

ORDINANCE #

THE CITY OF PORTSMOUTH ORDAINS

That Chapter 1, Article VIII – **CODE OF ETHICS**, Preliminary, Section 1.801 – DEFINITIONS, and Section 1.802 – CONFLICTS OF INTEREST, of the Ordinances of the City of Portsmouth be amended as follows (deletions from existing language **stricken**; additions to existing language **bolded**; remaining language unchanged from existing):

**ARTICLE VIII: CODE OF ETHICS**

**PRELIMINARY**

**The citizens of Portsmouth are entitled to a fair, ethical, and accountable City government. The effective functioning of democratic government requires that all of its officials, whether elected or appointed, comply with both the letter and the spirit of the laws and be independent, impartial, and fair in their judgment and actions. Public Office is to be used for the public good, not for personal gains. Public deliberations and processes must be conducted in an atmosphere of respect and civility and openly, unless legally confidential. To this end, the City Council adopts this Code of Ethics for all of its officers and officials, whether elected or appointed.**

**Section 1.801: DEFINITIONS**

For purpose of this Article, the following terms shall be defined in the following manner:

- A. Charged Party: That Officer or Employee alleged to have violated this Ordinance and is the subject of the Complaint.
- B. Complaint: Any written communication meeting the requirements of Section 1.806 (A).
- C. Complainant: The person making the Complaint.
- D. Employee: The term "Employee" shall include all employees of the City including the Police, School and Fire Departments whose salary is paid in whole or in part from the City Treasury.
- E. Ethics Investigation Officer (EIO): That person serving in the capacity as described in Section 1.805.
- F. Governing Body: The term "Governing Body" shall mean the City Council, School Board, Police Commission, or Fire Commission.
- G. Officer: The term "Officer" shall be defined to include every person who serves the City of Portsmouth in any official position which is

established by state law, the Municipal Charter, the Ordinances of the City or by appointment of the City Council.

- H. Official Duties: The term "Official Duties" shall mean the following:
1. In the case of members of the City Council, School Board, Fire Commission, Police Commission and the City Manager, those duties and responsibilities set forth in the City Charter and/or established by State law.

In the case of all other Officers, those duties and responsibilities set forth in the legislation or vote which establishes the position held by the Officer or the job description for that position.

2. In the case of the Chief of Police, the Superintendent of Schools, the Fire Chief, and all employees, those duties and responsibilities set forth in the respective job description for each party or employee.
- I. **Quasi-Judicial: Those City employees or officers who are required by state or municipal law to act in a neutral and impartial manner in making judicial-type decisions in the performance of any particular function, while performing that function.**
- J. **Family: Any group of people closely related by blood, ~~or~~ marriage or choice, as parents, children, and members of one's household.**
- K. **Direct Personal Interest: An interest in real estate created by the City employee or official or their family member being an owner or abutter of real estate being considered by a public body, or likewise, an interest in a business for which any action in their official capacity could result in personal or familial financial gain.**
- L. **Direct Pecuniary Interest: A gain or loss in the form of money, property, or any other item of measurable value provided to or taken from a person.**

## **Section 1.802: CONFLICTS OF INTEREST**

- A. No Officer or employee shall engage in any business or transaction or shall have a financial or other private interest, direct or indirect, which is in conflict with the proper discharge of his/or her official duties.
- B. Representing Private Interests Before City Agencies: No Officer or employee shall appear in behalf of private interests before any governing body or land use regulatory board of which the officer or employee is a member or membership on which is subject to approval by the officer or employee.

Officers and employees, however, may appear without compensation in behalf of constituents or in the performance of public or civic obligations. This section shall not prohibit appearances upon matters only incidentally requiring official action which do not develop into a substantial part of the employment, provided, that the retainer is not for the purpose of appearing before the governing body or land use regulatory board.

- C. **Representing Private Interests Before Courts:** No officer or employee shall represent private interests in any action or proceeding against the interests of the land use regulatory board or governing body of which the officer or employee is a member, or membership on which is subject to approval by the officer or employee in any litigation to which the City is a party.
- D. **Disclosures of Interest in Legislation:** A Councilor who has a direct or indirect financial or other private interest in any proposed legislation shall publicly disclose **on an annual basis or as interests change, in writing** on the official records of the Council, the nature and extent of such interest.
- E. **Disclosures by Officer or Employee of Interest in Legislation:** An officer or employee who has a direct or indirect financial interest or other private interest in any legislation and who participates in discussion before or gives official opinion to the Council, shall publicly disclose on the official record the nature and extent of such interest.
- F. **Gifts and Favors:** No officer or employee shall accept any gift, over **\$100.00 \$350.00 per calendar year**, whether in the form of service, loan, thing or promise, **travel and lodging, or** any other form from any person, firm or corporation which to his/or her knowledge is interested directly or indirectly in any manner whatsoever, in business dealings with the City. This provision shall not apply to campaign contributions **of \$100.00 or less. (See Section 1.901 of this ordinance.)**
- G. **Disclosures of Confidential Information:** Any officer or employee, who holds any investment direct or indirect in any financial, business, commercial or other private entity which creates a conflict with his/her official duties shall publicly disclose on the official record the nature and extent of such interest.
- H. **Investments in Conflict with Official Duties:** Any officer or employee, who holds any investment direct or indirect in any financial, business, commercial or other private entity which creates a conflict with his/her official duties shall publicly disclose on the official record the nature and extent of such interest.
- I. **Incompatible Employment:** No officer or employee shall engage in or accept private employment or render or seek services or goods for private

interests when such employment or service creates a conflict with his/her official duties.

- J. Actions in a Quasi-Judicial Capacity: City employee or official acting in a quasi-judicial capacity must abide by all provisions of state law with regard to conflict of interest and ethics. This shall include:**
- (a) Compliance with all statutes and governing case law.**
  - (b) Avoiding any involvement in an application when a family member is participating in any way in connection with the application presented to the City employee or official, inclusive of when that family member speaks at public comment or in a public hearing.**
  - (c) City employees or officials acting in a quasi-judicial capacity shall not speak publicly at hearings ~~on matters or issues that are pending~~ before any public body of which they are a member ~~or on any issue which might reasonably come before that employee or official when acting in a quasi-judicial capacity~~, except when the City employee or official has a direct personal interest as defined herein.**
  - (d) City employees or officials acting in a quasi-judicial capacity shall not participate as a party to any litigation which involves a person, property, or issue which might reasonably come before that employee or official when acting in a quasi-judicial capacity, except when the City employee or official has a direct personal interest as defined herein.**

The City Clerk shall properly alphabetize and/or re-number the ordinances as necessary in accordance with this amendment.

All ordinances or parts of ordinances inconsistent herewith are hereby deleted.

This ordinance shall take effect upon its passage.

APPROVED:

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Deaglan McEachern, Mayor

ADOPTED BY COUNCIL:

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Kelli L. Barnaby, City Clerk