

TOWN OF NORTH HAMPTON, NH
CODE OF ETHICS

ARTICLE I. AUTHORITY

This Code of Ethics is adopted pursuant to the authority of RSA 31:39-a.

ARTICLE II. PREAMBLE

The Town of North Hampton values honesty, transparency, accountability, respect and civility in the behavior of its Officials. All Town Officials, whether elected, appointed or hired, shall act in the best interests of the Town, shall maintain the highest standards of personal integrity in discharging their public duties, and shall never abuse their positions or powers for improper reasons or personal gain. Therefore, in order to promote and sustain an ethical culture it shall be the duty of all Officials to read this Code of Ethics and to familiarize themselves with its content.

ARTICLE III. PURPOSE

The purposes of this Code of Ethics are to outline the ethical goals to which the Town Officials are expected to aspire; to educate the Town Officials and residents as to the meaning of ethical and responsible conduct; and to establish guidelines for the ethical standards of conduct for Town Officials. This Code of Ethics establishes standards governing official conduct, provides guidance for ethical decisions and behavior, and establishes a course of action for resolving alleged ethics violations in a manner that is fair to all of the parties involved.

ARTICLE IV. CODE OF ETHICS

Section 4.01 Conflicts of Interest, Disclosure, and Recusal. Town Officials are expected always to act in the best interests of the Town and to be independent, impartial, and responsible to their fellow townspeople when discharging their public duties. Therefore, Town Officials shall disclose, publicly and on the record, any and all conflicts of interest and shall not participate in deliberations or discussions with respect to any matter in which they, or a member of their family, has a personal or pecuniary interest, that may directly affect or influence the performance of their duties. Where any such conflict exists, Town Officials are expected also to recuse themselves from related deliberations, discussions, and decision-making. In addition, pursuant to the impartial juror standard set forth in New Hampshire RSA 43 or RSA 673:14 as appropriate, Town Officials must recuse themselves from a quasi-judicial action if they have advised or assisted either party in the matter being decided, are prejudiced to any degree regarding the pending matter, believe they cannot for any reason be totally fair and impartial, or otherwise fail to meet the standard of impartial juror in that case.

Those who have recused themselves shall immediately leave the room or shall seat themselves in a non-official capacity with other members of the public who are present. A recused person shall not deliberate or vote on the matter in question. If one chooses to participate, one must clearly state for the record that he/she is doing so only as a member of the general public.

Section 4.02 Fairness and Adherence to Proper Procedure. All persons appearing before any Town Board or otherwise conducting business with the Town shall be treated fairly, equally and with respect. No Town Official shall in the course of official duties give or deny any person special consideration, advantage, or treatment as a result of the person's public status, position, age, sex, race, religion, creed, sexual orientation, or national origin. In addition, all Town Officials, Board members, and employees are expected to comply with the provisions of the New Hampshire Right to Know Law (RSA 91-A).

Section 4.03 Improper Personal Gain. Town Officials shall not use the powers or privileges of their public office, volunteer position, or employment for personal gain or advantage.

- A. *No Unfair Use of Personal Property.* No Town Official, or his/her family member shall accept or use Town property, services, or labor personally, or make the same available to others unless such use is available to other residents upon request on equal terms; unless necessary to carry out his/her assigned duties.
- B. *No Misuse of Confidential Information.* No Town Official shall use any confidential information acquired by virtue of his/her official position for personal benefit, or for the benefit of any other person, entity, or business. In addition, no Town Official shall unnecessarily violate the privacy of others or publicize, disclose or discuss information confidentially acquired in the course of official duties unless in the best interests of the Town.
- C. *No Improper Gifts.* No Town Official shall accept a gift (or knowingly allow acceptance of such gift by a Family member) from any individual, group, or entity that has or is likely to have a matter pending before the Official. This provision is not intended to apply to gifts traditionally exchanged between family members at holidays.
- D. *No Representation of Clients.* No Town Official shall appear on behalf of a client before any governmental body of which the public official is a member or whose members have been appointed by the governmental body of which the public official is a member.
- E. *No Improper Influence.* No Town Official shall use his or her official position to influence or to attempt to influence any governmental body to act in favor of the Official, or in favor of any individual or entity associated with the Official.

Section 4.04 Duty to Cooperate. All Town Officials shall cooperate with the Standing Ethics Committee regarding any complaint or inquiry alleging violation of this Code of Ethics; provided however, that such persons shall retain all legal rights otherwise provided under law.

Section 4.05 Incompatibility of Offices. This Code of Ethics incorporates by reference the prohibitions concerning incompatible offices contained in RSA 669:7 and RSA 673:7.

ARTICLE V. DEFINITIONS OF TERMS

As used in this Code of Ethics, the following terms shall have the meanings indicated:

Section 5.01 Board. Any board, commission, committee, or subcommittee, permanent or special, established by the voters at Town Meeting or by the Select Board under New Hampshire State Law or otherwise, or by another Town Board or Commission.

Section 5.02 Complainant. A person who has formally submitted an allegation of a violation of the Code of Ethics.

Section 5.03 Conflict of Interest. The existence of a personal or pecuniary interest, or both, on the part of a Town Official, which would be deemed by an objective and reasonable third person to have the capacity to influence an officer or employee in the exercise of that person's public duty.

Section 5.04 Employee. A person who is paid by the Town of North Hampton for his/her services, on a full or part-time basis, but who is not an independent contractor.

Section 5.05 Family. Any person who is related to the Town Official, Board member, or employee in one of the following ways: spouse, parent, grandparent, child, grandchild, sibling, or similar relation to the individual's spouse. This includes all persons who are members of the same household as the Town Official, Board member, or employee in question, regardless of whether they are related by blood or marriage.

Section 5.06 Interest. Any legal or equitable right, which is owned or held either independently or jointly, including but without limitation, a right, share or claim to land.

Section 5.07 Official. Any elected or appointed officer, Board member, employee or other agent of the Town of North Hampton.

Section 5.08 Recusal (To Recuse.) Removal of oneself completely from all further participation in any matter in which a Town Official, Board member, or employee has a conflict of interest.

Section 5.09 Respondent. An Official named in a formal allegation of a violation of the Code of Ethics.

Section 5.10 Quasi-judicial Action. Any action where a Board has a duty to notify the potential parties, hear the parties, and can only decide the matter after weighing and considering such evidence and arguments as the parties choose to lay before them in the context of applicable legal standards. By way of example, the work of the Planning Board and Zoning Board is largely quasi-judicial.

Section 5.11 Town. The Town of North Hampton, including all of its departments, Boards, commissions, and committees.

ARTICLE VI. EXCLUSIONS

The provisions of this Code of Ethics shall not be interpreted to bar:

Section 6.01 Any Official or Employee of the Town from fully participating in any public proceeding conducted by the Town (but see Section 5.01);

Section 6.02 Acceptance of donations for the expressed purpose of financing a political campaign, provided such contributions are reported (if required) by any local, state and federal laws that pertain to such donations;

Section 6.03 Participation in a matter that relates to a person, business, or entity from which an Official, Board member or employee has purchased or sold goods or services, if the individual in question has no other conflict of interest relating to that person or business;

Section 6.04 Police officers, fire fighters, and other emergency personnel from acting in the course of their official capacities when responding to emergencies in accordance with the rules and regulations of his/her departments; and

Section 6.05 Supervisors of Town employees from appropriately carrying out personnel policies.

ARTICLE VII. ENFORCEMENT AND ADJUDICATION OF COMPLAINTS

Section 7.01 Self Enforcement. In the first instance, all Town Officials, Board members and employees are expected to maintain the highest standards of personal integrity and to share the Town's values of honesty, transparency, accountability, respect and civility. While respect and civility are important goals, rights guaranteed to citizens under the First Amendment to the United States Constitution shall be preserved at all times.

Section 7.02 Enforcement by Board Chairs. The presiding officers of Town Boards (as defined in paragraph 5.01 above) are critical in enforcing this Code of Ethics. They must provide leadership required to maintain order and efficiency while building consensus that ensures that the Board, not the presiding officer alone, makes decisions consistent with its role in Town governance. Presiding officers, therefore, have the following distinct responsibilities:

- A. In order to make this document an integral part of the culture of the Town of North Hampton, at their initial meeting following each annual Town Meeting, it shall be the first duty of the newly elected Chairs of the Select Board, Planning Board, Zoning Board of Adjustment, Municipal Budget Committee, and Board of Library Trustees to read aloud Article II, "Preamble," of this Code of Ethics. In addition, the Chairs shall provide a copy of the entire Code to members of their Boards.

- B. To conduct meetings professionally in accordance with rules of procedure adopted by their respective Boards.
- C. To set and maintain a respectful tone in all discussions, including those involving public participation, and thus to ensure that all participants behave civilly and do not engage in personal attacks.
- D. To state that in his/her opinion a member of the Board or any other participant is behaving inappropriately whenever such behavior disrupts the orderly conduct of business. The Board member or participant shall then be expected to respect the presiding officer's opinion and stop the offending behavior.
 - 1. If inappropriate behavior continues, to restore order and civility, the presiding officer has authority to ask the offending member or participant to leave the meeting and, if necessary, to recess the meeting and get assistance to remove the offending member or participant. With respect to all members and participants, the presiding officer shall respect the rights of citizens under the First Amendment to the United States Constitution.
 - 2. If a member persists in inappropriate behavior after warnings and actions pursuant to (1) above, then the presiding officer has authority to entertain a motion to censure that member's behavior and to make such a motion of censure a matter of public record in the Board's official minutes.
- E. Alleged violations of provisions of this Code of Ethics shall be handled by the enforcement procedures of Section 7.03, 7.04, 7.05, and 7.06 below. The presiding officer shall, when appropriate, initiate enforcement actions with respect to alleged violations by members of his/her Board.

Section 7.03 Enforcement by Standing Ethics Committee

- A. *Establishment of the Standing Ethics Committee ("Committee").* At their initial meeting immediately following annual Town Meetings, each of the following elected bodies shall appoint one regular member and one alternate member from their ranks to serve a one-year term on the Committee: Select Board, Planning Board, Zoning Board of Adjustment, Budget Committee, and Trustees of the Library.
- B. *Purposes*
 - 1. The purposes of this Committee are to adjudicate Complaints and make recommendations in accordance with Section 7.06;
 - 2. to disseminate the Code of Ethics and educate Public Officials and the Public about the Code, and
 - 3. to review annually proposals for revising this Code of Ethics.
- C. *Organization of the Committee.* Each year at their first meeting after Town Meeting the Committee shall elect a Chair and Vice Chair from its membership. Town Administration shall provide a qualified individual to serve as Recording Secretary. The Recording Secretary may be an employee of the Town or a contractor engaged for that purpose, but shall not be a member of the Committee.
- D. *Adoption of Rules of Procedure for Legislative and Executive Functions.* The Committee shall develop and adopt Rules of Procedure for conducting its legislative and executive functions under paragraphs 7.03 (c) (i) and 7.03 (c) (ii) above, as appropriate, for work the Committee plans to undertake during the year. Such Rules shall include provisions for public notice of all meetings and hearings and, in addition, provisions for public hearings

about any proposals to revise the Code of Ethics. The Rules of Procedure shall also include forms that a person must use to file a complaint alleging a violation of the Code of Ethics.

Section 7.04 Reporting Process. Any person who believes that an Official or Employee of the Town has violated this Code of Ethics may file a written complaint with the Town Clerk outlining the reasons for the alleged violation. The Town Clerk shall deliver a copy of the complaint both to the accused party and to the Chair of the Committee within three business days after receiving said complaint.

- A. *Normally the Committee shall accept only those complaints submitted within three (3) months after the alleged violation has occurred.*
- B. *However, in all cases the decision whether to accept a complaint is at the sole discretion of the committee.*

Section 7.05 Initial Review of Complaint. The following two-step Initial Review shall aim to provide due process to all parties to the complaint, to protect their rights, and to ensure that justice is rendered:

- A. The Committee shall consider taking jurisdiction only for complaints that are made in writing, signed by the Complainant or Complainants, notarized, and submitted to the Town Clerk.
- B. The Committee shall meet within fourteen (14) days of release of the complaint from the Town Clerk in accordance with RSA 91-A to determine by a recorded vote that the allegation of misconduct is with or without merit or foundation pursuant to the Code of Ethics and shall notify the Complainant(s) and Respondent of the time, date, and place of the hearing no less than seven (7) days prior to this meeting. Notice shall be given by registered mail, return receipt requested.
 - 1. If the Committee finds the complaint to be without merit or unfounded pursuant to the Code of Ethics it shall dismiss the complaint and provide both the Complainant and the Respondent with the decision together with written findings.
 - 2. If the Committee determines by a recorded vote that the complaint has merit pursuant to the Code of Ethics, a preliminary investigation will begin. A preliminary investigation may include, but is not limited to the following: reviewing State law, reviewing Town ordinances, interviewing witnesses, and reviewing meeting minutes and meeting recordings.
 - 3. Upon completion of a preliminary investigation, the Committee shall conclude by recorded vote that pursuant to the Code of Ethics:
 - (a) No action is appropriate because no improper conduct occurred, or;
 - (b) The violation was inadvertent, technical, or minor in nature and will be addressed informally in writing or verbally, or;
 - (c) The conduct was of a serious nature and formal proceedings should be instituted to inquire further into the complaint. The Committee shall then make a statement of the formal charges and hold a formal hearing into the complaint, the procedures for which will be outlined in Section 7.06 below.
 - (d) The Respondent and Complainant shall both be promptly provided with a written copy of the statement of formal charges.

Section 7.06 Formal Proceedings. The following Formal Proceedings, when conducted, shall aim to provide due process to all parties to the complaint, to protect their rights, and to ensure that justice is rendered:

- A. Following the completion of a preliminary investigation from which there is a finding that a formal proceeding should be conducted, the Committee will hold a formal meeting on the merits of the complaint within twenty-one (21) days. Notice of the time, date and place of this meeting shall be given to Complainant(s) and Respondent(s) by registered mail, return receipt requested.
- B. If the Complainant and Respondent wish to submit any written testimony, evidence, or witness list, they must provide a copy of all material to the Town Clerk so that it is received no less than five (5) business days prior to the hearing. The Town Clerk shall provide the Standing Ethics Committee with copies no less than three (3) days prior to the hearing.
- C. In the event that any regular member of the Committee is disqualified or unable to sit with respect to a complaint, the alternate from his/her appointing body shall be seated. In the event that both appointees from one body are disqualified or unable to be seated, then the Chair shall seat one of the alternate members from another Board to hear the complaint.
- D. All meetings and deliberations with respect to each complaint, and all documents and records pertaining to those meetings and deliberations shall be governed by the New Hampshire Right to Know Law, RSA 91-A.
- E. Formal Proceedings shall not be bound by the strict rules of evidence prevailing in courts of law or equity.
- F. A Committee meeting to review a complaint is not a public hearing in which members of the general public may comment, unless invited to do so at the pleasure of the Committee.
- G. In Formal Proceedings Committee meetings shall be conducted under the following rules:
1. The Chair will call the meeting to order and read the charges against the Respondent(s).
 2. The Chair will then call upon the Complainant(s) to present the complaint. If the complaint is signed by more than one individual, the Complainants shall appoint one individual to act as their spokesperson.
 3. The Committee may question the Complainant(s) as necessary.
 4. The Chair will then call upon the Respondent to explain his/her case.
 5. The Committee may question the Respondent(s) as necessary.
- H. After the Committee has received all relevant testimony and evidence, it will begin deliberations. The Committee shall conduct its deliberations in accordance with RSA 91-A:3. Nothing herein shall be construed to prohibit the Committee from consulting with legal counsel pursuant to RSA 91-A:2.
- I. **Written Recommendation:** The Ethics Committee shall have no authority to remove any person from his or her office or position of employment, or to impose any other penalty or sanction, but shall determine on the record whether a violation of the Ethics Code has occurred. The result of each adjudicative process shall be a written recommendation, with specific findings, to the appropriate Town Official or body about: 1) whether a violation of the Ethics Code has occurred; and 2) whether any remedial or punitive action should be taken. This recommendation shall be signed by all members of the Committee who voted in favor of the recommendation. Members of the Committee who opposed the recommendation shall have the right to convey written minority opinion(s) at the same time the majority opinion is submitted.

ARTICLE VIII. SUPERCESSION

This Code of Ethics upon adoption supersedes any prior version of the Code of Ethics.

ARTICLE IX. SEVERABILITY

If any portion of this Code of Ethics shall be held invalid, the remainder shall not be affected thereby and shall remain in full force and effect.

ARTICLE X. EFFECTIVE DATE

Section 10.01 This Code of Ethics shall take effect upon passage by the legislative body.

Section 10.02 Any amendments shall take effect upon passage or upon such other date as may be specified by the legislative body.

Section 10.03 Any complaint pending at the time of adoption of this Code of Ethics shall be governed by rules in effect at the time the complaint was filed.

AS PROPOSED