

# Ordinance No. 3145

## CITY OF CONCORD

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*In the year of our Lord two thousand and twenty two*

**AN ORDINANCE** amending the CODE OF ORDINANCES, Title I, General Code; Chapter 1, Government Organization, Article 1-6, Code of Ethics

### **The City of Concord ordains as follows:**

**SECTION I:** Amend the CODE OF ORDINANCES, Title I, General Code; Chapter 1, Government Organization, Article 1-6, Code of Ethics, by amending Section 1-6-3, Definitions, as follows:

1-6-3 - Definitions.

As used in this Article, the following terms are defined:

*Conflict of Interest.* A conflict of interest exists when ~~[a person]~~ **an officer or elected official** takes an action or makes a decision that would affect his or her financial interest, the financial interests of the ~~[person]~~ **officer or elected official's** family member or the interests of any organization in which the ~~[person]~~ **officer or elected official or the officer or elected official's family member is an employee of the organization or a member of [a] its governing body. For employment with the City of Concord and for other governmental entities, a conflict of interest shall exist when the matter before the Public Body involves the department for which the officer or elected official or officer or elected official's family member is employed. A conflict of interest shall also exist for an officer or elected official whose family member is employed in the City of Concord when such family member is a member of a union in the City and the Public Body is discussing any collective bargaining matters in a non-meeting, under RSA 91-A:2, I (a), relative to strategy or negotiations with respect to collective bargaining.**

*Elected Official.* The Mayor, Mayor Pro Tem, **and City Councilors**~~[, and ward officials]~~.

*Employee of an Organization.* **An officer or elected official or the officer or elected official's family member who is employed in any capacity by any organization.**

*Family member.* Any person who is related to an officer or elected official in one of the following ways: spouse, mother, father, stepmother, stepfather, foster mother, foster father, father-in-law, mother-in-law, grandmother, grandfather, grandchild, sister, brother, child, stepchild, foster child, or any other person living in the same household as the officer or elected official.

*Legislative matter.* A matter involving a policy or rule/law making decision. Common examples of a legislative function in the municipal context are City Council voting on an ordinance adoption or amendment, voting on the budget or the planning board adopting subdivision regulations.

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*Officer.* Positions appointed by the Mayor and City Council or non-employee positions approved by the City Manager including members of the boards, commissions, and committees established pursuant to Article 30-3. Officer shall also include those residents appointed by elected ward officials to help on Election Days. Officers shall not include the City Manager and City Solicitor.

*Organization.* Any public, private, for-profit, or non-profit entity, including governmental entities.

*Public Body.* The Concord City Council, subcommittee, or subordinate body thereof, or advisory committee thereto and any City of Concord board, commission or committee.

*Quasi-judicial matter.* A matter wherein the [p]Public [b]Body is bound to notify and hear the parties, and can only decide after weighing and considering evidence and arguments presented to them. Common examples of quasi-judicial functions in the municipal context are planning and zoning boards acting on applications under their jurisdiction.

**SECTION II:** Amend the CODE OF ORDINANCES, Title I, Government Organization; Chapter 1, General Code, Article 1-6, Code of Ethics, by amending Section 1-6-4, Recusal, as follows:

1-6-4 - Recusal.

Whenever a matter comes before any City of Concord Public Body, no officer or elected official shall introduce, ask questions, speak on or vote on any motion, ordinance, resolution or issue in which he/she has a conflict of interest and shall disclose the reason for the conflict of interest prior to the Public Body's discussion on the matter, or if discussion has occurred, then as soon as the conflict becomes known to the officer or official. If the matter before the Public Body is a legislative matter, the officer or elected official who has a conflict of interest may remain seated on the panel during the term of the recusal. If the matter before the Public Body is a quasi-judicial matter, the officer or elected official who has a conflict of interest shall, *subject to the final sentence of this Section 1-6-4*, physically leave the room until consideration of the matter is completed. *If, however, the recused officer or elected official is the applicant or an abutter in a quasi-judicial matter or otherwise recused in a legislative matter before a Public Body, then the recused officer or elected official may provide comment or testimony as a public citizen, representing their own interests and not that of a third-party, and, not as a member of the Public Body.*

In acting upon a matter involving more than one subject, such disclosure and recusal are required only with respect to the portion or portions affected by a conflict of interest, and not to the matter as a whole.

*When the City Council is in a non-meeting under RSA 91-A:2, I (a) or (b), or, in non-public session under RSA 91-A:3, II, any member of the City Council who has a conflict of interest, shall physically leave the room until consideration of the matter is completed.*

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**SECTION III:** Amend the CODE OF ORDINANCES, Title I, General Code; Chapter 1, Government Organization, Article 1-6, Code of Ethics, by amending Section 1-6-5, Representing Private Interest Before City Agencies, as follows:

1-6-5 - Representing Private Interest(s) Before A [~~City Agencies~~] **Public Body**.

An elected official shall not appear on behalf of another's private interests before the [~~governing body or~~] any [~~land use regulatory board~~] **Public Body**. Officers **shall not appear on behalf of another's private interest before the Public Body of which they are a member. Officers** appearing on behalf of another's private interests before any [~~city~~] **Public** [~~b~~] **Body of which they are not a member** shall disclose such interests prior to proceeding.

**SECTION IV:** This ordinance shall take effect on adoption.

Explanation: Matter inserted into the current ordinance appears in **bold and italics**.  
Matter removed from the current ordinance appears in [brackets and ~~struck through~~].

*In City Council  
February 13, 2023  
Passed*



City Clerk