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CODE OF ETHICS FOR THE TOWN OF ALLENSTOWN

PREAMBLE

The citizens of Allenstown are entitled to a fair, ethical and accountable town government and the effective functioning of democratic government requires that:

- All of its employees and officials, whether elected, appointed or hired comply with both the letter and the spirit of the laws;
- All of its employees and officials, whether elected, appointed or hired be independent, impartial and fair in their judgment and actions;
- Public Office be used for the public good, not for personal gains; and
- Public deliberations and processes be conducted openly, unless legally confidential, in an atmosphere of respect and civility.

To this end, the Allenstown Board of Selectmen has adopted a Code of Ethics for all of its employees and officials, whether elected, appointed or hired.

PURPOSE

The purpose of this code is to establish guidelines for the ethical standards of conduct for employees and officials, whether elected, appointed or hired.

- We expect our public servants and volunteers to act in the best interest of the town.
- We expect employees and officials, whether elected, appointed or hired to disclose any personal financial or other interests in matters affecting the town that come before them for action.
- We expect town employees and officials, whether elected, appointed or hired to remove themselves from decision making if they have a conflict of interest.
- We expect town employees and officials, whether elected, appointed or hired to be independent, impartial, and responsible to their fellow townspeople in their actions.
- We expect that the town’s official decisions and policies be made through the proper channels of government.
- We expect that public office or a volunteer position in our town not be used for personal gain. It is important that the public has confidence in the integrity of its government and that town officials, board members, volunteers and employees have an opportunity to protect their personal reputation.

This code establishes a process by which one may obtain guidance regarding potential ethical issues and it establishes a course of action for resolving disputes in a manner that is fair to all of the parties involved.

1 ~~(IN ACCORDANCE WITH RSA 31:39—A)~~

2 ~~**Section 31:39-a Conflict of Interest Ordinances.**~~

3 ~~TITLE III TOWNS, CITIES, VILLAGE DISTRICTS, AND UNINCORPORATED PLACES~~

4 ~~CHAPTER 31 POWERS AND DUTIES OF TOWNS~~

5 ~~Power to Make Bylaws~~

6 ~~Section 31:39-a~~

7 ~~**31:39-a Conflict of Interest Ordinances.—**~~

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

17 ~~**Source.** 1981, 221:1, eff. Aug. 10, 1981.~~

- 18 1- Prohibited Activities
- 19 2- Representation of Private Interests before Town Agencies
- 20 3- Representation of private interests in litigation
- 21 4- Duty to Disclose
- 22 5- Duty to Recuse in Quasi-Judicial Actions
- 23 6- Conflict of Interest
- 24 7- Gifts and Favors
- 25 8- Confidential Information
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- 27 10- Allentown Ethics Committee
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- 32 15- Compliance and Enforcement
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- 35 18- Amendment
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1. PROHIBITED ACTIVITIES

I. All of its employees and officials, whether elected, appointed or hired shall accept no assignment that could reasonably be construed as being in conflict with their responsibility to the Town of Allenstown, or in which there is an unrevealed personal interest or bias or which they are not qualified to perform.

a. All employees and officials, whether elected, appointed or hired must report in writing to their immediate supervisor or Board or Committee Chairperson those assignments in which they have a personal interest or bias. A personal interest or bias includes any current or any prospective or any contemplated interest or bias in the matter. A personal interest includes any ownership interest in property, employment, agency (such as an independent contractor), or business affected by the matter of the assignment. A personal bias includes a personal interest or a familial relationship to a person having a personal interest.

b. This restriction is not intended to prohibit activities in which employees or officials, whether elected, appointed or hired have a personal interest or bias. It is intended to require disclosure of a personal interest or bias.

II. Prohibited activities shall include those activities specifically identified by state law limiting acts of public employees:

- RSA 95:1 Public Officials barred from certain private dealings
- RSA 640:2 Bribery in official and political matters
- RSA 640:3 Improper Influence
- RSA 640:4 Compensation for Past Action
- RSA 640:5 Gifts to Public Servants
- RSA 640:6 Compensation for Services
- RSA 641:7 Tampering with Public Records or information
- RSA 643:1 Official Oppression
- RSA 643:2 Misuse of Information

III. Prohibited activities include violation of any federal, state or local law.

a. Prohibited activities include any felonious criminal act, regardless of whether such act was committed while the employee or official, whether elected, appointed or hired, was on duty with the Town.

IV. Prohibited activities included inducing another to commit an act violative of the law or these cannons of ethics.

V. Prohibited activities include sexual harassment.

VI. Prohibited activities include any involvement in any matter after termination of employment with the Town in which employees and officials, whether elected, appointed or hired had a personal and substantial involvement while employed.

- 1 a. For one year subsequent to termination of employment, employees and
2 officials, whether elected, appointed or hired may not participate in any matter
3 relating to their duties and responsibilities to the Town.
4

5 2. REPRESENTATION OF PRIVATE INTERESTS BEFORE TOWN AGENCIES
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7 No employee or official, whether elected, appointed or hired shall appear in behalf of
8 private interests before any Town Board. Officials, however, may appear without
9 compensation in behalf of constituents or in the performance of public or civic
10 obligations. This section shall not prohibit appearances upon matters only incidentally
11 requiring official action which do not develop into a substantial part of the employment,
12 provided that the retainer is not for the purpose of appearing before the agency, and
13 provided, further that the compensation, in whole or in part, is not contingent or
14 dependant upon the action of such agency.
15

16 3. REPRESENTATION OF PRIVATE INTERESTS IN LITIGATION
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18 No employee or officials, whether elected, appointed or hired shall represent private
19 interests in any action or proceeding against the interests of the town in any litigation to
20 which the town is a party.
21

22 4. DUTY TO DISCLOSE
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24 All employees and officials, whether elected, appointed or hired of the Town of Allenstown
25 shall not participate in the conduct of business on behalf of the town or enter into discussion or
26 deliberation of any matter without first publicly and on the record, stating all:

- 27 • Dealings
- 28 • Interests
- 29 • Relationships
- 30 • Friendships
- 31 • And possible conflicts

32 Which may exist between the employee or official, whether elected, appointed or hired, and their
33 family and the principals of the issue under consideration.
34

35 5 DUTY TO RECUSE IN QUASI-JUDICIAL ACTIONS
36

37 A “quasi-judicial action” is any action where a Board or Committee is acting like a judge or jury.
38 For example, when the Board or Committee has a duty to notify the potential parties, hear the
39 parties, and can only decide on the matter after weighing and considering such evidence and
40 arguments as the parties choose to lay before the Board or Committee, then it is involved in a
41 quasi-judicial action. The work of the planning and zoning boards is largely quasi-judicial action.
42 Not only do officials, board members and employees of the Town of Allenstown have a duty to
43 recuse themselves as outlined in the section above, they must recuse themselves in a quasi-
44 judicial action if they would not be qualified to sit as a juror in that case. For example, jurors are
45 not qualified to sit in a case if they have advised or assisted either party in a matter being

1 decided, are prejudiced to any degree regarding the pending matter, or believe they cannot for
2 any reason be totally fair and impartial. As a representative of the Town of Allenstown, all
3 employees and officials, whether elected, appointed or hired are expected to hold themselves to
4 this same standard

6. CONFLICT OF INTEREST

8 In order to assure their independence and impartiality on behalf of the common good, all
9 employees and officials, whether elected, appointed or hired of the Town of Allenstown shall not
10 use their official positions to influence government decisions in which they have a material
11 financial interest, or where they have an organizational responsibility or personal relationship,
12 which may give the appearance of a conflict of interest.

14 Employees and officials, whether elected, appointed or hired of the Town of Allenstown shall
15 not participate in any matter in which he/she, or a member of his/her family, have a personal
16 interest, which may directly or indirectly affect or influence the performance of his/her duties. In
17 such instances, he/she shall recuse themselves from discussion and decision – making.

19 Recusal means to remove oneself completely from all further participation in the matter in
20 question.

22 All employees or officials, whether elected, appointed or hired of the Town of Allenstown who
23 have been recused shall immediately leave the room or seat themselves with the other members
24 of the public who are present. When recused, the employee or official, whether elected,
25 appointed or hired shall not participate in further discussions, unless he/she clearly state for the
26 record that he/she is doing so only as a general member of the public. As a recused person,
27 he/she shall not deliberate or vote on the matter in question.

29 All employees and officials, whether elected, appointed or hired of the Town of Allenstown shall
30 disclose investments, interests in real property, sources of income, and gifts; and they shall
31 abstain from participating in deliberations and decision-making where conflicts may exist.

7. GIFTS AND FAVORS

35 Officials, board members and employees of the Town of Allenstown shall not take any special
36 advantage of services or opportunities for personal gain, by virtue of their public office that is
37 not available to the public in general. They shall refrain from accepting any gifts (or allow
38 acceptance of such gift by a family member), favors or promises of future benefit which might
39 compromise their independence of judgment or action or give the appearance of being
40 compromised.

42 Prohibited Conduct shall include knowingly accepting a gift with a value in excess of ten dollars
43 (~~\$1~~50.00), or allowing acceptance of such a gift by a family member from any individual, group
44 or corporation knowingly dealing with an area of city government in which the employee or
45 official, whether elected, appointed or hired has an interest or jurisdiction. The foregoing does
46 not apply to gifts from family members.

1
2 This provision is not meant to apply to gifts traditionally exchanged between family members –
3 at holidays or birthdays for example.

4
5 The prohibition against gifts and favors shall not apply to an occasional non-pecuniary gift,
6 insignificant in value, or an award publicly presented in recognition of public service or any gift
7 which would have been offered or given to him or her if he or she was not an Official, board
8 member or employee of the Town of Allenstown or unsolicited advertising or promotional items
9 or materials of nominal intrinsic value.

10
11 It shall not be a violation for an Official, board member or employee of the Town of Allenstown
12 to accept donations for the expressed purpose of financing a political campaign, provided that
13 such contributions are reported in accordance with all local, state and federal laws pertaining to
14 such donations or services and/or financial value.

15
16 The mere purchase of goods or services from a person or business in the ordinary course of that
17 person’s or business’s retail or service business shall not prevent an Official, board member or
18 employee of the Town of Allenstown from introducing, discussing, approving or voting upon a
19 mater which relates to that person or business.

20
21 8. CONFIDENTIAL INFORMATION

22
23 Officials, board members and employees of the Town of Allenstown shall respect the
24 confidentiality of information concerning the property, personnel or affairs of the town. They
25 shall neither disclose confidential information without proper legal authorization, nor use such
26 information to advance their personal, financial or other private interests.

27
28 9. USE OF PUBLIC RESOURCES

29
30 Officials, board members and employees of the Town of Allenstown shall not use public
31 resources not available to the public in general, such as town staff time, equipment, supplies or
32 facilities for private gain or personal purposes.

33
34 ~~10. ALLENSTOWN ETHICS COMMITTEE~~

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36 ~~The Town of Allenstown shall establish an Ethics Committee to:~~

- 37 ~~• Educate all of its employees and officials, whether elected, appointed or hired~~
38 ~~regarding the provisions of the ethics code.~~
- 39 ~~• Provide advice and counsel to employees and officials, whether elected, appointed or~~
40 ~~hired regarding ethical issues with which they are confronted.~~
- 41 ~~• Hear and resolve ethics complaints, which are filed against employees and officials,~~
42 ~~whether elected, appointed or hired.~~

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~~11. FORMATION OF THE ETHICS COMMITTEE~~

- ~~1. The Ethics Committee shall consist of five (5) members. A quorum of three (3) or more committee members shall be necessary to hear any complaint.~~
- ~~2. The Ethics Committee shall be composed of the Town Moderator, the Chairman of the Board of Selectmen, the Town's Administrative Assistant and two residents appointed by the Board of Selectman to serve on the Ethics Committee for a one year term.~~
- ~~3. The members of the Ethics Committee shall elect a chairperson on an annual basis.~~
- ~~4. If a complaint is filed upon a member of the Ethics Committee, that respondent shall recuse himself or herself and an alternate individual will be chosen by the Board of Selectmen to serve in their stead until the complaint is resolved.~~

~~12.10. EDUCATION~~

- 1. At the time that an employee or officials, whether elected, appointed or hired takes the oath of office, they shall receive a copy of this code, and acknowledge in writing that they have received a copy of this code.
- 2. The ~~Ethics Committee~~ Board of Selectmen shall hold a meeting each spring for newly hired, elected or appointed officials and employees so they may familiarize themselves with the provisions of this code.
- 3. It shall be the responsibility of the Supervisor of any new employee to ensure that the new employee familiarizes themselves with the provisions of this code.

~~13.11. INQUIRIES~~

The ~~Ethics Committee~~ Board of Selectmen shall establish a mechanism by which employees and officials, whether elected, appointed or hired and residents of the Town of Allentown may obtain advice and counsel from the committee regarding ethical issues that may arise from time to time.

Upon request of an employee or officials, whether elected, appointed or hired, the ~~Ethics Committee~~ Board of Selectmen may issue a written advisory opinion in response to such an inquiry.

Such written advisory opinions will become permanent amendments to this Code of Ethics as addendum.

14. COMPLAINTS

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5 ~~1. The Ethics Committee Shall:~~

6 ~~a. have the power to investigate all written complaints, which are filed;~~

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8 ~~b. establish forms by which employees and officials, whether elected, appointed~~
9 ~~or hired, and residents of the Town of Allenstown may file complaints or~~
10 ~~request that an inquiry be made;~~

11
12 ~~c. only review complaints based on alleged violations of the sections of this~~
13 ~~ordinance~~

14
15 ~~All such requests or complaints must be in writing, shall specify the provision of the~~
16 ~~code which the complainant believes was violated, and must be signed by the~~
17 ~~complainant.~~

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19 ~~When signing the complaint, the complainant shall certify that he or she has read the~~
20 ~~Code of Ethics, that they believe the matter within the complaint is a fair subject of~~
21 ~~inquiry, and they have exhausted all other avenues of relief available to them within~~
22 ~~town government.~~

23
24 ~~2. Any employee or official, whether elected, appointed or hired against whom a written~~
25 ~~complaint is filed shall be given a copy of the complaint, and upon written request~~
26 ~~shall be afforded an opportunity to be heard and to present evidence to the Ethics~~
27 ~~Committee.~~

28
29 ~~3. The Ethics Committee shall have sole discretion for setting rules regarding the~~
30 ~~conduct of hearings. The Committee shall seek to make sure that both the~~
31 ~~complainant and the respondent have an opportunity to be heard and to present~~
32 ~~evidence, but the committee may limit the testimony and evidence which is presented~~
33 ~~to it if in the opinion of the committee the testimony and evidence in question is~~
34 ~~irrelevant, unnecessary, redundant, or unreliable.~~

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36 ~~4. The Ethics Committee may require with sufficient written notice, any employee, or~~
37 ~~official, whether elected, appointed or hired, to appear before it to provide testimony~~
38 ~~regarding pending complaints. The Ethics Committee, for this purpose, may~~
39 ~~administer oaths and require the production of evidence such as documents.~~

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41 ~~5. Within thirty (30) days of conducting an investigation into a written complaint, the~~
42 ~~Ethics Committee shall issue a written statement setting forth its findings. The Ethics~~
43 ~~Committee shall not have the power to impose any monetary or other penalty, only to~~
44 ~~issue a written statement as set forth above.~~

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15. COMPLIANCE AND ENFORCEMENT

~~Any complaint based on the provisions of this Code shall be filed with the Ethics Committee. The Committee shall meet and render a recommendation regarding the complaint within 90 days to the entire Board of Selectmen. The Board shall act on the recommendation of the Ethics Committee at the next regularly scheduled Board of Selectmen meeting.~~

~~The Board of Selectmen may impose sanctions on members whose conduct does not comply with the Town's Ethical Standards, any violation shall constitute cause for fine, suspension or removal from office or employment as provided by law.~~

16.12. DEFINITIONS

- Board – Any board, committee or commission, permanent or special, established by the Town or the Selectmen under New Hampshire law.
- Complainant – A resident of the Town of Allenstown who has submitted a petition to the ~~Ethics Committee~~ Board of Selectmen requesting an inquiry or alleging a violation of the Code of Ethics.
- Conflict of Interest – A situation, circumstance, or financial interest, which has the potential to cause a private or personal interest to interfere with, the proper exercise of a public duty.
- Employee – A person who is paid by the Town of Allenstown for his/her services, but who is not an independent contractor.
- Family – Any person who is related to the employee or official, whether elected, appointed or hired of the Town of Allenstown 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 of the Town of Allenstown 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 a claim to land.
- Official – Any elected or appointed officer, board member, or agent of the Town of Allenstown
- Principals – Those people who are the subject of the action or application, which is before the Board.

- ~~• Respondent—employees or official, whether elected, appointed or hired named in a petition submitted to the Ethics Committee as an inquiry or alleging a violation of the Code of Ethics~~
- Quasi-Judicial Action – Any action where the board, commission or committee has a duty to notify the potential parties, hear the parties, and can only decide after weighing and considering such evidence and arguments as the parties choose to lay before them.

17.13. EXCLUSIONS

The provisions of the Code of Ethics shall not be interpreted so as to bar:

- A. Employees and officials, whether elected, appointed or hired who are residents of the Town of Allenstown from fully participating in any Town Meeting.
- 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 that pertain to such donations.
- C. Participation in a matter that relates to a person or business from which an employee or official, whether elected, appointed or hired has merely purchased goods or services, if the individual in question has no other conflict of interest relating to that person or business.
- D. Police officers, fire fighters, and other emergency personnel from acting in the course of their official capacities when responding to emergencies in accordance with the rules and regulations of their departments; and
- E. Supervisors of Town employees from appropriately carrying out personnel policies.

~~18. AMENDMENT~~

~~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.~~

19.14. ADOPTION

Adopted by the Board of Selectmen _____

Date