

COUNCIL RULES

Amended June 15, 1998
Amended May 27, 2008
Amended January 14, 2013

Amended August 22, 2005
Amended December 13, 2010
Amended March 14, 2016

REGULAR MEETINGS

Section 1. The regular meetings of the Town Council shall normally be held in the Town Hall at 7:00 p.m., or a time set by the Chairperson, on the fourth Monday of each calendar month except for an organizational meeting, which shall be held in accordance with the Town Charter. When said day falls on a holiday or on Election Day, the regular meeting shall be held on the following Wednesday, at the same time and place. The date of any regular meeting may be changed upon vote of five members of the Council, provided, however, that said change in date will still provide for one regular meeting in each month. The Council meeting will open after the roll call with the Pledge of Allegiance.
(Amended 12/16/1997, 8/22/2005, 12/13/2010)

SPECIAL MEETINGS

Section 2. Special meetings may be called by the Chairperson, and in case of his/her absence, disability or refusal, may be called by three members of the Town Council. Notice of such meeting shall be served in person or left at the residence of each member of the Town Council at least twenty-four hours before the time for holding said special meeting, unless all members of the Council sign a waiver of said notice. The call for said special meeting shall set forth the matters to be acted upon at said meeting, and nothing else shall be considered at such special meeting.

QUORUM: ADJOURNED MEETINGS

Section 3. A majority of the members of the Town Council shall constitute a quorum for the transaction of business, but a smaller number may adjourn from time to time or may compel attendance of absent members. At least twenty-four hours notice of the time and place of holding such adjourned meeting shall be given to all members who are not present at the meeting for which adjournment is taken, unless absent members sign a waiver of said notice.

ENACTMENTAL FORUM

Section 4. The Town Council shall act only by ordinance, order or resolve. All ordinances, orders, and resolves shall be confined to one subject, which shall be clearly expressed in the title. Subject to the provisions of Section 21, the Chairperson may require that two or more items be acted upon by a single vote. These items shall be listed by title on a Consent Agenda.
(Amended 8/26/91)

ORDINANCE STYLE

Section 5. All by-laws passed by the Town Council shall be termed "ordinances" and the enacting style shall be: "Be it ordained by the Town Council of the Town of Falmouth, Maine in Town Council assembled."

ORDER AND RESOLVE: STYLE

Section 6. In all votes of command, the form of expression shall be "ordered" and of opinions, principles, facts or purpose, the form shall be "resolved."

**FULL
READING:
WAIVER**

Section 7. At the discretion of the Chairperson, the reading of every ordinance, order or resolve shall be by title only. Pursuant to the provisions of Section 16 of these rules, a majority vote of the Council shall require a full reading.
(Amended 8/27/90)

**YEAS
AND NAYS
HAVE TAKEN:
WHEN**

Section 8. The yeas and nays shall be taken upon the passage of all ordinances and entered upon the record of the proceedings of the Town Council by the Clerk. The yeas and nays shall be taken on the passage of an order or resolve when called for by any member of the Town Council. Every ordinance, order and resolve shall require on final passage the affirmative vote of four members of the Town Council.

**ORDINANCES:
EFFECTIVE
WHEN**

Section 9. An ordinance passed pursuant to Section 213 of the Town Charter shall take effect and be in full force immediately upon passage unless otherwise specified in the ordinance.

**ORDER
RESOLVE:
EFFECTIVE**

Section 10. Orders or resolves shall take effect immediately upon passage.

**ITEM FOR
MEETING:
FILED WHEN**

Section 11. No ordinance, order or resolve shall be in order for action at any meeting of Town Council unless such ordinance, order or resolve shall be filed in the office of the Town Clerk on or before noon of the Thursday prior to the regular meeting held on the fourth Monday of each month, and before noon, two business days prior to the day of any other regular meeting.

**CHAIRPERSON
TO BE
PRESIDING
OFFICER**

Section 12. The Chairperson shall take the chair at the time appointed for the meeting, call the members to order, cause the roll to be called and, a quorum being present, cause the minutes to be accepted, or accepted as amended, with or without a full reading by a majority. The Council shall receive the report of standing committees and delegates to MMA, COG, School Board, and any special committees prepared to report, and proceed to other business.
(Amended 6/15/87, 8/27/90)

**PRESERVE
ORDER:
DECIDE ALL
QUESTION
OF ORDER**

Section 13. The Chairperson shall preserve decorum and order, may speak to points of order in preference to other members and shall decide all questions of order.

**DECLARE
VOTES:
CAUSE RETURN
OF VOTES**

Section 14. The Chairperson shall declare all votes, but if any member doubts a vote, the Chairperson shall cause a return of the members voting in the affirmative and in the negative without debate.

**DEBATE:
RULES OF**

Section 15. Debate on a question shall not be suspended by the Chairperson if any Councilor shall seek recognition, and the Chair shall receive no motions, but those provided for in Section 16.
(Amended 8/27/90, 5/27/08)

MOTIONS:

Section 16. The following motions take precedence in the order provided below. All motions must be seconded, may be debated, amended, reconsidered, and also may be passed by a simple majority of Councilors present, unless otherwise indicated below:

A. Motion to Adjourn: Any Councilor may call for an adjournment – even during debate – as long as a time for the next meeting has already been established. Business left unfinished at the end of the meeting becomes the first order of business at the next meeting. This motion cannot be debated, amended, or reconsidered.

B. Motion for Reconsideration: When a vote is passed, on any matter or motion, it shall be in order for any Councilor who voted in the majority, or in the negative on a tie vote, to move a reconsideration thereof at the same, or the next stated meeting, but not afterwards. This motion is subject to debate if the motion proposed to be reconsidered is also subject to debate; when a motion of reconsideration is decided, that vote shall not be reconsidered.

C. Motion Concerning Priority of Business: Any Councilor may move to amend the agenda to take up a question out of order.

D. Appeal on a Point of Order: A question on a point of order may be raised by any Councilor against any proceeding or motion that a Councilor believes is a violation of these rules. All points of order must be raised at the time of the alleged infraction, and need not be seconded. The Chair's ruling on a point of order is subject to an appeal to the Council by motion.

E. Motion to Withdraw Motion: Any Councilor may withdraw their motion prior to a vote. If any Councilor objects, the Chair will request a vote of the Councilors on the motion to withdraw. This motion cannot be debated or amended.

F. Motion to Suspend the Rules: Any Councilor may move to suspend any of the provisions of these rules. Such motion will be successful if all of the Councilors present vote in the affirmative. The rule to be suspended must be identified and the reason for suspending the rule must be stated in the motion. This motion cannot be debated or amended.

G. Motion to Lay on the Table: This motion sets aside a main motion or question without establishing a time for debate to resume. This motion may not be debated or amended.

H. Motion for the Previous Question (Close Debate or Move the Question): A motion for the previous (main) question closes debate and brings the main question or motion to an immediate vote. All debate upon the main question shall be suspended until the motion for the previous question shall be decided, without

debate. After the adoption of a motion for the previous question, by a majority vote, the Chairperson shall call for a vote on all pending amendments, and then upon the main question.

I. Motion to Postpone for a Time Certain: This motion suspends debate on the main question to another time in the meeting, or to another date as proposed by the movant.

J. Motion to Refer: A motion to refer a matter to a committee or an administrative official may be debated or amended.

K. Motion to Amend: A motion to amend a motion may be debated or amended.

L. Motion for a Division of a Question: Any Councilor may move to divide a question. Such motion, if seconded, will be successful if a majority of Councilors present vote for the division.

M. Motion to Postpone Indefinitely: This motion postpones consideration of a main motion indefinitely.

N. Motion to Take from the Table: This motion permits resumption of debate on a previously tabled motion or question. This motion may not be debated or amended.

(Added 5/27/08)

MANNER OF SPEAKING

Section 17. When a member is about to speak, he/she shall respectfully address the Chairperson, confine himself or herself to the question under debate and avoid personalities.

(Added 5/27/08)

NOT TO INTERRUPT

Section 18. No member speaking shall be interrupted by another, but only by a call to order or to correct a mistake.

(Added 5/27/08)

BREACH OF RULES AND ORDERS

Section 19. When any member shall be guilty of a breach of any of the rules or orders of the Council, he/she may on motion be required to make satisfaction therefore and shall not be allowed to vote or speak, except by way of excuse, until he/she has done so.

(Added 5/27/08)

MEMBER EXCUSED FROM VOTING: WHEN

Section 20.

Any Councilor may abstain from voting upon any question if he/she so chooses provided that the Councilor has stated his/her reason for abstaining. Unless otherwise stated, wherein these rules a majority vote is required, it shall mean the majority of the votes cast.

1. If a Councilor is to abstain from a vote due to reasons of conflict of interest, that Councilor shall declare his/her intention at the earliest practical moment after the introduction of the item. The Councilor shall then refrain from further participation in the discussion, comment, or debate of the item, except

that the Councilor shall retain his/her right to participate as a member of the public pursuant to Section 22.

2. Nothing in this Section 20 shall invalidate any of the requirements of Section 8 of these rules.
(Amended 8/27/90, 5/27/08)

**MOTION TO
BE REDUCED
TO WRITING
WHEN**

Section 21. Every motion shall be reduced to writing if the Chairperson so shall direct.
(Added 5/27/08)

**PROCEDURE
FOR
ADDRESSING
COUNCIL**

Section 22. Members of the Public shall be allowed to address the Council in accordance with the following provisions:

1. Any person seeking recognition must do so by raising his/her hand and, when recognized shall give his/her name and address prior to proceeding with questions or comments. All questions or comments shall be directed to the Chairperson. Recognition shall be granted in accordance with the provisions of paragraph 2 of this Section 22.
2. The time restrictions delineated below do not apply to persons who represent boards or committees of the Town or State, to other quasi governmental agencies, or to other parties who have been specifically invited to report to the Council on a particular issue under consideration, including applicants for various permits, waivers, and approvals. The time restrictions for all of the persons described above shall be left to the discretion of the Chairperson.
 - A. Public forum. Prior to the first agenda item of each regular Council meeting, the Council shall conduct a Public Forum during which any resident will be allowed five minutes to address the Council on any matter, except those for which public input will be accepted later in that meeting as delineated in subparagraphs B and C below.
 - B. Public Hearing. A Public Hearing shall consist of at least one, or at the discretion of the Chairperson, more than one distinct period of comment during which every person present will be allowed five minutes to address the Council.
 - C. Agenda Item Requiring a Vote. Any resident will be allowed three minutes to comment on any agenda item which calls for a vote on any ordinance, order, or resolve; except for items for which a Public Hearing is required or has been previously held. Public comment will be accepted after the item has been introduced, but prior to Council deliberation of the item.
 - D. Consent Agenda. For purposes of public comment, the Consent Agenda shall be considered a single item and shall be subject to the provisions of subsection 2.C of this section 22.

3. No failure to observe any of the provision of this Section 22 shall invalidate any vote or action of the Council.
4. Persons present at the Council meeting are requested not to applaud or otherwise express approval or disapproval of any statements made or actions taken at such meeting. The time limits defined in paragraph 2 of this Section 22 apply to each person addressing the Council whether that person is speaking on his/her behalf or on the behalf of others.
(Amended 8/27/90, 8/26/91, 5/27/08)

**AMENDMENT
OR REPEAL**

Section 23. No rule shall be amended or repealed without notice in writing being given at the preceding meeting, and amendment or repeal of any of these rules shall be by Order of the Council.
(Amended 8/27/90)

**COUNCIL
COMMITTEES**

Section 24. The following Council Committees are authorized:

Finance Committee: The Finance Committee ensures that the Town Council’s policies are conveyed to the Town Manager during the Finance Committee’s review of the Town Manager’s draft budgets and other financial practices. This Committee performs the following tasks for the Council:

1. Acts as the Town’s official Audit Committee;
2. Reviews and makes recommendations to the Town Manager and Council on the Annual Operating Budget;
3. Reviews and make recommendations to the Town Manager and the Council on the Capital Improvement Plan Budget to address the long range needs of Town, and;
4. Performs analysis of other policies and procedures that impact the financial and budgetary position of the Town, as directed by the Town Council.

Appointments & Personnel Committee: The Appointments & Personnel Committee reviews applications made by volunteer citizens to serve on the standing and *ad hoc* boards and committees of the Town. This Committee makes recommendations to the Council as to applicants who wish to fill vacancies in those boards and committees. It may also be directed by the Council to perform policy analysis of matters pertaining to appointments and personnel.

Ordinance Committee: The Ordinance Committee researches and drafts proposed ordinances on non-land use issues as directed by the Town Council.

Community Development Committee: The Community Development Committee (CDC) works with the Long Range Planning Advisory Committee (LPAC), the Town’s other land use planning committees and also does detailed work on land use projects, as directed by the Town Council.

The Council may from time to time choose to form a select (*ad hoc*) Committee from any number of its members for the consideration of any question. A select committee shall be dissolved when its report is received by the Council.

At the commencement of the municipal year or as soon thereafter as possible, the committees listed above shall be established. Each committee will consist of such

members of the Council as the Council may designate. Every member of the Council shall be an ex-officio (non-voting) member of any of these committees.

The members of these Council Committees will select a Committee Chair person. The Chair person of a Council Committee is encouraged to develop an agenda, and have it posted on the Town's Website, at least two (2) business days prior to a proposed meeting. The keeping of meeting minutes is also encouraged.
(Added 5/27/08)

**NO MEMBER
TO SPEAK ON
BEHALF OF
COUNCIL UNLESS
DESIGNATED**

Section 25. No member of the Town Council shall represent to anyone or knowingly allow anyone to infer that he/she speaks on behalf of the Town Council unless, by Order of the Council, a Councilor has been officially designated as its Representative to another organization.

At the commencement of the municipal year or as soon thereafter as possible, a Liaison from the Council shall be appointed, by Order, to every non-statutory volunteer committee or board of the Town. From time to time, the Council may also, by Order, appoint Councilors as Liaison to other organizations. A Liaison is not a Representative of the Council and will serve only as a conduit of information between the Council and the other organization. A Liaison from the Council will perform this conduit function with respect to their organization at least once every three (3) months.
(Added 5/27/08)

**APPOINTMENT
OF SPECIAL
COMMITTEES**

Section 26. The appointment of special committees shall be by the Chairperson unless otherwise directed.

**EXECUTIVE
SESSION**

Section 27. Subject to the requirements of Title 1, M.R.S.A. Section 405 the Town Council or any of its Committees may go into Executive Session by a public and recorded vote 3/5 of the committee members present and voting, and in the case of meetings of the Council as a whole not less than 5 votes shall be required to go into Executive Session.

As required by 1 M.R.S.A. Section 405, the vote to go into executive session must state the precise nature of the business of the executive session; no action may be taken in executive session; and only the matters delineated in 1 M.R.S.A. Section 405 may be the basis for going into executive session.
(Added 8/26/91)

**COUNCIL
POLICIES**

Section 28. By majority vote the Council may direct the Manager to memorialize Council Policies. A Council Policy is a guide for the consideration of certain recurring issues, and is not binding upon the Council. Council Policies shall be adopted in written form and shall be maintained in a document entitled "Policies of the Falmouth Town Council."
(Added 10/28/91)

Policies of the Falmouth Town Council

Pursuant to Section 28 of the Council Rules, the Falmouth Town Council hereby directs the Town Manager to memorialize the following policies of the Falmouth Town Council:

Policy One: Use of Electronic Mail (E-mail)

A. Three or more Councilors or three or more members of any Volunteer Board or Committee shall avoid the use of e-mail for deliberation, discussion, or for voting on matters properly confined to public meetings; email should be used for non-substantive matters such as scheduling meetings, dissemination of information and reports, and developing agendas for future meetings.

B. In the event this policy is not followed, or if there is a question whether substantive matters properly confined to public meetings were discussed or deliberated on via e-mail by three or more members of any Town body, those e-mails in question should be printed and disclosed to the public at the next public meeting of the Town body.

C. Under Maine's Freedom of Access ("Right to Know") law, all e-mail and e-mail attachments received or prepared for use in matters concerning Town business or containing information relating to Town business are likely to be regarded as public records which may be inspected by any person upon request, unless otherwise made confidential by law.

D. The Town Council Chair shall acknowledge email messages that come to all Council members at once. While the Chair is not empowered to discuss substantive matters on behalf of the Council in these acknowledgements, he or she may supply pertinent information regarding how the Council will proceed with the issue, if applicable (for example, upcoming public hearings, information available through the Town of Falmouth website, and so on). The Chair and individual Councilors remain free to reply to such messages as individuals, but shall refrain from engaging more than one other Councilor in the electronic discussion.

Policy Two: Appointments Procedure.

1. Prior to recommending an applicant for service on any volunteer board or committee, the Chair of the Appointments & Personnel Committee shall contact the Chair of the volunteer board or committee to discuss the appointment or reappointment of the applicant. The Chair of the board or committee in question should be invited to attend the interview of the applicant.
2. Prior to recommending an applicant for service on any volunteer board or committee, the Town Council's Appointments & Personnel Committee shall interview the applicant, unless that applicant is currently serving on the committee.
3. The names of the applicants to be considered by the Appointments & Personnel Committee shall be included on its meeting agenda, and posted to the Town's website, in a timely manner, prior to the proposed meeting.
4. The meeting agenda, the applications to be considered, and any other supporting documents shall be sent to Appointments & Personnel Committee members, in a timely manner, prior to the proposed meeting.
5. Applicants are encouraged to attend a meeting of the committee to which they wish to be appointed.

Policy Three: Volunteer Board and Committee Reporting and Organization.

The volunteer boards or committees of the Town should prepare an annual work plan, and present that plan to the Town Council for approval. Any budget requests should be included in this work plan. Volunteer board or committees should also prepare an annual report on their work during the prior year. Meeting agendas should be posted to the Town web site in a timely manner prior to a proposed meeting. Meeting minutes are encouraged to be taken and posted to the Town website.

Policy Four: Ordinance Procedure.

Initiatives to amend or enact a Town ordinance, prior to their referral to a committee or an administrative official for development and drafting, shall be placed on a Council agenda for provisional approval. If the ordinance initiative obtains the provisional approval of a majority of Councilors, it may then be referred to the appropriate committee or administrative official for further development and drafting. This policy does not limit the right of any Councilor under Section 209 of the Town Charter, to place an item on any agenda of the Council. The procedure for formal introduction of a proposed ordinance is further governed by Section 213 of the Town Charter.

Policy Five: Council Norms on Contacting Staff.

Councilor inquiries concerning routine Town business should first be with the Town Manager. Direct inquiries by Councilors, on such matters, to department heads, should be avoided. Councilor contact with staff is formally governed by section 218 of the Town Charter.

(Added 5/27/08)

Policy Six: Naming and/or Memorializing Town owned Property and Facilities (Added 1/14/13)

Introduction

The Town of Falmouth Parks, Open Space and Public Facilities are a source of pride for our community. They are a tangible reflection of the commitment of the citizenry to promoting community and offer our residents with open and free access for all to enjoy.

While it is tempting to consider naming Parks, Open Space and facilities after citizens, this may be inherently a subjective process that could lead to an outcome that is not fair to all citizens who have given so much to our community. It is very important to understand the history of these places so that future generations may have a sense of the history and growth of Falmouth.

Policy

- A. The Town Council may choose to name Town owned property and facilities or portions of such property and facilities only after careful consideration of the message being sent to the community by the name(s) selected. Persons for whom the property might be named should be deceased and have lived in Falmouth for a considerable amount of time. There should be overwhelming community support to name a specific property or facility.

- B. The naming of Town owned property and facilities or portions of such properties and facilities will be considered in the following circumstances:
1. The person(s) for whom the property might be named has given an extraordinary gift of time, public service and/or talent and expertise to the Town;
 2. There is or has been an extraordinary financial contribution toward the acquisition, construction or renovation of applicable Town owned property and/or facilities;
 3. The person(s) for whom the property might be named has given an extraordinary gift of time, public service and/or talent and expertise to the State of Maine, United States of America, or global cause.
- C. Certain types of plaques, benches or memorial structure may be appropriate at Town owned properties and facilities. They may include the names of individuals associated with the site, but would only do so in the case that the individuals have given time, talent or treasure to the Town regarding the applicable property and/or facility. There shall be no expectation on the Town to perpetually maintain or guaranty the existence of plaques, benches or other types of memorials.
- D. The Town Council should receive a naming request in writing and will seek comments from the public at a public meeting prior to approving the naming of Town owned property and facilities or portions of such properties and facilities.

Policy Seven: Conflict of Interest (Added 3/14/16)

Preamble:

It is the policy of the Town of Falmouth that the proper operation of democratic government requires that public officials be independent, impartial and responsible to citizens; that public service not be used for personal gain; and that the public has confidence in the integrity of its municipal government. The purpose and intent of this Policy is to promote improved transparency and public trust and to protect the integrity of Town government against actual or reasonably perceived conflicts of interest without creating unnecessary barriers to public service.

This Policy applies to members of the Falmouth Town Council (“Councilors”). This Policy shall not prevent the Town Council from adopting additional procedures and standards intended to prevent the exercise or appearance of improper influence or bias in the conduct of Town business. This Policy is intended to supplement, but not replace, any Maine or federal law governing conflicts of interest.

Conflict of Interest:

A conflict of interest may arise when specific circumstances exist such that a Town Councilor may reasonably be presumed to be motivated by a personal interest rather than the public interest. Although not intended as an exhaustive list, this Policy targets three specific circumstances where a conflict of interest may arise, and where Town Councilors are encouraged to exercise caution before

determining that their participation in decision making on a particular agenda item is in compliance with this Policy. These three circumstances are as follows:

1. When a matter before the Council could have a direct and substantial financial benefit or detriment to any Councilor or his/her immediate family members;
2. When a matter before the Council could have a direct and substantial financial benefit or detriment to the Councilor's employer or his/her immediate family's employer(s);
3. When a matter before the Council could have a direct and substantial financial benefit or detriment to any outside organization for whom the Councilor holds an official leadership position.

"Immediate family" is defined under this Policy to mean the Councilor's spouse, child, (natural or adopted), parent, brother or sister, and any other person with whom a Councilor shares living quarters under circumstances that closely resemble a marital relationship or who is financially dependent on the Councilor.

Avoidance of appearance of conflict:

Town Councilors should avoid the appearance of a conflict of interest, bias or improper influence by disclosure and/or abstention.

Disclosure; Abstention:

Councilors are required under this Policy to disclose any potential conflict of interest they may have in any agenda item before the Council. Once a disclosure is made, the Councilor shall either abstain from the decision making process (including any discussion, deliberation and/or vote) regarding that agenda item or shall explain why he or she believes his or her abstention is not necessary. Where the Councilor believes abstention is not necessary, he or she may determine the appropriate extent of his or her participation in the decision making process.

Abstention not required:

It is not the intent of this Policy to prevent Councilors from voting on matters while acting in a legislative capacity even if their actions may be based upon strongly held personal views, so long as there is no direct and substantial financial interest in the outcome of the decision.

Moreover, given the relatively small size of the Falmouth community, Councilors may be faced from time to time with making decisions that affect their personal interests in a manner substantially similar to the interests of other Falmouth residents. For example, Town Councilors are not automatically disqualified from voting on a town-wide zoning change merely because they own land that will be affected by the zoning decision, especially if the financial benefits to the Councilor involved in the legislative action are speculative, indirect and/or insubstantial.