

TOWN OF NANTUCKET COMMITTEE HANDBOOK



ADOPTED
SEPTEMBER 23, 2009
(UPDATED JUNE 9, 2010; APRIL 2, 2014; JANUARY 29, 2016;
JANUARY 5, 2018; FEBRUARY 23, 2022)

Town of Nantucket Committee Handbook

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Section 1 - Introduction

Boards, commissions, committees, councils, trusts and work groups (“Committees”) play an important role in the Town of Nantucket’s municipal government. Citizens who serve on a Committee provide a valuable public service to the Town by helping to find ways to address a broad array of issues, challenges, and opportunities facing the community.

A. Purpose of Handbook

As a member of a Committee, citizens become representatives of the Town of Nantucket. This handbook has been prepared to assist members of all Town of Nantucket Committees to fulfill this responsibility by: helping members in understanding their role in Town government; providing information on how Town Committees function; providing information on state and local laws that govern the work of Committees; and providing a code of conduct for members of Committees.

The Town of Nantucket has approximately 40 elected and appointed Committees that combined have around two hundred members. This does not include ad hoc committees, of which the Town may have a number at any given time, created to study a specific issue. Having a clear understanding of the role Committees play in Nantucket’s municipal government will help citizens have a productive and positive experience serving as a volunteer on a Town Committee.

B. Background

The Town of Nantucket is a municipality organized and operated in accordance with Massachusetts General Laws. The Town Charter for the Town of Nantucket dictates the structure of Nantucket’s municipal government and identifies the responsibilities of the various entities that comprise the Town’s government. The Town Charter and Town bylaws can be found on the Town’s website under “Code of the Town of Nantucket” (<https://ecode360.com/11766101>).

The Select Board serves as the executive branch of Nantucket’s municipal government and is responsible for establishing public policies and providing overall direction to the Town’s operations. The Town Manager is responsible for the administration and efficient operations of the Town. The Town Manager directs and supervises Town operations and employees with the aim of achieving the Board’s goals and objectives, while at the same time carrying out the other obligations of Town management established in local, state, and federal law.

Nantucket has a long tradition of citizen involvement in its municipal government. Committees provide an opportunity for citizens to directly participate in their municipal government. The role of a Committee varies depending on its charge. Generally, a Committee fulfills one of the following primary roles: (1) policy setting; (2) advisory; (3) regulatory; or (4) oversight. The majority of Town Committees are advisory committees

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created by the Select Board to gain insight and input from citizens on public policy matters. Whether fulfilling the role of policy setting, policy advisory, regulatory, or oversight, all Committees should consider the present and future best public interest or interests of the Town as a whole in their deliberations.

Section 2 – Code of Conduct

(A Statement of Commitment to the foregoing Code of Conduct is attached hereto and shall be signed by all elected and appointed members of the Town’s boards, committees, commissions and councils)

Members of municipal Committees are considered municipal employees under the Conflict of Interest law, subject to the provisions of Chapter 268A of the Massachusetts General Laws (MGL), which is enforced by the State Ethics Commission. This statute assigns personal responsibility to all regular and special municipal employees, including elected and appointed volunteers, in four general categories. These categories include: (1) Community Responsibility; (2) Responsibility to Municipal Administration; (3) Relationship to other Board and Committee Members; and (4) Prohibited Conduct.

All current elected and appointed town and county employees must be provided with a Summary of the Conflict of Interest Law for State Employees within 30 days of election or appointment, and then annually thereafter. All town and county employees are then required to acknowledge in writing that they received the summary.

Requirements of the State Ethics Conflict of Interest Law:

Annual Requirements: Members of a municipal Committee must review the summary of the Conflict of Interest Law, General Laws chapter 268A, and *return the signed acknowledgement of receipt (last page of the summary) to Human Resources, 16 Broad Street*. The summary of the law is intended to help municipal employees understand how the law applies to them. The summary is not a substitute for legal advice, nor does it mention every aspect of the law that may apply in a particular situation.

A summary of the law can be found here: <https://www.mass.gov/service-details/summary-of-the-conflict-of-interest-law-for-municipal-employees>. For a hard copy of the law please visit Human Resources, 16 Broad Street.

Members of a municipal Committee must complete the Conflict of Interest Online Training Program for Municipal Employees **annually** and *return the assessment certificate to Human Resources, 16 Broad Street* by January 30 each year. First year Committee members must complete the assessment within the first 10 days of service.

The Online Training Program for Municipal Employees can be found here: <http://www.mass.gov/ethics/conflict-of-interest-law-online-training-programs.html>. For additional assistance with the website, please visit Human Resources, 16 Broad Street.

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Any questions concerning ethics violations, or the four general categories of responsibility shall be referred to the State Ethics Commission. The State Ethics Commission will provide guidance on whether a disclosure statement should be filed concerning any potential conflict of interest. If such disclosure is required, *appointed* members of a Town Committee shall file a conflict of interest disclosure with the appropriate appointing authority, which is typically the Select Board. If disclosure is required of an elected member of a Town Committee, that member shall file a disclosure statement with the Town Clerk. The State Ethics Commission website www.mass.gov/ethics provides additional information concerning the statute and specific scenarios.

The State Ethics Commission is an independent state agency that administers and enforces the provisions of the conflict of interest law and financial disclosure law.

The citizens and businesses of Nantucket are entitled to fair, ethical and accountable local government that has earned the public's full confidence for integrity. The Town of Nantucket's strong desire to fulfill this mission requires that:

- Public officials, both elected and appointed, comply with both the letter and spirit of the laws and policies affecting the operations of government;
- Public officials be independent, impartial and fair in their judgment and actions;
- Public office be used for the public good and not for personal gain;
- Public deliberations and processes be conducted in compliance with the Open Meeting Law; and
- Public deliberations be conducted in an atmosphere of respect and civility.

A. Community and Member Responsibility

1. A member of any Committee shall:

- Realize that the member's basic function is to make policy and provide advice on making policy, and not to administer policy unless expressly provided for by law;
- Realize that the member is one of a team and should abide by, and assist in carrying out, all decisions of the Committee once a decision is made by the Committee;
- Remain well-informed concerning the duties and responsibilities the Committee may have on the state and local level, as well as a member's individual duties and responsibilities;
- Remember that the member represents the entire community at all times;

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- Accept the appointment as a means of unselfish service, and not for the purpose of personal or political benefit;
 - Make all decisions relative to individual appointments based only upon merit, experience, and qualifications, and avoid engaging in political patronage; and
 - Avoid voting on any matter in which the individual member has a conflict of interest, as defined under the Massachusetts Conflict of Interest Law, MGL c. 268A.
 - Must successfully complete online Conflict of Interest Law training annually and submit the completed certificate to Human Resources by January 30.
2. The professional and personal conduct of members must be above reproach and avoid even the appearance of impropriety. Members shall refrain from abusive conduct, harassment, personal charges and or verbal attacks upon the character of other members of Committees, the staff or the public.
 3. Members shall perform their duties in accordance with the processes and rules of order established by the Select Board or the Town Code governing the deliberation of public policy issues, meaningful involvement of the public, and implementation of policy decisions of the Select Board by Town staff.
 4. Members shall prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand. They shall refrain from interrupting other speakers, making personal comments not germane to the business of the body, or otherwise interfering with the orderly conduct of meetings.
 5. Members shall support the maintenance of a positive and constructive work place environment for Town employees and for citizens and businesses dealing with the Town. Members shall recognize their role in dealings with Town staff, as well as Town Staff's role with the Committee, and refrain from creating the perception of inappropriate direction to staff.

B. Responsibility to Municipal Administration

A member of any Town Committee during his/her interactions with the administrative officers of the Town shall:

- Respect the role of professional management as outlined in the Town Charter;
- Recognize and support the administrative chain of command and refuse to act on complaints as an individual outside of the administration;

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- Recognize that binding decisions of a Committee are enforced by administrative officers of the Town; and
- Direct all questions or concerns first to the appropriate Town personnel, then to the Town Manager, and if necessary to the Select Board. This is the most expedient way to resolve issues that need to be addressed; however, be advised that Town officials may not necessarily have jurisdiction over issues concerning elected officials.

C. Relationship to Other Committee Members

A member of any Town Committee, in the member's relations with fellow board members, shall:

1. Recognize that action taken during a public meeting is binding and that a single member alone cannot bind the Committee outside of a public meeting;
2. Not make statements or promises of how the member will vote on matters that come before the Committee until the member has had an opportunity to hear all aspects and sides of the issue during a public meeting;
3. Uphold the intent of the Executive Session and respect the privileged communication that occurs therein;
4. Make decisions only after all facts on a question have been presented and discussed; and
5. Respect the rights of members of the public, Town personnel, and other members of the Committee, despite differences of opinion.

D. Prohibited Conduct

A member of any Town Committee, in accordance with Massachusetts General Law, Chapter 268A, shall NOT:

1. Accept gifts or other considerations or engage in any business or professional activity which might appear to impair a member's independence of judgment in the exercise of the member's official duties;
2. Improperly disclose confidential information acquired by the member in the course of the member's official duties, and use information to further the member's personal interest;

Municipal employees may not accept gifts and gratuities valued at \$50 or more given to influence their official actions or because of their official position.

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3. Use or attempt to use the member's official position to secure unwarranted privileges or exemptions for the member or others;
4. By the member's conduct give reasonable basis for the impression that any person can improperly influence the member or unduly enjoy the member's favor in the performance of the member's official duties, or that a member is unduly affected by the kinship, rank, position, or influence of any party or person;
5. Pursue a course of conduct that will raise suspicion among the public that the member is likely to be engaged in acts that are in violation of the public's trust; and
6. Participate in any matter before the Committee in which the member has a direct financial interest, or an immediate family member has a direct financial interest.

Members of Town Committees are not subject to any restrictions concerning political activity. However, all members have an obligation to foster a sense of public trust. To foster this trust, individual members have a responsibility to disclose to a Committee any actual or potential personal interest or issue that pertains to a matter under consideration by the Committee.

E. Compliance and Enforcement

The Town of Nantucket Code of Conduct establishes standards of conduct for members of Town Committees. Members themselves have the primary responsibility to assure that these standards are understood and met, and that the public can continue to have full confidence in the integrity of government. The chair of a Committee shall promptly intervene when a member's actions appear to be in violation of the Code of Conduct. The Select Board, by a vote of a majority of its members, may impose sanctions on members whose conduct does not comply with the Town's standards, such as reprimand, formal censure or other actions consistent with the Town Charter.

Section 3 – Types of Committees

Whether elected or appointed, Committees typically fall into one of four categories: policy setting, policy advisory, regulatory, or oversight. The authority for the existence and duties of such boards can arise from state statutes, the Town Charter, or from local bylaws.

Generally speaking, a board or commission is a stand-alone entity that deliberates on specific issues outlined in the law creating the board or commission. A committee typically is a subset of an entity that is created to develop recommendations on a specific issue. For example, the Select Board creates citizen advisory committees to review specific issues for the purpose of developing recommendations to be considered by the Select Board.

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For stylistic purposes, the terms board(s) and committee(s) will be a general term used to refer to boards, commissions, committees, councils, trusts and work groups.

A. Policy Setting

Under the Nantucket Town Charter, the five-member Select Board serves as the executive branch of government, a role it shares with the Town Manager in a relationship defined by the Town Charter. The Select Board serves as the primary executive policy setting entity in Town government, articulating the priorities and goals of the Town. This includes providing direction that other municipal entities, such as Committees, are encouraged or mandated to follow. The statutory authorities and obligations of the Select Board are established in state law and defined in Article III of the Town Charter.

As an elected board, members of the Select Board are directly accountable to the citizens of Nantucket. The Select Board is responsible for appointing members to most non-elected Town boards and committees. Article III, Section 3.4 (a)(3) of the Town Charter details the Board's appointing authority.

(a)(3) To appoint and, for cause, upon written charges and after a public hearing if so requested, to remove members of ... Town boards, councils, commissions and committees..."

By law, the authority of a board or committee may not exceed the authority of its appointing authority, which is most commonly the Select Board. Subsequently, unless specified in state or local law, the authority of a board or committee appointed by the Select Board may not exceed the authority of the Select Board.

B. Advisory

In order to set policy or determine if an issue should be brought to Town Meeting, the Select Board receives reports and recommendations from a number of advisory boards or committees that are established in state or local law, or are created by the Select Board. The Harbor and Shellfish Advisory Board is an example of a statutorily created advisory board and is not a policy or decision-making body. Pursuant to the Town Charter, the Select Board may create committees to study issues and make recommendations on specific public policy issues. An example of an advisory committee created by the Board is the Senior Center Committee.

Advisory boards and committees serve the important role of collecting and analyzing information in order to develop recommendations on a public policy or issue. An advisory board or committee has considerable autonomy in developing recommendations; however, an advisory board or committee has no independent authority and its recommendations are not binding. The Select Board considers the recommendations of advisory boards or committees in its public policy deliberations and consideration of issues affecting the public. Some advisory boards or committees provide recommendations to entities outside of Town government. For example, the Commission on Disability provides advisory recommendations to the public as well as to the state Architectural Access Board.

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When creating an advisory committee, the Select Board will specify the charge, the membership, and the duration of the committee. After a committee elects officers, the committee may propose specific objectives to refine its charge. If the committee is not a standing advisory committee, then the committee may propose a timeline for completing specific objectives. A proposed change to an advisory committee's charge does not take effect unless it is approved by the Select Board.

C. Oversight

An oversight Committee provides limited oversight that is defined in statute. The oversight function provided by these types of Committees is most often defined in the statute, which is primarily state law that creates the board and committee.

An oversight Committee has a responsibility beyond researching and making recommendations on issues. As a result of these responsibilities being defined in statute, the additional responsibilities of oversight Committees varies. An oversight Committee will have at least two of the following characteristics, unless its oversight responsibility is clearly defined in statute: (1) have limited policy making authority; (2) hold or approve the use of funds, apply for grants, or award grants; (3) be responsible for designing, promoting, or coordinating services; (4) have the authority to hold property; or (5) be responsible for the oversight of a specific Town function as defined in statute. Oversight boards or committees that oversee an enterprise fund, such as the Airport Commission and Water Commission, may also maintain a budget and raise revenues.

The Scholarship Committee is an example of an oversight Committee because it may award grants in the form of scholarships and has oversight of the Town's scholarship program. The Audit Committee is an example of a Committee that has a clearly defined responsibility, which is to provide oversight for the Town's audits and accounting procedures.

An oversight Committee is not responsible for the day-to-day or administrative operations of Town departments. The responsibility of administrative operations is outlined in the Town Charter, and in most cases is a responsibility of the Town Manager and/or specific department heads. Departments will frequently provide services additional to those services for which a Committee may have oversight responsibilities.

D. Regulatory

Whether elected or appointed, regulatory Committees exercise legal authority over the issues and activities explicitly delegated to them by state or local law. Examples of regulatory Committees include the Historic District Commission, the Planning Board, the Conservation Commission, and the Zoning Board of Appeals. The authority of a regulatory Committee is

"Within the entirety of the Nantucket Historic District no building or structure shall be constructed or altered in any way that affects or creates exterior architectural features—unless and until the appropriateness of such construction or alteration is first reviewed and then approved by the Nantucket Historic District Commission"

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limited to the authority outlined in the statute that establishes the Committee. A regulatory Committee has no authority over issues that are outside or beyond its statutory charge.

Understanding the role of a Committee is particularly important for regulatory Committees that have permitting authority. For example, a new construction project may need several permits to ensure the project will comply with state and local laws before construction can begin. The project may require: (1) a special permit from the Zoning Board of Appeals to ensure the project complies with zoning laws; (2) a permit from the Conservation Commission to ensure the project complies with state and local environmental protection laws; and (3) approval from the Historic District Commission to ensure any structures are in accordance with the Town's historic guidelines. In such a case, each regulatory committee makes decisions independently to fulfill its charge. The Conservation Commission does not consider the historic aspects of the project, as the Historic District Commission does not consider required environmental protection aspects of the project.

There may be a time when a regulatory Committee may make a decision independently that contradicts the decision of another regulatory Committee. In these instances, good communication between the Committees can help to ensure the concerns of each board or committee are addressed. Professional staff who work with a regulatory Committee may be able to help resolve contradictory decisions when they arise. While an applicant is responsible for meeting permitting requirements, professional staff can assist applicants to ensure that the concerns of a regulatory Committee are addressed.

A regulatory Committee is not responsible for the day-to-day or administrative operations of Town departments. The responsibility of administrative operations is outlined in the Town Charter, and in most cases is a responsibility of the Town Manager and/or specific department heads. Town Departments frequently provide administrative and support functions additional to those functions for which a board or committee may have regulatory authority, but Town staff do not report to these boards or committees.

Section 4 – Membership

A. Appointments

Members of Committees may be elected, appointed by the Select Board or Town Manager, or their appointment may be established in statute. Generally, most at-large committee appointments are made by the Select Board, and boards may be elected or appointed. The membership of some Committees requires a representative from another board or committee, or Town agency. Appointment of such board or committee members is made by the entity being represented. For example, the membership of the Human Services Contract Review Committee includes one representative from the Finance Committee; accordingly, the Finance Committee will appoint a member to serve on the Contract Review Committee.

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All members of all Committees must be sworn in by the Town Clerk prior to the member's first meeting and before the commencement of each term for re-appointed members. Members of multiple Committees must be sworn in for each Committee on which they serve. A copy of this handbook and information on the Open Meeting Law and Conflict of Interest Law will be provided by the Town to all Committee members after their swearing in.

Citizens are encouraged to attend meetings of a Committee of interest to learn about the Committee and its role in the community before applying to be appointed to the board or committee. The appointment process for advisory Committees traditionally begins every year in April when board and committee openings are advertised. The Select Board will hold meetings to allow applicants to address the Board and review their applications before making appointments, which usually occur in June. Boards and committees may recommend or nominate a member or members when required, unless otherwise specified in language creating a board, commission or committee. The Town has also established a Volunteer Talent Bank to compile names of citizens willing to give time in service to their community. Interested citizens should visit the Town's Volunteer Talent Bank page to enroll (www.nantucket-ma.gov/2128/Volunteer-Talent-Bank).

On May 19, 2021 the Select Board adopted the following "*Policy Statement and Procedures for Appointments to Committees, Commissions, Boards*":

BASIC GOAL

To encourage active citizen participation and involvement in local government affairs by encouraging local residents with expertise, skills, interest, and energy to seek appointment to the Town's Committees, Boards and Commissions. And, to expand the Town's outreach to its citizens to ensure that we engage as many diverse perspectives as possible to build and encourage awareness, understanding and appreciation through a lens of diversity, equity and inclusion.

POLICIES IN SUPPORT OF THE BASIC GOAL

A. The Town will maintain a recruiting system, known as the Volunteer Talent Bank (Talent Bank), to find and appoint interested local residents who are best qualified by education, training and experience to contribute effectively to the work of the committee, commission or board. To the extent practical, the Select Board shall announce its intention to meet candidates for appointment and allow them to introduce themselves and review their applications no less than two weeks in advance of appointments.

B. When an announcement is made by the Board regarding any vacancies, the Board will require that applicants file a Committee Appointment application. Following a public meeting with the applicant(s)

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at which the Board may ask questions, and/or the applicant may ask questions, a candidate shall be selected in accordance with the following procedure:

RECOMMENDED VOTING PROCEDURES FOR ANNUAL APPOINTMENTS

- 1. The Board reviews a list of openings for annual appointments with a committee appointment timeline in early April.*
- 2. In mid-April, members of committees, commissions, boards whose terms are expiring are notified and asked if they would like to apply for reappointment. Incumbent Committee Interest Forms are mailed to all of these members and they are asked to respond in writing to indicate if they request re-appointment, or not. Incumbents need to meet the same deadlines as listed on the committee appointment timeline.*
- 3. Annual committee openings are advertised in the local newspaper for four weeks, as well as on the Town website. Additionally, the openings are announced at the Board's weekly meetings starting in mid-April through the end of May.*
- 4. Applications will be accepted only by the deadlines outlined in the annual Committee Appointments Timeline for all committees, commission and boards.*
- 5. The Select Board holds two meetings to allow applicants to address the Board and review their applications.*
- 6. Committee appointments are made at the last Select Board meeting of June, which date shall be at least one week after the names and applications of all applicants have been made public.*
 - a. At this meeting, the Select Board may appoint, by majority vote, a candidate to fill any seat. Or, the Select Board, at its discretion, may elect to use a paper ballot voting procedure, or vote by e-mail if the Select Board meeting is held virtually.*
 - b. The Chair shall ask Board members to submit their written choices for appointment (or to e-mail their choices for appointment to Town Administration in real time if meeting virtually). Each Board member writes their own name on a slip of paper, and then writes down their vote for the applicant(s) and passes their paper ballot directly to the Chair without other members viewing the ballot.*
 - c. The Chair reads the paper ballot votes and notes which Board*

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member cast the votes. If meeting virtually, Town Administration staff will read the results into the record, and after announcing how each Board member votes, staff will ask that Board members verbally confirm their votes.

d. The candidate(s) with the majority of votes will be appointed.

e. Any committee seats not filled will continue to be posted on the Town website and routinely advertised as vacant.

At its discretion, the Select Board may appoint a candidate to any Commission, Committee or Board even if the candidate is not present for the meeting.

RECOMMENDED VOTING PROCEDURES FOR VACANCIES THROUGHOUT THE YEAR

The Board's intent to fill vacancies will be noted on its regular meeting agenda for at least two weeks and applications of prospective candidates will be included in the Board's agenda packet to allow the Board and the public to review the prospective candidates' credentials. The vacancy will also be advertised in the Inquirer & Mirror for a minimum of two weeks as well as on the Town's website. Applications will be accepted only by a certain deadline for all committees, commission and boards.

1. Immediately following a meeting with candidates for appointment, the Select Board may appoint, by majority vote, a candidate to fill any vacancy. Or, the Select Board, at its discretion, may elect to use a paper ballot voting procedure, or vote by e-mail if the Select Board meeting is held virtually.

2. Immediately following a meeting with candidates for appointment, the Chair shall ask Board members to submit their written choices for appointment (or to e-mail their choices for appointment to Town Administration in real time if meeting virtually). Each Board member writes their own name on a slip of paper, and then writes down their vote for the applicant(s) and passes their paper ballot directly to the Chair without other members viewing the ballot.

3. The Chair reads the paper ballot votes and notes which Board member cast the votes. If meeting virtually, Town Administration staff will read the results into the record, and after announcing how each Board member votes, staff will ask that Board members verbally confirm their votes.

4. The candidate(s) with the majority of votes will be appointed.

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At its discretion, the Select Board may appoint a candidate to any Commission, Committee or Board even if the candidate is not present for the meeting.

ADMINISTRATION OF THE VOLUNTEER TALENT BANK

The Town Administration office shall be responsible for the Talent Bank data and all administrative materials, records and processes.

PUBLIC INPUT REGARDING CANDIDATES FOR APPOINTMENT

Any citizen may convey their support or objection of an individual's appointment/ reappointment through written notice to the Town Manager's Office. Town Administration shall forward any written comments concerning appointments/reappointments to the Select Board and to the person cited.

B. Duration

The term of elected Committees is outlined in statute. For example, members of the Planning Board serve five-year terms, and members of the Select Board serve three-year terms.

The terms for appointed Committees may vary depending on the reason for the creation of the board or committee. The term of an ad hoc committee will usually be for the time it takes to develop recommendations on a specific issue. Standing advisory boards or committees generally have three-year terms.

C. Reappointment

A Committee member will be notified when the member's term of appointment is about to expire. Committee members who wish to continue serving on a committee may apply to be reappointed to the committee. Reappointment is based on an evaluation by the appointing authority of the member's contribution to the Committee. A Committee member is under no obligation to accept reappointment, nor is the appointing authority obligated to offer reappointment.

D. Leadership

Unless specified in statute, the officers of a Committee are chosen by the voting members of the Committee. Committee officers usually are a Chairperson, hereafter referred to as the "Chair," Vice-Chair, and if needed, Secretary. To ensure proper communication between advisory Committees and the Select Board, advisory boards and committees are to inform the Select Board of the names of officers when they are elected.

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The Chair of a Committee plays a vitally important role in the operations of the Committee. The Chair of a Committee presides over public meetings and public hearings. If the Chair leaves a public meeting, then the Vice Chair or another Committee member designated by the Chair may preside over a meeting. If the Chair or Vice Chair is not present at the beginning of a public meeting, and there is a quorum, then any member of the board or committee may call the meeting to order. If this happens, then the Committee should immediately elect a Chair pro-tem to preside over the meeting. The pro-tem Chair will serve until the regularly elected Chair or Vice Chair enters the meeting or another Chair pro-tem is elected.

When presiding over a meeting, it is the Chair's responsibility to ensure that proceedings are conducted in a civil and courteous manner. This can be challenging when a Committee is considering a contentious issue. However, all participants in a proceeding, including the applicant, public, board or committee members, and staff, should be treated respectfully.

The Chair of a Committee also serves as the point of contact between the Committee and Town personnel who provide staff support to the committee. Section 5 of this handbook discusses the relationship between Town personnel and boards and committees.

E. Resignations and Filling of Vacancies

A Committee member who is no longer able to serve on a Committee should resign promptly to allow for the appointment of an active member. Resignations must be submitted in writing to the Committee Chair, Town Clerk, and Select Board. The Select Board or other appointing authority may appoint a new member to a Committee outside of the annual appointment process. Vacancies for elected boards or committees are filled according to statute.

The Select Board may remove members of appointed boards and committees for cause. The removal of members from certain boards and committees requires a public hearing. Section 3.4 (a)(3) of the Town Charter governs criteria for removal. According to the Town Charter, the Select Board may remove an appointed member of a board or committee on grounds of: (1) incapacity beyond temporary illness; (2) chronic nonattendance; or (3) violation of the oath of office.

F. Restrictions on Members of Committees

Divided Loyalties Restriction
"Section 17. (a) No municipal employee shall, otherwise than as provided by law for the proper discharge of official duties, directly or indirectly receive or request compensation from anyone other than the city or town or municipal agency in relation to any particular matter in which the same city or town is a party or has a direct and substantial interest."

Massachusetts General Law 268A §17, establishes that municipal employees, which includes unpaid members of municipal Committees, may not receive compensation for the discharge of official duties other than from the municipality the employee serves. The law has an exception for "special municipal employees" that limits prohibited activity. Under this exception, a special

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municipal employee is only prohibited from receiving compensation for providing representation on a matter pending before the specific board or committee on which the special municipal employee serves. A special municipal employee may be paid to provide representation before a board or committee on which the special municipal employee does not serve. There are limited circumstances where a special municipal employee may be allowed to represent an immediate family member before the Committee on which the special municipal employee serves. As this law is nuanced, it is suggested that any Committee member contemplating offering third party representation before a Town Committee contact the State Ethics Commission for guidance on a specific situation.

A current list of special municipal employees can be found on the Town's Boards, Commissions and Committees page at <https://www.nantucket-ma.gov/138/Boards-Commissions-Committees>.

Section 5 – Meetings

A. Attendance, Recusals and Abstentions

In general, Committees meet regularly. Members of a board or committee are expected to attend all regular meetings of the Committee.

Please be advised as to the difference between “recusing” yourself from a particular matter as compared to “abstaining” from a vote, as follows:

Recusals: Pursuant to Robert’s Rules of Order and the state Conflict of Interest Law, Committee Members who recuse themselves from a particular agenda item, must not participate in that matter in their official capacity in any manner whatsoever. One option is to simply not attend the meeting until the portion where they have the conflict is addressed, or to leave the meeting before that portion is addressed. Chairs can assist with planning agendas for these purposes if they know in advance about potential conflicts. A second option is for a Committee Member to attend a meeting, but announce their recusal (and, if they wish, the reason for it) prior to action on the matter in which they have a conflict and leave the table during that portion of the discussion.

The Ethics Commission recommends further that an individual who has recused themselves from a particular matter actually leave the room. This is not legally required. However, be further aware that if an individual who has recused themselves stays in the room during the discussion, their presence at and their right to comment on the work of the Committee is “the same” as any other member of the public attending the meeting. A recused Committee Member cannot be treated in a “special” manner by the other members of the Committee, may not seek special treatment because they are a Committee Member, and may not use their position to otherwise participate in the matter if members of the public are not similarly allowed to so participate.

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In short, a Committee Member who is required to recuse themselves because of a financial interest in a particular matter MAY NOT participate as a Committee Member at the meeting and continue to comment about the matter from which they recused. It will still constitute a violation of the Conflict of Interest Law if they participate by sitting at the table or “weighing in” as a Committee Member but ultimately choose not to vote, or if they sit at the table and do not talk at all. A Committee Member must recuse themselves from items in which they have a financial interest as that term is defined for purposes of the Conflict of Interest Law and leave the table.

Abstentions: The process of abstaining involves ONLY a decision not to cast a vote, and can be exercised for any reason whatsoever. In such circumstances, following discussion about an agenda item, a Committee Member may simply choose not to vote on the matter. Deciding to “abstain” from a vote still constitutes participation for purposes of the Conflict of Interest Law. As noted above, a person with a financial interest in a matter who participates in the discussion but then abstains from the vote at the end of a discussion, will have violated G.L. c.268A, §19. In contrast, a Committee Member who does not have a financial interest in a matter may wish to participate in the discussion of an item and then, for whatever reason, decide that they do not wish to cast a vote for or against that issue, thereby taking no formal position on the issue.

Annually, in July, Open Meeting Law and Conflict of Interest informational sessions are held – these issues are covered during these sessions. Committee Members are highly encouraged to attend these.

Please feel free to contact Town Administration with any questions about these matters.

B. Open Meeting Law

The Massachusetts Open Meeting Law (MGL Chapter 39, § 23B) requires that Committees conduct their business in open meetings before the public eye. Except in very specific cases outlined in the law, the public and the press have the right to attend all meetings of government bodies. The format and requirements for such meetings may vary depending upon the type of meeting that is being held. The obligations on the members of Committees may also vary.

The exception is “executive session” which permits a Committee to conduct a closed-door meeting on several very narrow grounds. Entering executive session requires strict adherence to the law and creates legal obligations on the Committee and its members both prior to and after the executive session. It is recommended that no Committee enter executive session without guidance from a Department Head or other Town official with expertise on the matter.

There are certain aspects of the Open Meeting Law that must be followed by all boards and committees.

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- A quorum of Committee members may discuss Committee business only at properly noticed public meetings.
- Under the Open Meeting Law, the use of technology for communication may be considered a public meeting. The Open Meeting Law prohibits the use of email or telephone conferences by a quorum of a Committee to consider Committee business. Email may be used to provide information, or to determine the availability of members for a meeting. However, members must refrain from commenting on information provided in an email. Comments on information provided via email should be reserved for a posted public meeting of a Committee. Committee members may not “reply all” to express an opinion on information that is shared via email.
- The Open Meeting Law prohibits “revolving door” meetings, in which a quorum of members participates in serial fashion. This includes the use of email. Collecting independent email responses from Committee members is no different than members of a Committee commenting on an issue by a “reply all” email.

Advances in technology require additional diligence by Committee members to be in compliance with the Open Meeting Law. The advent of the internet has created new venues to exchange ideas such as chat rooms, message boards, and blogs which allow for instant dialogue on a wide variety of topics. In response, the state has amended the definition of deliberation to include “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” MGL 30A §18 (emphasis added).

All members of a Committee should receive a copy of the Open Meeting Law from the Town Clerk’s office when they are sworn in or obtain a copy directly from the Attorney General’s website (<http://www.mass.gov/ago/government-resources/open-meeting-law/>).

C. What is a Meeting?

A meeting occurs any time a quorum, which is usually a simple majority of members of a Committee meet and discuss or consider any public business or policy over which the Committee has some jurisdiction or advisory power. Prior to the Covid-19 pandemic, a quorum could not be established by having a Committee member participate in a meeting via telephone or other means of electronic communication; members had to be present at the meeting to constitute a quorum. On June 16, 2021, Governor Baker signed into law An Act Extending Certain COVID-19 Measures Adopted During the State of Emergency. This Act includes an extension, until April 1, 2022, of the remote meeting provisions of his March 12, 2020, Executive Order Suspending Certain Provisions of the Open Meeting Law. The new law has two major parts.

First, the new law allows public bodies to continue providing live “adequate, alternative means” of public access to the deliberations of the public body, instead of holding meetings in a public place that is open and physically accessible to the public. “Adequate,

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alternative” means may include, without limitation, providing public access through telephone, internet, or satellite enabled audio or video conferencing or any other technology that enables the public to clearly follow the proceedings of the public body in real time. The Town of Nantucket utilizes Zoom, a cloud-based video conferencing service you can use to virtually meet with others by video or audio, to host its remote meetings.

Second, the new law authorizes all members of a public body to continue participating in meetings remotely; the Open Meeting Law’s requirement that a quorum of the body and the chair be physically present at the meeting location remains suspended.

If the state legislators do not pass bills to extend the remote meeting provisions of the Act, all Open Meeting Law rules in place before the State of Emergency will come back into play including but not limited to the requirement for a quorum of the public body to be physically present at a specified meeting location and the chair needing to be physically present in order to run a meeting.

A quorum of a Committee may not meet in private for purposes of deciding or deliberating towards a decision on a matter before a Committee. Polling of Committee members on a pending decision prior to an open meeting of a Committee violates the Open Meeting Law. Polling of board or committee members is a form of a “revolving door” meeting.

If a scheduled meeting of a Committee has less than a quorum, the only action a Committee may take is to adjourn the meeting or schedule the next meeting of the Committee.

D. Types of Meetings: Public Meeting and Public Hearing

There are two types of Committee meetings: (1) public meetings and (2) public hearings. Public meetings and public hearings (which are held within public meetings) are held in conformance with the Massachusetts Open Meeting Law and the Code of the Town of Nantucket.

Public meetings are conducted so that a Committee may discuss the business of the Committee. For example, an advisory board or committee will hold a public meeting to discuss a public policy issue for which it may make a recommendation to the Select Board. Public testimony at a public meeting is taken at the discretion of the Chair of a Committee. While the public has the opportunity to address an issue during the public comment portion of a public meeting, a Committee is not required to allow public testimony on every issue it considers. However, traditionally Committees will provide the public the opportunity to speak on an issue. Public participation in a Committee’s discussion or deliberation is at the discretion of the Chair, which may include limiting the amount of time a member of the public is allowed to speak. To act on a matter or adopt a position on an issue, a quorum of the Committee must be present.

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Public hearings are conducted with an appropriate degree of formality, in accordance with Roberts Rules of Order, and with reference to state and local laws and regulations. Public hearings are conducted for the same overall reasons as the public meeting – to protect both the public interest and the rights of individuals – with the additional purpose of gathering relevant information from an applicant, interested parties, and the public at large. A public hearing also provides a Committee with the means of gathering the information necessary to develop an informed opinion and to issue permits or licenses or decisions that are fully supported by the appropriate facts and laws. During a public hearing, Committees are required to take public testimony. Once a public hearing is closed, a Committee may continue to discuss an issue without taking further testimony from the public.

To act on a matter that has had a public hearing, a quorum of the Committee members who participated in the public hearing must be present. A member of a Committee who has missed a single public hearing may vote on the matter in question after signing an affidavit that states the member has reviewed the entire file and listened to the audio tape of the missed meeting. If the membership of a Committee changes after a public hearing and before a decision is rendered on the matter heard, and a quorum of members who participated in the public hearing no longer serve on a board or committee, then a new public hearing must be opened. Reference to the prior public hearing may not be made during the new public hearing.

E. Location and Posting of Meetings

Committees should establish a regular meeting schedule to suit the needs and convenience of the members; however, all meetings must be held in a public location that is accessible to people with disabilities. It is recommended that Committees hold meetings at a consistent location to the extent possible. Having a consistent meeting location helps to ensure public access to board and committee meetings.

By law, it is the responsibility of a board or committee to provide written public notice of any meeting at least forty-eight (48) hours prior to the Committee's meeting. The forty-eight (48) hours does not include Saturday, Sunday, or holidays. The public notice must include the time, date, and location of the meeting, as well as a list of topics reasonably anticipated to be discussed and must be in compliance with the Open Meeting Law.

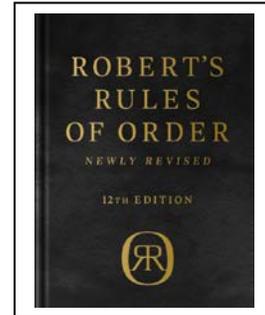
On Nantucket, the Town Administration office posts public notices for all public meetings on the Town's website, which is the primary posting location for the Town. They also maintain a central posting board in the Town Building. While only personnel in the Town Administration's office may post the actual meeting notice electronically and on the posting board, it is not the responsibility of the Town Administration's office to ensure that a completed posting notice is submitted for posting pursuant to the requirements of the Public Meeting Law. A Committee calling a meeting is responsible for ensuring that there is proper public notice of a meeting and is responsible for providing a completed public meeting posting notice to the Town Administration's

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office. The Town Administration's office will provide the posting notice that needs to be completed by a Committee.

F. Conduct of Meetings

Pursuant to Sections 1-7 of the Code of the Town of Nantucket, Committees conduct business in accordance with parliamentary procedure as set out by *Robert's Rules of Order*.



G. Voting

A vote of a Committee is necessary for a Committee to make a recommendation or decision or take a position on an issue. Any member of a Committee may make a motion to vote on business pending before the Committee. Unless specified in state law or local bylaw, a motion passes if a simple majority of board or committee members vote in favor of the motion, and it fails if a simple majority of committee members vote against the motion. For some decisions state or local law may require a super majority, such as a two-thirds majority, for a motion to be adopted. Committees that require a super majority for some votes are supported by professional staff who will advise when a super majority vote is necessary. Once a Committee adopts a motion then it becomes the official position of the Committee on the issue for which the motion was made.

In the event of a tie vote on a motion, the motion fails. If a motion fails, then the Committee has not taken action on the issue for which the motion was made. A Committee must take affirmative action, which means adopting a motion by the required majority vote, to take action on an issue pending before a board or committee. If a motion fails because it did not receive the necessary majority vote, then another motion is necessary for a Committee to take action on the matter for which the failed motion was made. In most cases, a matter can be deferred for action by a Committee to a later date. However, some regulatory Committees have restrictions on carrying matters forward and there may be time constraints on when the regulatory Committee has to take action on a matter pending before the Committee. Regulatory Committees should consult with the professional staff to ensure that there are no inadvertent or unintended consequences which may result from failure to take action on a matter pending before the Committee.

A formal vote is not required for routine business, such as the approval of meeting minutes unless the meeting is held remotely, then all votes must be by roll call vote. A Committee may conduct routine business through the general consensus of the Committee. If a member objects to approving a matter by general consensus of the Committee, then a formal vote is required.

Remote Voting

Prior to COVID-19 pandemic, at the start of any meeting during which a member of a public body will participate remotely, the chair must announce the name of any member who is participating remotely; such information must also be recorded in the meeting

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minutes. The chair's statement does not need to contain any detail about the reason for the member's remote participation.

Members of public bodies who participate remotely may vote and shall not be deemed absent for purposes of G.L. c. 39, § 23D. In addition, members who participate remotely may participate in executive sessions but must state at the start of any such session that no other person is present or able to hear the discussion at the remote location, unless the public body has approved the presence of that individual.

Following the State of Emergency issued during the COVID-19 pandemic, Chapter 20 of the Acts of 2021 was signed into law and extended certain COVID measures, namely that remote meetings of public bodies could continue through April 1, 2022. The Act authorizes all members of a public body to continue participating in meetings remotely; the Open Meeting Law's requirement that a quorum of the body and the chair be physically present at the meeting location remains suspended. This section will be updated following any action by the State Legislature.

H. Agendas

The Chair of a Committee is usually tasked with preparing the agenda for a Committee meeting. If Town personnel are available to staff a Committee, then for practical reasons, the setting of an agenda for a Committee meeting is usually done in consultation with staff. Agendas for public meetings may vary slightly for a Committee; however, agendas generally will include:

- Calling the Meeting to Order
- Approval of Minutes
- Committee Business
- New Business
- Old Business
- Adjournment

An agenda for a public meeting may include a public hearing. While part of a public meeting, the conduct of a public hearing is much different than the conduct of a public meeting. Staff can be consulted on how public hearings are conducted for specific boards or committees. Information on public hearings is in Section 5(D) of this handbook.

I. Meeting Minutes

All Committees must keep minutes of every committee meeting. Committees will often select a Committee Secretary, who is a member of the Committees that is responsible for keeping meeting minutes. The minutes, which must be created and approved in a timely manner which is within three meetings or 30 days, whichever is later, must include:

- The date, time and place of the meeting;
- The members present or absent;

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- The decisions made, and actions taken, including a record of all votes;
- A summary of the discussions on each subject;
- A list of all documents and exhibits used at the meeting; and
- The name of any member who participated in the meeting remotely.

Meeting minutes provide an official record of the actions and votes taken by a board or committee during a meeting and a summary of the important topics raised and discussed. They are not intended to be a verbatim transcript of the meeting, but must contain a summary of each subject discussed, a list of documents and other exhibits used at a meeting, and decisions made, and actions taken on each matter so that someone reading the minutes can clearly understand the discussions and actions that took place.

Prior to voting to approve the minutes, members of the Committee will be given the opportunity to review minutes of a previous meeting. A Committee may vote to correct minutes to ensure they accurately reflect the prior proceeding.

Minutes become the official record of a meeting only after they have been approved by the Committee. However, meeting minutes are considered a public record before they are formally approved by a Committee, and draft meeting minutes are subject to public records requests. For updated information regarding minutes please consult Town Administration or the state's Open Meeting Law and Public Records Law websites.

J. Public Records

The Massachusetts Public Records Law (MGL Chapter 66, §10) provides the public with the right to access public records. What constitutes a public record is broadly defined, and includes all documentary materials made or received by any town official, Committee member, or employee. There are specific exceptions for documents related to personnel and medical files, proposals and bids, and appraisals of property that are not subject to public records requests under the Public Records Law.

All minutes, informational data, photographs, recordings, maps, memoranda, and circulated materials used by a Committee, including notes, recordings, or other materials used to prepare minutes, are part of the official record of the session and must be maintained. Town Administration or the appropriate Town personnel should be consulted if a Committee has a question concerning the public records status of a specific document. Committees should coordinate any response to a public records request with Town Administration.

Effective January 1, 2017, the Massachusetts Public Records Law, G.L. c.66 and c.4 §7(26) provides that a municipality must, within ten (10) business days (Mondays through Fridays, excluding legal holidays), respond to a request for records by providing access to or a copy of such records, or explaining any delay or denial. In compliance with the Law, the Town has created a Records Access Officer (RAO) to assist with managing public requests. The RAO can be reached at publicrecords@nantucket-ma.gov or at Town Administration.

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Section 6 – Compensation and Reimbursement

A. Compensation

With the exceptions of the Select Board and the Abatement Advisory Committee, all members of boards and committees serve on a volunteer basis and receive no compensation for their service.

B. Reimbursement

The Town may pay some expenses for Committee members that are incurred while conducting Committee business, with prior approval. The types of expenses for which the Town may provide payment include travel expenses and the cost of seminars that are held off-island. Any expenses the Town may pay are subject to the availability of funding and approval by the appropriate Town personnel.

Approval for reimbursement must be sought prior to any expense being incurred. Department Heads supporting the operations of a Committee will decide if a reimbursement request will be approved. For any Committee that is not directly supported by Town personnel, the Town Manager must approve any reimbursement request.

Reimbursements that are approved will be made consistently with the Town's reimbursement policy, which requires that a receipt is provided for all expenses for which reimbursement is being sought. Town policy also limits the level of reimbursement for certain per diem expenses such as meals. A Town Expense Report must be completed to receive reimbursement for per diem expenses. Any questions regarding reimbursement should be referred to Town Administration.

Section 7 – Relationship between Town Personnel and Committees

Article IV of the Town Charter for the Town of Nantucket outlines the responsibilities of the Town Manager, who is the chief administrative officer for the Town of Nantucket. According to the Town Charter, the Town Manager is responsible for the efficient operations of the Town and its departments. Working with Town Department Heads, the Town Manager is ultimately responsible for all personnel and administrative processes of the Town and its departments. As a result, Town personnel report to Town Department Heads and ultimately to the Town Manager. **Town personnel do not report to committees.**

While Town personnel do not report to Committees, Town personnel do fulfill an important support and advisory role for Committees. Town personnel support Committees to help them carry out their charge or assignment. In some instances, Town personnel may be ex officio (who can be voting or non-voting depending on the appointment criteria) members of a Committee, but may or may not participate in the

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Committee's decision-making process. Town personnel may be assigned to assist a Committee and may provide administrative assistance to the extent possible. This assistance may include preparing staff reports and providing analysis and information to assist a Committee in developing its recommendations or decisions on a specific matter, or to assist a Committee in carrying out its statutory charge.

Town personnel support the work of a Committee as a whole, and not individual members of a committee. Any requests for information or support should be made by the Committee during a public meeting and should clearly be within the framework of the Committee's charge or assignment. Town personnel will determine the way to meet the request of a Committee. **Individual members of a board or committee, or a board or committee as a whole, do not direct the work of Town personnel.**

Formal contacts between members of a Committee and Town personnel should be limited to the personnel assigned to support the Committee. Unless otherwise specified, Department Heads are the point of contact between a Committee and a Town department. **Individual committee members should not ask for individual reports, favors, or special consideration from Town personnel.**

Information requests of a Committee that are made outside of a public meeting should be made through the Chair of the Committee to the appropriate Town personnel. The request for information should be for the entire Committee. Membership on a Committee does not give an individual member greater access to information than the general public, and requests for information from an individual member of a Committee is treated as a request for information from the general public.

When making information or support requests, Committees are asked to consider the other responsibilities of Town personnel supporting the Committee's work, as well as consider potential labor and employment implications (such as the Fair Labor Standards Act). Town personnel serving as staff to Committees are often Department Heads, who are responsible for the operations of their respective Town departments. The priority of departmental operations may supersede the work requested by a board or committee. Department Heads will prioritize the work of a department and direct the work of departmental personnel accordingly. In prioritizing work, there often are issues a Department Head needs to consider of which a Committee is unaware. At times these considerations may relate to confidentiality, which could affect the ability to respond to a request of a Committee.

Town personnel assigned to staff a Committee may also serve in an advisory capacity to the Committee. The role Town personnel may serve is very similar to the role advisory Committees serve, which is in an advisory capacity to the Select Board. Staff members to Committees are selected by the Town Manager or Department Head on the basis of their professional and technical abilities to support the work of a Committee, as well as their workload and availability. Committees are not to delegate work to Town employees directly.

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Staff members for a Committee are expected to provide impartial and unbiased advice to the Committee. This includes providing guidance to Committees to ensure decisions are consistent with state and local laws, and Town policy. However, Committee members should be aware that Town personnel are ultimately responsible to the Town Manager, who is accountable to the Select Board. If an instance arises where a Department Head serving as staff to a Committee disagrees with the recommendation of a Committee, it is the staff member's responsibility to advise the Town Manager of that disagreement. In making a final decision on a matter in which there is disagreement, the appropriate Town entity will consider the advice of the Committee, and the advice of Town personnel.

Section 8 – Media Relations

Members of Committees may be approached by the media for comment on an issue under consideration by a Committee, or for a comment on an event related to a committee's charge. As a representative of the Town, Committee members have an obligation to ensure information provided to the media is accurate. Consulting with the appropriate Town personnel before responding to an inquiry from the media is recommended to ensure the accuracy of information provided to the media.

While serving on Committee, there may be a time when an individual member of a Committee disagrees with the decision of a Committee. If such an instance arises, members are reminded that pursuant to Section 2(B) of this handbook that it is their responsibility to uphold the decision of a Committee. Members are not prohibited from expressing their personal opinion. However, if a personal opinion is expressed, then it should be made clear that it is a personal opinion and not the opinion of the Committee. This includes letters to the editor. If a member chooses to express a dissenting opinion to a Committee decision through a letter to the editor, then the letter should be signed as a private citizen.

Pursuant to the Open Meeting Law, the media may make any audio or video recording of a public meeting, so long as no active interference with the conduct of the meeting arises as a result of the recording. Video recordings should be made from a fixed location.

<end>

Town of Nantucket Committee Handbook



**Town of Nantucket Code of Conduct
for Elected Officials and Members of
Appointed Boards, Commissions, Committees, Councils, Trusts and Work Groups**

STATEMENT OF COMMITMENT

As a member of the Nantucket Select Board or a Nantucket board, commission, committee, council, trust or work group, I hereby acknowledge that I have reviewed the Code of Conduct as set forth in Section 2 of the Town's Committee Handbook, and agree to uphold and abide by the provision of the Code of Conduct and conduct myself in accordance with the following model of behavior. Toward this end, I affirm that I will:

- Help create, foster and promote an atmosphere of respect and civility in which individual members, Town staff and the members of the public are free to express and exchange their ideas and maintain a positive level of discourse;
- Conduct my public affairs with honesty, integrity, fairness and respect for others;
- Respect the dignity and privacy of individuals and organizations;
- Keep the common good as my highest purpose and focus on achieving constructive solutions for the public benefit; and
- Avoid and discourage conduct which is divisive or harmful to the best interests of Nantucket.

I affirm that I have read and that I understand the Town of Nantucket's Code of Conduct.

Signature: _____

Date: _____

Printed Name: _____

Position: _____