

TOWN OF LEBANON, MAINE

CONFLICT OF INTEREST POLICY

Article 1. Purpose. The purpose of this policy is to ensure that the business of this municipality will be conducted in such a way that no public official of the municipality will gain a personal or financial advantage from his or her work for the municipality and so that the public trust in municipal officials will be preserved. It is also the intent of this policy to insure that all decisions made by municipal officials are based on the best interest of the community at large.

Article 2. Definitions. For the purposes of this policy, the following definitions shall apply:

A. **Conflict of interest** means any of the following:

1. A direct or indirect personal interest of a public officer including serving on a committee, department or agency of the Town of Lebanon, his or her spouse, household member, child, stepchild, parent, grandparent, grandchild, sibling, aunt or uncle, brother or sister in law, business associate, employer or employee, civil union partner, in the outcome of a cause, proceeding, application or any other matter pending before the officer or before the public body in which he or she holds office, volunteers or is employed;
2. A direct or indirect financial interest of a public officer, including serving on a committee, department or agency of the Town of Lebanon, his or her spouse, household member, child, stepchild, parent, grandparent, grandchild, sibling, aunt or uncle, brother or sister in law, business associate, employer or employee, civil union partner, in the outcome of a cause, proceeding, application or any other matter pending before the officer or before the public body in which he or she holds office volunteers or is employed;
3. A situation where a public officer has publicly displayed a prejudgment of the merits of a particular quasi-judicial proceeding before the board. This shall not apply to a member's particular political views or general opinion on a given issue; and
4. A situation where a public officer has not disclosed ex parte communications with a party in a proceeding before the board.

B. **Emergency** means an imminent threat or peril to the public health, safety or welfare.

C. **Official act or action** means any legislative, financial, administrative or judicial act performed by any elected or appointed officer or employee or committee member while acting on behalf of the municipality.

D. **Public body** means any board, council, department, commission or committee of the municipality.

- E. **Public interest** means an interest of the community as a whole, conferred generally upon all residents of the municipality.
- F. **Public officer** or **public official** means a person elected or appointed to perform executive, financial, administrative, legislative or quasi-judicial functions for the municipality.

Article 3. Disqualification.

- A. A public officer, public official, volunteer or employee of the Town of Lebanon shall not participate in any official action if he or she has a conflict of interest in the matter under consideration.
- B. A public officer, public official, volunteer or employee of the Town of Lebanon shall not personally, or through any member of his or her household, business associate, employer or employee, represent, appear for, or negotiate in a **private** capacity on behalf of any person or organization in a cause, proceeding, application or other matter pending before the public body in which the officer holds office or is employed.
- C. In the case of a public officer, public official, volunteer or employee of the Town of Lebanon who is an appointee, the Board of Selectmen whom appointed that public officer shall have the authority to order that officer to recuse him or herself from the matter.
- D. The conduct of public business shall be free of any influence arising from gifts, favors, or special privileges. A public officer, public official, volunteer or employee of the Town of Lebanon shall not accept gifts or other offerings for personal gain by virtue of their public office that are not available to the public in general.
- E. A public officer, public official, volunteer or employee of the Town of Lebanon shall not use resources not available to the general public, including but not limited to town staff time, equipment, supplies, or facilities for private gain.

Article 4. Disclosure. A public officer, public official, volunteer or employee of the Town of Lebanon who has reason to believe that he or she has or may have a conflict of interest but believes that he or she is able to act fairly, objectively and in the public interest in spite of the conflict of interest shall, prior to participating in any official action on the matter disclose to the public body at a public hearing the matter under consideration, the nature of the potential conflict of interest and why he or she believes that he or she is able to act in the matter fairly, objectively and in the public interest. Nevertheless, the person or public body which appointed that public officer retains the authority to order that officer to recuse him or herself from the matter, subject to applicable law.

In the case of a public officer, public official, volunteer or employee of the Town of Lebanon who is an elected member of a board, commission or other body, the Board of Selectmen shall decide if a member of a committee, board or other commission has a interest in the matter being discussed and a conflict of interest.

Article 5. Recusal.

- A. A public officer shall recuse him or herself from any matter in which he or she has a conflict of interest, pursuant to the following:
1. Any person may request that a member recuse him or herself due to a conflict of interest. Such request shall not constitute a requirement that the member recuse him or herself;
 2. A public officer, public official, volunteer or employee of the Town of Lebanon who has recused him or herself from a proceeding shall not deliberate with the board, or participate in that proceeding as a board member in any capacity;
 3. If a previously unknown conflict is discovered, the Board of Selectmen may take evidence pertaining to the conflict and, if appropriate, adjourn to a short deliberative session to address the conflict; and
 4. The Board of Selectmen may adjourn the proceedings to a time certain if, after a recusal, it may not be possible to take action through the concurrence of a majority of the board. The board may then resume the proceeding with sufficient members present.

In the case of a public officer who is an appointee, the public body which appointed that public officer shall have the authority to order that officer to recuse him or herself from the matter, subject to applicable law.

Article 6. Enforcement; Progressive Consequences for Failure to Follow the Conflict of Interest Procedures. In cases where the conflict of interest procedures in Articles 4 and 5 have not been followed, the Board of Selectmen may take progressive action to discipline an offending public officer. In the discipline of a public officer, the board shall follow these steps in order:

- A. The Board of Selectmen shall meet informally, in private, with the public officer to discuss possible conflict of interest violation.
- B. The board may meet to discuss the conduct of the public officer. Executive session may be used for such discussion, in accordance with Maine State Law. The public officer may request that this meeting occur in public. If appropriate, the board may admonish the offending public officer in private.
- C. If the board decides that further action is warranted, the board may admonish the offending public officer at an open meeting and reflect this action in the minutes of

the meeting. The public officer shall be given the opportunity to respond to the admonishment.

D. Upon unanimous vote of the Board of Selectmen, the board may request that the offending public officer resign from the board.

Article 7. Fair and Impartial Hearings. Every citizen, where entitled to a hearing, shall receive a fair and impartial hearing on any matter coming before any Town board, committee or commission or any employee of the Town of Lebanon. No public officer, public official, volunteer or employee of the Town of Lebanon shall make any promise or pledge to any person concerning any matter to be heard before a public officer, public official, volunteer or employee of the Town of Lebanon except upon fair, impartial and final hearing thereof.

Article 8. Confidential Information. The use of public trust for private gain is in conflict with good government. No public officer, public official, volunteer or employee of the Town of Lebanon shall use confidential or advance information obtained by virtue of public office, appointment or employment for personal or financial advantage.

Article 9. Exception. The recusal provisions of Article 5 shall not apply if the Board of Selectmen of the Town of Lebanon determines that an emergency exists and that actions of the public body otherwise could not take place. In such cases, a public officer who has reason to believe he or she has a conflict of interest shall disclose such conflict as provided in Article 4.

Article 10. Effective Date. This policy shall become effective immediately upon its adoption by the Lebanon Board of Selectmen.

Article 11. Severability. If any section of this policy is held by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part of this policy.

Signatures: _____
Judith A. Churchard, Chairperson

Robert Frizzell, Vice-Chairperson

Jason A. Cole, Selectman

Date: April 7, 2009