TOWN OF PLAISTOW

Conflict of Interest Ordinance:
PO Box 903
Plaistow, New Hampshire 03865

Meet 3rd Tuesday 7PM, Plaistow Public Library

Prohibited Conduct

Participating in prohibited conduct constitutes conflict of interest with the Town.

A. It is in violation of this ordinance for any official of town government to:

(1) In his or her official capacity: approve or vote upon any matter in which he or she or any family member has personal financial interests or quid pro quo, and known conflicts that may exist between the official of town government and his or her family members, the principals and the issue under deliberation.

(2) Knowingly enter into any discussion, testimony, or deliberation without first publicly and for the record, stating all personal financial interests or quid pro quo, and known conflicts that may exist between said official of town government and his or her family members, the principals and the issue under deliberation, as may be known by the official of town government.

(3) Knowingly participate in the conduct of business of the town without disclosing all know conflicts of interest.

(4) Knowingly using town property or labor for personal use.

(5) Knowingly use town property or labor to unfairly influence the political cause of any candidate for public officer or any political party. Nothing in the foregoing sentence shall prevent political candidates or parties from holding public meetings on town owned property or prevent an official of town government from exercising and carrying out the responsibilities and obligations of his or her office.

(6) Use any proprietary information acquired through or by virtue of his or her official position for his or her pecuniary benefit or for the pecuniary benefit of any other person or business. The foregoing does not apply to information available to the general public.

(7) Otherwise than provided by law for the proper discharge of his or her official duties, directly or indirectly request or receive any compensation form anyone other than the town in relation to any particular matter in which the town is a party or has a direct and substantial interest.

(8) Otherwise than provided by law for the proper discharge of his or her official duties directly promise or offer compensation as referred to in this ordinance.

(9) Knowingly accept a gift with a value in excess of ten dollars ($10.00), or allow acceptance of such a gift by a family member from any individual, group, or corporation knowingly dealing with an

area of town government in which the official of town government has an interest or jurisdiction. The foregoing does not apply to gifts from family members.

(10) Knowingly give false information concerning interests and known conflicts.

(11) Knowingly sign a purchase order where there is a pecuniary interest with the vendor(s) or supplier(s).

(12) Knowingly fail to cooperate with the Conflict of Interest Committee, or other authorized investigating authority – the Board of Selectmen or Town Manager, in the investigation of any complaint alleging a violation of the tenets of this ordinance. However, this does not apply to someone who chooses to take the fifth amendment to avoid incriminating themselves.

(13) Knowingly, without merit or cause, file a petition alleging a violation of this Ordinance, to cause harm to an Official's reputation.

B. Officials of Town Government, whose compensation is paid in whole or in part from the town treasury, shall not appear in his or her official capacity on behalf of a private interest before any town board. Selectmen, however, may appear without compensation or favor, on behalf of constituents or in the performance of public or civic obligations.

C. Officials of town government, whose compensation is paid in whole or in part from the town treasury, shall not represent private interests, other than his or her own, in any actions or proceedings against the interest of the town in any litigation to which the town is a party.

Petition Process

The person(s) submitting a petition to the Conflict of Interest Committee alleging a violation of the Town of Plaistow Conflict of Interest Ordinance, adopted March 12, 2002, must complete a Petition of Alleged Violation form and must mail it to the PO Box indicated on the form. If the violation is within the jurisdiction of the Committee's authority, the Petitioner and the Respondent shall be notified to meet with the Conflict of Interest Committee at a non-public session. The petitioner and or the respondent will be requested to attend this meeting and will be required to provide evidence and/or pertinent information relating to the alleged violation(s).

It is in violation of the Town of Plaistow Conflict of Interest Ordinance, to knowingly, without merit or cause, file a petition alleging a violation of this Ordinance to cause harm to an Official's reputation.

Town of Plaistow Conflict of Interest Ordinance

Declaration of Policy – The proper operation of a democratic government requires that public officials be independent, impartial, and responsible to the people; that government decisions and policy be made through the proper channels of governmental structure; that public office not be used for personal gain; that the public have confidence in the integrity of its government; and that officials perform their duties without conflicts between their private interests and those of the citizens they serve. In recognition of these goals, a Conflict of Interest Ordinance is adopted in accordance with:
RSA 31:39-A for all officials of town government as defined in Section IV. Definitions.

I. Election of Conflict of Interest Committee (amended 3-10-2020 by Town Meeting Art. 21)

A. Membership terms.

(1) The Town of Plaistow, at the March Town Election, will elect a Conflict of Interest Committee consisting of five persons. Five at-large members shall be elected to serve with staggered three-year terms.

(2) Members will be elected to three-year terms.

B. Members of the Conflict of Interest Committee shall consist of private citizens residing in the town and not employed by the town or in a contractual agreement with the town.

C. Family members serving on Town Committee or Boards does not preclude a town citizen from being elected and serving on the conflict of Interest Committee. Members of the Conflict of Interest will recuse themselves when a petition is filed involving a family member.

II. Purpose.

The purpose of this ordinance is to establish guidelines for all officials of town government pertaining to and to avoid conflicts of interest; and also requiring disclosure by such officials of town government of personal financial interests or quid pro quo in matters affecting the Town that may appear to be a conflict of interest.

III. Investigatory Power.

The Conflict of Interest Committee, only after a petition is filed under Section VII (Procedures For Alleged Violations), may request of any person(s) to appear before it and give such information as it may require in relation to a petition. A copy of the petition of alleged violation shall be forwarded to the respondent by certified mail within four (4) business days after the Conflict of Interest Committee's review of the petition. The Conflict of Interest Committee may request any person(s) to appear before it. Said person(s) shall be given a minimum of fourteen (14) days written notice of the general scope of the alleged violation. The Conflict of Interest Committee, for this purpose, will require the production of evidence by the petitioner(s).

IV. Definitions.

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

Board: Any board, committee or commission, permanent or special, established by the Plaistow Selectmen, Town Election or New Hampshire law.

Conflict of Interest: A situation, circumstance, or financial interest, which has the potential to cause a private interest to interfere with the proper exercise of a public duty .

Compensation: Any money, gift, things of value or economic/pecuniary benefit or favor, conferred on or received by any person in return for services rendered or to be rendered by him or

herself or another, in excess of ten dollars ($10.00).

Family Member(s): Include spouse, children, stepchildren, grandchildren, parents, stepparents, grandparents, brothers, sisters, stepbrothers, stepsisters, nephews, nieces, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, any member of the official's household.

Finding: To reach a decision.

Interest: Any legal or equitable interest, whether or not subject to an encumbrance or a condition, which is owned or held, public or silent, in whole or in part, jointly or severally, directly or indirectly, at any time during the calendar year.

A. Any interest, in any stock or similar security, pre-organization certificate or subscription, investment contact, intellectual properties, voting trust certificate, limited or general partnership or joint venture, business trust or certificate of interest or participation in a joint profit sharing agreement or in an oil, water, gas, power utilities, telecommunications, electronic communications, technological communications, or other minimal royalty or lease or any other equity or beneficial interest, however evidenced, which entitles the owner or holder thereof to receive or direct any part of the profits from or to exercise any part of the control over a business entity, as well any interest which, conditionally or unconditionally, with or without consideration, is convertible thereto.

B. Any interest in any note, bond, debenture or any other evidence of creditor interest.

C. Ownership or right of way of land that abuts any land being discussed.

D. Acting as an agent or holder of fiduciary interest.

E. Any present or past (within the previous twelve-month period) employer/employee relationship.

Quid pro quo: Something given or received for something else.

Town Official: (Also referred to as "official", or as "official of town government"). Any elected or appointed official, whether of any town board, commission, or committee, whether full or part time, permanent or temporary, including those paid by federal or state assisted programs and including but not limited to all Auditors, Board of Fire Engineers members, Board of Selectmen members, Budget Committee members, Cable Television Committee members, Capital Improvement Committee members, Cemetery Advisory Committee members, Checklist Supervisors, Conflict of Interest Committee members, Conservation Commission members, Highway Safety Committee members, Historical Society members, Public Library Trustees, Planning Board members, Recreation Commission members, Rockingham Planning Commission members, Tax Collector, Town Clerk, Town Moderator, Treasurer, Trustees of the Trust Funds, Zoning Board of Adjustment members, and any individual official or member of any other town boards, commissions or committees, including those yet to be established. Appointed town employees are exempt.

Petitioner(s): An official, person(s), or business, submitting a petition alleging a violation of this Conflict of Interest Ordinance.

Respondent: An official of town government named in a petition submitted to the Conflict of Interest Committee alleging a violation of the Conflict of Interest ordinance.

V. Prohibited Conduct.

Participating in prohibited conduct constitutes a conflict of interest with the Town.

A. It is in violation of this ordinance for any official of town government to:

(1) In his or her official capacity: approve or vote upon any matter in which he or she or any family member has personal financial interests or quid pro quo, and known conflicts that may exist between the official of town government and his or her family members, the principals and the issue under deliberation.

(2) Knowingly enter into any discussion, testimony or deliberation without first, publicly and for the record, stating all personal financial interests or quid pro quo, and known conflicts that may exist between said official of town government and his or her family members, the principals and the issue under deliberation, as may be known by the official of town government.

(3) Knowingly participate in the conduct of business of the town without disclosing all known conflicts of interest.

(4) Knowingly using town property or labor for personal use.

(5) Knowingly use town property or labor to unfairly influence the political cause of any candidate for public office or any political party. Nothing is the foregoing sentence shall prevent political candidates for partied from holding public meetings on town owned property or prevent an official of town government from exercising and carrying out the responsibilities and obligations of his or her office.

(6) Use any proprietary information acquired through or by virtue of his or her official position for his or her pecuniary benefit or for the pecuniary benefit of any other person or business. The foregoing does not apply to information available to the general public.

(7) Otherwise than provided by law for the proper discharge of his or her official duties, directly or indirectly request or receive any compensation from anyone other than the town in relation to any particular matter in which the town is a party or has a direct and substantial interest.

(8) Otherwise than provided by law for the proper discharge of his or her official duties directly promise or offer compensation as referred to in the ordinance.

(9) Knowingly accept a gift with a value in excess of ten dollars ($10.00), or allow acceptance of such a gift by a family member from any individual, group or corporation knowingly dealing with an area of town government in which the official of town government has an interest or jurisdiction. The foregoing does not apply to gifts from family members.

(10) Knowingly give false information concerning interests and known conflicts.

(11) Knowingly sign a purchase order where there is a pecuniary interest with the vendor(s) or supplier(s).

(12) Knowingly fail to cooperate with the Conflict of Interest Committee, or other authorized investigating authority – the Board of Selectmen or Town Manager, in the investigation of any complaint alleging a violation of the tenets of this ordinance. However, this does not apply to someone who chooses to take the Fifth Amendment to avoid incriminating themselves.

(13) Knowingly, without merit or cause, file a petition alleging a violation of this Ordinance, to cause harm to an Official's reputation.

B. Officials of town government, whose compensation is paid in whole or in part from the town treasury, shall not appear in his or her official capacity on behalf of a private interest before any

town board. Selectmen, however, may appear without compensation or favor, on behalf of constituents or in the performance of public or civic obligations.

C. Officials of town government, whose compensation is paid in whole or in part from the town treasury, shall not represent private interests, other than his or her own, in any actions or proceedings against the interest of the town in any litigation to which the town is a party.

VI. Exclusions.

A. The prohibition against gifts or favors shall not apply to an occasional non-pecuniary gift, insignificant in value, or an award publicly presented in recognition of public service or any gift which would have been offered or given to him or her if he or she was not an official of town government or unsolicited advertising or promotional items or materials of nominal intrinsic value.

B. It shall not be a violation for elected officials to accept donations for the expressed purpose of financing a political campaign, provided that such contributions are reported in accordance with all local, state and federal laws pertaining to such donations or services and/or financial value.

C. The mere purchase of goods or services from a person or business in the ordinary course of that person's or business' retail or service business shall not prevent an official of town government from introducing, discussing, approving or voting upon a matter which relates to that person or business.

D. those actions taken as part of the legislative process of making a law or laws, which affect the community in general, are exempt from the provisions herein. Legislative actions concerning the granting of specific contract awards and/or actions designed to benefit one identified or identifiable individual specific group of individuals are not exempt.

VII. Procedures for Alleged Violations.

A. The person submitting the petition to the Conflict of Interest Committee must complete a Petitioner Information Form. The petition shall be kept sealed until opened by the Conflict of Interest Committee at an executive session held in accordance to RSA 91-A:3,II a & c. Correspondence and minutes shall not be available to the public for inspection pursuant to RSA 91-A:5, IV. The purpose is to protect the respondent from allegations that may adversely affect the reputation of said respondent. The respondent shall have the option of having a non-public hearing or a public hearing. The petitioner(s) must be present at the non-public or public hearing or the petition shall be dismissed. A petition must be in writing, signed, and dated and include the name, address and contact number of each petitioner. Business owners submitting a petition must also include the name, address and contact number of the business. The petition must be filed with the Conflict of Interest Committee. Petitions may be obtained at Town Hall or via electronic communications. Petitions must be filed as instructed on the petition.

B. If any person approaches the Selectmen, Town Manager or any other town official, regarding an alleged violation of this ordinance, the town official shall refer said person to the Conflict of Interest Committee.

C. If the alleged violation is against the Conflict of Interest Committee, the petition may be filed with the Board of Selectmen. If the alleged violation is against any member of the Conflict of Interest Committee, the petition shall be filed with the Conflict of Interest Committee.

D. The Conflict of Interest Committee will first review the petition and determine if it is within

the jurisdiction of the Committee's authority. If the petition is found to be within the Committee's jurisdiction, the Committee shall forward a copy of the petition of alleged violation(s) to and notify the respondent by certified mail within four (4) business days after the Committee's review of the petition of the alleged violation(s) and that an investigation will be conducted. The respondent shall be requested to respond to the alleged violation(s) in writing and will meet with the Conflict of Interest Committee to present any relevant material to the investigation. The Committee shall proceed with an investigation and hearing if deemed necessary. The Committee may dismiss a petition at any point.

E. After the investigation, the Conflict of Interest Committee shall make a finding, by a majority vote, on the alleged violation within sixty (60) days. If necessary, the Conflict of Interest Committee may vote to extend its investigatory period up to a maximum of ninety (90) days from when the matter is first presented to the committee as an agenda item.

F. The respondent is entitled to a non-public hearing, or to a public hearing with notice posted in two (2) public places seven (7) days prior thereto. When appearing before the Conflict of Interest Committee, said official may call witnesses on his or her behalf and may retain representation by legal counsel at his or her own expense. RSA 31:104 provides protection to a person acting in his official capacity in good faith and withing the scope of his authority. This could include payment of legal costs. At notification of non-public or public hearing, each party must notify the others if they will be represented by legal counsel. Each party is entitled to one continuance.

G. All findings by the Conflict of Interest Committee shall be forwarded to the Board of Selectmen. Findings shall include all information pertinent to each petition.

H. The Selectmen shall have forty-five (45) days from the date a finding is submitted to the Board of Selectmen to act on the Conflict of Interest Finding.

I. Pursuant to RSA 31:39-A, knowingly violating this code shall be grounds for further review by the Board of Selectmen, if found by majority vote of the Conflict of Interest Committee.

J. If the Selectmen determine by a majority vote that removal is warranted, the Selectmen will ask the respondent for a resignation. If the respondent refuses to resign, then a petition to remove shall be filed by the Board of Selectmen with the Superior Court.

K. Nothing in this ordinance shall be construed to prohibit any person from petitioning the Superior Court to remove an official of town government on the grounds that the violation in question warrants removal.

L. A respondent may request the Conflict of Interest Committee make a finding on any petition that is withdrawn or invalidated. If such a request is made, the Conflict of Interest Committee shall complete an investigation pursuant to the procedures described herein.

VIII. Distribution of Conflict of Interest Ordinance.

A. All officials of town government, as defined in Section IV. Definitions shall be furnished, by the Town Clerk's Office, with a copy of the Conflict of Interest Ordinance prior to assuming their respective duties. Copies of the Conflict of Interest Ordinance can be obtained form the Town Clerk's office.

B. Failure to be furnished a current copy of the Conflict of Interest shall not be grounds for relief from observing and compliance with the ordinance, amendments, and changes.

IX. Exemption Period.

Any official of town government elected, appointed or engaged on or before March 12, 2002, shall be exempt from the provisions of the ordinance for a period of fifteen (15) days.

X. Conflict of Interest Ordinance and Amendments.

A. Individuals are bound by the Conflict of Interest Ordinance in place at the time of the alleged violation.

B. This Conflict of Interest Ordinance shall be amended only by warrant article.