

**TOWN OF NEWTON**  
**CODE OF ETHICS ORDINANCE**  
*(Town Meeting Vote – March 10, 1998, Article 34;*  
*Revised September 19, 2023)*  
*Effective September 20, 2023*

The Town of Newton, New Hampshire (“Town”), pursuant to RSA 31:39-a, ordains as follows:

**TITLE:**

This Ordinance shall be known and referred to as the NEWTON CODE OF ETHICS.

**DECLARATION OF POLICY:**

Where government is based on the consent of the governed, every citizen is entitled to have complete confidence in the integrity of that government. The proper operation of democratic government requires that public officials and employees be independent, impartial, and responsible to the people. In recognition of these goals, each Member of Town Government, as defined herein, must earn and honor that trust by adhering to ethical standards of conduct in all of their official actions. Accordingly, the NEWTON CODE OF ETHICS is hereby established for all Members.

**DECLARATION OF PURPOSE:**

The purpose of this ordinance is to establish guidelines for ethical standards of conduct for all Members of Town Government by (a) ensuring that government decisions and policies are made through the proper channels of government, (b) ensuring fair consideration of any application or matter to be voted upon, (c) ensuring the appearance of fair consideration so as to maintain public confidence in the integrity of Town Government, and (d) ensuring that no Town office or position is used for personal gain or advantage.

**CONSTRUCTION:**

Volunteers are not covered by this Ordinance. The use of “he” or any other pronoun is to be considered a neutral term, not designating a particular gender but applicable to all persons generally.

**Section I. DEFINITIONS:**

1.1 MEMBER OF TOWN GOVERNMENT (Also referred to as “Member(s)”: Any elected or appointed official, board member, Town employee, or other person holding a Town position or office, or serving in or on a Town department, board, commission, committee, or agency whether full- or part-time, permanent or temporary, paid or unpaid, including those employed by the Town and paid through taxpayer funds, federal or state grants or assistance programs, and including, but not limited to, all Town employees, Select Board Members, the Town Administrator, Budget Committee members, Supervisors of the Checklist, Conservation Commission members, Planning Board members, the Town Clerk/Tax Collector, the Town Moderator, the Treasurer, the Trustees of the Trust Funds, Zoning Board of Adjustment members, Library Trustees and members of any other Town boards, commissions, and committees, including those yet to be established.

1.2 INTEREST: Any legal or equitable interest, privilege, profit, gain or advantage one stands to receive if certain actions or events occur, whether or not it is subject to any conditions. The term

Interest includes the following:

(a) Financial Interest: Any interest which, either directly or indirectly, provides an advantage in the form of money, property, commercial benefit, or any other material benefit due to its exercise (other than the authorized salary for public service to the Town) to the Member, the Family of the Member, or to anyone retaining the services of the Member. Financial Interest includes but not limited to:

1. Any interest in stock or similar security, limited liability membership interest, partnership interest, preorganization certificate or subscription, investment contract, voting trust certificate, limited or general partnership or joint venture, business trust or certificate of interest or participation in a joint profit-sharing agreement or in an oil, water, gas or other mineral royalty or lease or any other equity or beneficial interest, however evidenced, which entitles the owner or holder thereof to receive or direct any part of the profits from or to exercise any part of the control over a business entity, as well as any interest which, conditionally or unconditionally, with or without consideration, is convertible thereto;
2. Any interest in a note, bond, debenture or any other evidence of creditor interest.
3. Financial Interest does not include economic advantage applicable to the public generally, such as tax reductions of increased prosperity generally.

(b) Property Interest: Ownership of land within 200 feet of any land subject to the member's vote, influence, or actions in the service of the Town.

(c) Fiduciary Interest: Acting as an agent or holding a fiduciary interest.

(d) Personal Interest: Any interest created due to Family, blood, marriage, dependents, close business relationships, friendships, political or fraternal associations, or household residence (including live-in, non-relatives or live-in boyfriends or girlfriends) regardless of whether or not a Financial Interest or other Interest is involved.

(e) Employment Interest: Any present or past employer/employee relationship within the previous twelve-month period from the member's vote or action in the service of the Town.

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

1.4 **PUBLIC BODY**: Public body means any Town governmental agency, board, body, council, commission, committee, agency, or department.

1.5 **FAMILY**: Includes the Member's blood relatives or adopted relatives, spouse, parents, grandparents, children, grandchildren, brothers, sisters or similar step relations and the parents,

grandparents, children, grandchildren, brothers, sisters, or similar step relations of the member's spouse. Family also includes any dependents over which the Member acts as legal guardian.

1.6 **CONFIDENTIAL INFORMATION:** All non-public information acquired by or accessible to the Member by virtue of his or her official position.

1.7 **DISCLOSURE:** The revelation of information.

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

## **Section II. CODE OF ETHICS COMMITTEE:**

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

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

## **Section III. FAIR AND EQUAL TREATMENT:**

All Members shall give every person fair and equal treatment. No Member shall give any person special consideration, advantage or favor as a result of that person's public status, wealth, position, religious or fraternal affiliation, or relationship as family, or as a result of a member's interest as defined herein.

## **Section IV. PROHIBITED CONDUCT:**

4.1 Ethical Violations. It is in violation of this chapter for any Member to:

(a) In his or her official capacity, introduce, discuss, advise, deliberate, approve or vote upon any matter in which he or she or any member of his or her family has an interest known to said Member, including the appointment of a person in or with whom he has an interest.

(b) Knowingly enter into any discussion, testimony or deliberation without first, publicly and for the record, stating all dealings, Interests, relationships and possible conflicts that may exist between said Member and his or her family, the principals and the issue under deliberation, as may be known by the Member.

(c) Knowingly participate in the conduct of business of the Town without disclosing,

in writing, all interests which may positively or negatively impacted in any actions to be taken by the member in the service of the Town.

(d) Knowingly use Town property or labor for personal use.

(e) Knowingly use Town property or labor to influence the political cause of any candidate for public office or any political party. Nothing in the foregoing sentence shall prevent political candidates or parties from holding public meetings on town-owned property in town-owned buildings or prevent a Member from exercising and carrying out the responsibilities and obligations of his or her office or position of employment.

(f) Otherwise, than as provided by law for the proper discharge of his or her official duties, directly or indirectly request or receive any compensation from anyone other than the Town in relation to any particular matter in which the Town is a party or has a direct and substantial interest;

(g) Otherwise, than as provided by law for the proper discharge of his official duties, directly or indirectly promise or offer such Compensation as referred to in this chapter;

(h) Knowingly accept a gift with a value in excess of \$25 or allow acceptance of such a gift by a Family member from any individual, group or corporation knowingly dealing with an area of Town government in which the Member has an interest or jurisdiction. The foregoing does not apply to gifts from Family.

(i) Knowingly give false information concerning dealings, interests, relationships and possible conflicts to the various supervisors, boards, commissions and committees and the Selectmen.

(j) Knowingly fail to cooperate with the Code of Ethics Committee or other investigating authority in the investigation of any complaint alleging a violation of the tenets of this chapter or

(k) Violate any provision of this Policy.

4.2 Disclosure and Disqualification. Any Member who holds any interest in a matter before him must publicly disclose in writing before that body meets (where time permits) to the Public Body with jurisdiction the nature and extent of that interest and must disqualify himself from introducing, discussing, approving, advising, deliberating and/or voting on the matter in which the Member has an Interest.

4.3 Incompatible Employment.

(a) No Member shall be active in private employment with, or render services for, any private citizen, immediate Family member, or household member having business contracts, or transactions with any Public Body, unless and until the Member publicly and fully Discloses the nature and extent of his Interest.

(b) In addition to the restrictions set forth in the New Hampshire incompatibility of office statute, RSA 699:7, it shall be a violation of this chapter for a Selectman to be simultaneously employed by the Town in any capacity, whether as a part-time or as a full-time employee.

#### 4.4 Incompatible Representation.

(a) No Member whose salary is paid in whole or in part from the Town treasury shall appear in his official capacity on behalf of a private interest before any Town board. Selectmen, however, may appear without compensation on behalf of constituents or in the performance of public or civic obligations as Selectmen.

(b) No Member whose salary is paid in whole or in part from the Town treasury shall represent private interests, other than his or her own, in any action or proceedings against the interest of the Town in any litigation to which the town is a party. Nothing in this paragraph shall prohibit that Member from participating as a witness and testifying truthfully in any official court, administrative, or government proceedings or investigations.

(c) No Member shall claim to act on behalf of the Selectmen, boards or departments without prior authorization from said body or department.

#### 4.5 Confidential Information. Except as required by law, no Member shall disclose, or threaten to disclose, any Confidential Information acquired through that Member's service to the Town, including, but not limited to, Attorney-Client Privileged Information and/or Confidential Information regarding any other official, employee, board member, commission member, person, property or governmental affairs of the Town unless and until prior approval by the Select Board and/or Public Body having jurisdiction or the permits such disclosure by a formal vote of that Public Body. Regardless of whether disclosure is involved, no Member shall use or allow to be used, any confidential information to advance his own Interest or personal gain or that of any other person. Nothing in this chapter shall prohibit a Member from truthfully testifying or responding to a court order or lawfully issued subpoena, provided that the Member notifies the Town, in writing, of the receipt of the court order or subpoena within twenty-four (24) hours of receipt of said court order or subpoena.

#### 4.6 Nepotism.

(a) Public Officials and Boards. No person serving in a public position shall appoint or vote for appointment of any person in his / her family to any public position. If a proposed appointee is a member of the family of any member, that Member shall remove himself / herself completely from the appointment process.

(b) Public Employment by Department Heads. When employing the members of the family, Town public policy makes the appearance of fairness and conformity with this chapter mandatory. Thus, full-time employment of family members shall not be approved if another family member would have the practical authority to appoint, evaluate, supervise

or discipline the other. If a need arises for part-time or seasonal employment by a Department, then any proposal to employ a member of the Department Head's family shall be subject to prior approval by a majority of the Board of Selectmen. The Selectmen and Department Heads shall insure that the interest of the community and fairness to all seeking employment are the primary consideration.

## **Section V. EXCLUSIONS:**

5.1 The prohibition against gifts or favors shall not apply to an occasional nonpecuniary gift, insignificant in value, or an award publicly presented in recognition of public service or any gift which would have been offered or given to him or her if he or she were not a Member.

5.2 It shall not be a violation for elected Members to accept donations for the express purpose of financing a political campaign, provided that such contributions are reported in accordance with all local, State and Federal laws pertaining to such donations or services and/or financial value.

5.3 The mere purchase of goods or nonprofessional services (services from other than attorneys, engineers, architects and surveyors) from a person or business in the ordinary course of that person's or business's retail or service business shall not prevent a Member from introducing, discussing, approving or voting upon a matter which relates to that person or business.

5.4 Those actions taken as part of the legislative process are exempt from the provisions stated herein. Legislative actions concerning the granting of specific contract awards and/or actions designed to benefit one identified or identifiable individual or specific group of individuals are not exempt.

## **Section VI. PROCEDURES FOR INQUIRIES AND ALLEGED VIOLATIONS:**

6.1 Any resident of Newton may petition the Code of Ethics Committee to make a ruling on a situation which may or may not constitute a violation.

6.2 A petition must be in writing, signed and dated and include the name and address of each petitioner. Business owners submitting a petition must also include the name and address of the business. The petition must be filed with the Town Clerk, who shall promptly forward a copy to the Code of Ethics Committee. The original petition shall remain on file in the Town Clerk's office.

6.3 The person submitting the petition to the Town Clerk must complete a Petitioner Information Form. This person shall be notified of the date the Code of Ethics Committee will address the petition and shall be requested to attend this meeting.

6.4 After appropriate investigation, the Code of Ethics Committee shall, within 30 days of the petition having been taken up by the Committee, make a finding on the inquiry or alleged violation. If necessary, the Code of Ethics Committee may vote to extend its investigatory period.

6.5 Pursuant to RSA 31:39-a, knowingly violating this chapter shall be grounds for disciplinary action if founded by a majority vote of the Code of Ethics Committee, up to and including, removal

from any Public Body of the Town.

6.6 Findings as to employees shall be forwarded to the Respondent. The Select Board shall take appropriate action in accordance with applicable personnel policies and procedures. Findings shall include supporting arguments. Nothing in this chapter shall be deemed to alter the at-will employment relationship of any town employee.

6.7 Findings as to elected and appointed Members (excluding town employees) shall be forwarded to the Respondent. the Select Board shall determine whether to recommend removal or censure, as appropriate. Nothing in this chapter shall prevent the Select Board from removing any appointed member of a Public Body in the Select Board's discretion, so long as such removal is not prohibited by law.

6.8 The Select Board shall have 45 days from the date a finding is submitted to the appropriate office to act on the Code of Ethics Committee decision.

6.9 If the Select Board determines, by a majority vote, that removal is warranted, the Select Board may, but shall not be required to, give the elected or appointed member opportunity to resign. If said Member chooses not to resign, a petition to remove shall be filed with the Superior Court.

6.10 Any Member alleged to have violated this chapter is entitled to a public hearing, with notice posted in two public places seven days prior thereto. When appearing before the Code of Ethics Committee, said Member may present written evidence on his or her behalf and may retain representation by legal counsel at his or her own expense if he or she so chooses.

6.11 Nothing in this chapter shall be construed to prohibit any person from petitioning the Superior Court to remove a Member of Town Government on the ground that the violation in question warrants removal.

6.12 A Respondent may request that the Code of Ethics Committee make a ruling on any petition that is withdrawn or invalidated. If such a request is made, the Code of Ethics Committee shall complete an investigation pursuant to the procedures described herein.

## **Section VII. CRIMINAL LIABILITY:**

**RSA Chapter 640 provides that a person is guilty of a Class B felony if he either offers or accepts a bribe while acting as a public servant. In addition, a public servant may also be guilty of a Class B felony if he fails to report any bribes offered him while in the course of public service.**

## **Section VIII. CHALLENGE PROCEDURE:**

8.1 Any person may inquire into the possible conflict of interest of any Member on any matter requiring official action, stating the grounds for the inquiry.

8.2 Such challenged Member shall be obligated to inform the person if any conflict of interest exists.

8.3 If the person making the inquiry is not satisfied with the challenged Member's response, he may require the presiding officer of the Town Board (in the case of a town employee, "Town Board" shall mean the appointing board) to call for a vote as to whether or not the challenged Town Official shall be disqualified to take the official action. A majority of the remaining Town Board Members, including alternates, shall determine whether or not the challenged Member may be allowed to take the official action.

#### **Section IX. ORDINANCE PROVIDED TO TOWN OFFICIAL:**

Upon taking his position, the Member, as defined above, shall be furnished by the Town Clerk, or in the case of an employee by his Supervisor, with a copy of this chapter. Each such person shall sign a written acknowledgement that he has been provided with such a copy. The acknowledgement shall be filed by the Town Clerk with the Member's appointment papers, or in the case of an employee, placed in his personnel file.

#### **Section X. FINANCIAL INTEREST DISCLOSURE FORM:**

10.1 In accordance with RSA 31:39-a, any appointed or elected official, the Town Administrator, Finance Director, Fire Chief, Police Chief, and any other town employee with authorization to sign purchase orders/ requisitions in excess of \$5,000.00. shall complete a financial interest disclosure form ("FIDF") within 30 days of assuming office.

10.2 Completed forms shall be filed with the Town Clerk. Members are required to update the form on file as changes occur.

10.3 Failure to disclose information as required on the FIDF shall be a violation of this chapter.

10.4 Forms shall be available for public inspection in the Town Clerk's office. The Town Clerk shall record and verify who is requesting the information, the date of the request and for what purpose the information is required.

10.5 The Town Clerk shall provide a status report to the Code of Ethics Committee identifying each member and the dates the forms and updates are submitted.

10.6 The form presented and prescribed in [RSA 15-A](#) shall be used for financial disclosure.

#### **Section XI. ENFORCEMENT OF FIDF REQUIREMENTS:**

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

#### **Section XII. DISPOSITION OF FIDF:**



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

### **Section XIII. DISTRIBUTION OF CODE OF ETHICS:**

Each Member shall be furnished a copy of this Code of Ethics before entering upon the duties of office or employment. Failure to be furnished a copy of this chapter shall not be grounds for relief from observing the requirements of this chapter.

### **Section XIV. EFFECTIVE DATE:**

This Ordinance shall be effective as of the date of adoption by the Newton Town Meeting. Notwithstanding the foregoing, this Ordinance shall exempt affected Members who are in office or employed by the Town at the time this Ordinance is adopted for a period of one year, and thereafter, the employee shall remedy his situation so as to comply with this Ordinance.

**Voted at Town Meeting on September 19, 2023 (Article 34)**  
**Effective September 20, 2023**