

Town of Mount Desert Code of Ethics and Code of Conduct

Preamble

Pursuant to Maine Statute, it is the policy of the Town of Mount Desert that the proper operation of democratic government requires that public officers and officials and members of all boards and committees be independent, impartial, and responsible to the citizens; that public service not be used for personal gain; and that the public have confidence in the integrity of its municipal government.

This Code of Ethics provides guidance on ethical issues and related questions. Ethics is based on adherence to the universal moral principles of honesty, integrity, promise keeping, loyalty, fairness, caring and respect for others, law abidingness, pursuit of excellence and accountability. This Code describes the manner in which elected and appointed officials are expected to treat one another, Town employees, constituents, and other members of the public with whom they come in contact as they represent the Town of Mount Desert. It defines more clearly the behavior, manners, and expectations appropriate to those who hold the public trust. Town employees are governed by similar standards set out in the Personnel Manual rather than by this Code.

The constant and consistent themes throughout this Code are “respect” and “inclusion”. Our intent is to create an atmosphere that welcomes the participation of all citizens who seek to share their knowledge, expertise, and experience in service to the Town of Mount Desert. Elected and appointed Town officials experience considerable workloads and sometimes significant stress in making decisions that impact the lives of all of our citizens. Despite these pressures, officials are called upon to exhibit appropriate behavior at all times. Demonstrating respect for each individual through words and actions is the touchstone that guides elected and appointed officials to do the right thing in even the most difficult situations.

To this end, the Board of Selectmen of Mount Desert has adopted this Code of Ethics and Code of Conduct for members of all Boards, Commissions and Committees of the Town:

Section 1. Code of Ethics

1. Act in the Public Interest

Recognizing that stewardship of the public interest is our primary concern, members of Boards, Commissions and Committees of the Town (hereafter ‘Members’) will work for the common good of the people of Mount Desert and not for any private or personal interest.

2. Comply with the Law

Members will comply with the laws and ordinances of the nation, the State of Maine and the Town of Mount Desert in the performance of our public duties.

3. Conduct of members

The professional and personal conduct of Members must be above reproach. Respectful behavior in all encounters is paramount.

4. Respect for Process

Members will perform duties in accordance with established processes and procedures. Members will uphold meeting guidelines and ground rules as established by the Board or Committee on which they serve.

5. Conduct of Public Meetings

Members will come prepared to meetings, listen attentively to fellow Members and the public, and focus on the business at hand.

6. Communication

Members will publicly share information relevant to a matter under consideration which they may have received outside of the public decision-making process.

7. Conflict of Interest

In order to assure independence and impartiality on behalf of the common good, Members will not use their positions to influence Board decisions in which they have a personal financial interest or where they have an organizational responsibility or personal relationship which may give the appearance of a conflict of interest. Members will disclose any potential conflicts of interest pertaining to the decision at hand and will abstain from voting on matters where conflicts exist. Members may however, share their expertise on issues when helpful to the board.

8. Gifts and Favors

Members will not take special advantage of services or opportunities for personal gain that are not available to the general public. Members will refrain from accepting any gifts, or favors, or promises of future benefits which might compromise independence of judgment.

9. Confidential Information

Members will respect the confidentiality of information regarding personnel, property, and others affairs of the Town that are not a matter of the public record. Members must not disclose such information without proper authorization, nor use such information to advance personal, financial, or other private interests.

10. Use of Public Resources

Members will not use public resources unless they are available to the public in general, such as staff time, equipment, supplies, or facilities for private gain or personal purposes.

11. Representation of Private Interests

Members will not appear before the Board or any board or committee of the Town on behalf of the financial private interests of third parties.

12. Advocacy

Members will represent the official policies or positions of the Board to the best of their ability when designated as delegates for this purpose. When presenting individual opinions

and positions, Members will explicitly state that they do not represent the Town of Mount Desert or the Board, Commission or Committee in which they are affiliated, nor will they allow the inference that they do. This shall be made clear whether the positions are spoken publicly or whether they appear in print.

13. Policy Role of Members

Members will respect and adhere to the Board of Selectmen/Town Manager structure of town government established in Mount Desert. In this structure the Board of Selectmen determines the policies of the Town with the advice, information and analysis provided by the public, boards and committees, and Town staff. Members will not interfere with the administrative functions of the Town or the professional duties of Town staff as they implement these policies.

14. Independence of Boards and Committees

Because of the value of the independent advice of the Town's Committees and Boards to the public decision-making process, Members will refrain from using their position to unduly influence the outcomes of the proceedings of said Boards and Committees.

15. Positive Work Environment

Members will support the maintenance of a positive and constructive work environment for Town employees and for citizens and businesses dealing with the Town. Members must recognize their special role in dealings with Town employees and avoid inappropriate direction to staff.

16. Implementation

As an expression of the standards of conduct for members expected by the Town, this Code is intended to be self-enforcing. Therefore, it is most effective when Members are thoroughly familiar with it and embrace the spirit of its provisions. For this reason, annual orientation sessions and training regarding this Code may be conducted for newly elected or appointed Members, and Members will sign a statement affirming that they understand and will uphold the tenets of the Code. Refusal to sign such a statement, and/or refusal to attend an orientation session after reasonable efforts have been made to meet an individual's personal schedule, shall be grounds for termination of the appointment of appointed officials.

17. Compliance and Enforcement

The Board of Selectmen shall address the enforcement of this Code according to the provisions contained herein.

The Mount Desert Code of Ethics expresses standards of ethical conduct expected for members of the Board of Selectmen and all other municipal boards and committees. Individual Members have the primary responsibility to ensure that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government. The Chairs of Boards, Commissions and Committees and the Town Manager have the additional responsibility to intervene when actions of Members that appear to be in violation of the code of ethics are brought to their attention.

The Board of Selectmen may impose sanctions on Members whose conduct does not comply with the Town's ethical standards. These sanctions may include reprimand, formal censure, suspension or loss of committee assignment. The process for issuing a formal censure is further described in this Code.

Section 2. Code of Conduct

The Mount Desert Board of Selectmen recognizes that appropriate conduct by its members is essential to effective government.

The Code of Conduct outlines specific expectations regarding conduct in the following areas: General Conduct, and Conduct at Meetings.

General Conduct

We will uphold the oath of office.

We will be respectful at all times.

We will listen to and respect the constituents that we serve.

We will represent all constituents that we serve not just those from a specific geographic area or from a specific interest group

We will refer constituent or staff complaints to the appropriate administrative office.

We will declare any conflicts of interest between our personal lives and our positions, and avoid voting on issues that may appear to be a conflict of interest.

We will carry out activities professionally with honesty and integrity.

We will be accountable for adhering to this code.

We will respect the office we hold for the Town of Mount Desert, at all times.

Conduct at Meetings

Attitudes:

- We will respect differences.
- Meetings will focus on task and processes, not personalities.
- We are all contributors - to the existing situation(s), to success or failure, and to the direction in which we proceed.
- We will practice self respect and mutual respect.
- We will criticize only ideas, not people and only do so constructively.
- We will respect and encourage each other's participation, and support each other's right to be heard.

- We will be open to new concepts, keep an open mind, and appreciate other points of view.
- We will work as a team to implement board decisions regardless if there is unanimity on each and every issue.
- We recognize that mistakes and differences of opinion, if handled constructively, contribute to the strength of the team.

Process:

- We will use our time wisely
- We will publish our agenda and minutes
- We will make every effort to attend meetings and be on time
- We will maintain our focus on goals
- We will communicate directly with one another on issues, acknowledge problems and deal with them constructively.
- We will keep our cell phones and pagers on vibrate during meetings
- We will invite participation with one person talking at a time without interruption.

Section 3. Enforcement

Members of the Board of Selectmen are elected by the voters of the Town of Mount Desert and it is the voters who determine membership on the Board of Selectmen. The Board of Selectmen may take actions as necessary to publicly acknowledge whether its members act in a manner that may be in violation of this Code of Conduct/Code of Ethics.

The Board of Selectmen serves as the collective Chief Executive of the Town of Mount Desert and oversees the work of all other Boards, Commissions and Committees of the Town, whether elected or appointed. The Board is responsible for the enforcement of this Code of Conduct/Code of Ethics throughout the Town's Boards, Commissions and Committees.

Complaints of violations of this Code may be brought by any member of a Board, Commission or Committee directly to the Board of Selectmen. Complaints by members of the public shall be directed to the Town Manager who may consult with the Chair of the Board of Selectmen to determine whether the behavior complained of actually violates this Code of Conduct/ Code of Ethics, and if so to place on the Board of Selectmen's agenda.

Complaints shall be heard by the Board of Selectmen in public, if the complaint is with regard to an action in connection with the public responsibilities of the member; or otherwise in Executive Session under M.R.S.A. Title 1, §405.

Enforcement Process

Elected Officials:

Action by the Board of Selectmen to acknowledge inappropriate conduct by an elected official shall be in the form of a censure. Elected officials include members of the Board of Selectmen, the School Board, the Parks and Recreation Commission, and the Planning Board. A censure by the Board of Selectmen of a member of any Board or Commission, including the Board of Selectmen itself, shall represent a public expression of disapproval of the specific action(s) by the member. A vote to censure shall only be held after a censure hearing is held by the Board of Selectmen.

The process by which the Board of Selectmen votes to censure an elected official shall be as follows.

The matter shall be made known to the member of the Chair of the Board of Selectmen prior to appearing on a meeting agenda. The Chair shall make a good faith effort to inform the Board or Commission member who is the subject of the matter of the issue prior to the censure discussion appearing on the Board's agenda. If the Chair of the Board of Selectmen is the subject of the matter being brought forth, then the Second Selectman shall act as Chair for the purposes of this process.

The Chair of the Board of Selectmen shall state the reason why they believe a censure hearing is appropriate. The Member who is the subject of the hearing shall be given time to respond to issues raised. The purpose of this discussion by the Board of Selectmen is to allow for an opportunity for the Board to decide if further discussion and a possible censure on the matter are appropriate. The Board shall conduct this discussion publicly but in closed session (not in executive session). The Board of Selectmen shall vote on whether to hold a censure hearing. If the Board votes to hold a censure hearing, it shall be scheduled for the next regular or special meeting of the Board. The matter may be tabled to a later meeting but should be held as expeditiously as possible.

If a censure hearing is held, the Chair of the Board shall preside over the hearing and allow for ample time for all appropriate parties to be heard on the matter. Once the hearing is closed, the Chair shall open the floor regarding a motion for Censure. If a vote to censure passes, it shall be recorded in the minutes of the meeting. If no motion for censure reaches the floor or the censure motion fails, this result shall also be recorded.

Appointed Officials:

Action by the Board to acknowledge inappropriate conduct by an appointed official may be in the form of a reprimand, censure, suspension from office for a fixed period, or removal from office. For purposes of this Code of Conduct, 'appointed officials' includes members of any of our boards including ad-hoc committees.

A reprimand shall normally be verbal, with guidance as to standards of behavior expected in future. A censure shall be transmitted in writing to the person censured, and to the Chair of the Board or Committee concerned, and recorded in the Minutes of the Board of Selectmen. Suspension from service on a Board or Committee shall be for a period of not more than three meetings of the Board or Committee concerned. Removal from office shall take place with immediate effect and Selectmen shall replace the Member with a new appointee to serve the balance of the removed person's term.

The process by which the Board of Selectmen acts upon a complaint brought against any member of an appointed Board or Committee shall be the same as that for complaints against elected officials described above.

Member Statement

As a member of the _____ I agree to uphold the Code of Ethics and Code of Conduct for elected and appointed officials adopted by the Town and conduct myself by the following standards.

I will:

Recognize the worth of individual members and appreciate their individual perspectives, experiences, and contributions;

Help create an atmosphere of respect and civility where individual members, town employees, and the public are free to express their ideas and work to their full potential;

Conduct my personal and public affairs with honesty, integrity, fairness, and respect for others, and within the limits of the law;

Respect the dignity and privacy of individuals and organizations;

Keep the common good as my highest purpose and focus on achieving constructive solutions for the public benefit;

Avoid and discourage conduct which is divisive or harmful to the best interests of Mount

Desert; Treat all people with whom I come in contact in the way I wish to be treated;

I affirm that I have read and understood the Town of Mount Desert Code of Ethics.

Signature _____

Date _____

Name _____

Office _____

Town of Mount Desert

Conflict of Interest Statement and Disclosure

- 1) I agree to readily disclose any potential conflict of interest, making it a matter of record, either through an annual procedure or when the interest becomes a board action.
- 2) I agree that I will not vote or use my personal influence on any matter which constitutes a conflict of interest. I will ensure that the minutes of any meeting where this might occur duly show that I have abstained from voting due to the presence of a conflict of interest.
- 3) If questions are raised as to a potential conflict of interest, I agree to allow other board members to go on record as to their opinion as the existence of a conflict, or the appropriateness that I abstain from voting on the matter. I agree to abide by the outcome of the Board's decision.
- 4) I understand that I may state my opinion or position on any matter described above, or answer pertinent questions to which I may lend my expertise, so long as I abstain from voting on any matter judged to be a conflict of interest by either me or the board or committee of which I am a member.

Disclosure

I am involved or affiliated with the following activates or entities which might cause a conflict of interest in certain matters of Town business in the course of fulfilling my duties as a member of _____:

Name

Signature

Date

Title 30-A: MUNICIPALITIES AND COUNTIES HEADING: PL 1987, c. 737, Pt. A, §2 (new)

Part 2: MUNICIPALITIES HEADING: PL 1987, c. 737, Pt. A, §2 (new)

Subpart 3: MUNICIPAL AFFAIRS HEADING: PL 1987, c. 737, Pt. A, §2 (new)

Chapter 123: MUNICIPAL OFFICIALS HEADING: PL 1987, c. 737, Pt. A, §2 (new)

Subchapter 1: GENERAL PROVISIONS HEADING: PL 1987, c. 737, Pt. A, §2 (new)

§2604. Definitions

As used in section 2605, unless the context otherwise indicates, the following terms have the following meanings. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Body. "Body" means the governing unit of a municipality or county, and any subunit of government of a municipality or county, including, but not limited to, agencies, authorities, boards, commissions and offices.

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

2. Official. "Official" means any elected or appointed member of a municipal or county government or of a quasi-municipal corporation.

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

3. Quasi-municipal corporation. "Quasi-municipal corporation" means any governmental unit embracing a portion of a municipality, a single municipality or several municipalities which is created by law to deliver public services but which is not a general purpose governmental unit. This definition includes, but is not limited to, utility districts under the jurisdiction of the Public Utilities Commission and school administrative districts.

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

SECTION HISTORY

1987, c. 737, §§A2,C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§C8,10 (AMD).

Title 30-A: MUNICIPALITIES AND COUNTIES HEADING: PL 1987, c. 737, Pt. A, §2 (new)

Part 2: MUNICIPALITIES HEADING: PL 1987, c. 737, Pt. A, §2 (new)

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Chapter 123: MUNICIPAL OFFICIALS HEADING: PL 1987, c. 737, Pt. A, §2 (new)

Subchapter 1: GENERAL PROVISIONS HEADING: PL 1987, c. 737, Pt. A, §2 (new)

§2605. Conflicts of interest

Certain proceedings of municipalities, counties and quasi-municipal corporations and their officials are voidable and actionable according to the following provisions. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Voting. The vote of a body is voidable when any official in an official position votes on any question in which that official has a direct or an indirect pecuniary interest. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c.104, Pt. C, §§8, 10 (AMD).]

2. Contracts. A contract, other than a contract obtained through properly advertised bid procedures, made by a municipality, county or quasi-municipal corporation during the term of an official of a body of the municipality, county or quasi-municipal corporation involved in the negotiation or award of the contract who has a direct or an indirect pecuniary interest in it is voidable, except as provided in subsection 4.

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Restrain proceedings. The Superior Court may restrain proceedings in violation of this section on the application of at least 10 residents of the municipality, county or area served by the quasi-municipal corporation.

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

4. Direct or indirect pecuniary interest. In the absence of actual fraud, an official of a body of the municipality, county government or a quasi-municipal corporation involved in a question or in the negotiation or award of a contract is deemed to have a direct or indirect pecuniary interest in a question or in a contract where the official is an officer, director, partner, associate, employee or stockholder of a private corporation, business or other economic entity to which the question relates or with which the unit of municipal, county government or the quasi-municipal corporation contracts only where the official is directly or indirectly the owner of at least 10% of the stock of the private corporation or owns at least a 10% interest in the business or other economic entity.

When an official is deemed to have a direct or indirect pecuniary interest, the vote on the question or the contract is not voidable and actionable if the official makes full disclosure of interest before any action is taken and if the official abstains from voting, from the negotiation or award of the contract and from otherwise attempting to influence a decision in which that official has an interest. The official's disclosure and a notice of abstention from taking part in a decision in which the official has an interest shall be recorded with the clerk or secretary of the municipal or county government or the quasi-municipal corporation.

A. This subsection does not prohibit a member of a city or town council or a member of a quasi-municipal corporation who is a teacher from making or renewing a teacher employment contract with the municipality or quasi-municipal corporation for which the member serves. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[1987, c.737, Pt. A, §2 (NEW); 1987,c.737,Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

5. Former municipal and county officials. This subsection applies to former municipal and county officials.

A. No former municipal or county official may, for anyone other than the municipality or county, knowingly act as an agent or attorney, or participate in a proceeding before a municipal or county government body for one year after termination of the official's employment or term of office with that government body in connection with any proceeding:

(1) In which the specific issue was pending before the municipal or county official and was directly within the responsibilities of that official; and

(2) Which was completed at least one year before the termination of that official's employment or term of office. [1989, c. 104, Pt. A, §22 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

B. No former municipal or county official may, for anyone other than the municipality or county, knowingly act as an agent or attorney, or participate in a proceeding before a municipal or county government body at any time after termination of the official's employment or term of office with that government body in connection with any proceeding:

(1) In which the specific issue was pending before the municipal or county official and was directly within the responsibilities of that official; and

(2) Which was pending within one year of the termination of the municipal or county official's employment or term of office. [1989, c. 104, Pt. A, §22 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

C. This subsection may not be construed to prohibit former municipal or county officials from doing personal business with the municipality or county. This subsection does not limit the application of Title 17-A, chapter 25. [1989, c. 104, Pt. A, §22 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

For the purpose of this subsection, a municipal or county government body includes an agency, board, commission, authority, committee, legislative body, department or other governmental entity of a municipality or county.

[1989, c. 104, Pt. A, §22 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

6. Avoidance of appearance of conflict of interest. Every municipal and county official shall attempt to avoid the appearance of a conflict of interest by disclosure or by abstention.

[1989, c. 104, Pt. A, §22 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

7. Municipal officers adopt ethics policy. In their discretion, the municipal officers may adopt an ethics policy governing the conduct of elected and appointed municipal officials.

[1989, c. 561, §19 (NEW) .]

SECTION HISTORY

1987, c. 737, §§A2, C106 (NEW). 1989, c. 6, (AMD). 1989, c. 9, §2 (AMD). 1989, c. 104, §§A22, C8, C10 (AMD). 1989, c. 561, §19 (AMD).

**(OATH OF TOWN OFFICER)
(Except Moderator or Clerk)
STATE OF MAINE**

Date: _____

I, _____, do swear, that I will support the Constitution of the United States, and of this State, so long as I shall continue a citizen thereof.

SO HELP ME GOD. (Const. ME., ART. IX, Sec. 1.)

I, _____, do swear, that I will faithfully discharge, to the best of my abilities, the duties incumbent on me as _____ for the Town of Mount Desert, according to the Constitution and laws of the State. SO HELP ME GOD.

Term Expiration:

Signature

(Before assuming the duties of office, a town official or deputy shall be sworn by the moderator in open town meeting, by the clerk, or by any other person authorized by law to administer an oath. Unless the oath is administered in the presence of the clerk, the person who administers it shall give the official or deputy sworn a certificate which he/she shall return to the clerk for filing. Title 30-A, M.R.S.A. § 2526 (9) (A).)

CAUTION: A PERSON MUST MAKE A SEPARATE OATH FOR EACH OFFICE TO WHICH THEY ARE ELECTED, e.g., SWEAR SEPARATELY AS SELECTMEN AND AS ASSESSOR

Town of Mount Desert, Maine

Date: _____

Subscribed and sworn to

Before me, _____
Municipal Clerk