

TOWN OF AMESBURY

IN THE YEAR TWO THOUSAND TWO

Sponsored by **David T. Hildt, Mayor**
Councilors Roger Benson, Leonard Johnson

An Act to Establish a Code of Ethics

WHEREAS, the Mayor and Municipal Council believe that the orderly processes of government require that a Code of Ethics be established forthwith;
NOW THEREFORE, Be it enacted by the Municipal Council assembled, and by the authority of the same as follows:

SECTION ONE: CODE OF ETHICS FOR THE TOWN OF AMESBURY OFFICIALS

A. Preamble

The public judges its government by the way public officials and employees conduct themselves in the posts to which they are elected or appointed.

The people have a right to expect that every public official and employee will conduct himself/herself in a manner that will tend to preserve public confidence in and respect for the government he/she represents.

Such confidence and respect can best be promoted if every public official and employee, whether paid or unpaid, and whether elected or appointed, will uniformly (a) treat all citizens with courtesy, impartiality, fairness and equality under the law; and (b) avoid both actual and potential conflicts between their private self-interest and the public interest.

B. Definitions

The terms used in this act are hereby defined as follows:

- 1) *Official or Employee:* Any person elected or appointed to, or employed or retained by, any public office of any public body of the Town of Amesbury, whether paid or unpaid, and whether full or part-time. For the purposes of this ordinance, any reference to an "Official" or an "Employee" shall include both officials and employees.
- 2) *Public Body:* Any Agency, Board, Body, Commission, Committee, Department, or office of the Town.
- 3) *Financial/Personal Interest:* Except as permitted by MGL 268A and section E of this Ordinance, a municipal employee who participates as such an employee in a particular matter in which to his/her knowledge, his/her immediate family or partner, a business organization in which he/she is serving as officer, director, trustee, partner, or employee, or any person or organization with whom he/she is negotiating or has any arrangement concerning prospective employment, has a financial interest, shall be punished in accordance with MGL 268A and section 6 of this Ordinance.
- 4) *Immediate family:* The employee and his spouse/partner, and their parents, children, brothers and sisters.

C. Fair and Equal Treatment

No official or employee shall grant or make available to any person any consideration, treatment, advantage, or favor beyond that which it is the general practice to grant or make available to the public at large.

No official or employee shall request, use or permit the use of any publicly owned or publicly supported property, vehicle, equipment, labor, or service for the personal convenience or the private advantage of himself/herself or any other person. This rule shall not be deemed to prohibit an official or employee from requesting, using or permitting the use of such publicly owned or publicly supported property, vehicle, equipment, material, labor or service which it is the general practice to make available to the public at large or which is provided as a matter of stated public policy for the use of officials and employees in the conduct of official business.

D. Conflict of Interest

No official or employee, either on his/her own behalf or any immediate family member shall have any personal interest in any business or transaction with any public body unless he/she shall first make full public disclosure of the nature and extent of such interest in writing to the Town Clerk or stated in the public meeting. Under no circumstances will participation be allowed if the said individual has a financial interest.

E. Disclosure and Disqualifications

Whenever the performance of his/her official duties shall require any official or employee to deliberate and vote on any matter involving his/her financial or personal interest, he/she shall publicly disclose the nature and extent of such interest in writing to the Town Clerk and disqualify himself/herself from participating in the deliberation as well as the voting with the following exceptions:

*An appointing authority may exempt an official or employee's interest from the prohibitions of this Ordinance, and allow that employee to participate.

*Further, employees with a conflict of interest may nevertheless participate when the particular matter involves a determination of general policy and the interest of the municipal employee or members of his or her immediate family is shared with a substantial segment of the population of the municipality.

*If it is impossible for a board to meet a quorum requirement due to conflicts, the "Rule of Necessity" may be invoked, and all members may thereafter participate in the matter at issue. The "Rule of Necessity" allows a member to participate with conflicts as long as it is invoked to meet a quorum.

F. Representation of Private Persons

No official or employee shall, for compensation, appear on behalf of any private person, other than himself/herself, before any public body in the Town, with the following exceptions:

*A municipal employee may take uncompensated action, not inconsistent with the faithful performance of his duties, to aid or assist any person who is the subject of disciplinary or other personnel administration proceedings with respect to those proceedings.

*A municipal employee, including a special employee, may act, with or without compensation, as agent or attorney for or otherwise aid or assist members of his immediate family or any person for whom he is serving as guardian, executor, administrator, trustee or other personal fiduciary except in those matters in which he has participated or which are the subject of his official responsibility; provided, that the official responsible for appointment to his position approves.

*A municipal employee may also apply on behalf of anyone for a building, electrical, wiring, plumbing, gas fitting or septic system permit, and may receive compensation in relation to any such permit, unless such employee is employed by or provides services to the permit-granting agency or an agency that regulates the activities of the permit-granting agency.

*A “special” municipal employee, as that term is defined in the Conflict of Interest Law, is only prohibited from appearing before his or her own board.

F-2. Special Municipal Employees

All “special municipal employees” designations made pursuant to the Massachusetts Conflict of Interest Law prior to the effective date of this Ordinance shall be rescinded as of the effective date of this ordinance. Upon approval of this Ordinance, the Town Clerk shall mail a copy of this Ordinance to the State Ethics Commission, together with a notice that this Ordinance rescinds all previously approved “special municipal employee” designations.

A list of positions designated, as having “special municipal employee” status shall be maintained as part of this Ordinance, in this section. All designation will remain until further action is taken to re-classify the position as not needing “special municipal employee” status.

The Town Clerk shall timely provide the State Ethics Commission with a copy of the vote certification for any designation of “special municipal employee.”

G. Enforcement

Any conduct in violation of this Code shall be addressed by the Town Clerk, and subject to the penalties in section six.

SECTION TWO: GIFTS

The provisions of Massachusetts General Laws Chapter 268 A shall be the Town’s governing policy with respect to gifts. Generally there is a limit of \$50.00 per calendar year.

2A)—REPORTING

All officials and employees who are candidates for municipal office in Amesbury shall publicly report all campaign contributions of \$50.00 or more, including monetary and in-kind contributions. Such reports shall disclose the full name, residential address, occupation, and employer of each person who has made a contribution, together with the amount of such contribution. Such reports shall be made on the forms prescribed by the Director of the Office of Campaign and Political Finance, pursuant to MGL c55,s18 and shall be filed with the Town Clerk prior to the deadlines established under MGLc55.

SECTION THREE: USE OR DISCLOSURE OF CONFIDENTIAL INFORMATION

No current or former municipal official shall improperly disclose material or data within the exemptions of the definition of public records as defined by Massachusetts General Laws Chapter 4 Section 7, and were acquired by him/her in the course of his/her official duties, nor use such information to further his/her personal interest.

SECTION FOUR: INTEREST IN TOWN BUSINESS

Massachusetts General Law Chapter 268A section 20 shall be the Town of Amesbury's governing policy as to any public official's business in town business.

SECTION FIVE: EMPLOYMENT OF RELATIVES

The Town's policy regarding the employment of relatives is outlined in Section 2G of the Town's Personnel Policies and Procedures Ordinance.

SECTION SIX: PENALTIES

(a) Any employee or official who violates this Ordinance shall be subject to the appropriate discipline by the appointing authority including suspension, termination or censure, consistent with any requirements of the state civil service law and the Town Charter, as well as to civil or criminal prosecution under any applicable state laws.

(b) Any permit, license, ruling, determination or other official action taken in violation of this Ordinance, or the Conflict of Interest Law shall be grounds for avoiding, rescinding or canceling the action on such terms as the interest of the Town of Amesbury or innocent third persons require.

(c) A violation of this Ordinance shall be punishable by a fine of not more than three hundred dollars (\$300) per offense, in addition to any fines imposed under Chapter 268A, section 19 of the Massachusetts General Laws.

SECTION SEVEN: POST-EMPLOYMENT RESTRICTIONS

Massachusetts General Law Chapter 268A section 18 shall be the policy for the Town of Amesbury governing post-employment restrictions.

SECTION EIGHT: OTHER REMEDIES

The Town or any Town agency may maintain an action for an accounting for any economic benefit received by any person in violation of this Ordinance or other law, and may recover damages for violation of this Ordinance.

SECTION NINE: DISTRIBUTION OF CODE

The Town Clerk shall make available a copy of the Code of Ethics to any member of the public who wishes to have a copy as well as all candidates seeking public office. The Town Clerk shall distribute a copy to each elected and appointed official. The Mayor shall cause a copy of this Code of Ethics to be distributed to all other employees of the Town, and to new employees within (30) days of their date of hire. The Mayor shall make a copy available on the Town website.