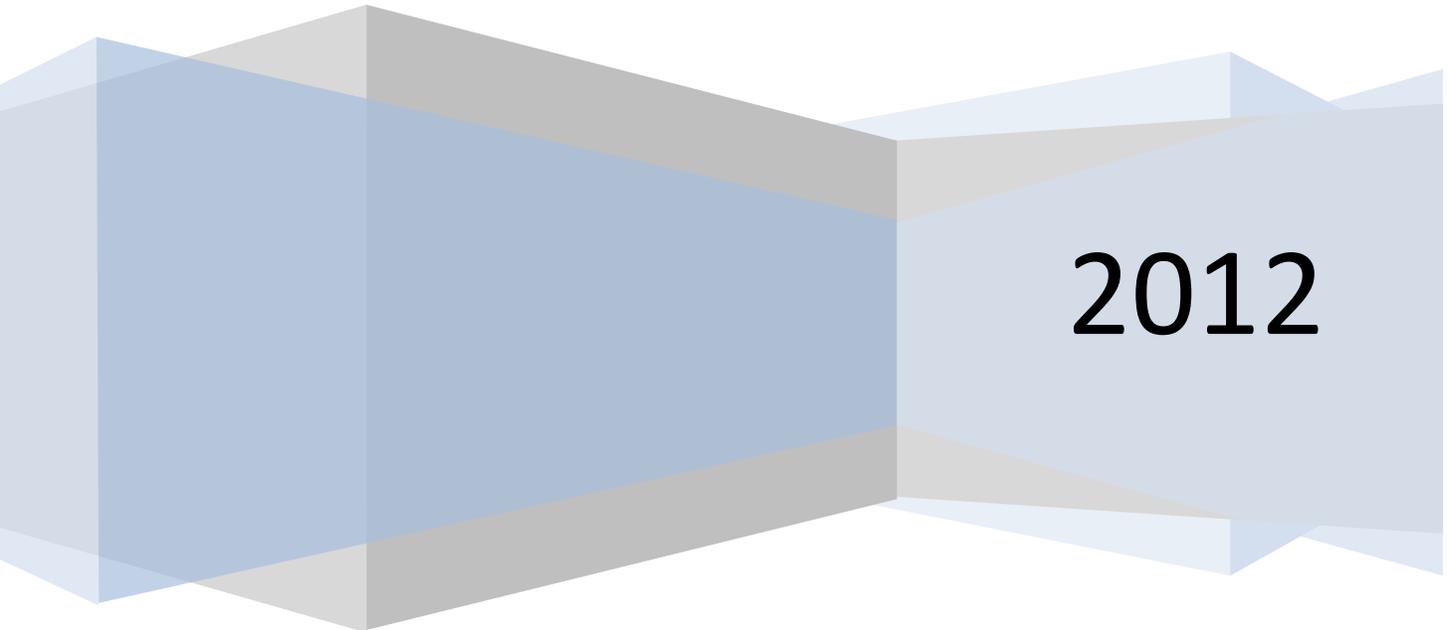


COMMITTEE HANDBOOK



2012

TOWN OF MILFORD COMMITTEE HANDBOOK

This handbook is intended as a guide for all Department Heads, Town Boards and Committees. It describes in general terms some important requirements involved in the conduct of Town business and should prove useful to new and current members alike.

Certain sections of the handbook refer to various provisions of the general laws. Some committees are governed by individual statute, identified in the guide as MGL (Massachusetts General Laws) followed by the appropriate chapter and section. It is recommended that these sources be consulted whenever a specific problem is encountered involving a state statute or local by-law or regulation.

Copies of several state statutes are included in the Appendix: these may change from time to time. Current copies are always available from the Town Administrator. In specific instances the assistance of Town Counsel may be needed.

Your comments and suggestions for future revisions are always welcomed.

TABLE OF CONTENTS

	Page
<u>1.0 Introduction</u>	<u>1</u>
<u>2.0 Formation of Committees & Membership</u>	<u>1</u>
Committee Formation.....	1
Committee Application Procedure.....	2
Appointment.....	2
Committee Orientation.....	3
Conflict of Interest.....	3
Reappointment.....	4
Resignation.....	5
Terminations.....	4
<u>3.0 Officers</u>	<u>4</u>
Elections.....	4
Duties.....	4
<u>4.0 Meetings</u>	<u>5</u>
Definition.....	5
Open Meeting Laws.....	5
Suggestions.....	6
Executive Session.....	7
Meeting Schedule.....	8
Location.....	8
Posting.....	9
Record Keeping.....	9
Public Record Laws...	10
<u>5.0 Budgets</u>	<u>10</u>
Disbursements.....	10
Purchases.....	10
<u>6.0 Funding</u>	<u>11</u>
Background.....	11
Procedures...	11
<u>7.0 Planning</u>	<u>11</u>
Charge and Plan of Action.....	11
<u>8.0 Reporting Procedures</u>	<u>11</u>
Appointing Authority...	12
Town Meeting.....	12
Annual Report.....	12

1.0 INTRODUCTION

1.1 Purpose

The purpose of this handbook is to assist the members of the many appointed and elected boards, commissions and committees of the Town. The handbook provides a brief description of procedures which may be well known to many but are less familiar to others. It also provides information on important state statutes, such as the Conflict of Interest Law. A copy is included in the Appendixes attached.

1.2 Additional Publications

Information regarding boards and committees is available in the Annual Town Report and the Town By-Laws. It is advisable for all committee members to review each set of the laws that pertain to their specific board, commission or committee.

1.3 Liability

Prior to 1978, the Town and Town officers (including appointed members of Town bodies) were protected by the doctrine of sovereign immunity from lawsuits based on actions taken within the scope of officials duties. Part of that immunity was removed by statute (General Laws Chapter 258 Sections 1-13) which holds a town liable up to \$100,000 for certain negligent or wrongful acts or omissions by its officers or employees. In many cases, there is no immunity for Town officials or Town employees, but the law allows a municipality to indemnify its officials and employees from personal financial loss in certain instances. Milford has recently accepted G.L. c. 258, Section 13 which provides a high degree of protection for public officials and employees acting within the scope of their employment. In limited circumstances there may be insurance which will protect the Town's and employees' interests.

2.0 FORMATION OF COMMITTEES AND MEMBERSHIP

2.1 Committee Formation

The appointing authorities of committees and boards are often the Board of Selectmen or Town Moderator. State Statutes outline the powers and duties of many boards; the Town's by-laws further define the work of some boards. Town Meeting may request the appointment of a committee by approving an article for that purpose. The appointing authority should prepare the committee charge outlining its purpose and functions and receive the reports and recommendations of the committee. When appropriate, the committees may report to Town Meeting.

2.2 COMMITTEE APPLICATION PROCEDURE

Appointed Committees – When openings on committees become available, the committee with the vacancy should notify the Board of Selectmen or other appointing authority promptly in writing. The vacancy will be posted on the Town bulletin board, the Town web site, and the municipal access channel. The Selectmen's Office will maintain a list of committee openings.

The posting may include the following: a brief description of the position, any applicable deadline date for applications by interested candidates and that the goal of the Town is to appoint qualified and interested residents who are broadly representative of the Town.

Elected Boards and Committees – Interim appointments on elected boards and committees are governed by the provisions of MGL Chapter 41 Sections 10 and 11 unless otherwise provided by statute.

If there is a vacancy in the office of Selectmen, the remaining Selectmen may call a special election; or an election must be held upon written petition of 200 or 20% of registered voters whichever is less.

For certain elected bodies when a vacancy occurs, other than for the Board of Selectmen, the remaining members of the Board on which the vacancy occurs must inform the Board of Selectmen in writing, within one month of the position becoming vacant. The Board of Selectmen will schedule a joint meeting with the remaining members of the Board, and the members of the combined boards vote by ballot the role call to fill the vacancy. One week's public notice is required in advance of the meeting at which the vacancy is filled. A majority vote of those present and voting is required to "elect" a replacement. Whoever is selected must be a registered voter in the Town and will perform the duties of the office until the next town election or until another person is qualified. See G.L. c41 Section 11.

If the remaining members of the Board on which the vacancy occurs do not inform the Board of Selectmen within one month, the vacancy may be filled by the Board of Selectmen acting alone.

2.3 APPOINTMENT

In filling vacancies, the goal of appointing authorities is to find qualified and interested individuals who are broadly representative of the Town. Appointing authorities take into consideration all relevant factors. They may consider applications and suggestions from many sources, written and verbal expressions of interest, and recommendations by committees for which the appointment is to be made. Committee recommendations should include the number of applicants for the position, qualifications of the candidate recommended, and a copy of the person's résumé.

Non-residents may serve on committees when the appointing authority deems it in the best interest of the committee and the Town, except when prohibited by bylaw or other statutory provision or as otherwise provided.

The appointee receives written notification of appointment and term of office from the appointing authority and must be sworn in by the Town Clerk prior to attending a committee meeting as an official member. The Town Clerk is responsible for giving committee members a copy of the Open Meeting Law (MGL Chapter 30, Section 23B), a summary of the conflict of interest law, and the Town's Sexual Harassment Policy which must be signed and returned to the Town Administrator's office.

2.4 COMMITTEE ORIENTATION

New members to a committee or board should be informed about the committee's specific role, powers and duties as well as the rules, regulations and any issues frequently encountered by the board or committee. Such information will be provided by the appointing authority.

2.5 CONFLICT OF INTEREST LAW (MGL CHAPTER 268A)

Purpose – The purpose of the conflict law is to ensure those public employees' private financial interests and personal relationships do not conflict with their public obligations. The law is broadly written to prevent a public employee from becoming involved in a situation which could result in a conflict or give the appearance of a conflict.

The law restricts what a public employee may do: 1.) on the job; 2.) after hours; and 3.) after leaving public service.

Provisions – The following is only a general description of the provisions of the law. In the event of specific involvement by any member of a board or commission, recourse should always be sought from legal counsel and/or the State Ethics Commission.

The Conflict of Interest Law Chapter 268A prohibits a variety of actions, including the receipt of gifts or privileges because of a committee member's status or in return for performing actions or duties in the member's official capacity. The law also generally prohibits municipal employees from participating in a particular matter in which that employee or certain family members as defined in the law, or any business associates or organizations, have a financial interest. In order to avoid conflicts of interest or the appearance of conflicts of interest, all board or committee members should familiarize themselves with the provisions of Chapter 268A, and direct any questions regarding potential conflicts of interest to either Town Counsel, through the Board of Selectmen, or to the State Ethics Commission.

If board or committee members have a conflict of interest or an appearance of conflict in any matter before the board or committee, they should not be counted in the quorum nor participate in nor be present for any discussion or votes. The law provides for the legal determination of conflict of interest status for any municipal employee¹ submitting a request to the appointing authority or State Ethics Commission. The law also provides for continued service in certain circumstances if full disclosure is made or special exemption is granted by the Board of Selectmen. If committee members have any questions about their activities, they should file a written request with Town Counsel (see Section 1.3) or the State Ethics Commission. Pursuant to G.L. c 268A, Section 22 municipal employees have the right to a confidential opinion from Town Counsel. When in doubt, ask.

¹ “Municipal employee” refers to anyone holding any office, position, employment or membership in any municipal agency. Unpaid members of local town boards and committees are municipal employees as are the private citizens serving on a special advisory committee. (This definition is specific to the Ethics Laws.)

For ease of reference a copy of the Summary of the Conflict of Interest Law for Municipal Employees published by the State Ethics Commission is attached herto.

2.6 REAPPOINTMENT

Reappointments are based on an evaluation by the appointing authority of the citizens’ contribution to the committee, attendance and the desirability of widespread involvement and the changing needs of the committee and the Town. There is no fixed limit on length of service. In cases where special training or expertise is required, longer periods of service may be appropriate. A committee member is under no obligation to accept reappointment nor is the appointing authority obligated to offer reappointment.

2.7 RESIGNATION

A committee member who is no longer able to serve should resign promptly so that the vacancy may be filled. A written resignation must be submitted to the Town Clerk, with a copy to the Committee Chair and the appointing authority (MGL Chapter 41 Section 109). Section 2.2 details the procedure for selecting a new member to fill the vacancy.

2.8 OTHER TERMINATIONS

In rare circumstances such as continued, unexplained absences or conflict of interest, the appointing authority may ask for a member’s resignation or, if necessary, remove the member if authority to do so is present, revoke the appointment. Prompt, written notification to the committee member will be given by the appointing authority in the event of such action, and an opportunity to be heard if required.

3.0 OFFICERS

Committees are required to take and keep official minutes. Committees have the option of establishing various officers within the committee.

3.1 ELECTIONS

At a minimum a Chairman and a Secretary/Clerk should be elected. The Chairman should notify the Town Clerk and the appointing authority of changes in officers when they occur.

3.2 DUTIES OF OFFICERS

Chairman-presides at all meetings, prepares agenda, decides questions of order, calls special meeting. The Chair has the same rights as other members to offer resolutions, make or second motions, discuss questions and vote thereon. The committee may wish to designate a Vice Chair to act in the Chairman’s absence. It is the Chairman’s responsibility to insure all appropriate documents are filed with the Town Clerk or any other agency as required.

Secretary or Clerk –is generally responsible for taking and circulating minutes and any other duties assigned.

3.3 OTHER DUTIES

It should be clear who is responsible for scheduling and posting the meeting with the Town Clerk, as well as composing and mailing correspondence. Additionally, each committee should have a vote of authorization if any member is to sign a document on behalf of the committee.

4.0 MEETINGS

4.1 Definition

A public meeting occurs at any time a quorum of the committee or subcommittee members get together to deliberate or consider any public business or policy over which the committee has some jurisdiction or advisory power. No action of the committee or subcommittee is valid or binding unless ratified by the affirmative vote of the super majority of the members voting. A review of your by-laws or ordinances is recommended to identify any such situations. The by-laws or the provisions of the General Laws applicable to your Board or Committee should be reviewed.

Some municipal by-laws or state statute may specify situations (i.e. Zoning Board of Appeals) in which the vote of a majority of the entire membership is required.

A board member who is present may abstain from voting and not affect the outcome. In the State of Massachusetts, the court has stated under no circumstances can one vote constitute a majority of a quorum of a three-member board. In these limited circumstances of a three member board, an abstention has the effect of a negative vote.

4.2 OPEN MEETING LAW

As of July 1, 2010 a revised Open Meeting Law went into effect and can be found at MGL Chapter 30A, Section 18-25 and still provides for mandatory open meetings, with certain exceptions. The law requires that all meetings of elected or appointed boards, committees or subcommittees be open to the public except in ten specific situations where Executive Session may be held (See Section 4.4, Executive Session). Roll call votes to enter into Executive Session must be made in open session.

The law does not apply:

- On site inspections, provided there is no deliberation
- Attendance by a quorum of a public body at a conference, training program, media, social or other event provided there is no deliberation

Attendance by a quorum without a posted notice at a meeting of another governmental body that has complied with the Open Meeting law requirements, as long as the visiting committee members do not deliberate. However, such meetings cannot be used to circumvent the requirement of discussing and deliberating at public meetings.

On November 11, 2011, the Massachusetts Attorney General's Office promulgated regulations which allow, for the first time, members of public bodies to participate remotely in meetings under certain circumstances. The newly adopted regulations published at, 940 CMR 29.10, address the procedures for and circumstances under which remote participation is allowed. In addition, emails (from town and personal computers), regarding town business are considered a public document and are discoverable in a court of law.

Excluded from the definition of deliberation, provided no opinions of members are expressed are:

- Distribution of a meeting agenda
- Scheduling information; or
- Distribution of other procedural meeting materials, or reports or documents that may be discussed at the meeting.

Similar types of electronic communication, such as blogging, electronic chatrooms, and social networking sites may also fall within the scope of "deliberation" **and substantive discussion in those contexts must be avoided.**

The Open Meeting Law does not contravene other laws, such as the Privacy Act. If clarification is needed, particularly concerning Executive Session and the rights of individuals, the committee chair may request advice on specific questions from Town Counsel or contact the Attorney General's office directly.

Any person, after informing the Chair, may record a meeting with a tape recorder or any other means of sonic reproduction and/or videotape equipment provided there is no active interference with the conduct of the meeting. The Chair is required to inform everyone in the room of the recording.

It is extremely important that timely and accurate minutes of Board and Committee meetings be kept. Please refer to Section 4.8.

4.3 HELPFUL SUGGESTIONS

A committee may adopt rules of order. Although most small committee discussions may seem too casual to be called debate, it is advisable for the committee to observe a minimum of generally accepted procedures. Attentive guidance by the chair and adherence to adopted procedures can increase efficiency as well as maintain objectivity. **All points of substantive discussion must be shared with all Board Members only within the Open Meeting context.**

The chair should consider limiting all participants to concise, non-repetitive statements. Although desirable, it is not necessary for the committee to continue discussion until complete consensus is achieved. Other actions, such as calling for a vote, postponing until more information is available or referring to a subcommittee may be required.

Careful preparation before meetings, e.g. organizing agenda items, distribution informational packets in advance and anticipating possible questions, will expedite discussion, facilitate action and avoid long and exhausting meetings. **All pertinent information to be discussed by the Committee, must be furnished to all members without exception.** Agendas must include a listing of topics that the chair reasonably anticipates will be discussed at the meeting and must be posted with the meeting notice.

The Open Meeting Law does not require that the public be allowed to participate. It may be advisable for the chair to remind speakers of time and repetition limits. No one may speak at a committee meeting without permission of the chair. If a speaker refuses to be silent after warning from the chair, the chair has the authority or order the speaker removed from the meeting by the police. Nevertheless, all committee members represent and serve the Town. They should treat all visitors and other committee members with courtesy and consideration. Whenever possible, it is advisable to permit public participation in some form, such as a short period at each meeting or occasional meetings for public hearings. On an adjudicatory proceeding, the public has no right to participate after the close of the hearing and the commencement of discussion among the members of the adjudicating Board.

4.4 EXECUTIVE SESSION

An Executive Session is closed to the public, but a committee or board must first convene in an Open Session for which notice has been posted. It is essential not to discuss any topic during Executive Session that does not relate specifically to the purpose of the Executive Session specifically stated in the vote to convene the Executive session.

REASONS FOR CONVENING EXECUTIVE SESSION (MGL Chapter 30A. § 21)

- ✚ To discuss the reputation, character, physical condition or mental health rather than the professional competence of an individual, or discuss the discipline or dismissal of, or complaints or charges against, a public officer, employee, staff member or individual.—
See Rights of Individual below.
- ✚ To discuss strategy sessions in preparation for negotiations with non-union personnel or to conduct collective bargaining sessions or contract negotiations with non-union personnel
- ✚ To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares.
- ✚ To discuss the deployment of or strategy regarding security personnel or devices, e.g. a sting operation.
- ✚ To investigate charges of criminal misconduct or to discuss the filing of criminal complaints.

- ✚ To consider the purchase, exchange, taking, lease, or value of real property if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body.
- ✚ To comply with, or act under the authority of any general or special law or federal grant-in-aid requirements (generally privacy).
- ✚ To consider or interview applicants for employment by a preliminary screening committee, if the chair declares that an open meeting would have a detrimental effect in obtaining qualified candidates. This does not apply to any meeting regarding applicants who have passed a prior preliminary screening.
- ✚ To meet with a mediator regarding any litigation or decision, provided that (i) any decision to participate in mediation shall be made in open session and the parties disclosed and (ii) no action taken with respect to the issues involved without deliberation and approval of the action at an open session.
- ✚ To discuss trade secrets or confidential or proprietary information regarding activities by a governmental body as energy supplier, municipal aggregator, or energy cooperative, if an open session will adversely affect conducting business relative to other entities making, selling or distributing energy.

PROCEDURES FOR CONVENING EXECUTIVE SESSION

- ✓ The session must be convened in an open posted meeting, with executive session listed on the agenda when reasonably anticipated by the chair for which notice has been correctly given (48 hours in advance not including Saturday, Sundays and Holidays)
- ✓ The Chair states the purpose of the executive session, stating all subjects that may be revealed without compromising the purpose of the executive session.
- ✓ A majority must vote in a recorded roll call to enter into executive session
- ✓ The Chair announces whether the meeting will reconvene in open session
- ✓ Accurate minutes and other records of the executive session must be maintained and all votes recorded by roll call.

Executive Session continued:

RIGHTS OF INDIVIDUALS

- ✓ When a governmental body wishes to discuss (a) the reputation, character, physical or mental health of an individual; or (b) the discipline or dismissal of or complaints or charges brought against a public officer, employee, staff member or individual, it must notify that person in writing at least 48 hours in advance of the meeting, not including Saturdays, Sundays or holidays.
- ✓ Written notice may be waived by the individual.
- ✓ The individual may request that the meeting be held in open session.
- ✓ If an executive session is held, the individual has the right to be present for deliberations and to speak, and to have counsel or a representative of choice present, for the purpose of giving advice but not for active participation.

- ✓ The individual may have an independent record of the executive session created by audiorecording or transcription at the individual's expense.

Records of any Executive Session remain closed to the public only as long as publication may defeat the purposes of the Executive Session. Topics discussed in Executive Session are confidential. Attendees do not discuss these matters with anyone until the purpose for the Executive Session no longer exists and the minutes can be released to the public. Executive session minutes are to be reviewed by the committee chair or designee at reasonable intervals to determine if continued nondisclosure is warranted. Releasing minutes is completed by majority vote of the appropriate committee.

The foregoing is only an outline and summary of the provisions of Chapter 30A§ 21. Specific questions and situations should be referred to Town Counsel for guidance.

4.5 MEETING SCHEDULE

Depending on a committee's workload, meetings may be held weekly, bimonthly, monthly or less frequently. When possible, a regular meeting day, time and location should be established. Boards and Committees should not schedule meetings that conflict with Town Meetings, Elections or Holidays.

4.6 MEETING LOCATION

Meetings must be held in a place which is open to the public. The location should also be accessible to the disabled in order to comply with the Federal Americans With Disabilities Act (ADA). Committees are urged to meet in a Town building and may reserve a room in Town Hall by contacting the Selectmen's Office at 508-634-2303.

4.7 POSTING

It is the responsibility of the committee to give notice to the Town Clerk of the time, date and place of meetings. In addition to the meeting posting, the agenda, with a list of topics that the chair reasonably anticipates will be discussed, must be posted. Except for emergencies, meetings must be posted 48 hours in advance by the Town Clerk; Saturday, Sundays and Holidays are not counted as part of the 48 hours notice. Prior posting is not required for emergency meetings (sudden, unexpected occasions which require immediate action by the body) or adjourned meetings if scheduled for less than 48 hours from the adjournment. However, the Town Clerk must be informed and the meeting posted as soon as possible. The Town Clerk is responsible for maintaining a current listing of all posted meetings and board or committee agendas on the bulletin board at Town Hall. Postings may also be found on the municipal access channel or the town website {www.milford.ma.us}

4.8 RECORD KEEPING

State law **requires** the committee must keep accurate records of its public meetings, and vote to approve all minutes. The records of each regular meeting are public information and chairs or their designee must maintain a copy of all approved minutes and documents for public

inspection within a reasonable period of time. Under most circumstances, two to four weeks is considered reasonable.

Minutes must include record of the date, time and place of the meeting, the members present or absent, and any actions taken at each meeting, including executive sessions. In addition, minutes must include the following;

- ❖ Assignments to committee members
- ❖ Summary of the discussions on each subject
- ❖ Documents and other exhibits such as photographs, recordings or maps used by the committee shall along with the minutes be part of the official record of the meeting.
- ❖ Exact wording of all motions, including who made the motion and who seconded; also the vote of each member and of those members who did not participate in the vote should be recorded as abstentions.
- ❖ Votes to enter into executive session must be recorded in the minutes by roll call

Minutes may include a schedule of future meetings. Once minutes are accepted by committee vote they become the official record of the meeting. Any secretarial notes or shorthand if not destroyed once the official minutes are accepted, are considered a public document under the public records law.

NOTE: In the opinion of the Secretary of State any video or audio proceedings once made, are public records (unless done in executive session) which may be subject to disclosure despite the adoption of official minutes. Video and audio recording should be preserved, not “reused”.

You should note that the Secretary of State, Supervisor of Public Records has promulgated “schedules” regarding record retention requirements of certain public records, such as Board of Health records. If you have any questions regarding the length of time documents must be maintained, or the manner in which they must be maintained, you should contact the Records Management Division of the Secretary of State, supervisor of Public Records Office.

4.9 PUBLIC RECORDS LAW

The Massachusetts Public Record Law (MGL Chapter 4, Section 7(26),) provide right of access to public records, broadly defined to include all documentary materials except eleven specific exemptions such as personnel and medical files and appraisals of property. Anyone may request a copy of a public record, other than the specific exemptions and expect to receive a response within ten(10) days, although the request should be filled sooner, if possible. Failure to receive a response within the ten (10) day period may be reported to the Secretary of State, Supervisor of Public Records. The minutes, informational data, memoranda and circulating materials of any Town board or committee are mostly all public information.

5.0 BUDGETS

5.1 COMMITTEE BUDGETS

In general, a committee will not have a budget unless one is authorized by Town Meeting. If a committee anticipates a need to expend funds, the Chairman may request a budget for the next fiscal year through the Board of Selectmen or Finance Committee; or if funds are needed for unforeseen emergency expenditures, a request may be addressed to the Finance Committee for a transfer from the Reserve Fund.

5.2 DISBURSEMENTS – SEE ATTACHMENTS 2 AND 3

Any item(s) from a single vendor which equals \$5,000 or more must have a purchase order. All bills for payment must be approved for payment by majority vote of the committee and must be signed by a majority of the full committee, unless the committee has voted to authorize one member to sign all bills and a notice of such is on file annually with the Town Accountant (see Attachment 3 Signature Authorization Form). No payment will be made from a statement unless invoices are attached. A request for reimbursement must have all appropriate receipts attached and no sales tax will be reimbursed. All paperwork must be submitted to the Town Accountant's Office for approval. Please review Attachment 2 Contract, Payable and Donation Approval Procedure.

5.3 PURCHASES

Many purchases must comply with MGL Chapter 30B, **The Uniform Procurement Act (UPA)**. This act governs certain municipal purchases and is frequently amended. Therefore, it is advisable to consult the current statute whenever procuring goods and services. Generally under 30B, the awarding authority has discretion to purchase goods and services under \$5,000 using sound business practices; between \$5,000-\$24,999 by soliciting either 3 written or telephone quotes. Goods \$25,000 and more require a sealed bid or proposal based on an RFP, a legal notice and a responsible process.

Any questions regarding the requirements of the **UPA** should be referred to the office of the Town Administrator.

6.0 FUND RAISING

6.1 BACKGROUND INFORMATION

The provisions of MGL chapter 44 § 53A enable a Town committee to accept grants or gifts (donations) of funds for a public purpose and to disburse funds in accordance with Section 53A. All donations must be accepted by the Board of Selectmen (or the School Committee as appropriate) at a public meeting.

6.2 PROCEDURES

Donations-General receipts received of a committee go into the General Fund and may not generally be disbursed by the committee on its own without special arrangements. Gift and grant accounts must be set up through the Town Accountant and Town Treasurer. Sometimes donations are made to the Town for specified purposes. The committee's designee completes

a turnover form for contributions received and transmits this document and funds to the Town Treasurer and Town Accountant.

Revolving funds are available for some purposes. These allow a committee to retain control of its receipts and expenses. This should be discussed with the Town Administrator and Town Accountant. Some revolving accounts are authorized by provisions of the General Laws. In some cases such may be authorized by town meeting action under G.L. c. 44, Section 53E ½."

Alternative Fund Raising-An individual or group may purchase and donate equipment, supplies or manpower to a particular committee or department to help achieve the committee's charge.

7.0 PLANNING

7.1 CHARGE AND PLAN OF ACTION

Permanent Appointed Committees-Permanent committees should prepare a mission statement to keep their work focused. Those committees which are statute mandated must be certain the statement is consistent with the law. The mission statements of appointed committees should be forwarded to the appointing authority for review, comment and final approval. Periodically, statements should be reviewed for relevancy to the changing needs of the Town and revised as appropriate, subject to approval of the appointing authority.

It is recommended that committee also establish goals at the beginning of each fiscal year, with a copy provided to the appointing authority.

Ad Hoc Committees- Ad Hoc Committees should review the charge prepared by the Appointing Authority at an early meeting and periodically thereafter in order to keep their work focused and moving toward its goal. The Appointing Authority's charge should include goals, expectations, specific responsibilities, budget (if applicable), period reporting dates, and anticipated date of solution.

The Ad Hoc committee should prepare a plan of action with an appropriate timeline in response to its charge and submit it to the Appointing Authority for review and advice.

8.0 REPORTING PROCEDURES

8.1 APPOINTING AUTHORITY

Permanent Appointed Committees-The committee chair should report regularly to the appointing authority about the committee's actions and plans. As needed, the chair may request meeting with the appointing authority to resolve problems and report progress.

Ad Hoc Committees-Periodic progress reports should be made to the Appointing Authority to include current status versus plan of action, time and finances. Reports should specifically

outline any legal ramifications, potential problems or pitfalls, revised estimate, etc. to assist in assessing progress.

8.2 TOWN MEETING

The Annual Town Meeting consists of two parts. The first is held at one or more sessions at which registered voters consider the town budget for the fiscal year and any other articles on the warrant published by the Board of Selectmen. The second portion consists of the Town election. The time of the Annual Town meeting is established by Town by-law.

If a relevant article is on the Warrant, or if the committee's charge specifies a report to Town Meeting, the committee should prepare information for Town Meeting. The committee should make these reports clear, concise and brief, keeping in mind the large volume of articles at Town Meeting.

A committee may request inclusion of an article in the Town Meeting Warrant by a letter to the Board of Selectmen, if a majority of the committee consents to the submission. All articles must be submitted to the Board by the established deadlines. It should be kept in mind that submission to the Selectmen does not guarantee that a requested article will be within the warrant. The Selectmen retain a high degree of discretion as to inclusion of articles. Committee members sometimes find that they may wish to discuss and consider making recommendations on other articles at their meetings. In such cases, the committee should send written notice of the scheduled discussion to the sponsors of the article.

8.3 ANNUAL TOWN REPORT

Appointed committees are required to file an annual report of committee activities for the Annual Town Report. The chair or other designated member should provide a paragraph explanation of major accomplishments and future plans. A request for committee reports is issued each year.

9.0 ATTACHMENTS

Summary of Conflict of Interest Law for Municipal Employees
Contract, Payable and Donation Approval Procedure
Signature Authorization Form

**TOWN OF MILFORD
ATTACHMENT 2
CONTRACT, PAYABLE AND DONATION
APPROVAL PROCEDURE**

The following guidelines will be adhered to for any Town Committee or Board proposal or project:

Various committees throughout Town have funding approved by Town Meeting for projects and other expenses that they oversee and manage. This can present issues in the timely payment of vendors and the management of projects that impacts other departments if the proper protocol is not followed.

- Before plans are finalized, whether for seeking funding or planning purposes, the Department Head(s) that are responsible for maintaining the affected town property or resources must be consulted.
- Once the Department Head has been consulted, the proposal will be submitted to the Board of Selectmen, if that board is the appointing authority.
- At the time the project is approved: If not otherwise governed by law, the Town Administrator will determine the level of department head oversight and who is responsible for following the appropriate Massachusetts General Laws for procurement.
- The Committee will take a majority vote at a meeting giving a board member and/or the department head (if assigned to the project) the authority to sign off on invoices. Written majority approval of the vote must be on file with the Town Accountant. It is suggested an alternate individual is voted as well in case of illness or absence. (See form attached)
- Any expenses authorized by a committee member and/or department head should be presented at the next committee meeting for disclosure to the full Committee and included in the meeting minutes.
- The originators of the proposal will continue to be a part of the project on a consulting basis for design changes and miscellaneous items.
- If the approved project requires a change order that is significant in nature (outside the scope of the original contract) the Committee and Department Head should seek approval in accordance with applicable law.

DONATIONS AND GIFTS – See G.L. c. 44, Section 53A

The following guidelines will be adhered to for donation of funds or property that is given to the Town.

Donations are always welcome, but the Selectmen and Department Heads need to consider if the donation will require additional maintenance, and if receiving the gift results in a conflict of interest.

- Before plans are finalized, the Department Head(s) that are responsible for maintaining the affected town property or resources must be consulted.
- Once the Department Head has been consulted, the proposal will be brought for final discussion at a Board of Selectmen's meeting.
- At the time the donation is approved: The Board of Selectmen will determine the level of department head oversight and who is responsible for following the appropriate Massachusetts General Laws for procurement.
- Monetary donations will go into the General Fund unless special arrangements are made for that donation to go towards a specific purpose. This requires a gift or grant account that is set up through the Town Accountant.

All donations of any kind must be formally accepted at a Board of Selectmen public meeting.

Donations in relation to school functions are handled by the School Committee and not the Board of Selectmen.

If you have any questions, please contact the Town Administrator.

ATTACHMENT 3

Date: _____

Zachary Taylor, Town Accountant
Milford Town Hall
52 Main Street
Milford, MA 01757

Dear Mr. Taylor:

The following vote was taken and affirmed a duly posted meeting on _____.
A copy of the approved minutes are attached.

For the Approved Project: _____ (if Applicable)

The Milford _____ votes to authorize the individual(s) below
to sign invoices. It is understood that this provision does not eliminate the responsibility of the
other members of the Commission.

Department Head Name: _____ (if Applicable)

Board Member Name: _____

Board Alternate Name: _____

Very truly yours,

_____ Chair

_____ Member

_____ Chair

_____ Member

_____ Chair

_____ Member



The Official Website of the State Ethics Commission

State Ethics Commission

Home Education & Training Resources Mandatory Conflict Law Education Requirements Municipal Employee Summary

Summary of the Conflict of Interest Law for Municipal Employees

This summary of the conflict of interest law, General Laws chapter 268A, is intended to help municipal employees understand how that law applies to them. This summary is not a substitute for legal advice, nor does it mention every aspect of the law that may apply in a particular situation. Municipal employees can obtain free confidential advice about the conflict of interest law from the Commission's Legal Division at our website, phone number, and address above. Municipal counsel may also provide advice.

The conflict of interest law seeks to prevent conflicts between private interests and public duties, foster integrity in public service, and promote the public's trust and confidence in that service by placing restrictions on what municipal employees may do on the job, after hours, and after leaving public service, as described below. The sections referenced below are sections of G.L. c. 268A.

When the Commission determines that the conflict of interest law has been violated, it can impose a civil penalty of up to \$10,000 (\$25,000 for bribery cases) for each violation. In addition, the Commission can order the violator to repay any economic advantage he gained by the violation, and to make restitution to injured third parties. Violations of the conflict of interest law can also be prosecuted criminally.

I. Are you a municipal employee for conflict of interest law purposes?

You do not have to be a full-time, paid municipal employee to be considered a municipal employee for conflict of interest purposes. Anyone performing services for a city or town or holding a municipal position, whether paid or unpaid, including full- and part-time municipal employees, elected officials, volunteers, and consultants, is a municipal employee under the conflict of interest law. An employee of a private firm can also be a municipal employee, if the private firm has a contract with the city or town and the employee is a "key employee" under the contract, meaning the town has specifically contracted for her services. The law also covers private parties who engage in impermissible dealings with municipal employees, such as offering bribes or illegal gifts.

II. On-the-job restrictions.

(a) Bribes. Asking for and taking bribes is prohibited. (See Section 2)

A bribe is anything of value corruptly received by a municipal employee in exchange for the employee being influenced in his official actions. Giving, offering, receiving, or asking for a bribe is illegal.

Bribes are more serious than illegal gifts because they involve corrupt intent. In other words, the municipal employee intends to sell his office by agreeing to do or not do some official act, and the giver intends to influence him to do so. Bribes of any value are illegal.

(b) Gifts and gratuities. Asking for or accepting a gift because of your official position, or because of something you can do or have done in your official position, is prohibited. (See Sections 3, 23(b)(2), and 26)

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. Accepting a gift intended to reward past official action or to bring about future official action is illegal, as is giving such gifts. Accepting a gift given to you because of the municipal position you hold is also illegal. Meals, entertainment event tickets, golf, gift baskets, and payment of travel expenses can all be illegal gifts if given in connection with official action or position, as can anything worth \$50 or more. A number of smaller gifts together worth \$50 or more may also violate these sections.

Example of violation : A town administrator accepts reduced rental payments from developers.

Example of violation : A developer offers a ski trip to a school district employee who oversees the developer's work for the school district.

Regulatory exemptions . There are situations in which a municipal employee's receipt of a gift does not present a genuine risk of a conflict of interest, and may in fact advance the public interest. The Commission has created exemptions permitting giving and receiving gifts in these situations. One commonly used exemption

permits municipal employees to accept payment of travel-related expenses when doing so advances a public purpose. Another commonly used exemption permits municipal employees to accept payment of costs involved in attendance at educational and training programs. Other exemptions are listed on the Commission's website.

Example where there is no violation : A fire truck manufacturer offers to pay the travel expenses of a fire chief to a trade show where the chief can examine various kinds of fire-fighting equipment that the town may purchase. The chief fills out a disclosure form and obtains prior approval from his appointing authority.

Example where there is no violation : A town treasurer attends a two-day annual school featuring multiple substantive seminars on issues relevant to treasurers. The annual school is paid for in part by banks that do business with town treasurers. The treasurer is only required to make a disclosure if one of the sponsoring banks has official business before her in the six months before or after the annual school.

(c) Misuse of position. Using your official position to get something you are not entitled to, or to get someone else something they are not entitled to, is prohibited. Causing someone else to do these things is also prohibited. (See Sections 23(b)(2) and 26)

A municipal employee may not use her official position to get something worth \$50 or more that would not be properly available to other similarly situated individuals. Similarly, a municipal employee may not use her official position to get something worth \$50 or more for someone else that would not be properly available to other similarly situated individuals. Causing someone else to do these things is also prohibited.

Example of violation : A full-time town employee writes a novel on work time, using her office computer, and directing her secretary to proofread the draft.

Example of violation : A city councilor directs subordinates to drive the councilor's wife to and from the grocery store.

Example of violation : A mayor avoids a speeding ticket by asking the police officer who stops him, "Do you know who I am?" and showing his municipal I.D.

(d) Self-dealing and nepotism. Participating as a municipal employee in a matter in which you, your immediate family, your business organization, or your future employer has a financial interest is prohibited. (See Section 19)

A municipal employee may not participate in any particular matter in which he or a member of his immediate family (parents, children, siblings, spouse, and spouse's parents, children, and siblings) has a financial interest. He also may not participate in any particular matter in which a prospective employer, or a business organization of which he is a director, officer, trustee, or employee has a financial interest. Participation includes discussing as well as voting on a matter, and delegating a matter to someone else.

A financial interest may create a conflict of interest whether it is large or small, and positive or negative. In other words, it does not matter if a lot of money is involved or only a little. It also does not matter if you are putting money into your pocket or taking it out. If you, your immediate family, your business, or your employer have or has a financial interest in a matter, you may not participate. The financial interest must be direct and immediate or reasonably foreseeable to create a conflict. Financial interests which are remote, speculative or not sufficiently identifiable do not create conflicts.

Example of violation : A school committee member's wife is a teacher in the town's public schools. The school committee member votes on the budget line item for teachers' salaries.

Example of violation : A member of a town affordable housing committee is also the director of a non-profit housing development corporation. The non-profit makes an application to the committee, and the member/director participates in the discussion.

Example : A planning board member lives next door to property where a developer plans to construct a new building. Because the planning board member owns abutting property, he is presumed to have a financial interest in the matter. He cannot participate unless he provides the State Ethics Commission with an opinion from a qualified independent appraiser that the new construction will not affect his financial interest.

In many cases, where not otherwise required to participate, a municipal employee may comply with the law by simply not participating in the particular matter in which she has a financial interest. She need not give a reason for not participating.

There are several exemptions to this section of the law. An appointed municipal employee may file a written disclosure about the financial interest with his appointing authority, and seek permission to participate notwithstanding the conflict. The appointing authority may grant written permission if she determines that the financial interest in question is not so substantial that it is likely to affect the integrity of his services to the municipality. Participating without disclosing the financial interest is a violation. Elected employees cannot use the disclosure procedure because they have no appointing authority.

Example where there is no violation : An appointed member of the town zoning advisory committee, which will review and recommend changes to the town's by-laws with regard to a commercial district, is a partner at a company that owns commercial property in the district. Prior to participating in any committee discussions, the member files a disclosure with the zoning board of appeals that appointed him to his position, and that board gives him a written determination authorizing his participation, despite his company's financial interest. There is no violation.

There is also an exemption for both appointed and elected employees where the employee's task is to address a matter of general policy and the employee's financial interest is shared with a substantial portion (generally 10% or more) of the town's population, such as, for instance, a financial interest in real estate tax rates or municipal utility rates.

Regulatory exemptions. In addition to the statutory exemptions just mentioned, the Commission has created several regulatory exemptions permitting municipal employees to participate in particular matters notwithstanding the presence of a financial interest in certain very specific situations when permitting them to do so advances a public purpose. There is an exemption permitting school committee members to participate in setting school fees that will affect their own children if they make a prior written disclosure. There is an exemption permitting town clerks to perform election-related functions even when they, or their immediate family members, are on the ballot, because clerks' election-related functions are extensively regulated by other laws. There is also an exemption permitting a person serving as a member of a municipal board pursuant to a legal requirement that the board have members with a specified affiliation to participate fully in determinations of general policy by the board, even if the entity with which he is affiliated has a financial interest in the matter. Other exemptions are listed in the Commission's regulations, available on the Commission's website.

Example where there is no violation: A municipal Shellfish Advisory Board has been created to provide advice to the Board of Selectmen on policy issues related to shellfishing. The Advisory Board is required to have members who are currently commercial fishermen. A board member who is a commercial fisherman may participate in determinations of general policy in which he has a financial interest common to all commercial fishermen, but may not participate in determinations in which he alone has a financial interest, such as the extension of his own individual permits or leases.

(e) False claims. Presenting a false claim to your employer for a payment or benefit is prohibited, and causing someone else to do so is also prohibited. (See Sections 23(b)(4) and 26)

A municipal employee may not present a false or fraudulent claim to his employer for any payment or benefit worth \$50 or more, or cause another person to do so.

Example of violation : A public works director directs his secretary to fill out time sheets to show him as present at work on days when he was skiing.

(f) Appearance of conflict. Acting in a manner that would make a reasonable person think you can be improperly influenced is prohibited. (See Section 23(b)(3))

A municipal employee may not act in a manner that would cause a reasonable person to think that she would show favor toward someone or that she can be improperly influenced. Section 23(b)(3) requires a municipal employee to consider whether her relationships and affiliations could prevent her from acting fairly and objectively when she performs her duties for a city or town. If she cannot be fair and objective because of a relationship or affiliation, she should not perform her duties. However, a municipal employee, whether elected or appointed, can avoid violating this provision by making a public disclosure of the facts. An appointed employee must make the disclosure in writing to his appointing official.

Example where there is no violation : A developer who is the cousin of the chair of the conservation commission has filed an application with the commission. A reasonable person could conclude that the chair might favor her cousin. The chair files a written disclosure with her appointing authority explaining her relationship with her cousin prior to the meeting at which the application will be considered. There is no violation of Sec. 23(b)(3).

(g) Confidential information. Improperly disclosing or personally using confidential information obtained through your job is prohibited. (See Section 23(c))

Municipal employees may not improperly disclose confidential information, or make personal use of non-public information they acquired in the course of their official duties to further their personal interests.

III. After-hours restrictions.

(a) Taking a second paid job that conflicts with the duties of your municipal job is prohibited. (See Section 23(b)(1))

A municipal employee may not accept other paid employment if the responsibilities of the second job are incompatible with his or her municipal job.

Example : A police officer may not work as a paid private security guard in the town where he serves because the demands of his private employment would conflict with his duties as a police officer.

(b) Divided loyalties. Receiving pay from anyone other than the city or town to work on a matter involving the city or town is prohibited. Acting as agent or attorney for anyone other than the city or town in a matter involving the city or town is also prohibited whether or not you are paid. (See Sec. 17)

Because cities and towns are entitled to the undivided loyalty of their employees, a municipal employee may not be paid by other people and organizations in relation to a matter if the city or town has an interest in the matter. In addition, a municipal employee may not act on behalf of other people and organizations or act as an attorney for other people and organizations in which the town has an interest. Acting as agent includes contacting the municipality in person, by phone, or in writing; acting as a liaison; providing documents to the city or town; and serving as spokesman.

A municipal employee may always represent his own personal interests, even before his own municipal agency or board, on the same terms and conditions that other similarly situated members of the public would be allowed to do so. A municipal employee may also apply for building and related permits on behalf of someone else and be paid for doing so, unless he works for the permitting agency, or an agency which regulates the permitting agency.

Example of violation : A full-time health agent submits a septic system plan that she has prepared for a private client to the town's board of health.

Example of violation : A planning board member represents a private client before the board of selectmen on a request that town meeting consider rezoning the client's property.

While many municipal employees earn their livelihood in municipal jobs, some municipal employees volunteer their time to provide services to the town or receive small stipends. Others, such as a private attorney who provides legal services to a town as needed, may serve in a position in which they may have other personal or private employment during normal working hours. In recognition of the need not to unduly restrict the ability of town volunteers and part-time employees to earn a living, the law is less restrictive for "special" municipal employees than for other municipal employees.

The status of "special" municipal employee has to be assigned to a municipal position by vote of the board of selectmen, city council, or similar body. A position is eligible to be designated as "special" if it is unpaid, or if it is part-time and the employee is allowed to have another job during normal working hours, or if the employee was not paid for working more than 800 hours during the preceding 365 days. It is the position that is designated as "special" and not the person or persons holding the position. Selectmen in towns of 10,000 or fewer are automatically "special"; selectman in larger towns cannot be "specials."

If a municipal position has been designated as "special," an employee holding that position may be paid by others, act on behalf of others, and act as attorney for others with respect to matters before municipal boards other than his own, provided that he has not officially participated in the matter, and the matter is not now, and has not within the past year been, under his official responsibility.

Example : A school committee member who has been designated as a special municipal employee appears before the board of health on behalf of a client of his private law practice, on a matter that he has not participated in or had responsibility for as a school committee member. There is no conflict. However, he may not appear before the school committee, or the school department, on behalf of a client because he has official responsibility for any matter that comes before the school committee. This is still the case even if he has recused himself from participating in the matter in his official capacity.

Example : A member who sits as an alternate on the conservation commission is a special municipal employee. Under town by-laws, he only has official responsibility for matters assigned to him. He may represent a resident who wants to file an application with the conservation commission as long as the matter is not assigned to him and he will not participate in it.

(c) Inside track. Being paid by your city or town, directly or indirectly, under some second arrangement in addition to your job is prohibited, unless an exemption applies. (See Section 20)

A municipal employee generally may not have a financial interest in a municipal contract, including a second municipal job. A municipal employee is also generally prohibited from having an indirect financial interest in a contract that the city or town has with someone else. This provision is intended to prevent municipal employees from having an "inside track" to further financial opportunities.

Example of violation : Legal counsel to the town housing authority becomes the acting executive director of the authority, and is paid in both positions.

Example of violation : A selectman buys a surplus truck from the town DPW.

Example of violation : A full-time secretary for the board of health wants to have a second paid job working part-time for the town library. She will violate Section 20 unless she can meet the requirements of an exemption.

Example of violation : A city councilor wants to work for a non-profit that receives funding under a contract with her city. Unless she can satisfy the requirements of an exemption under Section 20, she cannot take the job.

There are numerous exemptions. A municipal employee may hold multiple unpaid or elected positions. Some exemptions apply only to special municipal employees. Specific exemptions may cover serving as an unpaid volunteer in a second town position, housing-related benefits, public safety positions, certain elected positions, small towns, and other specific situations. Please call the Ethics Commission's Legal Division for advice about a specific situation.

IV. After you leave municipal employment. (See Section 18)

(a) Forever ban. After you leave your municipal job, you may never work for anyone other than the municipality on a matter that you worked on as a municipal employee.

If you participated in a matter as a municipal employee, you cannot ever be paid to work on that same matter for anyone other than the municipality, nor may you act for someone else, whether paid or not. The purpose of this restriction is to bar former employees from selling to private interests their familiarity with the facts of particular matters that are of continuing concern to their former municipal employer. The restriction does not prohibit former municipal employees from using the expertise acquired in government service in their subsequent private activities.

Example of violation : A former school department employee works for a contractor under a contract that she helped to draft and oversee for the school department.

(b) One year cooling-off period. For one year after you leave your municipal job you may not participate in any matter over which you had official responsibility during your last two years of public service.

Former municipal employees are barred for one year after they leave municipal employment from personally appearing before any agency of the municipality in connection with matters that were under their authority in their prior municipal positions during the two years before they left.

Example : An assistant town manager negotiates a three-year contract with a company. The town manager who supervised the assistant, and had official responsibility for the contract but did not participate in negotiating it, leaves her job to work for the company to which the contract was awarded. The former manager may not call or write the town in connection with the company's work on the contract for one year after leaving the town.

A former municipal employee who participated as such in general legislation on expanded gaming and related matters may not become an officer or employee of, or acquire a financial interest in, an applicant for a gaming license, or a gaming licensee, for one year after his public employment ceases.

(c) Partners. Your partners will be subject to restrictions while you serve as a municipal employee and after your municipal service ends.

Partners of municipal employees and former municipal employees are also subject to restrictions under the conflict of interest law. If a municipal employee participated in a matter, or if he has official responsibility for a matter, then his partner may not act on behalf of anyone other than the municipality or provide services as an attorney to anyone but the city or town in relation to the matter.

Example : While serving on a city's historic district commission, an architect reviewed an application to get landmark status for a building. His partners at his architecture firm may not prepare and sign plans for the owner of the building or otherwise act on the owner's behalf in relation to the application for landmark status. In addition, because the architect has official responsibility as a commissioner for every matter that comes before the commission, his partners may not communicate with the commission or otherwise act on behalf of any client on any matter that comes before the commission during the time that the architect serves on the commission.

Example : A former town counsel joins a law firm as a partner. Because she litigated a lawsuit for the town, her new partners cannot represent any private clients in the lawsuit for one year after her job with the town ended.

This summary is not intended to be legal advice and, because it is a summary, it does not mention every provision of the conflict law that may apply in a particular situation. Our website, <http://www.mass.gov/ethics> contains further information about how the law applies in many situations. You can also contact the Commission's Legal Division via our website, by telephone, or by letter. Our contact information is at the top of this document.

