ORDINANCE OF THE TOWN OF SWANZEY

CONFLICTS OF INTEREST DESCRIBED AND REGULATED

Adopted by Town Meeting 1995

The Town of Swanzey, New Hampshire, pursuant to RSA 31:39-a, ordains as follows:

I. DECLARATION OF POLICY: Where government is based on the consent of the governed, every citizen is entitled to have complete confidence in the integrity of that government. All persons performing a public trust, engaged in the Town's business or in their duties as Town officers or employees, whether elected or appointed including paid or unpaid member of municipal boards, commissions and committee, must earn and honor that trust by their conduct in all official actions. It is the purpose of this ordinance to ensure fair consideration of any application or matter to be voted upon, and also to ensure the appearance of fairness so as to maintain public confidence in the integrity of Town government.

II. DISCLOSURE OF POSSIBLE CONFLICTS OF INTEREST: Whenever any officer has a possible or potential conflict of interest as described in Section V, with respect to any matter upon which that officer is to make a decision, either legislative or quasi-judicial, that officer shall disclose the facts constituting the possible conflict of interest at a public meeting of the board which he or she is a member, or in some other effective public forum; provided, however, that any officer who steps down pursuant to Section III need not disclose the reasons for doing so.

III. DISQUALIFICATION IN QUASI-JUDICIAL MATTERS: Whenever any officer has a conflict of interest, as described in Section V, with respect to a matter upon which that officer is to make a decision in a quasi-judicial capacity, and that conflict of interest is definite, direct and capable of demonstration rather than remote, uncertain or so speculative that reasonable persons would not be influenced by it, that officer shall be disqualified and shall step down. Officers who are to make legislative decisions shall neither be required to, or prohibited from stepping down under this ordinance. An officer required to step down under this section shall not decide of vote on the matter under consideration, shall not participate in any board deliberations or discussion of the matter, except as member of the public at a public hearing, and shall not sit with the remainder of the board during its consideration of the matter.

IV. RESOLUTION OF UNCERTAINTY PROCEDURE: Whenever uncertainty arises as to the application of Section III to an officer action as a member of a board, the board shall, upon the request of that member or another member of the board, vote on the question of whether that member should step down. Any such request shall be made prior to the commencement of any public hearing, or immediately following a disclosure under Section II, whichever is later. Such a vote shall be advisory and non-binding and may not be requested by persons other than members of the same board.

V. CONFLICTS OF INTEREST DESCRIBED: The following circumstances shall constitute possible conflicts of interest under this ordinance:

a. PECUNIARY INTEREST: A personal and pecuniary interest by the officer in the outcome of a decision. Such interest includes, but is not limited to, an ownership interest in the property affected, a mortgage interest, a creditor or debtor relationship with a party in the matter, or a business relationship with a partner in the matter.

b. KINSHIP: A relationship by blood or marriage with a party in the matter, including the relationship of spouse, parent, child, brother, sister, uncle, aunt, niece, nephew, grandparent, grandchild.

c. EMPLOYMENT: Employment of or by a party in the matter under consideration.

d. ABUTTER: Ownership of land abutting land under consideration in the matter.

e. PREJUDGEMENT: A prior public statement or position indicative of bias for or against the matter under consideration. Prejudgment does not include statements or votes made during prior official action concerning the same subject matter.

f. COMBINATION: Any combination of the above factors.

VI. CONFLICTS OF INTERST DISTINQUISHED FOR INELIGIBILITY: Nothing in this ordinance shall be construed to render any person ineligible to hold any office or position.

VII. DEFINITIONS:

a. "Officer" includes any elected or appointed municipal official, employee or agent, or member of a municipal board, whether compensated or not, permanent or temporary when acting in an official capacity or engaged in the municipality's business. It does not include a voter at a town meeting or elections.

b. "Decision" includes any act or determination, whether preliminary, advisory or final, which is within the official responsibility or authority of that officer, or of a board of which that officer is a member, and which involves the exercise of judgment, discretion, option or choice. It does not include a solely administrative or ministerial act, whose result is mandated or predetermined by authority or circumstance outside the officer's control.

c. "Board" includes any municipal board, commission, authority, agency, committee, subcommittee, advisory committee or other body.

d. A "quasi-judicial" decision is one which affects the rights or obligations of specific citizens, petitioners, or concerning specific parcels of land, rather than the public at large, and which is made on the basis of investigation and evidence or notice and hearing of the parties involved. For purposes of this ordinance the rezoning of particular parcels or tracts of land shall be deemed quasi-judicial.

e. A "legislative" decision is the enactment of an ordinance, rule or regulation, or the adoption of general public policy of a durable nature.

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