



## TOWN OF PITTSFIELD, NEW HAMPSHIRE

### ETHICS COMMITTEE

85 Main Street  
Pittsfield, New Hampshire 03263

## RULES OF PROCEDURE

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1. **AUTHORITY.** These rules of procedure were adopted by the Town of Pittsfield Ethics Committee on April 11, 2007 under the authority of New Hampshire RSA 31:39-A, and the Town of Pittsfield Ethics Ordinance adopted by the town on November 29th, 2005.
2. **MEMBERS.**
  - a. The Town of Pittsfield Ethics Committee shall consist of a total of five members.
  - b. Selection, qualification, term, removal of members, and filling of vacancies, shall include, but not be limited to, the following circumstances:
    - i. After assuming office for the first time, Ethics Committee members are required to completely read and acquaint themselves with the Town of Pittsfield Code of Ethics, and Rules of Procedures, and any matters pending, prior to the next scheduled meeting.
    - ii. Oath of office. Each new member shall be sworn in and take an oath of office pursuant to RSA 42:1 within 30 days of appointment or election.
    - iii. Election and Term.
      - (a) The Town of Pittsfield at the March 2006 town election will elect an Ethics Committee consisting of (5) persons. Five (5) at large members, shall be elected to serve with staggered three-year terms, after the following initial terms are completed: One member at large for a one year term, two members at large for two year terms, two members at large for three year terms.
      - (b) The election of said persons shall take effect after Town election in March 2006, or any special town election to be held before that date, whichever comes first. Upon completion of the one year and two year terms, members will be elected at Town Elections to three-year terms.
    - iv. Quorum. A quorum for all meetings, hearings and findings of the Committee shall be a minimum of three (3) members.

- v. Members of the Ethics Committee shall consist of citizens 21 years of age or older who are residents of the Town of Pittsfield.
- vi. Vacancies on the Committee. Should a vacancy in the Committee arise, the Town Moderator shall appoint a person to serve until the next annual town election, at which time a person shall be elected to fill the remaining unexpired portion of the term, or for a full three-year term, as the case may be.
- vii. Removal.
  - (a) The absence of a Committee member from three unexcused consecutive meetings or from attendance at 50% of all regularly scheduled meetings in a calendar year will cause the Ethics Committee to consider requesting the removal and replacement of that member. The Chairman will have the authority to grant excused absences.
  - (b) After a hearing by the Ethics Committee and approved by majority vote, the Ethics Committee will submit written findings of inefficiency, neglect of duty, or misconduct in office of a member, to the Board of Selectmen for consideration of removal.
  - (c) After a hearing by the Ethics Committee and approved by a four-fifths (4/5) vote, the Ethics Committee may, upon finding of inefficiency, neglect of duty, or misconduct, remove an officer from his or her position on the Committee. The displaced officer will immediately revert to a voting member status and the Committee will re-elect a new member to the vacated post in accordance with these Rules of Procedure.

### **3. ORGANIZATION.**

- a. Officers.
  - i. The officers of the Committee shall be elected annually at the first meeting after Town Election by a majority vote of the Committee.
  - ii. The Ethics Committee shall elect a Chairman, a Vice Chairman, and a Secretary from the elected membership and may create other offices as it deems necessary.
  - iii. All members shall be eligible for re-election.
- b. Administrative staff. The Ethics Committee, by majority vote, within their operating budget and following the Town Personnel Policy, may acquire the services of a non-member administrative assistant(s), stenographer, and/or electronic recording devices, as deemed necessary, to carry out any administrative work related to the proper and efficient implementation of Ethics Committee duties and obligations. Any non-member acquired shall adhere to the rules and regulations pertaining to the member requirements of the Code of Ethics Ordinance and shall swear or affirm to do so.

### **4. DUTIES.**

- a. Chairman of the Committee. The Chairman shall :
  - i. preside over all meetings and hearings;
  - ii. supervise the preparation of an annual report and budget;
  - iii. affix his/her signature in the name of the Committee;

- iv. prepare agendas for Committee meetings and deliver them to the membership in a reasonable amount of time; and
  - v. shall perform other duties customary to the office.
- b. Vice Chairman of the Committee. The Vice Chairman shall :
- i. preside in the absence of the Chairman ;
  - ii. have the full powers of the Chairman on matters that come before the Committee in the absence of the Chairman;
  - iii. receive complaints; and
  - iv. shall notify the respondent and the rest of the Committee that a complaint has been received.
- c. Secretary of the Committee. The Secretary shall :
- i. maintain a record of all meetings, transactions, hearings and findings of the Committee;
  - ii. document receipt of complaints from the Vice Chairman requiring action by the Committee;
  - iii. prepare minutes of Committee meetings and deliver them to the membership within a reasonable amount of time, together with related informational material, as applicable;
  - iv. send correspondence as directed by the Committee or Chairman, reserving correspondence of a technical or legal nature for the review and approval of the Committee, as to content, at a regular meeting before sending it;
  - v. keep records, files and minutes accessible and open to public inspection; except for nonpublic/sealed in accordance with RSA 91-A;
  - vi. purchase supplies, keep and maintain all records for budget and expenses for the Committee; and
  - vii. shall perform all such other administrative tasks as directed by the Committee Chairman.
- d. Ethics Committee. The Committee shall formulate and approve a yearly budget to be submitted to the Town for approval.

## 5. MEETINGS.

- a. All meetings and hearings shall be held in accordance with RSA 91-A.
- b. Regular meetings. Regular meetings shall be held on an as-posted basis, no less than once per calendar quarter, as scheduled by the Committee. Postings for notifications of meeting times and dates will appear in public in accordance with RSA 91.
- c. Special meetings. Special meetings may be called by the Chairman or, in his/her absence, by the Vice Chairman or at the request of three members of the Committee, provided notice is given to each member at least 48 hours prior to the time of such meetings and is posted in two appropriate public places at least 24 hours prior to such meetings, excluding Sundays and legal holidays.
- d. Nonpublic meetings. Nonpublic meetings shall be held in conformance with RSA 91-A:3 (Nonpublic Sessions).

- e. Cancellations. Cancellations may be made by the Chairman, or in his/her absence by the Vice Chairman, or in their absence, by three (3) members of the Committee, if no business is before the Committee or if other unusual circumstances warrant a cancellation.
- f. Disqualification of regular member.
  - i. No Committee member shall participate in any matter in which that person has a personal or pecuniary interest which may directly or indirectly influence that person's decision-making. Where such a personal or pecuniary interest exists, the Committee member has a duty to recuse himself. Recusal requires that the Committee member remove himself completely from all further participation in the matter in question. The recused person shall immediately leave the room where the matter is under consideration, or shall seat himself in the audience with any other members of the public who are present. The recused person shall not participate in discussions about the pending matter unless that person first clearly states for the record that any comments or opinions are offered in that person's capacity as general member of the public. No recused person shall deliberate or vote on the matter in question.
  - ii. When uncertainty arises as to the above, the Committee shall, upon the request of that member or any other member of the Committee, vote on the question of whether that member should be disqualified. Such request shall be made prior to, or at the commencement of a hearing or an action resulting in a Committee decision on the matter. The vote shall be made a matter of record, shall be advisory in nature, and shall not be requested by persons other than Committee members.

## 6. PROCEDURES.

### a. Order of business.

- i. The order of business shall generally be as follows:
  - (a) Call to order by Chairman.
  - (b) Roll call and confirmation of quorum.
  - (c) Minutes of previous meeting.
  - (d) Public comment.
  - (e) Scheduled hearings or meetings
  - (f) Review of findings from previous hearings.
  - (g) Review of communications directed to the Committee, to include complaints.
  - (h) Unfinished business.
  - (i) Outstanding business.
  - (j) Other business.
- ii. The Committee may, at any meeting, change the above order to better accommodate the public or the Committee.

### b. Voting.

- i. A motion, duly seconded, shall be carried by an affirmative vote of a majority of the members present. A motion made without a second will not be discussed or voted on.
- ii. Votes will be decided by a simple majority except for those votes regarding the sealing of minutes, where a two-thirds (2/3) majority is required.

- iii. Each vote count shall be recorded in the minutes as a final tally (e.g. Passes 4-1) except for those votes motioning a transition to a nonpublic meeting, where a roll-call vote count shall be taken and recorded in the minutes.

## 7. COMPLAINTS.

### a. In general:

- i. The Committee may dismiss a complaint at any point in the process.
- ii. Public notice as required in RSA 91-A:2 shall be met for each session/hearing on each complaint. Notice shall be posted at Town Hall, Post Office, Town website, and/or Public Library not less than five (5) days before the date fixed for the hearing.
- iii. Any interested party shall have the right to petition the Committee to move any session or hearing into a nonpublic session by demonstrating, in a nonpublic session, that the public's right to know is outweighed by some person's right to privacy.
- iv. The Complainant(s) must be present at all pre-hearings, and hearings related to the complaint, or the complaint may be dismissed. Excusals may be granted at the Committee's discretion.
- v. Pursuant to The Town of Pittsfield Code of Ethics Section 3, Paragraph H, All officers and employees of the Town of Pittsfield shall cooperate with the Ethics Committee regarding any complaint or inquiry alleging violation of this Code of Ethics.
- vi. A Respondent may request the Ethics Committee make a finding on any complaint that is withdrawn, dismissed or invalidated. If such a request is made, the Ethics Committee shall complete an investigation pursuant to the procedures described herein.

### b. Procedures for filing complaints.

- i. To be considered, Complaint Forms must be obtained at Town Hall or via electronic communications.
- ii. The Complaint Form must be complete, in writing, signed, dated and include the name, address and contact number of each Complainant. Business owners submitting a complaint must also include the name, address and contact number of the business.
- iii. Complaints must be filed, as instructed on the Complaint Form, with the Ethics Committee. See the Communications section of these Rules of Procedure for address.
- iv. If the complaint is against the Ethics Committee as a body, the complaint may be filed with the Board of Selectmen. If the complaint is against any member of the Ethics Committee, the complaint shall be filed with the Ethics Committee.

### c. The complaint process shall generally follow these steps:

- i. The Vice Chairman shall receive all Complaint Forms on behalf of the Ethics Committee.
- ii. The Vice Chairman shall notify the Ethics Committee that a complaint has been received and schedule a public session at which the Complaint Form shall be reviewed and a pre-hearing will commence.
- iii. The Vice Chairman shall notify both Respondent(s) and Complainant(s), with a minimum 2 calendar week's notice, of the scheduling of a review and pre-hearing.
- iv. The Committee shall review the complaint in a public session to determine if:

- (a) the complaint is within the Committee's jurisdiction;
  - (b) all reasonable means of resolution within town government have been exhausted by the Complainant; and
  - (c) the complaint has merit.
- v. If, during this review, the Committee determines that; the complaint is within its jurisdiction, the Complainant has exhausted all reasonable means of resolution, and the complaint has merit, the Committee shall proceed with a pre-hearing in accordance with the Pre-hearings section of these Rules of Procedure.
  - vi. If, at the end of the pre-hearing, no resolution can be reached and/or there is reasonable cause to believe that an ethics violation has occurred, the Committee shall proceed with an investigation and hearing in accordance with the Investigations and Hearings sections of these Rules of Procedure.
  - vii. If necessary, the Ethics Committee may extend its investigatory period up to a maximum of ninety (90) days from when the matter is first presented to the Committee as an agenda item, excluding any continuance period.
  - viii. The Committee will present findings on all complaints and will forward all findings to the Board of Selectmen. Findings shall include information pertinent to each complaint.
  - ix. The Selectmen shall have thirty (30) days from the date a finding is submitted to the Board of Selectmen to act on the Ethics Committee findings.

## **8. PRE-HEARINGS.**

- a. The Committee will hold a pre-hearing conference after reviewing a complaint and prior to commencement of investigatory proceedings. This shall be a public conference in accordance with RSA 91.
- b. The complainant and respondent will both be notified by certified mail, return receipt required, as to the time and location of this conference and they shall both be required to attend. Failure of the Complainant to attend will result in the dismissal of the complaint. Failure of the respondent to attend will result in the committee making a note of a violation of the Pittsfield Code of Ethics Ordinance, Section III.H (Duty to Cooperate), and forward that note to the Board of Selectmen for their review. Excusals may be granted at the Committee's discretion.
- c. The purpose of the pre-hearing conference shall be to determine if a fair and reasonable resolution can be reached between the parties involved in order to avoid the investigation and hearing processes.
- d. If at the end of this conference, it is determined that no resolution can be reached and/or there is reasonable cause to believe that an ethics violation has occurred, the matter will be scheduled for the rest of the hearing process.
- e. Regardless of the outcome of the pre-hearing, findings of the Committee will be forwarded to The Board of Selectmen.

## **9. INVESTIGATIONS**

- a. Investigatory Power.
  - i. The Ethics Committee shall have the authority to use town resources in its investigation of alleged violations of the Town of Pittsfield Code of Ethics Ordinance. The Ethics Committee shall request from the Town Administrator use of staff and other town resources that are beyond the Ethics Committee budget. The Town Administrator shall not withhold assistance.

- (a) The Ethics Committee, only after a complaint is filed and accepted for review and/or action under Section 7, (Complaints), may request of any person(s) to appear before it and give such information as it may require in relation to the complaint.
  - (b) The Ethics Committee may request any person(s) to appear before it. Said person(s) shall be given a minimum of fourteen (14) days written notice to appear, and to provide any pertinent information regarding the complaint.
  - (c) The Ethics Committee will require the production of evidence by all parties.
- ii. The Ethics Committee shall not have access to employee personnel files without written permission from that employee.

## 10. HEARINGS

### a. General.

- i. When appearing before the Ethics Committee, the Respondent(s) may call witnesses on his or her behalf and may retain representation by legal counsel at his or her own expense.
- ii. At notification of hearing, each party must notify the other—through the Committee—if it will be represented by legal counsel.
- iii. Each party is entitled to one continuance. The request must be in writing and the timeframes approved by the Ethics Committee.
- iv. Personal notice of hearing shall be made by certified mail, return receipt required, to the Respondent(s) and Complainant(s) and all involved not less than seven (7) days before the date of the hearing. Notice shall also be given to the Board of Selectmen, Town Administrator, and others deemed by the Committee to have special interest. Said notice shall contain the same information as the public notice and shall be made on forms provided for this purpose.

### b. Public hearings. The conduct of a public hearing shall be governed by the following rules:

#### i. General.

- (a) Members of the Committee may ask questions at any point during the proceedings.
- (b) Any party to the matter who desires to ask a question of another party must do so through the Chairman.
- (c) Any person with an interest in the matter must testify in person. Written statements from parties not in attendance will not be accepted. Specific exceptions may be allowed by the Chairman.
- (d) Persons who speak shall be required to state their name and address and indicate whether they are a party to the matter or an agent or counsel to a party to the matter.

#### ii. Specific.

- (a) The Chairman shall call the hearing in session, identify the Complainant(s) and Respondent(s) and the nature of the complaint.
- (b) The Chairman shall read the complaint and report on the manner in which public and personal notice was given.

- (c) The Secretary or his/her designee shall record the minutes.
  - (d) The Complainant(s) shall be called upon to present evidence, information and supporting documentation, and those appearing on his/her behalf shall be allowed to speak.
  - (e) The Respondent(s) shall present any supporting evidence, information and supporting documentation, and those appearing on his/her behalf shall be allowed to speak.
  - (f) Those in opposition to the Respondent(s) shall be allowed to speak.
  - (g) Those in opposition to the Complainant(s) shall be allowed to speak.
  - (h) Other parties, such as representatives of town departments and other boards and commissions and committees who have an interest in the complaint, shall be allowed to comment in person.
  - (i) Those neither in favor nor in opposition may speak.
  - (j) The Complainant(s) shall be allowed to speak in rebuttal for a maximum of ten (10) minutes.
  - (k) The Respondent shall be allowed to speak in rebuttal for a maximum of ten (10) minutes.
  - (l) Any member of the Committee, through the Chairman, may request any party to the matter under consideration to reappear.
  - (m) Any person who wants the Committee to request the attendance of a witness shall present his request in writing to the Chairman not later than five (5) business days prior to the public hearing.
  - (n) The Ethics Committee will hear with interest any evidence that pertains to the facts of the matter or how the facts relate to the provisions of the Town of Pittsfield Code of Ethics Ordinance.
  - (o) The Chairman shall present a summary setting forth the facts of the matter and the claims made for each side. Opportunity shall be given for correction from the floor.
  - (p) The Chairman shall indicate at the end of the hearing whether the hearing is closed or adjourned. Closure or adjournment shall depend on whether there is a need for submission of additional material or information or for the correction of noted deficiencies. In the case of an adjournment, additional notice shall not be required if the date, time, and place of the continuation are announced at the time of adjournment.
  - (q) The hearing on the complaint shall be declared closed and the next case called, if any.
  - (r) Requests for continuances must be in writing and timeframes approved by the Ethics Committee.
- iii. All forms and revisions shall be adopted by resolution of the Committee and shall become part of these Rules of Procedure.
- c. Nonpublic hearings. The conduct of a nonpublic hearing shall be governed by the following rules:
- i. General.
    - (a) The Hearing shall be held in Nonpublic session pursuant to RSA 91-A:3, II a & c.
    - (b) The hearing information and minutes shall be nonpublic if, by a two-thirds (2/3) vote, the Committee determines that the public's right to know is outweighed by some person's right to privacy.

- (c) Members of the Committee may ask questions at any point during the proceedings.
  - (d) Any party to the matter who desires to ask a question of another party must do so through the Chairman.
  - (e) Any person with an interest in the matter must testify in person. Written statements from parties not in attendance will not be accepted. Specific exceptions may be allowed by the Chairman.
  - (f) Persons who speak shall be required to state their name and address and indicate whether they are a party to the matter or an agent or counsel to a party to the matter.
- ii. Specific.
- (a) The Chairman shall call the hearing in session, identify the Complainant(s) and Respondent(s) and the nature of the complaint.
  - (b) The Chairman shall read the complaint and report on the manner in which public and personal notice was given.
  - (c) The Secretary or his/her designee shall record the minutes.
  - (d) The Complainant(s) shall be called upon to present evidence, information and supporting documentation.
  - (e) The Respondent(s) shall present any supporting evidence, information and supporting documentation.
  - (f) Parties who have an interest in the complaint will be called in separately, one at a time, and shall be allowed to comment in person.
  - (g) At the conclusion of all testimony, the Complainant shall be allowed to speak in rebuttal for a maximum of ten (10) minutes.
  - (h) The Respondent shall be allowed to speak in rebuttal for a maximum of ten (10) minutes.
  - (i) Any member of the Committee, through the Chairman, may request any party to the matter under consideration to reappear.
  - (j) Any person who wants the Committee to request the attendance of a witness shall present his request in writing to the Chairman not later than five (5) business days prior to the hearing.
  - (k) The Ethics Committee will hear with interest any evidence that pertains to the facts of the matter or how the facts relate to the provisions of the Town of Pittsfield Ethics Ordinance.
  - (l) The Chairman shall present a summary setting forth the facts of the matter and the claims made for each side. Opportunity shall be given for correction from the floor.
  - (m) The Chairman shall indicate at the end of the hearing whether the hearing is closed or adjourned. Closure or adjournment shall depend on whether there is a need for submission of additional material or information or for the correction of noted deficiencies. In the case of an adjournment, additional notice shall not be required if the date, time, and place of the continuation is announced at the time of adjournment.
  - (n) The hearing on the complaint shall be declared closed and the next case called, if any.
  - (o) Requests for continuances must be in writing and timeframes approved by the Ethics Committee.

- iii. All forms and revisions shall be adopted by resolution of the Committee and shall become part of these Rules of Procedure.

**11. FINDINGS.** (Decisions made on complaints)

- a. Findings shall be made by the Ethics Committee.
- b. Findings shall include information pertinent to each complaint.
- c. All findings shall be signed by at least one member of the Committee—normally the Chairman.
- d. The investigatory period is up to a maximum of 90 days from when the matter is first presented to the Ethics Committee as an agenda item, excluding any continuance period.
- e. The Committee shall make a finding within 30 days after the completion of the investigation, excluding any continuance period.
- f. All findings shall be forwarded to the Board of Selectmen, Respondent(s), and Complainant(s).
- g. The Committee may dismiss a complaint at any time.
- h. All forms and revisions shall be adopted by resolution of the Committee and shall become part of these rules of procedure.

**12. RECORDS**

- a. Public Records.
  - i. The public records of the Committee shall be kept by the Secretary at the town office building and made available for public inspection in accordance with statutory requirements, pursuant to RSA 91-A:4, except as otherwise prohibited by Statute or RSA 91-A:5.
  - ii. Minutes of all public meetings including names of Committee members, persons appearing before the Committee, and a brief description of the subject matter discussed, shall be promptly recorded and open to public inspection within 144 hours of the public meeting, pursuant to RSA 91-A:2, II except as provided in RSA 91-A:6, RSA 91-A:5 and future revisions.
- b. Nonpublic Records.
  - i. Nonpublic records shall be held in strict conformance with Chapter 91-A:3 (Access to Public Records and Meetings) of the New Hampshire Revised Statutes Annotated.
  - ii. Minutes of proceedings in nonpublic session shall be kept and the record of all actions shall be promptly made available for public inspection, except as provided in this section pursuant to RSA 91-A:3, III. Minutes and decisions reached in nonpublic session shall be publicly disclosed within 72 hours of the meeting, unless, by recorded vote of 2/3 of the members present, it is determined that the public's right to know is outweighed by some person's right to privacy. In the event of such circumstances, information may be withheld until, in the opinion of a majority of members, the aforesaid circumstances no longer apply.
  - iii. The nonpublic records and minutes of the Committee shall be kept by the secretary at the town office building and shall not be available for public inspection, pursuant to RSA 91-A:5,IV and RSA 91-A:3,III.

- iv. Written findings shall be forwarded to the Board of Selectmen, the Respondent, and the Complainant, by the Committee, pursuant to RSA 91-A:5,IV and RSA 91-A:3,III. Findings shall also be made a part of the public record.

**13. COMMUNICATIONS.** All correspondence must be delivered to:

Town of Pittsfield  
Ethics Committee  
85 Main St.  
Pittsfield, NH 03263.

**14. AMENDMENTS**

- a. These bylaws may be amended by majority vote of the membership of the Ethics Committee. Amendments shall take effect at the next meeting of the committee or as otherwise provided. Complaints being heard at the time of the amendments, or complaints scheduled to be heard at the time of the amendment, shall not be subject to amendments.

THESE RULES OF PROCEDURE ARE HEREBY ADOPTED BY THE PITTSFIELD ETHICS COMMITTEE ON:


April 11, 2007  
Date

BY:

  
Glenn Amcott, Chairman

  
Hugh Sanborn, Vice Chairman

  
Michelle Bahr, Secretary

  
Hank Fitzgerald, Member

  
Ron Vien, Member