, zoning or other issues that affect a company you own, or its competitors; if you serve on the Board of a non-profit organization, you may not take any official action which would impact that organization, or its competitors.

- Unless you qualify for an exemption, you may *not* have more than one job with the same municipality or county, or more than one job with the state.
- Except under special circumstances, you may *not* have a financial interest in a contract with your public employer. For instance: if you are a Town employee, a company you own may not be a vendor to that Town unless you meet specific criteria, the contract is awarded by a bid process, and you publicly disclose your financial interest.
- You may *not* represent anyone but your public employer in any matter in which your public employer has an interest. For instance, you may not contact other government agencies on behalf of a company, an association, a friend, or even a charitable organization.
- You may not *ever* disclose confidential information, data, or material which you gained or learned as a public employee.
- Unless you make a proper, public disclosure—including all the relevant facts—you may *not* take any action that could create an appearance of impropriety, or could cause an impartial observer to believe your official actions are tainted with bias or favoritism.
- You may *not* use your official position to obtain unwarranted privileges, or any type of special treatment, for yourself or anyone else. For instance: you may not approach your subordinates, vendors whose contracts you oversee, or people who are subject to your official authority to propose private business dealings.
- You may *not* use public resources for political or private purposes. Examples of “public resources” include: office computers, phones, fax machines, postage machines, copiers, official cars, staff time, sick time, uniforms, and official seals.
- You may *not*, after leaving public service, take a job involving public contracts or any other particular matter in which you participated as a public employee.

### **B) Financial Conflicts**

The law assumes that objectivity and integrity could be compromised if you act on matters in which you have a financial interest. Any “particular matter” that comes before a committee or board in which a business partner or family member is associated should be regarded as a potential conflict, and the committee member is encouraged to leave the meeting during any discussion and subsequent vote that follows. A “particular matter” includes almost any proceeding, application, decision, special permit, or other determination of the committee or board. If in doubt, consult with the Town Clerk or Town Administrator. Special rules may be applicable.

### **C) Misuse of Position**

No unwarranted privilege should be sought or used if the reasons for the privilege or offer come as a result of serving in an official Town capacity. In addition, no Town equipment or facilities should be used for a personal gain.

### **D) Revolving Door Restrictions**

Using friendships, associations, or confidential information obtained or formed while serving in local government to obtain special consideration or privilege after leaving the office or appointed position is prohibited.

## **VI. Annual Local Government Calendar**

**Financial and Budgeting Deadlines – input from accounting needed for this.**

**Annual Town Election** – early April

**Town Meetings are held 3 times a year, starting on:**

Fourth Monday in January

Second Monday in May

Fourth Monday in September

**Articles (General) for the Warrant are due 45 days prior to each Town Meeting.**

**Zoning Articles are due 120 days prior to each Town Meeting.**

### **Regularly Scheduled Board Meetings**

Select Board (2<sup>nd</sup> & 4<sup>th</sup> Monday – 7 pm TH Main Meeting Room)

School Committee (2<sup>nd</sup> & 4<sup>th</sup> Tuesday – 7:30 pm Burlington High School, School Comm Rm)

Planning Board (1<sup>st</sup> & 3<sup>rd</sup> Thursday – 7:30 pm TH Main Meeting Room)

Conservation Commission (2<sup>nd</sup> & 4<sup>th</sup> Thursday – 7 pm TH Main Meeting Room)

Board of Appeals (1<sup>st</sup> & 3<sup>rd</sup> Tuesday – 7:30 pm TH Main Meeting Room)

Board of Assessors (last Thursday – 6 pm Assessors' Office)

Board of Library Trustees (2<sup>nd</sup> Thursday – 7 pm Library Director's Office)

Board of Health (2<sup>nd</sup> & 4<sup>th</sup> Tuesday – 7 pm TH Main Meeting Room)

Housing Authority (1<sup>st</sup> Thursday – 10 am 15 Birchcrest Street)

Recreation Commission (2<sup>nd</sup> & 4<sup>th</sup> Monday – 7 pm Burlington High School, School Comm Rm)

Council on Aging (2<sup>nd</sup> Wednesday – 10 am Human Services Building, Room 136)

Historical Commission (3<sup>rd</sup> Wednesday – 7 pm TH Annex, Basement)

APPENDIX A –Sample Meeting Notice and Agenda



TOWN OF BURLINGTON

*Meeting Posting*

*Email Posting to [meetings@burlington.org](mailto:meetings@burlington.org) or Bring to the Clerks Office. Thank you  
Notice of Public Meeting – (As required by G.L. c. 30A, c. §18-25)*

DEPT./BOARD:

DATE:

TIME:

PLACE:

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AGENDA



29 CENTER STREET λ BURLINGTON, MASSACHUSETTS 01803 λ TEL (781) 270-1660 λ FAX (781) 238-4692  
[www.burlington.org](http://www.burlington.org) λ [clerk@burlington.org](mailto:clerk@burlington.org)

## APPENDIX B –Network and Electronic Resources Usage Policy

Town of Burlington

Adopted: August 18, 2003

General Statement: The Town of Burlington is pleased to offer network and electronic resources access to its employees and hopes that it will assist those working in the Town to better serve its constituency. Town employees have an obligation to use their access to the Internet in a responsible and informed way, conforming to network etiquette, customs and courtesies.

The following regulations may be updated from time to time and amended at the discretion of the Select Board.

1. The following activities are strictly prohibited:
  - a. Any illegal activity, including, but not limited to, the transmission of copyright or trade secret material, the transmission of obscene<sup>1</sup> or threatening material, or the participation in any type of criminal activity.
  - b. The transmissions and files related to commercial promotion, product endorsement or political lobbying.
  - c. Attempts to violate the computer security systems implemented by the Town of Burlington or other institutions, organizations, companies or individuals.
  - d. Software piracy, or the downloading and transferring of software for which the user does not have the proper licensing.
  - e. Deliberate destruction or tampering of files, databases or programs.
  - f. Misdirection or misappropriation of Town-owned or Town-created files, documents, programs or materials for personal gain.
  - g. Misuse of Town-owned equipment, hardware and software for personal business or personal financial gain.
  - h. The transmission or disclosure of materials holding a federal security classification as defined in Executive Order 12958, sec. 1.3. is strictly prohibited.
  - i. Any activity that can be construed as offensive or causing a hostile work environment.
2. E-mail and other on-line services are the property of the Town of Burlington, and should be used for business purposes relative to the Town/Department. Occasional personal use of e-mail and the Internet is permitted. However, misuse of these systems may result in serious disciplinary action by the Town/Department up to and including dismissal. Examples of misuse include, but are not limited to: Disruptive or offensive messages containing sexual implications, racial or gender-specific slurs, or any other comment that offensively addresses someone's age, sexual orientation, religious or political beliefs, national origin or disability. Use of Town Internet services is a privilege, not a right and may be revoked at any time for inappropriate conduct.
3. E-mail messages and computer files prepared, displayed, stored and transmitted or received on Town computer systems are public record and are legally discoverable. No right to privacy is to be expected or assumed. Employees should not expect that e-mail messages (even those marked "personal") are private or confidential; confidential information should not be transmitted via electronic means. Where there is a legal necessity, (e.g. the records may be exempt from public records access) to protect the confidentiality of particular information stored or processed on Town computer systems, the employee or designated Town official responsible for the information must make specific arrangements with the

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<sup>1</sup> The word "obscene" is defined in reference to Massachusetts General Laws chapter 272, section 31 <http://www.state.ma.us/legis/laws/mgl/272-31.htm>.

Information Systems Manager and strictly adhere to the procedures established to protect the designated information. Employees shall not read e-mail received by another employee when there is no business purpose for doing so. Employees shall not send e-mail or access the Internet under another employee's name without authorization. No employee shall change any portion of a previously sent e-mail message without authorization.

4. Use of the Town's system constitutes consent to monitoring of e-mail transmissions and other on-line services and is conditioned upon strict adherence to this policy. The appointing authority may periodically monitor e-mail messages as well as server traffic and Internet use. Reasons for doing so include but are not limited to: System checks, review of employee productivity when employee productivity is called into question by a supervisor or manager, investigations into claims of possible criminal activity, and investigations into claims of inappropriate use of the Town's Internet or on-line services.
5. All users are expected to undertake precautions to prevent infection of Town computers by computer viruses. Though computers have virus-scanning software, the data files are not always up-to-date. It is the end-user's responsibility to periodically update these files. MIS is available to assist and input the latest virus scanning technology into all computers. In particular, executable programs imported from other sites to Town computers must not be used unless the MIS Department has authorized them and they have been subjected to virus detection procedures approved by MIS. The MIS Department may, from time to time, impose additional restrictions or regulations on the importing of remote files, and such restrictions or regulations shall be considered part of this policy.
6. Notwithstanding the provisions of Section 1 above, political lobbying or other activities that may be deemed to be political in nature shall be permitted to the extent that such activities are a part of the official responsibilities of an employee, provided that such activities relate to political issues rather than to specific political candidates. For further clarification please see bulletin OCPF-IB-91-01 reissued in February of 1999 by the Office of Campaign and Political Finance: *The Application of the Campaign Finance Laws to Public Employees and Political Solicitation*. For additional information, refer to the OCPF website at "[www.state.ma.us/ocpf](http://www.state.ma.us/ocpf)" or the Town Clerk's Office may obtain a copy of this bulletin for you.
7. Computer programs are valuable intellectual property. Software publishers can be very aggressive in protecting their property rights from infringement. In addition to software, legal protections can also exist for any information published on the Internet, such as the text and graphics on a web site. As such, it is important that users respect the right of intellectual property owners. Users should exercise care and judgment when copying or distributing computer programs or information that could reasonably be expected to be copyrighted.
8. Department heads and supervisors are responsible for ensuring that all their employees using computers have read this policy and understand its applicability to their activities.
9. The department head is responsible for insuring that any employee who will be given access to Internet services, e-mail and proprietary electronic systems has read and signed a copy of this policy. A signed copy will be placed in the employee's personnel file.

10. E-mail and Internet are work tools. The appointing authority and/or department head shall deem who appropriately can utilize tools such as e-mail/Internet to better perform their job duties and have the right to review/limit the number of hours spent on each application.
11. Employees should be advised that the e-mail system is not intended for use as a filing cabinet. The MIS Department will systematically purge the e-mail system every ninety days and will do its best to notify Department Heads prior to purging the system. Employees are reminded to periodically save their e-mail files to either a floppy disk or print them out on paper to ensure that important documents are not deleted during purges. Electronic mail is considered a public record and is subject to Massachusetts General Law c. 66, c. 4, § 7(26)(a-m), and other relevant regulations. Further, the Town (through its MIS department) will ensure the security and reliability of its electronic record keeping and record-creating resources by documenting its systems using the State's "Guideline for the Documentation of Electronic Record-Keeping Systems" (revised 4/29/02) found at <http://www.state.ma.us/sec/arc/arcrmu/rmuer/ElectronicRecordsGuideline.tif>.
12. Exchange of information and opinions via electronic means may be construed as a violation of *Massachusetts Open Meeting Laws* if the exchange is among enough members of a Board or other regulated body so as to constitute a quorum. Established guidelines for Town employees and Board Members covering formal and informal meetings and discussions or phone calls, including conference calls, are to be treated as extending to e-mail and all other computer-facilitated communications.



## APPENDIX C –Public Records Law and Guide

### PUBLIC RECORDS LAW

#### MASSACHUSETTS GENERAL LAWS

#### CHAPTER 4, SECTION 7 and CHAPTER 66, SECTIONS 5A, 10, 14

#### **Chapter 4, Section 7. Definitions of statutory terms; statutory construction**

Twenty-sixth, “Public records” shall mean all books, papers, maps, photographs, recorded tapes, financial statements, statistical tabulations, or other documentary materials or data, regardless of physical form or characteristics, made or received by any officer or employee of any agency, executive office, department, board, commission, bureau, division or authority of the commonwealth, or of any political subdivision thereof, or of any authority established by the general court to serve a public purpose, unless such materials or data fall within the following exemptions in that they are:

- (a) Specifically or by necessary implication exempted from disclosure by statute;
- (b) Related solely to internal personnel rules and practices of the government unit, provided however, that such records shall be withheld only to the extent that proper performance of necessary governmental functions requires such withholding;
- (c) Personnel and medical files or information; also any other materials or data relating to a specifically named individual, the disclosure of which may constitute an unwarranted invasion of personal privacy;
- (d) Inter-agency or intra-agency memoranda or letters relating to policy positions being developed by the agency; but this subclause shall not apply to reasonably completed factual studies or reports on which the development of such policy positions has been or may be based;
- (e) Notebooks and other materials prepared by an employee of the commonwealth which are personal to him and not maintained as part of the files of the governmental unit;
- (f) Investigatory materials necessarily compiled out of the public view by law enforcement or other investigatory officials the disclosure of which materials would probably so prejudice the possibility of effective law enforcement that such disclosure would not be in the public interest;
- (g) Trade secrets or commercial or financial information voluntarily provided to an agency for use in developing governmental policy and upon a promise of confidentiality; but this subclause shall not apply to information submitted as required by law or as a condition of receiving a governmental contract or other benefit;
- (h) Proposals and bids to enter into any contract or agreement until the time for the opening of bids in the case of proposals or bids to be opened publicly, and until the time for the receipt of bids or proposals has expired in all other cases; and inter-agency or intra-agency communications made in connection with an evaluation process for reviewing bids or proposals, prior to a decision to enter into negotiations with or to award a contract to, a particular person;
- (i) Appraisals of real property acquired or to be acquired until (1) a final agreement is entered into; or (2) any litigation relative to such appraisal has been terminated; or (3) the time within which to commence such litigation has expired;
- (j) The names and addresses of any persons contained in, or referred to in, any applications for any licenses to carry or possess firearms issued pursuant to chapter one hundred and forty or any firearms identification cards issued pursuant to said chapter one hundred and forty and the names and addresses on sales or transfers of any firearms, rifles, shotguns, or machine guns or ammunition therefor, as defined in said chapter one hundred and forty and the names and addresses on said licenses or cards;

*[There is no subclause (k).]*

(l) Questions and answers, scoring keys and sheets and other materials used to develop, administer or score a test, examination or assessment instrument; provided, however, that such materials are intended to be used for another test, examination or assessment instrument;

(m) Contracts for hospital or related health care services between (i) any hospital, clinic or other health care facility operated by a unit of state, county or municipal government and (ii) a health maintenance organization arrangement approved under chapter one hundred and seventy-six I, a nonprofit hospital service corporation or medical service corporation organized pursuant to chapter one hundred and seventy-six A and chapter one hundred and seventy-six B, respectively, a health insurance corporation licensed under chapter one hundred and seventy-five or any legal entity that is self insured and provides health care benefits to its employees.

(n) Records, including, but not limited to, blueprints, plans, policies, procedures and schematic drawings, which relate to internal layout and structural elements, security measures, emergency preparedness, threat or vulnerability assessments, or any other records relating to the security or safety of persons or buildings, structures, facilities, utilities, transportation or other infrastructure located within the commonwealth, the disclosure of which, in the reasonable judgment of the record custodian, subject to review by the supervisor of public records under subsection (b) of section 10 of chapter 66, is likely to jeopardize public safety.

(o) The home address and home telephone number of an employee of the judicial branch, an unelected employee of the general court, an agency, executive office, department, board, commission, bureau, division or authority of the commonwealth, or of a political subdivision thereof or of an authority established by the general court to serve a public purpose, in the custody of a government agency which maintains records identifying persons as falling within those categories; provided that the information may be disclosed to an employee organization under chapter 150E, a nonprofit organization for retired public employees under chapter 180, or a criminal justice agency as defined in section 167 of chapter 6.

(p) The name, home address and home telephone number of a family member of a commonwealth employee, contained in a record in the custody of a government agency which maintains records identifying persons as falling within the categories listed in subclause (o).

(q) Adoption contact information and indices therefore of the adoption contact registry established by section 31 of chapter 46.

Any person denied access to public records may pursue the remedy provided for in section ten of chapter sixty-six.

### **Chapter 66: Section 5A. Records of meetings of boards and commissions; contents**

Section 5A. The records, required to be kept by sections eleven A of chapter thirty A, nine F of chapter thirty-four and twenty-three B of chapter thirty-nine, shall report the names of all members of such boards and commissions present, the subjects acted upon, and shall record exactly the votes and other official actions taken by such boards and commissions; but unless otherwise required by the governor in the case of state boards, commissions and districts, or by the county commissioners in the case of county boards and commissions, or the governing body thereof in the case of a district, or by ordinance or by-law of the city or town, in the case of municipal boards, such records need not include a verbatim record of discussions at such meetings.

## **Chapter 66: Section 10. Public inspection and copies of records; presumption; exceptions**

Section 10. (a) Every person having custody of any public record, as defined in clause Twenty-sixth of section seven of chapter four, shall, at reasonable times and without unreasonable delay, permit it, or any segregable portion of a record which is an independent public record, to be inspected and examined by any person, under his supervision, and shall furnish one copy thereof upon payment of a reasonable fee. Every person for whom a search of public records is made shall, at the direction of the person having custody of such records, pay the actual expense of such search. The following fees shall apply to any public record in the custody of the state police, the Massachusetts bay transportation authority police or any municipal police department or fire department: for preparing and mailing a motor vehicle accident report, five dollars for not more than six pages and fifty cents for each additional page; for preparing and mailing a fire insurance report, five dollars for not more than six pages plus fifty cents for each additional page; for preparing and mailing crime, incident or miscellaneous reports, one dollar per page; for furnishing any public record, in hand, to a person requesting such records, fifty cents per page. A page shall be defined as one side of an eight and one-half inch by eleven inch sheet of paper.

(b) A custodian of a public record shall, within ten days following receipt of a request for inspection or copy of a public record, comply with such request. Such request may be delivered in hand to the office of the custodian or mailed via first class mail. If the custodian refuses or fails to comply with such a request, the person making the request may petition the supervisor of records for a determination whether the record requested is public. Upon the determination by the supervisor of records that the record is public, he shall order the custodian of the public record to comply with the person's request. If the custodian refuses or fails to comply with any such order, the supervisor of records may notify the attorney general or the appropriate district attorney thereof who may take whatever measures he deems necessary to insure compliance with the provisions of this section. The administrative remedy provided by this section shall in no way limit the availability of the administrative remedies provided by the commissioner of administration and finance with respect to any officer or employee of any agency, executive office, department or board; nor shall the administrative remedy provided by this section in any way limit the availability of judicial remedies otherwise available to any person requesting a public record. If a custodian of a public record refuses or fails to comply with the request of any person for inspection or copy of a public record or with an administrative order under this section, the supreme judicial or superior court shall have jurisdiction to order compliance.

(c) In any court proceeding pursuant to paragraph (b) there shall be a presumption that the record sought is public, and the burden shall be upon the custodian to prove with specificity the exemption which applies.

(d) The clerk of every city or town shall post, in a conspicuous place in the city or town hall in the vicinity of the clerk's office, a brief printed statement that any citizen may, at his discretion, obtain copies of certain public records from local officials for a fee as provided for in this chapter.

The executive director of the criminal history systems board, the criminal history systems board and its agents, servants, and attorneys including the keeper of the records of the firearms records bureau of said department, or any licensing authority, as defined by chapter one hundred and forty shall not disclose any records divulging or tending to divulge the names and addresses of persons who own or possess firearms, rifles, shotguns, machine guns and ammunition therefor, as defined in said chapter one hundred and forty and names and addresses of persons licensed to carry and/or possess the same to any person, firm, corporation, entity or agency except criminal justice agencies as defined in chapter six and except to the extent such information relates solely to the person making the request and is necessary to the official interests of the entity making the request.

The home address and home telephone number of law enforcement, judicial, prosecutorial, department of youth services, department of social services, department of correction and any other public safety

and criminal justice system personnel, and of unelected general court personnel, shall not be public records in the custody of the employers of such personnel or the public employee retirement administration commission or any retirement board established under chapter 32 and shall not be disclosed, but such information may be disclosed to an employee organization under chapter 150E, a nonprofit organization for retired public employees under chapter 180 or to a criminal justice agency as defined in section 167 of chapter 6. The name and home address and telephone number of a family member of any such personnel shall not be public records in the custody of the employers of the foregoing persons or the public employee retirement administration commission or any retirement board established under chapter 32 and shall not be disclosed. The home address and telephone number or place of employment or education of victims of adjudicated crimes, of victims of domestic violence and of persons providing or training in family planning services and the name and home address and telephone number, or place of employment or education of a family member of any of the foregoing shall not be public records in the custody of a government agency which maintains records identifying such persons as falling within such categories and shall not be disclosed.

**Chapter 66: Section 14. Surrender of records by retiring officer**

Section 14. Whoever has custody of any public records shall, upon the expiration of his term of office, employment or authority, deliver over to his successor all such records which he is not authorized by law to retain, and shall make oath that he has so delivered them, according as they are the records of the commonwealth or of a county, city or town, before the state secretary, the clerk of the county commissioners or the city or town clerk, who shall, respectively, make a record of such oath.

## **PUBLIC RECORDS GUIDELINES FOR ELECTED AND APPOINTED OFFICIALS**

- All records created or received by elected and appointed officials, departments, commissions and committees are public records and must be stored according to state guidelines.<sup>i</sup>
- Public records include all documentary materials or data that are made or received by any officer or employee of the Town of Burlington, regardless of physical form or characteristics.<sup>ii</sup> Public records include correspondence, audio tapes, video tapes, email, etc. that are created as part of your official duties.
- Upon the expiration of your term of office or retirement, you must deliver records in your custody to your successor.<sup>iii</sup>
- You must permit all public records within your custody to be inspected or copied by any person during regular business hours. If you do not have daily business hours, you should post a written notice in a conspicuous location listing the name, position, address and telephone number of the contact person for public record access.<sup>iv</sup>
- You must comply with public record requests as soon as practicable and within ten days.<sup>v</sup>
- Public record requests may be verbal or written. It is recommended that the record requester provides a written request, in case it needs to be appealed.<sup>vi</sup>
- The record requestor does not have to disclose the reasons for requesting access to or copying public records. You cannot require proof of identity prior to complying with public record requests.<sup>vii</sup>
- Records may be withheld in whole or in part if they fall under one or more of the twelve exemptions in 950 CMR 32.00.<sup>viii</sup> If you are unsure whether a record or a portion of it is exempt, contact the Public Records Division.<sup>2</sup> To request an official advisory opinion from the Public Records Division, you must make a written request.
- Minutes must be maintained in written format. Audio tape and video tape are not a stable preservation medium.<sup>ix</sup>
- Meeting records are public records at the moment of their creation. This includes stenographic notes, longhand notes, audio tapes, and video tapes from public meetings.<sup>x</sup> Meeting records, with the exception of executive session records, are subject to disclosure upon request.<sup>xi</sup>
- Once the minutes have been written and accepted by the board or commission, notes and audio/video tapes may be erased or re-recorded without the prior permission of the Supervisor of Public Records, provided that there is no outstanding public records request or litigation.<sup>xii</sup>
- Records that are used in private offices or homes must be stored in fire resistant devices and safes.<sup>xiii</sup>
- If you cannot insure fire resistant storage outside the municipal building, then you may not remove original records. If you work at a private home or office, you should make copies of the records.<sup>xiv</sup>
- If original records are created outside of municipal offices, they must be transferred on a regular and frequent basis to secure storage in the municipal building.<sup>xv</sup> This includes electronic records.

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<sup>i</sup> MGLc66 s13

<sup>ii</sup> MGL c4 s7(26)

<sup>iii</sup> MGL c66 s14 and Supervisor Public Records Bulletin 4-94, 5-94

<sup>iv</sup> 950 CMR 32.00

<sup>v</sup> 950 CMR 32.00

<sup>vi</sup> 950 CMR 32.08(2)

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- vii 950 CMR 32.00
  - viii 950 CMR 32.00
  - ix MGL c66 s56 (1990 edition) and Supervisor of Public Records Bulletin 2-92
  - x MGL c4 s7(26) (1990 edition)
  - xi MGL c39 s23B (1990 edition)
  - xii Supervisor of Public Records Bulletin 2-92
  - xiii Supervisor of Public Records Bulletin 4-94
  - xiv Supervisor of Public Records Bulletin 4-94
  - xv Supervisor of Public Records Bulletin 4-94

<sup>2</sup> Secretary of the Commonwealth, Public Records Division, One Ashburton Place, Room 1719, Boston, Massachusetts 02108, Phone 617-727-2832, Fax 617-727-5914

Acceptance by Town Meeting:

**ADJOURNED TOWN MEETING  
MONDAY, MAY 18, 2009  
FOGELBERG AUDITORIUM – BHS**

**ARTICLE 37 RE: Amend General Bylaw Article I/General Provisions**

To see if the Town will vote to amend the General Bylaw Article I/General Provisions by adopting the following new section:

12.0 Meeting Minutes and Agenda – all Town boards and committees whether elected or appointed shall file an electronic copy of their meeting minutes and agendas with the Town Clerk. Minutes shall be filed within 30 days of the meeting and agendas shall be filed at least 24 business hours prior to the meeting. Executive Session minutes shall be filed with the Town Clerk as soon as they have been reviewed and released for the public under the provisions of MGL Chapter 39, Section 23B and Chapter 66, Section 10 (a); or to act in any other manner in relation thereto.

**MAIN MOTION:** As printed in the Warrant

**ACTION: MAJORITY APPROVED MAIN MOTION**

Attest:  
Jane L. Chew  
Town Clerk