

# GOFFSTOWN'S CODE OF CONDUCT

For Town Officials, whether elected or appointed, paid or volunteer

## PURPOSE

It is important that the public have confidence in the integrity of its government, and that Town Officials, Board Members, and volunteers have an opportunity to protect their personal reputations.

This “Code of Conduct” (Code) provides guidance regarding potential ethical issues. Accordingly, the Town of Goffstown has adopted this code to educate the public; to describe the standards of behavior to which its leaders should aspire; to provide an ongoing source of guidance to elected officials, and volunteers in their day-to-day service to the Town; and to promote and maintain a culture of ethical conduct. Furthermore, the goal of this code is to promote and foster:

- **Respectful Attitude:** maintain an open, courteous and respectful attitude in dealings with the public.
- **Conduct and Propriety:** conduct duties and activities in a manner that will reflect credit upon oneself and upon the Town. Avoid the appearance of impropriety.
- **Openness and Responsiveness:** make available all public records in their custody for public review, unless access to such records is specifically limited or prohibited by law, or the information has been obtained on a confidential basis and thus permits such information to be treated confidentially. Make every effort to inform the public about their rights and responsibilities under the law.
- **Responsibility of Officials:** subscribe to this Code of Conduct as they may be amended from time to time.

In addition to this code, officials are subject to specific current state laws which are outlined in Appendix A.

## I. DEFINITIONS

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

**Board:** Any board, committee or commission, permanent or special, established by the Selectmen under New Hampshire law.

**Conflict of Interest:** A situation or circumstance which has the potential to cause a direct personal or financial interest in the outcome. The interest must be “immediate,

definite and capable of demonstration; not remote, uncertain, contingent or speculative”

**Employee:** A person who is paid by the Town of Goffstown for her/his services, but who is not an independent contractor, or an elected Official. Employees are covered by a Code of Conduct in the Personnel Plan.

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

**Interest:** Any legal or equitable right, share, or claim, whether or not subject to an encumbrance or a condition, which is owned or held, in whole or in part, jointly or severally, including but without limitation, a right, share or claim to land. This is to include interests held in LLCs or trusts.

**Official:** Any elected or appointed Officer or Board Member of the Town of Goffstown. This definition does not include officials of other political entities in town i.e. School Board and Village Water Districts.

**Principal:** A person who is the subject of the action or application which is before a board.

**Public Servant:** A person who serves the town of Goffstown in an official capacity, whether elected or appointed, paid or unpaid; a Town Official, Board Member or employee.

**Recuse:** Officials or Board Members who have been recused from a matter, shall remove themselves completely from all further participation in the matter in question. The recused persons shall not participate in further discussions, unless they clearly state for the record that they are doing so only as general members of the public. Recused persons shall not deliberate or vote on the matter in question.

**Resident:** A resident of the Town of Goffstown.

**Town:** The Town of Goffstown, including all of its departments, boards, commissions, and committees. Town does not include school district or village districts.

## **II. CODE PROVISIONS**

### **A. Distribution of Goffstown Code of Conduct**

1. Upon the adoption of this Code, every Official shall be given a copy of this Code of Conduct and the person distributing the Code shall sign a statement indicating who was given a copy and the date given. These signed statements shall be maintained by the Town Clerk's Office and available to the public.
2. Any individual upon filing for an elected Town office shall receive a copy of the Code of Conduct at the time of her/his filing for said office. Upon the individual's swearing into office, the person (Town Clerk, Selectman, Moderator or Justice of the Peace) who swears in the Official will sign a statement stating that they have provided a copy of the Code of Conduct to the Official. These signed statements shall be maintained by the Town Clerk's Office and available to the public.
3. All individuals appointed to boards, committees or commissions, permanent or special, shall at the time of their swearing in receive a copy of the Code of Conduct. At that time the person (Town Clerk, Selectman, Justice of the Peace, or Moderator) who swears in the Official shall sign a statement stating that they have provided a copy of the Code of Conduct to the Official. These signed statements shall be maintained by the Town Clerk's Office.
4. Copies of the Code of Conduct shall be made available to the public on the town web site, or by request through the Town Clerk's Office.

### **B. Conflicts of Interest**

As a town Official, you shall not participate in any matter in which you have, or a member of your family has, a personal interest which may directly or indirectly affect or influence the performance of your duties. In such instances, you shall recuse yourself from discussion and decision-making.

### **C. A Duty to Disclose**

As an Official, prior to entering into discussion or deliberation of any matter, you are encouraged to publicly state any:

- dealings
- interests
- relationships
- friendships
- and possible conflicts

which may exist between you and your family, and the principals or the issue under consideration.

**D. Individuals Do Not Speak on Behalf of Boards, Committees or Commissions Unless Authorized**

No member of a board, committee or commission shall speak on behalf of her/his respective board, committee or commission unless authorized to do so by her/his respective board, committee, or commission. This is not to suggest that individual members cannot speak publicly, but rather to emphasize that s/he should clearly state s/he is speaking only on her/his individual behalf and not represent her/himself as speaking for the committee, or commission

No Official shall use town letterhead or stationary for any purpose other than official town business. Members of boards, committees, and commissions may only use town letterhead for purposes approved by their respective board, committee, or commission.

**E. A Duty to Recuse; Required Disclosure by Officials; Recusal**

An Official with a conflict of interest shall recuse her/himself from further participation in the matter. Recusal means to immediately remove her/himself from discussion and voting. Recusal shall also mean the Official is required to physically vacate her/his seat. During a nonpublic session, the Official shall remove her/himself from the meeting room. In the case of a nonpublic session, the statement shall be read aloud at the next public meeting, or resumption of the same public meeting.

**F. Unfair Personal Use of Town Property**

No Official shall use town property, services, or labor personally, or make the same available to others unless such use is universally known to be available to other residents upon request on equal terms.

**G. Misuse of Confidential Information**

No Official shall intentionally disclose or misuse for personal gain confidential or privileged information, or other information learned by virtue of official position as defined in RSA 42:1-a, or information obtained in sessions pursuant to RSA 91-A:2(1)(b) or (c) [Non-Meetings] and RSA 91-A:3(II) [Non-Public Sessions], concerning the property, government or affairs of the Town.

**H. Improper Gifts**

No Official shall accept any gift of \$50 or more at one time, or \$100 in a calendar year from a single source, whether in the form of service, loan, thing or promise or any other form from any person, firm or corporation interested, directly or indirectly, in any manner whatsoever in business dealings with the Town. Campaign contributions received during the official election period shall not be considered gifts. Prizes resulting from raffles and games of chance at conferences are not considered gifts.

**I. Undue Influence**

No Official shall engage in any business or transaction or have a financial or personal interest, directly or indirectly on behalf of a family member, abutter, employer, client, or on behalf of any other person for whom the Official could not maintain a “juror standard,” which is in conflict with or incompatible with the proper discharge of her/his official duties or would tend to influence or impair her/his judgment and action in the performance of her/his official duties.

It is a violation of this Code for any Official to:

1. Coerce or attempt to coerce, by rewards, intimidation, threats or otherwise, any public servant to engage in political activities.
2. Require any subordinate public servant to participate in a political campaign. For purpose of this subparagraph, participation in a political campaign shall include managing or aiding in the management of a campaign, soliciting votes or canvassing voters for a particular candidate or performing any similar acts which are unrelated to the official’s duties or responsibilities.

Nothing contained herein shall prohibit a subordinate Official from volunteering to speak on behalf of a candidate or provide information or perform other similar acts, if such acts are related to matters within the Official’s duties or responsibilities, nor is anything contained herein intended to prevent any public servant from exercising her/his right(s) to participate in the political process as s/he chooses.

**J. A Duty to Report**

All Officials should report any action or event by an Official that may reflect a violation of this Code of Conduct to the appropriate Board or Committee chair, or to the chair of the Board of Selectmen, or, in the case of the chair of the Board of Selectmen, the other members of the Board of Selectmen.

**K. Fair and Equal Treatment**

Acting in their official capacity, all Officials of Town government shall give each and every person fair and equal treatment. No Official shall in the course of her/his official duties give or deny any person special consideration, advantage, or treatment as a result of the person’s public status, position, sex, race, religion, creed, sexual orientation, or national origin.

**L. Investments in conflict with official duties**

No Official shall invest or hold any investment, directly or indirectly in any financial, business, commercial, or other private transaction which creates a conflict with her/his official duties.

## **M. Employment**

### **1. Incompatible employment**

No Official shall engage in or accept private employment or render or sell services or goods from private interests when such employment or service is incompatible with the proper discharge of their official duties.

### **2. Future employment**

No Official shall use his office to leverage employment with a firm, person or corporation engaged in business with the Town of Goffstown.

## **III. EXCLUSIONS**

The provisions of this Code of Conduct shall not be interpreted so as to bar:

- A. Any Official who is a resident of the Town of Goffstown from fully participating in any public meeting as a Private Citizen
- B. Acceptance of donations for the expressed purpose of financing a political campaign, provided such contributions are reported in accordance with all local, state and federal laws which pertain to such donations;
- C. Participation in a matter which relates to a person or business from which an Official has merely purchased goods or services, if the individual in question has no other conflict of interest relating to that person or business;

## **IV. CODE OF CONDUCT AND AMENDMENTS**

Individuals are bound by the Code of Conduct in place at the time of the alleged action or event

**Amendments:** This document may, from time to time, be amended by a majority vote of the Board of Selectmen, at a regularly scheduled Selectmen's meeting.

## APPENDIX A

### STATE STATUTES REGARDING CODE OF CONDUCT ISSUES (not comprehensive)

**31:39-a Conflict of Interest Ordinances.** – The legislative body of a town or city may adopt an ordinance defining and regulating conflicts of interest for local officers and employees, whether elected or appointed. Any such ordinance may include provisions requiring disclosure of financial interests for specified officers and employees, establishing incompatibility of office requirements stricter than those specified by state law or establishing conditions under which prohibited conflicts of interest shall require removal from office. Any such ordinance shall include provisions to exempt affected officers and employees who are in office or employed at the time the ordinance is adopted for a period not to exceed one year from the date of adoption. The superior court shall have jurisdiction over any removal proceedings instituted under an ordinance adopted under this section.

### **42:1-a Manner of Dismissal; Breach of Confidentiality.** –

I. The manner of dismissing a town officer who violates the oath as set forth in RSA 42:1 shall be by petition to the superior court for the county in which the town is located.

II. Without limiting other causes for such a dismissal, it shall be considered a violation of a town officer's oath for the officer to divulge to the public any information which that officer learned by virtue of his official position, or in the course of his official duties, if:

(a) A public body properly voted to withhold that information from the public by a vote of 2/3, as required by RSA 91-A:3, III, and if divulgence of such information would constitute an invasion of privacy, or would adversely affect the reputation of some person other than a member of the public body or agency, or would render proposed municipal action ineffective; or

(b) The officer knew or reasonably should have known that the information was exempt from disclosure pursuant to RSA 91-A:5, and that its divulgence would constitute an invasion of privacy, or would adversely affect the reputation of some person other than a member of the public body or agency, or would render proposed municipal action ineffective.

III. No town officer who is required by an order of a court to divulge information outlined in paragraph II in a legal proceeding under oath shall be guilty of a violation under this section.

### **91-A:3 Nonpublic Sessions.** –

I. (a) Bodies or agencies shall not meet in nonpublic session, except for one of the purposes set out in paragraph II. No session at which evidence, information or testimony in any form is received shall be closed to the public, except as provided in paragraph II. No body or agency may enter nonpublic session, except pursuant to a motion properly made and seconded.

(b) Any motion to enter nonpublic session shall state on its face the specific exemption under paragraph II which is relied upon as foundation for the nonpublic session. The vote on any such motion shall be by roll call, and shall require the affirmative vote of the majority of members present.

(c) All discussions held and decisions made during nonpublic session shall be confined to the matters set out in the motion.

II. Only the following matters shall be considered or acted upon in nonpublic session:

(a) The dismissal, promotion or compensation of any public employee or the disciplining of such employee, or the investigation of any charges against him, unless the employee affected (1) has a right to a meeting and (2) requests that the meeting be open, in which case the request shall be granted.

(b) The hiring of any person as a public employee.

(c) Matters which, if discussed in public, would likely affect adversely the reputation of any person, other than a member of the body or agency itself, unless such person requests an open meeting. This exemption shall extend to any application for assistance or tax abatement or waiver of a fee, fine, or other levy, if based on inability to pay or poverty of the applicant.

(d) Consideration of the acquisition, sale or lease of real or personal property which, if discussed in public, would likely benefit a party or parties whose interests are adverse to those of the general community.

(e) Consideration or negotiation of pending claims or litigation which has been threatened in writing or filed against the body or agency or any subdivision thereof, or against any member thereof because of his or her membership in such body or agency, until the claim or litigation has been fully adjudicated or otherwise settled. Any application filed for tax abatement, pursuant to law, with any body or board shall not constitute a threatened or filed litigation against any body, board, or agency for the purposes of this subparagraph.

(f) Consideration of applications by the adult parole board under RSA 651-A.

(g) Consideration of security-related issues bearing on the immediate safety of security personnel or inmates at the county correctional facilities by county correctional superintendents or their designees.

(h) Consideration of applications by the business finance authority under RSA 162-A:7-10 and 162-A:13, where consideration of an application in public session would cause harm to the applicant or would inhibit full discussion of the application.

(i) Consideration of matters relating to the preparation for and the carrying out of emergency functions, including training to carry out such functions, developed by local or state safety officials that are directly intended to thwart a deliberate act that is intended to result in widespread or severe damage to property or widespread injury or loss of life.

III. Minutes of proceedings in nonpublic session shall be kept and the record of all actions shall be promptly made available for public inspection, except as provided in this section. Minutes and decisions reached in nonpublic session shall be publicly disclosed within 72 hours of the meeting, unless, by recorded vote of 2/3 of the members present, it is determined that divulgence of the information likely would affect adversely the reputation of any person other than a member of the body or agency itself, or render the proposed action ineffective, or pertain to terrorism, more specifically, to matters relating to the preparation for and the carrying out of all emergency functions, developed by local or state safety officials that are directly intended to thwart a deliberate act that is intended to result in widespread or severe damage to property or widespread injury or loss of life. This shall include training to carry out such functions. In the event of such circumstances, information may be withheld until, in the opinion of a majority of members, the aforesaid circumstances no longer apply.

**95:1 Public Officials Barred From Certain Private Dealings.** – No person holding a public office, as such, in state or any political subdivision governmental service shall, by contract or otherwise, except by open competitive bidding, buy real estate, sell or buy goods, commodities, or other personal property of a value in excess of \$200 at any one sale to or from the state or political subdivision under which he holds his public office.

**95:1-a Public Officials Barred From Insurance Dealings.** – With respect to any public works or construction contracts of any type that are paid for by public funds of the state or by any of its political subdivisions, or of any public authority, it is unlawful for any officer or employee of the

state, or of any of its political subdivisions, or of any public authority, either directly or indirectly to require the builder or the bidder to make application to or to get any surety bond or contract of insurance specified in the building or construction contract from a particular surety or insurance company, agent, or broker. It is unlawful for any officer or employee of the state, of any of its political subdivisions, or of any public authority, or for any person who purports to act for such an officer or employee to negotiate, make application for, or to get any such a surety bond or contract of insurance which can be obtained by the builder, bidder, contractor, or subcontractor on the building or construction contract. This section does not prevent any such an officer or employee of the state from exercising the state's right to approve the form, sufficiency, or manner of execution of the surety bonds or contracts of insurance furnished by the surety or insurance company selected by the bidder to underwrite surety bonds or insurance contracts.

**95:2 Penalty.** – Anyone violating the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction there shall automatically be a vacancy in the office held by the person convicted which shall be filled as otherwise provided by law.

**673:13 Removal of Members.** –

I. After public hearing, appointed members and alternate members of an appointed local land use board may be removed by the appointing authority upon written findings of inefficiency, neglect of duty, or malfeasance in office.

II. The board of selectmen may, for any cause enumerated in paragraph I, remove an elected member or alternate member after a public hearing.

III. The appointing authority or the planning board shall file with the city or town clerk, the village district clerk, or the clerk for the county commissioners, whichever is appropriate, a written statement of reasons for removal under this section.

IV. The council, selectmen, county commissioners with the approval of the county delegation, or district commissioners may for any cause enumerated in this section remove the members selected by them.

**673:14 Disqualification of Member.** –

I. No member of a zoning board of adjustment, building code board of appeals, planning board, heritage commission, historic district commission, or agricultural commission shall participate in deciding or shall sit upon the hearing of any question which the board is to decide in a judicial capacity if that member has a direct personal or pecuniary interest in the outcome which differs from the interest of other citizens, or if that member would be disqualified for any cause to act as a juror upon the trial of the same matter in any action at law. Reasons for disqualification do not include exemption from service as a juror or knowledge of the facts involved gained in the performance of the member's official duties.

II. When uncertainty arises as to the application of paragraph I to a board member in particular circumstances, the board shall, upon the request of that member or another member of the board, vote on the question of whether that member should be disqualified. Any such request and vote shall be made prior to or at the commencement of any required public hearing. Such a vote shall be advisory and non-binding, and may not be requested by persons other than board members, except as provided by local ordinance or by a procedural rule adopted under RSA 676:1.

III. If a member is disqualified or unable to act in any particular case pending before the board, the chairperson shall designate an alternate to act in the member's place, as provided in RSA 673:11.