

# **TOWN OF PITTSFIELD**

## **BOARD OF SELECTMEN**

Town Hall

85 Main Street

**Pittsfield, New Hampshire 03263**

## **CODE OF ETHICS**

### **For Town Officers and Employees**

#### **I. AUTHORITY**

This Code of Ethics is adopted under the authority of [RSA 31:39-a](#) at a Special Town Meeting of the Town of Pittsfield held on November 29, 2005.

#### **II. INTRODUCTION; PURPOSE**

It is of critical importance that the public have confidence in the integrity of its municipal government and that town officers and employees have an opportunity to respond on those occasions where a conflict of interest is thought to exist. This code establishes a process by which town officers and employees may be educated about potential ethical issues, and provides for the removal or discharge of officers or employees who violate the ethical standards of conduct established by this code. Thus, the fundamental purpose of this code is to establish enforceable ethical standards of conduct for town officers and employees with the hope that the code will assist all officers and employees to identify and avoid conflicts of interest. To that end, every town official and employee as defined in this code should aspire:

- 1.** to always act in the best interests of the town when executing their duties as a town officer or employee;
- 2.** to disclose any personal, pecuniary or other self-interest in any matter which comes before them for action in their capacity as a town officer or employee;
- 3.** to remove themselves from consideration of or action on any matter which places them in a prohibited conflict of interest;
- 4.** to be independent, impartial, and mindful that they are ultimately responsible to their fellow townspeople for all actions taken in their official or employment capacity.

#### **III. CONFLICTS OF INTEREST PROHIBITED**

##### **A. Generally**

No town officer or employee shall participate in any matter in which that person has a personal or pecuniary interest which may directly or indirectly influence that person's

decision-making. Where such a personal or pecuniary interest exists, the officer or employee has a duty to recuse themselves from participation in the matter. Recusal requires that the officer or employee remove themselves completely from all further participation in the matter in question. The recused person shall immediately leave the room where the matter is under consideration, or shall seat themselves in the audience with any other members of the public who are present. The recused person shall not participate in discussions about the pending matter unless that person first clearly states for the record that any comments or opinions are offered in that person's capacity as general member of the public. No recused person shall deliberate or vote on the matter in question.

### **B. Matters Covered**

The duty to avoid conflicts of interest and to recuse oneself when such a conflict exists attaches to any officer or employee acting in an executive, quasi-judicial, administrative or legislative capacity, and whether acting singly or as a member of a town board, commission, committee, agency, or other public body.

### **C. Specific Prohibitions**

No officer or employee shall: 1. participate in any hearing, debate, discussion or vote, or in any manner otherwise attempt to influence the outcome of a matter in which he or she has a personal or pecuniary interest; 2. utilize information obtained in such capacity for his or her own personal benefit or that of his or her clients or the clients of the organization with which the public official is associated; 3. appear on behalf of a client before any governmental body of which the public official is a member or whose members have been appointed by the governmental body of which the public official is a member; 4. accept anything of value from any person or organization when the public officer or employee knows or reasonably should know that the offer is for the purpose of influencing the public officer's or employee's actions or decisions; 5. use his or her official position to influence or to attempt to influence any governmental body to act in favor of the officer or employee, or in favor of clients or clients of the organization with which the officer or employee is associated; other individuals in the organization with which the officer or employee is associated may not appear on behalf of the clients before the governmental body of which the officer or employee is a member, or any governmental body whose members have been appointed by the body of which the officer or employee is a member, unless the officer or employee publicly disqualifies himself or herself and refrains from participation in the matter.

### **D. Duty to Disclose**

No officer or employee shall participate in the conduct of business on behalf of the town or enter into discussion or deliberation of any matter without first, publicly and on the record, disclosing business dealings, family relationships, personal friendships and social relationships, and any other personal or pecuniary interest which may influence the impartiality of the officer or employee regarding the matter under consideration.

### **E. Unfair Personal Use of Town Property**

No officer or employee of the Town of Pittsfield shall use or enjoy town property, services, or labor for his or her personal benefit, or make available any of the same to others unless such use or enjoyment is available to members of the public upon request on equal terms.

### **F. Misuse of Confidential Information**

No officer or employee of the Town of Pittsfield shall use any confidential information acquired by virtue of that individual's position for personal benefit, or for the benefit of any other person or business. This does not apply to information which is readily available to the general public. In addition, no officer or employee of the Town of Pittsfield shall violate the privacy of others by disclosing confidential information acquired in the course of official duties without a justification that would allow or require such disclosure.

### **G. Improper Gifts**

No officer or employee of the Town of Pittsfield shall accept a gift, or allow acceptance of such gift by a family member, from any individual, group, or corporation which has or is likely to have a matter pending before the officer or employee, or before any town board, committee, commission, or agency on which the officer or employee serves. This provision of the code is not meant to apply to gifts traditionally exchanged between family members at holidays or birthdays, for example.

### **H. Duty to Cooperate**

All officers and employees of the Town of Pittsfield shall cooperate with the Ethics Committee regarding any complaint or inquiry alleging violation of this Code of Ethics.

### **I. Fair and Equal Treatment**

Acting in their official capacity, all officers and employees of the Town of Pittsfield shall give each and every person fair and equal treatment. No officer or employee shall in the course of their official duties give or deny any person special consideration, advantage, or because of the person's public status, position, sex, race, religion, creed, sexual orientation, or national origin, unless otherwise allowed or required under applicable law.

**IV. DEFINITIONS** As used in this code, the following terms shall have the meanings stated:

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

**Employee:** Any person employed by the town in any capacity on a full-time or part-time basis. **Family Relationship:** Any person who is related to the official or employee as a spouse, parent, grandparent, child, grandchild, sibling, or similar relation to the official's or employee's spouse. This includes all persons who are members of the same household as the official or employee in question, regardless of whether they are related by blood or marriage.

**Officer:** Any person who holds an elected or appointed office of the Town of Pittsfield that is established under State law, by vote of town meeting, or by vote or action of the Board of Selectmen or by any other board, commission, committee, or agency of the town, including any subcommittee or advisory committee thereto.

**Personal Interest:** An interest arising from the existence of a family relationship by blood or marriage, close business relationships, political or personal associations, or residence in the same household, without regard to whether a pecuniary interest is also present.

**Pecuniary Interest:** Any advantage in the form of money, property, goods, services, commercial interest, or any other thing the primary significance of which is economic gain; pecuniary interest does not include broad economic effects applicable to the general public, such as the economic benefits arising from tax reductions or an increase in general prosperity.

**Quasi-judicial Action:** Any action where the public body has a duty to notify the parties, hear the parties, and can only decide the particular matter after weighing and considering such evidence and arguments as the parties choose to lay before the public body.

**V. EXCLUSIONS** The provisions of this Code of Ethics are not intended and shall not be interpreted to prohibit, interfere with, or regulate the following circumstances or transactions:

- A.** the right to fully participate in any annual or special town meeting by any officer or employee who is a resident of the Town of Pittsfield;
- 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 officer or employee has merely purchased goods or services, if the individual in question has no other conflict of interest relating to that person or business;
- D.** the actions of police officers, fire fighters, and other emergency personnel when responding to emergencies in accordance with the rules and regulations of their departments; and

E. the implementation of personnel policies by supervisors of town employees.

## **VI. PITTSFIELD ETHICS COMMITTEE**

### **A. Committee Established**

There is hereby established the Town of Pittsfield Ethics Committee which shall consist of five residents of the Town of Pittsfield who are at least twenty-one years of age. A quorum of three committee members shall be necessary to hear any complaint which is filed or conduct any other business of the committee. Upon the adoption of this code the Town Moderator shall promptly appoint the initial five members of the Ethics Committee. At the annual town election in 2006, the voters shall elect as members of the committee two persons for a three-year term, two persons for a two-year term and one person for a one-year term. Beginning at the annual town election in 2007, the voters of the Town of Pittsfield shall annually elect members for three-year terms as the terms of appointed or elected members expire. Should a vacancy occur, the Town Moderator shall appoint a person to serve until the next annual town election, at which time a person shall be elected to fill the remaining unexpired portion of the term, or for a full three-year term, as the case may be. The members of the Ethics Committee shall elect a chairperson on an annual basis, and such other officers as they deem necessary or convenient for the conduct of the business of the committee.

### **B. Duties; Authority**

The Ethics Committee shall have the duty and authority to undertake the following tasks:

1. to educate town officers and employees as well as members of the public of the provisions and requirements of this code;
2. to establish forms for the use of persons who wish to file complaints alleging any violation of this code, which shall include the certification required under paragraph C below;
3. to hold a meeting each spring for newly elected or appointed officers and employees so they may familiarize themselves with the provisions of this code;
4. to deliver a copy of this code to each newly elected or appointed town officer or employee, and to take a written receipt for the code from such persons;
5. to adopt rules of procedure to govern the conduct of its business including the processing of any written complaints alleging a violation of this code;
6. to hear and decide written complaints alleging violations of this code, including written complaints against a member of the ethics committee itself;

7. to recommend from time to time such amendments to this code as the committee shall deem necessary or desirable in light of its practical experience in administering the code.

### **C. Written Complaints to Ethics Committee**

1. Any complaints alleging a violation of this code must be in writing and shall specify the provision of the code which the complainant believes was violated, and must be signed by a resident of Pittsfield. As part of the written complaint, the complainant shall certify that he or she has read this Code of Ethics, that they believe the matter which is the subject of the complaint is a fair subject of inquiry, and that they have exhausted all other avenues of relief available to them within our town government. Any complaint against a town employee must first be made to the employee's supervisor, and may only be made to the Ethics Committee if the complaining party is not satisfied with the eventual disposition of the complaint by the employee's supervisor.

2. Any officer or employee against whom a written complaint is filed shall be given a copy of the complaint, and upon written request shall be afforded an opportunity to be heard and to present evidence to the Ethics Committee.

3. The Ethics Committee shall have sole discretion for setting rules regarding the conduct of any hearings. The committee shall provide both the complainant(s) and the respondent(s) with an opportunity to be heard and to present evidence, but the rules of evidence shall not apply to any such hearing. The committee may limit the testimony and evidence which is presented to it if in the opinion of the committee the testimony and evidence in question is irrelevant, unnecessary, redundant, or unreliable. The Ethics Committee may request, with reasonable prior written notice, any town officer or employee to appear before it to provide testimony regarding a complaint. The Ethics Committee may administer oaths to parties or other witnesses and may request the production of such documents as it deems necessary or convenient to aid it in deciding the case. Notwithstanding the foregoing, the Ethics Committee shall have no authority to review any part of a town employee's personnel file without prior written permission from the employee.

4. The Ethics Committee shall have no authority to remove any person from their town office or position of employment, or to impose any other penalty or sanction, but shall determine on the record whether a violation of this code has occurred. Within thirty (30) days after concluding its investigation into a written complaint, the Ethics Committee shall issue a written decision setting forth its findings and shall forward a copy of its decision to the parties and to the Board of Selectmen.

5. Upon a finding of the Ethics Committee that a town officer or employee has violated this code, the Board of Selectmen shall have the authority to remove said person from their office or position of employment, or to impose such lesser sanction including, but not limited to, issuance of a public or private reprimand, as the Board of Selectmen deem appropriate. Pursuant to [RSA 31:39-a](#), any person aggrieved by a final decision of the Board of Selectmen to remove that person from his or her town office or employment

may appeal to the Merrimack County Superior Court within thirty (30) days of the date of said final decision, or within such other period of time as is allowed under applicable law, and not thereafter.

## **VII. OTHER REMEDIES NOT IMPAIRED**

Nothing in this code is intended, nor shall it be construed, to prevent the implementation of other laws or regulations which may be applicable to a particular situation including, but not limited to, [RSA 673:13](#) regarding the removal of members of land use boards.

## **VIII. EFFECTIVE DATE; TEMPORARY EXEMPTION**

This ordinance shall become effective upon its adoption by the voters of the Town of Pittsfield. Consistent with the provisions of [RSA 31:39-a](#), all town officers and employees who are in office or employed at the time this code is adopted shall be exempt from the provisions of this code for a period of sixty (60) days from the date of adoption.

[10.14.05]