

## CONFLICT OF INTEREST POLICY

### AUDUBON SOCIETY OF NEW HAMPSHIRE

#### *Preamble:*

It is essential that the charitable activities of the Audubon Society of New Hampshire (the "Organization") not be compromised by any conflict of interest, or even the appearance of a conflict of interest, of any of its Trustees, committee members, or officers. For purposes of this policy, the term "conflict of interest" includes any financial or other interest which could conflict with an individual's fiduciary or professional duty to the Organization because it could: (i) impair the individual's objectivity, or (ii) create an unfair advantage for any person or organization. Therefore, the Organization's Board of Trustees adopts the following Policy which, unless otherwise stated, will apply to its Trustees, officers, and committee members (each a "Covered Individual").

#### **A. Duty to Disclose**

Each Covered Individual, prior to taking his or her position with the Organization and thereafter annually, will submit to the Chair of the Board of Trustees a list of all businesses or other organizations of which he or she - or a member of his or her immediate family - (i) is an officer, director, trustee, member, owner, shareholder, employee, or agent, or in which he or she otherwise has an ownership, investment or other financial or similar interest, and (ii) with which the Organization has or in the future might reasonably be expected to enter into a relationship or transaction in which the Covered Individual would have conflicting interests. The Chair of the Board will become familiar with the lists of all Covered Individuals in order to enforce this Policy should a conflict arise.

#### **B. Voting**

When any matter comes before the Board of Trustees or any of its Committees which matter may give rise to a conflict of interest, the affected Covered Individual will make known the potential conflict, whether or not previously disclosed to the Chair under Section A., above, and after answering any questions that might be asked of him or her, will withdraw physically from the meeting for so long as the matter continues under discussion. In addition, Covered Individuals are encouraged to disclose to the Board any interest that they may consider not to be an actual conflict, but that may give rise to the mere appearance of a conflict of interest, with respect to any matter before the Board for the consideration of the Board of Trustees. If the matter is brought to a

vote, the affected Covered Individual will remain absent and refrain from participating in or otherwise attempting to influence the voting process. The Board and its Committees will comply with all the requirements of New Hampshire law where conflicts of interest or pecuniary benefits are involved, including but not limited to the requirement of a two-thirds (2/3) vote of disinterested trustees, after advance notice, full and fair disclosure of all material facts, and full discussion by the Board of Trustees, where a transaction between the Trustee or officer and the Organization is between \$500 and \$5,000 in a fiscal year, and to the requirement of a two-thirds (2/3) vote of disinterested trustees, after advance notice, full and fair disclosure of all material facts, full discussion by the Board of Trustees, prior publication in the *Concord Monitor*, and prior notice to the New Hampshire Director of Charitable Trusts, when all transactions between the Trustee or officer and the Organization exceeds \$5,000 in a fiscal year.

### **C. Statutory Requirements**

The New Hampshire statutory requirements dealing with pecuniary benefits and charitable trusts (RSA 7:19, II, 7:19-a, and 292:6-a) are hereby incorporated in full into and made an integral part of this conflict of interest policy; and a copy of the relevant New Hampshire statutes are attached so that each Covered Individual is aware of the statutory requirements. These requirements include, but are not limited to: (i) a finding that all transactions between a Trustee or officer and the Organization are in the best interest of and fair to the Organization, (ii) all transactions between a Trustee or officer and the Organization are for the actual or reasonable value of the goods or services provided, or are provided to the Organization at a discount, (iii) absolute prohibitions on loans of money or property made from a charitable trust to a director, officer, or trustee; and (iv) prohibition of any real property sale or lease (for a term greater than five years) transactions between the Organization and a Trustee or an officer (other than gratuitous conveyances of real estate from an officer or trustee) without the prior approval of a probate court. These requirements extend to both direct and indirect financial interests, as defined by the attached statutes.

### **D. Acknowledgement of Receipt of Copy**

Each Covered Individual shall receive a copy of this Policy and shall annually sign an acknowledgement that he/she has received, understands and shall comply with this Policy.

**ACKNOWLEDGEMENT OF RECEIPT**

I acknowledge that I, a Trustee, committee member, and/or officer of the Audubon Society of New Hampshire, have received a copy of the Conflict of Interest Policy of the Audubon Society of New Hampshire (the "COI Policy"), and that I understand and will comply with the COI Policy.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Name:

Title:

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**Audubon Society of New Hampshire**

**Conflict of Interest Report**

Name: \_\_\_\_\_

I acknowledge that I, a Board member, committee member, and/or officer of the Audubon Society of New Hampshire, have reviewed the Conflict of Interest Policy of the Audubon Society of New Hampshire before signing this report.

I hereby disclose information on all associations (all business and charitable organizations) which may involve a possible conflict of interest and will furnish further details upon request. (If none, so state. Do not leave blank.) Feel free to attach additional sheets if necessary.

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

I also understand that I am required to disclose any other situation from which a possible conflict of interest might arise in the future.

\_\_\_\_\_  
Signature

Name: \_\_\_\_\_  
(Please Print)

Date: \_\_\_\_\_

APPENDIX TO CONFLICT OF INTEREST POLICY  
OF  
AUDUBON SOCIETY OF NEW HAMPSHIRE

*New Hampshire Revised Statutes Annotated, CHAPTER 7  
ATTORNEYS GENERAL, DIRECTOR OF CHARITABLE TRUSTS, AND COUNTY  
ATTORNEYS*

*Director of Charitable Trusts*

**Section 7:19**

**7:19 Authority; Register Authorized; Pecuniary Benefit Limited. -**

II. Directors, officers, and trustees of charitable trusts will serve on the governing boards of such charitable trusts only for the charitable purposes of the organization. If such directors, officers or trustees are serving for any other expressed or intended reasons, they will not serve on the governing board of the organization.

**Section 7:19-a**

**7:19-a Regulation of Certain Transactions Involving Directors, Officers, and Trustees of Charitable Trusts. -**

I. Definitions. In this section:

(a) "Director, officer, or trustee" means a director, officer, or trustee of a charitable trust.

(b) "Financial interest" means an interest in a transaction exceeding \$500 in value for any officer, director, or trustee, on an annual aggregate basis. An "indirect" financial interest arises where the transaction involves a person or entity of which a director, officer, or trustee, or a member of the immediate family of a director, officer, or trustee, is a proprietor, partner, employee, or officer.

(c) "Pecuniary benefit transaction" means a transaction with a charitable trust in which a director, officer, or trustee of the charitable trust has a financial interest, direct or indirect. However, the following will not be considered as pecuniary benefit transactions:

(1) Reasonable compensation for services of an executive director, and expenses incurred in connection with official duties of a director, officer, or trustee;

(2) A benefit provided to a director, officer, or trustee or member of the immediate family thereof if:

(A) The benefits are provided or paid as part of programs, benefits, or payments to members of the general public; and

(B) The charitable trust has adopted written eligibility criteria for such benefit in accordance with its bylaws or applicable laws; and

(C) The director, trustee, or family member meets all of the eligibility criteria for receiving such benefit;

(3) A continuing transaction entered into by a charitable trust, merely because a person with a financial interest therein subsequently becomes a director, officer, or trustee of the charitable trust.

(d) "Charitable trust" does not include, for purposes of this section only, an organization qualified as a private foundation under the applicable provisions of the United States Internal Revenue Code.

II. A pecuniary benefit transaction will be prohibited unless it is in the best interest of the charitable trust and unless all of the following conditions are met:

(a) The transaction is for goods or services purchased or benefits provided in the ordinary course of the business of the charitable trust, for the actual or reasonable value of the goods or services or for a discounted value, and the transaction is fair to the charitable trust;

(b) The transaction receives affirmative votes from at least a 2/3 majority of all the disinterested members of the governing board of the charitable trust, which majority will also equal or exceed any quorum requirement specified in the bylaws of the charitable trust:

(1) After full and fair disclosure of the material facts of the transaction to the governing board and after notice and full discussion of the transaction by the board;

(2) Without participation, voting, or presence of any director, officer, or trustee with a financial interest in the transaction or who has had a pecuniary benefit transaction with the charitable trust in the same fiscal year, except as the board may require to answer questions regarding the transaction; and

(3) A record of the action on the matter is made and recorded in the minutes of the governing board;

(c) The charitable trust maintains a list disclosing each and every pecuniary benefit transaction, including the names of those to whom the benefit accrued and the amount of the benefit, and keeps such list available for inspection by members of the governing board and contributors to the charitable trust. The list will also be reported to the director of charitable trusts each year as part of the charitable trust's annual report required under RSA 7:28;

(d) If the transaction, or the aggregate of transactions with the same director, officer, or trustee within one fiscal year, is in the amount of \$5,000 or more, the charitable trust publishes notice thereof in a newspaper of general circulation in the community in which the charitable trust's principal New Hampshire office is located, (or if there is no such office, then in a newspaper of general circulation throughout the state), and gives written notice to the director of charitable trusts, before consummating the transaction. At a minimum, such notice will state that it is given in compliance with this section and will include the name of the charitable trust, the name of any director, officer, or trustee receiving pecuniary benefit from the transaction, the nature of the transaction, and the specific dollar amount of the transaction.

III. Every director, officer, or trustee, or member of the immediate family of such director, officer, or trustee, who engages in a pecuniary benefit transaction with a charitable trust will provide copies of all contracts, payment records, vouchers, other financial records or other financial documents at the request of the director of charitable trusts in accordance with RSA 7:24. All documents so provided may be disclosed to the public for inspection and copying, subject to applicable confidentiality laws.

IV. Every charitable trust will adopt policies pertaining to pecuniary benefit transactions and conflicts of interest.

V. No charitable trust will lend money or property to its directors, officers, or trustees. Any director, officer, or trustee who assents to or participates in the making of any such loan will be jointly and severally liable to the charitable trust for the amount of such loan until it is repaid.

VI. No charitable trust will sell, lease for a term of greater than 5 years, purchase, or convey any real estate or interest in real estate to or from an officer, director, or trustee without the prior approval of the probate court after a finding that the sale or lease is fair to the charitable trust. However, this paragraph will not apply to a bona fide gift of an interest in real estate to a charitable trust by a director, officer, or trustee of the charitable trust.

VII. A pecuniary benefit transaction undertaken in violation of this section is voidable. The director of charitable trusts may investigate complaints regarding pecuniary benefit transactions and if, after an investigation pursuant to RSA 7:24, the director determines that a pecuniary benefit transaction is in violation of this section, the director may institute appropriate proceedings under RSA 7:28-f to enforce these provisions.

VIII. Any member of the governing board of a charitable trust will have standing to petition, pursuant to RSA 491:22, for a declaratory judgment that one or more pecuniary benefit transactions of the charitable trust are void.

IX. The provisions of this section will not apply to transactions between a charitable trust and its incorporators, members, or other contributors who are not also directors, officers, or trustees of the charitable trust, provided that such transactions are fair to the charitable trust.

X. Notwithstanding subparagraph I(c) of this section, in the case of hospitals, "pecuniary benefit transaction" will not include reasonable compensation for professional services of members of the

hospital's professional medical or nursing staff who also serve as members of the governing board of the hospital, if persons receiving such compensation do not constitute more than 25 percent of the membership of such board or the governing board of the charitable trust which owns the hospital.

XI. Notwithstanding subparagraph I(c) of this section, in the case of educational organizations normally maintaining a regular faculty and curriculum and normally having a regularly enrolled body of pupils or students in attendance at the place where their educational activities are regularly carried on, "pecuniary benefit transaction" will not include reasonable compensation for professional services of members of the organization's faculty and staff who also serve as members of the governing board of the educational organization if such persons do not constitute more than 25 percent of the membership of such board.

#### **Section 292:6-a**

**292:6-a Board of Directors of Charitable Nonprofit Corporations.** - In the interest of encouraging diversity of discussion, connection with the public, and public confidence, the board of directors of a charitable nonprofit corporation will have at least 5 voting members, who are not of the same immediate family or related by blood or marriage. No employee of a charitable nonprofit corporation will hold the position of chairperson or presiding officer of the board. This section will not apply to those nonprofit corporations in existence on August 10, 1996, until one year after August 10, 1996, nor to any organization qualified as a private foundation under the applicable provisions of the United States Internal Revenue Code, nor to religious organizations, churches, or the integrated auxiliaries thereof or to conventions or associations of churches. The provisions of this section may be waived with the approval of the director of charitable trusts after application for such waiver.