

First Read: 08/18/08
Public Hearing: 09/15/08
Adopted: 09/15/08

ORDINANCE 2008-10
*AN AMENDMENT TO THE MUNICIPAL CODE,
TITLE VI, CHAPTER XXVI, CODE OF ETHICS*

WHEREAS there is a need to amend guidelines for the ethical standards of conduct for Town Officials, Board Members and Employees;

WHEREAS it is important that the public have confidence in the integrity of its government and that Town Officials, Board Members, Volunteers and Employees have an opportunity to protect their personal reputation;

WHEREAS the community interests are best served by clarifying which situations fall outside of the definition of a direct or indirect pecuniary interest;

WHEREAS the Town Council has the authority pursuant to state statute and Town Charter to enact such regulations;

NOW THEREFORE BE IT ORDAINED by the Town Council of the Town of Londonderry that Title VI, Municipal Code of the Town of Londonderry, Chapter XXVI Code of Ethics, is hereby amended as attached.

Marty Bove
Chairman - Town Council

A TRUE COPY ATTEST:

Marguerite Seymour - Town Clerk
xx/xx/xx

Town Seal

CHAPTER XXVI CODE OF ETHICS

SECTION I PURPOSE

The purpose of this code is to provide an educational tool and to establish guidelines and community expectations for the ethical standards of conduct for town officials, board members and employees. ¹¹

- Town officials, board members and employees (defined as an elected town official, a volunteer appointed by the Town Council, and a person who is an employee of the Town, one who is paid for their service, but who is not an independent contractor - individually and collectively know hereafter as Community Officials) shall act in the best interest of the town. ¹⁰
- Community Officials shall remove themselves from decision making if they have a conflict of interest. (A conflict is when a Community Official votes or acts on a matter in which they have a direct, immediate and definite personal and pecuniary interest, which is capable of being demonstrated.) ^{1,8}
- Community Officials shall be impartial, and responsible to the community in their actions. ^{10,11}
- The town's official decisions and policies shall be made through the proper channels of government as established by the Town Charter and Ordinances, and State Statutes. ^{1,8}
- Public office, a volunteer position or town employment shall not be used for personal gain. ^{1,7,8,9,10}

This code establishes guidelines and expectations regarding potential ethical issues, and it establishes a course of action for bringing complaints.

SECTION II CODE PROVISIONS

A. No Conflicts of Interest

Community Officials of the Town shall avoid conflicts of interest. In such instances, you shall recuse yourself from discussion and decision-making. (Recusal means to remove yourself completely from all further participation in the matter in question.) ^{1,8}

CHAPTER XXVI CODE OF ETHICS (Cont'd.)

SECTION II CODE PROVISIONS (Cont'd.)

A. No Conflicts of Interest (Cont'd.)

Community Officials or members of their families having professions outside their relationship with the Town that routinely do business with the Town of Londonderry shall not be awarded any work, of any value, except that it be done through a complete and open competitive procurement process. (Family is defined as a Community Official's lineal ascendants, lineal descendants, adoptions, siblings and offspring, a Community Official's spouse, the spouse's lineal ascendants, lineal descendants, adoptions, siblings and offspring, members of the same household, and participants in a Civil Union as defined under RSA 457-A.) 2,8,9

B. A Duty to Recuse in Quasi-Judicial Actions

A "quasi-judicial action" is any action where the board or committee you are a member of is acting like a judge or a jury. For example, when your 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 you, you are involved in a quasi-judicial action. The work of the planning and zoning boards is largely quasi-judicial. Community Officials are expected to recuse themselves if a conflict exists or if they believe they cannot for any reason be totally fair and impartial. 1,9

C. A Duty to Disclose

As a Community Official, you shall make full disclosure and not participate in the conduct of business on behalf of the town or enter into discussion or deliberation of any matter if you have a financial interest, direct or indirect, in any planned or existing contract, job, work or service to be performed for the Town or voluntary sale to the Town of any land, materials, supplies, equipment or other property.¹⁴

CHAPTER XXVI CODE OF ETHICS (Cont'd.)

SECTION II CODE PROVISIONS (Cont'd.)

C. No Unfair Personal Use of Town Property

No Community Official shall use town property, services, or labor personally, or make the same available to others *unless* such use is available to other residents upon request on equal terms. 3,7,8

D. No Misuse of Confidential Information

No Community Official shall use any confidential information acquired by virtue of that individual's official position for personal benefit, or for the benefit of any other person or business. This does not apply to information which is readily available to the general public. 4,8,10

E. No Improper Gifts

No Community Official shall accept a gift (or allow acceptance of such gift by a family member) from any individual, group, or corporation which has *or is likely to have* a matter pending before the employee, board, committee, or commission on which the Community Official serves. (This provision of the code is not meant to apply to gifts traditionally exchanged between family members, or for those gifts normally exchanged during the holiday season with a value of less than \$25.00.) 5,8,9

F. A Duty to Cooperate

All Community Officials shall cooperate with the Appointing Authority regarding any complaint or inquiry alleging violation of this Code of Ethics.

CHAPTER XXVI CODE OF ETHICS (Cont'd.)

SECTION III REPORTING PROCESS

Any resident of the Town who believes that a Community Official has violated this Ordinance may report the alleged violation to the Community Official's Appointing Authority using the attached form. The Appointing Authority is:

- A. For all employees, the Town Manager ¹³
- B. For the Town Manager, the Town Council ¹³
- C. For all appointed board, committee and commission members, the Town Council ¹²
- D. For a member of an Elected Body, the Elected Body on which the member serves. An elected body, other than the Town Council¹⁵, has no disciplinary authority over the actions of its individual members. Citizens, however may utilize Section 7.6 of the Town Charter, Recall of Officeholders. ⁶

The Appointing Authority shall investigate alleged violations and act as appropriate within the procedures established within state statute, the Town's Personnel Policy and/or Collective Bargaining Agreements.

SECTION IV DISTRIBUTION

This Ordinance shall be made available to all Community Officials upon their submittal of a letter of interest to serve the community or filing for elective office. Upon election or appointment, the Community Official shall then sign a form acknowledging receipt of same. At least annually, the Town Council shall schedule sessions with Community Officials to review this Ordinance.

SECTION V EXCLUSIONS

The provisions of this Code of Ethics shall not be interpreted so as to prevent:

- A. Any Community Official who is a resident of the Town of Londonderry 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 state and federal laws which pertain to such donations; ⁹

CHAPTER XXVI CODE OF ETHICS (Cont'd.)

SECTION V EXCLUSIONS (Cont'd.)

- C. Participation in a matter which relates to a person or business from which a Community Official 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.
- F. ***Any Community Official who provides volunteer services to a charitable organization from participating in a matter which involves an individual who may have made a contribution to that charitable organization.***

Employees and volunteers under the direction of the Leach Library Board of Library Trustees, and Community Officials elected, hired or appointed by the Londonderry School District, School Board and/or Superintendent are not subject to the provisions of this code.

This Code is adopted pursuant to RSA 31:39-a; which requires that affected officers and employees shall be exempt from the provisions of this Ordinance. The exemption shall be for a period no less than one year. As all of this Code's provisions are rooted in current state statutes or current local ordinance, this provision does not allow community officials to rely upon the exemption and disregard the underlying regulation.

Annotations:

1. **Town Charter, Article 6, Conduct of Officials**
2. **Town Charter, Section 6.3 Disqualification from Decision Making Process**
3. **Town Charter, Section 6.4 Private Use of Town Property and Personnel**
4. **Town Charter, Section 6.7 Misuse of Information**
5. **Town Charter, Section 6.5 Acceptance of Gifts and Gratuities**
6. **Town Charter, Section 7.6 Recall of Officeholder**
7. **Municipal Code, Title VI, Chapter XXV, Fraud Policy**
8. **Municipal Code, Title VI, Chapter VI, Section X Ethics in Public Purchasing**
9. **RSA 640 Corrupt Practices**
10. **RSA 643 Abuse of Office**
11. **RSA 31:39-a, Conflict of Interest Ordinance**
12. **RSA 673:13 Removal of Members, Local Land Use Boards**
13. **Town Charter, Article 4, Town Manager**
14. **Town Charter, Section 6.2 Conflicts of Interest**
15. **Town Charter, Section 3.3 B. Removal of Councilors**

**TOWN OF LONDONDERRY
CHAPTER XXVI CODE OF ETHICS
COMPLAINT FORM**

Please complete this form legibly and in as much detail as possible. Additional pages may be added:

Your Name: _____

Address: _____

Phone (Daytime): _____ (Evening): _____

Person(s) against whom this complaint is made:

_____ (Department/Board/Committee): _____

_____ (Department/Board/Committee): _____

Description of the complaint in detail:

(Use more paper and attach, if necessary.)

With my signature, I declare that the statements made above are accurate and truthful to the best of my knowledge.

Signature

Date

Completed forms should be sealed and delivered to the Town Manager's Office. If the complaint involves a Town Employee, the envelope should be addressed to the Town Manager; if about the Town Manager or an appointed Board or Commission member, please address to Chair, Town Council. If the complaint involves an elected official, please address to Chair or Vice Chair of that elected body (e.g. Town Council, Budget Committee, etc.).