

ORDINANCE #2011-10

Relative to

REVISION TO THE MUNICIPAL CODE, TITLE VI, CHAPTER VI

Introduced: 10/17/11

Second Read/Public Hearing: 11/07/11

Adopted: 11/07/11

WHEREAS

the Town Council continues to review all town ordinances; and,

WHEREAS

the Council requires transparency in all transactions which utilize public funds; and,

WHEREAS

acquisitions under the Town's Purchasing Policy should clearly extend to all employees and volunteers involved with the expenditure of town funds;

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

Sean O'Keefe - Chairman
Town Council

Meg Seymour
Town Clerk

(TOWN SEAL)

A TRUE COPY ATTEST:
xx/xx/xx

SECTION X

ETHICS IN PUBLIC PURCHASING

- A. **General** – *Pursuant to Section 6.2 of the Town Charter*, Public employment *and voluntary service on any town board or commission* is a public trust. Town employees *and volunteer officials* must discharge their duties impartially so as to assure fair competitive access to Town purchasing by responsible contractors. Any attempt to realize personal gain through public employment *or voluntary service* by conduct inconsistent with the proper discharge of a Town employee's duties *or volunteer's service* is a breach of public trust. Any effort to influence any Town employee *or volunteer* to breach the standards of ethical conduct is also a breach of ethical standards.
- B. **Conflict of Interest** - It is a breach of ethical standards for any employee *or volunteer* to participate directly or indirectly in any purchase activity when the employee *or volunteer* knows that:
1. The employee *or volunteer* or any member of the employee's *or volunteer's* immediate family has financial interest pertaining to the purchase; or
 2. A business or organization in which the employee, *volunteer* or any member of the employee's *or volunteer's* immediate family, has a financial interest pertaining to the purchase; or
 3. Any other person, business, or organization with whom the employee. *volunteer* or any member of the employee's *or volunteer's* immediate family is negotiating or has an arrangement concerning prospective employment is involved in the purchase.
 4. Upon discovery of an actual or potential conflict of interest, an employee *or volunteer* shall notify their department head *or board or committee chair (or in the event they are a department head or board or committee, the Purchasing Agent)* and withdraw from further participation in the transaction involved.

CHAPTER VI – PURCHASING POLICY (Cont'd)

SECTION X ETHICS IN PUBLIC PURCHASING (Cont'd.)

C. Specific Actions Prohibited:

1. Gratuities. It shall be a breach of ethical standards for any person to offer, give or agree to give any employee, former employee, *volunteer or former volunteer* or for any employee, former employee *volunteer or former volunteer* to solicit, demand, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision influencing the content of any specification, procurement standard or contract award. Prohibited actions include:
2. Kickbacks. It shall be a breach of ethical standards for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor to the prime contractor or any person associated therewith, as an inducement for the award of a subcontract or order.
3. Contingent Fees. It shall be a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure a town purchase award upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.
4. Contemporary Employment. Except as may otherwise be permitted by town Ordinance it shall be a breach of ethical standards for any employee *or volunteer* who is participating directly or indirectly in the purchasing process to become or be, while such an employee, the employee of any person or business contracting with the town.
5. Misuse of Confidential Information. It shall be a breach of ethical standards for any employee, former employee, *volunteer or former volunteer* to knowingly to use information of a confidential nature for actual or anticipated personal gain, or for the actual or anticipated personal gain of any other person.

D. Supplemental Remedies. In addition to existing remedies which may be promulgated in the town administrative code or other official policy, an employee *or volunteer* who knowingly breaches ethical standards during a public purchasing transaction may be subject to any one or more of the following (in accordance with relevant provisions of any applicable collective bargaining agreement):

1. oral or written warnings or reprimands;
2. suspension with or without pay for specified periods of time; and
3. termination of employment.
4. *suspension and or removal from the volunteer position.*

~~End of Chapter~~