

TOWN OF SANGERVILLE

CODE OF ETHICS POLICY

Section 1. Declaration of Policy.

The proper operation of democratic government requires that the Board of Selectmen and their appointees be fair, impartial and responsive to the needs of the people and each other in the performance of their respective functions and duties; that decisions and policy be made in proper channels of the Town's governmental structure; that public office not be used for personal gain; and that such Selectmen and their appointees maintain a standard of conduct that will inspire public confidence in the integrity of the Town's government. In recognition of these goals, a Code of Ethics is hereby established for all Board of Selectmen and all members and associate members of any Board or Committee appointed by the Board of Selectmen or elected by the Town and all employees of the Town. This Code of Ethics is not intended to deny Board members, nor Board or Committee members, nor employees of their constitutional rights nor violate their civil rights.

Section 2. Definitions.

As used in this Policy, the following terms shall have the meanings indicated.

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

Censure: A judgment or resolution condemning a person for misconduct.

Confidential Information: Any information, whether oral, written, digital or electronic, which comes to the attention of, or is available to, a Town Official only because of his or her position with the Town and which is not a matter of public record. Information received or discussed during an executive session called pursuant to 1 M.R.S. §405 shall be considered confidential information, and shall not be disclosed to any third party unless permitted by affirmative vote of the body which held the executive session.

Board Appointee: Any sworn member or associate member of any board or committee appointed by the Board of Selectmen, including but not limited to appointed Board members, Committee members, and Commission members.

Financial Interest: a direct or indirect interest having monetary or pecuniary value, including but not limited to the ownership of stock.

Immediate Family – Spouse, children, parents, brothers, and sisters. This includes family members related by marriage, adoption or co-habitation.

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 such individual or group as a result of the passage or denial of any order, Policy or resolution, or the approval, approval with conditions or denial of any application by the Town Official or Town Employees, and which

interest is not shared by the general public.

Board of Selectmen: Sworn member of the Board of Selectmen

Town Employee: Any individual working for, on a permanent or temporary basis, and drawing a salary, wages or stipend from the Town. The term "Town Employee" shall not include consultants or professional personnel providing services to the Town as independent contractors under a written professional services contract or other similar engagement.

Town Official: A member of the Board of Selectmen or a member of any appointed committee, board or commission of the Board of Selectmen or elected by the Town.

Sec 3. Standards of Conduct.

The purpose of this Code of Ethics is to establish standards of conduct for all Town Officials and Town Employees 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.

3.1 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 Policy. Accordingly, the provisions of the following sections of the general statutes of the State of Maine, as may be amended, are hereby incorporated by reference and made a part of this Code of Ethics, and shall apply to all Town Official or Town Employees whenever applicable, as if more fully set forth herein, to wit:

- 17 MRSA §3104 Conflicts of Interest; Purchases by the State
- 17-A MRSA §456 Tampering with Public Records or Information
- 17-A MRSA §602 Bribery in Office with Political Matters
- 17-A MRSA §603 Improper Influence
- 17-A MRSA §604 Improper Compensation for Past Action
- 17-A MRSA §605 Improper Gifts to Public Servants
- 17-A MRSA §606 Improper Compensation for Services
- 17-A MRSA §607 Purchase of Public Office
- 17-A MRSA §608 Official Oppression
- 17-A MRSA §609 Misuse of Information
- 17-A MRSA §903 Misuse of Entrusted Property
- 21-A MRSA §504 Persons Ineligible to Serve
- 30-A MRSA §2605 Conflicts of Interest
- 30-A MRSA §5122 Interest of Public Officials, Trustees of Employees

3.2 Disclosure of Confidential Information: No Town Official or Town Employee shall, without proper legal authorization, disclose confidential information concerning the property, employees or applicants for employment, government or affairs of the Town, nor shall he or she use such information to advance the financial or private interest of him or herself or others. Information received and discussed during an executive session of the Board of Selectmen or any Town Board, Committee, or Commission pursuant to 1 M.R.S. §405 shall be considered within the constraints of this subsection, and shall not be disclosed to any third party unless permitted by affirmative vote of such body.

3.3 Gifts and Favors: No Town Official or Town Employee shall solicit or accept any gift, favor or 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 Official or Town Employee: 1) solicit or accept any gift, favor or thing of value that tends to influence that individual in the discharge of his or her official duties or 2) solicit or grant in the discharge of his or her official duties any improper favor, service or thing of value. The foregoing is not intended to prohibit normal social practices where gifts from friends, associates, and relatives are appropriate for certain occasions.

3.4 Use of Town Property: No Town Official or Town Employee shall use, or permit the use of, any Town-owned property including, but not limited to, motor vehicles, equipment and buildings, for any private purposes. Nothing herein shall prohibit the use of Town buildings and equipment at rates and/or on terms as may be established for the public at large.

3.5 Conflicts of Interest.

A. Deliberation and Vote Prohibited

1. No Town Official or Town Employee shall participate directly or indirectly by means of deliberation, voting, approval or disapproval, or recommendation, or otherwise take part in the decision making process, on any agenda item before the body of which he or she is a member if he or she, or a member of his or her immediate family, has a financial or special interest, other than that possessed by the public generally, in such purchase, award, or approval, held by:

a. The Town Official or Town Employee, or a member of their immediate family; or

b. A business in which the Town Official or Town Employee, or a member of their immediate family, serves as an officer, director, trustee, partner or employee in a supervisory or management position; or

c. Any other person or business with whom the Board of Selectmen, or Board Appointee, or a member of their immediate family, are in business or are negotiating, or have an arrangement concerning future employment.

2. No Town Official or Town Employee shall participate directly or indirectly by means of deliberation, approval or disapproval, or recommendation of an application, purchase, contract, or other legal matter, or in the decision to hire, promote, discipline, lay off or to take any other personnel action in respect to any applicant for employment or employee, where said applicant or employee is:

a. A member of their immediate family; or

b. A person with whom either the Town Official or Town Employee, or his or her immediate family, are in business.

B. Disclosure of Conflict. Any Town Official or Town Employee who believes he or she, or a member of his or her immediate family, has a financial or special interest, other than an interest held by the public generally, in any agenda item before the body on which he or she serves shall disclose the nature and extent of such interest, and the appropriate board or committee chair shall make a record of such disclosure. Such disclosure shall be made no later than the date of the first meeting of the Board of Selectmen, Committee, Board, or Commission at which the agenda item concerned is to be taken up for consideration, recommendation, discussion or vote and at which the Town Official or Town Employee is present. Additionally, any Town Official or Town Employee who believes that any fellow Town Official or Town Employee, or a member of such fellow Board of Selectmen's or Board Appointee's immediate family, 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 agenda item before his or her collective body shall disclose the nature and extent of such interest, and the Town Clerk or his or her designee shall make a record of such disclosure.

C. Determination of Conflict. In the event that a conflict has been raised relative to an individual Town Official or Town Employee, and disclosure has been made as described above, such individual's fellow Town Official or Town Employees shall review the facts as disclosed to them and shall vote on whether or not such individual has a financial or special interest with respect to the agenda item concerned. All conflict of interest questions relating to a particular agenda item shall be resolved prior to any consideration of the item concerned, and each Town Official or Town Employee present shall be entitled to vote on all conflict of interest questions except those questions pertaining to that individual Town Official's or Town alleged conflict of interest.

1. All votes of conflicts of interest questions shall be recorded. A majority vote shall determine the question; but a vote by Boards, Committees, and Commissions may later be reviewed by Board of Selectmen upon the Board of Selectmen's consideration of the same agenda item.

2. Upon determination that a conflict of interest in fact exists, the Town Official or Town Employee concerned shall be excused from participating in discussion, deliberation or vote on the relevant agenda item.

3. In lieu of the vote required by this subsection, the Board of Selectmen, upon motion and by majority vote may refer the conflict of interest question to the Town Attorney for a legal opinion, or may table its consideration of the relevant agenda item. In the event a majority of the Board of Selectmen, Board, or Commission concerned, or Committee thereof, shall require disclosure of further information not immediately available, or shall require confirmation of the information disclosed, consideration of the relevant agenda item shall be postponed to an appropriate time.

D. Avoidance of Appearance of Conflict: To avoid the appearance of a violation of this Section, once any individual Board of Selectmen, Town Employee, committee member, board member or commission member is determined to have a conflict of interest in respect to any agenda item and once all conflicts of interest questions relating to the agenda item

concerned have been determined as provided in Subsection C above, said individual shall not participate in any discussion or vote on the issue. Nothing herein shall require an individual selectman, committee member, town employee, board member or commission member to remove himself or herself for any item contained on a consent agenda on which there is no deliberation, the individual's conflict has been determined by other members and the right to abstain from voting on the item has been granted.

E. Personal Interest. Nothing herein shall be construed to prohibit any Town Official or Town Employee from representing his or her own personal interest by appearing before his or her collective body on any such agenda item, as long as the representation occurs in the area of the meeting room occupied by applicants or members of the general public.

F. Disclosure Statement. By no later than January 15th of each year, or within fifteen (15) days of being sworn in for a Board of Selectmen elected at a special election to fill a vacancy, every Board of Selectmen shall file a completed disclosure form with the Town Clerk. Within thirty (30) days after his or her appointment, every Board Appointee shall file a completed disclosure form with the Town Clerk. Such forms shall be under oath and shall contain the following information to the best of the disclosing party's knowledge and belief:

1. The name of each person or entity whether incorporated or not, doing business with the Town in an amount in excess of \$1000 during the preceding calendar year from which such disclosing party or member of his immediate family has received money or other thing of value in an amount in excess of \$1000 during the preceding fiscal year, including, but not limited to campaign contributions, where applicable.

2. The name of each entity, whether incorporated or not, doing business with the Town in an amount in excess of \$1000 for the preceding calendar year in which such disclosing party or member of his/her immediate family has a financial interest in an amount in excess of \$1000, including, but not limited to, the ownership of shares of stock.

3. The name of each nonprofit and/or for profit entity, whether incorporated or not, for which such disclosing party or member of his/her immediate family holds a position of officer or member of any board which does business or may potentially do business with the Town. For such entity, such disclosing party shall provide the following information:

- a. A brief description of the purpose of each board and/or office;
- b. A short summary of such disclosing party's or family member's duties relative to any such board and/or office;
- c. The term of service on each such board and/or office; and
- d. Whether or not such disclosing party or family member receives compensation for service on such board and/or office and the extent to which such compensation exceeds \$100 in the aggregate annually.

For purposes of this section "compensation" shall include, but not be limited to, monetary compensation, gifts, gratuities, perks, fringe benefits, services and any other thing of value.

4. Every Town Official or Town Employee shall amend his or her annual disclosure statement as may be required from time to time to ensure the continued accuracy thereof. Each amendment shall be made within fifteen days following the occurrence which requires the amendment.

Sec 4. Political Activities.

No Town Employee, Town Official or Town Employee shall participate in any political activity which would be in conflict or incompatible with the performance of his or her official functions and duties of the Town. In conjunction therewith, no Town Official or Town Employee may use his or her official authority or position for the purposes of influencing or interfering with or affecting the results of any election for public office, nor shall he or she solicit funds or contributions or accept or receive funds or contributions from Town Employees for political purposes. No Town Official or Town Employee may distribute handbills or pamphlets while he or she is performing official functions or duties on behalf of the Town, unless such distribution has been authorized by the body of which he or she is a member. Nothing herein shall be construed to prohibit any Town Official or Town Employee from participating in the political process in their private capacity as candidates for elected office or as private citizens.

Sec 5. Incompatible Employment or Office.

5.1 No Town Official or Town Employee shall occupy any other office, elected or appointed, in another governmental 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 section, the occupancy of any office, elected or appointed, with any other governmental entity by any Town Official or Town Employee 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; or
- B. Where one office is subordinate to the other; or
- C. Where one office carries the power of removal of the other; or
- D. Where the occupancy of both offices is prohibited by provisions of law.

5.2 No Town Official or Town Employee shall be eligible to serve on a Town Board or Committee who has ever been convicted of a crime against the municipality

Sec 6. Violations of Ethical Standards by Selectmen.

When any Selectman believes there has been a breach of the ethical standards set forth herein by another Board of Selectmen, he or she may ask to enter into executive session pursuant to 1

M.R.S. §405 for purposes of informal discussion of and resolution of an ethical issue. During such session, the Selectman shall specify which area(s) of this Policy he or she feels have been breached and by whom. After discussion among all Selectmen, the Board of Selectmen shall leave executive session, and may proceed with formal action only by majority vote of the Selectmen not alleged to have breached the ethical standards.

A. Based on information provided in said executive session, the Town Attorney shall provide the Board with an opinion on whether the cited matter(s) constitute a violation of this Policy.

B. All procedures under this section shall be in accord with due process requirements, including, but not limited to, a right to notice and hearing.

C. The Board may elect to give written warning in lieu of any other remedy or civil penalty available under this Policy or any other law or Policy.

Sec 7. Ethics in Contracting.

The provisions of this Section shall apply to all persons doing business with the Town as vendors, suppliers and contractors submitting bids or proposals in response to a Town solicitation or advertisement.

7.1 Gratuities and Kickbacks

A. **Gratuities.** It shall be a violation of this Policy for any person to offer, give, or agree to give any Town Official or Town Employee a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, or award pertaining to a Town purchase order, contract, construction contract, or professional services contract, or with respect to any solicitation, advertisement, request for bids, request for proposals, or any bid, proposal, or other response thereto.

B. **Kickbacks.** It shall be a violation of this Policy for any person to solicit, offer, give, accept, or receive any undisclosed gratuity or offer of employment in connection with the award or potential award of any subcontract or contract modification or change order under a Town contract for construction, procurement or professional services. To be valid, any disclosure under this paragraph must be made in writing to the Town Manager prior to the date of opening of any proposals or bids on the prime contract concerned. Notwithstanding an otherwise valid written disclosure, it shall be a violation of this Policy to solicit, offer, give, accept, or receive any such gratuity or offer of employment in violation of applicable State or Federal Law.

7.2 Prohibition against Contingent Fees

It shall be a violation of this Policy for a person to be retained, or to retain a person, to solicit or secure a Town contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona

fide employees or bona fide established commercial selling agencies for the purpose of securing business.

7.3 Recovery of Value Transferred or Received in Breach of Ethical Standards.

The value of anything transferred or received in breach of the ethical standards of this Policy by a Town Official or Town Employee or other person may be recovered from both the Town Official or Town Employee concerned and from the other person concerned.

7.4 Recovery of Kickbacks by the Town

Upon a showing that a subcontractor made a kickback to a prime contractor or a higher tier subcontractor in connection with the award of a subcontract or modification or change order, it shall be conclusively presumed that the amount thereof was included in the price of the subcontract, modification or change order and ultimately borne by the Town and such amount shall be recoverable hereunder from the recipient. In addition, that amount may also be recovered from the subcontractor making such kickbacks. Recovery from one offending party shall not preclude recovery from other offending parties.

7.5 Penalties and Sanctions

A. In addition to the recoveries provided in Subsections 7.3 and 7.4 above, any violation of Section 7 shall be a civil violation. Upon conviction, any person, firm or corporation found to be in violation of this Section 7 shall be fined not less than three times the value of any improper gift or kickback paid, solicited, or received, or \$500, whichever is greater. The penalties provided in this paragraph shall be in addition to any penalties imposed under State or Federal Law.

B. Upon conviction of a violation of this Section 7 or upon finding a violation by the Board of Selectmen or any Board Appointee following written notice and hearing, the Board of Selectmen may impose one or more of the following sanctions on the person, firm, or corporation convicted or found to be in violation:

- i. written warnings or reprimands
- ii. termination of contracts
- iii. debarment or suspension of Town purchasing

C. Termination of a contract under this Section 7.5 shall also terminate the contractor's right to receive further payment thereunder.

D. The provisions of this Section 7 shall be provided to all interested bidders or proposers and shall be incorporated by reference as agreed terms in any Town construction, procurement, or professional services contract with a base bid in excess of \$10,000. In the case of a professional services contract, the 'base bid price' shall be the expected value of services to be billed during the contract term, or on an annual basis if the contract is of indefinite duration.

Sec 8. Penalties for Board of Selectmen, Board of Selectmen and Town Appointees and

Town Employees.

Any Town Official or Town Employee who violates a provision of this Policy shall be subject to a civil penalty of not less than \$100.00 and not more than \$500.00 for each offense, which civil penalty shall inure to the benefit of the Town. In addition, violation of this Policy shall constitute cause for censure by the Board of Selectmen after notice and hearing conducted by that body.

Sec 9. Severability.

If any section, subsection, sentence, clause or phrase of this Policy is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Policy.

Sec 101. Effective Date

The foregoing provisions shall be effective immediately upon the adoption of this Policy by the Board of Selectmen.

Date 5-26-2015


WILLIAM ROWE, CHAIRMAN


MELISSA RANDALL


THOMAS CARONE

TOWN OF SANGERVILLE

ETHICS POLICY

ELECTED / APPOINTED / TOWN EMPLOYEE OFFICIAL DISCLOSURE FORM

Date: _____

Last name: _____

First name: _____

Address: _____

Telephone: _____

Email Address: _____

1. List of entities doing business with the Town from which the person named on this form or any member of his/her immediate family received more than \$1,000 during the preceding fiscal year.

2. List of entities doing business with the Town that the person named on this form or any member of his/her immediate family has an ownership interest in that exceed \$1,000, including, but not limited to the ownership of shares of stock.

3. List of any non-profit or for-profit entities which does business or may potentially do business with the Town for which the person named on this form or a member of his/her immediate family holds a position of officer or board member. Please include the name of position served, the term of service, and compensation received (if it is more than \$1,000 per year in the aggregate.)

Signature of Board Selectman or Town Appointee or Town Employee

_____ Date _____