



**TOWN OF OGUNQUIT  
CODE OF ETHICS FOR BOARDS, COMMITTEES, AND COMMISSIONS**

This Code of Ethics applies to members of all elected and appointed Town boards, committees, and commissions (hereinafter referred to as "Members") other than the Select Board, which has its own separate Code of Ethics.

**PREAMBLE**

To ensure that the citizens and businesses of Ogunquit have fair, impartial, ethical, and accountable local government that is responsive to the needs of the people and each other and that has the citizens' full confidence in the integrity of the Town's government, the Select Board has adopted this Code of Ethics for its local boards, committees and commissions (hereinafter collectively "board" or "boards"). In keeping with a commitment to excellence, the effective functioning of democratic Town of Ogunquit government requires that:

- Members comply with both the letter and spirit of laws and policies affecting Town government;
- Members be independent, impartial, and fair in judgment and action;
- Members work for the public good and not personal gain;
- Public deliberations and processes be conducted openly, unless legally confidential; and
- All discussions and debate be conducted in an atmosphere of respect and civility.

**1. Actions in the Public Interest**

Recognizing that stewardship of the public interest must be their primary concern. Members will work for the common good of the citizens of Ogunquit and not for any private interest or personal gain. Members shall provide fair and equal treatment of all persons, claims, and transactions that come before their respective board.

**2. Compliance with the Law**

Members shall comply with the Laws of the United States, the State of Maine, and the Town of Ogunquit in the performance of their public duties. These Laws include, but are not limited to, the United States and Maine State constitutions and statutes; and the Town of Ogunquit's Charter, Bylaws, Ordinances and Policies.

**3. Conduct of Members**

The professional and personal conduct of Members must be above reproach and must avoid any appearance of impropriety. Members shall refrain from abusive conduct, from making personal charges or disparaging remarks, or from verbal attacks upon the character or motives of Members of Town boards; or of Town Staff; or of citizens. Members shall not use their official positions to secure unwarranted privileges or advantages for themselves or others. This conduct applies to all town affiliated matters in both on and offline media.

**4. Respect for the Process**

Members shall perform their duties in accordance with the processes and rules of order established by the respective board. Each member shall be committed to respect the democratic process that encourages meaningful involvement of the public and that governs the deliberation of public business in the Town of Ogunquit. Members should strive to thoughtfully consider the opinions and recommendations of other Members, citizens, and Town staff appearing before their respective board and shall remain respectful in all interactions with these individuals.

**5. Conduct of Public Meetings**

Members shall prepare themselves for open discussion of public issues, shall listen courteously and attentively to all public discussions before the body, and shall focus on the business at hand. Members shall refrain from unnecessarily interrupting other speakers, from making personal comments not germane to the business of the body, and from otherwise interfering with the orderly conduct of meetings. The Chair shall use his or her best efforts to ensure that the public who attend such meetings adhere to these same standards of conduct for the conduct of public meetings.

**6. Decisions Based on Merit**

Members shall base their decisions on the merits and substance of the matter at hand. No member shall make promises in advance as to how they will vote on a matter, which shall properly come before the board as a whole.

**7. Communication**

**A. Communications Outside of Board Meetings:**

- (i) To preserve public confidence in the fairness of board deliberations and decisions, the board should ensure that the public and interested parties have the opportunity to know, and respond to, all information the board considers in making its decisions. The board should also ensure that each Member has the opportunity to know and consider the information available to other Members.
- (ii) When considering items or issues in the public process, the board deals with parties who are directly affected by the board's decision (such as the applicant and neighbors of a proposed project). Each of these interested parties need the assurance that other interested parties will not have unfair advantage in presenting their version of the relevant facts or concerns to the board. In such cases, therefore, Members shall avoid communicating with applicants or other interested parties about the proposal outside of board meetings at which the proposal is being considered. Communications with applicants or other interested parties about the proposal outside of board meetings at which the proposal is being considered or information provided to a Member outside of an official board meeting ("*ex parte* communications") can occur in person, via telephone, fax, e-mail, or other method of communication, and should be avoided.
- (iii) A Member who is approached with an *ex parte* communication should actively discourage the person from doing so and encourage the person to submit the information to the board in writing or through oral testimony at a board meeting. The Member should explain that, by providing information outside the public meeting, the person may be causing constitutional due process problems with the board's process and that the board

may not legally be able to consider the information the person is trying to present.

- (iv) If a Member receives unsolicited communications about an item or issue, outside of a board meeting, the Member has the duty to reveal the communications during the board's consideration of the proposal. This ensures that the communicated information will become part of the record and that other Members and interested parties will have an opportunity to consider and refute the information.
- (v) Comprehensive Plan, Zoning Ordinance, or Subdivision Regulation amendments are legislative determinations to be made by the Town Meeting, and when considering such matters the Planning Board's role is advisory. When the Planning Board considers such issues it often finds access to a broad range of public input helpful in making a decision on the issue. In such cases, therefore, Planning Board members may communicate with interested persons outside of the meetings at which the issue is being considered, but each Planning Board member has the duty to reveal the general nature and scope of relevant information and opinions gleaned from such communications during the Planning Board's consideration of the issue. To ensure that each Planning Board member's decision is based on the full range of information and public opinion available to the Planning Board, Members should avoid committing themselves to a position on the issue during any outside communications.
- (vi) Under no circumstances should Members meet with someone representing just one side of an item or issue outside a public meeting setting. Further, Members should not discuss a pending application with a Code Enforcement Officer, Town Planner, Town Engineer, or other Town Staff outside a public board meeting in order to avoid due process problems.
- (vii) Town Staff shall ensure that any communications between Members and themselves that constitute an *ex parte* communication are revealed to the entire board at the next available public meeting for which that item is discussed.

B. Use of E-mail to Communicate:

- (i) Members shall avoid the use of e-mail for deliberation, discussion, or for voting on matters properly confined to public meetings; e-mail should be used for non-substantive matters such as scheduling meetings, dissemination of information and reports, and developing agendas for future meetings.
- (ii) In the event this provision on use of e-mail is not followed, or if there is a question whether substantive matters properly confined to public meetings were discussed or deliberated on via e-mail by three or more members of any Town board, those e-mails in question should be printed and disclosed to the public at the next public meeting of the board.
- (iii) Under Maine's Freedom of Access ("Right to Know") law, all e-mail and e-mail attachments received or prepared for use in matters concerning Town business or containing information relating to Town business are likely to be regarded as public records which may be inspected by any person upon request, unless otherwise made confidential by law.

C. Communications about Town Staff

All Members' concerns about the conduct or behavior of Town employees shall be communicated to the Town Manager in a respectful and discrete manner and never directly with an employee. Criticism of a town employee shall never be done publicly.

**8. Conflict of Interest**

Members shall avoid any situation that may give rise to an actual or perceived conflict of interest. Where circumstances give rise to an actual or perceived conflict of interest, the Member shall not participate in the deliberation of that matter unless the Member has appropriately disclosed the situation and there has been a determination by the remaining Members of the board that the Member's participation is appropriate. Additionally, any Member who believes that any fellow Member has an actual or appearance of a conflict with any agenda item before their collective body shall disclose that alleged interest.

Once disclosure has been made as provided above or if the issue of conflict has been raised relative to a Member, the respective board shall review the facts and shall vote on whether or not such Member has a Financial Interest\* or a 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 Member shall be entitled to vote on all actual or perceived conflict-of-interest questions except those questions pertaining to that Member's alleged conflict of interest.

If excused from participation in a matter, a Member may not sit with the board during its consideration of the matter, and may not vote on the matter, but shall take a seat in the audience and may participate as a member of the public. The Member shall not return to his or her regular seat as a member of the body until deliberation and action on the item has been completed.

\* **Financial Interest-** financial interest shall mean any direct or indirect interest having monetary or pecuniary value, including but not limited to ownership of the business or its shares of stock. (See 30-A M.R.S.A. § 2605, as may be amended.)

\*\* **Special Interest-** A direct or indirect personal involvement that might reasonably be expected to impair his/her objectivity or independence of judgment, including a situation where, by reason of the Member's interest, the Member is placed in a situation of temptation to serve his/her own personal interests to the prejudice of the interests of the Town.

## 9. **Gifts and Favors**

Members shall not take advantage of services or opportunities for personal gain by virtue of their service on a Town board that is not available to the public in general. Members shall refrain from accepting or presenting gifts, favors, or promises of future benefits that might compromise independence of judgment or action, or that might give the appearance of such compromise.

## 10. **Confidential Information**

No Member shall discuss or disclose confidential information concerning the property, personnel, government or affairs of the Town, nor shall any member use such information to advance the private or financial interests of himself or herself or members of his or her family. Members shall not discuss the privileged knowledge, executive sessions, or confidential business of the board

with any third parties, either orally or in writing. For purposes of this subsection, "confidential information" shall mean any information, oral or written, which comes to the attention of or is available to such Member due to his or her position with the Town and is not otherwise publicly available. Information received and discussed during any executive session shall be considered within the scope of this section and shall not be disclosed to any party unless permitted by affirmative vote of a majority of such board.

**11. Use of Public Resources**

Members shall not use public resources not available to the general public for private gain or for personal purposes such as Town staff time, equipment, supplies or facilities.

**12. Representation of Third Party Interests**

As stewards of the public interest, Members shall not represent the interests of third parties before any Town board, committee, or commission, nor shall they appear before any of these bodies on behalf of the interests of third parties on matters related to the areas of service of these bodies. Nothing herein shall be construed to prohibit any Member from representing his or her own personal interest, or the interest of immediate family, by appearing before any board on any item.

**13. Advocacy**

Members shall represent the official policies and positions of the Town of Ogunquit when designated as delegates for this purpose to the best of their ability. When presenting personal opinions and positions, Members shall explicitly state that these opinions and positions do not represent those of their board or the Town of Ogunquit, and they shall not allow any inference that they do.

**14. Policy Role of Select Board**

Members shall respect and adhere to the Town Manager form of Town government. The Select Board shall determine the policies of the Town, with advice, information, and analysis provided by Town staff, by the Town's boards, committees, and commissions, and by citizens.

Members shall therefore not interfere with the administrative, executive or operational functions of the Town or with the professional duties of Town staff, nor shall they impair the ability of Town staff to implement the policy decisions of the Select Board.

**15. Independence of Boards, Committees, and Commissions**

Members shall refrain from using their positions to unduly influence the deliberations or outcomes of any board, committee, or commission proceeding. Members should also refrain from bringing matters currently under discussion and review by their respective board up for discussion before any other board, committee, or commission unless expressly authorized to do so by affirmative vote of a majority of the Member's board.

**16. Positive Workplace Environment**

Members shall support a positive and constructive workplace environment for Town employees and for citizens and businesses dealing with the Town. Members shall recognize their special role when dealing with Town employees and shall in no way create the perception of inappropriate direction of staff.

**17. Implementation**

This expression of the standards of conduct expected of Members is intended to be self-enforcing. It is most effective when Members are thoroughly familiar with it and embrace its provisions.

For this reason, this Code of Ethics shall be included in the orientation of newly elected and appointed board members. Members shall sign a statement acknowledging they have received read and understand this Code of Ethics. This Code of Ethics shall be reviewed regularly by the Select Board, which shall consider updates to the Code of Ethics as necessary.

**18. Compliance and Enforcement**

The Town of Ogunquit Code of Ethics expresses standards of conduct expected of Members of the Town's boards. Members themselves have the primary responsibility for ensuring that ethical standards are understood and met, and that the public can continue to have full confidence in the integrity of government.



Initially, the Chair and Vice-Chair of the board have the responsibility for intervening when actions of Members appear to be in violation of this Code of Ethics.

When a Member violates the Code of Ethics, the actions taken may range from a letter of reprimand by the respective board, to a censure by the respective board, to a request for resignation from the position. All such action shall require a majority vote of the respective board before being imposed upon the Member determined to be in violation.

If that board intervention fails or is ineffective, the Select Board may intervene and counsel Members whose conduct does not comply with the Town's ethical standards or take such other action as it deems appropriate under the circumstances.

**19. 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 of the remaining portions of this Code of Ethics.

I have read and accept the above Code of Ethics as witnessed by my signature below:

Peter Kahn 8/11/22  
Signature Date

Peter J. Fernald 11 Aug 2022  
Signature Date

~~Richard T. ...~~ Aug 11, 2022  
Signature Date

Michele ... August 11 2022  
Signature Date

Michele ... AUG 11, 2022  
Signature Date

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Signature Date

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*This code of conduct was developed based on similar codes used by other elected boards and committees in other communities.*

Approved by the Select Board at their meeting on June 21, 2022.