

TOWN OF EDDINGTON ETHICS POLICY

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ARTICLE I

10-01 Declaration of Policy.

The proper operation of democratic government requires that the Selectmen, of Eddington Maine and their appointees be fair and impartial when acting in a quasi-judicial capacity, and be responsive to the needs of the Townspeople, people doing business with the Town and each other in the performance of their respective functions and duties; that decisions and policy be made in proper channels of the Towns governmental structure; that public office not be used for personal gain; and that Town Employees, Selectmen and Appointees maintain a standard of conduct that will inspire public confidence in the integrity of the Town's government. In recognition of these goals, an Ethics Policy is hereby established for all Selectmen, Members and Associate members of all Town Boards, and all Town Employees and Commissions now existing or hereafter created.

Accepted 11/2/99

Pamela M. Vioeltte
Pamela M. Vioeltte
Town Clerk

10-02 Definitions

ABUTTING LANDOWNER: All property owners within 500 feet of subject property lines, including property owners across roadways and bodies of water.

APPEARANCE OF A CONFLICT OF INTEREST: The appearance of a conflict of interest is where a reasonable person (rather than any particular town official or any particular person) would believe that a decision is or could be based on a financial interest.

BOARD: All statutory and nonstatutory Boards now existing or hereafter created by Town Meeting or by order or resolve by the Eddington Board of Selectmen.

BOARD MEMBER: Any person elected to membership or associate membership on a Town Board or appointed to such a Board by or under the authority of the Eddington Board of Selectmen.

BUSINESS: Any corporation, partnership, individual, sole proprietorship, joint venture, or any other legally recognized entity for the purposes of making a profit.

COMMISSION: All committees, Commissions, Boards or other public bodies now existing or hereafter created by virtue of any ordinance, order or resolve adopted by the Eddington Board of Selectmen.

COMMISSION MEMBER: Any person appointed to membership or associate membership on a Town Commission, Board or Committee by or under authority of the Eddington Board of Selectmen.

CONFIDENTIAL INFORMATION: Any information, oral or written, that comes to the attention of, or is available to, a Town Employee, Selectman, Board or Commission Member only because of his or her position with the Town and is not a record open to the public.

FINANCIAL INTEREST: A direct or indirect interest having monetary or pecuniary value, including but not limited to the ownership of shares of stock.

PERSONAL RELATIONSHIP: Any family, affectional or social relationship that is characterized by one or more of the following:

1. A relationship by blood (consanguinity) or marriage (affinity) mother, father, mother in-law, father in-law, brothers, sisters, half brothers and sisters, aunts, uncles inclusive.
2. Persons who share a physical intimacy with each other;
3. Persons who acknowledge an ongoing romantic relationship with each other;
4. Persons who live together in the same residence;
5. Persons who intermingle their financial assets without an accounting of separate ownership interests.

SPECIAL INTEREST: A direct or indirect interest having value peculiar to a certain individual or group, whether economic or otherwise, which value may accrue to that individual or group as a result of the passage or denial of any order, ordinance or resolution or the approval or disapproval thereof by the Board of Selectmen, Boards or Commissions and which interest is not shared by the public generally.

10-03 Violations and Penalties

In addition to any other penalties or remedies as provided by law, violation of this Policy shall constitute cause for censure, dismissal, removal from appointment or other disciplinary action as provided in the Town's Personnel Rules or Policies.

ARTICLE 2

20-01 Purpose

Ethics are based on the universal moral principles of honesty, integrity, promise keeping, loyalty, fairness, caring and respect for others, law abiding, pursuit of excellence and accountability.

The purpose of this Ethics Policy is to establish ethical standards of conduct for all Town Employees, Selectmen, Board and Commission Members by setting forth those acts or actions deemed to be in conflict or incompatible, or to create the appearance of conflict or incompatibility, with the best interests of the Town of Eddington.

20-02 Statutory Standards

There are certain provisions of the general statutes of the State of Maine which should, while not set forth herein, be considered an integral part of this Ethics Policy. Accordingly, the provisions of the general statutes of the State of Maine, as may be amended, are hereby incorporated by reference and made part of this Ethics Policy and shall apply to all Town Employees, Selectmen, Board and Commission Members of the Town of Eddington whenever applicable as if more fully set forth therein:

- A. 1 MRSA § 405, Executive sessions.
- B. 17 MRSA § 3104, Conflicts of interest; purchases by the State.
- C. 17-A MRSA § 456, Tampering with public records or information.
- D. 17-A MRSA § 602, Bribery in official and political matters.
- E. 17-A MRSA § 603, Improper influence.
- F. 17-A MRSA § 604, Improper compensation for past action.
- G. 17-A MRSA § 605, Improper gifts to public servants.
- H. 17-A MRSA § 606, Improper compensation for services.
- I. 17-A MRSA § 607, Purchase of public office.
- J. 17-A MRSA § 608, Official oppression.
- K. 17-A MRSA § 609, Misuse of information.

- L. 17-A MRSA § 903, Misuse of entrusted property.
- M. 21-A MRSA § 504, Persons ineligible to serve.
- N. 30-A MRSA § 2601, Appointment and term of officials.
- O. 30-A MRSA § 2605, Conflicts of interest.
- P. 30-A MRSA § 2606, Prohibited appointments.
- Q. 30-A MRSA § 2607, Neglect of official duty.
- R. 30-A MRSA § 5122, Interest of public officials, trustees or employees.
- S. 30-A MRSA § 5826, Penalties.

20-03 Conflicts of Interest

Discussion and Vote Prohibited.

No Selectman, Board or Commission Member shall, in such capacity, participate in the discussion or vote, or otherwise take part in the decision making process, on any agenda item before his or her collective body in which he or she or a person with whom he or she has a personal relationship as defined herein has any financial or special interest, other than an interest held by the public generally.

Disclosure of Conflict.

Any Selectman, Board or Commission Member who believes that he or she or a person with whom he or she has a personal relationship with as defined herein, has any financial or a special interest, other than an interest held by the public generally in any agenda item before his or her collective body shall disclose the nature and extent of such interest. The Secretary of said collective body shall make a record of such disclosure. Disclosure shall be made prior to any discussion of the agenda item. If a Selectman, Board or Commission Member is forthcoming in his or her disclosure of a conflict of interest, at that time he or she shall remove himself or herself from the Board or Commission and take a place in the Public's area. The Member will only be allowed to discuss the agenda item during Public Access or if allowed during the discussion of the agenda item by a majority vote of the remaining Board or Commission Members or by written permission by all parties concerned with the agenda item.

Any Selectman, Board or Commission Member who believes that any fellow Selectman, Board or Commission Member, or a person with whom such fellow Selectman, Board or Commission Member has a personal relationship as defined herein, who has a financial or special interest, other than an interest held by the public generally in any agenda item before his or her collective body shall disclose the nature and extent of such interest. The Secretary shall make a record of such disclosure.

Once the issue of conflict has been raised relative to an individual Selectman, Board or Commission Member and disclosure has been made as provided above, such individual's fellow Selectman, Board or Commission Members shall review the facts as disclosed to them and shall vote on whether or not such individual has a financial or special interest relating to the particular agenda item concerned. All conflict of interest questions relating to the particular agenda item shall be resolved prior to any consideration of the item concerned. If it is determined that an individual Selectman, Board or Commission Member has a conflict of interest, he or she shall remove himself

or herself from the Board or Commission and take a place in the Public's area. The Member will only be allowed to discuss the agenda item during Public Access or if allowed during the discussion of the agenda item by a majority vote of the remaining Board or Commission Members or by written permission by all parties concerned with the agenda item.

1. All votes on conflict of interest questions shall be recorded by the secretary. A majority vote shall determine the question, but a vote by a Board or Commission may later be reviewed by the full Board of Selectmen.
2. When a Board or Commission cannot act because it does not have a quorum due to disqualification of members due to conflicts of interest, the Rule of Necessity, as explicated in Appendix (A) of this policy statement, may be invoked where appropriate by the Chairman or the disqualified Member(s) of said Board or Commission.
3. Any Selectman, Board or Commission Member shall disclose and abstain from voting on issues that affect abutting landowners as defined herein.
4. Any Selectman, Board or Commission Member shall abstain when there is a significant degree of bias either for or against an applicant or claimant such that the official cannot make an impartial decision, thereby depriving the applicant or claimant of his or her due process right to a fair and objective determination.
5. Nothing herein shall be construed to prohibit any Selectman, Board or Commission Member from representing his or her personal interest by appearing before his or her collective body on any agenda item.
6. For the purposes of this section, these guidelines shall apply to the Animal Control Officer, Code Enforcement Officer and the Licensed Plumbing Inspector in a Board or Commission function.
7. Trust in government is important. An appearance of a conflict of interest should be avoided. The appearance of a conflict of interest shall be treated as a conflict.

20-04 Incompatibility of Office

No Town Employee, Selectman, Board or Commission Member shall occupy any other office, elected or appointed, in this or any other government entity when the duties of such office are incompatible with the proper discharge of his or her official duties with the Town. For purposes of this policy, the occupancy of any office elected or appointed with any other governmental entity by any Town Employee, Selectman, Board or Commission Member is hereby prohibited in the following circumstances:

- A. Where the duties of the other office make it a physical impossibility to discharge the duties of the Town position;
- B. Where one office is subordinate to the other;
- C. Where one office carries the power of removal of other;
- D. Where the occupancy of both offices is prohibited by Ordinance or by other provisions of law.

An office holder who accepts and qualifies for a second office which is incompatible with the one already held automatically causes a vacancy in the former, as if it had been resigned.

Town officials are encouraged to bring the potential for incompatibility of office to the attention of the Town Office, who would then seek an opinion from MMA or other attorneys and report to the individual concerned.

Offices and prohibitions for such are listed in Appendix (B) § 20-12 1

20-05 Use of Town Property

No Town Employee, Selectman, Board or Commission Member shall use or permit the use of any Town-owned property, to include but not limited to motor vehicles, equipment and buildings for any private purpose without permission. Nothing herein shall prohibit the use of Town buildings and equipment at rates and/or on terms as may be established. Nothing herein shall prohibit the use of Town equipment or motor vehicles by Town Employees in accordance with written policies established by Town Meeting, the Selectmen, the Town Manager or by the Department Head concerned. Nor shall this Policy be deemed to prohibit the private use of surplus Town property legally disposed of by the Town or its departments in compliance with established procedures. Any leases or rentals, of Town property or equipment, for more than 15 days should be approved by Town Meeting.

20-06 Gifts and Favors

No Town Employee, Selectman, Board or Commission Member shall accept personal favors or any thing of value, whether in the form of service, loan, thing or promise, from any person or business which to his or her knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the Town; nor shall any Town Employee, Selectmen, Board or Commission Member grant, or offer to grant, in the discharge of his or her official duties any improper favor, service or thing of value.

Gifts received from a single source during the calendar year with an aggregate value of \$50 or less are exempt.

Nothing herein shall prohibit the acceptance of gifts or favors by Town Employees, Selectmen, Board or Commission Members from members of their families or from people with whom they have personal relationship with.

Nothing herein shall prohibit the acceptance of inheritances or bequests.

20-07 Disclosure of Confidential Information

No Town Employee, Selectman, Board or Commission Member shall, without proper legal authorization, disclose confidential information concerning the property, government or affairs of the Town, nor shall he or she use such information to advance his or her financial or private interest or the financial or private interest of others. Information received and discussed during an Executive Session of the Eddington Board of Selectmen or any Town Board or Commission called pursuant to 1 MRSA § 405 et seq. shall be considered within the constraints of this section and shall not be disclosed to any third party unless permitted by affirmative vote of such body.

20-08 Political Activities

No Town Employee, Selectman, Board or Commission Member, may use his or her official authority or position for the purposes of influencing or interfering with or affecting the results of any election or vote, nor shall he or she distribute pamphlets or handouts or handbills while performing his or her official duties as a Town Employee, Selectman, Board or Commission Member. No Town Employee, Selectman, Board or Commission Member shall participate in any political activity which would be in conflict or incompatible with the performance of his or her official function and duties for the Town.

Nothing herein shall be construed to prohibit Town Employees, Selectmen, Board or Commission Members from participating in the political process in their private capacity as candidates for elected office or as private citizens.

20-09 Contracts, Purchases and Employment

No Town Employee, Selectman, Board or Commission Member shall participate directly by means of deliberation, approval, disapproval or recommendation in the purchase of goods and services for the Town, or the award of any contracts with the Town, except as permitted under the Town's purchasing criteria and under the laws of the State of Maine, where to his or her knowledge there is a financial or special interest, other than that held by the public generally, in such purchase or award, held by:

1. That individual or a person with whom that individual has a personal relationship as defined herein;
2. A business in which that individual, or a person with whom that individual has a personal relationship, serves as an officer, director, trustee, partner, or employee in a supervisory or management position.

20-10 Meeting Attendance

Meetings are scheduled on a routine or special need basis. Board or Commission Members or Appointees who have been elected, appointed or hired to attend to the business of the Townspeople of Eddington are needed to be in attendance at their respective Board or Commission functions.

An Elected Official or an Appointee who fails to attend three consecutive meetings or six meetings in one year, excused or not excused (the year beginning with the first meeting after Town Meeting) shall have his or her attendance history reviewed by the Board of Selectmen. The review will be held in compliance with 1 MRSA § 405. Failure to attend scheduled meetings shall be considered proper grounds for removal from an appointment.

1. If there is an absence at a Board or Commission meeting, the Board or Commission Members present will vote, during Roll Call, to determine if the Member that is absent is to be excused or not. The results of the vote shall be entered into the minutes.

Appendix A

Rule of Necessity

If a Member of a Town Board or Committee has a conflict of interest, that Member will be disqualified from acting on that Board matter. In some cases, especially when more than one Member is disqualified, a Board cannot act because it does not have a quorum or some other number of Members required to take a valid affirmative vote. In these instances, the Board can use what is called a Rule of Necessity to permit the participation of the disqualified Members in order to allow the Board to act.

The Rule of Necessity works in the following way:

1. It can only be used if a Board is unable to act on a matter because it lacks the number of Members required to take a valid official vote, solely because members are disqualified from acting.
2. The Rule of Necessity should be invoked by one or more of the otherwise disqualified Members, upon advice from the Town attorney, a legal services staff attorney or the Maine Municipal Association. It may be necessary for the particular matter of business to be tabled until a legal opinion on the conflict has been given.
3. If it is proper for the Rule of Necessity to be used, it should be clearly indicated in the minutes of the meeting that the Board was unable to obtain a quorum due to disqualification of Members and as a last resort, that all those disqualified may now participate under the authority of the Rule of Necessity. Each disqualified Member who wishes to participate under the Rule of Necessity must first disclose publicly the facts that created the conflict.

It should be noted, however, that invoking the Rule of Necessity does not require all previously disqualified Members to participate; it merely permits their participation. The Rule of Necessity may only be used as a last resort.

4. Every effort must be made to find another Board capable under the law of acting in place of the Board that could not obtain a quorum.

EXAMPLE: A five Member Board has a meeting and all Members are present. Three of the five Members have conflicts. Three Members are the quorum necessary for a decision. The two Members without conflicts do not make a quorum. The Board cannot act. The Rule of Necessity will permit all Members to participate.

EXAMPLE: A five Member Board has a meeting and four members are present (one member is sick at home). Two of the four members have conflicts. A quorum is three. The one member who is sick at home does not have a conflict. The Rule of Necessity may not be used because there is a quorum of the board which is able to act. Because one member of that quorum is absent does not permit the use of the Rule of Necessity.

EXAMPLE: A five Member Board has a meeting and all members are present. One member has a conflict and is disqualified. The vote is a two to two tie. The Rule of Necessity may not be used to break the tie. In general, a tie vote defeats the question being voted on.

EXAMPLE: A five Member Board has a meeting and all members are present. A quorum is three. However, one agenda item requires four vote, rather than the usual simple majority, for an affirmative decision. Two of the four have conflicts. Although a quorum is available, the required four votes needed for this particular matter cannot be obtained without the participation of one or both of the members who have conflicts. The Rule of Necessity may me invoked and all five of the board members could participate.

2. The Secretary of each respective Board or Commission will be responsible for maintaining an accurate meeting attendance report. The report shall indicate whether the absent member is excused or not.
3. Excused absences:
 - A. Medical problems or illness.
 - B. Family emergencies.
 - C. Scheduling conflict with other Town responsibilities.
 - D. Inclement weather.
 - E. Funerals.
 - F. Extra work hours as required by the Members employer.
 - G. Vacations.
 - H. Jury Duty.
 - I. Military Duty.
4. If a Member of a Board or Commission is unable to attend his or her scheduled meeting the member should notify the Town Office prior to the meeting. A "no call, no show" shall be considered an unexcused absence.
5. The Town Manager shall prepare an Annual Attendance Report for standing Boards or Commissions showing the Members attendance and excused and unexcused absences since the last Town Meeting. This report will be published in the Annual Report of the Municipal Officers.

Appendix B

Incompatible Office

Selectmen are prohibited from holding the following offices:

Ballot Clerks	Town Clerk	Code Enforcement Officer
Animal Control	Police Officer	Deputy Fire Chief
County Commissioner	Fire Chief	Tax Collector
Building Inspector	Treasurer	Planning Board
Town Manager	Constable	

School Committee Member or SAD Director.
Road Commissioner (The Board of Selectmen May act as a Board of Road Commissioners).

Assessors are prohibited from holding the following offices:

County Commissioner	Treasurer
Tax Collector	School Committee Member

Clerks are prohibited from holding the following offices:

Selectman	Moderator	Animal Control Officer
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The Town Manager is prohibited from holding the following offices, (30-A MRSA § 2632):

Selectman	Member of a School Committee
Moderator	

Moderator are prohibited from holding the following offices,(30-A MRSA § 2528 (8)):
Election Officer Clerk

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