

THE COMMONWEALTH OF MASSACHUSETTS

TOWN OF BECKET



**TOWN OF BECKET HANDBOOK FOR ELECTED
AND APPOINTED OFFICIALS,
BOARD/COMMITTEE/COMMISSION MEMBERS**

Including

“OPEN MEETING LAW”

CHAPTER 39 SECTIONS 18-25

“OPEN MEETING LAW” REGULATIONS

940 CMR 29.00

PRE-FILING VERSION AS PROVIDED BY THE ATTORNEY GENERAL

“CONFLICT OF INTEREST LAW”

SUMMARY FOR MUNICIPAL EMPLOYEES

AS PROVIDED BY THE ETHICS COMMISSION

CHAPTER 39 SECTIONS 2, 3, 17, 18, 19, 20, 23

“STANDARDS OF CONDUCT”

CHAPTER 268A SECTION 23

“RESIGNATIONS”

CHAPTER 41, SECTION 109

July 1, 2010

FOREWORD

This Handbook has been prepared by the Town Clerk for use by the elected and appointed individuals, Boards, Committees and Commissions involved in town government. It provides information concerning legal obligations, procedural matters and advice for the effective operation of these groups and officials.

The Town of Becket is grateful to the many citizens who serve in these positions for the Town and hope that this Handbook will assist them with their duties and responsibilities.

**George E. Roberts
Becket Town Clerk**

TABLE OF CONTENTS

- I. GENERAL
 - 1. Appointments
 - 2. Officers
 - 3. Applications
 - 4. Resignations
 - 5. Surrender of Records
 - 6. Reappointments
 - 7. Committee Composition and Duties
 - 8. Public Records
 - 9. Training

- II. MEETINGS
 - 1. Meeting Notice
 - 2. Meeting Schedule and Location
 - 3. Filing/Posting Meeting Notices
 - 4. Emergency Meetings
 - 5. Executive Session Meeting
 - 6. Cancelling a Meeting
 - 7. Quorum
 - 8. Providing Copies of the Open Meeting Law
 - 9. Open Meeting Law Guidance
 - 10. Minutes
 - 11. Public Hearings

- III. FINANCIAL MATTERS
 - 1. Submission of Bills
 - 2. Turning in Receipts
 - 3. Budget

- IV. CONDUCT OF PUBLIC OFFICIALS
 - 1. Conflict of Interest
 - 2. Online Training Program
 - 3. Political Activity
 - 4. Financial Conflicts

- V. APPENDIX A
 - 1. Open Meeting Law [MGL 39:18-25]

- VI. APPENDIX B
 - 1. Open Meeting Law Regulations [940 CMR 29.00] (*Pre-Filing Version*)

- VII. APPENDIX C
 - 1. Conflict of Interest Law (Chapter 268A, Section 23)

- VIII. APPENDIX D
 - 1. STANDARDS OF CONDUCT [M.G.L. Chapter 268 A Section 23]

- IX. APPENDIX E
 - 1. Resignation [MGL Chapter 41, Section 109]
- X. APPENDIX F
 - 1. Surrender of Records Form
- XI. APPENDIX G
 - 1. Examination of Evidence Form
- XII. APPENDIX H
 - 1. Sample Public Hearing Guidelines for Special Permit Applications

I. GENERAL

1. Appointments

Appointments are made, according to Town of Becket By-Laws, either by the Board of Selectmen or the Town Administrator. The appointed individual receives a formal written notification of his/her appointment and the individual must appear before the Town Clerk to take the required oath of office to faithfully perform their duties prior to beginning to perform those duties.

ALL ELECTED AND APPOINTED MEMBERS OF A BOARD OR COMMISSION OF THE TOWN AND EVERY ELECTED OR APPOINTED TOWN OFFICER MUST, BEFORE ENTERING UPON HIS OFFICIAL DUTIES, BE SWORN TO THE FAITHFUL PERFORMANCE THEREOF [41:107].

If litigation results from some action taken by a board, the case may be lost if all board members involved in the action have not taken the required oath. The Town Clerk may be called upon to certify the membership of the board and whether or not each board member had been sworn.

2. Officers

Each committee or board should elect a chairperson, vice-chairperson and clerk annually at their first meeting. Committees and boards may, at their option, establish various other offices within the committee.

3. Applications

Applications for a committee assignment should be submitted in writing to the Board of Selectmen. If no openings exist, the application will be held on file until an opening becomes available. Applications are available at Town Hall. A well-written application will assist the appointing authority in making the best decision on committee appointments. Ideally, the application should list education, work experience and outside accomplishments that will significantly contribute to the committee's area of responsibility.

4. Resignations

All resignations shall be submitted in writing to the Town Clerk, with a copy to the appointing authority and the committee to which appointment was made when the individual does not intend to continue to participate. Resignations of all town officials, elected or appointed, must be filed with the Town Clerk prior to becoming effective [41:109]. The person resigning may specify in his resignation an effective date later than the date of filing, however, if he does not, the effective date is the date on which the town clerk received it in his/her office. If the resignation is addressed only to the Town Clerk, the Town Clerk will send a copy to the Selectmen, the appointing authority if this is some official other than the Selectmen, and to the chair of the board or committee from which the person

resigned. The Town is unable to appoint someone else to the position unless a resignation is received by the Town Clerk.

5. Surrender of Records

Whoever has custody of any public records shall, upon the expiration of his term of office or employment, deliver to his successor all records which he is not authorized by law to retain. He shall make an oath before the Town Clerk that he has delivered the records and the Town Clerk shall make a record of such oath [66:14]. A form for this purpose is provided in Appendix D.

6. Reappointments

If a person chooses not to be reappointed, the appointing authority should be advised in advance. The appointing authority may, at their discretion, choose not to reappoint a person to a committee, and shall inform the person.

7. Committee Composition and Duties

Many committees, such as the Conservation Commission, Historical Commission and Zoning Board of Appeals, are charged by the applicable laws of the Commonwealth to act and consider matters in a very narrowly defined way. If you have been appointed to one of those positions, please ensure that you obtain a copy of these laws. The composition of most appointed committees is specified by Town By-Laws or Town Meeting vote. Below are descriptions of Town of Becket committees noting relevant General Laws and/or Town of Becket By-law:

Agricultural Commission

Established at the May 13, 2006, Annual Town Meeting to represent the Becket farming and agricultural community, as well as other farming and forestry activities. The purpose of the Agricultural Commission will be to support commercial agriculture and other farming activities in the Town of Becket. The Commission's duties shall include but will not be limited to the following: serve as facilitators for encouraging the pursuits of agriculture in Becket; promote agricultural-based economic opportunities in Town; act as mediators, advocates, educators, and/or negotiators on farming issues; work for the preservation of agricultural lands; advise the Board of Selectman, Planning Board, Zoning Board of Appeals, Conservation Commission, Board of Health, Historical Commission, Board of Assessors, and the Open Space Committee, or any other appropriate Town Boards, on issues involving agriculture; and shall pursue all initiatives appropriate to creating a sustainable agricultural community.

The Commission shall consist of three members appointed by the Board of Selectman, of which the majority of the membership shall be substantially engaged in the pursuit of agriculture. All members of the Commission must either be residents of the town, or owners and farmers of agricultural property within the town. There may be one or two alternates appointed to the Commission by the

Selectmen. The alternates will fill any vacancies at meetings of the Commission. In making its appointments, the Board of Selectman is asked specifically to consider the intent of the Commission to represent the agricultural interests of the town. The terms will be as follows: One member for a term of three years; one member for a term of two years and three thereafter; and one member for a term of one year and three years thereafter. The Board of Selectman shall fill a vacancy based on the unexpired term of the vacancy in order to maintain the cycle of appointments, based upon the recommendations of the Commission.

Arts Lottery Council (Becket Cultural Council) [MGL c.10, sec 58]

Appointed by Board of Selectmen; council consists of at least 5 but no more than 22 citizens; 3-year terms; members can serve a maximum of 2 consecutive terms, or a total of 6 years, unless the appointing authority removes a member before the expiration of a term; members must remain off the council for a 1-year interval before serving additional terms; terms should be staggered. The Local Cultural Council (LCC) Program was established in 1982 and was overseen by the Mass. Arts Lottery Council until 1990. It then merged with the Mass. Council on Arts & Hum. to form the Mass. Cultural Council. [962 CMR 2.00]

A Municipal Guide to Local Cultural Councils is available in the Town Clerk's Office and more information is available online at www.massculturalcouncil.org.

Board of Health - [MGL c. 111]

Shall consist of three (3) members, one (1) to be elected each year for a term of three (3) years.

ARTICLE 10--BOARD OF HEALTH

SECTION 1.The Board of Health shall have all the powers and duties given to it under the Massachusetts General Laws and the rules and regulations of state agencies, including but not limited to MGL Chapter 111, 105 CMR and 310 CMR (Title V), MGL Chapters 40A and 41 and its own rules and regulations.

SECTION 2.The Board of Health shall submit an annual report to the Town of all permits and licenses issued, fees collected, inspections made and orders issued for the year.

Board of Health members can find support from:

- Massachusetts Association of Health Boards
<http://www.mahb.org>

Cemetery Commission [MGL c.114: Cemeteries and Burials; MGL c.114, s.43M: Cremation Remains.]

There shall be three (3) CEMETERY COMMISSIONERS, one (1) to be elected each year for a term of three (3) years.

ARTICLE 14--CEMETERY COMMISSIONERS

SECTION 1.The Commissioners shall keep ledger accounts of all fees, when collected, and when transmitted to the Town Treasurer.

SECTION 2.A record shall be kept of all sales of burial plots and the deeds thereto.

SECTION 3.Perpetual Care contracts and all deeds to plots shall be deposited with the Town Treasurer for safe keeping in the vault. Only in this manner, can the Treasurer properly invest funds for maximum return to the Town.

Community Preservation Committee [MGL c. 44B]

Appointed by Board of Selectmen; constituted at 10/18/08 Special Town Meeting; seven members: one member of the Planning Board, one member of the Conservation Commission, one member of the Historical Commission, one member of the Parks Commission, and three at large members appointed by the Board of Selectmen. This committee shall study the needs, possibilities and resources of the town regarding community preservation.

Community Preservation Committee members can find support from:

- The Community Preservation Coalition
<http://www.communitypreservation.org/index.cfm>

Conservation Commission [MGL c. 40, sec 8C; MGL c. 131, sec 40; 310 CMR 10.00-10.99]

Appointed by Board of Selectmen, 7 members with staggered 3 year terms. Per Town Counsel 11/8/06, there are no age, citizenship, residency or training requirements for our Conservation Commission. Under the Conservation Commission Act (MGL 40:8C), there is no provision for alternate members who sit in and vote when regular members cannot be present.

ARTICLE 15--CONSERVATION COMMISSION

SECTION 1.The Commission shall have all the duties and powers given to it under Massachusetts General Laws and the rules and regulations of the state agencies, including but not limited to MGL Chapter 131, Section 40 and MGL Chapter 40, Section 8C.

SECTION 2.The Commission shall submit an annual report to the Town of all permits issued, fees collected, inspections made, and notices and orders issued for the year.

SECTION 3.The Commission shall consist of seven members to be appointed to staggered 3 year terms.

Conservation Commission members can find support from:

- Massachusetts Association of Conservation Commissions
<http://www.maccweb.org/>
- Massachusetts Department of Environmental Protection
<http://www.magnet.state.ma.us/dep/dephome.htm>

Council on Aging [MGL c. 40, sec 8B; MGL c. 19A]

The Town of Becket accepted MGL Chapter 40, Section 8B, to establish a Council on Aging for the purpose of coordinating or carrying out programs

designed to meet the problems of the aging and in coordination with programs of the Department of Elder Affairs.

Finance Committee

Shall consist of five (5) members, two (2) to be elected each year and one (1) on the third (3rd) year, for a term of three (3) years.

Article 16A--Finance Committee

Section 1.The Finance Committee shall have all duties and powers given to it under Massachusetts General Laws and the Town of Becket By-Laws, including but not limited to MGL Chapter 39, Section 16.

Section 2.The Finance Committee shall consider any and all municipal questions for the purpose of making reports or recommendations to the town. It shall be the duty of the committee to investigate all proposals in the articles of the warrant for any town meeting that shall in any way affect the finances of the town and to recommend to the town at the time of said meeting a course of action thereon, and in general to make recommendations to the town in regard to any financial business of the town. The committee shall make recommendations on each warrant article involving an appropriation. The committee may or may not endorse warrant articles, as it deems appropriate, where there is no appropriation requested.

Section 3.The committee shall have the authority to vote transfers from the Reserve Fund per MGL Chapter 40, Section 6. The Treasurer and the Town Accountant are to be notified of any action or transfer of fund requests.

Section 4.The Committee shall annually elect its own chairman, clerk and other necessary officers. All vacancies in the membership shall be filled by a majority vote of the combined Select Board and Finance Committee; the term to be until the next election.

Section 5.The Finance Committee shall report annually in the Town Report, the financial condition of the town

A "Finance Committee Handbook" is available from the Town Administrator.

Historical Commission [MGL c. 40, sec 8D]

Established at the May 17, 1975 Annual Town Meeting. Appointed by Board of Selectmen, the Historical Commission shall consist of five to seven members; 3 year terms.

Parks Commission [MGL c. 45, sec 2]

Appointed by Board of Selectmen; 3 year terms

Planning Board [MGL c. 41, sec 81A]

Shall consist of five (5) members, one (1) to be elected each year for a term of five (5) years.

ARTICLE 12--PLANNING BOARD

SECTION 1.The Planning Board shall have all the duties and powers given to it under the Massachusetts General Laws and the Town of Becket By-Laws and Zoning By-Laws, including but not limited to MGL Chapters 40 and 41.

SECTION 2.The Planning Board shall meet a minimum of twelve (12) times per year to review planning and shall hold public hearings as required for zoning amendments, special permits,

applications and changes in subdivision rules and regulations, or for the resolution of complaints from citizen groups.

SECTION 3.The Planning Board has functioned for a number of years under the authority of the Subdivision Control Law. The nature of this authority and the duties of the Board thereunder are described in MGL Chapter 41, Sections 81K through 81GG.

SECTION 4.The Planning Board shall report annually in the Town Report, the condition of the Town and any plans or proposals for its development and estimates of the cost thereof; and to enumerate any Special Permits granted or denied to petitioners during the year.

SECTION 5.The Board shall make available the most recently approved version of the Protective (Zoning) By-Laws.

A Planning Board Reference Handbook is available on line at <http://berkshireplanning.org/6/handbook/>

Planning Board members can find support from:

- Berkshire Regional Planning Commission
<http://www.berkshireplanning.org>
- Citizen Planner Training Collaborative
<http://www.umass.edu/masscptc>
- Massachusetts Department of Housing and Community Development
<http://www.state.ma.us/dhcd>
- The MA Federation of Planning and Appeals Boards (508-892-1411)

Recreation Committee

Established per Article 22 of the Annual Town Meeting on February 28 1970, to investigate and recommend improvements in, town sponsored recreation, sports, social, and cultural opportunities for youth; amended per Article 18 of the Annual Town Meeting of 5/10/97; Appointed by Board of Selectmen; 7 members; 3 year terms.

Zoning Board of Appeals [MGL c. 40A]

Shall consist of five(5) members and two(2) alternates, who shall be appointed by the Selectmen, for terms of such length and so arranged that the term of one (1) member shall expire each year; and said Board shall elect annually a chairman, vice-chairman and clerk from its own members.

ARTICLE 13--BOARD OF APPEALS

SECTION 1.Meetings of the Board shall be held at the call of the Chairman.

SECTION 2.Such Chairman, or in his absence the acting Chairman, may administer oaths, summon witnesses and call for the production of papers. All hearings of the Board shall be open to the public, and in full compliance with Section 1, and 2 of Article 4 as recorded in these by-laws.

SECTION 3.This Board will consider the appeals of property owners who may be aggrieved by zoning restrictions that are embodied in the Town's protective By- Laws, or by failure to acquire a Permit from the Inspector of Buildings because of said Protective By-Law restrictions. A Variance may then be granted upon evidence of a specific and material hardship.

SECTION 4. This Board has no jurisdiction over grievances or alleged hardships because of the imposition of Building Code restrictions by the Inspector of Buildings. Such matters must be referred to the appeals Board associated with the Code Commission in Boston.

Zoning Board of Appeals members can find support from:

- Citizen Planner Training Collaborative
<http://www.umass.edu/masscptc>
- Berkshire Regional Planning Commission
<http://www.berkshireplanning.org>
- Massachusetts Department of Housing and Community Development
<http://www.state.ma.us/dhcd>
- The MA Federation of Planning and Appeals Boards (508-892-1411)

8. Public Records

DEFINITION OF PUBLIC RECORD

“Public records” shall mean all books, papers, maps, photographs, recorded tapes, financial statements, statistical tabulations, or other documentary materials or data, regardless of physical form or characteristic, made or received by any officer or employee of any agency, executive office, department, board, commission, bureau, division or authority of the commonwealth, or of any political subdivision thereof,...unless such materials or date fall within the exemptions of [4:7(26); Public Records Access Regulations 950 CMR 32.03]. The statutory definition of “public records” contains exemptions providing the basis for withholding records completely or in part. The exemptions are strictly and narrowly construed. Where exempt information is intertwined with non-exempt information, the non-exempt portions are subject to disclosure once the exempt portions are deleted. Exemptions are listed in **A Guide to the Massachusetts Public Records Law** available from the Town Clerk or online at <http://www.sec.state.ma.us/pre/prepdf/guide.pdf> .

Minutes of open meetings become public upon creation. If the minutes are not transcribed at the time a request is made, there is no requirement under the Public Records Law that the board transcribe those minutes in response to the request. However, an audio tape of a meeting or any notes taken by the recording secretary are public records. Executive session minutes may remain confidential until the reason for the executive session no longer exists. Accurate minutes are to be kept and maintained of all meetings. The law requires the minutes to set forth: (a) the date; (b) the time; (c) the place; (d) the members present or absent; (e) the actions taken; and, for executive sessions, (f) any votes, by recorded roll call. Minutes need not be transcripts of everything said. They should accurately reflect what business was before the board or committee.

CUSTODY OF RECORDS

Town records are in the custody of the department, board, commission or office which generated them. The clerk of the department, board or office has the responsibility to enter the votes, orders or proceedings of the department in record books and has custody of those books. Every sole officer in charge of a department has custody of the records of that department.

The Public Records Law only applies to records that are in existence and in the custody of a government official. The law does not require an official to answer a question or to create a record in response to a question or a public records request.

The Town Clerk has custody of any record which is required under a section of the General Laws or by town bylaw or charter to be filed or recorded in the Town Clerk's office where the record was generated by another public agency, a private individual, or by a business.

ACCESS TO AND COPIES OF PUBLIC RECORDS

Record Custodian

Custodian means the governmental officer or employee who in the normal course of his or her duties has access to or control of public records.

When Records May be Inspected

The custodian of any public record must allow it to be inspected and examined by any person at reasonable times and without unreasonable delay. The regulations provide that the custodian must allow a public record to be inspected and copied by any person during regular business hours. However, if the office does not have regular business hours, a notice must be posted in a conspicuous place listing the name, position, address and telephone number of the person to be contacted to obtain access to public records.

In addition, the custodian is required to maintain procedures that will allow access to public records at reasonable times and without unreasonable delay and must respond to requests as soon as practicable and within 10 days.

Form of Request

Under the Public Records Law, a custodian of public records may not require that requests be made in writing. An oral request, made in person (not by telephone) is valid under the Public Records Law. In order for a requester to appeal a

custodian's failure to provide copies or access to records, however, their original request must have been in writing.

The person seeking access to a public record shall provide a reasonable description of the record so that the custodian can identify and locate it promptly. The person requesting the record cannot be made to make a personal inspection of the record prior to receiving a copy of it. In addition, the custodian is prohibited from requiring that the requester disclose the reasons he is seeking access to or a copy of a public record and the custodian cannot require proof of the requester's identity prior to complying with requests for copies of public records.

If a custodian has filed or recorded a non-public record along with the public record, the custodian must allow public inspection of that part which is a public record, provided it can be separated from that part which is not public. For example, if impounded birth records are recorded in the same book as those which are not impounded, the custodian must allow inspection of a page in the record book which does not contain any impounded entries. In this case, the custodian should be sure that the examiner does not turn to a page in the book containing an impounded record.

Response to Request

The custodian's written response, made within ten days of the request, must be either an offer to provide the requested materials or a written denial. A denial must detail the specific legal basis for withholding the requested materials. Requesters are free to file an appeal with the Public Records Division if they do not receive the records within the ten-day period, or if they dispute the custodian's written denial. A failure to respond within the allotted time period, or a denial in writing from the custodian, allows a requester to appeal to the Supervisor of Public Records.

Examination of Records

Inspection of a public record must take place under the supervision of the record custodian. Such supervision is necessary to prevent the removal of a record from the room, altering, defacing or destroying the record, or changing the order of papers in a file. The procedures a custodian establishes for the examination of records will depend to a large extent upon the physical arrangements of their office, the location in which the records are kept, and the custodian's own judgment as to what may be necessary to protect the records.

The custodian, or one of his/her employees, must keep the record being examined and the person examining it in view at all times. Should the examiner start to do something which might damage the record, such as underlining or making other marks on a paper or in a book, he should be stopped immediately. Under no circumstances should an examiner be allowed to remove a record to

examine it outside of the custodian's office area. Vigilance is strongly recommended to prevent an examiner from tearing a page out of a record book or removing papers from a file and taking them with him when he leaves the office.

Copies of Records

A copy of a public record must be furnished to any person upon request and upon the payment of a reasonable fee. In addition, every person for whom a search of public records is made shall, at the direction of the record custodian, pay the actual expense of such research.

If the costs are estimated to exceed \$10.00, the custodian must provide a written good faith estimate of cost including costs for copying, searching the records, etc. Actual cost of postage, if any, may be assessed and added to the copying costs. However, a custodian may not charge a fee for mere public inspection of records, unless compliance with the request for inspection takes more than one-half hour. In that case, a fee may be assessed.

NOTE: Please contact the Town Clerk with any questions that you might have. For further information see **A Guide to the Massachusetts Public Records Law** available from the Town Clerk or online at <http://www.sec.state.ma.us/pre/prepdf/guide.pdf>

9. Training

Elected and appointed individuals and Board/Committee/Commission members are encouraged to attend all available and relevant training. In addition to various statewide associations, training is available from:

www.townboard.org – a calendar of training events for local officials

www.umass.edu/masscptc - The Citizen Planner Training Collaborative

www.mma.org – The Massachusetts Municipal Association

www.state.ma.us/ethics - The State Ethics Commission

II. MEETINGS

1. Meeting Notice

A notice of every meeting of a governmental body must be filed with the Town Clerk at least 48 hours prior to the meeting [MGL 39:23B]. The Town Clerk will post the notice on the Town bulletin board. The notice must state the date, time and place of the meeting. In calculating the 48 hour period prior to a meeting, Saturdays should be included, but Sundays and legal holidays should be excluded. For example, a notice for a meeting to be held on Monday at 8 P.M. must be posted on the preceding Friday, not later than 8 P.M. Saturday would be included in the calculation even though the office may not be open for business on that day. Ideally, seven days notice is desirable for adequate notice to the public.

NOTE: Local and state political parties are not subject to the Open Meeting Law as they are 'party bodies' not governmental bodies.

2. Meeting Schedule and Location

The first meeting of a committee will be called by the chairman of the committee or, being none, then by the appointing authority. At that time it is advisable to review the goals of the appointed committee so that all members understand and agree upon the objectives of the committee.

To accomplish committee objectives, regular meeting times and locations should be established and some coordination with other boards and committees for meeting space may be necessary. Depending on committee workload, meetings may be held weekly, bi-monthly or, at the very least, monthly. A regular night of the week and time for the meetings should be established and notice of such shall be recorded in the office of the Town Clerk. By law, meetings must be conducted in a public building, but not scheduled for holidays, election days, or Sundays. Meeting space for the Town Hall must be scheduled with the Selectmen's Office (413-623-8934).

3. Filing/Posting Meeting Notices

Ordinarily, the secretary or chairman of a town board or committee should either mail or deliver to the town clerk in person the notice of the meeting. If the notice is delivered, it is suggested that the person delivering it be certain it is handed to the town clerk or the assistant town clerk rather than being left on an unattended desk or counter where it might be lost or misplaced.

If timing is short prior to the deadline for filing and posting, the town clerk may accept a notice by telephone for a board or committee. In this case, the town clerk would type the notice and post it noting that the notice was received "Per telephone call from (name) on (date)."

Each notice is Time stamped by the town clerk as soon as it is received and a copy is kept on file. The town clerk may be asked, either by the public or by a board or committee, to show that the notice requirements of the open meeting law have been met. Since the Supreme Judicial or Superior Court may invalidate any action of a board or committee taken at a meeting if the open meeting law has been violated, it is particularly important that meeting notices are filed in a timely manner. Notices of meetings must be kept by the town clerk for one year if no litigation is pending. [state retention schedule #2.59]. If litigation is pending, notices are kept at least until the litigation has been completed.

4. Emergency Meetings

The filing and posting requirements for meeting notices do not apply to emergency meetings. Emergency is defined in 39:23A as “a sudden, generally unexpected occurrence or set of circumstances demanding immediate action.” For example, a meeting of the board of health to take action with respect to a matter endangering the public health due to a sudden flooding of an area, would be considered an emergency meeting. A meeting simply called in a hurry to take action prior to the expiration of a deadline would not qualify as an emergency meeting.

5. Executive Session Meeting

No executive session (a meeting closed to the public) may be held until the governmental body has convened in an open session for which notice has been given and a majority of its members have voted to go into executive session. The procedures to be followed and the purposes for which an executive session may be held are specified in 39:23B (see Appendix A).

Since an open meeting is required prior to voting to convene an executive session, the meeting notice should be posted in the same manner as a regular meeting. The intent to convene an executive session is not required to be stated in the meeting notice, although it usually is.

Deliberations and votes held in private, commonly called executive session, are allowed under strict circumstances outlined in the open meeting law (See Appendix A). Executive sessions are allowed for discussions and negotiations of a land purchase, union negotiations, deployment of security measures, personnel or equipment, and certain actions concerning employees. A regular job performance review is not a reason for executive session, however, an executive session may be held if the nature of the discussion concerns the health and mental competence of an employee. If an employee is involved in any matter proposed for executive session, your board must be extremely careful that the rights of that person are not violated. Personal rights include advance notification and the right to have an attorney present. *For any questions relative to executive session, please consult the Town Administrator.*

6. Cancelling a Meeting

A board or committee should file with the town clerk a notice of cancellation of any regularly scheduled meeting and should file a separate notice of any special meeting not covered by the general listing.

7. Quorum

A committee should establish a quorum necessary for conducting business. This quorum must be greater than fifty per cent (50%) of committee membership. This may deviate depending on the criteria used to establish the committee. If a quorum is not present, the committee may not conduct any business and the meeting must be cancelled. Decisions of a board or committee are only effective when they are the result of a vote of a majority (or in some cases a 2/3 vote) of the board taken at a properly posted public meeting with a quorum present. No individual board member may act on behalf of that board on his/her own, even if that member is the Chair of that board.

8. Providing Copies of the Open Meeting Law

The town clerk is required to furnish a copy of the open meeting law to each person appointed or elected to a governmental body upon his being qualified. A person is qualified by taking the oath to faithfully perform his duties as a member of a board or committee. The town clerk is also required to obtain a signed acknowledgment from the board or committee member that he has been furnished with a copy of the open meeting law. The town clerk will revise the copies of the open meeting law to include any amendments as they are passed by the General Court but does not need to send an updated copy to each individual to whom the town clerk has already furnished the open meeting law. However, the chairman of each board or committee should receive information concerning any new provisions.

A copy of the Open Meeting Law [MGL 39:23B, 23A and 23C] and MGL 66:5A, Records of meetings of boards and commissions, are attached as **Appendix A** for your information and guidance. In addition, further information may be found in the booklet titled "Open Meeting Law Guidelines" published by the Attorney General's Office that is available from the Town Clerk and that can be found at the Town of Becket website (Town Clerk Department) or at <http://www.mass.gov/Cago/docs/Government/openmtgguide.pdf>.

IMPORTANT NOTE: "An Act to Improve the Laws Relating to Campaign Finance, Ethics and Lobbying," was signed on July 9, 2009, by Governor Deval Patrick. The Act includes many provisions of interest to municipalities and also includes substantial revisions to the Open Meeting Law. Importantly, the Act provides that the amendments to the Open Meeting Law will take effect on July

1, 2010. Prior to that time, it is anticipated that the Attorney General's office will issue detailed educational materials, regulations, and guidance regarding the manner in which the law will be implemented.

9. Open Meeting Law Guidance

“Telephone meetings” – discussion by telephone among members of a governmental body on an issue of public business within the jurisdiction of the body – are a violation of the Law. This is true even where individual telephone conversations occur in serial fashion.

“Revolving door” meetings, in which a quorum of members participates in serial fashion, are meetings under the Open Meeting Law and must comply with all the Law’s requirements.

“Email” - With the advent of computers, it has become more common for persons, both at home and at work, to communicate through electronic mail, or “e-mail.” Like private conversations held in person or over the telephone, e-mail conversations among a quorum of members of a governmental body that relate to public business violate the Open Meeting Law, as the public is deprived of the opportunity to attend and monitor the e-mail “meeting.” Thus it is a violation to e-mail to a quorum messages that can be considered invitations to reply in any medium, and would amount to deliberation on business that must occur only at proper meetings. It is not a violation to use e-mail to distribute materials, correspondence, agendas or reports so that committee members can prepare individually for upcoming meetings...”

10. Minutes

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

- Date, time and place
- Names of members present or absent
- A record of all votes
- A record of any vote to enter an executive session and the reason
- A summary of the discussions

A “Meetings and Minutes Guide for Boards, Commissions and Committees” is available from the Town Clerk or at http://www.ci.lancaster.ma.us/Pages/LancasterMA_Admin/meetings_and_minutes_guide.pdf .

Minutes should be approved by the members at the next regularly scheduled meeting. After approval, all minutes should be maintained in a permanent file and copies forwarded to the Town Clerk, Town Secretary (for inclusion on website), and any other Town committee impacted by a decision.

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

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

Some committees may have paid employees working for that committee. All appointments of such personnel must be made by the Town Administrator.

11. Public Hearings

If you serve on the Board of Selectmen, Planning Board, Zoning Board of Appeals, Conservation Commission, Historical Commission, or the Board of Health, occasionally you will be required to hold a public hearing in accordance with Massachusetts General Laws. Hearings are held for the purpose of gathering information from which your board or committee can draw a conclusion. Written notices, advertising in a local newspaper, the initiation of the hearing, and the written conclusions of a hearing may have strict legal time limitations that vary with the nature of the hearing and the Board. Several procedures are common to all hearings. All public hearings must take place at a properly posted public meeting. The Chairman or other designated person should run the hearing and state the guidelines and time allowances - if restricted - before any testimony is given. All questions should be directed to the chair who in turn, may ask for a response from the floor. We suggest that each board/committee develop written guidelines that:

1. Set ground rules, time limits, direct all questions to chair, etc.
2. During deliberations, findings of fact are noted
3. Decision is written using notes of discussion, fact & findings
4. Decision is filed in appropriate places

A sample format for the hearing is as follows:

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

A public hearing may be “continued” to a specific date, time and place and no further public notice or advertising is required to do so.

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

Per MGL 39:23D, a member of any municipal board, committee or commission when holding an adjudicatory hearing shall not be disqualified from voting in the matter solely due to that member’s absence from no more than a single session of the hearing at which testimony or other evidence is received. Before any such vote, the member shall certify in writing that he has examined all evidence received at the missed session and the written certification shall be part of the record of the hearing. A form for use by committee members for this purpose is attached as Appendix E.

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

A sample **Public Hearing Guideline for Special Permit Applications** is attached as Appendix F.

III. FINANCIAL MATTERS

1. Submission of Bills

All requests for payment of bills must be given to the Town Treasurer. An "Expense Account Cover Sheet" is available in the Committee Room for your use and invoices must be attached. There are very strict laws, regulations and guidelines for collecting, accounting for, and expending public money. Your committee may have an administrative budget voted at Town Meeting; otherwise, you will have to seek funds for any goods or services through the Town Administrator. Large expenditures, for goods or programs, will have to be voted upon at Town Meeting and, in many instances competitive bidding is required by law. Committees will need guidance from the Town Administrator's Office on the proper bidding format

2. Turning in Receipts

If your board or committee charges a fee for any of your services or programs, that money must be kept in a secure place and then turned over to the Town Treasurer. All checks received should be made payable to "Town of Becket". The turnover form "Schedule of Departmental Payments to Treasurer" (available from the Treasurer or in the Committee Room) should be used when submitting cash and/or checks and it should be noted on the form whether the item was paid by cash or check. The original form with cash/checks should be given to the Town Treasurer, or, in her absence, placed in the box outside her office door labeled Treasurer's Turnovers. A copy of the turnover form should be given to the Town Secretary for forwarding to the Town Accountant. Plan to turn in the money at least once a month. Please keep in mind that unauthorized expenditures of public money for goods or services is illegal.

3. Budget

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

IV. CONDUCT OF PUBLIC OFFICIALS

1. Conflict of Interest

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

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

On July 1, 2009, Governor Patrick signed into law [Chapter 28 of the Acts of 2009, An Act to Improve the Laws Relating to Campaign Finance, Ethics and Lobbying](#) (the "Bill"). The Bill's changes to the conflict of interest law take effect on September 29, 2009. The Bill contains mandatory ethics training requirements for all public employees. All individuals who are considered state, county or municipal employees under the conflict of interest law, including special employees, will be required to comply with the new training requirements. The Board of Selectmen of each municipality must designate a senior level employee as the municipality's liaison to the Ethics Commission. The Commission will provide educational materials to the liaisons and assist them in developing procedures for the municipality to comply with the ethics training requirements, and the conflict of interest law generally.

As of December 28, 2009, and on an **annual basis** thereafter, all current state, county and municipal employees, including special employees, must be provided with a [summary of the conflict of interest law](#), as posted on the Ethic Commission's website. State, county and municipal employees hired after December 28, 2009, should be provided with the summary within 30 days of the date on which they commence employment, and on an annual basis thereafter. Every public employee must sign a written acknowledgment that he has received the summary. The Town Clerk of each municipality must provide the summary of the law for municipal employees to that municipality's employees, and must maintain employees' acknowledgements of receipt.

For purposes of the conflict of interest law, all individuals who serve in state, county or municipal agencies are considered public employees. This includes individuals who serve full-time, part-time, intermittently, as well as individuals who are appointed or elected, paid or unpaid (i.e. volunteers). In addition, individuals who serve as consultants and/or have a contract with a state, county

or municipal agency may be considered public employees, and thus required to comply with new the training requirements. To determine whether you are a state, county or municipal employee for purposes of the conflict of interest law, please see [G.L. c. 268A, § 1\(d\),\(g\), and \(o\)](#), or contact the Commission's Legal Division at (617) 371-9500.

The **Summary of the Conflict of Interest Law** is attached as **Appendix B**.

2. Online Training Program

On or before April 2, 2010, and **every 2 years** thereafter, all current state, county and municipal employees must complete an ethics training program on the Ethics Commission's website. Public employees hired after April 2, 2010, must complete the online training **within 30 days** of the dates on which they commence employment, and **every 2 years** thereafter. Public employees in the Town of Becket will be required to provide a certificate of completion of the training to the Town Clerk and the certificate shall be retained by the Town for **6 years**.

The Online Training is available at the Ethics Commission website www.state.ma.us/ethics. Upon completing the online training program, employees should print out the completion certificate, keep a copy for themselves and provide a copy of the completion certificate to the Town Clerk.

3. Political Activity

Chapter 55 of the General Laws regulates your political activity. Appointed, compensated employees may not directly or indirectly solicit contributions, or anything else of value, for campaigns or other political purposes. In addition, the Town itself and its departments may not engage in campaigning for a person or an issue. For more information about political activity, contact the Office of Campaign and Political Finance at (617) 979-8300 or visit their website at <http://www.mass.gov/ocpf/> .

4. Financial Conflicts

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

APPENDIX

A

THE COMMONWEALTH OF MASSACHUSETTS OPEN MEETING LAW, G.L. c. 30A, §§ 18-25

* * *

*Chapter 28 of the Acts of 2009, sections 17–20, repealed the existing state Open Meeting Law, G.L. c. 30A, §§ 11A, 11A-1/2, county Open Meeting Law, G.L. c. 34, §9F, 9G, and **municipal Open Meeting Law, G.L. c. 39, §§ 23A, 23B, and 23C**, and replaced them with a single Open Meeting Law covering all public bodies, G.L. c. 30A, §§ 18-25, enforced by the Attorney General.*

* * *

SECTION 18: [DEFINITIONS]

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

“Deliberation”, an oral or written communication through any medium, including electronic mail, between or among a quorum of a public body on any public business within its jurisdiction; provided, however, that “deliberation” shall not include the distribution of a meeting agenda, scheduling information or distribution of other procedural meeting or the distribution of reports or documents that may be discussed at a meeting, provided that no opinion of a member is expressed.

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

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

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

“Meeting”, a deliberation by a public body with respect to any matter within the body’s jurisdiction; provided, however, “meeting” shall not include: (a) an on-site inspection of a project or program, so long as the members do not deliberate; (b) attendance by a quorum of a public body at a public or private gathering, including a conference or training program or a media, social or other event, so long as the members do not deliberate; (c) attendance by a quorum of a public body at a meeting of another public body that has complied with the notice requirements of the open meeting law, so long as the visiting members communicate only by open participation in the meeting on those matters under discussion by the host body and do not deliberate; (d) a meeting of a quasi-judicial board or commission held for the sole purpose of making a decision required in an adjudicatory proceeding brought before it; or (e) a session of a town meeting convened under section 10 of chapter 39 which would include the attendance by a quorum of a public body at any such session. “Minutes”, the written report of a meeting created by a public body required by subsection (a) of section 23 and section 5A of chapter 66. “Open meeting law”, sections 18 to 25, inclusive. “Post notice”, to display conspicuously the written announcement of a meeting either in hard copy or electronic format. “Preliminary screening”, the initial stage of screening applicants conducted by a committee or subcommittee of a public body solely for the purpose of providing to the public body a list of those applicants qualified for further consideration or interview. “Public body”, a multiple-member board, commission, committee or subcommittee within the executive or legislative branch or within any county, district, city, region or town, however created, elected, appointed or otherwise constituted, established to serve a public purpose; provided, however,

that the governing board of a local housing, redevelopment or other similar authority shall be deemed a local public body; provided, further, that the governing board or body of any other authority established by the general court to serve a public purpose in the commonwealth or any part thereof shall be deemed a state public body; provided, further, that "public body" shall not include the general court or the committees or recess commissions thereof, bodies of the judicial branch or

bodies appointed by a constitutional officer solely for the purpose of advising a constitutional officer and shall not include the board of bank incorporation or the policyholders protective board; and provided further, that a subcommittee shall include any multiple-member body created to advise or make recommendations to a public body.

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

SECTION 19. [DIVISION OF OPEN GOVERNMENT AND ADVISORY COMMISSION]

(a) There shall be in the department of the attorney general a division of open government under the direction of a director of open government. The attorney general shall designate an assistant attorney general as the director of the open government division. The director may appoint and remove, subject to the approval of the attorney general, such expert, clerical and other assistants as the work of the division may require. The division shall perform the duties imposed upon the attorney general by the open meeting law, which may include participating, appearing and intervening in any administrative and judicial proceedings pertaining to the enforcement of the open meeting law. For the purpose of such participation, appearance, intervention and training authorized by this chapter the attorney general may expend such funds as may be appropriated therefor. (b) The attorney general shall create and distribute educational materials and provide training to public bodies in order to foster awareness and compliance with the open meeting law. Open meeting law training may include, but shall not be limited to, instruction in: (1) the general background of the legal requirements for the open meeting law; (2) applicability of sections 18 to 25, inclusive, to governmental bodies; (3) the role of the attorney general in enforcing the open meeting law; and (4) penalties and other consequences for failure to comply with this chapter. (c) There shall be an open meeting law advisory commission. The commission shall consist of 5 members, 2 of whom shall be the chairmen of the joint committee on state administration and regulatory oversight; 1 of whom shall be the president of the Massachusetts Municipal Association or his designee; 1 of whom shall be the president of the Massachusetts Newspaper Publishers Association or his designee; and 1 of whom shall be the attorney general or his designee. The commission shall review issues relative to the open meeting law and shall submit to the attorney general recommendations for changes to the regulations, trainings, and educational initiatives relative to the open meeting law as it deems necessary and appropriate. (d) The attorney general shall, not later than January 31, file annually with the commission a report providing information on the enforcement of the open meeting law during the preceding calendar year. The report shall include, but not be limited to:

(1) the number of open meeting law complaints received by the attorney general; (2) the number of hearings convened as the result of open meeting law complaints by the attorney general; (3) a summary of the determinations of violations made by the attorney general; (4) a summary of the orders issued as the result of the determination of an open meeting law violation by the attorney general; (5) an accounting of the fines obtained by the attorney general as the result of open meeting law enforcement actions; (6) the number of actions filed in superior court seeking relief from an order of the attorney general; and (7) any additional information relevant to the administration and enforcement of the open meeting law that the attorney general deems appropriate.

SECTION 20. [NOTICE, REMOTE PARTICIPATION, PUBLIC PARTICIPATION, CERTIFICATION]

(a) Except as provided in section 21, all meetings of a public body shall be open to the public. (b) Except in an emergency, in addition to any notice otherwise required by law, a public body shall post notice of every meeting at least 48 hours prior to such meeting, excluding Saturdays, Sundays and legal holidays. In an emergency, a public body shall post notice as soon as reasonably possible prior to such meeting. Notice shall be

printed in a legible, easily understandable format and shall contain the date, time and place of such meeting and a listing of topics that the chair reasonably anticipates will be discussed at the meeting. (c) For meetings of a local public body, notice shall be filed with the municipal clerk and posted in a manner conspicuously visible to the public at all hours in or on the municipal building in which the clerk's office is located. For meetings of a regional or district public body, notice shall be filed and posted in each city or town within the region or district in the manner prescribed for local public bodies. For meetings of a regional school district, the secretary of the regional school district committee shall be considered to be its clerk and shall file notice with the clerk of each city or town within such district and shall post the notice in the manner prescribed for local public bodies. For meetings of a county public body, notice shall be filed in the office of the county commissioners and a copy of the notice shall be publicly posted in a manner conspicuously visible to the public at all hours in such place or places as the county commissioners shall designate for the purpose. For meetings of a state public body, notice shall be filed with the attorney general by posting on a website in accordance with procedures established for this purpose. The attorney general shall have the authority to prescribe or approve alternative methods of notice where the attorney general determines such alternative will afford more effective notice to the public. (d) The attorney general may by regulation or letter ruling, authorize remote participation by members of a public body not present at the meeting location; provided, however, that the absent members and all persons present at the meeting location are clearly audible to each other; and provided, further, that a quorum of the body, including the chair, are present at the meeting location. Such authorized members may vote and shall not be deemed absent for the purposes of section 23D of chapter 39. (e) After notifying the chair of the public body, any person may make a video or audio recording of an open session of a meeting of a public body, or may transmit the meeting through any medium, subject to reasonable requirements of the chair as to the number, placement and operation of equipment used so as not to interfere with the conduct of the meeting. At the beginning of the meeting the chair shall inform other attendees of any such recordings. (f) No person shall address a meeting of a public body without permission of the chair, and all persons shall, at the request of the chair, be silent. No person shall disrupt the proceedings of a meeting of a public body. If, after clear warning from the chair, a person continues to disrupt the proceedings, the chair may order the person to withdraw from the meeting and if the person does not withdraw, the chair may authorize a constable or other officer to remove the person from the meeting. (g) Within 2 weeks of qualification for office, all persons serving on a public body shall certify, on a form prescribed by the attorney general, the receipt of a copy of the open meeting law, regulations promulgated pursuant to section 25 and a copy of the educational materials prepared by the attorney general explaining the open meeting law and its application pursuant to section 19. Unless otherwise directed or approved by the attorney general, the appointing authority, city or town clerk or the executive director or other appropriate administrator of a state or regional body, or their designees, shall obtain such certification from each person upon entering service and shall retain it subject to the applicable records retention schedule where the body maintains its official records. The certification shall be evidence that the member of a public body has read and understands the requirements of the open meeting law and the consequences of violating it.

SECTION 21. [EXECUTIVE SESSIONS]

(a) A public body may meet in executive session only for the following purposes: (1) To discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual. The individual to be discussed in such executive session shall be notified in writing by the public body at least 48 hours prior to the proposed executive session; provided, however, that notification may be waived upon written agreement of the parties. A public body shall hold an open session if the individual involved requests that the session be open. If an executive session is held, such individual shall have the following rights: i. to be present at such executive session during deliberations which involve that individual; ii. to have counsel or a representative of his own choosing present and attending for the purpose of advising the individual and not for the purpose of active participation in the executive session; iii. to speak on his own behalf; and

iv. to cause an independent record to be created of said executive session by audio-recording or transcription, at the individual's expense. The rights of an individual set forth in this paragraph are in addition to the rights that he may have from any other source, including, but not limited to, rights under any laws or collective bargaining agreements and the exercise or non-exercise of the individual rights under this section shall not be construed as a waiver of any rights of the individual. 2. To conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel; 3. To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares; 4. To discuss the deployment of security personnel or devices, or strategies with respect thereto; 5. To investigate charges of criminal misconduct or to consider the filing of criminal complaints; 6. To consider the purchase, exchange, lease or value of real property if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body; 7. To comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements; 8. To consider or interview applicants for employment or appointment by a preliminary screening committee if the chair declares that an open meeting will have a detrimental effect in obtaining qualified applicants; provided, however, that this clause shall not apply to any meeting, including meetings of a preliminary screening committee, to consider and interview applicants who have passed a prior preliminary screening; 9. To meet or confer with a mediator, as defined in section 23C of chapter 233, with respect to any litigation or decision on any public business within its jurisdiction involving another party, group or entity, provided that: (i) any decision to participate in mediation shall be made in an open session and the parties, issues involved and purpose of the mediation shall be disclosed; and (ii) no action shall be taken by any public body with respect to those issues which are the subject of the mediation without deliberation and approval for such action at an open session; or 10. to discuss trade secrets or confidential, competitively-sensitive or other proprietary information provided in the course of activities conducted by a governmental body as an energy supplier under a license granted by the department of public utilities pursuant to section 1F of chapter 164, in the course of activities conducted as a municipal aggregator under section 134 of said chapter 164 or in the course of activities conducted by a cooperative consisting of governmental entities organized pursuant to section 136 of said chapter 164, when such governmental body, municipal aggregator or cooperative determines that such disclosure will adversely affect its ability to conduct business in relation to other entities making, selling or distributing electric power and energy. (b) A public body may meet in closed session for 1 or more of the purposes enumerated in subsection (a) provided that: 1. the body has first convened in an open session pursuant to section 21; 2. a majority of members of the body have voted to go into executive session and the vote of each member is recorded by roll call and entered into the minutes; 3. before the executive session, the chair shall state the purpose for the executive session, stating all subjects that may be revealed without compromising the purpose for which the executive session was called; 4. the chair shall publicly announce whether the open session will reconvene at the conclusion of the executive session; and 5. accurate records of the executive session shall be maintained pursuant to section 23.

SECTION 22. [MINUTES, RECORDS]

(a) A public body shall create and maintain accurate minutes of all meetings, including executive sessions, setting forth the date, time and place, the members present or absent, a summary of the discussions on each subject, a list of documents and other exhibits used at the meeting, the decisions made and the actions taken at each meeting, including the record of all votes. (b) No vote taken at an open session shall be by secret ballot. Any vote taken at an executive session shall be recorded by roll call and entered into the minutes. (c) Minutes of all open sessions shall be created and approved in a timely manner. The minutes of an open session, if they exist and whether approved or in draft form, shall be made available upon request by any person within 10 days. (d) Documents and other exhibits, such as photographs, recordings or maps, used by the body at an open or executive session shall, along with the minutes, be part of the official record of the session. (e) The minutes of any open session, the notes, recordings or other materials used in the preparation of such minutes and all documents

and exhibits used at the session, shall be public records in their entirety and not exempt from disclosure pursuant to any of the exemptions under clause Twenty-sixth of section 7 of chapter 4. Notwithstanding this paragraph, the following materials shall be exempt from disclosure to the public as personnel information: (1) materials used in a performance evaluation of an individual bearing on his professional competence, provided they were not created by the members of the body for the purposes of the evaluation; and (2) materials used in deliberations about employment or appointment of individuals, including applications and supporting materials; provided, however, that any resume submitted by an applicant shall not be exempt. (f) The minutes of any executive session, the notes, recordings or other materials used in the preparation of such minutes and all documents and exhibits used at the session, may be withheld from disclosure to the public in their entirety under subclause (a) of clause Twenty-sixth of section 7 of chapter 4, as long as publication may defeat the lawful purposes of the executive session, but no longer; provided, however, that the executive session was held in compliance with section 21. When the purpose for which a valid executive session was held has been served, the minutes, preparatory materials and documents and exhibits of the session shall be disclosed unless the attorney-client privilege or 1 or more of the exemptions under said clause Twenty-sixth of said section 7 of said chapter 4 apply to withhold these records, or any portion thereof, from disclosure. For purposes of this subsection, if an executive session is held pursuant to clause (2) or (3) of subsections (a) of section 21, then the minutes, preparatory materials and documents and exhibits used at the session may be withheld from disclosure to the public in their entirety, unless and until such time as a litigating, negotiating or bargaining position is no longer jeopardized by such disclosure, at which time they shall be disclosed unless the attorney-client privilege or 1 or more of the exemptions under said clause Twenty-sixth of said section 7 of said chapter 4 apply to withhold these records, or any portion thereof, from disclosure. (g)(1) The public body, or its chair or designee, shall, at reasonable intervals, review the minutes of executive sessions to determine if the provisions of this subsection warrant continued non-disclosure. Such determination shall be announced at the body's next meeting and such announcement shall be included in the minutes of that meeting. (2) Upon request by any person to inspect or copy the minutes of an executive session or any portion thereof, the body shall respond to the request within 10 days following receipt and shall release any such minutes not covered by an exemption under subsection (f); provided, however, that if the body has not performed a review pursuant to paragraph (1), the public body shall perform the review and release the non-exempt minutes, or any portion thereof, not later than the body's next meeting or 30 days, whichever first occurs. A public body shall not assess a fee for the time spent in its review.

SECTION 23. [COMPLAINTS, REMEDIES]

(a) Subject to appropriation, the attorney general shall interpret and enforce the open meeting law. (b) At least 30 days prior to the filing of a complaint with the attorney general, the complainant shall file a written complaint with the public body, setting forth the circumstances which constitute the alleged violation and giving the body an opportunity to remedy the alleged violation; provided, however, that such complaint shall be filed within 30 days of the date of the alleged violation. The public body shall, within 14 business days of receipt of a complaint, send a copy of the complaint to the attorney general and notify the attorney general of any remedial action taken. Any remedial action taken by the public body in response to a complaint under this subsection shall not be admissible as evidence against the public body that a violation occurred in any later administrative or judicial proceeding relating to such alleged violation. The attorney general may authorize an extension of time to the public body for the purpose of taking remedial action upon the written request of the public body and a showing of good cause to grant the extension. (c) Upon the receipt of a complaint by any person, the attorney general shall determine, in a timely manner, whether there has been a violation of the open meeting law. The attorney general may, and before imposing any civil penalty on a public body shall, hold a hearing on any such complaint. Following a determination that a violation has occurred, the attorney general shall determine whether the public body, 1 or more of the members, or both, are responsible and whether the violation was intentional or unintentional. Upon the finding of a violation, the attorney general may issue an

order to: (1) compel immediate and future compliance with the open meeting law; (2) compel attendance at a training session authorized by the attorney general; (3) nullify in whole or in part any action taken at the meeting; (4) impose a civil penalty upon the public body of not more than \$1,000 for each intentional violation; (5) reinstate an employee without loss of compensation, seniority, tenure or other benefits; (6) compel that minutes, records or other materials be made public; or (7) prescribe other appropriate action. (d) A public body or any member of a body aggrieved by any order issued pursuant to this section may, notwithstanding any general or special law to the contrary, obtain judicial review of the order only through an action in superior court seeking relief in the nature of certiorari; provided, however, that notwithstanding section 4 of chapter 249, any such action shall be commenced in superior court within 21 days of receipt of the order. Any order issued under this section shall be stayed pending judicial review; provided, however, that if the order nullifies an action of the public body, the body shall not implement such action pending judicial review. (e) If any public body or member thereof shall fail to comply with the requirements set forth in any order issued by the attorney general, or shall fail to pay any civil penalty imposed within 21 days of the date of issuance of such order or within 30 days following the decision of the superior court if judicial review of such order has been timely sought, the attorney general may file an action to compel compliance. Such action shall be filed in Suffolk superior court with respect to state public bodies and, with respect to all other public bodies, in the superior court in any county in which the public body acts or meets. If such body or member has not timely sought judicial review of the order, such order shall not be open to review in an action to compel compliance. (f) As an alternative to the procedure in subsection (b), the attorney general or 3 or more registered voters may initiate a civil action to enforce the open meeting law. Any action under this subsection shall be filed in Suffolk superior court with respect to state public bodies and, with respect to all other public bodies, in the superior court in any county in which the public body acts or meets. In any action filed pursuant to this subsection, in addition to all other remedies available to the superior court, in law or in equity, the court shall have all of the remedies set forth in subsection (b). In any action filed under this subsection, the order of notice on the complaint shall be returnable not later than 10 days after the filing and the complaint shall be heard and determined on the return day or on such day as the court shall fix, having regard to the speediest possible determination of the cause consistent with the rights of the parties; provided, however, that orders may be issued at any time on or after the filing of the complaint without notice when such order is necessary to fulfill the purposes of the open meeting law. In the hearing of any action under this subsection, the burden shall be on the respondent to show by a preponderance of the evidence that the action complained of in such complaint was in accordance with and authorized by the open meeting law; provided, however, that no civil penalty may be imposed on an individual absent proof that the action complained of violated the open meeting law. (g) It shall be a defense to the imposition of a penalty that the public body, after full disclosure, acted in good faith compliance with the advice of the public body's legal counsel. (h) Payment of civil penalties under this section paid to or received by the attorney general shall be paid into the general fund of the commonwealth.

SECTION 24. [INVESTIGATIONS, HEARINGS]

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

testimony under oath or acknowledgment in respect of any such documentary material. Such testimony and examination shall take place in the county where such person resides or has a place of business or, if the parties consent or such person is a nonresident or has no place of business within the commonwealth, in Suffolk county. (b) Notice of the time, place and cause of such taking of testimony, examination or attendance shall be given by the attorney general at least 10 days prior to the date of such taking of testimony or examination. (c) Service of any such notice may be made by: (1) delivering a duly-executed copy to the person to be served or to a partner or to any officer or agent authorized by appointment or by law to receive service of process on behalf of such person; (2) delivering a duly-executed copy to the principal place of business in the commonwealth of the person to be served; or (3) mailing by registered or certified mail a duly-executed copy addressed to the person to be served at the principal place of business in the commonwealth or, if said person has no place of business in the commonwealth, to his principal office or place of business. (d) Each such notice shall: (1) state the time and place for the taking of testimony or the examination and the name and address of each person to be examined, if known and, if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs; (2) state the statute and section thereof, the alleged violation of which is under investigation and the general subject matter of the investigation; (3) describe the class or classes of documentary material to be produced thereunder with reasonable specificity, so as fairly to indicate the material demanded; (4) prescribe a return date within which the documentary material is to be produced; and (5) identify the members of the attorney general's staff to whom such documentary material is to be made available for inspection and copying. (e) No such notice shall contain any requirement which would be unreasonable or improper if contained in a subpoena duces tecum issued by a court of the commonwealth or require the disclosure of any documentary material which would be privileged, or which for any other reason would not be required by a subpoena duces tecum issued by a court of the commonwealth. (f) Any documentary material or other information produced by any person pursuant to this section shall not, unless otherwise ordered by a court of the commonwealth for good cause shown, be disclosed to any person other than the authorized agent or representative of the attorney general, unless with the consent of the person producing the same; provided, however, that such material or information may be disclosed by the attorney general in court pleadings or other papers filed in court. (g) At any time prior to the date specified in the notice, or within 21 days after the notice has been served, whichever period is shorter, the court may, upon motion for good cause shown, extend such reporting date or modify or set aside such demand or grant a protective order in accordance with the standards set forth in Rule 26(c) of the Massachusetts Rules of Civil Procedure. The motion may be filed in the superior court of the county in which the person served resides or has his usual place of business or in Suffolk county. This section shall not be applicable to any criminal proceeding nor shall information obtained under the authority of this section be admissible in evidence in any criminal prosecution for substantially identical transactions.

SECTION 25. [REGULATIONS, LETTER RULINGS, ADVISORY OPINIONS]

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

APPENDIX

B

940 CMR 29.00: OPEN MEETING LAW REGULATIONS OML Regulations: Pre-Filing Version

29.01: Purpose, Scope and Other General Provisions

- (1) Authority. The Attorney General promulgates 940 CMR 29.00, relating to the Open Meeting Law (“OML”), pursuant to G.L. c. 30A, § 25 (a) and (b).
- (2) Purpose. The purpose of 940 CMR 29.00 is to interpret, enforce and effectuate the purposes of the Open Meeting Law, G.L. c. 30A §§ 18-25.
- (3) Severability. If any provision of 940 CMR 29.00 or the application of such provision to any person, public body, or circumstances shall be held invalid, the validity of the remainder of 940 CMR 29.00 and the applicability of such provision to other persons, public bodies, or circumstances shall not be affected thereby.
- (4) Mailing. All complaints, notices (except meeting notices) and other materials that must be sent to another party shall be sent by one of the following means: first class mail, email, hand delivery, or by any other means at least as expeditious as first class mail.

29.02: Definitions

As used in 940 CMR 29.00, the following terms shall, unless the context clearly requires otherwise, have the following meanings:

Commission means the Open Meeting Law Advisory Commission, as defined by G.L. c. 30A, § 19(c).

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

Intentional Violation means an act or omission by a public body, or a member of a public body, that knowingly violates the OML. Repeated conduct in violation of the OML will be considered evidence of an intentional violation where the body or member has previously been authoritatively advised that the conduct violates the OML.

MMA means the Massachusetts Municipal Association.

MNPA means the Massachusetts Newspaper Publishers Association.

OML means the Open Meeting Law, G.L. c. 30A, §§ 18-25.

Person means all individuals and entities, including governmental officials and employees. “Person” does not include public bodies.

Post notice means to place a written announcement of a meeting on a bulletin board, electronic display, website, cable television channel, newspaper or in a loose-leaf binder in a manner conspicuously visible to the public, including disabled persons, in accordance with 940 CMR 29.03.

Public body has the identical meaning as set forth in G.L. c. 30A, § 18, that is, a multiple-member board, commission, committee or subcommittee within the executive or legislative branch or within any county, district, city, region or town, however created, elected, appointed or otherwise constituted, established to serve a public purpose; provided, however, that the governing board of a local housing, redevelopment or similar authority shall be deemed a local public body; provided, further, that the governing board or body of any other authority established by the general court to serve a public purpose in the commonwealth or any part thereof shall be deemed a state public body; provided, further, that “public body” shall not include the general court or the committees or recess commissions thereof, bodies of the judicial branch or bodies appointed by a constitutional officer solely for the purpose of advising a constitutional officer and shall not include the board of bank incorporation or the policyholders protective board; and provided, further, that a subcommittee shall include any multiple-member body created to advise or make recommendations to a public body.

29.03: Notice Posting Requirements

- (1) Requirements Applicable to Local, Regional, District, County, and State Public Bodies
 - (a) Except in an emergency, public bodies shall file meeting notices at least 48 hours in advance of a public meeting, excluding Saturdays, Sundays and legal holidays. In an emergency, the notice shall be posted as soon as reasonably possible prior to such meeting.
 - (b) Meeting notices shall be printed in a legible, easily understandable format and shall contain the date, time and place of such meeting and a listing of topics that the chair reasonably anticipates will be discussed at the meeting. The list of topics shall have sufficient specificity to reasonably advise the public of the issues to be discussed at the meeting.
- (2) Requirements Specific to Local Public Bodies
 - (a) The municipal clerk, or other such person designated by the municipality, shall post notice of the meeting in a manner conspicuously visible to the public at all hours in or on the municipal building in which the clerk’s office is located, and the date and time that the notice is posted shall be conspicuously recorded thereon. Such notice shall be accessible to the public in the municipal clerk’s office. If such notice is not conspicuously visible to the

public during hours when the clerk's office is closed, such notice shall also be made available through an alternative method prescribed or approved by the Attorney General under 940 CMR 29.04. A description of such alternative method, sufficient to allow members of the public to obtain notice through such method, shall be posted in a manner conspicuously visible to the public at all hours on or adjacent to the main and handicapped accessible entrances to the municipal building in which the clerk's office is located.

- (b) The municipal clerk shall file with the Attorney General written notice of the municipality's notice posting method and any change thereto. All public bodies in the municipality shall consistently use the municipality's most current notice posting method on file with the Attorney General.
- (3) Requirements Specific to Regional or District Public Bodies. Notice shall be filed and posted in each city and town within the region or district in the manner prescribed for or selected by local public bodies in that city or town.
- (4) Requirements Specific to Regional School Districts. The secretary of the regional school district committee shall be considered to be its clerk and shall file notice with the clerk of each city and town within such district and each such municipal clerk shall post the notice in the manner prescribed or selected by local public bodies in that city or town.
- (5) Requirements Specific to County Public Bodies. Notice shall be filed in the office of the county commissioners and a copy of the notice shall be publicly posted in a manner conspicuously visible to the public at all hours in such place or places as the county commissioners shall designate for this purpose. The public body shall file with the Attorney General written notice of the public body's notice posting method and any change thereto. The public body shall consistently use the most current notice posting method on file with the Attorney General.
- (6) Requirements Specific to State Public Bodies. Notice shall be posted on a website in accordance with procedures established by the Attorney General in consultation with the Information Technology Division of the Executive Office for Administration and Finance (EOAF) for the purpose of providing the public with effective notice. A copy of each notice shall also be sent to EOAF and to the Secretary of State's Regulations Division. The chair of each state public body shall notify the Attorney General in writing of its Internet notice posting location and any change thereto. The public body shall consistently use the most current notice posting method on file with the Attorney General.

29.04: Alternative Notice Posting Methods

For local public bodies, the Attorney General has determined that the following alternative methods will provide more effective notice to the public, provided that all meeting notices posted under an alternative method shall include the same content as required by section 29.03(1)(b) and shall also be available during hours when the clerk's office is open in the manner required by subsection 29.03(2)(a):

- (1) public bodies may post notice of meetings on the municipal website, **AND**, post notice or provide Internet access in an alternate municipal building (e.g., police or fire station) where the notice is accessible at all hours;
- public bodies may post notice of meetings on cable television, **AND**, post notice or provide cable television access in an alternate municipal building (e.g., police or fire station) where the notice is accessible at all hours;

OML Regulations: Pre-Filing Version continued

- public bodies may post notice of meetings in a newspaper of general circulation in the municipality, **AND**, post notice or a copy of the newspaper containing the meeting notice at an alternate municipal building (e.g., police or fire station) where the notice is accessible at all hours;
- (4) public bodies may place a computer monitor or electronic or physical bulletin board displaying meeting notices on or in a door, window, or near the entrance of the municipal building in which the clerk's office is located in such a manner as to be visible to the public from outside the building, or;
 - (5) public bodies may provide an audio recording of meeting notices, available to the public by telephone at all hours.

29.05: Complaints

- (1) All complaints shall be in writing, using the form approved by the Attorney General and available on the Attorney General's website. A public body need not, and the Attorney General will not, investigate or address anonymous complaints.
- (2) Public bodies, or the municipal clerk in the case of a local public body, should provide any person, on request, with an OML complaint form. If a paper copy is unavailable, then the public body should direct the requesting party to the Attorney General's website, where an electronic copy of the form will be available for downloading and printing.
- (3) For local public bodies, the complainant shall file the complaint with the municipal clerk. For all other public bodies, the complainant shall file the complaint with the chair of the relevant public body, or if there is no chair, then with the public body. The complaint shall be filed within 30 days of the alleged OML violation, or if the alleged OML violation could not reasonably have been known at the time it occurred, then within 30 days of the date it should reasonably have been discovered.
- (4) The public body shall review timely complaints to ascertain the time, date, place and circumstances which constitute the alleged violation. If the public body needs additional information to resolve the complaint, then the chair may request it from the complainant within seven business days of receiving the complaint. The complainant shall respond within 10 business days after he or she receives the request. The public body will then have an additional 10 business days after receiving complainant's response to review the complaint and take any remedial action pursuant to 940 CMR 29.05(5).
- (5) Within 14 business days after receiving the complaint, unless an extension has been granted by the Attorney General as provided below, the public body shall review the complaint's allegations; take remedial action, if appropriate; and send to the Attorney General a copy of the complaint and a description of any remedial action taken. The public body shall simultaneously notify the complainant that it has sent such materials to the Attorney General and shall provide the complainant with a copy of the description of any remedial action taken.
 - (a) Any remedial action taken by the public body in response to a complaint under this section shall not be admissible as evidence that a violation occurred in any later administrative or judicial proceeding against the public body relating to the alleged violation.
 - (b) If the public body requires additional time to resolve the complaint, it may obtain an extension from the Attorney General by submitting a written request within 14 business days after receiving the complaint. The Attorney

General will grant an extension if the request demonstrates good cause. Good cause will generally be found if, for example, the public body cannot meet within the 14 business day period to consider proposed remedial action. The Attorney General shall notify the complainant of any extension and the reason for it.

- (6) If at least 30 days have passed after the complaint was filed with the public body, and if the complainant is unsatisfied with the public body's resolution of the complaint, the complainant may file a copy of the original complaint with the Attorney General along with any other materials the complainant believes are relevant. The Attorney General may decline to investigate complaints filed with the Attorney General more than 90 days after the alleged OML violation, unless an extension was granted to the public body or the complainant demonstrates good cause for the delay.
- (7) The Attorney General shall acknowledge receipt of all complaints and will resolve them within a reasonable period of time, generally 90 days. If additional time is necessary to resolve a particular complaint, the Attorney General will notify the complainant and the public body.
- (8) If a complaint appears untimely, is not in the proper form, or is missing information, the Attorney General shall return the complaint to the complainant within 14 business days of its receipt, noting its deficiencies. The complainant shall then have 14 business days to correct the deficiencies and resubmit the complaint to the Attorney General. If the deficiencies are not corrected, no further action on the complaint will be taken by the Attorney General.

29.06: Investigation

Whenever the Attorney General has reasonable cause to believe that an OML violation has occurred that has not been adequately remedied, then the Attorney General may conduct an investigation.

- (1) The Attorney General shall notify the public body or person that is the subject of the investigation and any complainant within a reasonable period of time of the existence of the investigation and the nature of the alleged OML violation being investigated.

- (2) Upon notice of the investigation, the subject of the investigation shall provide the Attorney General with all information relevant to the investigation. The subject may also submit a memorandum or other writing to the Attorney General, addressing the allegations being investigated.

If the subject of the investigation fails to voluntarily provide the necessary or relevant information within 30 days of receiving notice of the investigation, the Attorney General may issue subpoenas to obtain the information in accordance with G.L. c. 30A, § 24, to:

- (a) Take testimony under oath;
- (b) Examine or cause to be examined any documentary material; or
- (c) Require attendance during such examination of documentary material by any person having knowledge of the documentary material and take testimony under oath or acknowledgment in respect of any such documentary material.

Any documentary material or other information produced by any person pursuant to this section shall not, unless otherwise ordered by a court of the Commonwealth for good cause shown, be disclosed without that person's consent by the Attorney General to any person other than the Attorney General's authorized agent or representative. However, the Attorney General may disclose the material in court pleadings or other papers filed in court; or, to the extent necessary, in an administrative hearing or other action taken to conduct or resolve the investigation pursuant to these regulations.

29.07: Resolution

- (1) No Violation. If the Attorney General determines, after investigation, that the OML has not been violated, the Attorney General shall terminate the investigation and notify, in writing, the subject of the investigation and any complainant.
- (2) Violation Resolved Without Hearing. If the Attorney General determines after investigation that the OML has been violated, the Attorney General may resolve the investigation without a hearing. The Attorney General shall determine whether the relevant public body, one or more of its members, or both, were responsible, and whether the violation was intentional or unintentional. The Attorney General will notify, in writing, any complainant of the investigation's resolution. Upon finding a violation of the OML, the Attorney General may take one of the following actions:
 - (a) Informal action. The Attorney General may resolve the investigation with a telephone call or letter that explains the violation and clarifies the subject's obligations under the OML, providing the subject with a reasonable period of time to comply with any outstanding obligations.
 - (b) Formal order. The Attorney General may resolve the investigation with a formal order. The order may require:
 1. immediate and future compliance with the OML;
 2. attendance at a training session authorized by the Attorney General;
 3. that minutes, records or other materials be made public; or
 4. other appropriate action.

OML Regulations: Pre-Filing Version continued

Orders shall be available on the Attorney General's website.

- (3) Violation Resolved After Hearing. The Attorney General may conduct a hearing where the Attorney General deems appropriate. The hearing shall be conducted pursuant to 801 CMR 1.00, et seq., as modified by any regulations issued by the Attorney General. At the conclusion of the hearing, the Attorney General shall determine whether an OML violation occurred, whether the public body, one or more of its members, or both, were responsible, and whether the violation was intentional or unintentional. The Attorney General will notify, in writing, any complainant of the investigation's resolution. Upon a finding that a violation occurred, the Attorney General may order:

- (a) immediate and future compliance with the OML;
- (b) attendance at a training session authorized by the Attorney General;
- (c) nullification of any action taken at the relevant meeting, in whole or in part;
- (d) imposition of a fine upon the public body of not more than \$1,000 for each intentional violation;
- (e) that an employee be reinstated without loss of compensation, seniority, tenure or other benefits;
- (f) that minutes, records or other materials be made public; or
- (g) other appropriate action.

Orders issued following a hearing shall be available on the Attorney General's website.

- (4) A public body or any member of a body aggrieved by any order issued by the Attorney General under this section may obtain judicial review of the order through an action in Superior Court seeking relief in the nature of certiorari. Any such action must be commenced in Superior Court within 21 days of receipt of the order.

29.08: Advisory Opinions

The Attorney General may issue advisory opinions on request or at his or her own initiative to provide guidance to public bodies and the public on changes in the OML, court decisions interpreting the OML, or other OML developments.

The Attorney General shall ordinarily make a draft advisory opinion available for comment on the Attorney General's website at least 60 days prior to the planned issuance of the opinion. Notice of the posting shall be provided to the MMA, the MNPA and the Commission..

Comments on the draft advisory opinion shall be submitted, in writing, to the Attorney General at least 30 days prior to the planned issuance of the opinion.

- (3) Action taken by a public body in good faith compliance with an advisory opinion, provided that the circumstances are not materially different, shall not constitute an intentional violation of the OML.

29.09: Other Enforcement Actions Nothing in 940 CMR 29.06 or 29.07 shall limit the Attorney General's authority to file a civil action to enforce the OML pursuant to G.L. c. 30A, § 23(f).

APPENDIX

C

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, and is considering creating additional 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. 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.

(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.

(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 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 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.

(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, 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.

Version 3: Revised October 7, 2009

APPENDIX

D

**THE COMMONWEALTH OF MASSACHUSETTS
GENERAL LAWS
STANDARDS OF CONDUCT
GENERAL LAWS, CHAPTER 268A, Section 23**

23. SUPPLEMENTAL PROVISIONS: STANDARDS OF CONDUCT

In addition to the other provisions of this chapter, and in supplement thereto, standards of conduct, as hereinafter set forth, are hereby established for all state, county and municipal employees.

No current officer or employee of a state, county or municipal agency shall knowingly, or with reason to know:

accept other employment involving compensation of substantial value, the responsibilities of which are inherently incompatible with the responsibilities of his public office;

use or attempt to use his official position to secure for himself or others unwarranted privileges or exemptions which are of substantial value and which are not properly available to similarly situated individuals.

act in a manner which would cause a reasonable person, having knowledge of the relevant circumstances, to conclude that any person can improperly influence or unduly enjoy his favor in the performance of his official duties, or that he is likely to act or fail to act as result of kinship, rank, position or undue influence of any party or person. It shall be unreasonable to so conclude if such officer or employee has disclosed in writing to his appointing authority or, if no appointing authority exists, disclose in a manner which is public in nature, the facts which would otherwise lead to such a conclusion.

(Standards of Conduct continued)

No current or former office or employee of a state, county or municipal agency shall knowingly, or with reason to know:

accept employment or engage in any business or professional activity which will require him to disclose confidential information which he has gained by reason of his official position or authority.

improperly disclose materials or data within the exemptions to the definition of public records as defined by Section 7 of Chapter 4, and were acquired by him in the course of his official duties nor use such information to further his

personal interest.

(d) Any activity specifically exempted from any of the prohibitions in any other section of this chapter shall also be exempt from the provisions of this section. The state ethics commission, established by Chapter 268B, shall not enforce the provisions of this section with respect to any such exempted activity.

(e) Where a current employee is found to have violated the provisions of this section, appropriate administrative action as is warranted may also be taken by the appropriate constitutional officer, by the head of a state, county or municipal agency. Nothing in this section shall preclude any such constitutional officer or head of such agency from establishing and enforcing additional standards of conduct.

(f) Upon qualification for office following an appointment or election to a municipal agency, such appointed or elected person shall be furnished by the city or town clerk with a copy of this section. Each such person shall sign a written acknowledgement that he has been provided with such copy.

APPENDIX

E

Resignation of Appointees or Elected Officials

Chapter 41: Section 109.

Resignation; notice; residence requirements

Section 109. **No resignation of a town or district officer shall be deemed effective unless and until such resignation is filed with the town or district clerk or such later time certain as may be specified in such resignation.**

Upon receipt of a resignation the clerk shall notify the remaining members, if the resignation is received from a board of two or more members, and he shall further notify the executive officers of the town or district and such notification shall include the effective date of the resignation. Unless otherwise provided by general or special law, ordinance or by-law, a person need not, in order to accept appointment to a public office in a town or district, be a resident of such town or district; provided, however, that if an appointed town or district officer is required to become a resident within a period of time specified at the time of his appointment by the board or officer making the appointment but fails to do so within the time specified, or if an elected or appointed town or district officer removes from the town or district in which he holds his office, he shall be deemed to have vacated his office.

This means that if you resign, no vacancy shall be deemed to exist until your resignation, with an original signature, is filed with the Town Clerk.

APPENDIX

F



TOWN OF BECKET
557 Main Street, Becket, MA 01223
TOWN HALL – (413) 623-8934
FAX – (413) 623-6036

MGL 66:14. Surrender of records by retiring officer

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

I solemnly swear that I have delivered to my successor in office all of the records which I am not authorized by law to retain.

Name (please print)

Signature of retiring / resigning officer

Office held

Subscribed and sworn to before me,

Becket Town Clerk

*Seal of the
Town of Becket*

Date: _____

APPENDIX

G

EXAMINATION OF EVIDENCE FORM

Pursuant to G.L. c. 39, § 23D, the undersigned member of a board, committee or commission of the Town of Becket hereby certifies that he or she has examined all of the evidence received by the said board, committee or commission at the one session of its adjudicatory hearing on the matter identified below which the undersigned member failed to attend, and that such evidence included an audio or video recording of the missed session or a transcript thereof. This Certification has been executed prior to the undersigned's participating in a vote on the matter and shall be part of the record of the hearing.

Member Name:

Board, Committee or Commission:

Subject Matter of Hearing:

Date of Missed Session:

Signed under the pains and penalties of perjury

this ___ day of _____, 20__.

Signature

Chapter 39: Section 23D. Adjudicatory hearings; attendance by municipal board, committee and commission members; voting disqualification

Section 23D. (a) Notwithstanding any general or special law to the contrary, upon municipal acceptance of this section for 1 or more types of adjudicatory hearings, a member of any municipal board, committee or commission when holding an adjudicatory hearing shall not be disqualified from voting in the matter solely due to that member's absence from no more than a single session of the hearing at which testimony or other evidence is received. Before any such vote, the member shall certify in writing that he has examined all evidence received at the missed session, which evidence shall include an audio or video recording of the missed session or a transcript thereof. The written certification shall be part of the record of

the hearing. Nothing in this section shall change, replace, negate or otherwise supersede applicable quorum requirements.

(b) By ordinance or by-law, a city or town may adopt minimum additional requirements for attendance at scheduled board, committee, and commission hearings under this section.

Accepted by the Town of Becket on July 24, 2007.

APPENDIX

H

Public Hearing Guidelines For Special Permit Applications

1. Establish a quorum
 - a. Four positive votes are required for a five member board to approve an application.
 - b. If only four members are present, the applicant must be given the option of deferring the hearing date to a meeting with five members.

2. Open the hearing
 - a. It is now ____ PM and the public hearing for the application for Special Permit by _____ will open.
_____ is applying to _____ at _____.
 - b. Will the secretary please confirm that all Parties in Interest have been notified and all fees and reimbursements to the town been paid?

3. Applicant's presentation
 - a. _____, please present your application.

4. Board questions
 - a. Are there any questions from board members?

5. Public questions/comments
 - a. Are there any members of the public who wish to be heard?
 - b. (Be sure to indicate verbally when "Public Input" is closed.)

6. Close the Hearing
 - a. It is now ____ PM and this hearing is closed.

7. Board deliberation

- a. Board members discuss the application
- b. Share their views
- c. Identify relevant and credible evidence
- d. Assess compliance with standards
- e. The Chair, seeing a consensus emerging, may go around the table and give each member one final opportunity to comment and bring the discussion to closure.

8. Vote

- a. Entertain a motion to approve or deny the application
- b. Get a second to the motion
- c. Is there any discussion on the motion?
- d. Will the Secretary please read back the motion?
- e. Confirm that the motion is correct
- f. Poll the board for a vote
- g. State the results of the vote

GEORGE E. ROBERTS
TOWN CLERK
BECKET TOWN HALL
557 MAIN STREET
BECKET, MASSACHUSETTS 01770

July 1, 2010

Please note that on July 1, 2009 Governor Patrick approved legislation that makes significant amendments to Massachusetts laws related to open meetings of governmental bodies and public records. This legislation is effective as of July 1, 2010. On July 1, 2010 the Attorney General released "OML Regulations: Pre-Filing Version" which are included until a finalized version is available.

Also please note: Special thanks to Jeanne Pryor, who's organization, diligence and dedication has set a high standard for all Town Clerks who shall follow in her office.

-NOTES-

**THIS FORM MUST BE SIGNED, DATED AND
RETURNED TO THE TOWN CLERK WITHIN TWO
(2) WEEKS OF RECEIPT**

CERTIFICATE OF RECEIPT OF OPEN MEETING LAW AND OTHER MATERIALS

I, _____, who qualified for the office(s) of
(Name - Print)
_____, on _____, certify pursuant
(Office) (Date)
to G.L. c. 30A, § 20(g), that I have received copies of the following Open Meeting Law
materials:

- the Open Meeting Law, G.L. c. 30A, §§ 18-25;
- regulations promulgated by the Attorney General under G.L. c. 30A, § 25; and
- educational materials promulgated by the Attorney General under G.L. c. 30A, § 19(b), explaining the Open Meeting Law and its application.

I further certify that I have received the TOWN OF BECKET HANDBOOK FOR ELECTED AND APPOINTED OFFICIALS, BOARD / COMMITTEE / COMMISSION MEMBERS (revised July 1, 2010) which includes a copy of the Ethics Law which requires that On or before April 2, 2010, and every 2 years thereafter, that all elected and appointed officials must complete an ethics training program on the Ethics Commission's website **within 30 days** of the dates on which they commence employment, and **every 2 years** thereafter. Public employees in the Town of Becket will be required to provide a certificate of completion of the training to the Town Clerk. The Online Training is available at the Ethics Commission website www.state.ma.us/ethics. Upon completing the online training program, employees should print out the completion certificate, keep a copy for themselves and provide a copy of the completion certificate to the Town Clerk

I have read and understand the requirements of the Open Meeting Law and the consequences for violating it. I further understand that the materials I have received may be revised or updated from time to time, and that I have a continuing obligation to implement any changes in the Open Meeting Law during my term of office.

(Name)

(Name of Public Body)

(Date)

Pursuant to G.L. c. 30A, § 20(g), an executed copy of this certificate shall be retained, according to the relevant records retention schedule, by the appointing authority, city or town clerk, or the executive director or other appropriate administrator of a state or regional body, or their designee.

**THIS FORM MUST BE SIGNED, DATED AND
RETURNED TO THE TOWN CLERK WITHIN TWO
(2) WEEKS OF RECEIPT**