

First Reading: 3/3/2015 Approval Date: 3/3/2015 Amended: 9/13/2016
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## TOWN OF CHATHAM

### Access to Town Counsel Policy

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#### 1. Purpose:

- A. To ensure that access to Town Counsel is controlled in order to maintain a record of legal opinions and advice.
- B. To ensure that budgetary limitations are maintained.

#### 2. Policy:

- A. Access to Town Counsel shall be administratively managed by the Town Manager.
- B. All efforts shall be made to identify answers to routine legal questions independently through examination of MA General Laws, local bylaws, regulations and/or by contacting a State agency or counterpart in another community.
- C. Members of the Board of Selectmen and the Town Manager are authorized to contact Town Counsel with requests for opinions and advice on any/all matters related to their administrative powers and duties as granted by the Town of Chatham Home Rule Charter, as amended. Any request by a member of the Board of Selectmen to contact or consult with Town Counsel relative to the qualification, performance, potential discipline or dismissal of any officer or board, commission or committee member appointed by the Board of Selectmen pursuant to General Law, The Chatham Home Rule Charter, or Chatham Bylaws, excluding, with the exception of matters arising under MGL Ch. 268A (Conflict of Interest Law) as from time to time in effect, potential criminal conduct by any such appointee, must first be authorized by a majority vote of the Board of Selectmen. Any such deliberation or vote by the Board of Selectmen upon such a request must comply with applicable provisions of G.L. c. 30A, §§ 20 and 21, as amended (“The Open Meeting Law”). For tracking purposes, all requests for opinion and/or use of Town Counsel services by members of the Board of Selectmen and Town Manager shall follow the same process as all appointed Town Boards, Committees, Commissions, and employees.
- D. All requests for opinion and/or use of Town Counsel services shall be made using the form attached. Both paper and digital submissions of this form are acceptable.

- E. Requests for opinion and/or use of Town Counsel services by any appointed Town Board, Committee, or Commission shall be directed to the Town Manager by the Board, Committee, or Commission's staff liaison for approval. Any requests for opinion and/or use of Town Counsel services by any appointed Town Board, Committee, or Commission shall be by majority vote of the Board, Committee, or Commission members. Requests will be forwarded in writing, using the form provided, with as full an explanation of the issue as possible.
- F. Requests for opinion and/or use of Town Counsel services by any Town employee will be directed to the Town Manager by the employee's Department Head for approval. Requests will be forwarded in writing, using the form provided, with as full an explanation of the issue as possible.
- G. The Town Manager shall review all requests for access made by employees, appointed Town Boards, Committees, or Commissions.  
If approved by the Town Manager, the request for opinion will be forward to Town Counsel. Town Counsel's written opinion will be returned to the Town Manager who will make a record of such opinion before forwarding to the employee, appointed Town Board, Committee, or Commission through the appropriate Department Head or staff liaison. The Town Manager may, at his/her discretion, arrange further limited and defined access to Town Counsel by the employee, appointed Town Board, Committee, or Commission on the issue, if warranted.  
If denied by the Town Manager, the request will be returned to the employee, appointed Town Board, Committee, or Commission with a written explanation of the denial.
- H. Requests for the initiation or defense of litigation require the approval of the Board of Selectmen or by the Chairman of the Board of Selectmen in instances requiring expeditious action by the Town. In either case a written record of the approval will be maintained by the Town Manager.

This policy does not in any way prevent employees from access to Town Counsel for purposes covered under MGL Ch. 268A, Section 22:

*Any municipal employee shall be entitled to the opinion of the corporation counsel, city solicitor or town counsel upon any question arising under this chapter (Conduct of Public Officials) relating to the duties, responsibilities and interests of such employee. All requests for such opinions by a subordinate municipal employee shall be made in confidence directly to the chief officer of the municipal agency in which he is employed, who shall in turn request in confidence such opinion of the corporation counsel, city solicitor or town counsel on behalf of such subordinate municipal employee, and all constitutional officers and chief officers or heads of municipal agencies may make direct confidential requests for such opinions on their own account. The town counsel or city solicitor shall file such opinion in writing with the city or town clerk and such opinion*

*shall be a matter of public record; however, no opinion will be rendered by the town counsel or city solicitor except upon the submission of detailed existing facts which raise a question of actual or prospective violation of any provision of this chapter.*

**Request for Legal Services  
Town of Chatham**

Date: \_\_\_\_\_

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Committee or Department: \_\_\_\_\_

Have you tried to identify the answer to your question independently through examination of MA General Law, bylaws, regulations or by contacting a State agency or your counterpart in another community?  Yes  No

**Description of Request**

(Include such information as "Request for Legal Opinion" or "Relates to pending litigation". Is this request from a Committee, or is it an individual Committee member's concern? Is the request of high or low priority, and why? Please attach all relevant documentation.)

**Time Frame**

By what date is a response needed? Please explain.

Submit completed request form to the Office of Town Manager for processing.

The above request for legal services was:

Forwarded to Town Counsel on \_\_\_\_\_ Date: \_\_\_\_\_

Returned on \_\_\_\_\_ Date: \_\_\_\_\_

Reason:

\_\_\_\_\_  
Jill R. Goldsmith  
Town Manager