



## **Town of Lincoln, NH Code of Ethics**

### **PREAMBLE**

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

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

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

### **PURPOSE**

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

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

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

## **PROHIBITED ACTIVITIES**

- I. All of its employees and officials, whether elected, appointed or hired shall accept no assignment that could reasonably be construed as being in conflict with their responsibility to the Town of Lincoln, or in which there is an unrevealed personal interest or bias or which they are not qualified to perform.
  - a. All employees and officials, whether elected, appointed, or hired, must report in writing to their immediate supervisor or Board or Committee Chairperson those assignments in which they have a personal interest or bias. A personal interest or bias includes any current, or any prospective, or any contemplated interest or bias in the matter. A personal interest includes any ownership interest in property, employment, agency (such as an independent contractor), or business affected by the matter of the assignment. A personal bias includes a personal interest or a familial relationship to a person having a personal interest.
  - b. This restriction is not intended to prohibit activities in which employees or officials, whether elected, appointed, or hired, have a personal interest or bias. It is intended to require disclosure of a personal interest or bias.
- II. Prohibited activities shall include those activities specifically identified by state law limiting acts of public employees:

RSA 95:1	Public Officials barred from certain private dealings
RSA 640:2	Bribery in official and political matters
RSA 640:3	Improper Influence
RSA 640:4	Compensation for Past Action
RSA 640:5	Gifts to Public Servants
RSA 640:6	Compensation for Services
RSA 641:7	Tampering with Public Records or information
RSA 643:1	Official Oppression
RSA 643:2	Misuse of Information
- III. Prohibited activities include violation of any federal, state, or local law.

Prohibited activities include any felonious criminal act, regardless of whether such act was committed while the employee or official, whether elected, appointed, or hired, was on duty with the Town.
- IV. Prohibited activities included inducing another to commit an act violative of the law or these cannons of ethics.
- V. Prohibited activities include sexual harassment.

2. **REPRESENTATION OF PRIVATE INTERESTS BEFORE TOWN AGENCIES**

No employee or official, whether elected, appointed, or hired, shall appear in behalf of private interests before any Town Board. Officials however, may appear without compensation in behalf of constituents or in the performance of public or civic obligations. This section shall not prohibit appearances upon matters only incidentally requiring official action which do not develop into a substantial part of the employment, provided that the retainer is not for the purpose of appearing before the agency, and provided further that the compensation, in whole or in part, is not contingent or dependent upon the action of such agency.

3. **REPRESENTATION OF PRIVATE INTERESTS IN LITIGATION**

No employee or officials, whether elected, appointed, or hired, shall represent private interests in any action or proceeding against the interests of the town in any litigation to which the town is a party.

4. **DUTY TO DISCLOSE**

All employees and officials, whether elected, appointed, or hired of the Town of Lincoln shall not participate in the conduct of business on behalf of the town or enter into discussion or deliberation of any matter without first publicly, and on the record, stating all:

- Dealings
- Interests
- Relationships
- Friendships
- And possible conflicts

which may exist between the employee or official, whether elected, appointed, or hired, and their family and the principals of the issue(s) under consideration.

5. **DUTY TO RECUSE IN QUASI-JUDICIAL ACTIONS**

A “quasi-judicial action” is any action where a Board or Committee is acting like a judge or jury. For example, when the Board or Committee has a duty to notify the potential parties, hear the parties, and can only decide on the matter after weighing and considering such evidence and arguments as the parties choose to lay before the Board or Committee, then it is involved in a quasi-judicial action. The work of the planning and zoning boards is largely quasi-judicial action. Not only do officials, board members, and employees of the Town of Lincoln have a duty to recuse themselves as outlined in the section above, they must recuse themselves in a quasi-judicial action if they would not be qualified to sit as a juror in that case. For example, jurors are not qualified to sit in on a case if they have advised or assisted either party in a matter being decided; are prejudiced to any degree regarding the pending matter, or believe they cannot for any reason be totally fair and impartial. As a representative of the Town of Lincoln, all employees and officials, whether elected, appointed, or hired, are expected to hold themselves to this same standard.

6. **CONFLICT OF INTEREST**

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

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

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

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

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

7. **GIFTS AND FAVORS**

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

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

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

The prohibition against gifts and favors shall not apply to an occasional non-pecuniary gift, insignificant in value, or an award publicly presented in recognition of public service, or any gift which would have been offered or given to him or her if he or she was not an Official,

board member, or employee of the Town of Lincoln, or unsolicited advertising or promotional items or materials of nominal intrinsic value.

It shall not be a violation for an Official, board member, or employee of the Town of Lincoln to accept donations for the expressed 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.

The mere purchase of goods or services from a person or business in the ordinary course of that person's or business's retail or service business, shall not prevent an Official, board member or employee of the Town of Lincoln from introducing, discussing, approving or voting upon a matter which relates to that person or business.

8. **CONFIDENTIAL INFORMATION**

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

9. **USE OF PUBLIC RESOURCES**

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

10. **EDUCATION**

I. At the time that an employee or officials, whether elected, appointed, or hired, takes the oath of office, they shall receive a copy of this code and acknowledge in writing that they have received a copy of this code.

II. It shall be the responsibility of the Supervisor of any new employee to ensure that the new employee familiarizes themselves with the provisions of this code.

11. **INQUIRIES**

The Board of Selectmen shall establish a mechanism by which employees and officials, whether elected, appointed, or hired, and residents of the Town of Lincoln may obtain advice and counsel from the committee regarding ethical issues that may arise from time to time. Upon request of an employee or officials, whether elected, appointed, or hired, the Board of Selectmen may issue a written advisory opinion in response to such an inquiry. Such written advisory opinions will become permanent amendments to this Code of Ethics as addendum.

## 12. **DEFINITIONS**

- Board – Any board, committee or commission, permanent or special, established by the Town or the Selectmen under New Hampshire law.
- Complainant – A resident of the Town Lincoln who has submitted a petition to the Board of Selectmen requesting an inquiry or alleging a violation of the Code of Ethics.
- Conflict of Interest – A situation, circumstance, or financial interest, which has the potential to cause a private or personal interest to interfere with, the proper exercise of a public duty.
- Employee – A person who is paid by the Town of Lincoln for his/her services, but who is not an independent contractor.
- Family – Any person who is related to the employee or official, whether elected, appointed or hired of the Town of Lincoln in one of the following ways: spouse, parent, grandparent, child, grandchild, sibling, or similar relation to the individual's spouse. This includes all persons who are members of the same household as the Official, board member, or employee of the Town of Lincoln in question, regardless of whether they are related by blood or marriage.
- Interest – Any legal or equitable right, share, or claim, whether or not subject to an encumbrance or a condition, which is owned or held, in whole or in part, jointly or severally, including but without limitation, a right, share or a claim to land.
- Official – Any elected or appointed officer, board member, or agent of the Town of Lincoln.
- Principals – Those people who are the subject of the action or application, which is before the Board.
- Quasi-Judicial Action – Any action where the board, commission or committee has a duty to notify the potential parties, hear the parties, and can only decide after weighing and considering such evidence and arguments as the parties choose to lay before them.

## 13. **EXCLUSIONS**

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

- A. Employees and officials, whether elected, appointed, or hired, who are residents of the Town of Lincoln from fully participating in any Town Meeting.
- B. Acceptance of donations for the expressed purpose of financing a political campaign provided such contributions are reported in accordance with all local, state, and federal laws that pertain to such donations.
- C. Participation in a matter that relates to a person or business from which an employee or official, whether elected, appointed, or hired, has merely purchased goods or

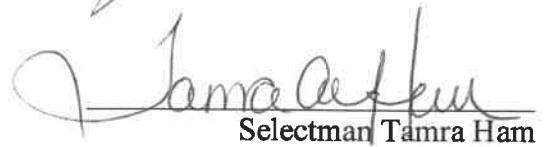
services, if the individual in question has no other conflict of interest relating to that person or business.

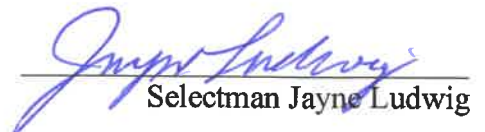
- D. Police officers, fire fighters, and other emergency personnel from acting in the course of their official capacities when responding to emergencies in accordance with the rules and regulations of their departments; and
- E. Supervisors of Town employees from appropriately carrying out personnel policies.

14. ADOPTION

Adopted by the Board of Selectmen on January 6, 2020

  
Chairman OJ Robinson

  
Selectman Tamra Ham

  
Selectman Jayne Ludwig

Adopted:

This 6<sup>th</sup> day of January, 2020

