

WATERVILLE MUNICIPAL CODE OF ETHICS

Section I: Declaration of Policy

A. The proper operation of the City of Waterville requires that all City officials, whether elected or appointed, and all city employees be impartial, equitable and responsive to the needs of the people and each other in the performance of their respective functions and duties; that proper conduct by City officials and employees will promote public confidence in the integrity of government and will be maintained by all City officials and employees; that public office not be used for personal or financial gain or advantage; that the structure of City government be used properly in decision and policy making. In recognition of these goals and the importance of protecting public interest and City officials and employees, a Code of Ethics is hereby established for all.

Section II: Definitions

A. BOARD - All statutory and non-statutory boards now existing or hereafter created under the City Charter or by virtue of any ordinance, order or resolve adopted by the Waterville City Council, including, without limitation, the following:

1. Board of Assessment Review
2. Board of Education
3. Board of Zoning Appeals
4. Planning Board
5. Public Library Trustees
6. Voter Registration Appeals Board

B. BOARD MEMBER - Any person elected to membership or associate membership on a City board or appointed to such a board by or under the authority of the Waterville City Council.

C. BUSINESS - any corporation, partnership, individual, sole proprietorship, joint venture, or any other legal recognized entity organized as a for-profit entity or a non-profit entity.

D. CENSURE - a judgment or resolution condemning a person for misconduct.

E. CITY COUNCIL – For purposes of this code, references to the City Council shall be construed to mean the City Council of the City of Waterville and any of the committees or subcommittees thereof.

F. CITY COUNCILOR – A member of the Waterville City Council.

G. CITY EMPLOYEE - Any individual working for, on a permanent or temporary basis, and drawing an hourly wage or salary from the City of Waterville. The term "City employee" shall not include outside consultants or professional personnel providing services to the City as independent contractors under a written professional services contract or other similar engagement.

H. COMMISSION – All committees, commissions or other public bodies now existing or hereafter created by virtue of any ordinance, order or resolve adopted by the Waterville City Council, including, without limitation, the following:

1. Airport Advisory Committee
2. Ethics Committee

3. Fair Hearing Authority
4. Haines Charity Relief Committee
5. Municipal Solid Waste Committee
6. Recreation Committee
7. TIF Advisory Committee
8. Waterville Housing Authority Commissioners

I. COMMISSION MEMBER - Any person appointed to membership or associate membership on a City commission or committee by or under the authority of the Mayor of Waterville and Waterville City Council.

J. DISCLOSURE - For the purposes of this ordinance, disclosure shall mean the act of making known information sufficient to determine the possibility of any conflict of interest between City officials or employees and entities doing business with the City of Waterville.

K. FINANCIAL INTEREST - a direct or indirect interest having monetary or pecuniary value, including, but not limited to, the ownership of shares of stock.

L. IMMEDIATE FAMILY – spouse/partner, in-laws, children including steps and halves, parents, brothers and sisters of City officials or City employees.

M. MAYOR - Any person elected to the office of Mayor of Waterville under the authority of the Waterville City Charter.

N. RECUSAL – the act of abstaining from participation, including deliberation and voting, in an official action of the Mayor, City Council, Board or Commission.

O. SPECIAL INTEREST - any direct or in-direct interest which will allow some form of personal gain, usually of pecuniary nature.

Section III: Standards of Conduct

A. The purpose of this Code is to establish ethical standards of conduct for City officials and City employees by setting forth those acts or actions that may be in conflict or incompatible, or that create the appearance of impropriety, with the best interests of the City of Waterville.

Section IV: Release of Confidential Information

A. No City official or City employee shall, to the detriment of the City, release confidential information concerning the property, government or affairs of the City; nor shall he/she use such information to advance the financial or private interest of him/herself or others.

B. For purposes of this subsection, the term "confidential information" shall mean any information, oral or written, which comes to the attention of, or is available to, such City official or City employee only because of his or her position with the City, and is not a matter of public record.

C. Information received and discussed during an executive session of the Waterville City Council called pursuant to 1 MRSA SS 405 et seq. shall be considered within the constraints of this section, and shall not be released to any third party unless permitted by affirmative vote of such body.

Section V: Contracts, Purchases and Employment

A. No City official or City employee shall participate directly by means of deliberation, approval or disapproval, or recommendation, in the purchase of goods and services for the City, and the award of any contracts with the City, where to his/her knowledge there is a financial interest, or special interest other than that possessed by the public generally, in such purchase or award, held by:

1. him/herself or a member of his/her immediate family;
2. a business in which he/she or a member of his/her immediate family serves as an officer, director, trustee, partner or employee in a supervisory or management position; or
3. any other person or business with whom he/she or a member of his/her immediate family are in business, or are negotiating or have an arrangement concerning future employment.

B. No City official or City employee shall participate by means of deliberation, approval or disapproval, or recommendation, in the decision to hire, promote, discipline, lay off or to take any other personnel action in respect to any applicant for employment or employee, as the case may be, or vote for appointed positions, where said applicant or employee is:

1. a member of his/her immediate family; or
2. a person with whom either he/she or a member of his/her immediate family are in business.

Section VI: Incompatible Employment

A. No City official shall engage in or accept private employment or render or sell services or goods for private interests when such employment or service is incompatible with the proper discharge of his/her official duties.

B. Regular, full-time employment with the City is considered the individual's primary employment. Employees may not engage in other employment that interferes with or otherwise creates a conflict of interest with the performance of assigned duties. Whenever it appears that any such outside employment may constitute a conflict of interest, the employee is expected to consult with his or her Department Head who may consult with the City Manager or City Solicitor.

Section VII: Solicitation of Future Employment

A. A City official shall not solicit future employment with any person who has a substantial matter pending before the Council, Board or Committee in which the official was a member or within a year after the matter has been closed. A matter is "substantial" if it involves a financial value of one thousand (\$1,000) dollars or more or involves a question of policy of comparable significance.

B. An individual who has served as a City official shall not, within one (1) year after termination of his/her service, assist any person, other than the City, in any matter that was pending before the Council, Board or Committee in which he/she was a member or appear before the Council, Board, or Committee in which he/she was a member or assist any other person to make such an appearance.

Section VIII: Gifts and Favors

A. No City official or City employee, shall accept any valuable gift, whether in the form of service, loan, thing or promise, from any person and/or business which to his/her knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the City; nor shall any elected or appointed municipal official: accept any gift, favor or thing of value that tends to influence or could reasonably be expected to influence him/her in the performance of official duties or was intended as a reward for any official action. This does not prohibit:

1. gifts or social courtesies related to a family relationship or friendship between the elected or appointed official and the donor, which are not designed to influence the proper judgment or action of the officer or employee in a matter within his authority;
2. public, government-sponsored or informational events, generally accepted as a condition of office, where refreshments may be served, which are not designed to influence the proper judgment or action of the elected or appointed official in a matter within his/her authority;
3. political contributions received in compliance with law;
4. loans obtained according to commercial practice at the prevailing rate of interest;
5. customary performance, merit awards or honorariums, consistent with municipal practices.

Section IX: Use of City Property and Facilities

A. No City official or City employee shall use or authorize others to use City-owned property, including but not limited to, motor vehicles, equipment and buildings except for the following:

1. for City business;
2. for purposes and on terms generally available to other persons;
3. according to a contract of employment with the City in which use of such property is part of the compensation or a term of employment.

Section X: Representing Third Party Interests Before City Agencies

A. No City official or employee shall either appear on behalf of any third party interest before any City agency, or represent a third party interest in any action, proceeding, or litigation in which the City or one of its agencies is a party. Nothing herein shall prohibit a City official, on behalf of a constituent in the course of his or her duties as a representative of the electorate, or any City official, on behalf of his or her personal interest, from appearing before a City agency.

B. No City official or employee shall appear on behalf of any third party interest before a City agency of which he or she is a current member. Nothing herein shall prohibit a City official, on behalf of his or her personal interest, from appearing before any City agency including that of which he or she is a current member.

C. An official or employee who is employed or under retainer by a person having a matter pending before the agency of which the official is a member shall disclose that fact and shall abstain from participation in the matter. Participation includes but is not limited to discussion and/or voting on the matter.

Section XI: Conflicts of Interest

A. No City official shall, in such capacity, participate in the deliberation or vote, or otherwise take part in the decision-making process, on any agenda item before his/her collective body in which he/she or a member of his/her immediate family has a financial or special interest of a pecuniary nature, other than an interest held by the public generally.

B. Any City official or employee who believes that he/she or a member of his/her immediate family has a financial or special interest, other than an interest held by the public generally, in any agenda item before his or her collective body, shall disclose in writing the nature and possible extent of such interest. The collective body will vote to determine if there is a conflict.

C. Any City official or employee who believes that any fellow City official, or a member of his/her immediate family has a financial or special interest, other than an interest held by the public generally, in any item before his/her collective body, shall disclose in writing the possibility of such interest, and the City Clerk or his/her designee shall make a record of such disclosure, with a copy forwarded to the Chair of the Appropriate Executive Board.

D. Once the issue of conflict has been initiated relative to an individual City official, and disclosure has been made as provided above, such individual's fellow City officials shall vote on whether or not such individual shall be excused from participating in the deliberation or vote.

E. To avoid the appearance of a violation of this section, once any individual City official is determined to have a conflict of interest in respect to any agenda item, said individual shall immediately remove him/herself from the meeting room or to the area of the room occupied by the general public. He/she shall not return to his/her regular seat as a member of the body until deliberation and action on the item is completed. Nothing herein shall require an individual City official to remove him/herself for any item contained on a "Consent Agenda" on which there is no deliberation, the individual's conflict has been determined by the other members, and the right to abstain from voting on the item has been granted.

F. Nothing herein shall be construed to prohibit any City official from representing his/her own personal interest by appearing before his/her collective body on any such agenda item.

G. No City employee shall, in such capacity, participate in the deliberation or take part in the decision-making process on any item of City business in which he/she or a member of his/her immediate family has a financial or special interest of a pecuniary nature, other than an interest held by the public generally. In case of employees, the department head or City Manager or union rep will determine how the employee will resolve the conflict.

Section XII: Disclosure Statement by City Elected Officials, Appointed Municipal Officials and City Employees

A. By February 1 of each year, every elected official shall file a completed disclosure form with the City Clerk with a copy forwarded to the Chair of the appropriate Executive Board and to the chair of the City Council.

B. By February 1 of each year, every appointed official shall file a completed disclosure form with the City Clerk, with a copy forwarded to the Chair of the appropriate Executive Board.

C. By February 1 of each year, the City Manager and all department heads or their designee shall file a completed disclosure form with the City Clerk.

D. Each executive body is responsible for ensuring that members comply with the filing of a disclosure statement. An extension beyond the stated time frame for filing a disclosure statement may be approved with a majority vote of the appropriate executive body.

E. Each executive body will review the disclosure reports of its members. Should a conflict be discovered, a majority vote of the executive body can refer the matter to the Ethics Board for an opinion. Such disclosure forms shall be under oath and shall contain the following information to the best of the disclosing party's knowledge and belief:

1. the name of each person or entity, whether incorporated or not, doing business with the City in an amount in excess of \$1,000 during the preceding calendar year from which such disclosing party or member of his/her immediate family has received money or other thing of value in an amount in excess of \$1,000 during the preceding calendar year, including, but not limited to, campaign contributions where applicable;
2. the name of each entity, whether incorporated or not, doing business with the City in an amount in excess of \$1,000 for preceding calendar year in which such disclosing party or member of his/her immediate family has a financial interest in an amount in excess of \$1,000, including, but not limited to, the ownership of shares of stock;
3. the name of each nonprofit and/or for profit entity, whether incorporated or not, for which such disclosing party or member of his/her immediate family holds a position of officer or member of any board. For each such entity, such disclosing party shall provide the following information:
 - a) a brief description of the purpose of each board and/or office;
 - b) a short summary of such disclosing party's or family member's duties relative to any such board and/or office;
 - c) the term of service on each such board and/or office;
 - d) whether or not such disclosing party or family member receives compensation for service on such board and/or office and the extent to which such compensation exceeds \$100 in the aggregate annually.

- e) For purposes of this subsection "compensation" shall include, but not be limited to, monetary compensation, gifts, gratuities, perks, fringe benefits, services, and any other thing of value.
- 4. Every City official shall amend his/her disclosure statement as may be required to ensure the continued accuracy thereof. Each such amendment shall be made within fifteen (15) days following the occurrence which requires the amendment.
- 5. The City Clerk shall deliver a copy of each completed disclosure statement to every fellow member of each disclosing party within ten (10) days after the expiration of the filing period. The City Clerk shall deliver a summary of compliance to the Mayor and the City Manager.
- 6. For purposes of this Code, a list prepared by the Finance Director of those persons or entities doing business with the City in an amount in excess of \$1,000 for the preceding year shall be determinative for purposes of reporting under this section. Income from, and financial investments in, policies of insurance, and deposits in accounts from commercial or savings banks, savings and loan associations, or credit unions and the ownership of less than 5% of the outstanding shares of stock in a publicly held corporation shall not be considered to be a financial interest within the meaning of this section.

Section XIII: Political Standards of Conduct

A. No City official or employee shall participate in any political activity which would be in conflict or incompatible with the performance of his or her official functions and duties for the City.

B. No City official may use his/her official authority or position for the purposes of influencing or interfering with or affecting the results of any election, nor shall he/she solicit funds or contributions or accept or receive funds or contributions from City employees for political purposes.

C. No City official may distribute pamphlets/handbills while he or she is performing their official functions and duties with the City.

D. Nothing herein shall be construed to prohibit any City official from participating in the political process in their capacity as private citizens. Acceptable conduct would allow endorsements of a candidate, without the use of an official title. "I, John Doe, support Jim Smith for Council", not "as John Doe, Board member, I support Jim Smith for Council".

E. Except for official functions and duties, political pins can be worn. During Council or Board meetings, view of such pins would not be appropriate.

F. Under the provisions of the Hatch Act, which applies to entities receiving federal funds, City employees are not prevented from enrolling in political or party organizations, expressing political views, campaigning for or against issues, signing nominating papers, or voting in all elections, caucuses and primaries with complete freedom.

G. Under provisions of the Hatch Act, employees are prohibited from using their authority or influence to interfere with an election, may not solicit or discourage political activity of any person who has business

before the City, and may not engage in political activity while on duty. Employees wishing additional information are advised to contact the Human Resource Officer or the City Solicitor.

Section XIV: Incompatible Employment of Office

A. No City official shall occupy any other office, elected or appointed, in any other governmental entity, where the duties of such office are incompatible with the proper discharge of his or her official duties with the City. For purposes of this Code, the occupancy of any office, elected or appointed, with any other governmental entity by any municipal official is hereby prohibited in any one of the following circumstances:

1. where the duties of the other office make it a physical impossibility to discharge the duties of the City position; or
2. where one office is subordinate of the other; or
3. where one office carries the power of removal of the other; or
4. where the occupancy of both offices is otherwise prohibited by law.

B. Regular, full-time employment with the City is considered the individual's primary employment. Employees may not engage in other employment that interferes with or otherwise creates a conflict of interest with the performance of assigned duties. Whenever it appears that any such outside employment may constitute a conflict of interest, the employee is expected to consult with his or her Department Head who may consult with the City Manager or City Solicitor.

Section XV: Ethics Committee

A. ETHICS COMMITTEE ESTABLISHED - There is hereby created and established a Ethics Committee consisting of seven (7) members who will be sworn in on appointment by Mayor and approval by the City Council.

B. TERMS - All members shall be appointed for terms of three (3) years each. Each member shall serve until December 31st of the final year on term, subject to continuance in office for a period not to exceed six (6) months until a successor is appointed. All members must be residents of the City of Waterville. No member shall serve more than two (2) complete consecutive terms.

C. OTHER OFFICES PROHIBITED - No member of the Ethics Committee shall hold any other City office or position or be the member of any City Council appointed committees. A rare exception can be made by majority vote of the City Council, if so warranted.

D. RULES AND RECORDS - The Ethics Committee shall establish such rules as it may determine to be necessary to govern its procedures. In addition, the Committee shall at all times maintain in the office of the City Clerk appropriate records of its opinions and proceedings subject to the State's "Right to Know" Law.

E. DUTIES - The Ethics Committee shall render advisory opinions when there is doubt as to the applicability of any provisions of this Code to any particular situation. In the performance of its duties, the Committee shall limit its review and fact finding only to those issues referred to it. The Committee

shall make recommendations for revisions to this ordinance as necessary to the City Council and perform such other duties as may be prescribed from time to time by the City Council.

F. REFERRALS.

1. Any City official seeking advice as to whether a particular situation constitutes a violation of this Code shall first submit a written statement in a form approved by the Ethics Committee describing the nature of the matter to the chairperson of the appropriate board or committee as well as the Mayor and the Chair of the City Council. If the chairman of the board or committee feels that an advisory opinion is necessary, or if at least half of the members of the board or committee feel that an advisory opinion is necessary, they may refer the matter via the written statement to the Ethics Committee.

2. Any City employee seeking advice as to whether a particular situation constitutes a violation of this Code shall first submit a written statement to the City Clerk in a form approved by the Ethics Committee describing the nature of the matter. The City Clerk shall refer the employee inquiry to the Ethics Committee. Upon referral, the Ethics Committee may render advisory opinions with respect to potential or prospective conflicts of interest involving City employees. However, allegations of past or present misconduct involving alleged violations of this code by City employees shall not be reviewed by the Board but shall be referred for disposition in accordance with the City's established employee disciplinary procedures.

3. Any citizen of Waterville may file an inquiry with the City Clerk asking whether a current officer, official, or employee has failed to comply with the Code of Ethics. The City Clerk shall notify the Ethics Committee that a citizen inquiry has been received.

a. A citizen inquiry must be in writing on a form approved by the Board, be signed, and show the home address of the person who submitted it. The form shall contain a statement that must be signed and which states that, to the best of the person's knowledge, information, and belief formed after reasonable reflection, the information in the inquiry is true. The inquiry must describe the facts that constitute the violation of the Code of Ethics in sufficient detail so that the Board and the person who is the subject of the inquiry can reasonably be expected to understand the nature of any offense that is being alleged. The Board may request any additional information deemed necessary to screen the inquiry or to render a decision.

b. No inquiries shall be accepted or considered which relate to actions that took place more than two years prior to the date of filing.

G. PROCEDURES.

1. Upon referral of a question, the Ethics Committee shall have the power to request voluntary statements from all persons concerned and to review all records on file with the City of Waterville or other public agencies. All Committee hearings shall be conducted in accordance with rules of procedure to be adopted by the Committee. The Committee may conduct any fact finding and deliberations in executive session as provided in 1 M.R.S.A. § 405, Subsection 6A.

2. The Committee must notify the person who is the subject of the inquiry that an inquiry has been filed no more than five days from the day the inquiry was filed, provided that the Committee shall notify the person who is the subject of the inquiry immediately if he or she so requests. The notice shall include a copy of the full inquiry; a copy of any portion of the Code of Ethics that is alleged to have been or that may be violated; and the Committee's Rules of Procedure.

3. The Ethics Committee shall provide the subject of the inquiry with a copy of the inquiry before it provides copies to any other parties. The Committee recognizes that distribution to the public of an inquiry prior to screening by the Board as required below could harm the reputation of an innocent person and is

contrary to the public interest; therefore, the public release of the inquiry is prohibited until the screening process below has been completed.

4. The Ethics Committee shall consult in confidence to screen the inquiry within fourteen days of receiving an inquiry. The Committee may immediately dismiss an inquiry and so inform all parties if:

- a. It has no jurisdiction; or
- b. The alleged violation, if true, would not constitute a violation of the Code of Ethics; or
- c. The alleged violation is a minor or de minimis violation; or
- d. The inquiry is, on its face, frivolous, groundless, or brought for purposes of harassment; or
- e. The matter has become moot because the person who is the subject of the Inquiry is no longer an officer, official or employee; or
- f. The appointing authority of the person who is the subject of the inquiry has already taken action as a result of finding a violation and the Committee believes the action was appropriate.

5. Upon conclusion of its fact finding and deliberations, the Ethics Committee shall issue written findings with respect to each matter and question referred to it.

6. It is the purpose and intent of this code to provide a mechanism by which all such matters referred to the Ethics Committee may be handled in an orderly and impartial fashion in such a manner as to protect the best interests of the citizens of the City of Waterville.

H. ETHICS ORIENTATION OF BOARD MEMBERS, MUNICIPAL OFFICIALS, AND CITY EMPLOYEES - All board and committee members are requested to attend an annual ethics orientation meeting to be scheduled during the month of January of each calendar year or as can be scheduled.

All municipal officials are encouraged to attend an annual ethics presentation given by the Board.

I. DUTIES OF THE ETHICS COMMITTEE - The Committee shall meet at least annually and, prior to December 31 of each calendar year, shall prepare and submit to the City Council an annual report outlining its activities during the preceding 12 month period.

J. PUBLIC RELEASE OF FINDINGS OF INNOCENCE OF WRONGDOING - In cases where the respective board or committee finds the person accused not guilty of wrongdoing, he/she will be publicly cleared, at the next regular meeting of the board or committee.

K. PENALTIES - In addition to any other penalties or remedies as may be provided by law, violation of this Code shall constitute cause for censure, after notice and hearing conducted by the City Council. A majority of the Waterville City Council shall conduct such proceedings.

Section XVI: Statutory Standards

A. There are certain provisions of the general statutes of the State of Maine which should, while not set forth herein, be considered an integral part of this Ordinance. Accordingly, the provisions of the following sections of the general statutes of the State of Maine, as may be amended, are hereby incorporated by reference and made a part of this Code of Ethics, and shall apply to all City officials and City employees of the City of Waterville whenever applicable as if more fully set forth therein, to wit:

1. 17 MRSA SS 3104 Conflicts of Interest; Purchases by the State
2. 17-A MRSA SS 456 Tampering with Public Records of Information
3. 17-A MRSA SS 602 Bribery in Official and Political Matters
4. 17-A MRSA SS 603 Improper Influence
5. 17-A MRSA SS 604 Improper Compensation for Past Action
6. 17-A MRSA SS 605 Improper Gifts to Public Servants
7. 17-A MRSA SS 606 Improper Compensation for Services
8. 17-A MRSA SS 607 Purchase of Public Office
9. 17-A MRSA SS 608 Official Oppression
10. 17-A MRSA SS 609 Misuse of Information
11. 17-A MRSA SS 903 Misuse of Entrusted Property
12. 21 MRSA SS 533 Persons Ineligible to Serve as Election Officials
13. 30-A MRSA SS 2605 Conflicts of Interest
14. 30-A MRSA SS 5122 Interest of Public Officials, Trustees or Employees

Section XVII: Separability

A. If any section, subsection, sentence, clause or phrase of this Code is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of the Code.