



## TOWN OF CASCO

### CONFLICT OF INTEREST

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**Section 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 officer of the municipality will gain a personal or financial advantage from their work for the municipality and so that the public trust in the municipal officials will be preserved. It is also the intent of the policy to ensure that all decision made by municipal officials are based on the best interest of the community at large.

**Section 2. Application:** This policy applies to all public officers as that term is defined below.

**Section 3. Definitions:** For the purpose of this policy, the following definitions shall apply:

**A. Conflict of Interest:**

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

A "conflict of interest" does not arise in the case of votes or decisions on matters in which the public official has a personal or financial interest in the outcome, such as in the establishment of a tax rate, that is no greater than that of any other persons generally affected by the decision.

**B. Emergency:** An imminent threat or peril o the public health, safety or welfare.

**C. Ex Parte Communication:** Direct or indirect communication between a member of a public body and any party, party's representative, party's counsel or any person of interested in the outcome of a quasi-judicial proceeding, that occurs outside the proceeding and concerns the substance or merits of the proceeding.

**D. Official Act or Action:** Any legislative, administrative or quasi-judicial act performed by any public officer while acting on behalf of the municipality.

**E. Public Body:** Any board, council, commission or committee of the municipality.

**F. Public Interest:** An interest of the community as whole, conferred generally upon all residents of the municipality.

**G. Public Officer;** A person elected or statutorily-appointed to perform executive, administrative, legislative or quasi-judicial functions for the municipality. The term does not include any municipal employee.

- H. Quasi-Judicial Proceedings:** A case in which the legal rights of one or more person who are granted party status are adjudicated which is conducted in such a way that all parties have opportunities to present evidence and to cross-examine witnesses presented by other parties and which results in a written decision, the result of which is appealable to a party to a higher authority.

#### **Section 4. Prohibitive Conduct.**

- A. A public officer shall not participate in any official action if he or she has a conflict of interest in the matter of consideration.
- B. A public officer 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 the behalf of any person or organization in a cause, proceeding, application, or other matter pending before the public body in which the public officer holds office.
- C. A public officer 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.
- D. A public officer shall not use resources unavailable to the general public-including but not limited to municipal staff time, equipment, supplies, or facilities-for private gain or personal purposes.

**Section 5. Disclosure.** A public officer who has a reason to believe that they have or may have a conflict of interest in a particular matter shall, prior to participating in any official action on the matter, publicly disclose at a public meeting or public hearing that they have an actual or perceived conflict of interest in the matter under consideration and disclose the nature of the actual or perceived conflict of interest. Alternately, a public officer may request that that another public officer recuse themselves from a matter due to a conflict of interest.

**Section 6. Consideration of Recusal.** Once there has been a disclosure of an actual or perceived conflict of interests, other public officers shall be afforded an opportunity to ask questions or make comments about the situation. If a previously unknown conflict is discovered during a meeting or hearing conducted by a public body of the municipality, the public body shall take evidence pertaining to the conflict and, if appropriate, adjourn to an executive session to address the conflict.

#### **Section 7. Recusal.**

- A. **Recusal of Appointed and Elected Officials.** After taking the actions listed in Articles 5 and 6, a public officer, whether appointed or elected, shall declare whether they will recuse themselves and explain the basis for that decision. If the public officer has an actual or perceived conflict of interest but believe that they are able to act fairly, objectively and in the public interest, in spite of the conflict, they shall state why they believe the they are able to act in the matter fairly,

objectively and in the public interest<sup>1</sup>. Otherwise, the public officer shall recuse themselves from the matter under consideration. A public officer that recuses themselves may, but not must, explain the basis for that decision.

- B. **Recusal of Appointed Officers.** The failure of an appointed public officer to recuse themselves in spite of conflict of interest may be grounds for sanctions<sup>2</sup>.

**Section 8. Recording.** The minutes of the meeting or the written decision from the hearing shall document the actions taken in Section 5 through 7.

**Section 9. Post-Recusal Procedure.**

- A. A public official who has recused themselves from serving on a public body in a particular proceeding shall not deliberate with the public body or participate in that proceeding as member of the public body in any capacity, though such a member may still participate as a member of the public.
- B. The Public body may adjourn the proceeding to a time certain if, after a recusal, it may not be possible to take action through the concurrence of a majority of the total membership of the public body. The Public body may then resume the proceeding with sufficient members present.

**Section 10. Enforcement.**

- A. **Enforcement Against Elected Officers.** In cases where an elected public officer has engaged in any of the prohibited conduct listed in Section 4, or has not followed the conflict-of-interest procedures in Section 5 through 9, the Casco Selectboard may take progressive actions towards such elected official as follows:
1. The chair of the casco Selectboard may meet informally with the public officer to discuss the possible conflict of interest violation.
  2. If the Casco Selectboard decides further action is warranted, Selectboard 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.
- B. **Enforcement Against Appointed Officers.** The Selectboard may choose to follow any steps articulated in 10A. In addition to or in lieu of any of those steps, the Selectboard may choose to remove an appointed officer from office, subject to Maine State law or contractual agreement.

**Section 11. Exception.** The recusal provisions of Section 7 shall not apply if the Selectboard determines that an emergency exists and those actions of the public body otherwise could not take place. In such a case, a public officer who has reason to believe they have a conflict of interest shall disclose such a conflict as provided in Section 5.

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<sup>1</sup> Each member of an elected body is independently elected and answers only to the voters. The remaining members of the public body may not force a recusal. They may only express their opinion about the subject and/or privately or publicly admonish a fellow member who fails to handle conflicts appropriately.

<sup>2</sup> An appointed officer may only be removed for cause and after being afforded with procedural due process protection or as outlined contractual agreement.

This policy supersedes any prior policy related to this subject.

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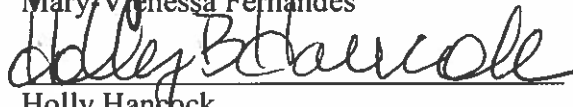
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