

# Town of Richmond

## *Code of Ethics*

Adopted by the Richmond Selectboard as a Town of Richmond policy on \_\_\_\_\_,  
201~~5~~9 and made effective immediately.

By Richmond Selectboard:

\_\_\_\_\_  
David Sander, Chair

\_\_\_\_\_  
Bard Hill, Vice-Chair

\_\_\_\_\_  
Katie Mather

\_\_\_\_\_  
Christy Witters

\_\_\_\_\_  
Roger Brown

Received by Town Clerk on this \_\_\_\_ day of \_\_\_\_\_, 20152019

\_\_\_\_\_  
Linda Parent, Town Clerk

## **Section 1 Declaration of Policy**

### **APPLICABILITY**

The provisions of these rules, known as the **Town of Richmond Code of Ethics**, shall apply to all public officials of the Town of Richmond.

### **POLICY STATEMENT**

The proper operation of democratic government requires that all public officials be fair, impartial, and responsive to the needs of the people and each other in the performance of their respective functions and duties. Accepting a position, as a public official, carries with it the acceptance of a public trust that the official will work to further the public interest. Maintaining that public trust is critical to the continued operation of good government. In addition, public decision-making should be open and accessible to the public at large. To preserve this public trust, there are five principles to which public officials should adhere:

- A. A public official should represent and work towards the public interest and not towards private/personal interests.
- B. A public official should accept and maintain the public trust (i.e., must preserve and enhance the public's confidence.)
- C. A public official should exercise leadership and should demonstrate behavior that reflects the public trust.
- D. A public official should recognize the proper role of all government bodies and the relationships between the various government bodies.
- E. A public official should always demonstrate respect for others and for other positions.

In recognition of these principles, this **Code of Ethics** is hereby established for all public officials of the Town of Richmond, Vermont.

## **Section 2 Definitions**

The following words shall have the following meanings:

- A. "**Business Associate**" is a partner or other person with whom an individual has ongoing or recurring business transactions.
- B. "**Conflict of Interest**" is a situation where a public official is directed by one or more competing interests, one of which is the public interest and the other is a private/personal interest. Specific conflict of interest situations are specified in Section 3.

**C. "Ethics"** are a set of moral principles or values that guide behavior.

**D. "Financial Interest"** is defined as any of the following:

1. A self-proprietor, partner, business associate, shareholder (holding at least five percent of the outstanding shares of any class of shares), director, or managerial employee of an organization who has a matter for review before a public body.
2. A self-proprietor, partner, business associate, shareholder (holding at least five percent of the outstanding shares of any class of shares), director, or managerial employee of a competitor to a business that has a matter for review before a public body.
3. An applicant or property owner who has a matter for review before a public body.
4. An adjoining landowner to a property owner that has a matter for review before a public body.

**E. "Immediate Family"** is spouses, civil union partners, children, stepchildren, parents, stepparents, brothers, sisters, grandparents, nephews, nieces, sons-in-law, daughters-in-law, fathers-in-law, mothers-in-law, brothers and sisters-in-law, and any dependents or other persons<sup>1</sup> living in the public official's household.

**F. "Material"** is of real importance or great consequence, substantial, requiring serious consideration by reason of having a bearing on the outcome of an unsettled matter.

**G. "Official Act or Action"** is any legislative, administrative, appointive, or discretionary act of any public official of the Town of Richmond (in his/her official capacity), or of any agency, board, committee or commission thereof.

**H. "Private/Personal Interest"** is something that is of direct or indirect material or financial benefit accruing to an individual or a member of the individual's immediate family.

**I. "Public Interest"** is the interest of the community as a whole conferred generally upon all members of the public.

**J. "Public Official"** is any Town of Richmond elected or appointed official, employee or volunteer firefighter.

**K. "Recusal"** is stepping aside from public office or duty when a conflict of interest exists (as specified in Section 3, Conflict of Interest) and physically leaving the room in which the discussion and vote is taking place invited. The purpose of a recusal is to prevent even the slightest appearance of a conflict of interest and to maintain the public trust.

### **Section 3 Conflict of Interest**

A public official is deemed to have a conflict of interest if she or he acts contrary to any of the following rules:

**A. Acceptance of Gifts and Favors.** A public official shall not accept anything of economic value, such as money, service, gift, loan, promise, gratuity, or favor from any person, business or organization involved in a contract or transaction with the Town, such that the item accepted could be considered as payment for a special act or treatment. This provision shall not apply to:

1. Attendance at a hosted meal when it is provided in conjunction with a meeting directly related to the conduct of Town business, or where official attendance by the public official as a Town representative is appropriate;
2. An award publicly presented in recognition of public service;
3. Occasional, non-pecuniary gifts of value not exceeding \$25.
- 4.

**B. Appointment of Immediate Family Member or Business Associate.** A public official shall not participate in the appointment, vote for appointment, or discussion of any appointment of an immediate family member or business associate, to any Town office or position. A public official shall not use his/her position, directly or indirectly, to affect the employment status of an immediate family member or business associate.

**C. Supervision of Immediate Family Members.** A public official shall not supervise, hire, appoint, evaluate, or discipline the work or employment status of an immediate family member or the affairs of the organizational unit in which the immediate family member is employed.

**D. Prior Knowledge of Property Purchases.** A public official shall not receive or have any financial interest in any sale to the Town of any property when such financial interest was received with prior knowledge that the Town intended to purchase said property.

**E. Contractual Arrangements.** A public official shall not influence the Town's selection of, or its conduct of business with, a person, organization or business having business with the Town's if the public official or a member of the official's immediate family has a financial interest in or with the person, organization or business. The public official shall not participate in the discussion, negotiation, or vote on contracts in which the official or a member of the official's immediate family, has a private financial interest and performs in regard to such a contract some function requiring the exercise of discretion on behalf of the Town. A public official may participate in the purchase of town vehicles or equipment only if there is an open bid process.

**F. Financial Interest.** A public official shall not participate in any public business before a public body, which affects her or his financial interest. Public business shall mean participating in the award of a contract, seeking or opposing a permit from a public body on which the official sits as the authority to grant or deny such permit, soliciting employment from the Town, or otherwise requesting some status, right, or benefit from the Town that has financial value. This shall not include supporting or opposing the passage of a legislative measure unless such measure relates substantially to the public official private/personal interest rather than to the public interest.

**G. Representation of Private Party.** A public official shall not represent a private party in any matter before any Town public body. Nothing in this section shall prohibit a public official from representing her or his own interests before any Town public body. In such cases, the public official shall act only in her or his individual capacity and not also in any official capacity on behalf of the Town.

**H. Use of Confidential Information.** A public official shall not, without authorization, disclose or use confidential information acquired in the course of official duties. A public official shall not use any confidential information acquired in the course of official duties to further his/her personal interest.

**I. Unusual Relationships.** Whenever a public official has special or unusual (beyond being casual or reasonably common) relationship with a party to an official action of the public body on which the official sits, the official shall disclose the relationship and the body may advise as to whether the official should recuse him/herself in accordance with Section 2 of this code.

**J. Federal Awards.** No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts.

If a conflict of interest, as defined above, is determined to exist, the public official shall disclose the conflict and recuse her/himself prior to any consideration and/or vote on the action being contemplated, in accordance with the provisions of Section 2(K), Definition of Recusal.

#### **Section 4 Ex-Parte Communications: Boards, Commissions and Committees**

In any quasi-judicial matter (e.g., matter involving the issuance of a permit or approval), or the award of a contract, before a Town Board, Commission or Committee, a public official sitting on such Board, Commission or Committee, shall not, outside of that Board, Commission or Committee, communicate with or accept a communication from a person for which there are reasonable grounds for believing to be a party to the matter being considered, if such communication is designed to influence the official's action on that matter. If such communication should occur, the public official shall disclose it at an open meeting of the Board, Commission or Committee prior to its consideration of the matter.

#### **Section 5 Inappropriate Use of Public Office**

A public official shall not use his/her public position to further a personal interest or the interest of an immediate family member.

A public official shall not use the powers or prestige obtained through election, appointment or employment, to influence the decision of a subordinate on a matter where the official has significant private/personal pecuniary interest.

Public officials are empowered to discharge specific statutory duties in the public interest and should not interfere with the statutory duties of others.

A public official shall not attempt to influence Town staff's recommendations regarding matters in which the public official has a personal/private or financial interest.

A public official shall not use Town staff or resources to advance a personal/private or financial interest.

## **Section 6 Incompatibility of Offices**

Incompatible offices set forth in 17 V.S.A., Section 2647, shall not be held simultaneously by any Town public official.

The Town Manager shall not hold the office of Town Clerk or Town Treasurer.

A Selectboard member shall not serve as a member of the Town Planning Commission or Development Review Board.

A member of the Town Planning Commission shall not serve as a regular member of the Town Development Review Board but can serve as an alternate to that board.

A member of the Town Development Review Board shall not serve as a member of the Town Planning Commission.

A Town Selectboard member, Planning Commissioner, or member of the Development Review Board shall not be an employee of the Town of Richmond, except when performing duties as a member of the Board of Civil Authority.

## **Section 7 Fair and Equal Treatment**

No public official shall grant or make available to any person any consideration, treatment, advantage or favor beyond that which it is the general practice to grant or make available to the public at large.

No public official shall request, use, or permit to be used, any publicly owned or publicly supported property, vehicle, equipment, labor, or service for the personal convenience or the private advantage of her/himself or any other person. This rule shall not be deemed to prohibit a public official from requesting, using or permitting the use of such publicly-owned property, vehicle, equipment, or material which is provided as a matter of stated policy for the use of Town public officials in the conduct of official Town business.

## **Section 8 Disclosure and Recusal Procedures**

Whenever a matter comes before a Board, Commission or Committee, on which any of the conflict of interest situations described in Sections 3, Conflict of Interest of this Code shall exist, the following provisions shall apply:

A. The public official involved shall disclose to the relevant Board, Commission or Committee, in an open public meeting, the nature of the conflict of interest, prior to any consideration of the matter by said Board, Commission or Committee.

B. Following such disclosure, such public official shall leave the room and shall not participate in any consideration, discussion or vote on the matter before the Board, Commission or Committee. If the official wishes to address the issue at an open public meeting, the official may re-enter the room as a member of the public and participate as a member of the public. The Board, Commission or Committee considering the matter must be careful not to treat the testimony of the recused with any more weight than any other member of the public. During deliberation and vote on the matter, the official shall not be present. The official may attend executive session to discuss the matter at the invitation of the Board, Commission or Committee by a unanimous vote of that body, if such attendance complies with the statutory requirements of the State of Vermont Open Meeting Law under 1 VSA 310-313.

C. The public official shall not, during any part of the Board, Commission, or Committee meeting pertaining to the matter requiring the disclosure, represent, advocate on behalf of, or otherwise act as the agent of the person or business entity in or with which the official has such an interest or relationship.

The foregoing shall not be construed as prohibiting the official from testifying as to factual matters at a hearing or meeting of the Selectboard, Planning Commission, Development Review Board, or any other committee.

## **Section 9 Complaint of Ethics Violation**

A person, who believes that an appointed public official of the Town of Richmond has violated any portion of this policy, may send or deliver a signed, written complaint to the Town Manager or to the Chair of the Selectboard if the complaint is being filed against the Town Manager. The complaint shall include the name of the person alleged to have committed the violation and the specifics of the act(s) that constitute the violation. The Town Manager or Selectboard Chair, if the complaint is being filed against the Town Manager, shall forward for resolution the complaint to the person alleged to have committed the violation, and to the person/people with appointing authority over the position held by that person. If the individual making the complaint does not wish to be identified to the person about whom they are complaining, they must specify that in their signed complaint to the Town Manager/Selectboard Chair and their name will be deleted from the forwarded complaint.

A person who believes that an elected official of the Town has violated any portion of this Policy, may send or deliver a signed, written complaint to the Chair of the Board (Vice Chair if the Chair is the one considered in violation) upon which the elected official sits or the Chair of the Selectboard. The complaint shall include the name of the person alleged to have committed the violation and the specifics of the act(s) that constitute the violation. The Board Chair (or Vice Chair) shall forward the complaint to the person alleged to have committed the violation and work with that person to bring the matter to resolution. If the individual making the complaint does not wish to be identified to the person about whom they are complaining, they must specify that in their signed complaint to the Chair/Vice-Chair and their name will be deleted from the forwarded complaint.

A person may ask any board or commission or elected or appointed official to reconsider a matter that the person believes involved a violation of this policy by any member of the board or commission or the elected or appointed official, if the law otherwise allows such reconsideration.

## **Section 10 Enforcement of this Policy**

The Town Manager, Board, Commission or Committee that makes a positive finding that a conflict of interest was likely to have or did occur, ~~may shall~~ recommend to the Selectboard or Town Manager, depending on supervisory authority, that what further investigation and/or action should be ~~considered~~ conducted by the Selectboard. Further action to enforce this policy may include executive session investigations of the Selectboard, a public hearing meeting of the Selectboard to discuss the activity in an open session, a public hearing to consider removal of the public official from an appointive appointed position, or discipline under the Town Personnel Guidelines, Section IX.

## **Section 11 Exceptions**

The Town Manager or the Selectboard, if the complaint is being filed against the Town Manager, reserves the authority to consider exemptions to this policy on a case-by-case basis.

Note: It may be that those discussions would lead to appropriate modifications to this policy.

## **Section 12 Conflicts**

The stricter standard shall apply should there be a conflict with State of Vermont law or other Town policies.

## **Section 13 Distribution of Town of Richmond Code of Ethics**

**Appointed Position:** Each person seeking an appointed position in the Town of Richmond shall be given a copy of the Code of Ethics upon appointment and sign a form acknowledging receipt.

**Boards, Commissions and Committees:** Upon appointment and annually at their organizational meetings, all boards, commissions, and committees appointed by the Town Selectboard shall, in a public meeting, review the Code of Ethics. Each board, commission or committee member shall sign a form acknowledging that they have received the Code of Ethics.

**Department Heads and Employees:** Upon hiring and annually thereafter, Department Heads shall be required to distribute and review with their employees a copy of the Code of Ethics and the Personnel Regulations of the Town of Richmond. Each employee will be required to sign a form acknowledging that he/she has received the Code of Ethics and the Personnel Guidelines.

**Elected Position:** Each person seeking an elected position in the Town of Richmond shall be given a copy of the Code of Ethics along with a petition.

**Fire Department:** Upon appointment and annually thereafter, the Fire Chief shall distribute and review with the volunteer firefighters a copy of the Code of Ethics. Each volunteer firefighter shall sign a form acknowledging that she/he has received the Code of Ethics.

**Town Selectboard:** Annually, at their organizational meeting, the Town Selectboard shall, in a public meeting, review the Code of Ethics. Each Selectboard member shall sign a form acknowledging that they have received the Code of Ethics.

**Adopted by the Richmond Selectboard on this \_\_\_\_\_ day of \_\_\_\_\_ 20159 and made effective this same date.**