



# **SOUTH BERWICK TOWN COUNCIL**

## **RULES OF ORDER**

### **AND**

## **PROCEDURE**

**RULES OF ORDER AND PROCEDURE FOR SOUTH BERWICK TOWN COUNCIL**

**Town Council Meetings**

1. Regular Town Council Meetings

The Town Council shall meet in regular session in the Town Council Chambers at 6:30 p.m. on the second and fourth Tuesday of each month. If the meeting day falls on a Town holiday, the meeting shall be held on the following day unless otherwise determined by the Town Council. Should there be a need to cancel, postpone or change the location of the regular meeting for any reason, the Town Manager at the direction of the Chair or Vice Chair in the absence of the Chair, shall see that all Councilors are notified, and reasonable notice given to the public. Notice of the date, time and location of a rescheduled meeting or change in meeting location shall be made in the same manner as is required in Rule 3, Special Meetings.

2. Town Council Meeting Agenda

All reports, communications, ordinances, resolutions, contract documents or other matters to be submitted to the Town Council shall be delivered to the Town Manager by 10:00 a.m. on the Thursday prior to the regular Tuesday meeting if they are to have consideration at that meeting.

Agenda items must clearly state the scope and intent of the action to be taken.

3. Special Meetings

Special meetings may be called by the Chair of the Town Council, by the Vice Chair in the Chair's absence, or by 3 or more members of the Town Council. The Town Manager, in the direction of the person who calls the meeting, shall notify the public of the time and place as outlined by the town code. After the meeting is called, the Town Manager shall notify each Town Councilor of the date, the hour, and the purpose of the meeting.

4. Adjourned Sessions

Any session of the Town Council may be continued or adjourned from day to day, or for more than one day, but no adjournment shall be for a longer period than until the next regular meeting.

5. Workshop

The Town Council may meet in workshop session to discuss any matter. The workshop session is open to the public and news media. At the discretion of the Chair or the Town Council, public input may be allowed. No binding vote shall be taken on any matter under discussion, but a non-binding consensus vote on any matter under discussion may be taken.

6. Public Comment period and guidelines:

- A. A Public Comment period for up to fifteen (15) minutes shall be included in the agenda at the beginning of every regularly scheduled Council meeting to allow citizens an opportunity to comment on non-agenda items or issues relevant to the performance of the duties of the Council.
- B. During the Public Comment period, speakers will not exceed a time limit of three (3) minutes unless authorized by the Councilor Chair.
- C. Citizens speaking during the Public Comment period must follow the same rules of decorum as described in paragraph 11C.
- D. Citizens speaking during the Public Comment period **shall not** make any comments that:
  - i. disparage individual Town Councilors, Town staff or other citizens.
  - ii. address specific situations that are in litigation, including situations where the Town is a party to the litigation.
  - iii. pertain to any personal disputes between themselves and other residents; or
  - iv. Make any comments referencing support or opposition for any candidate for political office or political causes.
  - v. Bring forward any complaints about a municipal elected/appointed official, a town employee, or another citizen. All formal complaints must be submitted to the Town Manager in writing via hard copy.

**The Chair**

7. Chair

The Chair of the Town Council, or in the Chair's absence the Vice Chair, shall preside at the hour appointed for the Town Council to meet, and shall immediately call the members to order. The role shall then be called by the Councilor Chair, who shall enter in the minutes of the meeting the names of the members present.

8. Vice Chair

The Vice Chair shall serve as Chair during the absence or disability of the Chair and, in case of vacancy in the office of the Chair, pending the election of a successor.

9. Town Council Privileges

The Chair may move, second, declare by unanimous consent, and debate from the Chair, subject only to such limitations of debate as are by these rules imposed on all

members and shall not be deprived of any of the right and privileges of a Councilor by reason of acting as the Chair.

10. Temporary Chair

In case of the absence of the Chair and Vice Chair, the Clerk shall call the Town Council to order and call the roll of members. If a quorum is found to be present, the Town Council shall proceed to elect, by a majority vote of those present, a Chair of the meeting, to act until the Chair or Vice Chair appears.

11. Decorum and Order

The Chair shall preserve decorum and decide all questions of order and procedure, subject to appeal to the Town Council.

- A. During the Town Council meetings, Councilors shall preserve Order and decorum and shall neither by conversation or otherwise delay or interrupt the proceedings nor refuse to obey the order of the Chair or the rules of the Town Council. Town Councilors desiring to speak shall address the Chair, and upon recognition by the Chair, shall confine themselves to the question under debate and shall avoid all personalities and indecorous language. A Councilor, once recognized, shall not be interrupted while speaking unless called to order by the Chair, unless a point of order is raised by another member or unless the speaker chooses to yield to questions from another member. If a Councilor is called to order while speaking, the Town Councilor shall cease speaking immediately until the question of order is determined. If ruled to be in order, the Town Councilor shall be permitted to proceed. If ruled to be not in order, the Town Councilor shall remain silent or shall alter the remarks to comply with rules of the Town Council. All members of the Town Council shall accord the utmost courtesy to each other, to Town employees and to public members appearing before the Town Council and shall always refrain from rude and derogatory remarks, reflections as to integrity, abusive comments, and statements as to motives and personalities. Town Councilors shall confine their questions to the matters before the assembly and in debate shall confine their remarks to the issues before the Town Council. Members shall be removed from the meeting for failure to comply with decisions of the Chair or for continued violations of the rules of the Town Council. If the Chair fails to act, any member may move to require the Chair to enforce the rules and the affirmative vote of a majority of the Town Council shall require the Chair to act.
- B. Members of the administrative staff and employees of the Town shall observe the same rules of procedure and decorum applicable to members of the Town Council. While the Chair shall have the authority to preserve decorum in meetings as far as staff members and Town employees are concerned, the Town Manager shall also be responsible for the orderly conduct and decorum of all Town employees under the Town Manager's direction and control. The Town Manager shall take such disciplinary action as may be necessary to ensure that such decorum is always preserved by Town employees in Town Council meetings. Staff members desiring to address the Town Council or members of the public shall be recognized by the Chair, shall state their name for the record, and shall limit their remarks

to the matter under discussion. All remarks and questions addressed to the Town Council shall be addressed to the Town Council as a whole and not to any individual member thereof. No staff member, other than the staff member having the floor, shall enter into any discussion either directly or indirectly without the permission of the Chair.

- C. Public members attending Town Council meetings also shall observe the same rules of propriety, decorum, and good conduct applicable to members of the Town Council. Any person making personal, impertinent, and slanderous remarks or who becomes boisterous while addressing the Town Council or while attending the Town Council meeting may be removed from the premises if a police officer is so directed by the Chair, and such person shall be barred from further audience before the Town Council for the duration of the meeting. Unauthorized remarks from the audience, stamping of feet, whistles, yells, and similar demonstrations shall not be permitted by the Chair, who may direct a police officer to remove such offenders from the premises. Aggravated cases shall be prosecuted on appropriate complaint signed by the Chair. In case the Chair fails to act, any member of the Town Council may move to require the Chair to act to enforce the rules, and the affirmative vote of the majority of the Town Council shall require the Chair to act.
- D. Public members desiring to address the Town Council shall be recognized by the Chair, shall state their name and address in an audible tone for the record, and shall limit their remarks to the question under discussion. All remarks and questions addressed to the administration of the Town shall be addressed to the Town Manager and not to any individual Town employee. No person shall enter into any discussion either directly or through a member of the Town Council without the permission of the Chair.
- E. No personnel matters shall be discussed in public unless authorized by Maine Statute Executive Sessions §405.6A.

### **Duties and Privileges of Town Councilors**

#### 12. Conflict of Interest

- A. Financial Interest: A Town Councilor who has a financial interest in any contract with the Town or in the sale, purchase or lease of any land, material, supplies, or services to or from the Town, shall disclose the interest and abstain from negotiating, voting upon or otherwise participating in decisions involving such contract, sale, purchase or lease, unless the contract, lease or sale is awarded through a competitive bidding process. Similarly, a Councilor who has a financial interest in any matter before the Town Council, shall disclose the interest and abstain from voting on any matter involving the interest. A copy of the disclosure and the abstention shall be recorded with the Town Clerk. A Councilor has a "financial interest" within the meaning of this section if the Councilor owns at least a ten percent interest in the business or economic entity or ten percent or more of the stock

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of the corporation involved in the pending transaction or matter.

- B. **Relationship:** A Town Councilor is disqualified in any quasi-judicial matter before the Town Council, if the Councilor is related to any of the parties within the sixth degree (second cousin). The Councilor shall disclose the interest and abstain from voting unless all parties waive the disqualification in writing.
- C. **Appearance of Conflict:** A Town Councilor shall avoid the appearance of a conflict of interest, whether there is a technical conflict or not, by disclosure of the facts underlying the potential conflict, and where appropriate, by abstaining from voting on the matter. If, after disclosure, the Councilor believes the interest will affect the Councilor's ability to make a fair and impartial decision faithful to the public interest, the Councilor shall abstain from voting.
- D. **Participation:** An abstaining Councilor may but need not remain in the Town Council Chamber during debate or votes on that issue. An abstaining Councilor who wishes to be heard on a matter may join other members of the public and speak as a member of the public during that portion of the meeting when the public is being heard. In no case should an abstaining Councilor participate in Council discussions or deliberations or otherwise act in an official capacity in the matter as to which the Councilor has abstained.
- E. **Judgment of Qualifications:** If there is any doubt as to whether a Councilor has a conflict of interest in any matter, the Chair shall determine the qualification of the challenged member. The decision of the Town Council shall be final.

13. Right of Appeal

Any Town Councilor may appeal to the Town Council from a ruling of the Chair if that appeal is seconded. The Town Councilor making the appeal may briefly state the reason for the appeal, and the Chair may briefly explain the ruling. There shall be no debate on the appeal, and no other Town Councilor shall participate in the discussion. The Chair shall then put the question, "Shall the decision of the Chair be sustained?" If a majority of the Town Councilors present vote "Yes", the ruling of the Chair is sustained; otherwise, it is overruled.

14. Voting

Every Town Councilor present when a question is put forth shall vote either "Yes" or "No", unless the Town Council shall, for special reason, excuse that Town Councilor from voting. Application to be excused from voting must be made before the votes are called for. The Town Councilor having briefly stated the reason for the request, the decision thereon shall be made without debate.

15. Limitation of Debate

No Town Councilor shall speak more than twice upon any one subject without leave of the Town Council.

16. Demand for Roll Call

Upon demand of any Town Councilor, made before the Chair has announced the vote, the roll shall be called for yeas and nays upon any question before the Town Council. It shall not be for Town Councilors to explain their vote during the roll call.

17. Personal Privilege

The right of a Town Councilor to address the Town Council on a question of personal privilege shall be limited to cases in which the Town Councilor's integrity, character, or motives are assailed, questioned, or impugned.

18. Excusal from Attendance

A Town Councilor may not miss more than two consecutive regularly scheduled meetings unless excused by a vote of most of the Town Councilors present.

19. Excusal During Meeting

No Town Councilor may leave the Town Council Chamber during a roll call vote while in regular session without permission from the Chair.

**Town Council Procedure**

20. Order of Business

The business of all regular meetings of the Town Council shall be transacted in the following order, unless the Town Council changes the order:

- (1) Executive Session (if and when necessary, at the beginning or end)
- (2) Pledge of Allegiance
- (3) Roll Call of Members/Acknowledge Notice
- (4) Approval of Minutes
- (5) Signing of Treasurer's Warrant
- (6) Public Comments
- (7) Unfinished Business
- (8) New Business
- (9) Town Manager's Report
- (10) Council Member Comments
- (11) Adjournment

21. Town Council Action on Items

The following procedures are *suggested*:

1. Sponsor or manager introduces and explains the item.  
Sponsor, manager, staff, or others (as designated by sponsor or manager) provide additional explanation or information.  
Any councilor **may** make a motion (Note 1)
2. Town Council questions (no debate)
3. Public input
4. Additional questions from Town Council (no debate)
5. Chair recites motion, if already made, or looks for motion (Note 1)
6. Town Council debate
7. Amendments to motion (optional) and debate
8. Vote on motion (amended, if applicable)

The Chair, without objection, may modify these procedures as appropriate.

22. Procedure of Motions

When a question is before the Town Council no motion shall be entertained except: (a) to adjourn, (b) to recess, (c) to table, (d) for the previous question, (e) to refer, (f) to amend, and (g) to postpone indefinitely. These motions shall have precedence in the order indicated. Any such motion, except a motion to amend or postpone indefinitely, shall be put to a vote without debate.

23. Motions to be Stated by Chair – Withdrawal

When a motion is made and seconded, it shall be stated by the Chair before debate. Any Town Councilor may demand that it be put in writing by the Clerk. A motion may not be withdrawn by the mover without the consent of the Town Councilor seconding it.

24. Motions Out of Order

The Town Council may at any time permit a Town Councilor to take out of order an ordinance, resolution, or motion on the agenda if approved by a majority vote of the Town Council present.

25. Motion to Table

A motion to table precludes all amendments or debate of the subject under consideration. If the motion prevails, consideration of the subject at the same session may be resumed only upon the affirmative vote of at least 3 members of the Town Council.

**Miscellaneous**

26. The Previous Question

When the previous question is moved and seconded, there shall be no further amendment or debate; but pending amendments shall be put in their order before the



main question. If a motion for the previous question fails, the main question and any pending amendments remain open for debate. A motion for the previous question is out of order until all Town Councilors have had an opportunity to address the main questions or amendment.

27. Amend an Amendment

A motion to amend an amendment is in order, but one to amend an amendment to an amendment may not be introduced. An amendment modifying the intention of a motion is in order, but an amendment relating to a different matter is not in order.

28. Motion to Postpone

All motions to postpone, except a motion to postpone indefinitely, may be amended as to time. *If a motion to postpone indefinitely is carried out, the principal question shall be declared lost.*

29. Procedure in Absence of Rule

Robert's Rules of Order modified by these rules shall govern Town Council procedures. The Chair shall make the determination subject to the appeal of the Town Council.

30. Anonymous Communications

Unsigned communications may not be introduced by the Town Council.

31. Tie Vote

In case of a tie in votes on any proposal, the proposal shall be declared lost.

32. Motion to Table

Motion to table is debatable, but debate will be limited to determining the necessity of the motion and will not go into the merits of the main question. A motion to table may specify a time certain for consideration of the main question.

33. Permission Required to Address Town Council

Persons other than members of the Town Council and Town Officers are not permitted to address the Town Council except with the permission of the Chair.

34. Suspension of Rules

Any provision of these rules not governed by the Charter or code may be suspended at any meeting of the Town Council by a vote of majority by Town Councilors. The vote on the suspension shall be taken by yeas and nays and entered upon the records.

35. To Amend Rules

These rules may be amended, or new rules adopted by majority vote of the Town Council. An amendment must be submitted in writing at a preceding meeting and shall be placed on the agenda under the order of new business.

36. Public Notice

Town Council public meetings will comply with the laws of the State of Maine as set forth in 1 MRSA §406.

**\*\*The Rules of Order and Procedures will be reviewed and voted on 1-year from the date of acceptance.\*\***



Town Council Chair 7/11/2023  
Mallory Cook



Town Council Vice Chair 7/11/2023  
Jeffrey Minihan



Town Councilor 7/11/2023  
Jessica Cyr



Town Councilor 7/11/2023  
John James



Town Councilor 7/11/2023  
Melissa Costella

**Appendix B – State Law section - 1 §405. Executive Session**

**Maine Revised Statutes**

**Title 1: GENERAL PROVISIONS**

**Chapter 13: PUBLIC RECORDS AND PROCEEDINGS**

**§405. EXECUTIVE SESSIONS**

Those bodies or agencies falling within this subchapter may hold executive sessions subject to the following conditions. [1975, c. 758, (NEW) .]

**1. Not to defeat purposes of subchapter.** An executive session may not be used to defeat the purposes of this subchapter as stated in section 401.

[ 2009, c. 240, §2 (AMD) .]

**2. Final approval of certain items prohibited.** An ordinance, order, rule, resolution, regulation, contract, appointment or other official action may not be finally approved at an executive session.

[ 2009, c. 240, §2 (AMD) .]

**3. Procedure for calling of executive session.** An executive session may be called only by a public, recorded vote of 3/5 of the members, present and voting, of such bodies or agencies.

[ 2009, c. 240, §2 (AMD) .]

**4. Motion contents.** A motion to go into executive session must indicate the precise nature of the business of the executive session and include a citation of one or more sources of statutory or other authority that permits an executive session for that business. Failure to state all authorities justifying the executive session does not constitute a violation of this subchapter if one or more of the authorities are accurately cited in the motion. An inaccurate citation of authority for an executive session does not violate this subchapter if valid authority that permits the executive session exists and the failure to cite the valid authority was inadvertent.

[ 2003, c. 709, §1 (AMD) .]

**5. Matters not contained in motion prohibited.** Matters other than those identified in the motion to go into executive session may not be considered in that particular executive session.

[ 2009, c. 240, §2 (AMD) .]

**6. Permitted deliberation.** Deliberations on only the following matters may be conducted during an executive session:

A. Discussion or consideration of the employment, appointment, assignment, duties, promotion, demotion, compensation, evaluation, disciplining, resignation or dismissal of an individual or group of public officials, appointees or employees of the body or agency or the investigation or hearing of charges or complaints against a person or persons subject to the following conditions:

(1) An executive session may be held only if public discussion could be reasonably expected to cause damage to the individual's reputation or the individual's right to privacy would be violated;

(2) Any person charged or investigated must be permitted to be present at an executive session if that person so desires;

(3) Any person charged or investigated may request in writing that the investigation or hearing of charges or complaints against that person be conducted in open session. A request, if made to the agency, must be honored; and

(4) Any person bringing charges, complaints or allegations of misconduct against the individual under discussion must be permitted to be present.

This paragraph does not apply to discussion of a budget or budget proposal; [2009, c. 240, §2 (AMD) .]

B. Discussion or consideration by a school board of suspension or expulsion of a public school student or a student at a private school, the cost of whose education is paid from public funds, as long as:

(1) The student and legal counsel and, if the student is a minor, the student's parents or legal guardians are permitted to be present at an executive session if the student, parents or guardians so desire; [2009, c. 240, §2 (AMD) .]

C. Discussion or consideration of the condition, acquisition or the use of real or personal property permanently attached to real property or interests therein or disposition of publicly held property or economic development only if premature disclosures of the information would prejudice the competitive or bargaining position of the body or agency; [1987, c. 477, §3 (AMD) .]

D. Discussion of labor contracts and proposals and meetings between a public agency and its negotiators. The parties must be named before the body or agency may go into executive session. Negotiations between the representatives of a public employer and public employees may be open to the public if both parties agree to conduct negotiations in open sessions; [1999, c. 144, §1 (RPR) .]

E. Consultations between a body or agency and its attorney concerning the legal rights and duties of the body or agency, pending or contemplated litigation, settlement offers and matters where the duties of the public body's or agency's counsel to the attorney's client pursuant to the code of professional responsibility clearly conflict with this subchapter or where premature general public knowledge would clearly place the State, municipality or other public agency or person at a substantial disadvantage; [2009, c. 240, §2 (AMD) .]

F. Discussions of information contained in records made, maintained or received by a body or agency when access by the general public to those records is prohibited by statute; [1999, c. 180, §1 (AMD) .]

G. Discussion or approval of the content of examinations administered by a body or agency for licensing, permitting or employment purposes; consultation between a body or agency and any entity that provides examination services to that body or agency regarding the content of an examination; and review of examinations with the person examined; and [1999, c. 180, §2 (AMD) .]

H. Consultations between municipal officers and a code enforcement officer representing the municipality pursuant to Title 30-A, section 4452, subsection 1, paragraph C in the prosecution of an enforcement matter pending in District Court when the consultation relates to that pending enforcement matter. [1999, c. 180, §3 (NEW) .]

[ 2009, c. 240, §2 (AMD) .]

#### SECTION HISTORY

1975, c. 758, (RPR). 1979, c. 541, §A3 (AMD). 1987, c. 477, §§2,3 (AMD). 1987, c. 769, §A1 (AMD). 1999, c. 40, §§1,2 (AMD). 1999, c. 144, §1 (AMD). 1999, c. 180, §§1-3 (AMD). 2003, c. 709, §1 (AMD). 2009, c. 240, §2 (AMD) .

Rules of Order and Procedure for South Berwick Town Council

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