The Town of Fryeburg

Settled 1762 - Incorporated 1777

Municipal Office

16 Lovewell Pond Road

Fryeburg, ME 04037

207-935-2805 telephone

207-935-6008 fax

May 16, 2016

Board/Commission/Committee Members:

You are receiving this packet because your term will expire on June 30, 2016. The Selectmen have approved the following documents that are enclosed.

- Application for Membership
- Town of Fryeburg's Policy for Establishment and Operation of Boards and Committees
- Town of Fryeburg's Code of Ethics for Boards and Committees.

Please take the time to read though these forms carefully. If you wish to be re appointed, please read these policies fully, complete the application and mail back to The Town of Fryeburg in the enclosed envelope by June 1, 2016. If we do not receive your Application by June 1, 2016 your membership will be posted vacant.

If you decline to be re-appointed please simply put your name on the application and write declined and mail back in the enclosed envelope.

Sincerely,

Kelly Woitko

Kelly Woitko
Town of Fryeburg
Deputy Clerk

Town of Fryeburg, Maine

Application for

Board/Commission/Committee Membership

Please Print

Name: _____ **Tel. No.** _____

Mailing Address: _____

Physical Address: _____

E-mail: _____**US Citizen** ____**Registered Voter**_____

Resident of Fryeburg _____

Applying for Membership on: _____

Applicable Background Experience: _____

_____

_____

My signature below certifies that the information above is true and correct

- I have read the attached Policy for Establishment and Operation of Boards and Committees
- I have read the attached Code of Ethics Policy

Signature: _____ **Date:** _____

For Town Use Only

__APPROVE __DISAPPROVED __TABLE __Compliance with By-Laws or Ordinances

_____ _____

Town Clerk Signature

_____

_____

Fryeburg Selectmen Members **Date:** _____

Town of Fryeburg, Maine
Policy For
Establishment and Operation of Boards and Committees

ORGANIZATION: Boards and committees shall be free to establish their own rules of procedure, consistent with applicable laws and ordinances, but shall ensure that their procedures avoid unduly complex parliamentary procedures. They shall conduct their business in an orderly manner clearly understandable by the community and in a way that provides reasonable opportunity for public access and participation.

1. All proceedings of all municipal boards and committees shall be conducted in accordance with the provisions of the Freedom of Access Law, Title 1, M.R.S.A., §401-410. Public notice and agenda shall be posted at the municipal office prior to meetings.

2. All boards and committees shall keep written minutes of their meetings. In addition, the Board of Selectmen, Planning Board and Board of Appeals shall tape and/or record their meetings. All boards and committees shall tape and/or record their public hearings. All minutes and original tapes will be submitted to the Town Clerk within five days of the approval of the minutes at the next meeting.

3. No member appointed to a board or committee may be compensated for membership. Training will be provided for all board and committee personnel after membership is approved.

4. All written and e-mail correspondence that is sent on behalf of a board or committee, and that is between any board or committee member and any other party, shall be considered a public record, pursuant to the Freedom of Access Law, Title 1, M.R.S.A., §401-410. All boards and committees shall furnish to the Public Access Officer, within five days, a copy of all outgoing or incoming correspondence, and shall request that all incoming, written correspondence be addressed to the municipal office's mailing address. All boards and committees shall send the town at townmanager@fryeburgmaine.org, an electronic copy of all outgoing or incoming e-mails.

MISSION / PURPOSE: Each board or committee should have a mission statement and a general outline of its purpose, tasks and responsibilities and the extent of its authority.

WORK PLANS AND REPORTS: By December 31st of each year, each board and committee should prepare, for submission to the Town Manager and Board of Selectmen, an annual work plan containing a list of issues it can safely predict will arise in the coming year, work that it will attempt to accomplish, and requests for funds needed for such work. Each board or committee should then prepare an annual report, for submission to the Town Manager and Board of Selectmen, to be included in the Annual Town Report, summarizing accomplishments or work that remains to be done.

Approved by Board of Selectmen: Date: MAY 5, 2016

Selectman:
Selectman:
Selectman:

TOWN OF FRYEBURG, MAINE
CODE OF ETHICS
Adopted: February 18, 2016

Section I - General Provisions

Declaration of policy

The proper operation of democratic government requires that Board of Selectmen and their appointees be fair, impartial and responsive to the needs of the people and each other in the performance of their respective functions and duties; that decisions and policy be made in proper channels of the Town's governmental structure; that public office not be used for personal gain; and that Town employees, Board of Selectmen and Town appointees maintain a standard of conduct that will inspire public confidence in the integrity of the Town's government. In recognition of these goals, a Code of Ethics is hereby established for all Town employees, Board of Selectmen and members and associate members of the all Town boards and commissions now existing or hereafter created.

Section II - Definitions

As used in this code, the following terms shall have the meanings indicated:

BOARD/COMMISSIONS -- All statutory and nonstatutory boards, committees, commissions or other public bodies now existing or hereafter created by virtue of any ordinance, order or resolve adopted by the Fryeburg Board of Selectmen, including, without limitation, the following:

A. Planning Board
B. Board of Appeals
C. Conservation Committee
D. Economic Development Committee
E. Budget Committee
F. Comprehensive Plan Committee
G. Parks Committee
H. Cemetery Committee
I. Eastern Slope Airport Authority
J. Saco River Corridor Commission
K. Southern Maine Regional Planning Commission
L. Mt. Washington Valley Economic Council
M. Bicycle and Pedestrian Committee
N. Route 113 Corridor Commission

BOARD/COMMISSION MEMBER -- Any person elected to membership or associate membership on a Town board/commission or appointed to such a board/commission by or under the authority of the Fryeburg Board of Selectmen.

BUSINESS -- Any corporation, partnership, individual, sole proprietorship, joint venture or any other legally recognized entity organized for the purposes of making a profit.

BOARD OF SELECTMEN -- For purposes of this code, references to the Board of Selectmen shall be construed to mean the Board of Selectmen of the Town of Fryeburg and any of the committees or subcommittees thereof.

SELECTMAN -- A member of the Fryeburg Board of Selectmen.

TOWN EMPLOYEE -- Any individual working for, on a permanent or temporary basis, and drawing an hourly wage or salary from the Town of Fryeburg. The term "Town employee" shall not include outside consultants or professional personnel providing services to the Town as independent contractors under a written professional services contract or other similar engagement.

FINANCIAL INTEREST -- A direct or indirect interest having monetary or pecuniary value, including but not limited to the ownership of shares of stock. A Town employee, Board of Selectmen, board member or commission member or any member of that person's immediate family who holds a financial interest in a disclosed blind trust shall not be deemed to have a conflict of interest with regard to matters pertaining to assets held by the trust.

IMMEDIATE FAMILY -- Spouse, children, parents, siblings, including step, half, and in-law relations, and domestic partner of a Town employee, Board of Selectmen, board member or commission member.

PERSONAL INTEREST -- Any interest of a Town employee acting in his or her private capacity as a resident, landowner, taxpayer, citizen, or member of the general public.

SPECIAL INTEREST -- A direct or indirect interest having value peculiar to a certain individual or group, whether economic or otherwise, which value may accrue to such individual or group as a result of the passage or denial of any order, ordinance or resolution or the approval or disapproval thereof by the Board of Selectmen, board or commission and which interest is not shared by the general public.

Violations and penalties

Violations of this code shall be punishable penalties or remedies as may be provided by law. In addition, violation of this code shall constitute cause for censure, after notice and hearing conducted by the Board of Selectmen. A majority of the Fryeburg Board of Selectmen shall conduct such proceedings. A violation of this Code by a Town employee shall also constitute proper grounds for dismissal or other disciplinary action as provided in the Town's published Personnel Rules and Regulations.

Section III - Standards of Conduct

Purpose

The purpose of this Code is to establish ethical standards of conduct for all Town employees, Board of Selectmen and board and commission members by setting forth those acts or actions deemed to be in conflict or incompatible, or to create the appearance of conflict or incompatibility, with the best interests of the Town of Fryeburg.

Statutory standards

There are certain provisions of the general statutes of the State of Maine which should, while not set forth herein, be considered an integral part of this code. Accordingly, the provisions of the following sections of the general statutes of the State of Maine, as may be amended, are hereby incorporated by reference and made a part of this Code of Ethics and shall apply to all Town employees, Board of Selectmen, board members and commission members of the Town of Fryeburg whenever applicable as if more fully set forth therein:

A. 17-M.R.S.A. §3104, Conflicts of interest; purchases by the state.
B. 17-A M.R.S.A. §456, Tampering with public records or information.
C. 17-A M.R.S.A. §602, Bribery in official and political matters.
D. 17-A M.R.S.A. §603, Improper influence.
E. 17-A M.R.S.A. §604, Improper compensation for past action.
F. 17-A M.R.S.A. §605, Improper gifts to public servants.
G. 17-A M.R.S.A. §606, Improper compensation for services.
H. 17-A M.R.S.A. §607, Purchase of public office.
I. 17-A M.R.S.A. §608, Official oppression.
J. 17-A M.R.S.A. §609, Misuse of information.
K. 17-A M.R.S.A. §903, Misuse of entrusted property.
L. 21-A M.R.S.A. §504, Persons ineligible to serve.
M. 30-A M.R.S.A. §2605, Conflicts of interest.
N. 30-A M.R.S.A. §5122, Interest of public officials, trustees or employees.

Contracts, purchases and employment

A. No Town employee, Board of Selectmen, board member or commission member shall participate directly, by means of deliberation, approval or disapproval or recommendation, in the purchase of goods and services for the Town and the award of any contracts with the Town, except as permitted under the Town's Purchasing Policy and under the laws of the State of Maine, where to his or her knowledge there is a financial interest, or special interest other than that possessed by the public generally, in such purchase or award held by:
    1. That individual or a member of his or her immediate family;
    2. A business in which that individual or a member of his or her immediate family serves as an officer, director, trustee, partner or employee in a supervisory or management position; or

3. Any other person or business with whom or with which that individual or a member of his or her immediate family is in business or is negotiating or has an arrangement concerning future employment.
4. No Board of Selectmen, board member or commission member shall participate, by means of deliberation, approval or disapproval or recommendation, in the decision to hire, promote, discipline, lay off or to take any other personnel action in respect to any applicant for Town employment or Town employee where said applicant or employee is a member of the Seletmen's, board member's or commission member's immediate family; or
5. A person with whom either the Selectmen, board member, commission member or a member of his or her immediate family is in business.

B. Employees.
   1. Except as authorized under the Town's published Personnel Rules and Regulations, no Town employee shall participate, by means of deliberation, approval or disapproval or recommendation, in the decision to hire, promote, discipline, lay off or to take any other personnel action in respect to any applicant for Town employment or Town employee where said applicant or employee is:
      (a) A member of the Town employee's immediate family; or
      (b) A person with whom either the Town employee or a member of his or her immediate family is in business.
   2. Action by a Town employee shall be deemed authorized under this subsection when such action is permitted under the Town's published Personnel Rules and Regulations or when the Board of Selectmen has waived those rules so as to allow creation of a supervisory relationship that would otherwise violate the published rules.

Confidential information

No Town employee, Board of Selectmen, board member or commission member shall, without proper legal authorization, disclose confidential information concerning the property, government or affairs of the Town, nor shall he or she use such information to advance his or her financial, special, or personal interest or the financial, special, or personal interest of others. For purposes of this section, the term "confidential information" shall mean any information, oral or written, which comes to the attention of, or is available to, such Town employee, Board of Selectmen, board member or commission member only because of his or her position with the Town and is not a matter of public record. Information received and discussed during an executive session of the Fryeburg Board of Selectmen or any Town agency called pursuant to M.R.S.A. 1, §405, as amended, shall be considered within the constraints of this section and shall not be disclosed to any third party unless permitted by affirmative vote of such body.

Gifts and favors

A. No Town employee, Board of Selectmen, board member or commission member shall accept any gift, favor or thing of value, whether in the form of service, loan, thing or promise, from any person or business which to his or her knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the Town, nor shall any Town employee, Board of Selectmen, board member or commission member:
    1. Accept any gift, favor or thing of value that tends to influence that individual in the discharge of his or her official duties; or
    2. Grant in the discharge of his or her official duties any improper favor, service or thing of value.

B. Nothing herein shall prohibit the acceptance of gifts or favors by Town employees, Board of Selectmen, board members or commission members from members of their immediate families. In determining whether a violation of this section has occurred, the Board of Selectmen, in cases referred to it pursuant to §*Referrals* of this code, shall consider the monetary or pecuniary value of the gift, favor or thing received; any special economic value the gift, favor or thing received may have to the recipient; the circumstances under which the gift, favor or thing concerned was received; and whether a public disclosure of the receipt was made by the recipient at the time.

Use of Town property

No Town employee, Board of Selectmen, board member or commission member shall use or permit the use of any Town-owned property, including but not limited to motor vehicles, equipment and buildings, for any private purposes. Nothing herein shall prohibit use of Town buildings and equipment at rates and/or on terms as may be established. Nothing herein shall prohibit the use of Town equipment or motor vehicles by Town employees in accordance with written policies established by the Board of Selectmen, Town Manager or Town department head concerned, nor shall this code be deemed to prohibit private use of surplus Town property legally disposed of by the Town or its departments in compliance with established procedures.

Solicitations by Town officials and employees

The following provisions apply to solicitations by Town of Fryeburg officials and employees for the benefit of the Town or for the support of Town programs or activities.

A. Board of Selectmen. No member of the Board of Selectmen, during his or her term of office, shall solicit donations of money, property or items of value from any individual or business for the benefit of the Town of Fryeburg or for the support of any Town program or activity. No Board of Selectmen member may directly receive or accept any such donation, whether or not solicited by the Board member concerned. This subsection does not prohibit the following:
    1. Solicitations of individuals related to the Councilor concerned by blood, marriage or adoption;

2. Solicitations of businesses in which the Councilor concerned holds an equity interest as proprietor, partner or shareholder;
3. General statements of support for particular fund-raising efforts, provided that the statements of support are directed at the public at large and not at any particular individual or business; and
4. Solicitations expressly authorized by Board of Selectmen ordinance or order.

B. Town Manager. The provisions of §A. above shall apply to the Town Manager.

C. Town officials.
1. No Town official with approval authority over any Town-issued permit, license, benefit or contract shall solicit donations of money from any individual or business for the benefit of the Town of Fryeburg or for the support of any Town program or activity.
2. Officials subject to the provisions of this subsection include the following:
   (a) Town Clerk/Registrar of Voters
   (b) Police Chief
   (c) Fire Chief
   (d) Code Enforcement Officer/Plumbing Inspector/Assessors' Agent
   (e) Recreation Director
   (f) Animal Control Officer
   (g) Finance Director
   (h) Public Works Director/Road Commissioner
   (i) Fire Warden
   (j) Civil Emergency Planner
   (k) Health Officer
   (l) Tree Warden
   (m) General Assistance Administrator
   (n) Librarian

3. This subsection does not prohibit the following:
   (a) solicitations of individuals related to the official concerned by blood, marriage or adoption;
   (b) Solicitations of businesses in which the official concerned holds an equity interest as proprietor, partner or shareholder;
   (c) General statements of support for particular fund-raising efforts, provided that the statements of support are directed at the public at large and not at any particular individual or business;
   (d) Solicitations expressly authorized by Board of Selectmen ordinance or order;
   (e) Applications for funding or grants from an established public agency or charitable foundation; and
   (f) Assessment and collection of franchise fees, taxes, fees for services, rent, development impact fees and other amounts owed to the Town.

(g) Officials subject to this paragraph may solicit donations of property and items of value, other than money, for the benefit of the Town or for the support of Town programs or activities, if the solicitation has been authorized by the Board of Selectmen and is reasonably within the normal scope of the official's duties.

D. Town employees.

1. Town employees, other than Town Official employees, shall not solicit donations of money, property or items of value from any individual or business, for the benefit of the Town of Fryeburg or for the support of any Town program or activity, without prior approval by the Town Manager or Board of Selectmen §C(3)(a) through (f) above. All funds, property and items of value received as a result of such solicitations shall be processed and deposited in the manner prescribed by the Finance Director.

Representing third party interest before Town agencies.

A. No Town employee shall appear on behalf of any third party interest before any Town agency or represent a third party interest in any action, proceeding or litigation in which the Town or one of its agencies is a party. Nothing herein shall prohibit any Town employee from appearing as a witness when duly called by a party for the purpose of giving nonprivileged testimony before any Town agency or in any such action, proceeding or litigation. Nothing herein shall prohibit any Town employee, on behalf of his or her personal interest, from appearing before any Town agency.

B. No Board of Selectmen shall either appear on behalf of any third party interest before any Town agency or represent a third party interest in any action, proceeding or litigation in which the Town or one of its agencies is a party. Nothing herein shall prohibit a Councilor, on behalf of a constituent in the course of his or her duties as a representative of the electorate, or any Councilor, on behalf of his or her personal interest, from appearing before a Town agency.

C. No board or commission shall appear on behalf of any third party interest before a Town agency of which he or she is a current member. Nothing herein shall prohibit a board member or commission member, on behalf of his or her personal interest, from appearing before any Town agency, including that of which he or she is a current member, but such board member or commission member shall not deliberate or vote on the item concerned.

Conflicts of interest

A. Deliberation and vote prohibited. No Board of Selectmen, board member or commission member shall, in such capacity, participate in the deliberation or vote, or otherwise take part in the decision making process, on any agenda item before his or her collective body in which he or she or a member of his or her immediate family has a financial or special interest, other than an interest held by the public generally.

B. Disclosure of conflict. Any Board of Selectmen, board member or commission member who believes that he or she or a member of his or her immediate family has a financial or special interest, other than an interest held by the public generally, in any agenda item before his or her collective body shall disclose the nature and extent of such interest, and the Town Clerk or his or her designee shall make a record of such disclosure. Such disclosure shall be made no later than the date of the first meeting of the Board of Selectmen, board, commission or committee thereof at which the agenda item concerned is to be taken up for consideration, recommendation, discussion or vote and at which the Board of Selectmen, board member or commission member is present. Additionally, any Board of Selectmen, board member or commission member who believes that any fellow Board of Selectmen, board member or commission member, or a member of such fellow Board of Selectmen's, board member's or commission member's immediate family has a financial or special interest, other than an interest held by the public generally, in any agenda item before his or her collective body shall disclose the nature and extent of such interest, and the Town Clerk or his or her designee shall make a record of such disclosure.

C. Determination of conflict. Once the issue of conflict has been raised relative to an individual Board of Selectmen, committee member, board member or commission member and disclosure has been made as provided above, such individual's fellow Board of Selectmen, committee members, board members or commission members shall review the facts as disclosed to them and shall vote on whether or not such individual has a financial or special interest with respect to the agenda item concerned. All conflict of interest questions relating to a particular agenda item shall be resolved prior to any consideration of the item concerned, and each Board of Selectmen, committee member, board member or commission member present shall be entitled to vote on all conflict of interest questions except those questions pertaining to that individual Selectman's, committee member's, board member's or commission member's alleged conflict of interest.

1. All votes of conflict of interest questions shall be recorded. A majority vote shall determine the question, but a vote by committee may later be reviewed by the full Board of Selectmen upon the Board of Selectmen's consideration of the same agenda item.
2. Upon determination that a conflict of interest in fact exists, the Board of Selectmen, committee member, board member or commission member concerned shall be excused from participating in discussion, deliberation or vote on the relevant agenda item.
3. In lieu of the vote required by this subsection, the Board of Selectmen, upon motion and by majority vote, may refer the conflict of interest question to the Town Board of Ethics in accordance with §*Referrals* of this code or may table its consideration of the relevant agenda item. In the event that a majority of the Board of Selectmen, board or commission concerned, or committee thereof, shall require disclosure of further information not immediately available or shall require confirmation of the information disclosed, consideration of the relevant agenda item shall be postponed to an appropriate time.

D. Avoidance of appearance of conflict. To avoid the appearance of a violation of this section, once any individual Board of Selectmen, board member or commission member is determined to have a conflict of interest in respect to any agenda item and once all conflict of interest questions relating to the agenda item concerned have been determined as provided in Subsection C above, said individual shall immediately remove himself or herself from the meeting room. He or she shall not return to his or her regular seat as a member of the body until deliberation and action on the item is completed. If the item has not been finally resolved when the conflict of interest is first determined, said individual shall not be present for any subsequent action on the agenda item. Nothing herein shall require an individual Councilor, board member or commission member to remove himself or herself for any item contained on a consent agenda on which there is no deliberation, the individual's conflict has been determined by the other members and the right to abstain from voting on the item has been granted

E. Personal interest. Nothing herein shall be construed to prohibit any Board of Selectmen, board member or commission member from representing his or her own personal interest by appearing before his or her collective body on any such agenda item.

Disclosure statement

Within 15 days after each annual municipal election every Board of Selectmen shall file a completed disclosure form with the Town Clerk. Within 30 days after his or her appointment, every board member and every commission member shall file a completed disclosure form with the Town Clerk. Such disclosure forms shall be under oath and shall contain the following information to the best of the disclosing party's knowledge and belief:

A. The name of each person or entity, whether incorporated or not, doing business with the Town in an amount in excess of $1,000 during the preceding calendar year from which such disclosing party, his or her spouse, or member of his or her immediate family actually residing in the household has received money or other thing of value in an amount in excess of $1,000 during the preceding calendar year, including but not limited to campaign contributions, where applicable.

B. The name of each entity, whether incorporated or not, doing business with the Town in an amount in excess of $1,000 for the preceding calendar year in which such disclosing party, his or her spouse, or member of his or her immediate family actually residing in the household has a financial interest in an amount in excess of $1,000, including but not limited to the ownership of shares of stock.

C. The name of each nonprofit and/or for-profit entity, whether incorporated or not, for which such disclosing party, his or her spouse, or member of his or her immediate family actually residing in the household holds a position of officer or member of any board.
    1. For each such entity, such disclosing party shall provide the following information:
        (a) A brief description of the purpose of each board and/or office;

(b) A short summary of such disclosing party's or family member's duties relative to any such board and/or office;
(c) The term of service on each such board and/or office; and
(d) Whether or not such disclosing party or family member receives compensation for service on such board and/or office and the extent to which such compensation exceeds $100 in the aggregate annually.

2. For purposes of this subsection, "compensation" shall include, but not be limited to, monetary compensation, gifts, gratuities, perks, fringe benefits, services and any other thing of value.

D. Every Board of Selectmen, board member and commission member shall amend his or her annual disclosure statement as may be required from time to time to ensure the continued accuracy thereof. Each such amendment shall be made within 15 days following the occurrence which requires the amendment.

E. The Town Clerk shall deliver a copy of each completed disclosure statement to every fellow member of the Board of Selectmen, board or commission of each disclosing party within 30 days after the expiration of the filing period.

F. For purposes of this code, a list prepared by the Finance Director of those persons or entities doing business with the Town in an amount in excess of $1,000 for the preceding year shall be determinative for purposes of reporting under this section. Income from, and financial investments in, policies of insurance and deposits in accounts from commercial or savings banks, savings and loan associations or credit unions and the ownership of less than 5% of the outstanding shares of stock in a publicly held corporation shall not be considered to be a financial interest within the meaning of this section.

Political activities.

No Town employee, Board of Selectmen, board member or commission member shall participate in any political activity which would be in conflict or incompatible with the performance of his or her official functions and duties for the Town. In conjunction therewith, no Town employee, Board of Selectmen, board member or commission member may use his or her official authority or position for the purposes of influencing or interfering with or affecting the results of any election, nor shall he or she solicit funds or contributions or accept or receive funds or contributions from Town employees for political purposes. No Board of Selectmen, board member or commission member may distribute pamphlets or handbills while he or she is performing official functions and duties with the Town. Nothing herein shall be construed to prohibit any Town employee, Board of Selectmen, board member or commission member from participating in the political process in their private capacity as candidates for elected office or as private citizens.

Incompatible employment or office.

No Town employee, Board of Selectmen, board member or commission member shall occupy any other office, elected or appointed, in any other governmental entity when the duties of such

office are incompatible with the proper discharge of his or her official duties with the Town. For purposes of this code, the occupancy of any office, elected or appointed, with any other governmental entity by any Board of Selectmen, board member or commission member is hereby prohibited in the following circumstances:

A. Where the duties of the other office make it a physical impossibility to discharge the duties of the Town position;

B. Where one office is subordinate to the other;

C. Where one office carries the power of removal of the other; or

D. Where the occupancy of both offices is prohibited by provisions of law.

Ethics in contracting.

The provisions of this section shall apply to all persons doing business with the Town of Fryeburg as vendors, suppliers or contractors, including potential vendors, suppliers and contractors submitting bids or proposals in response to a Town solicitation or advertisement.

A. Gratuities and kickbacks.
    1. Gratuities. It shall be a violation of this code for any person to offer, give or agree to give any Town employee, Board of Selectmen, board member or commission member a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation or award pertaining to a Town purchase order, contract, construction contract or professional services contract or with respect to any solicitation, advertisement, request for bids, request for proposals or any bid, proposal or other response thereto.
    2. Kickbacks. It shall be a violation of this code for any person to solicit, offer, give, accept or receive any undisclosed gratuity or offer of employment in connection with the award or potential award of any subcontract or contract modification or change order under a Town of Fryeburg prime contract for construction, procurement or professional services. To be valid, any disclosure under this subsection must be made in writing to the Town of Fryeburg Purchasing Agent prior to the date of opening of any proposals or bids on the prime contract concerned. Notwithstanding an otherwise valid written disclosure, it shall be a violation of this code to solicit, offer, give, accept or receive any such gratuity or offer of employment in violation of applicable state or federal law.

B. Prohibition against contingent fees. It shall be a violation of this code for a person to be retained, or to retain a person, to solicit or secure a Town contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.

C. Recovery of value transferred or received in breach of ethical standards; other penalties.

1. General provisions. The value of anything transferred or received in breach of the ethical standards of this code by a Town employee, Board of Selectmen, board member or commission member or other person may be recovered from the Town employee, Board of Selectmen, board member or commission member concerned and from the other person concerned.
2. Recovery of kickbacks by the Town. Upon a showing that a subcontractor made a kickback to a prime contractor or a higher tier subcontractor in connection with the award of a subcontract or modification or change order, it shall be conclusively presumed that the amount thereof was included in the price of the subcontract, modification or change order and ultimately borne by the Town, and such amount shall be recoverable hereunder from the recipient. In addition, that amount may also be recovered from the subcontractor making such kickbacks. Recovery from one offending party shall not preclude recovery from other offending parties.

D. Penalties and sanctions.
1. In addition to the recoveries provided in Subsection C above, any violation of this section shall be a civil violation. Upon conviction, any person, firm or corporation found to be in violation of this section shall be fined not less than three times the value of any improper gift or kickback paid, solicited or received or $500, whichever is greater. The penalties provided in this subsection shall be in addition to the penalties provided in §5 of this code and shall be in addition to any penalties imposed under state or federal law.
2. Sanctions.
   (a) Upon conviction of a violation of this section or upon a finding of a violation by the Town Purchasing Agent, Board of Ethics or the Board of Selectmen following written notice and hearing, the Board of Selectmen may impose one or more of the following sanctions on the person, firm or corporation convicted or found to be in violation:
      1) Written warnings or reprimands;
      2) Termination of contracts; or
      3) Debarment or suspension as provided in the Town's published Purchasing Policy (Authority to Debar or Suspend).
   (b) Termination of a contract under this subsection shall also terminate the contractor's right to receive further payment thereunder.
   (c) The sanctions provided in this subsection shall be in addition to the penalties provided in Subsection D.1. above.

E. Incorporation in certain contracts. The provisions of this section shall be provided to all interested bidders or proposers and shall be incorporated by reference as agreed terms in any Town of Fryeburg construction, procurement or professional services contract with a base bid price in excess of $10,000. In the case of a professional services contract, the base bid price for this purpose shall be the expected value of services to be billed during the contract term, or on an annual basis if the contract is of indefinite duration.

Section IV, Board of Ethics

Establishment; membership.

There is hereby created and established a Board of Ethics consisting of five members and two associate members appointed by the Board of Selectmen.

Terms of office; residency requirements.

All members shall be appointed for terms of three years each. All associate members shall be appointed for terms of three years each. Each member and associate member shall serve until his or her successor is appointed and qualified. All members must be residents of the Town of Fryeburg. No member shall serve more than two complete consecutive terms.

Holding other office or position.

No member or associate member of the Board shall hold any other Town office or position or be the member of any Town agency to which the Board of Selectmen shall have appointing authority, except that any person that works as a part-time employee for the Town of Fryeburg less than 200 hours during any calendar year may serve on the Board.

Procedural rules and records.

The Board shall establish such rules as it may determine to be necessary to govern its procedures. In addition, the Board shall at all times maintain in the office of the Town Clerk appropriate records of its opinions and proceedings.

Powers and duties.

The Board shall make findings of fact and render opinions to the Board of Selectmen concerning application of the provisions of this code to any particular situation. In the performance of its duties, the Board shall limit its review and fact finding to those issues referred to it by the Board of Selectmen. The Board shall also make annual recommendations for necessary revisions to this code and shall perform such other duties as may be prescribed from time to time by the Board of Selectmen.

Referrals.

A. Any Board of Selectmen, board member or commission member seeking advice as to whether a particular situation constitutes an actual or potential violation of this code shall first submit a written statement in the form of a Council order describing the nature of the matter to the Board of Selectmen. If the Council feels that an advisory opinion is necessary, it shall adopt the order, by majority vote, referring the matter to the Board. A tie vote on the order shall also cause the matter to be referred to the Board.

1. Upon referral of a question, the Board shall have the power to request voluntary statements from all persons concerned and to review all records on file with the Town of Fryeburg or other public agencies. All Board hearings shall be conducted in accordance with rules of procedure to be adopted by the Board. The Board may conduct any fact finding and deliberations in executive session as provided in M.R.S.A. 1, §405, Subsection 6A, as amended.
2. Upon conclusion of its fact finding and deliberations, the Board of Ethics shall issue written findings with respect to each matter and question referred to it. If the Board finds any matter referred to it to have been based upon allegations it determines to have been frivolous, unfounded or with malice, it shall so advise the Council.
3. It is the purpose and intent of this code to provide a mechanism by which all such matters may be handled in an orderly and impartial fashion in such a manner as to protect the best interests of the citizens of the Town of Fryeburg.

B. Employee conflicts. Upon referral, the Board of Ethics may render advisory opinions with respect to potential or prospective conflicts of interest involving Town employees. However, allegations of past or present misconduct involving alleged violations of this code by Town employees shall not be reviewed by the Board but shall be referred for disposition in accordance with the Town's established employee disciplinary procedures.

Orientation meeting; annual report.

A. All members shall attend an annual orientation meeting to be scheduled during the month of January of each calendar year.

B. The Board shall meet at least quarterly and, prior to December 31 of each calendar year, shall prepare and submit to the Board of Selectmen an annual report outlining its doings during the preceding twelve-month period.

Section V – Penalties

Violations of this Code shall be punishable by civil fine as provided in Section III, Section *Ethics in Contracting*, Subsection D. of this Code. In addition to any other penalties or remedies as may be provided by law, violation of this Code shall constitute cause for censure, after notice and hearing conducted by the Board of Selectmen. A majority of the Fryeburg Board of Selectmen shall conduct such proceedings. A violation of this Code by a Town employee shall also constitute proper grounds for dismissal or other disciplinary action as provided in the Town's published Personnel Rules and Regulations.

Section VI – Separability

If any section, subsection, sentence, clause or phrase of this Code is for any reason held to be invalid or unconstitutional, such validity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this Code.

This Code of Ethics supersedes all previous code of ethics.

Effective Date: February 18, 2016.

Richard Eastman

See 2/18/16 approved minutes

Jeffrey Cox

Janice Crawford