



TOWN OF BERLIN

CODE OF CONDUCT & ETHICS FOR BOARDS, COMMITTEES AND COMMISSIONS

This Code of Ethics implies a basic understanding of it as it relates to the laws of the Commonwealth of Massachusetts, and the bylaws, policies, procedures, rules and regulations of the Town of Berlin.

The oath of office binds individual members to adherence to those state laws that apply to all areas of municipal government that comes under this jurisdiction.

This code of ethics delineates these areas of responsibility to all members of Boards, Committees and Commissions whether elected or appointed "Regular" or "Special Municipal Employees" as defined under Massachusetts General Laws, Chapter 268A (see definitions) at the end of this document.

1. Community Responsibility
2. Responsibility to Municipal Administration
3. Relationship to other Board, Committee or Commission Members, and employees
4. Prohibited Conduct

1. COMMUNITY RESPONSIBILITY. A member of any Board, Committee or Commission in relation to his/her community, shall:

- a) Realize that his/her basic function is to make policy, not administer it, unless otherwise empowered by the laws of the Commonwealth or the bylaws of the Town of Berlin.
- b) Realize that he/she is one of a team and should abide by, and carry out, all Board, Committee or Commission decisions once they are made.
- c) Be well informed concerning the duties of a Board, Committee or Commission member on both local and state levels.
- d) Remember that he/she represents the entire community at all times.
- e) Accept the appointment as a means of unselfish service, not benefit personally or politically from his/her Board, Committee or Commission activities.
- f) In making all decisions relative to individual appointments, he or she shall avoid political patronage by judging all candidates on merit, experience and qualifications only.
- g) Before any vote, he/she shall refuse to (shall not) vote on any matter involving an immediate family member (the employee, his/her spouse, parents, children, brothers and sisters) in which he/she has a financial interest.

2. RESPONSIBILITY TO MUNICIPAL ADMINISTRATION. A member of any Board, Committee or Commission, in his/her relations with administrative officers of the Town, shall:

- a. Endeavor to establish sound, clearly defined policies that will direct and support the administration for the benefit of all people in the community.
- b. Recognize and support the administrative chain of command and refuse to act on complaints or take other actions as an individual outside the administration.
- c. Give the Town Administrator responsibility for discharging his/her duties pursuant to the Board of Selectmen/Town Administrator Act.

Therefore, all Boards, Commissions and Committees shall:

- a) Direct all problems or conflicts which cannot be solved in-house to the attention of the Town Administrator.
- b) Direct all legal questions or requests to Town Counsel through the Town Administrator or person designated by the Town Administrator.
- c) Direct all questions or concerns to the Town Administrator. Letters may also be addressed to the Board of Selectmen; however, an initial letter to the Town Administrator will expedite required actions and will deal most directly with an issue that needs attention. Please remember that the Town Administrator and Board of Selectmen do not have authority over other elected officials or committees/individuals appointed by the Moderator or Library Trustees.

3. RELATIONSHIP TO OTHER BOARD, COMMISSION OR COMMITTEE MEMBERS, AND EMPLOYEES. A member of any Board, Committee or Commission in his/her relations with fellow members, or with members of other Boards, Committees or Commissions, and employees shall:

- a. Recognize that action at official legal meeting is binding and that he/she alone cannot bind the Board, Committee or Commission outside of such meeting.
- b. Treat all members of the Board, Committee or Commission, and employees with respect, despite differences of opinion.
- c. Not make statements or promises of how he/she will vote on matters that come before the Board, Committee or Commission until he/she has had an opportunity to hear the pros and cons of the issue during an official meeting of the Board, Committee or Commission.
- d. Uphold the intent and purpose of Executive Session and respect the privileged communication that exists in Executive Session.
- e. Make decisions only after all facts on a question have been presented and discussed.
- f. Recognize the rights of all members of the Board, Committee or Commission to express opinions on matters before it.

4. PROHIBITED CONDUCT. A member of any Board, Committee or Commission, in accordance with Massachusetts General Law, Chapter 268A, shall:

- a. Not accept other employment which will impair his/her independence of judgment in the exercise of his/her official duties.
- b. Not accept employment or engage in any business or professional activity which will require him/her to disclose confidential information which he/she has gained by reason of his/her official position or authority.
- c. Not improperly disclose confidential information acquired by him/her in the course of his/her official duties, nor use such information to further his/her personal interests.
- d. Not use or attempt to use his/her official position to secure unwarranted privileges or exemptions for himself/herself or others.
- e. Not by his/her conduct give reasonable basis for the impression that any person can improperly influence him/her or unduly enjoy his/her favor in the performance of his/her official duties, or that he/she is unduly affected by the kinship, rank, position or influence of any party or person.

- f. Not pursue a course of conduct which will raise suspicion among the public that he/she is likely to be engaged in acts that are in violation of his/her trust.
- g. Not be influenced in his/her performance of any official act or any act within his/her official responsibility.
- h. Not be influenced to commit, or aid in committing or to collude in, or allow any fraud, or make opportunity for the commission of any fraud on the Commonwealth or on a state, county or municipal agency.
- i. Not be induced to do or omit to do any acts in violation of his/her official duty.

In addition, a member of any Board, Committee or Commission shall treat all residents, non-residents, petitioners, other board, committee and commission members and Town employees with respect while performing the duties of the Board, Committee or Commission.

5. CODE OF CONDUCT - VIOLATIONS. Complaints, whether written or oral, and whether anonymous or sourced, which allege a violation of the Code of Conduct & Ethics, will be thoroughly investigated by the Board or a designee of the Board. The conduct of the investigation shall be at the discretion of the Board. In the event the complaint is substantiated, either in whole or in part, the Board reserves the right to take appropriate remedial action to address the alleged violation, up to and including the immediate removal of the Board/Committee member from the Board(s) and/or Committee(s) on which they serve, following notice and an opportunity to be heard pursuant to G.L. c. 30A, sec. 21(a)(1).

Massachusetts General Laws Chapter 268, Section 1 - Definitions

“Municipal employee,” a person performing services for or holding an office, position, employment or membership in a municipal agency, whether by election, appointment, contract of hire or engagement, whether serving with or without compensation, on a full, regular, part-time, intermittent, or consultant basis, but excluding (1) elected members of a town meeting and (2) members of a charter commission established under Article LXXXIX of the Amendments to the Constitution.

“Special municipal employee”, a municipal employee who is not a mayor, a member of the board of aldermen, a member of the city council, or a selectman in a town with a population in excess of ten thousand persons and whose position has been expressly classified by the city council, or board of aldermen if there is no city council, or board of selectmen, as that of a special employee under the terms and provisions of this chapter; provided, however, that a selectman in a town with a population of ten thousand or fewer persons shall be a special municipal employee without being expressly so classified. All employees who hold equivalent offices, positions, employment or membership in the same municipal agency shall have the same classification; provided, however, no municipal employee shall be classified as a “special municipal employee” unless he occupies a position for which no compensation is provided or which, by its classification in the municipal agency involved or by the terms of the contract or conditions of employment, permits personal or private employment during normal working hours, or unless he in fact does not earn compensation as a municipal employee for an aggregate of more than eight hundred hours during the preceding three hundred and sixty-five days. For this purpose compensation by the day shall be considered as equivalent to compensation for seven hours per day. A special municipal employee shall be in such status on days for which he is not compensated as well as on days on which he earns compensation. All employees of any city or town wherein no such classification has been made shall be deemed to be “municipal employees” and shall be subject to all the provisions of this chapter with respect thereto without exception.

Adopted by the Berlin Board of Selectmen: September 3, 2019

Amended: _____

See **“Acknowledgement of Receipt”**

TOWN OF BERLIN

CODE OF CONDUCT & ETHICS FOR BOARDS, COMMITTEES AND COMMISSIONS

Acknowledgement of Receipt

This CODE governing appropriate, respectful and professional conduct has been written to provide information and guidance for our board, committee and commissions. The Town reserves the right to change, add to or delete any part of this CODE, at any time, as it deems appropriate. The Town reserves the right to waive or vary any term of this CODE, as it deems appropriate at any time in order to achieve its desired goals, including mutual respect and zero tolerance for any form of inappropriate/unprofessional conduct by Town boards, committees and commissions.

If changes are made to this actual CODE by the Board of Selectmen, boards, committees and commissions will be notified as soon as possible. However, changes approved by the Board of Selectmen will be effective upon the date of approval.

This CODE does not, and may not be construed to, create a contract with any member of any public body.

With your signature below, you represent that you have read this acknowledgement, that you have received a copy of the Town of Berlin's CODE OF CONDUCT & ETHICS FOR BOARDS, COMMITTEES AND COMMISSIONS, and that you have read and understand this CODE.

I acknowledge that I have received and read the Town's CODE OF CONDUCT & ETHICS FOR BOARDS, COMMITTEES AND COMMISSIONS. I understand my responsibilities concerning the goals of the Town of Berlin to encourage civility in our local government and require respectful and professional behavior among all members of public bodies, employees, customers, vendors and visitors who interact with the Town.

Name of member [Print]: _____

Name of Board, Committee or Commission: _____

Signature of Member: _____

Date: ____/____/____

FILE THIS ACKNOWLEDGEMENT WITH THE SELECTMEN'S OFFICE

Date Adopted by Board of Selectmen: 8/19/2019

Date Amended: _____