

June 16, 2014

Workshop Agenda Item

Code of Conduct

Introduction

Review of Maine Statute re: COI
Review Town Council Rules Sections 5 & 6
Review section from MMA's Ethics Legal Packet
Brief Introduction of Kennebunkport, Sebago, Bridgton, Standish,
Scarborough and Bangor Councilor Codes of Conduct and other reference
materials

Code of Ethics (COE)

Code of Conduct (COC)

Conflict of Interest (COI)

Appearance of Conflict of Interest

- 1) Review submitted issues & complaints concerning current council
- 2) Categorization
 - a. Conduct during meetings
 - b. Conduct in the community
 - c. Ethical issues
 - d. Conflict of interest issues
- 2) Is there council interest in developing a COC/COE
- 3) Continuing ethics education for councilors - annual as for FOAA
- 4) Volunteers to produce a policy statement/ COC
- 5) Where to include: with TC Rules, or Town Charter
- 6) Next steps

From Mary Ann Lynch on 5/28/14

Dear Town council, I write to you about an ethical issue of increasing concern to me and to others in the town: that of town councilors soliciting or receiving gifts for their personal businesses from individuals and companies residing or located within the town.

I am aware of three instances (perhaps there are more) where two different councilors have sought donations for their own personal business. When I addressed my concern to one of these councilors it was immediately dismissed, even ridiculed!

It is almost inconceivable to me that such a pattern of behavior has continued unabated for months now, without being addressed by the council.

The conflicts and ethical issues seem patently obvious to me, but since they have been roundly dismissed, and not so obvious to those on asking end, I feel the need to spell the issues out clearly.

First, I don't know how the town government can maintain even the appearance of impartiality when town councilors solicit and accept gifts from individuals and corporations. If I give someone a "gift" for their business, and then I come before the council with a request, let's say a zoning change, should the councilor have to disclose that they are a recipient of a gift from me? Should they recuse themselves from a vote? Neither disclosure nor recusal is preferable, in my humble opinion, to not having solicited and accepted a gift in the first instance.

We need a prohibition on accepting gifts from someone whose personal or business interests are likely to be affected by council action. Better yet, while serving on the council there should be a ban on accepting gifts from anyone other than a family member, or close personal friend, and even the latter should be subject to disclosure.

We currently have a restaurant/ hotel in town sponsoring a fundraiser for a farm stand owned by a councilor. What if that business proposes an ordinance change, or some other town action, after having provided a gift to the councilor? This certainly creates a risk of undue influence. Indeed, I believe there is a presumptive conflict of interest if a town councilor accepts a gift and then votes on a matter that effects the gift giver.

Second, We have situations, in both cases, where the councilors businesses compete with other businesses in town. Is it fair to those other businesses (who are also taxpayers) who may suffer a competitive disadvantage when they pay for their improvements, and perhaps take out a bank loan, but the councilor's business improvements are paid for by soliciting gifts? This is an abuse of office.

We cannot maintain public confidence in our town government when local officials seek donations for their own personal gain from the citizens of the town. I urge the council to address this issue immediately. It is amazing to me that these flagrant ethical transgressions have continued for months. It is clearly time for the council to adopt a formal code of ethics to govern the conduct of town councilors. I am sorry it has come to this. Previous councils have largely been self governing and have maintained high ethical standards. But I guess now it is time to clearly spell out minimum standards of behavior, disclosure, and recusal.

I thank you for your attention.

From Dave Sherman 4/15/14

- (1) All written communications should be capable of being preserved and made available to the public. That means no texting. (I believe our state government is adopting the same rule?) If the text is purely logistical (e.g., "hey, I'm going to be late for the meeting"), I think that's okay. But anything writing of substance should be in the form of an e-mail or letter.
- (2) Council members should refrain from engaging in electronic communications during meetings. I.e., no texting or e-mailing during meetings. (But what if a citizen sends an e-mail in during a meeting? Should we read it? If we do, should we disclose that to the rest of the group?)
- (3) Council members should arrive to meetings on time. For televised meetings, we should arrive 5-10 minutes early to review any last-minute submissions and to get our i-Pads connected.
- (4) Council members should review all materials ahead of time and, where appropriate, seek answers to questions in advance of the meeting.
- (5) If a Council members wishes to revise a proposed ordinance,

he/she should speak with the Ordinance Committee Chair about the suggested language, to see if perhaps the Town Planner (or Town Attorney) could formulate a new version for the Council's consideration. This avoids amending ordinance language "on the fly."

- (6) Council members should not solicit funds from the public for their own personal gain. At the very least, if they engage in a "Jump Starter" campaign or the like, they should not publicize the fact that they are on the Council while doing that.

From Jessica Sullivan

- (7) Council members should refrain from inappropriate facial expressions and body language during meetings
- (8) Council members should engage in active listening with citizens and each other during meetings

4. Direct or indirect pecuniary interest. In the absence of actual fraud, an official of a body of the municipality, county government or a quasi-municipal corporation involved in a question or in the negotiation or award of a contract is deemed to have a direct or indirect pecuniary interest in a question or in a contract where the official is an officer, director, partner, associate, employee or stockholder of a private corporation, business or other economic entity to which the question relates or with which the unit of municipal, county government or the quasi-municipal corporation contracts only where the official is directly or indirectly the owner of at least 10% of the stock of the private corporation or owns at least a 10% interest in the business or other economic entity.

When an official is deemed to have a direct or indirect pecuniary interest, the vote on the question or the contract is not voidable and actionable if the official makes full disclosure of interest before any action is taken and if the official abstains from voting, from the negotiation or award of the contract and from otherwise attempting to influence a decision in which that official has an interest. The official's disclosure and a notice of abstention from taking part in a decision in which the official has an interest shall be recorded with the clerk or secretary of the municipal or county government or the quasi-municipal corporation.

A. This subsection does not prohibit a member of a city or town council or a member of a quasi-municipal corporation who is a teacher from making or renewing a teacher employment contract with the municipality or quasi-municipal corporation for which the member serves. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

5. Former municipal and county officials. This subsection applies to former municipal and county officials.

A. No former municipal or county official may, for anyone other than the municipality or county, knowingly act as an agent or attorney, or participate in a proceeding before a municipal or county government body for one year after termination of the official's employment or term of office with that government body in connection with any proceeding:

(1) In which the specific issue was pending before the municipal or county official and was directly within the responsibilities of that official; and

(2) Which was completed at least one year before the termination of that official's employment or term of office. [1989, c. 104, Pt. A, §22 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

B. No former municipal or county official may, for anyone other than the municipality or county, knowingly act as an agent or attorney, or participate in a proceeding before a municipal or county government body at any time after termination of the official's employment or term of office with that government body in connection with any proceeding:

(1) In which the specific issue was pending before the municipal or county official and was directly within the responsibilities of that official; and

(2) Which was pending within one year of the termination of the municipal or county official's employment or term of office.
[1989, c. 104, Pt. A, §22 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

C. This subsection may not be construed to prohibit former municipal or county officials from doing personal business with the municipality or county. This subsection does not limit the application of Title 17-A, chapter 25. [1989, c. 104, Pt. A, §22 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

For the purpose of this subsection, a municipal or county government body includes an agency, board, commission, authority, committee, legislative body, department or other governmental entity of a municipality or county.

[1989, c. 104, Pt. A, §22 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

6. Avoidance of appearance of conflict of interest. Every municipal and county official shall attempt to avoid the appearance of a conflict of interest by disclosure or by abstention.

[1989, c. 104, Pt. A, §22 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

7. Municipal officers adopt ethics policy. In their discretion, the municipal officers may adopt an ethics policy governing the conduct of elected and appointed municipal officials.

[1989, c. 561, §19 (NEW) .]

SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§A22,C8,C10 (AMD). 1989, c. 561, §19 (AMD).

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If you need legal advice, please consult a qualified attorney.**

Office of the Revisor of Statutes

7 State House Station
State House Room 108

Article I Scheduling of Meetings

Section 1. Regular meetings Regular meetings of the Cape Elizabeth Town Council are held in the Town Hall at 7:00 p.m., on the second Monday of each calendar month. When the meeting date falls on a holiday, the regular meeting is held on the following Wednesday, at the same time and place. The date and/or location of any regular meeting may be changed by an order or resolve passed at a previous meeting upon the vote of five members of the council, provided, however, that any change in date will still provide for one regular meeting in each month. Any meeting may be postponed by the chairman due to severe inclement weather. The chairman shall reschedule the meeting to the earliest possible date.

Section 2. Special meetings Special meetings may be called by the chairman, and in case of the chairman's absence, disability, or refusal, special meetings may be called by three members of the Town Council. Notice of such meeting shall be served in person, electronically by e-mail, by telephone communication directly to the Town Council member or left at the residence of each member of the Town Council at least 48 hours before the time for holding said special meeting, unless all members of the council sign a waiver of said notice. An e-mail notice shall not serve as the sole notice unless prior to the meeting the recipient acknowledges receipt of the e-mail. The call for said special meeting shall set forth the matters to be acted upon and nothing else shall be considered at such special meeting.

Article II Agenda and Meeting Preparation

Section 1. Deadline to submit materials No item shall be in order for action at any meeting of the Town Council unless such item shall be filed in the office of the town clerk on or before noon of the first business day of the month for the regular meeting of the Town Council, and before noon of the business day prior to the day of any other meeting.

Section 2. Agenda preparation The town manager, with the advice and consent of the chairman shall prepare the agenda, which shall include the order of business. Any Town Council member or the town manager may sponsor items to be included in the agenda. The agenda may include reports from municipal boards and commissions that recommend Town Council action. Unless otherwise provided by ordinance, items submitted from citizens or others for inclusion in the agenda must be sponsored by a Town Council member or by the town manager. Sponsorship of an agenda item by the town manager or by a Town Council member shall not be deemed to be support on the merits of the sponsored item.

Section 3. Consent calendar The agenda may include a consent calendar providing for multiple items to be considered en bloc. When any item is included as part of a proposed consent calendar, any Town Council member may ask for any item to be considered separately. At the discretion of the chairman, any item removed from the consent calendar may be considered before or after the consideration of the items remaining on the consent calendar.

Section 4. Agenda order The order of the agenda for meetings shall be as follows:

Convening by the Chairman
Roll Call by the Town Clerk
The Pledge of Allegiance to the Flag
Presentations of any Town Council Recognitions
Town Council Reports and Correspondence
Other Reports on the Advance Agenda not Requiring Council Action
Citizens Discussion of Items Not on the Agenda-1st Opportunity
Town Manager's Report
Review of Minutes of Previous Meetings
Public Hearings
Agenda Items
Citizens Discussion of Items Not on the Agenda-Second Opportunity
Agenda Items Requiring Executive Sessions
Adjournment

Following any public hearing the Town Council shall consider the subject of the public hearing prior to moving forward to any additional item on the agenda.

Section 5. Agenda distribution The agenda shall be distributed to the members of the Council and made available to the public by the Wednesday preceding the date of the regular Council meeting and as soon as possible before a time set for any other meeting. Agendas shall be posted on the municipal website concurrent with distribution to the Town Council. Background material on issues before the Town Council shall be submitted electronically whenever feasible. Background material available electronically shall be posted on the municipal website unless the material relates to an item to be reviewed in non-public session.

Section 6. No new items after 10:00 p.m. No new item may be taken up for consideration at a Town Council meeting after 10:00 p.m.

Section 7. If meeting does not have a quorum If a meeting is adjourned because of the lack of a quorum, at least 24 hours notice of the time and place of holding another meeting shall be given to all members who are not present at the meeting from which adjournment is taken, unless such absent members sign a waiver of said notice.

Section 8. Electronic presentations Any person desiring to include as part of a presentation any material that requires projection shall provide the presentation to the town clerk by noon of the date of any meeting so that the presentation may be preloaded and ready to project. A copy of the presentation will also be maintained as a public record.

Article III Participation at Meetings and Conduct of Meetings

Section 1. Types of meetings. The Town Council meets in either business meeting format or workshop meeting format.

Section 2. Workshop Meetings The purpose of a workshop meeting is primarily for council dialogue involving reports and proposals from council members, committees and staff that may be considered at later Town Council meetings. The Town Council may give guidance to the chairman and to staff at workshop meetings but no decisions may be made that require formal votes. Notwithstanding the prior sentence, the Town Council may vote on procedural motions at a workshop meeting to determine a conflict of interest, to enter into executive session and to adjourn. Prior to Town Council discussion on any item, members of the public may speak on each agenda item

for not more than three minutes each and up to a total of 15 minutes. If there are more speakers than the time available, the chairman may allocate the speaking time in order to balance the debate. The public participation portion shall conclude when the Town Council begins its discussions.

Section 3. Rules of order and debate The chairman presides over all meetings of the Town Council. No one shall speak until recognized by the chairman. When speaking, the member shall respectfully address the chairman, confine discussion to the question under debate, and avoid personalities. No member speaking shall be interrupted by another, but by a call to order, to correct a mistake or by the chairman if there are technical issues with sound or video equipment.

The chairman shall preserve decorum and order, may speak to points of order in preference to other members, and shall decide all questions of order subject to an appeal to the council by motion regularly seconded, and no other business shall be in order until a question on appeal is decided.

The chairman or a designee of the chairman shall summarize every item on the agenda following its reading by title.

The chairman shall call for and declare all votes, but if any member doubts a vote, the chairman shall cause a return of the members voting in the affirmative and in the negative without debate. When a roll call is taken, the roll is called in alphabetical order, except that the chairman shall be the final member to vote.

Every motion shall be reduced to writing, if the chairman shall so direct.

Any member may require the division of a question.

When a question is under debate, the chairman shall receive no motion but to:

- (1) adjourn
- (2) lay on the table
- (3) postpone to a day certain
- (4) refer to a committee or some administrative official
- (5) amend
- (6) postpone indefinitely, or
- (7) move the previous question

Motions shall have precedence in the order written above.

The chairman shall consider a motion to adjourn as always in order except on immediate repetition; and that motion, and the motion to lay on the table, or to take from the table, shall be decided without debate.

A motion for referral to a committee or administrative official, until it is decided, shall preclude all amendments of the main question.

All questions relating to priority of business to be acted upon shall be decided without debate.

In all cases where the parliamentary proceedings are not determined by the foregoing rules and orders, "Robert's Rules of Order", latest edition, shall be taken as authority to decide the course of proceedings.

After a vote is taken, it shall be in order for any member who voted on the prevailing side of a vote to have a reconsideration thereof at the same, or the next stated meeting, but not afterwards; and when a motion of reconsideration is decided, that vote shall not be reconsidered.

Upon the motion for the previous question being made and seconded, the chairman shall put the question in the following form: "Shall the main question be now put?" And all debate upon the main question shall be suspended until the motion for the previous question shall be decided. After the adoption of said motion for the previous question by a majority vote, the sense of the council shall be forthwith taken upon all pending amendments, and then upon the main question.

No debate shall be allowed on a motion for the previous question. Neither is it susceptible of amendment. All questions or order arising incidentally thereon must be decided without discussion whether appeal be had from the chair or not.

Section 4. Public Participation at Regular Town Council Meetings The public is welcome to participate at Town Council business meetings. The participation may take the following forms:

a. Participation at a public hearing and on other agenda items

After an item has been introduced, any person wishing to address the council shall signify a desire to speak by raising his or her hand or by approaching the lectern. When recognized by the chairman, the speaker shall give his or her name and address or name and local affiliation, if the affiliation is relevant, prior to making other comments. All remarks should be addressed to the Town Council. Comments shall be limited to three minutes per person; however, the time may be extended by majority vote of councilors present. For agenda items that are not formally advertised public hearings, the chairman or a majority of the Town Council may limit the total time of public comments to 15 minutes per agenda item. This time may be extended by a majority of the Town Council. The chairman may decline to recognize any person who has already spoken on the same agenda item. Once the council has begun its deliberations on an item, no person shall be permitted to address the council on such item.

If the Town Council has previously held within ninety days a public hearing on a similar item, the chairman or a council majority may limit or dispense with public comment at subsequent meetings when the item is considered.

b. Speaking at the meeting on topics not on the agenda

Persons wishing to address the council on an issue or concern local in nature not appearing on the agenda may do so before the town manager's report and/or after the disposition of all items appearing on the agenda.

Any person wishing to address the council shall signify a desire to speak by raising his or her hand or by approaching the lectern. When recognized by the chairman, the speaker shall give his or her name and address or name and local affiliation if the local affiliation is relevant prior to making other comments. All remarks should be addressed to the Town Council. Comments in each comment period shall be limited to three minutes per person and 15 minutes total; however, the time may be extended by majority vote of councilors present.

Issues raised during the non-agenda item comment period may be immediately responded to with brief answers by the chairman or by the town manager. After each comment period, the chairman will indicate that each person who did not receive an immediate response will receive a follow-up response no later than one week from the meeting. Copies of responses will be provided to all Town Council members.

Section 5. Decorum Persons present at council meetings and workshop meetings shall not applaud or otherwise express approval or disapproval of any statements made or actions taken at such meeting. Persons at business meetings may only address the Town Council after being recognized by the chairman and only at the lectern.

Section 6. Conflict of interest Each Town Council member shall disclose any potential conflict of interest immediately after the chairman introduces an item. The council member shall briefly explain their reason why they believe they may have a conflict of interest. The balance of the Town Council members after reviewing applicable statutes shall by majority vote determine if the member has a conflict. If any member of the Town Council believes that another member has a statutory conflict of interest, they may raise a point of order at any time and the Town Council shall immediately suspend business to resolve the issue. If any member discovers part way into a discussion that they may have a conflict of interest, the council member may raise a point of order and the Town Council shall immediately suspend business to resolve the issue. All resolutions of conflict of interest issues shall be by majority vote of the remaining Town Council members and after citing applicable statutory provisions. If the same issue is to be discussed at subsequent meetings, the recusal need not be revoted. The chairman will announce to those present the previous decision to recuse the council member.

Section 7. Members must vote Unless a Town Council member has been recused from voting for reason of conflict of interest, the Town Council member must vote when the yeas and nays are called.

Section 8. Suspension of rules The rules shall not be dispensed with or suspended unless five of the members of the council consent thereto. No rule or order shall be amended or repealed without notice, in writing, being given at the preceding meeting.

Article IV Miscellaneous Provisions

Section 1. Committees At the commencement of the council year, or as soon thereafter as possible, there shall be chosen the following committees, each committee to consist of such members of the council as the Town Council may designate:

1. Finance Committee
2. Appointments Committee
3. Ordinance Committee

The members of the council to serve on the appointments committee and ordinance committee shall be chosen by the council by a majority vote. All members of the council shall serve on the finance committee. Each member of the council, other than the chairman, shall serve on either the appointments committee or the ordinance committee, and the chairman shall be ex-officio a member of all standing committees. The chairperson of each of the Finance Committee, the Appointments Committee and the Ordinance Committee shall also be chosen by the full council by majority vote.

Section 2. When votes are effective All Town Council votes are effective immediately except that ordinance adoptions and amendments are effective as provided in the municipal charter.

Section 3. Chairman In the absence of the chairman, the finance committee chairperson shall assume the responsibilities of the chairman. If both are absent, the remaining council members shall choose a chairman pro-tem who shall have the responsibilities of the chairman. The "chairman" each year may ask that the position instead be referred to as "Town Council Chair," "Town Council Chairwoman," or "Town Council Chairperson." The Town Council shall respect the wishes of the incumbent chairman.

Section 4. Orientation Between the annual municipal election and the 2nd Monday in December, the current chairman assisted by the town manager shall organize an orientation session for any newly elected councilors and any continuing councilors who may wish to attend.

Section 5. Partisanship "The Council-Manager Charter of the Town of Cape Elizabeth" provides that elections for Town Council shall be conducted on a non-partisan basis and without party designations on the election ballot. To retain the non-partisan nature of the council, council members and others are asked to refrain from making statements announcing political party events or making other comments of a political partisan nature.

Section 6. Technology The Town Council utilizes technology to enable more access to local government. The use of messaging technology during Town Council meetings shall be limited to ensure that Town Council deliberations are conducted openly.

Workshop

Reference Materials:

Samples of Municipal and State Codes of Ethics

(from MMA's Legal Department's *Ethics* Legal Packet)

This Maine Municipal Association publication is presented for "Classroom Use Only." Its intended use is to stimulate and aid in discussion and role playing within a classroom setting.

Legal Distinctions

I. Maine law recognizes four kinds of ethical dilemmas in municipal government: conflict of interest, incompatibility of office, prohibited appointments or employment, and bias (*see "State Law and Ethics," Maine Townsman, July 1990*); conflict of interest is only one type of ethical dilemma, although the term "conflict of interest" is sometimes used generically (and incorrectly) to refer to all four. A conflict of interest, strictly speaking, exists where an official has a personal pecuniary (financial) interest in a matter of official business. Incompatibility of office is present where two public offices, by virtue of their respective and conflicting duties, cannot be held simultaneously by the same person no matter how dedicated or financially disinterested. Prohibited appointments or employment are paid positions which are barred to the municipal officers (selectmen or councilors) because they either created the positions or increased the positions' compensation. Bias occurs where an official, due to prejudice or a familial relationship with the applicant, is unable to make a fair and impartial decision in a matter requiring objectivity (i.e., a "quasi-judicial" proceeding). These distinctions are important because the circumstances under which an ethical problem may arise, and the legal consequences that may result if it is ignored or handled

improperly, can vary widely depending on which type of problem it is.

Appearances

I. The basic rationale for regulation of ethics among municipal officials is to foster and preserve public trust in the fundamental integrity of local government. Even where an official's conduct may not be legally proscribed, personal relationships or competing interests may create an appearance of impropriety sufficient to undermine public confidence in the fairness and honesty of local officials. State law (30-A M.R.S.A. § 2605(6)) therefore encourages officials to avoid the appearance of a conflict of interest by disclosure or by abstention in such cases.

Local Ethics Policies

I. State law (30-A M.R.S.A. § 2605(7)) authorizes the municipal officers to adopt an ethics policy governing local officials. Some municipalities have found this to be an effective method for dealing with ethical dilemmas left unresolved by other law. (*For a good example, see the City of Bangor's "Code of Ethics,"*)

Who Decides

Ultimately, of course, only a court can determine whether an official has violated an ethical restriction and, if so, what penalties or consequences may follow. However, the numerous statutes and cases can serve as a guide to local officials in resolving their own specific ethical dilemmas. In addition, certain moral principles may apply (*see "Ethics: More than Just a Set of Rules," Maine Townsman, July 1990*). In the absence of local charter, ordinance or bylaw provisions to the contrary, it is generally recognized that a majority of a board (not including the member whose

participation is in question) may determine whether a member has a disqualifying ethical problem.

Bangor, Maine

Chapter 33:
CODE OF ETHICS

Purpose.

The purpose of this Code is to establish ethical standards of conduct for all City employees, City Councilors and board and commission members by setting forth those acts or actions deemed to be in conflict or incompatible, or to create the appearance of conflict or incompatibility, with the best interests of the City of Bangor.

Kennebunkport, Maine:

Sebago, Maine:

Other Maine towns

State of Connecticut:

www.ct.gov/ethics

The Big Picture

All state officials and employees (except judges) are covered by Part I of the Code of Ethics for Public Officials (henceforth, Part I, or the Code). It is important to remember that certain provisions of the Code also apply to public officials and state employees after they leave state service.

As you read through this guide, be aware that these laws were enacted to prevent individuals from using their public position or authority for personal, financial benefit.

Lobbyists are covered by Part II of the Code of Ethics.

Each state agency also has its own ethics policy, which may be more restrictive than what follows, particularly in connection with which benefits a lobbyist, or a person regulated by, doing or seeking to do business with a state agency may provide

WHAT IS A "SUBSTANTIAL" CONFLICT OF INTEREST?

A "substantial" conflict of interest exists if a public official or state employee has reason to believe or expect that he or she, his or her spouse, a dependent child, or a business with which he or she is associated will derive a **direct** monetary gain or

suffer a **direct** monetary loss by virtue of his or her official activity. It does not exist if any benefit or detriment accrues to any such person as a member of a profession, occupation or group to no greater extent than any other member of such profession, occupation or group. Conn. Gen. Stat § 1-85.

“Business with which...associated” is defined to include any entity through which business for profit or not for profit is conducted in which the public official or state employee, or a member of his or her immediate family, is a director, officer, or holder of significant ownership interest. **Note:** Unpaid service as an officer or director of a non-profit entity is exempted from the definition of “Business with which...associated.”

Potential Conflict of Interest

WHAT IS A “POTENTIAL” CONFLICT OF INTEREST?

A “potential” conflict of interest exists if a public official or state employee, in the discharge of his or her official state duties, would be required to take an action that would affect his or her financial interest, or the financial interest of his or her spouse, parent, brother, sister, child, spouse of the child, or a business with which the official or employee is associated. Unlike a “substantial” conflict of interest, there is no requirement that the financial impact be direct or that it affect the individual differently from other members of his or her profession, occupation, or group. However, there still must be a reasonable expectation on the part of the state employee or public official that there will be some financial impact based on his or her actions. A “potential” conflict of interest does not exist if the financial interest is “de minimus” (under \$100) or if the interest is not distinct from that of a substantial segment of the general public (e.g., all taxpayers). Conn. Gen. Stat. §1-86.

(Rev. December 2012) PAGE| 10

State of Wisconsin:

Portions of Wisconsin’s

CODE OF ETHICS FOR PUBLIC OFFICIALS AND EMPLOYEES PERTAINING TO LOCAL GOVERNMENT OFFICIALS AND EMPLOYEES

From Subchapter III, Chapter 19, *Wisconsin Statutes*

19.59 Codes of ethics for local government officials, employees and candidates. (1) (a) No local public official may use his or her public position or office to obtain financial gain or anything of substantial value for the private benefit of himself or herself or his or her immediate family, or for an organization with which he or she is associated. A violation of this paragraph includes the acceptance of free or discounted admissions to a professional baseball or football game by a member of the district board of a local professional baseball park district created under subch. III of ch. 229 or a local professional football stadium district created under subch. IV of ch. 229. This paragraph does not prohibit a local public official from using the title or prestige of his or her office to obtain campaign contributions that are permitted and reported as required by ch. 11.

(b) No person may offer or give to a local public official, directly or indirectly, and no local public official may solicit or accept from any person, directly or indirectly, anything of value if it could reasonably be expected to influence the local public official's vote, official actions or judgment, or could reasonably be considered as a reward for any official action or inaction on the part of the local public official. This paragraph does not prohibit a local public official from engaging in outside employment.

(br) No local public official or candidate for local public office may, directly or by means of an agent, give, or offer or promise to give, or withhold, or offer or promise to withhold, his or her vote or influence, or promise to take or refrain from taking official action with respect to any proposed or pending matter in consideration of, or upon condition that, any other person make or refrain from making a political contribution, or provide or refrain from providing any service or other thing of value, to or for the benefit of a candidate, a political party, any person who is subject to a registration requirement under s. 11.05, or any person making a communication that contains a reference to a clearly identified local public official holding an elective office or to a candidate for local public office.

(c) Except as otherwise provided in par. (d), no local public official may:

1. Take any official action substantially affecting a matter in which the official, a member of his or her immediate family, or an organization with which the official is associated has a substantial financial interest.

2. Use his or her office or position in a way that produces or assists in the production of a substantial benefit, direct or indirect, for the official, one or more members of the official's immediate family either separately or together, or an organization with which the official is associated.

(d) Paragraph (c) does not prohibit a local public official from taking any action concerning the lawful payment of salaries or employee benefits or reimbursement of actual and necessary expenses, or prohibit a local public

3

State of Wisconsin Code of Ethics for Local Officials

official from taking official action with respect to any proposal to modify a county or municipal ordinance

Other:

Cities with population under 10,000

While the above ordinances and policies apply to larger cities, they could as easily apply to smaller jurisdictions. Ethical issues are not limited to jurisdictions of a certain size.

II. Fircrest Municipal Code Ch. 2.46 - Conduct of Public Officials, 1987 - Relatively short ordinance, but includes requirements for listing of property, remote interests, abstention from voting due to conflict

III. Grandview Municipal Code Ch. 2.90 - Conduct of Public

Employees - Board of Ethics, 1989 - Short code. It sets out enforcement process and covers former city employees, as well as present employees.

- IV. Snoqualmie Municipal Code Ch. 2.80 - Code of Ethics, 1996
- Well written, comprehensive, detailed code

Samples of Municipal Codes of Ethics and Codes of Conduct Codes of Policy

Bridgton

Scarborough

Standish

Kennebunkport

Sebago

Bangor



Michael McGovern <michael.mcgovern@capeelizabeth.org>

Three Needs Today

3 messages

Michael McGovern <michael.mcgovern@capeelizabeth.org>

Tue, Mar 18, 2014 at 1:12 PM

To: "MTCMA-Members@imail.memun.org" <mtcma-members@imail.memun.org>

Dear Friends,

The Cape Elizabeth Town Council is working on many varied issues and has asked me to seek some sample policies including the following:

Council Code of Ethics or Conflict of Interest policy aside from the Maine statute.

Naming Policy, i.e the naming of rooms in a library as part of a fundraising campaign (a general policy would also be appreciated)

An agreement with an historical society to have custody and care of municipal records.

Any assistance would be appreciated to michael.mcgovern @capeelizabeth.org or the shorter address of cetm@maine.rr.com

Thank you very much.

Mike

Michael K. McGovern
Town Manager
Town of Cape Elizabeth, Maine
PO Box 6260, 320 Ocean House Road
Cape Elizabeth, ME 04107
michael.mcgovern@capeelizabeth.org
www.capeelizabeth.com
Phone: 207-619-6716

Mitchell Berkowitz <townmgr@bridgtonmaine.org>

Tue, Mar 18, 2014 at 1:42 PM

Reply-To: MTCMA-Members@imail.memun.org

To: MTCMA-Members@imail.memun.org

Hi Mike,

I have attached our adopted Code of Ethics. It was put together after reviewing several communities and I copied this one and then tailored it to our needs. They seem to be living up to it.....

We have not yet established an agreement for document storage with our Historical society. Please send

TOWN OF BRIDGTON Code of Ethics

PREAMBLE:

The proper operation of the democratic government of the Town of Bridgton (hereinafter "Town") requires that the Town's Selectmen, Planning Board members, members of appointed boards, members of all town appointed committees (also referred to as Town Officials) and employees be fair, impartial and responsive to the needs of the people and to each other in the performance of their respective functions and duties; that decisions and policy be made in proper channels of the Town's governmental structure; that public office or employment not be used for personal gain; and that Selectmen, Planning Board members, members of appointed boards, members of all town appointed committees and Town employees maintain a standard of ethical conduct that will inspire public confidence in the integrity of the Town's government. In recognition of these goals, this Code of Ethics is hereby adopted as a standard of ethical conduct for all Selectmen, Planning Board members, members of appointed boards, and employees of the Town.

PURPOSE AND OBLIGATION:

The purpose of this Code of Ethics is to establish standards of ethical conduct for all Selectmen, Planning Board members, members of appointed boards, members of all town appointed committees and Town employees by setting forth those acts or actions which are deemed to be in conflict, or which create the appearance of conflict, with the ethical standards of the Town of Bridgton.

Legal Standards: It is the duty of every category of Town official (as described above) and Town employee to support the Constitution of the United States and the Constitution of the State of Maine. There are also certain provisions of the general statutes of the State of Maine, which, while not set forth herein, should be considered an integral part of this Code of Ethics. Accordingly, the provisions of the following sections of the general statutes of the State of Maine, as they may be amended, are incorporated into this Code of Ethics by reference to the extent applicable:

17 MRSA § 3104 Conflict of Interest; Purchases by the State
17-A MRSA § 456 Tampering with Public Records or Information
17-A MRSA § 602 Bribery in Official and Political Matters
17-A MRSA § 603 Improper Influence
17-A MRSA § 604 Improper Compensation for Past Action
17-A MRSA § 605 Improper Gifts to Public Servants
17-A MRSA § 606 Improper Compensation for Services
17-A MRSA § 607 Purchase of Public Office
17-A MRSA § 608 Official Oppression
17-A MRSA § 609 Misuse of Information

17-A MRSA § 903 Misuse of Entrusted Property
20-A MRSA § 504 Persons Ineligible to Serve as Election Officials
30-A MRSA § 2605 Conflicts of Interest
30-A MRSA § 5122 Interest of Public Officials, Trustees or Employees

A. It is the goal of this Code of Ethics that every citizen shall receive fair and impartial consideration on any matter coming before the Board of Selectmen, the Planning Board, the Town's appointed boards, all town appointed committees and any Town employee. No Town Official or Town employee shall make any promise or pledge to any person concerning any matter to be considered by that Town official, Town Committee member(s) or Town employee in an official capacity except upon a fair and impartial consideration of the relevant facts in the appropriate forum.

1) Avoidance of Appearance of Improper Influence. Town Officials and Town employees should conduct their official and personal affairs in such a manner as to avoid any appearance of improper influence in the performance of their official duties.

Fair and Impartial Consideration. Fair and impartial consideration means that Town Officials and Town employees should make their decisions in the appropriate public forum and should not take official action until they have given a careful and objective consideration to the facts pertaining to a particular issue coming before them. They should not prejudge matters coming before them in their official capacity and should not make promises or commit to a course of action until all of the relevant facts have been considered.

B. The conduct of public business shall be free from any undisclosed financial or personal interests on the part of any Town Official or Town employee and from any appearance of conflict. No Town Official or Town employee shall advocate in any public meeting or in his/her official capacity on any matter in which that Town Official or Town employee has a financial or personal interest, or where there is any appearance of conflict, except upon full and timely disclosure of that interest.

Guidelines

1) Financial Interests. Town Officials and Town employees should endeavor to avoid holding any investment, directly or indirectly, in any business, commercial enterprise, or other private activity that conflicts with their official duties as a Town Official or Town employee. In the case of members of Town boards and committees where such a conflict exists, it should be disclosed to the board or committee on which that public official sits prior to consideration of any decision to be made by that Board or Committee, and if requested by the membership of that Board or Committee, the official should recuse him/herself from participating in any official action on any matter to which the conflict pertains. In the case of Town employees, any such conflicts should be disclosed to the employee's immediate supervisor and the Town Manager and, at the request of the employee's supervisor or the Town Manager, the employee should refrain from participating in the consideration of official action on any matter to which the conflict pertains.

2) Personal Interests. Members of Town boards and committees should disclose any personal relationship to the board or committee on which that Town Official sits in any instance where there could be the appearance of a conflict of interest. For example, if the Official's spouse or domestic partner works for a developer appearing before that Town board or committee, that fact should be disclosed.

Avoidance of Appearance of Conflict. Where there is doubt about a potential conflict or appearance of conflict due to an investment, financial holding, or personal relationship, the potential conflict or appearance of conflict should be disclosed to the board on which that Town Official sits prior to consideration of any decision to be made by that board, and if requested by the membership of that board, the Town Official should recuse him/herself from participation in the consideration of any official action on any matter to which the conflict or appearance of conflict pertains.

C. The conduct of public business shall be free of any influence arising from gifts, favors or special privileges. It is the duty of every Town Official and Town employee to refuse personal gifts, favors or special privileges in every instance where such Town Official or Town employee reasonably believes such gift, favor or special privilege would not have been extended but for the official position of such Town Official or Town employee, or where there exists a reasonable belief that the donor's interests are likely to be affected by the official actions of the Town Official or Town employee, or where the gift is or may reasonably be considered to be designed to influence the official actions of the Town Official or Town employee.

1) Gifts. No Town Official or Town employee should directly or indirectly solicit any gift or accept or receive any gift whether it be money, services, loan, travel, entertainment, hospitality, promise, or any other form of gift if it could be reasonably inferred or expected that (1) the gift was intended to influence their performance of their official duties; or (2) the gift was intended to serve as a reward for any official action on their part.

2) Limitation. The policy against solicitation or acceptance of gifts is limited to circumstances reasonably related to the possibility of improper influence or the appearance of improper influence. In *de minimus* situations, such as meal checks, a modest maximum amount shall be established by the Selectmen from time to time as a guideline to be applied under this Code of Ethics. That amount is initially established under this Code of Ethics at a maximum of twenty-five (25) dollars. Furthermore, this guideline is not intended to preclude Town Officials and Town employees from participating in normal social practices where gifts among friends, associates, and relatives are appropriate for certain occasions and where there is no reasonable grounds to believe that a gift is motivated by an intent to improperly influence the Town Official or Town employee in the conduct of his/her official duties.

D. No Town Official or Town employee shall use confidential or advance information obtained by virtue of Town office, appointment or Town employment for personal or financial advantage.

1) Town Officials and Town employees should not disclose to others, or use confidential information acquired by them in the course of their official duties, to further their personal interests.

2) Real Estate Transactions. In the case of real estate transactions, the potential use of confidential information and knowledge to further a Town Official's or Town employee's personal interests requires special consideration. Purchase and sales of real estate which might be regarded as speculation for quick profit ought to be avoided, particularly in situations where the Town Official or Town employee may have inside or advance information as a result of his/her office or employment with the Town.

E. It is the duty of Town Officials to faithfully discharge the duties of their offices. In the conduct of public business, no Town officials should be excused from voting except on matters involving consideration of their own official conduct, or where their personal or financial interests may create a conflict or an appearance of conflict.

1) It is the obligation of all Town Officials to fully and faithfully discharge their duties. This includes voting on all matters coming before them even when such votes will not be popular, except in circumstances where the Town Official is excused from voting due to a conflict or appearance of conflict under this Code of Ethics.

F. It is the duty of every Town Official and Town employee to uphold and carry out the laws of the State of Maine and the lawful ordinances and policies of the Town. No Town Official or Town employee shall knowingly take any action that would violate the laws of the State of Maine or that is inconsistent with the lawful ordinances and policies established by the Town.

1) Public Confidence. Town Officials and Town employees should conduct themselves at all times so as to maintain public confidence in Town government and its lawful ordinances and policies. Town Officials and Town employees should comply with the laws of the State of Maine and the ordinances of the Town and should conduct themselves in a manner consistent with duly adopted Town policies.

G. The penalties for violation of this Code of Ethics shall vary according to the type of position held.

1. Elected Officials. For elected officials, when a violation is found by the elected board of which the official is a member, the actions taken may range from a letter of reprimand by the Chair of the board, to a censure by a majority of the elected board, to a request for

resignation from the elected position by a majority of the elected board.

2. **Appointed Officials.** For appointed boards, the same penalties shall apply as apply to elected officials, and, in addition, if the board or committee is appointed by the municipal officers of the Town, the municipal officers may remove an appointee for cause, after notice and public hearing, pursuant to 30-A M.R.S.A. §2601.

3. **Town Employees.** For employees of the Town, the penalties for violation of this Code of Ethics shall be governed by the Town's personnel policies, and collective bargaining agreements as applicable, which include but are not limited to appropriate progressive discipline up to and including suspension and termination.

H. **This Code of Ethics may be amended from time to time by a majority of the members of the Select Board of the Town.**

Created: October 6, 2008

Amended: May 31, 2013



Code of Ethics

2 messages

Tody Justice <YJustice@ci.scarborough.me.us>

Tue, Mar 18, 2014 at 2:47 PM

To: "michael.mcgovern@capeelizabeth.org" <michael.mcgovern@capeelizabeth.org>

Good Afternoon: We have one of your three items. Below is what the Town Council adopted in 2009 [similar to a Code of Ethics]:

Section 200: TOWN COUNCIL POLICIES & PROCEDURES

200.0: Breach of Rules and Orders [amended 10/21/09].

The proper operation of democratic government requires that Town Councilors be fair, impartial and responsive to the needs of the people and each other in the performance of the respective functions and duties; that decisions and policy be made in proper channels of the Town's governmental structure; that public office not be used for personal gain; and that such Councilors maintain a standard of conduct that will inspire public confidence in the integrity of the Town's government. In recognition of these goals, a Code of Ethics is hereby established for all Town Councilors which is not intended to deny Council members their constitutional rights nor violate their civil rights.

200.1: Standards of Conduct. The purpose of this Code is to establish ethical standards of conduct for all Town Councilors by setting forth those acts or actions deemed to be in conflict or incompatible, or to create the appearance of conflict or incompatibility, with the best interest of the Town of Scarborough.

200.2: Conflicts of Interest. No Councilor shall participate directly by means of deliberation, approval or disapproval, or recommendation, in the purchase of goods and services for the Town, and the award of any contracts with the Town, except that he/she may be allowed to submit bids for same in accordance with the Town ordinances; and under the laws of the State of Maine, where to his/her knowledge there is a financial interest, or special interest other than that possessed by the public generally, in such purchase or award, held by:

200.2.a: himself/herself or a member of his/her immediate family;

200.2.b: a business in which he/she or a member of his/her immediate family serves as an officer, director, trustee, partner or employee in a supervisory or management position; or

200.2.c: any other person or business with whom he/she or a member of his/her immediate family are in business, or are negotiating or have an arrangement concerning future employment.

200.3: Disclosure of Confidential Information. No Town Councilor shall, without proper legal

authorization, disclose confidential information concerning the property, government or affairs of the Town, nor shall he/her use such information to advance the financial or private interest of himself/herself or others. For purposes of this subsection, the term "confidential information" shall mean any information, oral or written, which comes to the attention of, or is available to, such Town Councilor only because of his/her position with the Town, and is not a matter of public record. Information received and discussed during an executive session of the Scarborough Town Council or any Town agency shall be considered within the constraints of this section, and shall not be disclosed to any third party unless permitted by affirmative vote of such body.

200.4: Gifts and Favors. No Town Councilor shall accept any gift in excess of \$50, whether in the form of service, loan, thing or promise, from any person and/or business which to his/her knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the Town; nor shall any Town Councilor: (1) accept any gift, favor or thing that tends to influence him/her in the discharge of his/her official duties; or (2) grant in the discharge of his/her official duties any improper favor, service or thing.

200.5: Use of Town Property. Nothing herein shall prohibit the use of Town buildings and equipment at rates and/or on terms as may be established.

200.6: Disclosure of Interest in Agenda Items. Any Town Councilor who believes he/she or a member of his/her immediate family, has a financial or special interest, other than an interest held by the public generally in any proposed order, ordinance or resolve on the agenda of the Scarborough Town Council, shall disclose the nature and extent of such interest, and have it recorded by the Clerk on the Town records of such item.

200.6.a: Once such disclosure has been made, such Town Councilor shall refrain and shall be relieved, in the discretion of the other members of the Council, from voting or otherwise participating in the deliberations and decision making process on such item.

200.6.b: Nothing herein shall be construed to prohibit any Town Councilor from representing his/her own personal interest in any such item.

200.7: Disclosure Statement by Town Councilors. Every Town Councilor shall file with the Town Clerk within thirty (30) days after the effective date of this Section, and during the month of April during each calendar year thereafter, a written statement under oath containing the following information, to the best of his/her knowledge and belief:

200.7.a: The name of each person or business doing business with the Town in an amount in excess of one thousand dollars (\$1,000.00) during the preceding calendar year from which such Councilor, or a member of his/her immediate family, has received money or other thing of value in an amount in excess of one thousand dollars (\$1,000.00) during the preceding calendar year, including campaign contributions.

200.7.b: For purposes of this Code, a list prepared by the Finance Officer of those persons or businesses doing business with the Town in amount in excess of one thousand dollars

(\$1,000.00) for the preceding calendar year shall be determinative for purposes of reporting under this section.

200.7.c: Income from, and financial investments in, policies of insurance, and deposits and accounts from commercial or savings banks, savings and loan associations, or credit unions shall not be considered to be a financial interest within the meaning of this section.

200.8: Political Activities. No Town Councilor shall participate in any political activity which would be in conflict or incompatible with the performance of his/ her official functions and duties for the Town. In conjunction therewith:

200.8.a: No Town Councilor may use his/her official authority or position for the purposes of influencing or interfering with or affecting the results of any election, nor shall he/she solicit funds or contributions or accept or receive funds or contributions from Town employees for political purposes. No Town Councilor may distribute pamphlets or handbills while he/she is performing their official functions and duties with the Town. Nothing herein shall be construed to prohibit any Town Councilor from participating in the political process in their capacity as private citizens.

200.9: Penalties. In addition to any other penalties or remedies as may be provided by law, violation of this Code shall constitute cause for censure, after notice and hearing conducted in private by the Town Council or if otherwise requested in writing by the Councilor to conduct the hearing in public session. A majority of the Scarborough Town Council shall conduct such proceedings.

200.10: Separability. If any section, subsection, sentence, clause or phrase of this Code is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Code.

Yolande (Tody) Justice

Scarborough Town Clerk/Public Access Officer

259 U.S. Route One - P.O. Box 360

Scarborough, ME 04070-0360

Telephone: 207.730.4020 Fax: 207.730.4033

www.scarboroughmaine.org

Confidentiality notice: the email message contained herein is intended only for the individual to whom or entity to which it is addressed as shown at the beginning of the message and may contain information that is privileged, confidential, and/or exempt from disclosure under applicable law. If the reader of this message is not the intended recipient, or if the employee or agent responsible for delivering the message is not an employee or agent of the intended recipient, you are hereby notified that any review, dissemination, distribution, use, or copying of this message is strictly prohibited. If you have received this message in error, please notify us immediately by return email and permanently delete this message and your reply to the extent it includes this message. Thank you for your cooperation.

Michael McGovern <michael.mcgovern@capeelizabeth.org>
To: Tody Justice <YJustice@ci.scarborough.me.us>

Tue, Mar 18, 2014 at 3:07 PM

Thank you very much Tody. I know this will be helpful especially as it is from a respected neighboring community.

Mike

Michael K. McGovern
Town Manager
Town of Cape Elizabeth, Maine
PO Box 6260, 320 Ocean House Road
Cape Elizabeth, ME 04107
michael.mcgovern@capeelizabeth.org
www.capeelizabeth.com
Phone: 207-619-6716

[Quoted text hidden]



Michael McGovern <michael.mcgovern@capeelizabeth.org>

Code of Ethics

2 messages

Gordon Billington <gbillington@standish.org>
To: "cetm@maine.rr.com" <cetm@maine.rr.com>

Tue, Mar 18, 2014 at 2:57 PM

From our Code Book:

ARTICLE IV. Code of Ethics

- § 3-12. Declaration of policy.
- § 3-13. Definitions.
- § 3-14. Standards of conduct.
- § 3-15. Conflicts of interest.
- § 3-16. Disclosure of confidential information.
- § 3-17. Gifts and favors.
- § 3-18. Use of Town property.
- § 3-19. Disclosure of interest in agenda items.
- § 3-20. Disclosure statement by Town Councilors.
- § 3-21. Political activities.

Article IV. Code of Ethics

§ 3-12. Declaration of policy.

The proper operation of democratic government requires that Town Councilors be fair, impartial and responsive to the needs of the people and each other in the performance of their respective functions and duties; that decisions and policy be made in proper channels of the Town's governmental structure; that public office not be used for personal gain; and that such Councilors maintain a standard of conduct that will inspire public confidence in the integrity of the Town's government. In recognition of these goals, a Code of Ethics is hereby established for all Town Councilors, which is not intended to deny Council members their constitutional rights or violate their civil rights.

§ 3-13. Definitions.

As used in this Article, the following terms shall have the meanings indicated:

BUSINESS

Any corporation, partnership, individual, sole proprietorship or joint venture or any other legally recognized entity organized for the purposes of making a profit.

FINANCIAL INTEREST

A direct or indirect interest having monetary or pecuniary value, including but not limited to the ownership of shares of stock.

IMMEDIATE FAMILY

A spouse or domestic partner, and the following when living in the household of a Town Council member: children, parents, brothers and sisters, stepparents, stepchildren, stepbrothers and stepsisters.

SPECIAL INTEREST

A person or group having an interest in a particular part of the economy and receiving or seeking special advantages thereafter to the detriment of the general public.

TOWN COUNCILOR

A member of the Standish Town Council.

TOWN EMPLOYEE

Any individual working for, on a regular or temporary basis, and drawing a salary, wages or stipend from the Town of Standish. The term "Town employee" shall not include consultants or special personnel providing services on a short-term contractual basis.

§ 3-14. Standards of conduct.

The purpose of this Code is to establish ethical standards of conduct for all Town Councilors by setting forth those acts or actions deemed to be in conflict or incompatible, or which create the appearance of conflict or incompatibility, with the best interest of the Town of Standish.

§ 3-15. Conflicts of interest.

A. The question of whether a Town Council member has a conflict of interest in any question or contract on which the Council is voting shall be answered by referring to 30-A M.R.S.A. § 2605.

B. No Councilor shall participate directly by means of deliberation, approval or disapproval or recommendation in the purchase of goods and services for the Town and the award of any contracts with the Town, except that he/she may be allowed to submit bids for the same in accordance with the laws of the State of Maine, where to his/her knowledge there is a financial interest or special interest other than that possessed by the public generally, in such purchase or award, held by:

(1) Himself/herself or a member of his/her immediate family;

(2) A business in which he/she or a member of his/her immediate family serves as an officer, director, trustee, partner or employee in a supervisory or management position; or

(3) Any other person or business with whom he/she or a member of his/her immediate family is in business or negotiating or has an arrangement concerning future employment.

C. No Town Councilor shall participate by means of deliberation, approval or disapproval or recommendation in the decision to hire, promote, discipline or lay off or to take any other personnel action in respect to any applicant for employment or employee, as the case may be, where the applicant or employee is:

(1) A member of his/her immediate family; or

(2) A person with whom either he/she or a member of his/her immediate family is in business.

D. No Councilor shall purchase any Town asset while in office.

E. Council and Town Manager appointed personnel shall not purchase any Town asset so long as that individual is employed by the Town of Standish.

§ 3-16. Disclosure of confidential information.

No Town Councilor shall, without proper legal authorization, disclose confidential information concerning the property, government or affairs of the Town, nor shall he/she use such information to advance the financial or private interest of herself/himself or others. For purposes of this section, the term "confidential information" shall mean any information, oral or written, which comes to the attention of or is available to such Town Councilor only because of his or her position with the Town and is not a matter of public record. Information received and discussed during an executive session of the Standish Town Council or any Town agency shall be considered within the constraints of this section and shall not be disclosed to any third party unless permitted by affirmative vote of such body.

§ 3-17. Gifts and favors.

No Town Councilor shall accept any valuable gift, whether in the form of service, loan, thing or promise, from any person and/or business which to his/her knowledge is interested, directly or indirectly, in any manner whatsoever in business dealings with the Town; nor shall any Town Councilor accept any gift, favor or thing of value that tends to influence him/her in the discharge of his/her official duties or grant in the discharge of his/her official duties any improper favor, service or thing of value.

§ 3-18. Use of Town property.

No Town Councilor shall use or permit the use of any Town-owned property, including but not limited to motor vehicles, equipment and buildings, for any private purposes. Nothing herein shall prohibit the use of Town buildings and equipment at rates and/or on terms as may be established.

§ 3-19. Disclosure of interest in agenda items.

Any Town Councilor who believes he/she or a member of his/her immediate family has a financial or special interest, other than an interest held by the public generally, in any proposed order, ordinance or resolve on the agenda of the Standish Town Council shall disclose the nature and extent of such interest and have it recorded by the Clerk on the Town records of such item. Once such disclosure has been made, such Town Councilor shall refrain and shall be prohibited, at the discretion of the other members of the Council, from voting or otherwise participating in the deliberations and the decision making process on such item. Nothing herein shall be construed to prohibit any Town Councilor from representing his/her own personal interest in any such item.

§ 3-20. Disclosure statement by Town Councilors.

A. Every Town Councilor shall file with the Town Clerk within 30 days after the effective date of this Article, and during the month of July during each calendar year thereafter, a written statement, under oath, containing the following information to the best of his/her knowledge and belief: the name of each person or business doing business with the Town in an amount in excess of \$1,000 during the preceding calendar year from which such Councilor or a member of his/her immediate family has received money or other thing or value in an amount in excess of \$1,000 during the preceding calendar year, including campaign contributions.

[Amended 8-10-2004 by Order No. 92-04]

B. For purposes of this Code, a list prepared by the Finance Director of those persons or businesses doing business with the Town in amount in excess of \$1,000 for the preceding calendar year shall be determinative for purposes of reporting under this section. Income from and financial investments in policies of insurance and deposits and accounts from commercial or savings banks, savings-and-loan associations or credit unions shall not be considered to be a financial interest within the meaning of this section.

§ 3-21. Political activities.

No Town Councilor may use his/her official authority or position for the purposes of unduly influencing or interfering with or affecting the results of any election, nor shall he/she solicit funds or contributions or accept or receive funds or contributions from Town employees for political purposes.

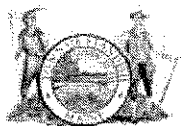
Gordon Billington

Standish Town Manager

175 Northeast Road, Standish, ME 04084

207-642-4659

gbillington@standish.org



Michael McGovern <cetm@maine.rr.com>
To: Gordon Billington <gbillington@standish.org>

Tue, Mar 18, 2014 at 3:09 PM

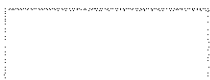
Thank you very much Gordy.

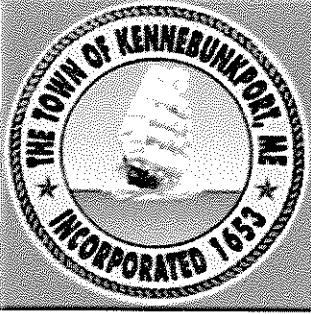
Mike

Michael K. McGovern
Home: 22 High View Rd
Cape Elizabeth, ME 04107

Office: PO Box 6260
Cape Elizabeth, ME 04107

Phone: Home: 207-767-3191
Office: 207-619-6716
Mobile: 207-756-3425





Kennebunkport, Maine

Code of Ethics Policy

Printer-Friendly Version

- [Home](#)
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- [Departments](#)
- [Board of Selectmen](#)
- [Appointed Boards](#)
- [Town Publications](#)
- [Town Calendars](#)
- [Meetings & Events](#)
- [Public Ordinances](#)
- [FAQs](#)
- [Forms](#)
- [Town Projects](#)
- [RSU #21 Topics](#)
- [Assessor's Database](#)
- [GIS Maps](#)
- [Water Quality](#)
- [Recreation News](#)
- [GRB Litigation](#)
- [Bid/RFPs](#)
- [FEMA](#)
- [Online Services](#)
- [Online Bill Payment](#)
- [Online Meetings](#)
- [Important Links](#)

Town of Kennebunkport Code of Ethics Policy

Section 1. Title

This policy shall be known as the Code of Ethics Policy for the Town of Kennebunkport, Maine, hereinafter referred to as "policy".

Section 2. Purpose

The purpose of this policy is to direct and ensure that all public officials (elected officials, appointed officials, committee members, board members, commission members, volunteers) and employees of the Town of Kennebunkport be ethical, fair, impartial, and responsive to each other; that decisions and policy be made utilizing proper channels and procedures of the Town's governmental structure; that public office or employment not be used for personal gain of any nature; and that such elected officials, appointed officials, committee members, board members, commission members, volunteers, and employees maintain a standard of conduct that will inspire public confidence in the integrity of the Town's government.

It shall always be held true and forever remembered that those persons elected or appointed to a position of trust and responsibility shall perform their official duties clearly understanding that they serve not themselves, but serve those that have elected or appointed them.

Town government exists to serve the public interest. While the public interest is a question of continuous debate, both in its general principles and in its case by case applications, it requires a conscientiously held view of the policies and actions that best serve the entire community.

Section 3. Code Provisions

Citizen Access

Every citizen is offered, and if they so choose, a fair and impartial opportunity to speak on any matter coming before the Town. This opportunity will be held consistent with the established rules of the appropriate Town Board or Committee having jurisdiction of the subject matter involved. The Board of Selectmen's meeting would be the appropriate venue to bring up any matter not covered by any other Town Board's or Committee's jurisdiction. Public requests for an opportunity to address the appropriate Board or Committee may be received by any person duly authorized by the Town to receive such requests. Nothing in this section shall interfere with the citizen's right to speak at any public meeting being conducted by the Town or its Boards and

Committees

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Rapid Renewal

ONLINE VEHICLE REGISTRATION RENEWAL

A record shall be kept by the Town of any citizen comment. This is to be done in the appropriate Board or Committee minutes. Matters concerning issues of confidentiality shall be kept confidential in so far as those matters and issues are protected by Federal and State of Maine Statutes.

Agenda and minutes of boards and committees should be available to the public at large in a timely fashion.

Standards of Conduct

All public officials and employees are expected to uphold all federal, state and local laws and all policies of the Town. All public officials and employees will perform their duties and responsibilities as outlined in their job descriptions with the utmost professionalism and integrity.

Conflicts of Interest

All public officials and employees must be fair and impartial in carrying out their duties and responsibilities. All public officials and employees must ensure that their official actions do not create actual, potential, or the appearance of personal or financial gain, either directly or indirectly, for themselves, family members, or personal friends.

Any actual or potential conflicts between personal interests (financial, personal relationships, or otherwise) and Town business must be fully disclosed in a timely fashion to the appropriate Board/Committee if the individual holds an elected office or is a volunteer public official, or to the Town Manager if the individual is an employee. If the Board/Committee or Town Manager determines that a conflict of interest does exist, then the public official or employee must recuse him/herself from officially participating in any discussion or decision-making action on the issue. Examples of conflicts of interest include: personal investments in, or possible financial gain from, companies or businesses that contract with the Town; family or personal friends that work for a company or business that contracts with the Town; recommending a company or service provider while acting in an official capacity; discussing and voting (except Town wide votes) on Town ordinances, policies, or plans that either directly or indirectly benefit the public official or employee, friends or the public official's or employee's employer, provided the employer is not the Town. (See also Administrative Code Article IX, Section 9).

This conflict of interest provision does not prohibit a public official or employee from acting as a private citizen, outside of any official duties, if they are a resident of the Town.

Gifts and/or Gratuities:

The conduct of public business shall be free of any influence arising from gifts, favors or special privileges. It is the obligation of every public official and employee to refuse personal gifts, favors or special privileges in every instance where favor or special privilege would not have been extended but for the position of such public official or employee; where there exists a reasonable belief that the giver's interests are likely to be affected by the actions of the public official or employee; where the gift is or may reasonably be considered to be designed to influence the actions of the public official or employee. No public official or employee shall seek personal or financial advantage by means of his public office, appointment or employment. No public official or employee should directly or indirectly solicit any gift or gratuity or accept or receive any gift if it could be reasonably inferred or expected that the gift was intended to

influence them in the performance of their official duties or the gift or gratuity was intended to serve as a reward for any official action on their part.

Confidential Information

Public officials and employees shall not disclose to others, or use to further their personal interest or the interest of persons other than the person to whom the information relates, confidential information acquired by them in the course of their official duties.

Use of Town Equipment, Supplies, and Services

The Town's resources are provided for official town business and will not be used for personal business. Occasional, but not frequent, use of town e-mail accounts for personal use and telephones for personal local calls is permissible. However, no public official or employee shall use town property, services, or labor personally, or make them available to others, except if such use is available to all residents and on equal terms.

In addition, Town equipment or supplies will not be used by any employee in his/her private business. No Town services shall be used by a Town employee for a personal or business basis, such as plowing a private driveway. Motor vehicles assigned to Town employees shall be used for Town business only and as specified by his/her employment contract and within the rules of the Department and the Town. The Town's letterhead shall not be used for personal correspondence or in personal business correspondence. Neither paid consulting work nor paid speaking engagements, nor other outside employment, may be engaged in during an employee's normal working hours.

Incompatibility of Office

Given the extent of Kennebunkport's municipal staff and limited volunteer resources, there may be cases when one person will simultaneously hold more than one position or office in municipal government. If the legitimate duties of the separate offices cannot be performed with the undivided loyalty of the individual, there will exist an incompatibility of office. The Maine state statutes and Maine common law shall define specific incompatibilities of office and will serve to establish criteria to determine other incompatibilities which are not expressly defined in the law. Generally, if it is found that the duties of one office holder serve the purpose of providing a check with regard to the duties of the other, or that the one office could review, modify or supervise the work of the other, then the two offices should not be simultaneously held by the same person. Additionally, no public official, whether elected or appointed, or employee, whether paid or unpaid, shall sell services or goods from private interests when such employment or service is incompatible with the proper discharge of their official duties.

Section 4. Authority

This policy is adopted, pursuant to the authority provided by 30-A M.R.S.A. 2605 subsection 7, by the Board of Selectmen.

Section 5. Applicability

This policy shall apply to all elected officials, appointed officials, committee members, board members, commission members, volunteers, and employees of the Town of Kennebunkport.

Section 6. Effective Date

This policy shall become effective _____.

Section 7. Amendment

This policy may be amended or revised by a majority vote of the Board of Selectmen.

Section 8. Severability

If any provision of this policy is found to be unenforceable or invalid, the remaining provision shall remain in full force and effect.

Section 9. Conflict with other Policies, Ordinances, or Jurisdictions

Whenever a provision of this policy conflicts with or is inconsistent with another provision of this policy or any other policy, ordinance, regulation, statute, or other law, the more restrictive provision shall apply.

Section 10. Educating Public Officials and Town Employees

Following approval of the Code of Ethics Policy by the Board of Selectmen, current employees and public officials will receive a copy of this code and will be required to sign a form acknowledging that they have received a copy of this code and that they understand its contents.

Following implementation of the Code of Ethics Policy each newly elected or appointed public official and newly hired employee will sign a form when they take the oath of office acknowledging that they have received a copy of this code and understand its contents.

Section 11. Ethics Committee

The Ethics Committee will consist of five residents of the Town and will be appointed by the Town Moderator. Initially, the appointed members of the committee will determine by lot the length of their term, such that: a) two committee members will serve a one year term, b) two committee members will serve a two year term, and c) one committee member will serve a three year term. After the first year, 2 new committee members will be appointed by the Town Moderator for a term length of

Committee members shall be appointed by the Town Moderator for a term length of three years. The members of the committee will elect a chairperson each year. There is no limit on number of terms a committee member may serve.

The Ethics Committee shall: a) have the power to investigate all written complaints which are filed, b) establish forms by which public officials, employees, and residents of the Town may file complaints or request an inquiry be made, and c) only review complaints based on alleged violations of Section 3 of this policy.

Section 12. Complaints

Any individual having information that a public official or employee is acting in violation of the Code of Ethics Policy of the Town may file a complaint. The complaint will be in writing and will provide the specific provision of the Code of Ethics Policy believed to be violated with details to support the allegation. The complaint must be signed and dated by the complainant. Any public official or employee against whom a complaint has been filed will be given a copy of the complaint.

Complaints and proceedings against employees will be in accordance with applicable Collective Bargaining Agreements and personnel policies.

Complaints against any public official will go through the Ethics Committee. A quorum, which consists of three or more committee members, is required for purposes of determining the merits of a complaint and for meetings or hearings involved in the investigation of a complaint and final decision.

The Ethics Committee will have fourteen (14) days from receipt of the complaint to determine if the complaint has sufficient merit to warrant a hearing. If the complaint is without substance and warrants no further action, the Ethics Committee will forward their findings to the complainant and the public official involved.

If the Ethics Committee determines that the complaint has sufficient merit to warrant a hearing, it will have thirty (30) days to investigate, hold hearings, and submit a final written report on its findings to the complainant, public official involved, and the Board of Selectmen. In the event the Ethics Committee finds that there has been a violation of the Code of Ethics Policy, the Board of Selectmen will consider what action to take against the individual, i.e., censure, call for resignation, simply place on file, etc.

The Ethics Committee will have the sole discretion for setting the rules regarding the conduct of hearing. The committee will seek to make sure that both the complainant and the public official involved have an opportunity to be heard and to present evidence. The committee may limit testimony if it is demonstrated to the satisfaction of the committee that such testimony is irrelevant, redundant, unnecessary or unreliable.

The Ethics Committee may require any public official to appear before it to provide testimony regarding pending complaints. The Ethics Committee, for this purpose, may administer oaths and require the production of evidence such as documents. The Ethics Committee will also have access to Town counsel.

All complaints, investigations and proceedings are confidential.



Town of Sebago

406 Bridgton Road (Route 107) Sebago Center, Maine 04029

Phone: (207) 787-2457

Code of Conduct

An Order to Establish a Statement of Duties and Code of Conduct for the Board of Selectmen and the Town Manager.

BE IT ORDERED BY THE BOARD OF SELECTMEN OF THE TOWN OF SEBAGO, MAINE:

That the following Statement of Duties and Code of Conduct for the Board of Selectmen and Town Manager is hereby adopted.

Section 1. Purpose

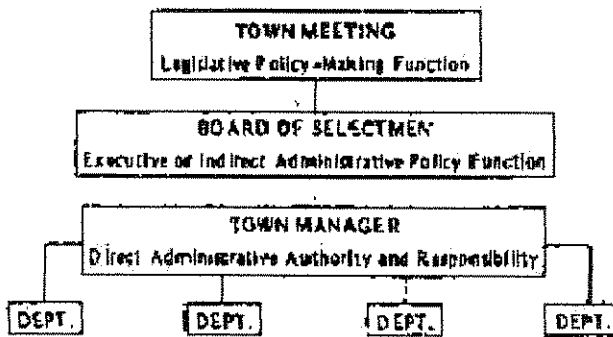
The purpose of this policy is to define the executive role and attendant duties of the Board of Selectmen in carrying out its policy functions as part of Sebago's town government, to clarify the separation of the Board's executive role from the legislative role of the Town Meeting and the administrative role of the Town Manager, and to set forth a code of conduct that governs how the Board of Selectmen and Town Manager will function in relation to one another and in relation to the public that they both serve.

Section 2. Definitions

A) Town Meeting – Selectmen – Manager form of government – The Town of Sebago has adopted the town meeting-selectmen-manager form of government. Under this form of government the legislative and executive functions are divided:

- The Town Meeting performs the election function and the legislative function of adopting governmental policy, levying taxes and raising and appropriating monies, authorizing the contracting of debts, etc.
- The Board of Selectmen is the executive body that interprets, processes, and sets the policies of the town and chooses the course of action between town meetings, has ultimate administrative responsibility to see that the governmental policies are carried out (but must deal with administration solely through the town manager), and appoints and supervises the Town Manager.
- The Town Manager executes and carries out the government and fiscal policies with guidance from the Board of Selectmen and has direct responsibility for and authority over all administrative functions. The Town Manager carries out the day-to-day operations of the town, acting as the Chief Administrator.
- Source of reference - JJ Haag, *The Manager Plan in Maine*, 1971, pp. 42. (see Chart 11 below)

Chart II



B) **Role of the Board of Selectmen** - 30-A M.R.S.A. § 2635 is titled "The Board of selectmen to act as a body, administrative service to be performed through town manager, committees" and states "It is the intention of this subchapter that the board of selectmen as a body [emphasis added] shall exercise all administrative and executive powers of the town except as provided in this subchapter. The board of selectmen shall deal with the administrative services solely through the town manager and shall not give orders to any subordinates of the manager, either publicly or privately. This section does not prevent the board of selectmen from appointing committees or commissions of its own members or of citizens to conduct investigations into the conduct of any official or department, or any matter relating to the welfare of the town." (See 1987, c. 737, Pt. A, Â§2 (new); Pt. C, Â§106 (new); 1989, c. 6 (amd); c. 9, Â§2 (amd); c. 104, Pt. C, Â§Â§8, 10 (amd).)

C) **Role of the Town Manager** – The Town Manager is the single chief administrator accountable to the Board of Selectmen for the performance of his/her duties. The Town Manager is given the responsibility to appoint all department heads and through them all other employees. The Town Manager prepares the financial plan for approval by the legislative body and is responsible for administering the budget once enacted. The Town Manager is specifically responsible for all the administrative functions. The Town Manager coordinates all administrative activities. The Town Manager is in a position to provide expert information on the needs and status of various governmental activities. The Town Manager regulates departmental spending and reports on the financial needs of each of the branches of government. Within the framework of the policies laid down by the legislative and executive body of the town, the Town Manager can formulate and carry out an administrative plan for governmental activity allowing for regular and orderly development. (Source of reference - National Municipal League, *Forms of Municipal Government*, 1968, p. 12.)

Section 3. Duties of the Board of Selectmen

A) A member of the Board of Selectmen, in relation to his or her community should:~

- Realize that his or her basic function is to make policy, with administration delegated to the Town Manager.
- Realize that he or she is one of a team and should abide by, and carry out, all Board decisions once they are made.
- Be well informed concerning the duties of a Board member on both local and state levels.
- Remember that he or she represents the entire community at all times.
- Accept the role of a member is a means of unselfish service, not to benefit personally or politically from his or her Board activities.
- Abide by the ethics guidelines established by the State and not use the position of Selectmen to obtain inside information on matters that may benefit someone personally.

B) A member of the Board of Selectmen, in his or her relations with the Town Manager, should:

- Endeavor to establish sound, clearly defined policies that will direct and support the administration of or the benefit of the staff and residents of the community.
- Recognize and support the administrative chain of command and refuse to act on complaints as an individual outside the administration.
- Give the Town Manager full responsibility for discharging his or her disposition and/or solutions.
- When a situation comes to the attention of a Board member, convey that information to the Town Manager for consideration and resolution or action as the Town Manager may deem appropriate. Inform the other Board members

of suggestions and information conveyed to the Town Manager.

- Not give orders or directions to the Town Manager for action as an individual Board member.
- Not give instructions to or request assistance from Town department heads, but rather channel all such activities through the full Board and the Town Manager.

C) A member of the Board of Selectmen, in his or her relations with fellow Board members, should:

- Recognize that action at official legal meetings is binding and that he or she alone cannot bind the Board outside of such meetings.
- Not make statements or promises of how he or she will vote on matters that will come before the Board until he or she has had an opportunity to hear the pros and cons of the issue during a Board meeting.
- Uphold the intent of executive session and respect the privileged communication that exists in executive session.
- Make decisions only after all facts on a question have been presented and discussed.~
- Refrain from communicating the position of the Board of Selectmen to anyone unless the full Board has previously agreed on both the position and the language of the statement conveying the position.
- Treat with respect the rights of all members of the Board despite differences of opinion.

D) A member of the Board of Selectmen, in his or her relations with Town staff, should:

- Treat all staff as professionals that respects the abilities, experience, and dignity of each individual.
- Limit contact to specific Town staff. Questions of Town staff and/or requests for additional background information should be directed only to the Town Manager.
- Never publicly criticize an individual employee. Concerns about staff performance should only be made to the Town Manager through private conversation.
- Insure that all requests for staff support go through the Town Manager's office.
- Insure that any materials or information provided to a Selectmen from a staff member be made available to all Selectmen.

Section 4. Duties of the Town Manager

Based on 30-A M.R.S.A. § 2636, the Maine statute that delineates most of the authorities and responsibilities of a town manager, the Town Manager shall:

- Be the chief executive and administrative official of the Town of Sebago;
- Be responsible to the Board of Selectmen for the administration of all departments and offices over which the Board has control.
- Execute all policies, laws and ordinances of the Town of Sebago;
- Serve in any office as the head of any department under the control of the Board of Selectmen when so directed by the Board of Selectmen;
- Appoint, subject to confirmation by the Board of Selectmen, supervise and control the heads of departments under the control of the selectmen when the department is not headed by the town manager above;
- Unless otherwise provided by municipal policy or ordinance, the manager shall appoint, supervise and control all town officials whom the municipal officers are required by statute to appoint, except members of boards, commissioners, committees and single assessors; and appoint, supervise and control all other officials, subordinates and assistants, except that he or she may delegate this authority to a head of a department, and report all appointments to the Board of Selectmen;
- Act as purchasing agent for all departments in accordance with the Purchasing Policy of the Town of Sebago;
- Attend all meetings of the Board of Selectmen, except when his or her removal is being considered;
- Make recommendations to the Board of Selectmen for the more efficient operation of the municipality;
- Attend all meetings and hearings of the municipality;
- Keep the Board of Selectmen and the residents of the municipality informed as to the financial condition of the town;
- Collect data necessary for the preparation of the annual operating budget and present a draft operating budget to the Board and to the Sebago Budget Committee for consideration;
- Assist, insofar as possible, residents and taxpayers in discovering their lawful remedies in cases involving complaints of unfair vendor, administrative and governmental practices.
- Never publicly criticize an individual employee. Concerns about staff performance should only be made to the Town Manager through private conversation.
- Have exclusive authority to remove for cause after notice and hearing all persons whom he is authorized to appoint or hire and report all removals to the Board.
- Perform such other duties related to the functions, duties and authorities set forth herein, as may be prescribed by the Board of Selectmen and by any applicable state or local laws or ordinances.

Section 5. Code of Conduct of the Board of Selectmen

The Board of Selectmen shall conduct its duties in accordance with this code of conduct to the extent possible:

- Be responsible elected officials dedicated to the concepts of effective and democratic local government.
- Affirm the dignity and worth of the services rendered by government and maintain a constructive, creative, and practical attitude toward local government affairs and a deep sense of social responsibility as a trusted public servant.
- Be dedicated to the highest ideals of honor and integrity in all public and personal relationships in order that the member may merit the respect and confidence of the public.
- Conduct their official and personal affairs in such a manner as to give the clear impression that they cannot be improperly influenced in the performance of their official duties.
- Not discuss or divulge information with anyone about pending or completed ethics cases, except as specifically authorized by policies, ordinances or statutes.
- Recognize that the chief function of local government at all times is to serve the best interests of all of the people, to the maximum extent possible.
- Adopt and implement town policy that is fair, impartial, and meets the objective of furthering the quality of life in Sebago for its citizens.
- Work cooperatively as a Board of Selectmen in presenting issues involved in referenda such as bond issues, annexations, and similar matters.
- Keep the community informed on local government affairs; encourage communication between the citizens and all local government officers; emphasize friendly and courteous service to the public; and seek to improve the quality and image of public service.
- Resist any encroachment on professional responsibilities, believing the member should be free to carry out official policies without interference, and handle each problem without discrimination on the basis of principle and justice.
- Handle all matters of personnel on the basis of merit so that fairness and impartiality govern a member's decisions, pertaining to appointments, pay adjustments, promotions, and discipline. Handle all personnel matters in a confidential manner, respecting the rights of the employee involved and refraining from any public criticism of the Town Manager or other town employees who are appointed by the Board of Selectmen.
- Seek no favor; believe that personal aggrandizement or profit secured by confidential information or by misuse of public time is dishonest.
- Not invest or hold any investment, directly or indirectly, in any financial business, commercial, or other private transaction that creates a conflict with their official duties.
- Not disclose to others, or use to further their personal interest, confidential information acquired by them in the course of their official duties.
- Not engage in, solicit, negotiate for, or promise to accept private employment, nor should he or she render services for private interests or conduct a private business when such employment, service, or business creates a conflict with or impairs the proper discharge of their official duties.

Section 6. Code of Conduct of the Town Manager

Based on Maine Town City Management Association Code of Ethics, the Town Manager shall conduct his or her duties in accordance with this code of conduct to the extent possible:

- Be dedicated to the concepts of effective and democratic local government by responsible elected officials and believe that professional general management is essential to the achievement of this objective.
- Affirm the dignity and worth of the services rendered by government and maintain a constructive, creative, and practical attitude toward local government affairs and a deep sense of social responsibility as a trusted public servant.
- Be dedicated to the highest ideals of honor and integrity in all public, personnel, and personal relationships in order that the member may merit the respect and confidence of the elected officials, of other officials and employees, and of the public.
- Conduct his or her official and personal affairs in such a manner as to give the clear impression that they cannot be improperly influenced in the performance of their official duties.
- Not discuss or divulge information with anyone about pending or completed ethics cases, except as specifically authorized by policies, ordinances or statutes.
- Recognize that the chief function of local government at all times is to serve the best interests of all of the people.
- Submit policy proposals to elected officials; provide them with facts and advice on matters of policy as a basis for making decisions and setting community goals; and uphold and implement local government policies adopted by elected officials.
- Recognize that elected representatives of the people are entitled to the credit for the establishment of local government policies; responsibility for policy execution rests with the members.
- Refrain from all political activities, which undermine public confidence in professional administrators. Refrain from participation in the election of the members of the employing legislative body.
- Assist the Board of Selectmen in presenting issues involved in referenda such as bond issues, annexations, and similar matters.

- Make it a duty continually to improve his or her professional ability and to develop the competence of associates in the use of management techniques.
- Keep the community informed on local government affairs; encourage communication between the citizens and all local government officers; emphasize friendly and courteous service to the public; and seek to improve the quality and image of public service.
- Resist any encroachment on professional responsibilities, believing the member should be free to carry out official policies without interference, and handle each problem without discrimination on the basis of principle and justice.
- Handle all matters of personnel on the basis of merit so that fairness and impartiality govern a member's decisions, pertaining to appointments, pay adjustments, promotions, and discipline. Concerns about staff performance should only be made directly with the affected individuals through private conversation.
- Never publicly criticize an individual employee, a taxpayer, an individual Selectmen or the Board of Selectmen. Concerns should only be expressed through private conversations with the individual employee, the taxpayer, or the Board as appropriate.
- In dealing with individual employees, taxpayers, and Selectmen make every effort to spend more time listening than talking, and strive to be perceptive and understanding of their concerns.
- Seek no favor; believe that personal aggrandizement or profit secured by confidential information or by misuse of public time is dishonest.
- Not invest or hold any investment, directly or indirectly, in any financial business, commercial, or other private transaction that creates a conflict with their official duties.
- Not disclose to others, or use to further his or her personal interest, confidential information acquired by them in the course of their official duties.
- Not engage in, solicit, negotiate for, or promise to accept private employment, nor should he or she render services for private interests or conduct a private business when such employment, service, or business creates a conflict with or impairs the proper discharge of his or her official duties.

Adopted this 20th day of May2008.

ATTEST: Robert C. Nicholson, Town Manager

Code of Ethics

City of Bangor, Maine

This Maine Municipal Association publication is presented for "Classroom Use Only." Its intended use is to stimulate and aid in discussion and role playing within a classroom setting.

CHAPTER I

*ARTICLE 6 - CODE OF ETHICS

Sec. 1 Declaration of Policy. The proper operation of democratic government requires that City Councilors and their appointees be fair, impartial and responsive to the needs of the people and each other in the performance of their respective functions and duties; that decisions and policy be made in proper channels of the City's governmental structure; that public office not be used for personal gain; and that City Employees, City Councilors and City appointees maintain a standard of conduct that will inspire public confidence in the integrity of the City's government. In recognition of these goals, a Code of Ethics is hereby established for all City Employees, City Councilors, and member and associate members of all City Boards and Commissions now existing or hereafter created.

Sec. 2 Definitions.

**2.1 Board: All statutory and non-statutory boards now existing or hereafter created under the City Charter or by virtue of any ordinance, order or resolve adopted by the Bangor City Council, including without limitation the following:

Banair Corporation Board of Directors
Bangor Recreation District Board of Directors
Board of Appeals
Board of Assessment Review
Board of Ethics
Hersey Fund Board of Trustees
Planning Board
Sophia Kirstein Loan Fund Board of Trustees
Superintending School Committee

2.1.1 Board Member: Any person elected to membership or associate membership on a City Board or appointed to such a board by or under the authority of the Bangor City Council.

2.1.2 Business: Any corporation, partnership, individual, sole proprietorship, joint venture, or any other legally recognized entity organized for the purposes of making a profit.

2.2 City Councilor: Member of the Bangor City Council.

2.3 City Employee: Any individual working for, on a permanent or temporary basis, and drawing an hourly wage or salary from the City of Bangor. The term "City Employee" shall not include outside consultants or professional personnel providing services to the City as independent contractors under a written professional services contract or other similar engagement.

2.3.1 Commission: All Committees, Commissions or other public bodies now existing or hereafter created by virtue of any ordinance, order or resolve adopted by the Bangor City Council including, without limitation, the following:

Bangor Housing Authority Commission
Economic Development Advisory Commission
Firearms Discharge Committee
Harbor Committee
Historic Preservation Commission
Nursing Facility Advisory Committee
Parks and Recreation Advisory Committee
Recycling Committee

2.3.2 Commission Member: Any person appointed to hip or associate hip on a City Commission or Committee by or under the authority of the Bangor City Council.

2.4 Immediate Family: Spouse, and the following when living in the household of a City Employee, City Councilor, Board Member or Commission Member: children, parents, brothers and sisters.

2.5 Financial Interest: A direct or indirect interest having monetary or pecuniary value, including, but not limited to, the ownership of shares of stock. A City Employee, City Councilor, Board Member or Commission Member or any member of that person's immediate family who holds a financial interest in a disclosed blind trust shall not be deemed to have a conflict of interest with regard to matters pertaining to assets held by the trust.

2.6 Special Interest: A direct or indirect interest having value peculiar to a certain individual or group, whether economic or otherwise, which value may accrue to such individual or group as a result of the passage or denial of any order, ordinance or resolution or the approval or disapproval thereof, by the City Council, Board or Commission and which interest is not shared by the general public.

2.7 City Council: For purposes of this Code references to the City Council shall be construed to the City Council of the City of Bangor and any of the committees or subcommittees thereof.

Sec. 3 Standards of Conduct: The purpose of this Code is to establish ethical standards of conduct for all City Employees, City Councilors, Board Members and Commission Members by setting forth those acts or actions deemed to be in conflict or incompatible, or to create the appearance of conflict or incompatibility, with the best interests of the City of Bangor.

3.1 Statutory Standards. There are certain provisions of the general statutes of the State of Maine which should, while not set forth herein, be considered an integral part of this Ordinance. Accordingly, the provisions of the following sections of the general statutes of the State of Maine, as may be amended, are hereby incorporated by reference and made a part of this Code of Ethics, and shall apply to all City Employees, City Councilors, Board Members and Commission Members of the City of Bangor whenever applicable as if more fully set forth therein, to wit:

17 MRSA §3104 Conflicts of Interest; Purchases by the State

17-A MRSA § 456 Tampering with Public Records or Information
17-A MRSA § 602 Bribery in Official and Political Matters
17-A MRSA § 603 Improper Influence
17-A MRSA § 604 Improper Compensation for Past Action
17-A MRSA § 605 Improper Gifts to Public Servants
17-A MRSA § 606 Improper Compensation for Services
17-A MRSA § 607 Purchase of Public Office
17-A MRSA § 608 Official Oppression
17-A MRSA § 609 Misuse of Information
17-A MRSA § 903 Misuse of Entrusted Property
21-A MRSA § 504 Persons Ineligible to Serve
30-A MRSA § 2605 Conflicts of Interest
30-A MRSA § 5122 Interest of Public officials, Trustees or Employees

3.2 Contracts, Purchases and Employment.

(A) No City Employee, City Councilor, Board Member or Commission Member shall participate directly by of deliberation, approval or disapproval, or recommendation, in the purchase of goods and services for the City, and the award of any contracts with the City, except as permitted under the City's Purchasing Regulations and under the laws of the State of Maine, where to his knowledge there is a financial interest, or special interest other than that possessed by the public generally, in such purchase or award, held by:

- (i) that individual or a member of his or her ate family;
- (ii) a business in which that individual or a member of his or her immediate family serves as an officer, director, trustee, partner or employee in a supervisory or management position; or
- (iii) any other person or business with whom that individual or a member of his or her immediate family are in business, or are negotiating or have an arrangement concerning future employment.

(B) No City Councilor, Board Member or Commission Member shall participate by means of deliberation, approval or disapproval, or recommendation, in the decision to hire, promote, discipline, lay off or to take any other personnel action in respect to any applicant for City employment or City employee, where said applicant or employee is:

- (i) a member of the Councilor, Board Member, or Commission Member's immediate family; or
- (ii) a person with whom either the Councilor, Board Member, Commission Member or a member of his or her immediate family is in business.

(C) Except as authorized under the City's published Personnel Rules and Regulations, no City Employee shall participate by of deliberation, approval or disapproval, or recommendation, in the

decision to hire, promote, discipline, lay off or to take any other personnel action in respect to any applicant for City employment or City Employee, where said applicant or employee is:

- (i) a member of the City Employee's immediate family; or
- (ii) a person with whom either the City Employee or a of his or her immediate family is in business.

Action by a City Employee shall be deemed authorized under this subsection when such action is permitted under the City's published Personnel Rules and Regulations, or when the City Council has waived those rules so as to allow creation of a supervisory relationship that would otherwise violate the published rules.

3.3 Disclosure of Confidential Information. No City Employee, City Councilor, Board Member or Commission Member shall, without proper legal authorization, disclose confidential information concerning the property, government or affairs of the City; nor shall he or she use such information to advance his or her financial or private interest or the financial or private interest of others. For purposes of this subsection, the term, "confidential information" shall mean any information, oral or written, which comes to the attention of, or is available to, such City Employee, City Councilor, Board Member or Commission Member only because of his or her position with the City, and is not a matter of public record. Information received and discussed during an executive session of the Bangor City Council or any City agency called pursuant to 1 MRSA §§ 405 et seq. shall be considered within the constraints of this section, and shall not be disclosed to any third party unless permitted by affirmative vote of such body.

3.4 Gifts and Favors. No City Employee, City Councilor, Board Member or Commission Member shall accept any gift, favor or thing of value, whether in the form of service, loan, thing or promise, from any person or business which to his or her knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the City; nor shall any City Employee, City Councilor, Board Member or Commission Member: (1) accept any gift, favor or thing of value that tends to influence that individual in the discharge of his or her official duties; or (2) grant in the discharge of his or her official duties any improper favor, service or thing of value. Nothing herein shall prohibit the acceptance of gifts or favors by City Employees, City Councilors, Board Members or Commission Members from members of their immediate families. In determining whether a violation of this subsection has occurred the Board of Ethics, in cases referred to it pursuant to subsection 4.6 of this Ordinance, shall consider the monetary or pecuniary value of the gift, favor or thing received; any special economic value the gift, favor or thing received may have to the recipient; the circumstances under which the gift, favor or thing concerned was received; and whether a public disclosure of the receipt was made by the recipient at the time.

3.5 Use of City Property. No City Employee, City Councilor, Board Member or Commission Member shall use or permit the use of any City-owned property, including but not limited to, motor vehicles, equipment and buildings, for any private purposes. Nothing herein shall prohibit the use of City buildings and equipment at rates and/or on terms as may be established. Nothing herein shall prohibit the use of City equipment or motor vehicles by City Employees in accordance with written policies established by the City Council, City Manager, or City department head concerned, nor shall this Ordinance be deemed to prohibit private use of surplus City property legally disposed of

by the City or its departments in compliance with established procedures.

3.6 Representing Third Party Interest Before City Agencies.

(A) No City Employee shall appear on behalf of any third party interest before any City agency, or represent a third party interest in any action, proceeding, or litigation in which the City or one of its agencies is a party. Nothing herein shall prohibit any City Employee from appearing as a witness when duly called by a party for the purpose of giving non-privileged testimony before any City agency or in any such action, proceeding or litigation. Nothing herein shall prohibit any City Employee, on behalf of his or her personal interest, from appearing before any City agency. "Personal interest" shall include, for this purpose, any interest of the City Employee concerned as a resident, landowner, or taxpayer affected by the matter under consideration.

(B) No City Councilor shall either appear on behalf of any third party interest before any City agency, or represent a third party interest in any action, proceeding, or litigation in which the city or one of its agencies is a party. Nothing herein shall prohibit a Councilor, on behalf of a constituent in the course of his or her duties as a representative of the electorate, or any Councilor, on behalf of his or her personal interest, from appearing before a City agency.

(C) No Board or Commission Member shall appear on behalf of any third party interest before a City agency of which he or she is a current member. Nothing herein shall prohibit a Board or Commission Member, on behalf of his or her personal interest, from appearing before any City agency including that of which he or she is a current member, but such Board Member or Commission Member shall not deliberate or vote on the item concerned.

3.7 Conflicts of Interest. Bangor City Council Agenda Items.

(A) Deliberation and Vote Prohibited. No City Councilor, Board Member or Commission Member shall, in such capacity, participate in the deliberation or vote, or otherwise take part in the decision-making process, on any agenda item before his or her collective body in which he or she or a member of his or her immediate family has a financial or special interest, other than an interest held by the public generally.

(B) Disclosure of Conflict. Any City Councilor, Board Member or Commission Member who believes that he or she or a member of his or her immediate family has a financial or special interest, other than an interest held by the public generally, in any agenda item before his or her collective body, shall disclose the nature and extent of such interest and the City Clerk or his designee shall make a record of such disclosure.

Such disclosure shall be made no later than the date of the first meeting of the City Council, Board, Commission or Committee thereof, at which the agenda item

concerned is to be taken up for consideration, recommendation, discussion or vote and at which the City Councilor, Board Member or Commission Member is present. Additionally, any City Councilor, Board Member or Commission Member who believes that any fellow City Councilor, Board Member or Commission Member, or a member of such fellow City Councilor's, Board Member's or Commission Member's immediate family has a financial or special interest, other than an interest held by the public generally, in any agenda item before his or her collective body, shall disclose the nature and extent of such interest, and the City Clerk or his designee shall make a record of such disclosure.

(C) Determination of Conflict. Once the issue of conflict has been raised relative to an individual City Councilor, Committee Member or Commission Member, and disclosure has been made as provided above, such individuals fellow City Councilors, Committee, Board or Commission Members shall review the facts as disclosed to them, and shall vote on whether or not such individual has a financial or special interest with respect to the agenda item concerned. All conflict of interest questions relating to a particular agenda item shall be resolved prior to any consideration of the item concerned, and each City Councilor, Committee, Board Member or Commission Member present shall be entitled to vote on all conflict of interest questions except those questions pertaining to that individual Councilor, Committee Member, Board Member or Commission Member's alleged conflict of interest.

All votes of conflict of interest questions shall be recorded. A majority vote shall determine the question; but a vote by Committee may later be reviewed by the full City Council upon the City Council's consideration of the same agenda item.

Upon determination that a conflict of interest in fact exists, the City Councilor, Committee Member, Board Member or Commission Member concerned shall be excused from participating in discussion, deliberation or vote on the relevant agenda item.

In lieu of the vote required by this subsection, the City Council, upon motion and by majority vote may refer the conflict of interest question to the City Board of Ethics in accordance with section 4.6 of this ordinance, or may table its consideration of the relevant agenda item. In the event a majority of the City Council, Board or Commission concerned, or Committee thereof, shall require disclosure of further information not immediately available, or shall require confirmation of the information disclosed, consideration of the relevant agenda item shall be postponed to an appropriate time.

(D) Avoidance of Appearance of Conflict. To avoid the appearance of a violation of this section, once any individual City Councilor, Board Member or Commission Member is determined to have a conflict of interest in respect to any agenda item, and once all conflict of interest questions relating to the agenda item concerned have been determined as provided in Section 3.7(C) above, said individual shall immediately remove himself or herself from the meeting room or to the area of the room occupied

by the general public. He or she shall not return to his or her regular seat as a member of the body until deliberation and action on the item is completed. Nothing herein shall require an individual Councilor, or Board Member or Commission Member to remove himself or herself for any item contained on a "Consent Agenda", on which there is no deliberation, the individual's conflict has been determined by the other members, and the right to abstain from voting on the item has been granted.

(E) Personal Interest. Nothing herein shall be construed to prohibit any City Councilor, Board Member or Commission Member from representing his own personal interest by appearing before his or her collective body on any such agenda item.

3.8 Disclosure Statement. Within fifteen (15) days after each annual municipal election every City Councilor shall file a completed disclosure form with the City Clerk. Within thirty (30) days after his or her appointment, every Board Member and every Commission Member shall file a completed disclosure form with the City Clerk. Such forms shall be under oath and shall contain the following information to the best of the disclosing party's knowledge and belief:

3.8.1 The name of each person or entity, whether incorporated or not, doing business with the City in an amount in excess of \$1,000 during the preceding calendar year from which such disclosing party or member of his immediate family has received money or other thing of value in an amount in excess of \$1,000 during the preceding calendar year, including, but not limited to, campaign contributions where applicable.

3.8.2 The name of each entity, whether incorporated or not, doing business with the City in an amount in excess of \$1,000 for preceding calendar year in which such disclosing party or member of his immediate family has a financial interest in an amount in excess of \$1,000, including, but not limited to, the ownership of shares of stock.

3.8.3 The name of each nonprofit and/or for profit entity, whether incorporated or not, for which such disclosing party or member of his immediate family holds a position of officer or member of any board. For each such entity, such disclosing party shall provide the following information:

- (i) a brief description of the purpose of each board and/or office;
- (ii) a short summary of such disclosing party's or family member's duties relative to any such board and/or office;
- (iii) the term of service on each such board and/or office; and
- (iv) whether or not such disclosing party or family member receives compensation for service on such board and/or office and the extent to which such compensation exceeds \$100 in the aggregate annually.

For purposes of this subsection "compensation" shall include, but not be limited to, monetary compensation, gifts, gratuities, perks, fringe benefits, services, and any other thing of value.

3.8.4 Every City Councilor, Board Member and Commission Member shall amend his annual

disclosure statement as may be required from time to time to ensure the continued accuracy thereof. Each such amendment shall be made within fifteen (15) days following the occurrence which requires the amendment.

3.8.5 The City Clerk shall deliver a copy of each completed disclosure statement to every fellow member of the City Council, Board or Commission of each disclosing party within thirty (30) days after the expiration of the filing period.

3.8.6 For purposes of this Code, a list prepared by the Finance Director of those persons or entities doing business with the City in an amount in excess of \$1,000 for the preceding year shall be determinative for purposes of reporting under this section. Income from, and financial investments in, policies of insurance, and deposits in accounts from commercial or savings banks, savings and loan associations, or credit unions and the ownership of less than 5% of the outstanding shares of stock in a publicly held corporation shall not be considered to be a financial interest within the meaning of this section.

3.9 Political Activities. No City Employee, City Councilor, Board Member or Commission Member shall participate in any political activity which would be in conflict or incompatible with the performance of his or her official functions and duties for the City. In conjunction therewith:

3.9.1 No City Employee, City Councilor, Board Member or Commission Member may use his or her official authority or position for the purposes of influencing or interfering with or affecting the results of any election, nor shall he or she solicit funds or contributions or accept or receive funds or contributions from City Employees for political purposes. No City Councilor, Board Member or Commission Member may distribute pamphlets or handbills while he or she is performing official functions and duties with the City. Nothing herein shall be construed to prohibit any City Employee, City Councilor, Board Member or Commission Member from participating in the political process in their private capacity as candidates for elected office or as private citizens.

3.10 Incompatible Employment or Office. No City Employee, City Councilor, Board Member or Commission Member shall occupy any other office, elected or appointed, at any other governmental entity, when the duties of such office are incompatible with the proper discharge of his or her official duties with the City. For purposes of this Code, the occupancy of any office, elected or appointed, with any other governmental entity by any City Councilor, Board Member or Commission Member is hereby prohibited in the following circumstances:

- (i) where the duties of the other office make it a physical impossibility to discharge the duties of the City position; or
- (ii) where one office is subordinate of the other; or
- (iii) where one office carries the power of removal of the other; or
- (iv) where the occupancy of both offices is prohibited by the City Charter or by other provisions of law.

3.11 Ethics in Contracting. The provisions of this Subsection 3.11 shall apply to all persons doing

business with the City of Bangor as vendors, suppliers, or contractors, including potential vendors, suppliers and contractors submitting bids or proposals in response to a City solicitation or advertisement.

3.11.1 Gratuities and Kickbacks.

(A) Gratuities. It shall be a violation of this Code for any person to offer, give or agree to give any City Employee, City Councilor, Board Member or Commission Member a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation or award pertaining to a City purchase order, contract, construction contract, or professional services contract, or with respect to any solicitation, advertisement, request for bids, request for proposals, or any bid, proposal, or other response thereto.

(B) Kickbacks. It shall be a violation of this Code for any person to solicit, offer, give, accept, or receive any undisclosed gratuity or offer of employment in connection with the award or potential award of any subcontract or contract modification or change order under a City of Bangor prime contract for construction, procurement, or professional services. To be valid, any disclosure under this paragraph must be made in writing to the City of Bangor Purchasing Agent prior to the date of opening of any proposals or bids on the prime contract concerned. Notwithstanding an otherwise valid written disclosure, it shall be a violation of this Code to solicit, offer, give, accept or receive any such gratuity or offer of employment in violation of applicable State or Federal law.

3.11.2 Prohibition Against Contingent Fees.

It shall be a violation of this Code for a person to be retained, or to retain a person, to solicit or secure a City contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.

3.11.3 Recovery of Value Transferred or Received in Breach of Ethical Standards, Other Penalties.

(A) General Provisions. The value of anything transferred or received in breach of the ethical standards of this Code by a City Employee, City Councilor, Board Member or Commission Member or other person may be recovered from both the City Employee, City Councilor, Board Member or Commission member concerned and from the other person concerned.

(B) Recovery of Kickbacks by the City. Upon a showing that a subcontractor made a kickback to a prim contractor or a higher tier subcontractor in connection with the award of a subcontract or modification or change order, it shall be conclusively presumed that the amount thereof was included in the price of the subcontract, modification, or change order and ultimately borne by the City and such amount shall be recoverable hereunder from the recipient. In addition, that amount may also be

recovered from the subcontractor making such kickbacks. Recovery from one offending party shall not preclude recovery from other offending parties.

3.11.4 Penalties and Sanctions.

(A) In addition to the recoveries provided in Subsection 3.11.3 above, any violation of this subsection 3.11 shall be a civil violation. Upon conviction, any person, firm or corporation found to be in violation of this subsection shall be fined not less than three times the value of any improper gift or kickback paid, solicited or received, or \$500.00, whichever is greater. The penalties provided in this paragraph shall be in addition to the penalties provided in Section 5 of this Ordinance, and shall be in addition to any penalties imposed under State or Federal law.

(B) Upon conviction of a violation of this subsection 3.11, or upon a finding of a violation by the City Purchasing Agent, Board of Ethics, or the City Council following written notice and hearing, the City Council may impose one or more of the following sanctions on the person, firm or corporation convicted or found to be in violation:

- (i) written warnings or reprimands;
- (ii) termination of contracts; or
- (iii) debarment or suspension as provided in the City's published Purchasing Policy (Authority to Debar or Suspend).

Termination of a contract under this paragraph shall also terminate the contractor's right to receive further payment thereunder.

The sanctions provided in this paragraph shall be in addition to the penalties provided in paragraph (A) above.

3.11.5 Incorporation in Certain Contracts.

The provisions of this Subsection 3.11 shall be provided to all interested bidders or proposers, and shall be incorporated by reference as agreed terms in any City of Bangor construction, procurement, or professional services contract with a base bid price in excess of \$10,000.00. In the case of a professional services contract, the "base bid price" for this purpose shall be the expected value of services to be billed during the contract term, or on an annual basis if the contract is of indefinite duration.

Sec. 4 Board of Ethics.

4.1 Board of Ethics Established. There is hereby created and established a Board of Ethics consisting of five (5) members and two (2) associate members appointed by the City Council.

4.2 Terms. All members shall be appointed for terms of three (3) each. All associate members shall be appointed for terms of three (3) years each. Each member and associate member shall serve until his successor is appointed and qualified. All members must be residents of the City of Bangor.

No member shall serve more than two (2) complete consecutive terms.

4.3 Other Offices Prohibited. No member or associate member of the Board shall hold any other City office or position or be the member of any City agency to which the City Council shall have appointing authority.

4.4 Procedures and Records. The Board shall establish such rules as it may determine to be necessary to govern its procedures. In addition, the Board shall at all times maintain in the office of the City Clerk appropriate records of its opinions and proceedings.

4.5 Duties. The Board shall make findings of fact and render opinions to the City Council concerning application of the provisions of this Code to any particular situation. In the performance of its duties, the Board shall limit its review and fact finding to those issues referred to it by the City Council. The Board shall also make annual recommendations for necessary revisions to this ordinance and shall perform such other duties as may be prescribed from time to time by the City Council.

4.6 Procedure. Any City Councilor, Board Member or Commission Member seeking advice as to whether a particular situation constitutes an actual or potential violation of this Code shall first submit a written statement in the form of a Council Order describing the nature of the matter to the City Council. If the Council feels that an advisory opinion is necessary, it shall adopt the Order, by majority vote, referring the matter to the Board. A tie vote on the Order shall also cause the matter to be referred to the Board. Upon referral of a question, the Board shall have the power to request voluntary statements from all persons concerned, and to review all records on file with the City of Bangor or other public agencies. All Board hearings shall be conducted in accordance with rules of procedure to be adopted by the Board. The Board may conduct any fact finding and deliberations in executive session as provided in 1 M.R.S.A. §405 (6)(A). Upon conclusion of its fact finding and deliberations, the Board of Ethics shall issue written findings with respect to each matter and question referred to it. If the Board finds any matter referred to it to have been based upon allegations it determines to have been frivolous, unfounded or with malice, it shall so advise the Council. It is the purpose and intent of this Code to provide a mechanism by which all such matters may be handled in an orderly and impartial fashion in such a manner as to protect the best interests of the citizens of the City of Bangor.

4.6.1 Employee Conflicts.

Upon referral, the Board of Ethics may render advisory opinions with respect to potential or prospective conflicts of interest involving City Employees. However, allegations of past or present misconduct involving alleged violations of this Code by City Employees shall not be reviewed by the Board, but shall be referred for disposition in accordance with the City's established employee disciplinary procedures.

4.7 All members shall attend an annual orientation meeting to be scheduled during the month of January of each calendar year.

4.8 The Board shall meet at least quarterly and, prior to December 31 of each calendar year, shall prepare and submit to the City Council an annual report outlining its doings during the preceding 12

month period.

Sec. 5 Penalties. Violations of this Code shall be punishable by civil fine as provided in Article 4, Section 4 of this Chapter. In addition to any other penalties or remedies as may be provided by law, violation of this Code shall constitute cause for censure, after notice and hearing conducted by the City Council. A majority of the Bangor City Council shall conduct such proceedings. A violation of this Code by a City Employee shall also constitute proper grounds for dismissal or other disciplinary action as provided in the City's published Personnel Rules and Regulations.

Sec. 6 Separability. If any section, subsection, sentence, clause or phrase of this Code is for any reason held to be invalid or unconstitutional, such validity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Code.

*Amended 06/12/95 C.O. 95-234

**Amended 01/13/97 C.O. 97-59