

TOWN OF WATERBURY
CONFLICT OF INTEREST POLICY

[For adoption by legislative body as a policy; applies to all public officers and employees]

Article 1. Authority. Under the authority granted in 24 V.S.A. § 2291(20), the Waterbury Select Board hereby adopts the following policy concerning conflicts of interest.

Article 2. Purpose. The purpose of this policy is to ensure that the business of this municipality will be conducted in such a way that no public official of the municipality will gain a personal or financial advantage from their work for the municipality and so that the public trust in municipal officials will be preserved. It is also the intent of this policy to ensure that all decisions made by municipal officials are based on the best interest of the community at large.

Article 3. Definitions. For the purposes of this policy, the following definitions shall apply:

A. **Conflict of interest** means any of the following:

1. A personal or financial interest of a public officer, their spouse, household member, child, stepchild, parent, grandparent, grandchild, sibling, aunt or uncle, brother or sister-in-law, business associate, employer or employee, in the outcome of a cause, proceeding, application or any other matter pending before the officer or before the public body in which they hold office or are employed. "Conflict of interest" does not arise in the case of votes or decisions on matters in which the public officer has a personal or financial interest in the outcome no greater than that of persons generally affected by the decision, such as adopting a bylaw or setting a tax rate.
2. A situation where a public officer has publicly displayed a prejudgment of the merits of a particular quasi-judicial proceeding or otherwise displayed bias in connection with such a proceeding. This shall not apply to a member's particular political views or general opinion on a given issue; and
3. A situation where a public officer has not disclosed ex parte communications with a party in a quasi-judicial proceeding.
4. A situation where a disinterested third party, who is a member of the public, could reasonably perceive that a conflict of interest exists under Items A.1, A.2 or A.3, above, even in the absence of an actual conflict of interest thereunder (i.e., the appearance of a conflict of interest).

B. **Emergency** means an imminent threat or peril to the public health, safety or welfare.

C. **Official act or action** means any legislative, administrative or quasi-judicial act performed by any elected or appointed officer while acting on behalf of the municipality.

D. **Public body** means any board, council, commission or committee of the municipality.

E. **Public interest** means an interest of the community as a whole, conferred generally upon all residents of the municipality.

F. **Public officer** or **public official** means a person elected, or appointed by the Selectboard, to perform executive, administrative, legislative or quasi-judicial functions for the municipality.

G. **Quasi-judicial proceeding** means a case in which the legal rights of one or more persons who are granted party status are adjudicated, which is conducted in such a way that all parties have opportunities to present evidence and to cross-examine witnesses presented by other parties, which results in a written decision, the result of which is appealable by a party to a higher authority.

Article 4. Disqualification.

- A. A public officer shall not participate in any official action if they have a conflict of interest (including the appearance of a conflict of interest) in the matter under consideration.
- B. A public officer shall not personally, or through any member of their household, business associate, employer or employee, represent, appear for, or negotiate in a private capacity on behalf of any person or organization in a cause, proceeding, application or other matter pending before the public body in which the officer holds office or is employed.
- C. In the case of a public officer who is an appointee, the public body that appointed that public officer shall have the authority to order that officer to recuse themselves from acting in an official capacity in any matter in which the public body believes that the public officer has a conflict of interest or the appearance of a conflict of interest.
- D. Public officers shall not accept gifts or other offerings, valued in excess of \$25.00 for personal gain by virtue of their public office that are not available to the public in general.
- E. Public officers shall not use resources not available to the general public, including but not limited to town staff time, equipment, supplies, or facilities for private gain or personal purposes unless the aggregate value of the resources used shall be less than \$25 in a calendar year.

Article 5. Disclosure.

- A. A public officer who has reason to believe they have or may have a conflict of interest but believes they are able to act fairly, objectively and in the public interest in spite of the potential conflict of interest shall, prior to participating in any official action on the matter, disclose to the public at an opening meeting or public hearing involving the matter in which the conflict or potential conflict has arisen, the nature of the potential conflict of interest and why they believe they are able to act in the matter fairly, objectively and in the public interest despite the conflict or potential conflict.
- B. As a matter of best practice, any doubt regarding whether disclosure of a conflict or potential conflict should be disclosed shall be resolved in favor of disclosure.

Article 6. Recusal.

- A. A public officer shall recuse themselves from any matter in which they have a conflict of interest, pursuant to the following:
 - 1. Any person may request that a public officer recuse themselves due to a conflict of interest. Such request shall not constitute a requirement that the member recuse themselves, but upon receiving such request, the public officer shall state publicly, on the record, the facts relevant to the request and the reasons why recusal is or is not appropriate;
 - 2. A public officer who has recused themselves from a proceeding shall not sit with the public body, deliberate with the public body, or participate in that proceeding as a member of the public body in any capacity;
 - 3. If a previously unknown conflict is discovered during a quasi-judicial or other official proceeding, the public body involved may take evidence pertaining to the conflict and, if appropriate, adjourn to a short deliberative session to address the conflict; and
 - 4. The public body may adjourn the proceedings to a time certain if, after a recusal, it may not be possible to take action through the concurrence of a majority of the board. The board may then

resume the proceeding with sufficient members present, including any alternate who may be appointed to replace a recused member.

- B. In the case of a public officer who is an appointee, the public body that appointed that public officer shall have the authority to order that officer to recuse themselves from the matter, subject to applicable laws, ordinances, regulations and policies.

Article 7. Enforcement; Progressive Consequences for Failure to Follow the Conflict of Interest Procedures. In cases where the conflict of interest procedures in Articles 5 and 6 have not been followed, the Selectboard may take progressive action to discipline an offending public officer. In the discipline of a public officer, the Selectboard shall follow these steps in order:

- A. The Chair (or Vice-Chair, if the conflict or potential conflict involves the Chair) shall meet informally, in private, with the public officer to discuss possible conflict of interest violation(s).
- B. The Selectboard may meet to discuss the conduct of the public officer. Executive session may be used for such discussion, in accordance with 1 V.S.A. § 313(4). The public officer may request that this meeting occur in public. If appropriate, the Selectboard may admonish the offending public officer in private.
- C. If the Selectboard decides that further action is warranted, the Selectboard may admonish the offending public officer at an open meeting and reflect this action in the minutes of the meeting. The public officer shall be given a reasonable opportunity to respond to the admonishment.
- D. Upon majority vote, the Selectboard may request that the offending public officer resign their position. If the public officer fails or refuses to resign, the Selectboard may take such action as is authorized by statute, ordinance, regulation or policy to remove the public officer from office.
- E. In addition to any other remedies provided by law, the Selectboard may seek injunctive relief in superior court, which may include, but not be limited to, an order to negate any vote or other action taken by the officer in connection with any matter in which a conflict of interest exists.

Article 8. Exception. The recusal provisions of Article 6 shall not apply if the legislative body of the municipality determines that an emergency exists and that actions of the public body otherwise could not take place. In such cases, a public officer who has reason to believe they have a conflict of interest shall disclose such conflict as provided in Article 5 prior to taking official action.

Article 9. Effective Date. This policy shall become effective immediately upon its adoption by the Waterbury Select Board.

Conflict of Interest Policy approved at a Select Board meeting on March 21st, 2022.