



Town of Londonderry, New Hampshire

Administrative Code – Chapter 20 Ethics

SECTION 20.1 – PURPOSE

The Town of Londonderry is committed to maintaining the highest standards of ethical conduct. This Ethics and Conflict of Interest Policy for Town Employees, Elected Town Officials, Appointed Town Officials, and Volunteers establishes a unified framework for the continued expectations concerning ethical behavior of Town Employees, Elected Town Officials, Appointed Town Officials, and Volunteers. In compliance with applicable federal and state regulations, this Policy also includes provisions prohibiting lobbying activities during work and the use of Town resources for lobbying activities.

SECTION 20.2 – SCOPE

This Policy applies to all Town Employees, Elected Town Officials, Appointed Town Officials, and Volunteers acting in an official capacity for the Town. This Policy does not apply to employees, officials, or volunteers of the Leach Library or the Londonderry School District.

SECTION 20.3 – DEFINITIONS

As used in this chapter, the following terms shall have the following meanings:

CONFLICT OF INTEREST

Any situation where a private pecuniary or personal interest, as defined in this Policy, could interfere with the proper discharge of a public duty. That pecuniary or personal interest must be “immediate, definite and capable of demonstration; not remote, uncertain, contingent or speculative” (*Atherton v. Concord*, 109 N.H. 164 (1968)).

ELECTED TOWN OFFICIALS AND APPOINTED TOWN OFFICIALS

Town Councilors and members of Town Boards, Committees, and Commissions, when acting in a position other than as a member of the general public.

ELECTIONEERING

Activities intended to influence the outcome of a vote on any question or office, as defined in NH RSA 659:44-a.

LOBBYING

Actions designed to influence the decision-making process of governmental bodies, voters, or officials, including promoting or opposing legislation or administrative actions.

PECUNIARY INTEREST

Any private financial advantage (whether in the form of money, property, commercial or other interest), the primary significance of which is economic gain from the outcome of one's official actions. Financial advantage applicable to the public at large, such as reduced taxes or increased general prosperity, does not constitute a pecuniary interest, for the purpose of this Ethics Policy.

PERSONAL INTEREST

Any direct benefit or non-financial interest in the outcome of a matter when such benefit or interest could influence one's official actions. Examples of direct personal benefit include family relationships (by blood or marriage), employment relationships, and/or business relationships that would bias one's official decision-making against the public interest. Official interest as a function of one's elected or appointed position does not constitute a personal interest, for the purpose of this Ethics Policy.

RECUSAL

The act of removing oneself from participating in any official matter due to a conflict of interest.

TOWN EMPLOYEES

Individuals who work for the Town and in return are compensated pursuant to the Fair Labor Standards Act and applicable state law.

TOWN RESOURCES

Includes, but is not limited to, Town funds, real and personal property, intellectual property, computers and IT systems including emails and social media and websites, equipment, Town Employee time, and facilities.

VOLUNTEERS

Individuals who are not Town Employees, Elected Town Officials, Appointed Town Officials or independent contractors or vendors for the Town, and who perform various functions for the benefit of the Town and its operations on a strictly volunteer basis and who are not compensated in compliance with the Fair Labor Standards Act and applicable state law.

SECTION 20.4 – ETHICAL STANDARDS

All Town Employees, Elected Town Officials, Appointed Town Officials, and Volunteers are expected to:

- A. Act in the best interest of the Town and its residents.
- B. Disclose any personal or financial interests in matters affecting the Town.
- C. Recuse themselves from discussions or decisions where a conflict of interest exists.
- D. Conduct Town business transparently, fairly, impartially and with integrity.
- E. Openly conduct the public's business (unless legally confidential under RSA 91-A:3 or other applicable law, rule, or regulation), with the care, competence, and diligence appropriate to the responsibilities of public service.

SECTION 20.5 – PROHIBITED ACTIVITIES

A. Conflict of Interest

1. No Town Employee, Elected Town Official, Appointed Town Official, or Volunteer shall use their position for personal gain or allow private interests to affect their public duties.
2. Individuals must disclose conflicts of interest and abstain from related decisions or actions.

B. Electioneering and Lobbying:

1. Town Employees shall not engage in lobbying activities during work hours or use Town resources for lobbying purposes. The Town Manager may authorize Town Employees to advocate on behalf of the Town regarding matters that are germane to the Town and are not contrary to the legislative policy positions of the Town Council.
2. Lobbying includes advocating for the public to influence Town Council decisions or any other Town governmental process.
3. Town Employees are prohibited from using Town property, including but not limited to, email accounts, websites, or social media, for any lobbying or electioneering purposes.
4. **Federal Grant Restrictions:** In accordance with federal regulations, no appropriated federal funds may be used to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, grant, loan, or cooperative agreement. Conflicts of interest must be disclosed in writing to the federal DOT component in accordance with the federal award agency policy.
5. **State Grant Restrictions:** Recipients of state funds are prohibited from using such funds for lobbying activities. Organizations receiving state funding must segregate these funds from those used for lobbying purposes, ensuring physical and financial separation.

C. Use of Town Resources:

1. Town facilities, equipment, and Town Employees' time may not be used for lobbying, political advocacy, or electioneering. This provision does not prohibit the expenditure of Town funds for membership fees to professional organizations which are relevant to Town Employees' performance of their jobs, such as the NH Municipal Association, the NH Clerk's Association, the NH Fire Chiefs Association, the NH Planners Association, etc.

D. Freedom of Expression:

1. In accordance with NH RSA 98-E, public employees have the right to publicly discuss and give opinions as individuals on all matters concerning any government entity and its policies.
2. No person shall interfere with the right of freedom of speech, full criticism, or disclosure by any public employee.
3. This Policy does not suspend or affect any law relating to confidential and privileged records or communications.

SECTION 20.6 – CONFIDENTIALITY

Town Employees and Elected Town Officials and Appointed Town Officials must maintain the confidentiality of information acquired through their official duties unless disclosure is legally authorized.

SECTION 20.7 – GIFTS AND FAVORS

Town Employees and Elected Town Officials and Appointed Town Officials shall not accept gifts exceeding \$75 in value or any gift that could appear to influence their decisions or actions. Town Employees, Elected Town Officials and Appointed Town Officials shall not directly or indirectly solicit gifts, nor accept or receive any gift (whether money, services, loans, travel, entertainment, hospitality, equipment, premises or any gift in some other form), under circumstances in which it could be reasonably inferred that the gift was intended to influence them in the performance of their duties or was intended as a reward for any service, action, inaction, recommendation or decision or delay in reaching a decision on their part.

SECTION 20.8 – EDUCATION AND ACKNOWLEDGEMENT

All Town Employees, Elected Town Officials and Appointed Town Officials, and Volunteers shall receive training on this Policy and acknowledge their understanding in writing upon assuming their roles.

SECTION 20.9 – REPORTING AND ADDRESSING ETHICAL VIOLATIONS

- A. Suspected violations shall be reported to the Town Manager.
- B. The Town Manager will investigate complaints, or coordinate for the investigation of complaints, ensuring compliance with relevant state laws in accordance with the provisions of ADM-126 Complaints and Investigations Policy.
- C. Violations may result in appropriate disciplinary actions or actions to end the individual's relationship with the Town, up to and including termination of employment, removal from office or disallowance of volunteer status.

SECTION 20.10 – ADVISORY OPINIONS

Town Employees, Elected Town Officials and Appointed Town Officials may seek advisory opinions from the Town Manager regarding potential ethical concerns. The Town Manager will respond to written inquiries with written advisory opinions that shall be documented and may serve as precedents for future guidance.

SECTION 20.11 – CONFLICT OF INTEREST PROCEDURES FOR ELECTED AND APPOINTED TOWN OFFICIALS

- A. As defined by the New Hampshire Supreme Court in *Atherton v. Concord*, 109 N.N. 164 (1968), for an issue of personal gain or private interest to rise to the level of a conflict or interest, it must be ‘immediate, definite and capable of demonstration; not remote, uncertain, contingent or speculative. The procedure in the case of a conflict of interest is as follows:
1. If the Elected or Appointed Town Official recognizes a conflict of interest they shall publicly disclose the reason(s) for the conflict at the earliest possible opportunity and shall recuse themselves from any and all official activity on the matter to which the conflict pertains. When uncertainty arises as to whether an Elected or Appointed Town Official has a conflict of interest in a particular circumstance, the body shall vote on the question. Such vote shall be advisory and non-binding.
 2. If another member of the body suspects an Elected or Appointed Town Official has a potential conflict of interest, the member may request a vote and the body shall vote on the question. Such vote shall be advisory and non-binding.
 3. Any member of the public may voice an objection to an Elected or Appointed Official’s participation and shall be recognized by the Chair or the Presiding Officer of the body. The member of the public shall set forth specific reasons for the conflict of interest, and may also request such a vote, but such a request shall be non-binding. Any such request or objection shall be made either prior to or at the commencement of the body’s discussion or public hearing on that matter, or at such later time as the facts claimed to warrant disqualification first become known.
- B. In all cases where a question of conflict of interest is raised:
1. No vote on disqualification shall be taken if the body’s official steps down voluntarily.
 2. The Chair or Presiding Officer of the meeting shall ensure that the reason(s) for recusal given by the Official, the member of the body, or a member of the public are clearly stated and are recorded into the minutes of the meeting.
 - (a) Members of the Planning Board and the Zoning Board of Adjustment are further bound by the provisions of NH RSA 673:14.

SECTION 20.12 – IMPROPER USE OF OFFICE

- A. Elected and Appointed Town Officials shall not use Town letterhead or stationery for any purpose other than official Town business. Under the Town Charter, official Town business is determined by formal action of the Town Council as a body and not by individual Town Councilors. Members of Boards, Committees, and Commissions may use Town letterhead and their Town-issued email address only for purposes approved by their respective Board, Committee, or Commission.
- B. Elected and Appointed Town Officials shall not speak on behalf of their respective Council, Board, Committee, or Commission unless authorized to do so by said Council, Board, Committee, or Commission. Individual members speaking publicly shall clearly state that they are speaking only as an individual and not on behalf of the Council, Board, Committee, or Commission.
- C. No member of the Town Council, nor any member of a Board, Committee, or Commission, shall appear before his or her own public body on behalf of the private interests of third parties.

SECTION 20.13 – PROCEDURE FOR REDRESS

- A. Boards, Committees, and Commissions are expected to govern themselves. If the situation cannot be resolved at that level, it may be brought to the Town Council for resolution. Complaints shall be addressed by the Town Council in accordance with the provisions of ADM-126.
- B. The Town Council shall consider compliance with this Ethics Policy during the reappointment process for members of Boards, Committees, and Commissions.

LEGISLATIVE HISTORY

Originally adopted by the Londonderry Town Council on January 21, 2008

Revision History: September 8, 2014; September 15, 2025

Repeal of Chapter XXIX of Title I on April 6, 2026

Adoption of Chapter 20 on April 6, 2026

APPENDIX A – Federal and State Statutory & Regulatory References

1. **Federal Regulations and Law**
 - a. 29 U.S.C. § 201 et seq.: Fair Labor Standards Act
 - b. 31 U.S.C. § 1352: Limitation on use of appropriated funds to influence certain federal contracting and financial transactions.
 - c. 2 CFR § 200.450: Lobbying.
 - d. 2 CFR § 1201.112 Conflict of Interest
 - e. 45 CFR Part 93: New Restrictions on Lobbying.
2. **State Laws:**
 - a. NH RSA 640 Corrupt Practices
 - b. NH RSA 643 Abuse of Office
 - c. NH RSA 659:44-a: Electioneering by Public Employees.
 - d. RSA 673:13 Removal of Members, Local Land Use Boards
 - e. NH RSA 673:14 Disqualification of Member
 - f. NH RSA 15:5: Prohibited Activities.
 - g. NH RSA 91-A: Access to Governmental Records and Meetings
 - h. NH RSA 95:1: Public Officials Barred from Certain Private Dealings.
 - i. NH RSA 98-E: Public Employee Freedom of Expression
 - j. NH RSA 31:39-a Conflict of Interest Ordinances
 - k. NH RSA 31:41-c Electioneering
 - l. NH RSA 49-C:33, I(c) Optional Provisions; Limitations
3. **Town Charter/Code/Policy**
 - a. ADM- 126 Complaints & Investigations Policy
 - b. Town Charter, Article 6, Conduct of Officials
 - c. Town Charter, Section 6.3 Disqualification from Decision Making Process
 - d. Town Charter, Section 6.4 Private Use of Town Property and Personnel
 - e. Town Charter, Section 6.7 Misuse of Information
 - f. Town Charter, Section 6.5 Acceptance of Gifts and Gratuities
 - g. Town Charter, Section 7.6 Recall of Officeholder
 - h. Municipal Code, Title VI, Chapter XXV, Fraud Policy
 - i. Municipal Code, Title VI, Chapter VI, Section X Ethics in Public Purchasing
 - j. Town Charter, Article 4, Town Manager
 - k. Town Charter, Section 6.2 Conflicts of Interest
 - l. Town Charter, Section 3.3 B. Removal of Councilors
4. **Guidance Documents:**
 - a. EPA's Lobbying and Litigation Information for Federal Grants.
https://www.epa.gov/grants/lobbying-and-litigation-information-federal-grants-cooperative-agreements-contracts-and?utm_source=chatgpt.com
 - b. HHS's Lobbying Restrictions on Grant Recipients. [Additional Requirement 12: Lobbying Restrictions | Grants | CDC](#)
 - c. ICMA Code of Ethics [ICMA Code of Ethics | icma.org](https://www.icma.org)