

Town of Portland, Connecticut – Ethics Ordinance  
**Chapter 2 – Administration; Article II – Officers and Employees; Div. I – Generally; §2-33**

**ARTICLE I. IN GENERAL**

**Section 1-1. Declaration of Policy**

(a) A successful representative democracy requires that citizens be secure in the trust they place in their representatives. That trust is based on the citizens' belief that their representatives share community values: honesty, integrity, fairness, moral responsibility, sense of right and wrong, and that these values will guide the representatives in the conduct of community business.

All those who serve the Town of Portland in any way accept a public trust which they share with all other representatives of the Town. Citizens' belief in Town representatives' trustworthiness comes about when citizens observe Town representatives fulfilling their duties faithfully and honestly, subordinating their personal interests to the public good in any circumstances or possible circumstances in which the two conflict.

Citizens need to see the Town's business being conducted openly, providing them with access to the information on which Town decisions and actions are based. At the same time, citizens should be assured that the privacy rights of all persons are protected and confidentiality regarding their affairs is assured.

Citizen confidence in Portland Town government and in the conduct of all Town representatives is further supported when public interest is defined and when violations of public interest are prohibited, when ethical behavior is supported and when unethical behavior is disciplined. Citizens must see established a process for addressing ethical questions that is open, fair and effective.

The Portland Ethics Ordinance provides these assurances with clear, written statements for making community judgments in which the interests of the public are foremost in all decisions made and actions undertaken. The Ordinance also assures Town representatives that they will be supported by the community when they behave ethically and will be protected if they notify the appropriate individual or group of unethical behavior.

(b) Town representatives have a responsibility to act with integrity, avoiding any behavior, lawful or unlawful, which could call the integrity of Town government into question.

Town representatives have a duty to abide by the general laws of the state and Town. Repeated violations of state and Town laws may indicate disrespect for the law and may contribute to the erosion of public trust.

(c) The Town of Portland recognizes that:

(1) Town representatives are also members of the community, sharing similar personal and economic interests as all members of the community; and

(2) Town representatives retain their rights to express their views on matters of general public interest, and to express their opinions on the effect of public actions on their personal and economic interests or rights; and

(3) standards of ethical conduct that distinguish between minor and inconsequential conflicts, unavoidable in a free society, and those that are personal, material and avoidable, are sound public policy; and

(4) Town representatives are entitled to engage in employment, professional or business activities, other than official duties, in order to support themselves and their families and to maintain a continuity of professional or business activity, and are entitled to maintain investments, none of which impede or undermine the integrity of their service to the Town.

(d) This Ordinance is necessary to identify minimum standards below which a Town representative's conduct may not fall without risk of penalty. However, it is understood that a healthy ethical environment for the provision of public service cannot be achieved or maintained by mere adherence to minimum standards. The principal policy which forms the foundation of this Ordinance is to encourage internal commitment by establishing and maintaining a work environment which supports integrity with pride and enthusiasm.

A work environment which supports integrity includes Town representatives who:

- (1) recognize that the primary reason they hold a public position is to serve the public; and
- (2) recognize that the public's trust in government and in them is diminished when any public representative acts unethically; and
- (3) recognize that their public service is an opportunity to help maintain public trust in their government; and
- (4) are fair and impartial, as well as courteous and enthusiastic in serving the public and each other in the performance of their duties; and
- (5) are adequately educated in the principles of ethics and exemplify the ethical conduct which protects, advances, and promotes the public interest; and
- (6) are motivated to pursue ethical ideals which exceed minimum standards and often achieve the highest standards; and
- (7) express approval of positive ethical principles and behavior, and refrain from disparaging or demeaning those who advocate ethical principles or practice ethical behavior; and

- (8) when they observe serious unethical practices, discourage the unethical behavior and promptly disclose it to the appropriate authorities and encourage others to do the same; and
- (9) insure that those for whose performance they are responsible are aware of the minimum standards of ethics below which their conduct cannot fall without the risk of disciplinary consequences; and when circumstances warrant, recommend appropriate discipline of those who are proven to have engaged in unethical behavior.

### **Section 1-2. Purposes of this Ordinance**

This Ordinance is adopted:

- (a) to state principles of ethics which are to be applied to public service; and
- (b) to identify minimum standards of ethical conduct for Town representatives; and
- (c) to require that Town representatives engage in ethical practices which meet or exceed minimum standards; and
- (d) to encourage Town representatives to pursue the highest ethical ideals which they can achieve; and
- (e) to provide a process by which Town representatives may identify and resolve ethical issues; and
- (f) to inform Town representatives and the public of the minimum standards to which Town representatives must adhere; and
- (g) to promote public confidence in the integrity of Town representatives; and
- (h) to encourage members of the public to seek public office or employment to serve on public boards, to assist Town representatives, and to take pride in participating in the governmental process; and
- (i) to establish a process for the Commission to determine if a Town representative has violated this Ordinance; and
- (j) to provide for a just and reasonable balance among the rights of all individuals who are directly affected by the operation of this Ordinance.

### **Section 1-3. Definitions**

For the purposes of this Ordinance, the following terms, phrases, words and their derivatives shall have the meanings given here. Words used in the present tense include the future, words in the singular number include the plural number. All capitalized terms used in the definition of

any other term shall have their meaning as otherwise defined in this Section. The words “shall” and “will” are mandatory and “may” is permissive. Words defined shall be given their common and ordinary meanings unless the context suggests otherwise. When a right or duty pertains to the holder of a specific position, such as First Selectman or Town Clerk, the same right or duty pertains to any designee to whom the holder of the position may lawfully delegate the right or duty.

(a) *Advisory ethics opinion* means a written opinion rendered by the Commission regarding the propriety of any matter or matters to which a Town representative is or may become a party.

(b) *Appointing authority* means the First Selectman, Board of Selectmen or any other person or body which appoints an individual to a public position.

(c) *Benefit* means:

- (1) anything having a monetary value; or
- (2) anything, regardless of monetary value, that a reasonable person would believe is intended to influence a Town representative in the performance or non-performance of an official action; or
- (3) the term “benefit” includes, but is not limited to, a valuable act, advance, award, contract, compensation, contribution, deposit, emolument, employment favor, fee, forbearance, fringe benefit, gift, gratuity, honorarium, loan, offer, payment, perquisite, privilege, promise, reward, remuneration, service, subscription, or the promise that any of these things will be conferred in the future.

(d) *Business* means a sole proprietorship, corporation, limited liability company, association, firm, or partnership, whether for profit or not-for-profit, excluding any municipal corporation or government entity.

(e) *Business with which a Town representative is associated* means a business in which either of the following applies:

- (1) the Town representative, or a member of his or her family, is an owner, partner, director, officer, employee, or holder of stock constituting five (5) percent or more of the total outstanding stock of any class; or
- (2) any business by which or for whose benefit a decision maker is influenced to act in hope or expectation of obtaining a personal benefit for the Town representative or for a partner-in-interest of the Town representative.

(f) *Candidate* means an individual who aspires to an elective Town office, as defined in the **CHARTER OF THE TOWN OF PORTLAND**, Chapter III: Elected Officials, or an applicant for any Town employment or for an appointive Town position.

(g) *Capital asset* means a long-term asset used in the operation of a business or used to produce goods or services, such as equipment, land, or an industrial plant. Excluded from the definition are, among other things, stock in trade, inventory, and property held by the taxpayer primarily for sale to customers in the ordinary course of business.

(h) *Commission* means, when used with the article “the,” as in any reference to “the Commission,” the Ethics Commission established by Charter vote of the Electors of the Town on November 2, 2004.

(i) *Compensation* means any benefit conferred upon or received by any person in return for services rendered or to be rendered.

(j) *Complainant* means the person who makes a formal charge against another person or group.

(k) *Confidential information* means any information which has been obtained in the course of holding public office, employment, an independent contract, or otherwise acting as a Town representative, and which information is not available to members of the public under the Connecticut Freedom of Information Act or other law or regulation and which the Town representative is not authorized or legally compelled to disclose, including:

- (1) any written information that could lawfully be exempted from disclosure pursuant to state law, unless the Town representative disclosing it is authorized to do so by state law, or pursuant to some other pertinent law, policy or procedure; and
- (2) any non-written information which, if it were written, could be exempted from disclosure under state law, unless the Town representative disclosing it is authorized to do so by state law, or pursuant to some other pertinent law, policy or procedure; and
- (3) information which was obtained in the course of or by means of a record or oral report of a lawful executive or closed session, whether or not the disclosure of the information would violate state law, unless the Town representative disclosing it has been properly authorized to disclose it pursuant to an applicable law, policy or procedure. However, when such information is also available through channels which are open to the public, this provision does not prohibit Town representatives from disclosing the availability of those channels.

(l) *Conflict of interest* means not only a personal interest, as defined in this Ordinance, but also a professional or non-pecuniary interest, such as arises when the Town Attorney is precluded from representing one Town representative because of the Town Attorney’s preexisting attorney-client relationship with another Town representative.

(m) *Decision maker* means any Town representative or group of Town representatives empowered to act in a discretionary manner on behalf of the Town in any capacity whatsoever, including the making of recommendations.

“Decision maker” includes, but is not limited to, any Town agency, department, division, office, administrator or person who is charged with implementing and administering particular legislation or executive or administrative decisions, and, to the extent this Ordinance is applicable to them, an independent contractor who is empowered to exercise any discretionary power which could influence a Town representative in the performance or non-performance of an official action.

In this Ordinance, the term “decision maker” is used to represent any and every Town representative who could take any discretionary action regarding a matter in which a Town representative or partner-in-interest has or may have a conflict of interest, or as a result of which a Town representative might receive a personal benefit.

(n) *Decision making* means the exercise of any discretionary public power in any capacity whatsoever, including the making of recommendations, by any Town representative whose action pertains to a matter in which a Town representative or a Town representative’s partner-in-interest has or may have a conflict of interest, or as a result of which a Town representative might receive a personal benefit.

(o) *Disclose* means the requirement to report an existing or potential conflict of interest to the Commission or to other appropriate authority and act in accordance with Section 1-12. Disclosure of Conflict of Interest or Potential Conflict of Interest.

(p) *Domestic partner* means an unmarried adult, unrelated by blood, with whom an unmarried Town representative has an exclusive committed relationship, maintains a mutual residence and shares basic living expenses.

(q) *Family* means the spouse or domestic partner of the Town representative, children (including adopted children), and parents, siblings, grandparents and in-laws of the Town representative or the Town representative’s spouse or domestic partner. The term also includes any dependent relatives who reside in the Town representative’s household or for whom the Town representative or his or her spouse or domestic partner provides day-to-day care or financial support.

(r) *Gift* means any benefit or thing or act of value which is conveyed to or performed for the personal benefit of a Town representative or a partner-in-interest, including any advance, award, contract, contribution, deposit, employment, favor, forbearance, gift, gratuity, honorarium, loan, payment, service, subscription, or promise that any of these things or acts will be conferred in the future, if such thing or act of value is conferred or performed without lawful consideration which is at least equal in value to the thing or act conferred or performed.

(s) *Governing body* means the elected officials who comprise the Board of Selectmen of the Town as defined in the **CHARTER OF THE TOWN OF PORTLAND**, Chapter IV: Board of Selectmen.

(t) *Informal opinion* means an opinion, verbal or otherwise, rendered to the Commission by the Town Attorney at the request of the Commission and with the approval of the First Selectman.

(u) *Interest* means any personal benefit accruing to a Town representative or the Town representative's partner-in-interest, whether in the Town representative's own name or in the name of any person or business from which the Town representative is entitled to receive any personal benefit, as a result of a matter which is or is expected to become the subject of an official action by or with the Town.

(v) *Loan* means a transfer of money, property or anything else of ascertainable monetary value in exchange for an obligation, conditional or not, to repay in whole or in part.

(w) *Matter* means, unless the context of this Ordinance indicates otherwise, any act, action, agenda item, allegation, application, amendment, auction, bill, business, case, charge, claim, consideration, contract, controversy, decree, deed, deliberation, discussion, hearing, issue, lease, license, measure, offer, order, ordinance, permit, personnel action, petition, policy, presentation, procedure, privilege, proceeding, project, proposal, proposition, purchase, recommendation, regulation, rental, request, resolution, sale, subject, transaction, use, variance or other discretionary choice pending before a Town decision maker when a Town representative or partner-in-interest has a personal interest in the outcome of the decision, or when the decision may result in a personal benefit to the Town representative or a partner-in-interest.

(x) *Officer* means any person in a senior management position, such as president, executive vice president, secretary, treasurer, chief executive officer, or chief financial officer.

(y) *Official action* means any act, action, approval, decision, denial, directive, disapproval, inaction, order, performance, nonperformance, recommendation, vote or other direct result of a Town representative's exercise of discretionary authority in connection with the Town representative's public position.

(z) *Organization* means, unless the context indicates otherwise, any non-profit business other than an individual or government agency.

(aa) *Partner-in-interest* means any and all of the following:

- (1) a member of the Town representative's family;
- (2) a business with which the Town representative, or a member of the Town representative's family is associated;
- (3) any other person with whom the Town representative or a member of the Town representative's family is in business, or is negotiating or has an agreement concerning future employment.
- (4) When used in the phrase "a Town representative or a partner-in-interest" the term "partner-in-interest" refers only to a partner-in-interest of the Town representative to whom reference is being made, and not to any other person's partner-in-interest.

The term “partner-in-interest” does not imply or require any form of legal partnership or formal agreement.

(bb) *Personal benefit* means any benefit which is offered or received, or would be perceived by a reasonable person to be offered or received, primarily for the purpose of influencing the manner in which a Town representative performs or refrains from performing an official action, so that an attempt is made to induce the Town representative, or the Town representative is induced, to act in favor of some interest other than the public interest on the basis of an expectation or hope that the Town representative or partner-in-interest of the Town representative will obtain some private gain by acting in other than the public interest.

The term “personal benefit” within the meaning of this Ordinance does not include any of the following, which, although they may benefit individual Town representatives, are deemed to be primarily public benefits rather than personal benefits:

- (1) payment by the Town of salaries, compensation or employee benefits; or payment by an employer or business other than the Town of salaries, compensation, employee benefits; or pursuant to a contract, when the payment is unrelated to a Town representative’s status as a Town representative and is not made for the purpose of influencing, directly or indirectly, the vote, official action or decision of a Town representative.
- (2) fees, expenses, or income, including those resulting from outside employment, which are permitted and reported in accordance with the policies of the Town; or
- (3) authorized reimbursement of actual and necessary expenses; or
- (4) admission, regardless of value, to events to which Town representatives are invited in their official, representative capacity as Town representatives; or
- (5) campaign or political contributions which are made and reported in accordance with state law; or
- (6) hospitality extended for a purpose unrelated to the official business of the Town; or
- (7) reasonable hosting, including travel and expenses, entertainment, meals or refreshments furnished in connection with public events, appearances or ceremonies related to official Town business, if furnished by the sponsor of such public event; or in connection with speaking engagements, teaching or rendering other public assistance to an organization or another governmental entity; this provision applies only if the Town does not also pay the Town representative for the same activity; or
- (8) reasonable gratuities given by a group in appreciation for a Town representative speaking or making any presentation before that group; or

- (9) awards publicly presented in recognition of public service, acts of heroism or for solving crimes; or
- (10) gifts or other tokens of recognition presented by representatives of governmental bodies or political subdivisions who are acting in their official capacities; or
- (11) anything of value, regardless of the value, when the thing of value is offered to the Town, is accepted on behalf of the Town, and is to remain the property of the Town; or
- (12) commercially reasonable loans made in the ordinary course of the lender's business in accordance with prevailing rates and terms, and which do not discriminate against or in favor of an individual who is a Town representative because of such individual's status as a Town representative; or
- (13) complimentary copies of trade publications; or
- (14) reasonable compensation for a published work which did not involve the use of the Town's time, equipment, facilities, supplies, staff, or other resources, if the payment is arranged or paid by the publisher of the work; or
- (15) reasonable compensation for a published work which did involve the use of the Town's time, equipment, facilities, supplies, staff, or other resources, if the payment to the Town representative is lawfully authorized by a representative of the Town who is empowered to authorize such compensation; or
- (16) anything of value, if the payment, gift, or other transfer of value is unrelated to and does not arise from the recipient's holding or having held a public position, and if the activity or occasion for which it is given does not involve the use of the Town's time, equipment, facilities, supplies, staff, or other resources in any manner or degree which is not available to the general public; or
- (17) anything of value received as a devise, bequest or inheritance.

(cc) *Personal interest* means a direct or indirect interest having value peculiar to a particular individual or group, whether the value is pecuniary or non-pecuniary, which value may accrue to such individual or group or result in such individual or group deriving or potentially deriving a personal benefit as a result of the approval or denial of any ordinance, resolution, order or other official action, or the performance or nonperformance thereof, by a Town representative, and which is not shared by the general public. It is to be stressed that the phrase "personal interest of a Town representative" includes not only the personal interest of the individual Town representative, but also the personal interest of any partner-in-interest.

(dd) *Town representative* means any member of the governing body or of any Town agency, board, commission, committee, or other voting body, and any agent, department head, employee,

official, supervisor, or other person, whether elected or appointed, or otherwise authorized by contract to make decisions or exercise discretionary power on behalf of the Town.

(ee) *Voting body* means the governing body and any other Town authority, board, commission, committee, council, or group, regardless of whether its function is legislative, administrative, quasi-administrative or quasi-judicial or any combination thereof, which, in order to take any official action, even if the action is merely advisory, must act as a body on the basis of a vote of some or all of its members.

- All definitions, with local modifications, taken from the International Municipal Lawyers Association (IMLA) Model Ordinance on Ethics

#### **Section 1-4. Town Representative Protections**

(a) No provision of this Ordinance shall be construed to prohibit or restrict any Town employee from negotiating, entering into or enforcing a collective bargaining agreement between the Town and a labor union to which the employee belongs pursuant to state or federal law. No Town representative shall be deemed to have a conflict of interest due to any lawful action taken pursuant to a collective bargaining agreement. The mere fact that the Town representatives have entered into a collective bargaining agreement, however, shall not exempt them from any provision of this Ordinance.

(b) This Ordinance does not prevent any Town representative from accepting other employment or following any pursuit which in no way interferes with the full and faithful discharge of his or her public duties, provided that the Town representative complies with all applicable Town requirements imposed by this Ordinance.

(c) No Town representative shall be deemed to have a conflict of interest simply by virtue of performing any contract pursuant to which the Town representative directly or indirectly received income or benefits under the contract.

(d) A former Town representative is not prohibited from entering into a contract to represent the Town in any matter.

(e) No Town representative shall be deemed to have a conflict of interest by virtue of sharing, directly or indirectly, in the benefit of a lawful Town action when the benefit to the Town representative is substantially the same as the benefit to the public at large or to a segment of the public to whom the benefit is provided in a non-discriminatory manner.

(f) This Ordinance does not prohibit any Town representative from taking any action to approve the lawful payment of salaries, employee benefits, reimbursement of actual and necessary expenses, or other lawful payments which are authorized in accordance with Town policies.

(g) This Ordinance does not prohibit Town representatives from taking any official action properly within the scope of their duties with respect to any proposal to enact or modify law or policy.

(h) This Ordinance does not prohibit an elected official from raising campaign contributions in any manner permitted by law.

(i) Except for members of the Commission, this Ordinance does not prohibit a Town representative from endorsing a political candidate or contributing to a political campaign.

(j) Actions which might otherwise be alleged to constitute a conflict of interest shall be deemed to comply with this Ordinance and shall not be a conflict of interest if:

(1) before acting, the Town representative requested and received an advisory ethics opinion from the Commission in accordance with the procedures established in this Ordinance; and

(2) the material facts, as stated in the request for an opinion, are true and complete; and

(3) the actions taken were consistent with the opinion.

## **ARTICLE II. APPLICABILITY OF THE ORDINANCE**

### **Section 1-5. Who is Covered**

This Ordinance applies to all Town representatives and former Town representatives as provided herein. All practices prohibited by this Ordinance are prohibited as of the effective date of this Ordinance.

### **Section 1-6. Duties of Town Representatives**

(a) Each Town representative or former Town representative shall maintain confidentiality in relation to any confidential information acquired in the course of holding his or her position in the Town until such time as its release is prescribed by the Board of Selectmen, administrators, or other applicable law.

(b) All Town representatives are expected to respond fully and truthfully to any inquiries by the Commission in connection with the investigation of an alleged or potential violation of this Ordinance.

(c) All Town representatives are expected to cooperate fully in any investigation by the Commission, and are expected to locate, compile and produce such information as the Commission may request, unless the information requested is exempt from disclosure under any other law.

(d) All Town representatives have a general duty to report violations of this Ordinance to the Commission or to their supervisor.

(e) It is a violation of this Ordinance for any Town representative to be convicted of:

- (1) any crime that relates directly to the duties of the Town representative's position or to how the Town representative acquires such position; or
  - (2) violating any federal, state or Town law prohibiting sexual harassment or discrimination against any protected class; or
  - (3) violating any federal, state or Town laws prohibiting retaliation against any Town representative who asserts a lawful claim of any nature or otherwise engages in a lawfully protected activity; or
  - (4) violating any state laws governing lobbying activities; or
  - (5) violating any federal, state or Town laws or policies regulating political activity.
- (f) It is a violation of this Ordinance for any Town representative to violate a Town policy:
- (1) prohibiting the possession or consumption by Town employees of alcohol or any illegal substance in any Town facility, vehicle or work site, including during lunch periods and rest breaks; or
  - (2) prohibiting Town representatives from reporting to work, performing work, or visiting a work site while under the influence of alcohol or any illegal substance; or
  - (3) prohibiting Town representatives from engaging in the consumption, possession, sale, purchase or transfer of an illegal substance; or
  - (4) imposing a duty to advise a supervisor if the use of prescription drugs may affect a Town representative's ability to perform public duties safely and efficiently.

### **Section 1-7. Conflict of Interest and Personal Benefits Prohibited**

A conflict of interest in Portland municipal affairs occurs when the personal interest of an individual or a group takes precedence over the interests of the Town of Portland and the public welfare of all its citizens.

- (a) No Town representative shall have a personal interest in any official action except as permitted under applicable federal, state or Town laws or policies. If a law or policy permits a Town representative to have such an interest, the Town representative having that interest shall comply fully with all applicable laws.
- (b) No Town representative shall seek or knowingly accept any personal benefit where the benefit is intended to influence the representative in the performance or nonperformance of any official duty.

(c) No current or former Town representative shall intentionally use or disclose confidential information gained in the course of, or by reason of, his or her official position or activities, that could result in the receipt of any personal benefit.

This prohibition shall not:

- (1) prohibit the disclosure of any such information to incumbent Town representatives to whose duties the information may be pertinent; or
- (2) prevent any Town representative from reporting violations of this Ordinance or other illegal acts to the proper authorities; or
- (3) prohibit the disclosure of any such information the disclosure of which is required by law.

### **Section 1-8. Complicity**

No person shall knowingly, directly or indirectly, aid, abet, agree with, assist, encourage, or solicit any Town representative or Town representative's partner-in-interest to violate this Ordinance or to participate in any way in a violation of this Ordinance with or by another person.

### **Section 1-9. Certain Prohibited Deliberations and Voting**

Except as otherwise provided by law, no Town representative shall, in such capacity, knowingly participate in the discussion, debate, deliberation or vote, or otherwise take part in the decision-making process on any agenda item before any voting body in which the Town representative or partner-in-interest has a conflict of interest.

### **Section 1-10. Duty to Leave Meeting**

To avoid the appearance of impropriety, after any Town representative or a partner-in-interest is deemed to have a conflict of interest or a potential conflict of interest in any matter, and once all questions relating to the conflict of interest have been answered to the satisfaction of the decision makers, the Town representative shall recuse himself or herself and immediately leave the meeting room while the matter is under consideration.

If the matter being considered is his or her matter, the Town representative may represent himself or herself or any other person before the board in connection with that matter or in connection with any matter in which a partner-in-interest has a personal interest, and may remain in the area of the room occupied by the general public.

### **Section 1-11. Public Contracts**

(a) Except through a sealed bid process, a Town representative is prohibited from entering into any contract with the Town, either personally or through the business with which the Town representative or a partner-in-interest of that Town representative has a controlling interest,

involving services or property of a value in excess of that amount set annually by the Board of Selectmen as requiring sealed bids pursuant to Section 1208(2) of the **CHARTER OF THE TOWN OF PORTLAND**.

(b) For services or property valued between \$1,000 and that amount set annually by the Board of Selectmen as requiring sealed bids pursuant to Section 1208(2) of the **CHARTER OF THE TOWN OF PORTLAND**, a Town representative may enter into a contract with the Town, either personally or through a business with which the Town representative has a controlling interest, only following the Town's solicitation of at least three written quotes for the contract.

(c) Any Town representative who has or may have a personal interest in any contract shall disclose such interest prior to the first of any of the following events:

- (1) the solicitation of a contract; or
- (2) the bidding of a contract; or
- (3) the negotiation of a contract; or
- (4) the approval by the Board of Selectmen of a contract.

#### **Section 1-12. Disclosure of Conflict of Interest or Potential Conflict of Interest**

(a) A voting body member who has or may have a conflict of interest in a matter which requires an official action by any decision maker shall, before the matter is discussed, disclose the conflict of interest or potential or alleged conflict of interest, to the extent allowable by law.

If the voting body member believes that no conflict of interest exists, or that despite any alleged or potential conflict of interest, he or she is able to vote and otherwise participate fairly, objectively, and in a manner consistent with the public interest, then the member shall so state clearly for the public record of the meeting.

(b) If the voting body member determines that he or she has a conflict of interest, the member having the conflict shall not engage in any consideration of the matter. Such member shall not discuss, debate, deliberate about, act upon, vote upon, or otherwise participate in or influence the decision-making process pertaining to that matter.

If the voting body member determines that he or she has no conflict of interest, the member may participate fully in discussion and decision on the matter.

(c) If the Town Attorney has or may have a conflict of interest in any matter before a voting body, or if any attorney who is responsible for performing any functions on behalf of a voting body is precluded from doing so because of a legal conflict of interest (such as arising from the representation of a party whose legal position is adverse to that of the voting body), the Attorney shall disclose the personal interest, or the nature of the conflict, to the voting body.

If the voting body determines that the Town Attorney's office cannot resolve the conflict in a manner which will allow the Town Attorney's office to perform its duties properly in the matter, then the voting body may engage the services of outside counsel upon terms and conditions approved by the Board of Selectmen.

(d) The following is a non-exhaustive list of situations holding potential conflicts of interest for a Town representative or a partner-in-interest of a Town representative:

- (1) owning an interest in an entity which does, or might do, business with the Town of Portland; or
- (2) ownership of any capital asset or real property within Portland that may be the subject of or a major factor in a decision to be made by the Town; or
- (3) holding any investments directly or indirectly held in any entity which does, or might do, business with the Town of Portland; or
- (4) engaging in any outside employment or other compensation arrangements with an entity which has done, or might do, business with the Town of Portland; or
- (5) having received gifts, gratuities or entertainment from an entity which has done, or might do, business with the Town of Portland; or
- (6) having received any honoraria or other payment from any entity which has done or might do, business with the Town of Portland for the Town representative's participation in any event as a speaker, trainer or facilitator; or
- (7) serving as a director, officer, manager, partner, trustee or participant in any entity which has done, or might do, business with the Town of Portland; or
- (8) consideration by a Town representative who is the head of an administrative department, as defined in the **CHARTER OF THE TOWN OF PORTLAND, Section 1001**, has been offered or is discussing future employment with an entity which is currently doing business with the Town of Portland; or
- (9) consideration of an offer of a personal benefit from any entity doing business with the Town of Portland; or
- (10) participating in any other activities, transactions or arrangements which might be regarded as constituting a conflict of interest.

### **Section 1-13. Outside Employment**

(a) The purposes of the policies governing outside employment are to prevent:

- (1) conflicts of interest or loyalty; and

(2) abuses regarding dual compensation, payment for work not done, or unlawful gifts of public funds; and

(3) excessive loss of efficiency in the performance of public service.

(b) Town employees who are not administrative department heads may be self-employed or may take occasional or part-time jobs if there is no conflict with working hours, the employee's efficiency in his or her Town work, or with other interests of the Town.

(c) Town employees who are administrative department heads, as defined in the **CHARTER OF THE TOWN OF PORTLAND, Section 1001**, with the exception of the Fire Chief, shall notify the First Selectman prior to creating, contracting with, or being employed by any business other than the Town. The First Selectman shall provide written approval or disapproval of the request within five (5) business days.

#### **Section 1-14. Prohibited Abuses or Misuses of Position**

(a) For the purposes of this Ordinance, no Town representative may hold dual offices, whether elective or appointive in any of the following circumstances:

(1) where one office is subordinate to the other; or

(2) where one office carries the power of removal of the other; or

(3) where the occupancy of both offices is prohibited by the **CHARTER OF THE TOWN OF PORTLAND** or by other provisions of law.

(b) No Town representative shall act, or create the appearance of acting, on behalf of the Town by making a policy statement, or by promising to authorize or to prevent any future official action of any nature, when said Town representative is not authorized to make such a statement.

(c) No Town representative shall falsely represent his or her personal opinion to be the official position of the Town or of any board or Town administrator. This subsection shall not apply to statements of elected officials in the course of fulfilling the responsibilities of their offices or in running for election to office, nor shall it apply to the professional opinions of Town officers or employees rendered in the course of performing their duties, providing that such opinions are clearly identified as professional opinions.

(d) No Town representative shall use or attempt to use his or her official position to request, grant, or obtain in any manner any unlawful or unwarranted privileges, advantages, personal benefits or exemptions for himself or herself or others.

No Town representative shall use, or attempt to use, his or her official position to avoid the consequences of illegal acts for himself or herself or any other person.

(e) All Town representatives have a responsibility to use Town fiscal and human resources in a manner which advances the public interest. Town representatives are prohibited from using Town resources in any manner which violates any applicable law or policy, and are expressly prohibited from using any Town resource to obtain any personal benefit.

Accordingly, Town representatives shall act responsibly in the care and use of Town resources and shall not intentionally abuse, damage, lose, misappropriate, misplace, misuse, steal, or waste any Town resources, including, but not limited to, business cards, books, computers, copy machines, electricity, equipment, facilities, fax lines, internet, inventory, money, official stationery, office space, personnel, postage, records, supplies, telephones, time, tools, typewriters, uniforms, or vehicles.

(f) All Town representatives shall comply with any applicable Town policies governing awards, premiums, prizes or gifts which come into their possession in the course of performing their duties.

(g) No Town representative shall use his or her official authority or position to influence or interfere with or affect the results of any election, or to solicit contributions from Town employees in connection with any Town election.

(h) No Town representative shall suppress any public document, record, report or any other public information available to the general public because it might tend to negatively affect his or her private financial, personal, or political interest.

(i) From the effective date of this Ordinance, no Town representative shall participate, by means of approval, deliberation, disapproval, recommendation or other means of exerting the Town representative's influence, in an official action to hire, promote, discipline, lay off or take any other personnel action regarding any employee or prospective employee who is a partner-in-interest of the Town representative.

(j) Except as otherwise provided by law, no Town representative who is a member of a voting body empowered to vote on a matter involving the Town representative's business, or the business of the Town representative's partner-in-interest, shall discuss, debate, publicly deliberate about, vote or otherwise act upon the matter relating to the business.

### **ARTICLE III. CANDIDATES FOR TOWN REPRESENTATIVE POSITIONS**

#### **Section 1-15. Honesty Required**

No person seeking to become a public official, employee or appointee to any position shall knowingly make any false statement, certificate, mark, rating or report in regard to any test, certification, appointment or investigation, or in any manner commit any fraud, conceal any wrongdoing or knowingly withhold information about wrongdoing relative to the proposed position.

## **ARTICLE IV. POST SERVICE ACTIVITIES**

### **Section 1-16. Prohibited Activities**

(a) No former Town employee shall, for compensation, during the twelve (12) months following the date on which he or she ceases to be a Town employee, represent anyone, other than the Town, before the department, agency, board, or commission on which he or she served within twelve (12) months prior to the date on which he or she ceased to be a Town employee.

(b) No former Town employee shall, for compensation, during the twelve (12) months following the date on which he or she ceases to be a Town employee, act on behalf of any party other than the Town in connection with any matter in which the former Town employee participated personally and substantially as a Town employee and in which the Town has a substantial interest.

(c) No former Town representative shall use or continue to use any former official Town title, including use of business cards or stationary, following termination of service with the Town.

(d) No former Town representative shall disclose or use confidential information acquired in the course of or by reason of his or her official duties for financial gain for himself or herself or for any other person.

## **ARTICLE V. ETHICS COMMISSION**

### **Section 1-17. Duties and Powers of the Commission**

(a) The Commission shall, in addition to its other duties:

- (1) adopt written rules governing its procedures and providing for the holding of regular and special meetings. These rules shall be subject to the approval of the Board of Selectmen. A copy of the rules shall be filed with the Town Clerk; and
- (2) administer oaths; and
- (3) conduct hearings as needed to hear and decide specific cases in which a violation of this Ordinance is alleged, whether such cases arise from a complaint or are brought on the Commission's own motion; and
- (4) no later than January 31st of each year, submit an annual report to the Board of Selectmen concerning its actions in the preceding year. The report shall contain:
  - i. a summary of its public decisions and opinions;
  - ii. the number of its decisions dismissing complaints; and

- iii. recommendations of any legislative or administrative actions regarding the Town's policies and practices which the Commission believes could enhance the ethical environment in which the Town representatives work; and
- (5) systematically and regularly evaluate all significant aspects of the administration and implementation of this Ordinance, which shall include an annual review of the full scope of the operations and procedures of the Commission. This evaluation shall insure that both the public and all Town representatives are provided an opportunity, and are encouraged, to participate; and
- (6) prescribe and make available forms for use under this Ordinance; and
- (7) when it deems appropriate, and with the approval of the First Selectman, request the Town Attorney's assistance in compelling the production of documents and witnesses to assist the Commission in the conduct of any investigation; and
- (8) upon approval by the Board of Selectmen retain outside legal counsel and other experts as needed; and
- (9) serve as legal custodian of the Commission's records, and accept, file, maintain and administer, in accordance with all applicable laws, any information related to the purposes of this Ordinance; and
- (10) develop a plan to educate Town representatives who are subject to this Ordinance and the public about their rights, duties and responsibilities hereunder; and
- (11) within one (1) year from the effective date of this Ordinance, submit to the Board of Selectmen for its approval and promulgation, an ethics handbook for use by all Town representatives and the public.

The First Selectman shall provide each Town representative a copy of the handbook. Each Town representative shall acknowledge receipt of the handbook and within one (1) week shall execute a certification that he or she has read the handbook and will abide by this Ordinance. This certification shall be filed with the Commission; and

- (12) in coordination with appropriate Town personnel, arrange for an annual workshop, to serve as an orientation for new Commission members and an opportunity for the experienced members to explore specific issues in depth.

Attendance at this workshop shall be made a condition of service as a member of the Commission; and

- (13) in coordination with appropriate Town personnel, arrange for an annual training session on this Ordinance for all Town representatives hired, appointed, or elected since the last training session.

(b) The Commission may:

- (1) conduct meetings as it deems necessary and appropriate to ascertain public opinions and to gather information from the general public, employees, or others regarding any aspect of the Town's ethics policies or practices; and
- (2) respond to a request by a Town representative for an advisory ethics opinion.

A request for an advisory ethics opinion shall be made in writing on a form prescribed by the Commission and signed by the Town representative making the request. The Commission may require further information of the requesting Town representative before rendering an advisory ethics opinion or may decline to render an advisory ethics opinion in response to a request. All advisory ethics opinions shall be filed in the Town Clerk's office.

A Town representative who in good faith acts in reliance on an advisory ethics opinion shall not be recommended by the Commission for discipline if such action is later found by the Commission to constitute a violation of this Ordinance; and

- (3) request the approval of the First Selectman to refer a matter to the Town Attorney to render an informal opinion to the Commission. An informal opinion need not be in writing, but must be rendered within the timeframe specified by the Commission. A request for an informal opinion by the Commission shall create no presumption or inference of a conflict of interest on the part of any individual; and
- (4) prepare and publish special reports, technical studies and recommendations to further the purposes of this Ordinance.

### **Section 1-18. Filing of Ethics Complaints**

- (a) Any person, personally or on behalf of an organization or governmental body, may file a Complaint with the Commission on a form prescribed by the Commission.
- (b) A Complaint shall be in writing and signed by the individual making the request.
- (c) The Complaint form shall be signed by the Complainant under penalty of false statement. The form shall contain a written acknowledgement by the Complainant that the allegations of the Complaint are confidential and any information supplied to or received from the Commission shall not be disclosed to any third party by the Complainant, unless or until the Commission makes a finding of probable cause or the Respondent requests that the information be made public.

## **ARTICLE VI. RULES APPLICABLE TO PROBABLE CAUSE PROCEEDINGS**

### **Section 1-19. Generally**

(a) Any person may file a written Complaint, signed and sworn, with the Commission alleging a violation of this Ordinance. All proceedings by the Commission shall be confidential. All participants in the probable cause proceedings, including Complainant, Respondent, witnesses and Commission members shall treat confidentially the Complaint and all information acquired during the probable cause proceedings. It is a violation of this Ordinance to reveal said confidential information.

There are only two exceptions to this confidentiality requirement:

- (1) where the Respondent requests that the Commission proceedings be conducted in the open; and
- (2) at such time as the Commission shall make a finding of probable cause.

(b) A Complaint shall specify the provisions of this Ordinance alleged to have been violated and specific acts alleged to constitute the violation.

(c) No later than seven (7) business days after receipt of the Complaint, the Commission or its designee shall send written acknowledgement of the receipt of the Complaint to the Complainant and forward a copy of the Complaint simultaneously to the Respondent and the Town Attorney. The Complaint shall be sent to the Respondent by certified mail return receipt required and by regular United States mail.

(d) Upon receipt, the Respondent may either request an opportunity to address the Commission in person or may submit a written and sworn statement as to whether the Complaint sets forth a violation of this Ordinance. The request or the written statement must be submitted within thirty (30) days of the certified mailing to the Respondent.

(e) Upon the approval of the First Selectman, the Town Attorney shall provide the Commission with a confidential preliminary written analysis of the Complaint no later than thirty (30) days from the date the Commission acknowledged receipt of the Complaint.

(f) The following principles shall apply to the confidential probable cause proceedings conducted by the Commission:

- (1) the Commission shall not be bound to adhere to formal Rules of Evidence, but shall be fundamentally fair in its administration of evidence; and
- (2) during any proceedings conducted by the Commission to determine whether there is probable cause that a violation of this Ordinance has occurred, all evidence including certified copies of records and witness affidavits which the Commission considers, shall be made available to the Complainant and the Respondent and made part of the confidential record of the proceedings.

(g) Not later than ten (10) business days after termination of the confidential probable cause proceedings, the Commission shall inform the Complainant and the Respondent of its finding

and provide a summary of its reasons for making a finding of probable cause or dismissal for lack of probable cause.

(h) If the Complaint is dismissed for lack of probable cause, the Complainant may, one time only and within fifteen (15) days of the decision, amend the Complaint to incorporate new or additional information and refile it with the Commission.

(i) If the Commission dismisses the Complaint for lack of probable cause, the Complaint and the record of the investigation shall remain confidential, except where the Respondent requests that the Complaint and the record become public.

(j) If the Commission makes a finding of probable cause, the Complaint and the entire record of the investigation shall be made public. The Commission shall immediately notify the First Selectman in writing of the probable cause finding.

## **ARTICLE VII. PROCEEDINGS FOLLOWING FINDING OF PROBABLE CAUSE**

### **Section 1-20. Scheduling the Hearing**

Following written notice by the Commission of a probable cause finding, the First Selectman may, within fourteen (14) calendar days of said notification, provide written notice to the Commission that any one or more of the following three proceedings exists which are related to the facts alleged in the Complaint.

(a) a grievance or disciplinary process pursuant to a Town of Portland collective bargaining agreement;

(b) a complaint pending with the Connecticut Commission on Human Rights and Opportunities; and/or

(c) a lawsuit pending in state or federal court.

Upon receipt of said written notice from the First Selectman within the timeframe set forth above, the Commission shall defer scheduling the hearing until it receives written notice from the First Selectman that said proceedings have been finally adjudicated.

In the absence of receipt of written notice from the First Selectman of pending proceedings as set forth above, the Commission shall set the date for commencement of a hearing on the Complaint, which date shall be no more than sixty (60) calendar days from the finding of probable cause.

The Commission shall give notice by certified mail return receipt required and by regular United States mail of the date set for the hearing at least thirty (30) days before the hearing to both the Complainant and the Respondent.

The hearing shall be open to the public and may be continued from time to time at the discretion of the Commission.

### **Section 1-21. The Hearing**

- (a) The Rules of Evidence shall apply to the hearing. All evidence, including certified copies of records and documents which the Commission considers, shall be fully offered and made part of the record of the case.
- (b) The hearing shall be recorded by a recording device provided by the Commission. The Complainant and/or the Respondent may also provide a stenographer or record the hearing at his or her own expense.
- (c) Each party shall be afforded adequate opportunity to rebut or offer countervailing evidence and to cross-examine witnesses.
- (d) During the entire hearing conducted under the provisions of this Ordinance, the Respondent shall be entitled to be represented by counsel of his or her own choosing. The Commission's file shall be open and available to the Complainant and the Respondent, including any exculpatory evidence located therein.
- (e) The Complainant and the Respondent shall have a reasonable opportunity to examine all documents and records to be used at the hearing at a reasonable time before the date of the hearing as well as during the hearing, to bring witnesses to establish all pertinent facts and circumstances, and to question or refute any testimony or evidence, including the opportunity to confront and cross-examine adverse witnesses.
- (f) The Commission shall have the power to compel the attendance of witnesses and to issue subpoenas for books, records, documents or papers therein to be designated under the authority granted by state law.
- (g) The Commission may order testimony to be taken by deposition before any individual designated by the Commission.
- (h) The Commission may require any person to submit, under oath, written reports and written answers to questions as the Commission deems relevant.
- (i) The Commission may request the state Department of Revenue Services for permission to have a designated public officer examine the income tax returns of the Respondent, if appropriate. The examination of said tax returns shall be in accordance with state law.

### **Section 1-22. The Decision**

The Commission shall render its decision within thirty (30) days of the conclusion of the hearing on the Complaint. A copy of the decision shall be sent to the Complainant and the Respondent by certified mail return receipt required and by regular United States mail. If the Commission's decision is that a violation of this Ordinance has occurred, the Commission may:

(a) refer the Complaint to any appropriate authority for criminal investigation or prosecution; and/or

(b) refer the Complaint, along with the Commission's findings and conclusions, to any appropriate administrative authority for disciplinary action or other suitable remedial action; and/or

(c) recommend to the Board of Selectman that it order the Respondent to cease and desist the violation of this Ordinance.

### **Section 1-23. Limitations on the Commission's Power**

The Commission does not have the authority to reverse or otherwise modify a prior action of the First Selectman, the Board of Selectmen, or an officer or employee of the Town. If the Commission finds a prior action of the First Selectman, the Board of Selectmen, or an officer or employee of the Town to have been ethically improper, the Commission may advise the appropriate party or parties that the action should be reconsidered.

If the Commission determines an existing Town contract or other agreement to be ethically improper, the Commission may request referral of the matter to the Town Attorney for review. The Town Attorney's office shall report its findings to the Commission.

### **Section 1-24. Confidentiality**

No member of the Commission nor any Town representative who has access to any confidential information related to the functions or activities of the Commission shall divulge that information to any person who is not authorized to have it.

After a Complaint has been filed and until such time as the Commission may find probable cause, no member of the Commission may communicate directly or indirectly with any party or other person about any issue of fact or law regarding the Complaint, except that:

(a) the members of the Commission may obtain legal advice from the Town Attorney and may discuss the Complaint with their staff; and

(b) the members of the Commission may discuss the Complaint with the Complainant, Respondent, witnesses and others in the context of the confidential Commission proceedings.

### **Section 1-25. Statute of Limitations**

No action may be taken on any Complaint which is filed later than two (2) years after a violation of this Ordinance is alleged to have occurred, providing that a Complaint alleging the violation is filed within six (6) months from the date the Complainant knew or should have known of the action alleged to be a violation.

## **ARTICLE VIII. ORDINANCE INTERPRETATION**

### **Section 1-26. Construction**

The provisions of this Ordinance are to be construed to the end that the public interest is fully protected, and shall be construed in a manner consistent with all applicable federal and state laws and applicable provisions of the **CHARTER OF THE TOWN OF PORTLAND**. In the event of a conflict between any provision of this Ordinance and any applicable federal, state or Town charter provision, the federal, state or Town charter provision shall control. To the extent permitted by law, all ordinances, resolutions or rules, and parts of ordinances, resolutions or rules inconsistent with this Ordinance are hereby repealed.

### **Section 1-27. Severability**

If any provision of this Ordinance is held by any court or by any federal or state agency of competent jurisdiction to be invalid as conflicting with any federal, state or Town charter provision now or hereafter in effect, or is held by any such court or agency to be modified in any way to conform to the requirement of any such provision, the conflicting provision of this Ordinance shall be considered a separate, distinct and independent part of this Ordinance, and such holding shall not affect the validity and enforceability of the Ordinance as a whole, or any part other than the part declared to be invalid.

### **Effective Date**

This Ordinance shall be effective on the 1<sup>st</sup> day of the month January in the year 2009.