

TOWN COUNCIL RULES (Updated 10/3/19)

RULE 1 COUNCIL OFFICERS

The first Town Council meeting in December shall be an organizational meeting. At that time, the Council shall nominate a President and a Vice President, election of which shall take place on or before the next regular meeting. Time should be allotted for nomination speeches which would be limited to five (5) minutes per candidate per office. Voting will be done by roll call. Each councilor shall state the name of the candidate of their choice. If no candidate receives a majority, the candidate receiving the smallest number of votes shall be eliminated and balloting shall continue until one candidate receives a majority vote.

RULE 2 ROLE OF COUNCIL PRESIDENT

The President shall serve as ex-officio member of all Council Committees. The President may also be designated by the Council to be its representative to all boards and commissions. The President may delegate that responsibility in whole or in part to any member or members of the Council, subject to the approval of the Council. The President of the Barnstable Town Council shall be the official head of the Town of Barnstable for all ceremonial purposes, and may designate other councilors to serve in this ceremonial capacity. (In accordance with Rule 11B)

RULE 3 PRESIDING OFFICER

The President of the Town Council shall preside at the meetings of the Town Council. In the absence of the Council President, the Vice President shall preside; and in the absence of both, the Clerk of the Council shall designate a presiding chair in rotating precinct order. In the event that the President of the Council can no longer serve, the Vice President shall assume the powers and duties of the President. If a vacancy occurs in the office of Vice President, the Council shall elect a new Vice President from among its members before two regular meetings have passed. No office of the Council shall remain vacant for more than two regular meetings.

RULE 4 DUTIES OF THE PRESIDING OFFICER

The presiding officer shall take the chair at the hour at which the Council is to meet, and call the members to order. The presiding officer shall preserve order and decorum and may speak to points of order in preference to other members. Questions of order subject to appeal to the Council, by any motion regularly seconded, shall be put as follows: "Shall the decision of the chair stand as the judgment of the Council?" The vote shall be a roll call and it shall be decided in the affirmative by a majority vote. All votes shall be declared by the presiding officer, after receipt of the tally from the Clerk of the Council. If any member doubts a vote, the chair, without further debate upon the question, shall require a roll call vote. No decision shall be declared unless a quorum of the Council shall have voted. The presiding officer shall vote on all matters that come before the Council. The presiding officer may at any time, during the debate and otherwise, declare a recess for not more than ten minutes and such action shall not be subject to appeal nor shall any motions apply thereto. The presiding officer may state facts and give

opinions upon questions of order without leaving the chair. When the presiding officer exercises the right to debate, the gavel shall be passed to the Vice President for the duration of the debate on that matter. In the event that the Vice President is absent or chooses to debate, the Clerk of the Council shall designate a presiding chair in rotating precinct order.

RULE 5 MEETINGS

The time and place of regular meetings shall be published in December of each year for the following calendar year in accordance with the ordinance governing Council meetings.

RULE 5A MEETING DEFINITIONS

Regular meetings of the Town Council shall be held at a time and place fixed by ordinance, but which shall not be less frequent than once monthly. (See Rule 5B) Special meetings of the Town Council may be held on the call of the President of the Town Council, or on the call of any five or more members, by written notice. Said notice will include relevant agenda items and pertinent documents pertaining to those items which will be delivered to the Town Clerk and to each councilor's residence at least forty-eight hours in advance of the time set. Executive session may be entered only after the council has first convened in open session for which notice has been appropriately posted. The presiding officer cites the reason for going into executive session and calls for a roll call vote of the Council. The vote of each member is entered into the minutes, with a majority necessary to initiate an executive session.

Purposes Warranting Executive Session:

1. To discuss the reputation, character, physical condition, or mental health, rather than professional competence of an individual, provided that the individual involved in such executive session has been notified in writing by the governmental body, at least 48 hours prior to the proposed executive session. Notification may be waived upon agreement of the parties. A governmental body shall hold an open meeting if the individual involved requests that the meeting be open. If an executive session is held, such individual shall have the following rights.

(a) To be present at such executive session during discussions or considerations which involving that individual.

(b) to have counsel or a representative of his own choosing present and attending for the purpose of advising said individual and not for the purpose of active participation in said executive session.

(c) To speak in his own behalf.

2. To consider the discipline or dismissal of, or to hear complaints or charges brought against, a public officer, employee, staff member, or individual, provided that the individual involved in such executive session pursuant to this clause has been notified in writing by the governmental body at least forty-eight hours prior to the proposed executive session. Notification may be 4 of 15 Amended TC Rules 11/06/14 cap waived upon agreement of the parties. A governmental

body shall hold an open meeting if the individual involved requests that the meeting be open. If an executive session is held, such individual shall have the following rights:

(a) To be present at such executive session during discussions or considerations involving that individual.

(b) To have counsel or a representative of his own choosing present and attending for the purpose of advising said individual and not for the purpose of active participation.

(c) To speak in his own behalf. 3. To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the governmental body, to conduct strategy sessions in preparation for negotiations with nonunion personnel, to conduct collective bargaining sessions or contract negotiations with nonunion personnel.

4. To discuss the deployment of security personnel or devices.

5. To investigate charges of criminal misconduct or to discuss the filing of criminal complaints.

6. To consider the purchase, exchange, lease or value of real property, if such discussions may have a detrimental effect on the negotiating position of the governmental body and a person, firm or corporation.

7. To comply with the provisions of any general or special law or federal grant-in-aid requirements.

8. To consider and interview applicants for employment by a preliminary screening committee or a subcommittee appointed by a governmental body if an open meeting will have a detrimental effect in obtaining qualified applicants; provided, however, that this clause shall not apply to any meeting, including meetings of a preliminary screening committee or a subcommittee appointed by a governmental body, to consider and interview applicants who have passed a prior preliminary screening.

9: To meet or confer with a mediator, as defined in section twenty three C of chapter two hundred and thirty three, with respect to any litigation or decision on any public business within its jurisdiction involving another party, group or body, provided that:

9(a) any decision to participate in mediation shall be made in open meeting session and the parties, issues involved and purpose of the mediation shall be disclosed,; and

(b) no action shall be taken by any governmental body with respect to those issues which are the subject of the mediation without deliberation and approval for such action at an open meeting after such notice may be required in this section.

(Adopted by TC Item 96-061, 1/4/96) (The above rules are extracted from MGL Chapter 39 Section 23B.)

RULE 5B MEETING SCHEDULE

The Barnstable Town Council shall meet on the first and third Thursdays of each month except in the months of July and August when meetings will be held on the third Thursday only. Meetings shall conclude at 11:00 P.M. The subject at hand could be finished if it was ongoing at 11:00 P.M. and the meeting could continue with a 2/3's vote of the council after 11 P.M. If a regular meeting date falls on a solemn or legal holiday, the president shall reschedule such meeting to the Thursday of the following week. No town board, commission, or committee shall meet on a regularly scheduled meeting night of the Town Council.

RULE 5C INTRODUCTION OF COUNCIL BUSINESS

No measure or non-measure shall be received or acted upon unless introduced by a member of the Council, Town Manager, or by petition as provided by the home rule charter. Every measure or non-measure, appearing on the Council agenda shall, if appropriate, be accompanied by the approximate amount of cost involved, and other background information prior to being placed on the agenda.

MEASURES: All matters to come before the Council that are inherently legislative in nature, including ordinances, charter amendments, appropriations, loan orders, lease approvals and eminent domain authorizations.

NON-MEASURES: Non-Measures shall include all matters to come before the council which are not specified to be measures such as any matter which is executive, administrative or ministerial, or quasi-judicial, including, without limitation, appointments, resolutions, proclamations, tax classification votes, contract approvals, and petitions to the General Court.

RULE 5D FILING DEADLINES FOR REGULAR MEETINGS

Any of the above items of business to be presented to the Town Council at its regular meeting for action shall be submitted in writing to the Administrative Assistant no later than 10:00 am, seven days, exclusive of Saturday and Sunday preceding the regular council meeting. The Council President and/or the Town Manager may in case of necessity, approve any additional items for inclusion in the agenda after said deadline. The Council President in consultation with the sponsoring councilor, Council Administrative Assistant and Town Manager shall determine placement of business on the Council meeting agenda, or other appropriate disposition. The Council agenda, including the Town Manager's Communication, complete with documentation shall be delivered to the Town Councilors no later than 48 hours prior to the regular meeting of the Council.

RULE 5E ORDER OF BUSINESS

At every regular meeting of the Town Council, the order of business shall be as follows:

1. Roll Call
2. Pledge of Allegiance

3. Moment of Silence
4. Public Comment
5. Council Response to Public Comment
6. Town Manager Communications
7. Act on Minutes(Includes Executive Sessions)
8. Communication from Elected Officials, Boards and Commissions and Staff, Correspondence, Announcements and Committee Reports
9. Orders of the Day
 - A. Old Business
 - B. New Business
10. Adjournment

(Adopted by Town Council Item 2006-010, 08/18/05)

(Adopted by Town Council 2007-067, 02/01/07)

(Adopted by the Town Council 2015-027, 11/06/14)

RULE 5F PUBLIC COMMENT

At each regular meeting of the Council there shall be a period set aside for public comment. Any member of the public desiring to address the Council may reserve a place on the agenda with the Council Administrative Assistant by 4:30 p.m. on the day of the Council meeting. Each person on the public comment docket shall be recognized by the chair, and shall state his/her name and address for the record. Other members of the public may also be heard at this time. Time allowed for public comment will be at the discretion of the chair. For the most part, public comment will be limited to three minutes for each individual speaking. All remarks and questions shall be addressed to the Council as a whole through the chair and not to any member thereof. No person other than members of the Council and the person having the floor shall enter into discussion either directly or through a member of the Council without permission of the presiding officer. If any person persists in disorderly behavior after a warning from the presiding officer, the presiding officer may order the person to leave the meeting (in accordance with MGL CH. 39, S. 23C).

RULE 6 PARLIAMENTARY GUIDELINES

In all matters of parliamentary procedure not provided for in the constitution and laws of the Commonwealth, the charter, or explicitly elsewhere in these rules, the presiding officer and the members shall be guided by the principles of fairness, clarity, and efficiency, in that order. In

determining any parliamentary question, due regard shall be given to the entire scholarship of parliamentary procedure, with particular emphasis on Mason's Manual of Legislative Procedure, but resort may also be had for guidance to other authorities and examples of parliamentary procedure, including reference to rules and rulings of state and local legislative bodies.

RULE 6A QUORUM

One half of the total membership of the Town Council plus two shall constitute a quorum. A quorum for the current 13-member council shall be eight (9).

RULE 6B ORDER OF SPEAKING; LENGTH OF SPEAKING

When two or more members request the floor at the same time, the presiding officer shall name the member who shall first be heard. During debate, no Council member shall speak to the same question more than twice until all other members choosing to speak have spoken. The length of time that any member may discuss the subject on the floor of the Council shall be limited to three minutes, unless otherwise voted by the Council. When debate centers on committee reports, committee members may be recognized beyond the time limit to answer questions.

RULE 6C ORDER OF MOTIONS

When a motion is under debate, the chair shall receive no motion except the following (in order of preference):

1. To adjourn
2. To take a recess
3. To lay on the table
4. For previous question
5. To limit or extend limits of debate
6. To postpone to certain date
7. To refer
8. To amend
9. To postpone indefinitely
10. Leave to withdraw

RULE 6D PREVIOUS QUESTION

The previous question shall be put as follows: "I call the previous question." All further amendments or debate on the main question shall be suspended until the previous question has been decided by a two-thirds vote.

RULE 6E REFERRAL TO COMMITTEE

When a matter properly before the Council relates to a subject which may properly be examined and reported upon by an existing or new ad hoc committee of the Council, such matter shall, upon motion and a majority vote of the Council, be referred to such committee. Any matter may be referred to a committee, commission or board for advice sought by Town Council.

RULE 6F RECONSIDERATION

At any meeting which vote has been taken, it shall be in order for any councilor who has voted with the prevailing side to move for immediate reconsideration or to serve notice that a motion for reconsideration shall take place at the next regular meeting of the council. The vote for reconsideration shall be open to debate. The debate shall be limited to twenty minutes. A motion to reconsider requires a majority vote.

RULE 7 MATTERS REDUCED TO WRITING

Any substitute motion or amendment shall be in writing when the presiding officer so directs or any member so requests. All substitute motions and amendments shall be written and given to the Clerk of the Council to assure accuracy of the minutes.

RULE 8 VOTES

All action taken by the Town Council requiring a vote will be by a majority unless otherwise provided for in MGL, home rule charter, ordinance, or by rules set forth in the Policy and Procedures Manual of the Barnstable Town Council.

RULE 8A ROLL CALL

All final votes of the Town Council on ordinances, appropriation orders, or loan authorizations shall be taken by roll call vote, and shall be duly recorded by the town clerk. On other matters requiring a vote, a roll call may be requested by any councilor. The order of the roll call voting shall be alphabetical, and rotated after each vote.

Every councilor present when the question is put shall vote yes, no, abstention, or pass. If a councilor passes, his or her name will be called again at the end of the vote for his/her vote. Prior to the announcement of the roll call vote, any councilor may have his/her name called again to record him/her differently.”

RULE 9 REJECTED MEASURES

When any measure has been finally rejected by the Council, no motion embodying substantially the same subject shall be presented to the Council within six months of its previous writing for its resubmission, unless resubmission is approved by a majority of the Council present, or as otherwise provided by the charter.

RULE 10 RECORD KEEPING

Unless otherwise provided by the Town Council, the Town Clerk shall be the Clerk at regular meetings of the Council. The Assistant Town Clerk may serve in place of the Town Clerk. Said clerk shall keep a record of its proceedings and perform such duties as may be assigned by the Barnstable Home Rule Charter, by ordinance, or other council vote. The Council Administrative Assistant shall give notice of all meetings of the Town Council by transmitting a copy of the meeting agenda to its members and posting meeting notices for the public. Said Administrative Assistant shall also audio tape record all meetings and file said tapes with the Clerk of the Council. Said assistant shall coordinate with the Town Manager and/or any other committee currently in charge of the videotaping, to make sure that all meetings of the Town Council are videotaped. The Council Administrative Assistant shall be the clerk of workshops held by the Town Council. A transcription of a regular meeting, public hearing or debate, or any portion thereof may be requested through the Council Administrative Assistant, who shall arrange for the preparation of requested transcripts from tape recordings of meetings, hearings or debates.

RULES 11 COUNCIL COMMITTEES

After the organization of the Council, the President, subject to approval by the full Council, may appoint members to standing committees.

RULE 11A AD-HOC COMMITTEES

The President of the Town Council may designate such ad-hoc committees comprised of councilors or registered voters in the Town of Barnstable, as is deemed necessary.

RULE 11B COMMITTEE PARAMETERS AND GUIDELINES

All Committees shall be advisory to the Council and shall take no actions that bind the Council. Committees shall follow a schedule of meetings to be coordinated through the Council Administrative Assistant, who will notify the Council President and post as required with the Town Clerk. Standing committees shall select a chairperson who will organize the committee and be responsible for the conduct of the committee and shall be the spokesperson for the committee in matters with the Council, town agencies, other government agencies, and the general public. A clerk shall be appointed from the committee to record the minutes. The President and Vice President of the Council shall not serve as a chairperson of any standing committee. Ad hoc committees shall select a chairperson who will organize the committee and be responsible for the conduct of the committee and shall be the spokesperson for the committee in matters with the Council. A clerk shall be appointed from the committee to record the minutes. The President and Vice President of the Council shall not serve as a chairperson of any ad hoc committee. Ad Hoc Committees shall have access to the Council's Administrative Assistant under the direction of the Council officers. Ad Hoc Committees shall work through their chair to have access to town agencies/departments or the schools, respectively, in order to avoid duplication of effort. The President shall be an ex-officio member of all committees. Meetings of committees may be called by the chairperson or upon the written request of two members of the

committee. All committees of the Town Council shall keep records of proceedings, and a copy of said records shall be filed with the Town Clerk and the Council Administrative Assistant, within 30 days following each meeting. Committees have the right and obligation to be creative, offer opinions, minority opinions, produce documents, communicate and participate with town departments/agencies, other government agencies and the general public, subject to the rules and procedures of the Town Council, Barnstable Home Rule charter, MGL, or otherwise voted by the Town Council. All new committees, boards and commissions, will be evaluated at the end of the first year; at which time a decision will be made by the Town Council to continue, disband, or change the entity.

RULE 12 APPOINTMENTS - (Nominations by the appointments committee)

Any Council action regarding appointments shall be acted upon at the regular meeting succeeding that in which said appointments were presented.

RULE 13 COUNCIL VACANCY

A vacancy on the Council and or vacancy of an office on the Council shall be filled in accordance with Town Charter Section 2-5, and Council Rule 3.

RULE 14 INQUIRIES AND INVESTIGATIONS

Section 2-10 of the Charter gives the Town Council the authority to conduct inquiries or investigations: Section 2-10 - Inquiries and Investigations: The Town Council may require any town officer or member of a board or commission to appear before it, and give such information as it may require in relation to an office held by such person, its function, and performance. The Town Council shall give at least forty-eight hours written notice of the general scope of the inquiry which is to be made; to any person it shall require to appear before it under this section. The Town Council may make investigation into the affairs of the town and into the conduct of any town agency, and for this purpose may subpoena witnesses, administer oaths, and require the production of evidence.

INQUIRIES:

An inquiry may be called for by a majority vote of those present at a regular council meeting. An inquiry shall be made through the Town Manager, if it concerns areas under his authority, and specific questions asked shall be answered in a report by the Town Manager to the Council within 60 days. If independent expertise is needed, the Manager shall so notify the Council. If an inquiry is made into an area outside the Town Manager's area of authority, the Council may require such persons as mentioned in Section 2-10 to appear to give information or make a report within 60 days. In either case, a report may be considered final by the Council or the Council may call for further information so that its questions may be answered.

INVESTIGATIONS:

If the Manager or other person(s) requested to make a report shall fail to do so; or if the Council finds that there has been unsatisfactory resolution of allegations of serious misconduct on the part of any Town officer, board, or commission or its members; or if the council finds that it needs information not readily forthcoming in order to make a determination, the Council may proceed with an investigation. Investigations are considered the last resort by the Council and should be entered into seriously and advisedly. The procedure to be taken shall be as follows:

1. A motion calling for an investigation shall clearly state in writing the purpose of the investigation and those persons, departments, or topics to be investigated. A resolution calling for an investigation shall not be voted at the first meeting at which it is introduced. A two-thirds vote of the full Council shall be required in order to authorize an investigation to proceed.

2. The Council may, by an affirmative vote of the full council, establish a three-person Committee of its members appointed by the Council President to hear testimony, collect evidence, and present facts to the full Council. A time may be set by the Council for completion of the subcommittee's work, subject to review at the request of the subcommittee. If the subcommittee determines that the original scope of the investigation needs to be broader, it must receive authorization from a majority of the full Council. 14 of 15 Amended TC Rules 11/06/14 cap

3. Under its initial vote establishing an investigation committee, the Council shall decide whether the investigation is legislative or quasi-judicial in nature. If the investigative committee is quasi-judicial in nature, it shall proceed substantially along the lines of an informal adversarial proceeding, including the right on behalf of any person who is the subject of the investigation to be represented by counsel and to confront and cross-examine witnesses. In such proceedings, witnesses shall be sworn, but the strict rules of evidence shall not apply. If the Council determines that the investigation is legislative in nature, the foregoing need not apply.

4. The Council may, consistent with existing ordinances and the Administrative Code, request the services of an independent attorney and/or other individuals qualified to conduct such an investigation who shall be engaged for the purposes of the inquiry or investigation, subject to approval by a majority of the full Council.

5. Funds for the employment of an independent attorney shall come from the Council's budget.

6. All meetings of the Council or its subcommittee shall be held in accordance with the Open Meeting Law, MGL C. 39, S. 23B.

7. Preparation and serving of all subpoenas and letters of notice to witnesses and/or subjects of discussion shall be included in the duties of the legal counsel employed by the Town Council.

8. The proceedings of the meetings shall be recorded and transcribed verbatim and provided to the full Council along with a copy of subcommittee findings. Transcripts of meetings held in open session shall be made readily available to the public in a timely fashion.

9. The subcommittee will report its findings and recommendations to the full Council at a regular or special meeting of the Council. The full Council will make the final determination and shall take any action it deems necessary, consistent with the General Laws, the Charter, collective bargaining agreements and personnel rules and regulations.

RULE 15 AGENDA ITEMS

The following agenda items may be acted upon at a first reading:

Proclamations; Free Petitions; Resolutions; Transfer Orders, and other non-measures, except appointments

The following agenda items require a first and second reading:

Appointments; Appropriation Orders; Amendments to General and Zoning Ordinances, as well as Administrative Code and other Rules of the Town of Barnstable; Group Petitions; Loan Authorizations; Supplemental Appropriations; and other measures.

No debate shall take place at the first reading of any item requiring a second reading