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Date Approved: 08/19/19

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## TOWN OF RICHMOND

### CODE OF ETHICS & CONFLICTS OF INTEREST POLICY

**PURPOSE:** The purpose of this policy is to ensure that the business of the Town of Richmond will be conducted in such a way that no signatory will gain a personal or financial advantage from their work for the Town of Richmond, and to preserve public trust. It is also the intent of this policy to ensure that all decisions made by signatories are based on the best interest of the Town of Richmond.

#### **RICHMOND CODE OF ETHICS POLICY & CONFLICTS OF INTEREST DISTRIBUTION AND EDUCATION:**

- A) **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. Once hired, and each year thereafter, all appointed positions must sign a form acknowledging that they have received and understand the Code of Ethics.
- B) **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. Once elected, and each year during their term, they are required to sign a form acknowledging that they have received and understand the Code of Ethics.
- C) **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 and understand the Code of Ethics.
- E) **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 they have received and understand the Code of Ethics.

#### **DEFINITIONS:**

- A) **Conflict of Interest:** A real or seeming incompatibility between a public signatory private interest and their public or fiduciary interests to the Town of Richmond. A conflict of interest arises when there is a direct or indirect personal, or financial interest between a signatory and a person or group closely tied with the signatory. This includes a signatories spouse, household member, child, stepchild, parent, grandparent, grandchild, sibling, aunt or uncle, brother or sister-in-law, business associate, employer or employee. Conflicts of interest may take any of the following forms:
  - a) A **direct financial conflict** of interest arises when a public officer acts on a matter that has a direct financial impact on themselves.
  - b) An **indirect financial conflict** of interest arises when a signatory acts on a matter that has a direct financial impact on themselves.
  - c) A **direct personal conflict** of interest arises when a public officer acts on a matter that has a direct impact on a signatory in a non-financial way but is significant to the other.
  - d) An **indirect personal conflict of interest** arises when a public officer acts on a matter in which the officer's judgment may be affected because of a familial or personal relationship or

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membership in some organization and a desire to help that person or organization to further their own interests.

- e) A situation where a **public officer has publicly displayed a prejudgment** of the merits of a particular quasi-judicial proceeding. This shall not apply to a member's particular political view or general opinion on a given issue.
- f) A situation where a **public officer has not disclosed ex Parte communication(s)** related to a quasi-judicial proceeding that is before the body to which that officer belongs.
- g) A "conflict of interest" does not arise in the case of an official act or action in which the signatory has a personal or financial interest in the outcome, that is no greater than that of other persons generally affected by the decision. For example, the establishment of a tax sale of Town property.

B) **Emergency:** Means an imminent threat or peril to the public health, safety, or welfare

C) **Ex Parte Communication:** Means direct or indirect communication between a member of a public body and any party, party's representatives, party's counsel, or any person interested in the outcome of a quasi-judicial proceeding, that occurs outside the proceeding and concerns the substance or merits of the proceeding.

D) **Official act or action:** Means any legislative, administrative, or quasi-judicial act performed by any public officer while acting on behalf of the Town of Richmond. This term does not apply to ministerial acts or actions wherein no discretionary judgment is exercised.

E) **Public body:** Means any board, council, commission, or committee of the Town of Richmond.

F) **Public interest:** An interest of the Town of Richmond, conferred generally upon all residents of the Town of Richmond.

G) **Signatory:** Any person elected or statutorily appointed Board, Committee member, Officer, employee, legislator, or quasi-judicial body that performs functions for the Town of Richmond.

H) **Quasi-judicial proceeding:** 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, and which results in a written decision, the result of which is appealable by a party to a higher authority.

#### **Article 1 Prohibited Conduct**

- A) A signatory shall not participate in any official act or action if he or she has a conflict of interest, whether real or perceived, in the matter under consideration.
- B) A signatory shall not personally, or through a business associate, employer, employee, or any member of their household, negotiate in a private capacity on behalf of any person or organization that has an interest in an official act or action pending before the public body in which the signatory holds office.
- C) Gifts and Favors - A signatory 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

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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:

- a) 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;
  - b) An award publicly presented in recognition of public service;
  - c) Occasional, non-pecuniary gifts of value not exceeding \$25.
- D) A signatory will not request or accept any reward, gift, or favor or taking an official act or action or advocating for or against an official act or action.
- E) A signatory shall not use resources unavailable to the general public-including but not limited to municipal staff time, equipment, supplies, or facilities for private gain or personal purposes.
- F) A signatory who is a member of a public body shall not give the impression that he or she has the authority to make decision or take actions on behalf of that body.
- G) A signatory shall not participate in any Contractual Arrangements with a person, organization, or business having business with the Town if the signatory or a member of the signatories' immediate family has a financial interest with the person, organization, or business.
- H) A signatory may not participate in any selection, award, or administration of a contract supported by 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, or any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ, has a financial or other interest in, or a tangible personal benefit from, a firm considered for a contract.
- I) A signatory shall not use their public position to further a personal interest or the interest of an immediate family member.
- J) A signatory 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 a significant private/personal pecuniary interest.
- K) A Public Official is empowered to discharge specific statutory duties in the public interest and should not interfere with the statutory duties of others.
- L) 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.

## **Article 2 Incompatibility of Offices**

- A) Incompatible offices set forth in 17 V.S.A., Section 2647, shall not be held simultaneously by any Town public official.
- C) The Town Manager shall not hold the office of Town Clerk or Town Treasurer.
- E) Selectboard members shall not serve as a member of the Town Planning Commission or Development Review Board.
- G) Town Planning Commissioners shall not serve as a regular member of the Town Development Review Board but can serve as an alternate to that board.
- I) Town Development Review Board members shall not serve as a member of the Town Planning Commission.
- K) Selectboard members, Planning Commissioners, 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.

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**Article 3 Disclosure:** A signatory serving on a public body, may not have a conflict of interest, whether real or perceived, in a matter under consideration by that public body. If there is such a conflict of interest, the signatory shall, prior to taking an official act or action or participating in any official act or action on the matter, disclose at a public meeting or public hearing that he or she has an actual or perceived conflict of interest in the matter under consideration and disclose the nature of the actual or perceived conflict of interest. Alternatively, a signatory may request that another signatory recuse themselves from a matter due to a conflict of interest, whether real or perceived.

**Article 4 Consideration of Recusal:** Once there has been a disclosure of an actual or perceived conflict of interest, other public officers shall be afforded an opportunity to ask questions or make comments about the situation. If a previously unknown conflict is discovered during a meeting or hearing conducted by a public body of the Town of Richmond, the public body shall take evidence pertaining to the conflict and, if appropriate, adjourn to an executive session to address the conflict.

**Article 5 Recusal:**

- A) Recusal of Appointed and Elected Officers: After taking the actions listed in Article 3 and 4, a signatory, whether appointed or elected, shall declare whether he or she will recuse themselves and explain the basis for that decision. If the signatory has an actual or perceived conflict of interest but believes that he or she is able to act fairly, objectively, and in the public interest, despite the conflict, they shall state why they believe that they are able to act in the matter fairly, objectively, and in the public interest. Otherwise, the public officer shall self-recuse the matter under consideration. A public officer that self-recuses may, but not must, explain the basis for that decision.
- B) Recusal of Appointed Signatory. The failure of an appointed signatory to self-recuse despite a conflict of interest, whether real or perceived, may be grounds for discipline or removal from office

**Article 6 Recording:** The minutes of the meeting or the written decision/minutes from the meeting/hearing shall document the actions taken in Articles 3 through 5.

**Article 7 Post -Recusal Procedure:**

- A) A signatory who has self-recused from participating in an official act or action by a public body shall not sit with the public body, deliberate with the public body, or participate in the discussions about that official act or action in any manner in the capacity as a public officer, though such member may still participate as a member of the public or private party, as applicable.
- B) The public body may adjourn the proceedings to a time, date, and place after a recusal, if not possible to act through the majority of the total membership of the public body. The public body may then resume the proceeding with sufficient members present.

**Article 8 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

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committed the violation, and to the person(s) with appointing authority over the position held by the alleged violator. 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 to 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.

#### **Article 9 Enforcement:**

- A) Enforcement Against Elected Officers; Consequences for failure to follow the conflict or Interest procedures. In cases in which an elected public officer has engaged in any of the prohibited conduct listed in Article 5, or has not followed the conflict-of-interest procedures in Article 6 through 10, the municipal legislative body may, in its discretion take any of the following disciplinary actions against such elected officer as it deems appropriate.
  - a) The chair of the municipal legislative body may meet informally with the public officer to discuss the possible conflict of interest violation. This shall not take place in situations where the chair and the public officer together constitute a quorum of a public body.
  - b) The municipal legislative body may meet to discuss the conduct of the signatory. Executive session may be used for such discussion in accordance with 1 V.S.A. 313(a)(4). The signatory may request that this meeting occur in public. If appropriate, the municipal legislative body may admonish the offending signatory in private.
  - c) The municipal legislative body may admonish the offending signatory at an open meeting and reflect this action in the minutes of the meeting. The signatory shall be given the opportunity to respond to the admonishment.
  - d) Upon majority vote in an open meeting, the municipal legislative body may request (but not order) that the offending signatory resign from their office.
- B) Enforcement Against Appointed Officers: The municipal legislative body may choose to follow any of the steps articulated in Article 9 A. In addition to or in lieu of any of those steps, the municipal legislative body may choose to remove an appointed officer from office, subject to state law.

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**Article 10 Exception:** The recusal provisions of Article 8 shall not apply if the municipal legislative body determines that an emergency exists or that actions of a quasi-judicial public body otherwise could not take place. In such a case, a public officer who has reason to believe he or she has a conflict of interest shall only be required to disclose such conflict as provided in Article 3.

**Article 10 Effective Date:** This policy shall become effective immediately upon its adoption by the Town of Richmond Selectboard.

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

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