

Town of Plaistow
Conflict of Interest Committee
Bylaws

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HISTORY: Adopted by the Town of Plaistow Conflict of Interest Committee.
October 15, 2002.

1. Authority.

These rules of procedure are adopted under the authority of New Hampshire Revised Statutes Annotated RSA 31:39-a, and the Town of Plaistow Conflict of Interest Ordinance adopted at Town meeting vote of March 12, 2002.

2. Members.

- A. The Town of Plaistow Conflict of Interest Committee shall consist of a total of five members.
- B. Selection, qualification, term, removal of members, and filling of vacancies, shall include, but not be limited to, the following circumstances:
- (1) After assuming office for the first time, Conflict of Interest Committee members are required to completely read and acquaint themselves with the Town of Plaistow Conflict of Interest Ordinance, Bylaws and Procedures, and any matters pending, prior to the next scheduled meeting.
 - (2) Oath of office. Each new member shall be sworn in and take an oath of office pursuant to RSA 42:1.
 - (3) Terms of Committee members.
Election and Term.
 - (a) The Town of Plaistow at the March 2003 town election will elect a Conflict of Interest Committee consisting of (5) persons. Five (5) at large members, shall be elected to serve with staggered three-year terms, after the following initial terms are completed: One member at large [for a one year term]: 2003 to 2004; Two members at large [for a two year term]: 2003 to 2005; Two members at large [for a three year term]: 2003 to 2006.
 - (b) The election of said persons shall take effect after Town election in March 2003, or any special town election to be held before that date, whichever comes first. Upon completion of the one year and two year terms members will be elected at Town Election to three-year terms.
 - (4) Quorum.
 - (a) A quorum for all meetings, hearings and findings of the Committee shall be a minimum of three (3) members.

(5) Who can be a Member.

- (a) Members of the Conflict of Interest Committee shall consist of private citizens not in conflict with town elected or appointed officials or their families; town board memberships, commission memberships, committee memberships, or trusteeships, contractors and their employees.

(6) Vacancies on the Committee.

- (a) Should a vacancy in the Committee arise, the remaining members of the Conflict of Interest Committee will elect, by majority vote, a town citizen to serve out the remainder of the term year. At the following annual town elections, a member at large will be elected to serve out the remainder of the term.

(7) Removal.

- (a) The absence of a Committee member from three unexcused consecutive meetings or from attendance at 65% of all regularly scheduled meetings in a calendar year will cause the Conflict of Interest Committee to consider requesting the removal and replacement of that member. The Chairman will have the authority to grant excused absences.
- (b) After a hearing by the Conflict of Interest Committee and approved by majority vote, the Conflict of Interest Committee will submit written findings of inefficiency, neglect of duty, or misconduct in office of a member, to the Board of Selectmen for consideration of removal.

3. Organization.

A. Officers.

- (1) The officers of the Committee shall be elected annually at the first meeting after Town Election by a majority vote of the Committee. If requested by a majority of those present, voting shall be by written ballot.
- (2) The Conflict of Interest Committee shall elect a Chairman, a Vice Chairman, and a Secretary from the elected membership and may create other offices as it deems necessary.
- (3) All members shall be eligible for reelection.

B. Administrative staff.

- (1) The Conflict of Interest Committee, by majority vote, within their operating budget and following the Town Personnel Policy, may acquire the services of a nonmember administrative assistant(s), stenographer, and/or electronic recording devices, as deemed necessary, to carry out any administrative work related to the proper and efficient implementation of Conflict of Interest Committee duties and obligations. Any non-member acquired shall adhere to the rules and regulations pertaining to the member requirement of the Conflict of Interest Ordinance.

4. Duties.

- A. **Chairman of the Committee.** The Chairman shall preside over all meetings and hearings; shall receive petitions; shall supervise the preparation of an annual report; shall affix his/her signature in the name of the Committee; and shall perform other duties customary to the office.
- B. **Vice Chairman of the Committee.** The Vice Chairman shall preside in the absence of the Chairman and shall have the full powers of the Chairman on matters that come before the Committee in the absence of the Chairman.
- C. **Secretary of the Committee.** The Secretary shall perform the following tasks:
- (1) Maintain a record of all meetings, transactions, hearings and findings of the Committee;
 - (2) Document receipt of petitions from the Chairman requiring action by the Committee;
 - (3) Prepare agendas for Committee meetings and deliver them to the membership within a reasonable amount of time, together with related informational material and the minutes of a previous meeting, as applicable;
 - (4) Send correspondence as directed by the Committee or Chairman, reserving correspondence of a technical or legal nature for the review and approval of the Committee, as to content, at a regular meeting before sending it;
 - (5) Keep records, files and minutes accessible and open to public inspection; except for non-public/sealed.
 - (6) Purchase supplies, keep and maintain all records for budget and expenses for the Committee.
 - (7) Perform all such other administrative tasks as directed by the Committee Chairman.
- D. **Conflict of Interest Committee.** The Committee shall formulate and approve a yearly budget to be submitted to the Town for approval.

5. Meetings.

- A. **Regular meetings.** Regular meetings shall be held at a Town of Plaistow Municipal Building at 7:00 p.m. on the third Tuesday of each month or at the call of the Chairman.
- B. **Special meetings.** Special meetings may be called by the Chairman or, in his/her absence, by the Vice Chairman or at the request of three members of the Committee, provided notice is given to each member at least 48 hours prior to the time of such meetings and is posted in two appropriate public places at least 24 hours prior to such meetings, excluding Sundays and legal holidays.
- C. **Non-public meetings.** Non-public meetings shall be held in strict conformance with Chapter 91-A (Access to Public Records and Meetings) of the New Hampshire Revised Statutes Annotated.

- D. **Cancellations.** Cancellations may be made by the Chairman, or in his/her absence by the Vice Chairman, or in their absence, by three (3) members of the Committee, if no business is before the Committee or if other unusual circumstances warrant a cancellation.
- E. **Disqualification of regular member.**
- (1) No member shall participate in deciding any question or sitting upon the hearing of any question in which that member has a direct personal or financial interest or quid pro quo, in the outcome which differs from the interest of other citizens. The member shall disqualify himself/herself, and shall notify the Chairman as soon as possible. The Chairman or the member who has disqualified himself/herself shall announce the disqualification before discussion or public hearing on the question being considered takes place. The disqualified member(s) shall leave the Committee table during all deliberations and public hearing on the matter (but may remain and participate as a private citizen). The disqualified member(s) may not attend non-public hearings or non-public meetings/sessions.
 - (2) When uncertainty arises as to the application of Subsection E(1) above, the Committee shall, upon the request of that member or any other member of the Committee, vote on the question of whether that member should be disqualified. Such request shall be made prior to or at the commencement of a hearing or an action resulting in a Committee decision on the matter. The vote shall be made a matter of record, shall be advisory in nature, and shall not be requested by persons other than Committee members.

6. Procedures.

A. **Order of business.**

- (1) The order of business shall be as follows:
 - (a) Call to order by Chairman.
 - (b) Roll call and confirmation of quorum.
 - (c) Scheduled hearings or meetings
 - (d) Minutes of previous meeting.
 - (e) Reporting and or reading of communications directed to the Committee, except Petitions which shall be taken up in non-public session.
 - (f) Unfinished business.
 - (g) Other business.
 - (h) Adjournment.
- (2) The Committee may, at any meeting, change the above order to better accommodate the public or the Committee.

B. **Voting.** A motion, duly seconded, shall be carried by an affirmative vote of a majority of the members present. Voting shall be recorded in the minutes.

7. Petitions.

A. Procedures for Alleged Violations.

- (1) The Conflict of Interest Committee shall formulate and make available Petition of Alleged Violation forms.
 - (a) To be considered, petition forms must be obtained at Town Hall or via electronic communications.
 - (b) The petition form must be complete and 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.
 - (c) The petitions must be filed, as instructed on the petition form, with the Conflict of Interest Committee.
 - (d) The petition shall be kept sealed until opened by the Conflict of Interest Committee at a non-public session held in accordance to RSA 91-A:3,II a & c.
 - (e) 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(s) from alleged allegations, and the adverse affect on the reputation of said respondent(s) and petitioner(s).
 - (f) The respondent(s) shall have the option of having a public or non-public hearing.
 - (g) The petitioner(s) must be present at the public or non-public hearing, or the petition shall be dismissed.
- (2) If any person approaches the Selectmen, Town Manager or any other town official, regarding an alleged violation of The Conflict of Interest Ordinance, the town official shall refer said person to fill out a Petition of Alleged Violation form or to contact the Conflict of Interest Committee.
- (3) 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.
- (4) The Conflict of Interest Committee will first review the petition and determine if it is within the jurisdiction of the Committee's authority.
 - (a) If the petition is found to be within the Committee's jurisdiction, the Committee, after its review and acceptance, shall notify and forward a copy of the petition of alleged violation(s) to the respondent(s) by certified mail, return receipt required, within four (4) business days, and state that an investigation will be conducted. The petitioner(s) shall also be notified that an investigation will be conducted.
 - (b) The respondent(s) shall be requested to respond to the alleged violation(s) within fourteen (14) days in writing, and will meet with the Conflict of Interest Committee to present any relevant material and/or witnesses pertinent to the investigation.

- (c) The Committee shall proceed with an investigation and hearing, if deemed necessary.
 - (d) If necessary, the Conflict of Interest Committee may 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, excluding any continuance period.
 - (e) The Committee may dismiss a petition at any point.
- (5) After the investigation, the Conflict of Interest Committee shall make a finding, by a majority vote, on the alleged violation within sixty (60) days, excluding any continuance period.
- (6) The respondent(s) is entitled to a public or non-public hearing, with notice posted in two (2) public places seven (7) days prior thereto.
- (a) When appearing before the Conflict of Interest Committee, said respondent(s) may call witnesses on his or her behalf and may retain representation by legal counsel at his or her own expense.
 - (b) RSA 31:104 provides protection to a person acting in his official capacity in good faith and within the scope of his authority. This could include payment of legal costs.
 - (c) At notification of public or non-public hearing, each party must notify the others if they will be represented by legal counsel.
 - (d) Each party is entitled to one continuance. The request must be in writing and time frame approved by the Conflict of Interest Committee.
- (7) All findings by the Conflict of Interest Committee shall be forwarded to the Board of Selectmen. Findings shall include information pertinent to each petition.
- (8) 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 Committee finding.
- (9) Pursuant to RSA 31:39-A, knowingly violating the Town of Plaistow Conflict of Interest Ordinance shall be grounds for further review by the Board of Selectmen, if found by a majority vote of the Conflict of Interest Committee.
- (10) 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.
- (11) 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.
- (12) All Petition forms and revisions shall be adopted by resolution of the Committee and shall become part of these rules of procedure.

8. Investigations.

A. Investigatory Power.

(1) The Conflict of Interest Committee shall have the authority and use of town resources in its investigation of alleged violations of the Town of Plaistow Conflict of Interest Ordinance. The Conflict of Interest Committee shall request from the Town Manager use of staff and other town resources that are beyond the Conflict of Interest Committee budget. The Town Manager will not unreasonably withhold assistance.

- (a) The Conflict of Interest Committee, only after a Petition of Alleged Violation is filed and accepted for review and/or action under Section 7, (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 the Petition of Alleged Violation.
- (b) 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 to appear, and to provide any pertinent information regarding the petition of alleged violation(s).
- (c) The Conflict of Interest Committee will require the production of evidence by all parties.

9. Hearings.

A. Public/Personal Notice.

- (1) Public notice as required in RSA 91-A shall be met for each meeting on each Petition of Alleged Violation(s). Notice shall be posted at Town Hall, Post Office and/or Public Library not less than five (5) days before the date fixed for the hearing.
- (2) Personal notice of hearing shall be made by certified mail, return receipt required, to the respondent(s) and petitioner(s) and all involved not less than ten (10) days before the date of the hearing. Notice shall also be given to the Board of Selectmen, Town Manager, and others deemed by the Committee to have special interest. Said notice shall contain the same information as the public notice and shall be made on forms provided for this purpose.

B. Public hearings.

The conduct of a public hearing shall be governed by the following rules:

(1) General.

- (a) Members of the Committee may ask questions at any point during the proceedings.
- (b) Any party to the matter who desires to ask a question of another party must go through the Chairman.
- (c) Any person with an interest in the matter must testify in person.
- (d) Persons who speak shall be required to state their name and address and indicate whether they are a party to the matter or an agent or counsel to a party to the matter.

(2) Specific.

- (a) The Chairman shall call the hearing in session, identify the Petitioner(s) and Respondent(s) and the nature of the Petition of Alleged Violation(s).
- (b) The Chairman shall read the Petition of Alleged Violation and report on the manner in which public and personal notice was given.
- (c) The Secretary or his/her designee shall record the minutes.
- (d) The Petitioner(s) shall be called upon to present evidence, information and supporting documentation, and those appearing on his/her behalf shall be allowed to speak.
- (e) The Respondent(s) shall present any supporting evidence, information and supporting documentation, and those appearing on his/her behalf shall be allowed to speak.
- (f) Those in opposition to the Respondent(s) shall be allowed to speak.
- (g) Those in opposition to the Petitioner(s) shall be allowed to speak.
- (h) Other parties, such as representatives of town departments and other boards and commissions and committees who have an interest in the petition, shall be allowed to comment in person.
- (i) Those neither in favor nor in opposition may speak.
- (j) The Petitioner shall be allowed to speak in rebuttal.
- (k) The Respondent shall be allowed to speak in rebuttal.
- (l) Any member of the Committee, through the Chairman, may request any party to the matter under consideration to reappear.

- (m) Any person who wants the Committee to compel the attendance of a witness shall present his request in writing to the Chairman not later than five (5) business days prior to the public hearing.
 - (n) The Conflict of Interest Committee will hear with interest any evidence that pertains to the facts of the matter or how the facts relate to the provisions of the Town of Plaistow Conflict of Interest Ordinance.
 - (o) The Chairman shall present a summary setting forth the facts of the matter and the claims made for each side. Opportunity shall be given for correction from the floor.
 - (p) The Chairman shall indicate at the end of the hearing whether the hearing is closed or adjourned. Closure or adjournment shall depend on whether there is a need for submission of additional material or information or for the correction of noted deficiencies. In the case of an adjournment, additional notice shall not be required if the date, time, and place of the continuation is announced at the time of adjournment.
 - (q) The hearing on the petition shall be declared closed and the next case called, if any.
 - (r) Continuances must be in writing and time frame approved by the Conflict of Interest Committee.
- (3) All forms and revisions shall be adopted by resolution of the Committee and shall become part of these rules of procedure.

C. Non-Public hearings.

The conduct of a non-public hearing shall be governed by the following rules:

(1) General.

- (a) The Hearing shall be held in non-public session pursuant to RSA 91-A:3, II a & c.
- (b) The hearing information and minutes shall be non-public, pursuant to RSA 91-A:3, III.
- (c) Members of the Committee may ask questions at any point during the proceedings.
- (d) Any party to the matter who desires to ask a question of another party must go through the Chairman.
- (e) Any person with an interest in the matter must testify in person.
- (f) Persons who speak shall be required to state their name and address and indicate whether they are a party to the matter or an agent or counsel to a party to the matter.

(2) Specific.

- (a) The Chairman shall call the hearing in session, identify the Petitioner(s) and Respondent(s) and the nature of the Petition of Alleged Violation(s).
 - (b) The Chairman shall read the Petition of Alleged Violation and report on the manner in which public and personal notice was given.
 - (c) The Secretary or his/her designee shall record the minutes.
 - (d) The Petitioner(s) shall be called upon to present evidence, information and supporting documentation.
 - (e) The Respondent(s) shall present any supporting evidence, information and supporting documentation.
 - (f) Parties who have an interest in the petition will be called in separately, one at a time, and shall be allowed to comment in person.
 - (g) The Petitioner shall be allowed to speak in rebuttal.
 - (h) The Respondent shall be allowed to speak in rebuttal.
 - (i) Any member of the Committee, through the Chairman, may request any party to the matter under consideration to reappear.
 - (j) Any person who wants the Committee to compel the attendance of a witness shall present his request in writing to the Chairman not later than five (5) business days prior to the hearing.
 - (k) The Conflict of Interest Committee will hear with interest any evidence that pertains to the facts of the matter or how the facts relate to the provisions of the Town of Plaistow Conflict of Interest Ordinance.
 - (l) The Chairman shall present a summary setting forth the facts of the matter and the claims made for each side. Opportunity shall be given for correction from the floor.
 - (m) The Chairman shall indicate at the end of the hearing whether the hearing is closed or adjourned. Closure or adjournment shall depend on whether there is a need for submission of additional material or information or for the correction of noted deficiencies. In the case of an adjournment, additional notice shall not be required if the date, time, and place of the continuation is announced at the time of adjournment.
 - (n) The hearing on the petition shall be declared closed and the next case called, if any.
 - (o) Continuances must be in writing and time frame approved by the Conflict of Interest Committee.
- (3) All forms and revisions shall be adopted by resolution of the Committee and shall become part of these rules of procedure.

10. Findings. (Decisions made on Petitions of Alleged Violations.)

A. Findings shall be made by the Conflict of Interest Committee.

- (1) Findings by the Committee shall be non-public.
- (2) Findings shall include information pertinent to each petition.
- (3) All findings shall be signed by Conflict of Interest Committee members.
- (4) The investigatory period is up to a maximum of 90 days from when the matter is first presented to the Conflict of Interest Committee as an agenda item, excluding any continuance period.
- (5) The Committee shall make a finding within 60 days after the completion of the investigation, excluding any continuance period.
- (6) All findings shall be forwarded to the Board of Selectmen.
- (7) The Committee may dismiss a petition at any time.
- (8) All forms and revisions shall be adopted by resolution of the Committee and shall become part of these rules of procedure.

11. Records.

A. Public Records.

- (1) The public records of the Committee shall be kept by the Secretary at the town office building and made available for public inspection in accordance with statutory requirements, pursuant to RSA 91-A:4, except as otherwise prohibited by Statute or RSA 91-A:5.
- (2) Minutes of all public meetings including names of Committee members, persons appearing before the Committee, and a brief description of the subject matter discussed and final decisions, shall be promptly recorded and open to public inspection within 144 hours of the public meeting, pursuant to RSA 91-A:2, II except as provided in RSA 91-A:6, RSA 91-A:5 and future revisions.

B. Non-Public Records.

Non-public records. Non-public records shall be held in strict conformance with Chapter 91-A (Access to Public Records and Meetings) of the New Hampshire Revised Statutes Annotated.

- (1) 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 pursuant to RSA 91-A:3, III. 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. 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.
- (2) The non-public records and minutes of the Committee shall be kept by the secretary at the town office building and shall not be available for public inspection, pursuant to RSA 91-A:5,IV and RSA 91-A:3,III.
- (3) Written findings shall be forwarded to the Board of Selectmen, by the Committee, and shall be non-public, pursuant to RSA 91-A:5,IV and RSA 91-A:3,III.

12. Communications.

- A. All correspondence must be mailed to:
Town of Plaistow
Conflict of Interest Committee
PO Box 903
Plaistow, New Hampshire 03865.
- B. Notice of Meetings.
- C. Notice of Hearings.
- D. All correspondence sent by the Committee.

13. Amendments.

These bylaws may be amended by majority vote of the membership of the Conflict of Interest Committee, provided that such amendments have been submitted in writing and are read at two successive meetings and immediately precede the vote to be taken.