

**2019 Town Meeting Warrant Article #16**  
**Proposed Ordinance to be voted on 3/13/19**

**Chapter 53**

**CODE OF ETHICS**

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**[HISTORY: Adopted by Annual Town Meeting XX-XX-XX as Art. 16.]**

**§ 53-1. Declaration of policy.**

The proper operation of democratic government requires that public officials and employees be independent, impartial and responsible to the people; that government decisions and policy be made through the proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, a Code of Ethics for all town officials and employees is adopted in accordance with RSA 31:39A.

## **§ 53-2. Code of Ethics committee.**

The Board of Selectmen shall be the Code of Ethics Committee for the Town of Bow. In the event a Selectman is the subject of a petition for a determination, the Selectman shall be recused from hearing the petition.

## **§ 53-3. Purpose.**

The purpose of this code is to establish guidelines for ethical standards of conduct for all officials and employees by setting forth those acts or actions that are incompatible with the best interests of the town and by directing disclosure by such officials and employees of private financial or other interests in matters affecting the town.

## **§ 53-4. Investigatory power.**

The Code of Ethics Committee may require of any member of town government to appear before it and give such information as it may require in relation to this office, its function and performance. The Code of Ethics Committee shall give at least 48 hours' written notice of the general scope of the inquiry which is to be made to any person it shall require to appear before it under this section. The Code of Ethics Committee, for this purpose, may administer oaths and require the production of evidence.

## **§ 53-5. Definitions.**

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

**BOARD** - Any board, committee or commission, permanent or special, established by the Selectmen or New Hampshire law.

**COMPENSATION** - Any money, gift, thing of value or economic / pecuniary benefit conferred on or received by any person in return for services rendered or to be rendered by himself or another.

**FAMILY** - Includes his or her spouse, parents, grandparents, children, grandchildren, brothers, sisters or similar step relations and the parents, grandparents, children, grandchildren, brothers, sisters or similar step relations of the member's spouse.

**INTEREST** -

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

- B. Any interest in any stock or similar security, preorganization certificate or subscription, investment contract, 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 or other mineral 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 as any interest which, conditionally or unconditionally, with or without consideration, is convertible thereto.
- C. Any interest in a note, bond, debenture or any other evidence of creditor interest.
- D. Ownership of land within 200 feet of any land being discussed.
- E. Acting as an agent or holding fiduciary interest.
- F. Any present or past [within the previous twelve-month period] employer/employee relationship.

**MEMBER OF TOWN GOVERNMENT** - (Also referred to as "member") Any elected or appointed official, board member or town employee, whether full- or part-time, permanent or temporary, including those employed by the Town and paid by federal or state assistance programs and including but not limited to all town employees, Selectmen, the Town Manager, Budget Committee members, Checklist Supervisors, Conservation Commission members, Planning Board members, the Town Clerk/Tax Collector, the Town Moderator, the Treasurer, the Trustees of the Trust Funds, Zoning Board of Adjustment members and members of any other town boards, including those yet to be established.

**RESPONDENT** - A member of town government named in a petition submitted to the Code of Ethics Committee as an inquiry or alleging a violation of the Code of Ethics.

#### **§ 53-6. Prohibited conduct.**

- A. It is in violation of this chapter for any member to:
  - (1) In his or her official capacity, introduce, discuss, deliberate, approve or vote upon any matter in which he or she or any member of his or her family has an interest known to said member.
  - (2) Knowingly enter into any discussion, testimony or deliberation without first, publicly and for the record, stating all dealings, interests, relationships and possible conflicts that may exist between said member and his or her family, the principals and the issue under deliberation, as may be known by the member.
  - (3) Knowingly participate in the conduct of business of the town without disclosing all conflict of interest questions.

- (4) Knowingly use town property or labor for personal use.
- (5) Knowingly use town property or labor to influence the political cause of any candidate for public office or any political party. Nothing in the foregoing sentence shall prevent political candidates or parties from holding public meetings on town-owned property in town-owned buildings or prevent a member from exercising and carrying out the responsibilities and obligations of his or her office or position of employment.
- (6) Use any 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 as 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 as provided by law for the proper discharge of his official duties, directly or indirectly promise or offer such compensation as referred to in this chapter.
- (9) Knowingly accept a gift with a value in excess of \$25, 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 member has an interest or jurisdiction. The foregoing does not apply to gifts from family members.
- (10) Knowingly give false information concerning dealings, interests, relationships and possible conflicts to the various supervisors, boards, commissions and committees and the Selectmen.
- (11) Knowingly fail to cooperate with the Code of Ethics Committee or other investigating authority in the investigation of any complaint alleging a violation of the tenets of this chapter.

B. No elected or appointed officer or employee, whose salary is paid in whole or in part from the town treasury shall appear in his official capacity on behalf of a private interest before any town board. Selectmen, however, may appear without compensation on behalf of constituents or in the performance of public or civic obligations.

C. No elected or appointed official or employee whose salary is paid in whole or in part from the town treasury shall represent private interests, other than his or her own, in any action or proceedings against the interest of the town in any litigation to which the town is a party.

D. No town official or employee shall claim to act on behalf of the Selectmen, boards or departments without prior authorization from said body or department.

- E. No elected or appointed official shall voluntarily participate with any person(s) initiating claims or lawsuits against the Town of Bow or any of its departments. The foregoing does not apply to personal or family-related lawsuits.

#### **§ 53-7. Exclusions.**

- A. The prohibition against gifts or favors shall not apply to an occasional nonpecuniary 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 a member.
- B. It shall not be a violation for elected members to accept donations for the express 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 nonprofessional services (services from other than attorneys, engineers, architects and surveyors) from a person or business in the ordinary course of that person's or business's retail or service business shall not prevent a member 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 are exempt from the provisions stated herein. Legislative actions concerning the granting of specific contract awards and/or actions designed to benefit one identified or identifiable individual or specific group of individuals are not exempt.

#### **§ 53-8. Procedures for inquiries and alleged violations.**

- A. Any resident of Bow may petition the Code of Ethics Committee to make a ruling on a situation which may or may not constitute a violation.
- B. A petition must be in writing, signed and dated and include the name and address of each petitioner. Business owners submitting a petition must also include the name and address of the business. The petition must be filed with the Town Clerk, who shall promptly forward a copy to the Code of Ethics Committee. The original petition shall remain on file in the Town Clerk's office.
- C. The person submitting the petition to the Town Clerk must complete a Petitioner Information Form. This person shall be notified of the date the Code of Ethics Committee will address the petition and shall be requested to attend this meeting.

- D. After appropriate investigation, the Code of Ethics Committee shall, within 30 days of the petition having been taken up by the Committee, make a finding on the inquiry or alleged violation. If necessary, the Code of Ethics Committee may vote to extend its investigatory period up to a maximum of 90 days from when the matter is first presented to the Committee as an agenda item.
- E. Pursuant to RSA 31:39a, knowingly violating this chapter shall be grounds for disciplinary action if founded by a majority vote of the Code of Ethics Committee.
- F. Findings as to employees shall be forwarded to the respondent. Selectmen shall take appropriate action in accordance with applicable personnel policies and procedures and union contract requirements. Findings shall include supporting arguments.
- G. Findings as to elected and appointed members (excluding town employees) shall be forwarded to the respondent. Selectmen shall determine whether to recommend removal or censure, as appropriate.
- H. The Selectmen shall have 45 days from the date a finding is submitted to the appropriate office to act on the Code of Ethics Committee decision.
- I. If the Selectmen determine, by a majority vote, that removal is warranted, the elected or appointed member will be given the opportunity to resign. If said member chooses not to resign, a petition to remove shall be filed with the Superior Court.
- J. Any member alleged to have violated this chapter is entitled to a public hearing, with notice posted in two public places seven days prior thereto. When appearing before the Code of Ethics Committee, said member may call witnesses on his or her behalf and may retain representation by legal counsel at his or her own expense if he or she so chooses.
- K. Nothing in this chapter shall be construed to prohibit any person from petitioning the Superior Court to remove a member of government on the ground that the violation in question warrants removal.
- L. A respondent may request that the Code of Ethics Committee make a ruling on any petition that is withdrawn or invalidated. If such a request is made, the Code of Ethics Committee shall complete an investigation pursuant to the procedures described herein.

#### **§ 53-9. Financial Interest Disclosure form.**

- A. In accordance with RSA 31:39A, any appointed or elected official, the Town Manager, Assessor, Finance Director, Fire Chief, Police Chief, Town Planner, and any other town employee with authorization to sign purchase orders shall complete a financial interest disclosure form ("FIDF") within 30 days of assuming office.
- B. Completed forms shall be filed with the Town Clerk. Members are required to update the form on file as changes occur.

- C. Failure to disclose information as required on the FIDF shall be a violation of this chapter.
- D. Forms shall be available for public inspection in the Town Clerk's office. The Town Clerk shall record and verify who is requesting the information, the date of the request and for what purpose the information is required.
- E. The Town Clerk shall provide a status report to the Code of Ethics Committee identifying each member and the dates the forms and updates are submitted.
- F. The form presented and prescribed herein RSA 15A shall be used for financial disclosure.

**§ 53-10. Enforcement of FIDF requirements.**

The Code of Ethics Committee shall be responsible for verifying that forms have been filed with the Town Clerk and, in accordance with the procedures outlined in this chapter, shall schedule hearings for individuals alleged to have violated this chapter.

**§ 53-11. Disposition of FIDF.**

Ninety days following the termination of office of an elected or appointed official, and provided that no petition has been filed citing possible conflict of interest, the Town Clerk shall return the respective FIDF to the originator and inform the Code of Ethics Committee of this matter.

**§ 53-12. Distribution of Code of Ethics.**

Each member and employee elected, appointed or engaged shall be furnished a copy of this Code of Ethics before entering upon the duties of office or employment. Failure to be furnished a copy of this chapter shall not be grounds for relief from observing the requirements of this chapter.