

Discussion Draft – 10/23/08-Proposed
CODE OF CONDUCT AND ETHICS
TOWN OF LITTLETON, MA.

1. ENABLING AUTHORITY – MGL Chapter 268A, Section 23 (e)

A municipality may have a Code of Conduct, provided it is consistent with State law and that the Board of Selectmen, as the chief appointing officials for the Town, vote to adopt such policy.

MGL Chapter 268A, §23 (e): Nothing in this section shall preclude any ... head of such agency from establishing and enforcing additional standards of conduct.

2. PURPOSE STATEMENT

The intent of this policy is to establish a clear statement and guidelines to serve as the standard for achieving and maintaining a high level of public confidence, trust and professional respect with regard to how the Town and its officials conduct business. This policy will define and create a centralized policy with regard to conduct and ethical standards.

The Board of Selectmen recognizes the importance of professional standards at all levels of the government including those who volunteer their time and services on behalf of the Town. The Board encourages other boards and committees of the Town who are not appointed by the Selectmen to adopt this standard by reference thereby creating a **Unified Code of Conduct and Ethics for Town Officials** as a standard for expectations of public officials.

3. APPLICABILITY

This policy in all its sections shall apply to the boards, presiding officers, public officials, commissions and committees and other representatives appointed by the Board of Selectmen and those representatives appointed by the Town Administrator, more particularly defined below:

- The term “the Board” and “the Selectmen” shall apply to the Board of Selectmen
- The term “member” shall apply to those appointed by the Board of Selectmen or the Town Administrator
- The term “official” shall apply to a Board of Selectman member or a member appointed by the Board of Selectmen or Town Administrator
- The term “chair or presiding officer” shall apply to the chairperson of a committee/board/commission or the officer serving in the absence of the chair
- The term “appointing authority” shall apply to the Board of Selectmen or the Town Administrator
- All of the terms used herein including commission members, committee members, board members, representatives appointed by the Board or Town Administrator and other officials mentioned in this guideline are subject to this policy

4. CODE OF CONDUCT

These obligations and commitments shall be assumed by all members of the Board and other officials defined in the Applicability section:

- Be well informed concerning the local and state duties of a board/committee member whenever applicable
- Remember that he/she represents the Town of Littleton at all times
- Accept their position as a means of unselfish public service, not to benefit personally or professionally from his/her board/committee position
- Treat all members of the board/committee with respect despite differences of opinion; keeping in mind that professional respect does not preclude honest differences of opinion but requires respect within those differences
- Recognize that the chief function of local government at all times is to serve the best interests of all of the people
- Honor confidential information, seek no favor and believe that personal aggrandizement or profit secured by holding these positions is dishonest
- Conduct themselves so as to maintain public confidence in their local government and in their performance of the public trust
- Conduct official business in such a manner as to give the clear impression that they cannot be improperly influenced in the performance of their official duties
- Unless specifically exempted (e.g. Executive Session), conduct the business of the public in a manner that promotes open and transparent government and maintain full compliance with the Open Meeting Law (MGL Chapter 39, Section 23B)

5. CODE OF ETHICS

5.1 Purpose

This policy is issued for the purpose of ensuring that the Board and all other officials defined in the Applicability section comply with the provisions of MGL Chapter 268A, the Conflict of Interest Law, including disclosures made under Sections 19 and 23 and **more stringent policies adopted by the Board herein.**

5.2 Actual Conflict of Interest (MGL Chapter 268A)

The Board and all other officials defined in the Applicability section must understand that there may be times when actions they take could be inconsistent with Conflict of Interest laws of the Commonwealth. There may also be times when an appearance of conflict exists.

The official should be proactive in recognizing, disclosing and acting professionally; with the public trust and compliance of the laws at the forefront of their actions. It is the responsibility of each official to determine for themselves whether or not to make disclosures prior to acting on a particular matter where a conflict exists or might exist.

5.3 Procedure

- The official in question shall not participate in his/her official capacity in matters in which such participation is prohibited by the Conflict of Interest Law and the official in question shall disclose in writing the conflict of interest to their appointing authority and this disclosure shall be recorded into the minutes of the meeting
- The member shall leave the room for the duration of the discussion unless advised otherwise by Town Counsel or the State Ethics Commission
- When a conflict or appearance of conflict exists, the chair or presiding officer shall state the reason (s) for the conflict of potential conflict and will ensure that the member does not participate in the matter as a point of order
- The chair or presiding officer of the meeting shall ensure that the reasons for the conflict are clearly stated (as stated by the member in person) and this shall be recorded into the minutes of the meeting and made available for public view; if the member chooses to recuse himself from the meeting and is not present to state the reasons for recusal, then the presiding officer shall verbally enter the member's statement which will be recorded into the minutes
- The member shall re-enter the room only after the discussion has concluded and the chair or presiding officer of the meeting will state, upon re-entering the meeting by the member in question, that member has re-entered the meeting and has complied with this guideline
- This shall be repeated each time the subject in question is discussed at subsequent meetings
- All officials defined in the Applicability section should seek and adhere to advice from the Ethics Commission, their appointing authority and Town Counsel if necessary (Note: the State Ethics Commission offers free advice via phone or in writing)

5.4 Appearance of Conflict of Interest (MGL Chapter 268A, Section 23)

The Conflict of Interest Law provides that public officials and employees must avoid conduct that creates a reasonable impression that any official can improperly influence or unduly enjoy their official favor or that they are likely to act (or fail to act) because of kinship, rank, position or undue influence by any party or person.

MGL Chapter 268A, Section 23 allows public officials to act on certain matters, even if it creates the appearance of a conflict, if they openly admit all of the facts surrounding the appearance of bias prior to any official action.

MGL Chapter 268A, Section 23(b)(3):

(b) No current officer or employee of a state, county or municipal agency shall knowingly, or with reason to know:

(3) act in a manner which would cause a reasonable person, having knowledge of the relevant circumstances, to conclude that any person can improperly influence or unduly enjoy his favor in the performance of his official duties, or that he is likely to act or fail to act as a result of kinship, ran, position or undue influence of

any party or person. It shall be unreasonable to so conclude if such officer or employee has disclosed in writing to his appointing authority or, if no appointing authority exists, discloses in a manner which is public in nature, the facts which would otherwise lead to such a conclusion.

Under MGL Chapter 268A, Section 1 (definitions), an official may be classified as a “Special Municipal Employee” when such status is authorized by the Board of Selectmen. Such a status provides greater latitude for officials serving in multiple roles. However the Board’s designation of an employee as a Special Municipal Employee will not preclude the expectation that the official must and will avoid conduct which creates a reasonable impression that any official can improperly influence or unduly enjoy their official favor or that they are likely to act (or fail to act) because of financial interests, kinship, rank, position or undue influence by any party or person.

Irrespective of governing statute, the Board urges all members and officials to exercise due diligence with respect to preserving the public trust. At times, this may mean an official or member must not act or participate until the matter has been determined by Town Counsel, the State Ethics Commission or any other governing entity if applicable. That determination will also be made in writing and be made available for public view.

5.5 Procedure

- The member in question must fill out the appropriate disclosure form, available from the State Ethics Commission (www.mass.gov.ethics) or from the Town Clerk
- This form must be submitted to the appointing authority for review
- The member in question shall submit, in writing, all of the facts surrounding the potential conflict to their appointing authority
- The member in question shall not participate in the particular matter until and unless the approving authority has granted written permission specific to the disclosure and has filed a copy of such written permission with the Town Clerk
- The reason for the existence of the potential conflict, the granted permission and the compliance of these guidelines shall be stated by the member before participation and shall be verbally disclosed at the meeting and recorded into the minutes of the meeting
- This shall be repeated each time the subject in question is discussed in subsequent meetings
- It is the responsibility of the chair or presiding officer to oversee the procedure after initiation by the member in question; the chair or presiding officer shall also be responsible for ensuring that these disclosures are entered into the minutes and are appropriately filed with the Town Clerk for public view
- The Town Clerk shall maintain a separate file of disclosure statements which shall be kept available for public view

6. DISTRIBUTION AND EDUCATION

- The Town Clerk shall provide a copy of this policy to all members as defined in the Applicability section upon its issuance and upon the subsequent appointment of re-appointment of any member
- The Town Clerk shall also maintain and distribute educational materials from the State Ethics Commission to members
- The Town Clerk shall develop a schedule of training programs to educate the Board and members on the Conflict of Interest Law and this policy
- The Town Clerk shall have each member sign a statement that they have read these policies and will comply with all requirements set forth in this policy; this form shall be available for public view