

~~Sec. 22. 24 V.S.A. chapter 60 is added to read:~~

~~CHAPTER 60. MUNICIPAL CODE OF ETHICS~~

ADOPTED BY THE RICHMOND SELECTBOARD AS THE RICHMOND CODE
OF ETHICS

~~§ 1991. DEFINITIONS~~Section 1: DEFINITIONS

As used in this ~~Policy~~chapter:

(1) “Advisory body” means a public body that does not have supervision, control, or jurisdiction over legislative, quasi-judicial, tax, or budgetary matters.

(2) “Candidate” and “candidate’s committee” have the same meanings as in 17 V.S.A. § 2901.

(3) “Commission” means the State Ethics Commission established under 3 V.S.A. chapter 31, subchapter 3.

(4) “Confidential information” means information that is exempt from public inspection and copying under 1 V.S.A. § 315 et seq. or is otherwise designated by law as confidential.

(5) “Conflict of interest” means a direct or indirect interest of a municipal officer or such an interest, known to the officer, of a member of the officer’s immediate family or household, or of a business associate, in the outcome of a particular matter pending before the officer or the officer’s public body, or that is in conflict with the proper discharge of the officer’s duties. “Conflict of interest” does not include any interest that is not greater than that of other individuals generally affected by the outcome of a matter.

(6) “Department head” means any authority in charge of an agency, department, or office of a municipality.

(7) “Designated complaint recipient” means:

(A) a department head or employee specifically designated or assigned to receive a complaint that constitutes protected activity, as set forth in ~~section 24 V.S.A. § 1997~~of this title;

(B) a board or commission of the State or a municipality;

(C) the Vermont State Auditor;

(D) a State or federal agency that oversees the activities of an agency, department, or office of the State or a municipality;

(E) a law enforcement officer as defined in 20 V.S.A. § 2358;

(F) a federal or State court, grand jury, petit jury, law enforcement agency, or prosecutorial office;

(G) the legislative body of the municipality, the General Assembly or the U.S. Congress; or

(H) an officer or employee of an entity listed in this subdivision (7) when acting within the scope of the officer's or employee's duties.

(8) "Domestic partner" means an individual in an enduring domestic relationship of a spousal nature with the municipal officer, provided the individual and municipal officer:

(A) have shared a residence for at least six consecutive months;

(B) are at least 18 years of age;

(C) are not married to or considered a domestic partner of another individual;

(D) are not related by blood closer than would bar marriage under State law;

and

(E) have agreed between themselves to be responsible for each other's welfare.

(9) "Illegal order" means a directive to violate, or to assist in violating, a federal, State, or local law.

(10) "Immediate family" means an individual's spouse, domestic partner, or civil union partner; child or foster child; sibling; parent; or such relations by marriage or by civil union or domestic partnership; or an individual claimed as a dependent for federal income tax purposes.

(11) "Legislative body" means the selectboard in the case of a town, the mayor, alderpersons, and city council members in the case of a city, the president and trustees in the case of an incorporated village, the members of the prudential committee in the case of a fire district, and the supervisor in the case of an unorganized town or gore.

(12) "Municipal officer" or "officer" means:

(A) any member of a legislative body of a municipality;
(B) any member of a quasi-judicial body of a municipality; or
(C) any individual who holds the position of, or exercises the function of, any
of the
following positions in or on behalf of any municipality:

- (i) advisory budget committee member;
- (ii) auditor;
- (iii) building inspector;
- (iv) cemetery commissioner;
- (v) chief administrative officer;
- (vi) clerk;
- (vii) collector of delinquent taxes;
- (viii) department heads;
- (ix) fire fighters and members of the Richmond Fire Department
- (x) first constable;
- (xi) lister or assessor;
- (xii) mayor;
- (xiii) moderator;
- (xiv) planning commission member;
- (xv) road commissioner;
- (xvi) town or city manager;
- (xvii) treasurer;
- (xviii) village or town trustee;
- (xix) trustee of public funds; or
- (xix) water commissioner.

(D) Any person elected or statutorily appointed to a Town of Richmond office, Board, Committee or commission, and any person who is an member,

Officer, employee, legislator, or quasi-judicial body that performs functions for or an authorized volunteer of the Town of Richmond, including volunteers for the Richmond Fire Department.

(13) “Municipality” means any town, village, or city.

(14) “Protected employee” means an individual employed on a permanent or limited status basis by a municipality.

(15) “Public body” has the same meaning as in 1 V.S.A. § 310.

(16) “Retaliatory action” includes any adverse performance or disciplinary action, including discharge, suspension, reprimand, demotion, denial of promotion, imposition of a performance warning period, or involuntary transfer or reassignment; that is given in retaliation for the protected employee’s involvement in a protected activity, as set forth in 24 V.S.A. § section-1997-of this title.

Section 2:§-1992. CONFLICTS OF INTEREST

(a) Duty to avoid conflicts of interest. In the municipal officer’s official capacity, the officer shall avoid any conflict of interest or the appearance of a conflict of interest. The appearance of a conflict shall be determined from the perspective of a reasonable individual with knowledge of the relevant facts.

(b) Recusal.

(1) If a municipal officer is confronted with a conflict of interest or the appearance of one, the officer shall immediately recuse themselves from the matter, except as otherwise provided in subdivisions (2) and (5) of this subsection, and not take further action on the matter or participate in any way or act to influence a decision regarding the matter. After recusal, an officer may still take action on the matter if the officer is a party, as defined by 24 V.S.A. § section-1201-of this title, in a contested hearing or litigation and acts only in the officer’s capacity as a member of the public. The officer shall make a public statement explaining the officer’s recusal.

(2) (A) Notwithstanding subdivision (1) of this subsection (b), an officer may continue to act in a matter involving the officer’s conflict of interest or appearance of a conflict of interest if the officer first:

(i) determines there is good cause for the officer to proceed, meaning:

(I) the conflict is amorphous, intangible, or otherwise speculative;

(II) the officer cannot legally or practically delegate the matter;

or

(III) the action to be taken by the officer is purely ministerial and does not involve Substantive decision-making; and

(ii) the officer submits a written nonrecusal statement to the legislative body of the municipality regarding the nature of the conflict that shall:

(I) include a description of the matter requiring action;

(II) include a description of the nature of the potential conflict or actual conflict of interest;

(III) include an explanation of why good cause exists so that the municipal officer can take action in the matter fairly, objectively, and in the public interest;

(IV) be written in plain language and with sufficient detail so that the matter may be understood by the public; and

(V) (V) be signed by the municipal officer.

(B) Notwithstanding subsection (A) of this subdivision (2), a municipal officer that would benefit from any contract entered into by the municipality and the officer, the officer's immediate family, or an associated business of the officer or the officer's immediate family, and whose official duties include execution of that contract, shall recuse themselves from any decision-making process involved in the awarding of that contract.

(C) Notwithstanding subsection (A) of this subdivision (2), a municipal officer shall not continue to act in a matter involving the officer's conflict of interest or appearance of a conflict of interest if authority granted to another official or public body elsewhere under law is exercised to preclude the municipal officer from continuing to act in the matter.

(3) If an officer's conflict of interest or the appearance of a conflict of interest concerns an official act or actions that take place outside a public meeting, the officer's nonrecusal statement shall be filed with the clerk of the municipality and be available to the public for the duration of the officer's service plus a minimum of five years.

(4) If an officer's conflict of interest is related to an official municipal act or actions considered at a public meeting, the officer's nonrecusal statement shall be filed as part of the minutes of the meeting of the public body in which the municipal officer serves.

(5) If, at a meeting of a public body, an officer becomes aware of a conflict of interest or the appearance of a conflict of interest for the officer and the officer determines there is good cause to proceed, the officer may proceed with the matter after announcing and fully stating the conflict on the record. The officer shall submit a written nonrecusal statement pursuant to subdivision (2) of this subsection within five business days after the meeting. The meeting minutes shall be subsequently amended to reflect the submitted written nonrecusal statement.

(c) Authority to inquire about conflicts of interest. If a municipal officer is a member of a public body, the other members of that body shall have the authority to inquire of the officer about any possible conflict of interest or any appearance of a conflict of interest and to recommend that the member recuse themselves from the matter.

(d) Confidential information. Nothing in this section shall require a municipal officer to disclose confidential information or information that is otherwise privileged under law.

Section 3:§ 1993. PROHIBITED CONDUCT

(a) Directing unethical conduct. A municipal officer shall not direct any individual to act in a manner that would:

(1) benefit a municipal officer in a manner related to the officer's conflict of interest;

(2) create a conflict of interest or the appearance of a conflict of interest for the officer or for the directed individual; or

(3) otherwise violate the Municipal Code of Ethics as described in this chapter.

(b) Preferential treatment. A municipal officer shall act impartially and not unduly favor or prejudice any person in the course of conducting official business. An officer shall not give, or represent an ability to give, undue preference or special treatment to any person because of the person's wealth, position, or status or

because of a person's personal relationship with the officer, unless otherwise permitted or required by State or federal law.

(c) Misuse of position. A municipal officer shall not use the officer's official position for the personal or financial gain of the officer, a member of the officer's immediate family or household, or the officer's business associate.

(d) Misuse of information. A municipal officer shall not use nonpublic or confidential information acquired during the course of official business for personal or financial gain of the officer or for the personal or financial gain of a member of the officer's immediate family or household or of an officer's business associate.

(e) Misuse of government resources. A municipal officer shall not make use of a town's, city's, or village's materials, funds, property, personnel, facilities, or equipment, or permit another person to do so, for any purpose other than for official business unless the use is expressly permitted or required by State law; ordinance; or a written agency, departmental, or institutional policy or rule. An officer shall not engage in or direct another person to engage in work other than the performance of official duties during working hours, except as permitted or required by law or a written agency, departmental, or institutional policy or rule.

(f) Gifts.

(1) No person shall offer or give to a municipal officer or candidate, or the officer's or candidate's immediate family, anything of value, including a gift, loan, political contribution, reward, or promise of future employment based on any understanding that the vote, official action, or judgment of the municipal officer or candidate would be, or had been, influenced thereby.

(2) A municipal officer or candidate shall not solicit or accept anything of value, including a gift, loan, political contribution, reward, or promise of future employment based on any understanding that the vote, official action, or judgment of the municipal officer or candidate would be or had been influenced thereby.

(3) Nothing in subdivision (1) or (2) of this subsection shall be construed to apply to any campaign contribution that is lawfully made to a candidate or candidate's committee pursuant to 17 V.S.A. chapter 61 or to permit any activity otherwise prohibited by 13 V.S.A. chapter 21.

(g) Unauthorized commitments. A municipal officer shall not make unauthorized commitments or promises of any kind purporting to bind the municipality unless otherwise permitted by law.

(h) Benefit from contracts. A municipal officer shall not benefit from any contract entered into by the municipality and the officer, the officer's immediate family, or an associated business of the officer or the officer's immediate family, unless:

- (1) the benefit is not greater than that of other individuals generally affected by the contract;
- (2) the contract is a contract for employment with the municipality;
- (3) the contract was awarded through an open and public process of competitive bidding; or
- (4) the total value of the contract is less than \$2,000.00

Section 4: 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.

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

(c) Selectboard members shall not serve as a member of the Town Planning Commission or Development Review Board.

(d) 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.

(e) Town Development Review Board members shall not serve as a member of the Town Planning Commission.

(f) Selectboard, Planning Commission, or Development Review Board members shall not be an employee of the Town of Richmond, except when performing duties as a member of the Board of Civil Authority.

Section 5: TRAINING; ANNUAL REVIEW OF CODE AND POLICY:

(a) Training Session. All municipal officers are required to take the on-line training that can be found on the State Ethics Commission website at <https://ethicscommission.vermont.gov/training>. All new municipal officers must complete training within 120 days of the start of their position, and then re-take the training every three years thereafter. Existing municipal officers have until September 25, 2025, to complete the training and then must also re-take the training every three years thereafter. A certificate certifying completion of the on-line training must be filed with the Town Manager within fifteen (15) days of completion of the training.

(b) Annual Policy Review and Acknowledgement.

- (i) All Town boards, commissions and committees appointed by the legislative body, and any person elected or statutorily appointed to a Town board, committee or commission, and such Town boards, commissions and committees annually at their organizational meeting, shall review the Municipal Code of Ethics in a public meeting. No later than fifteen days (15) following their review of the Code of Ethics, each member of a Town board, commission or committee shall sign a form acknowledging their receipt and understanding of the Code of Ethics and submit the form to the Town Manager.
- (ii) All municipal officers shall review the Municipal Code of Ethics within thirty (30) days of commencement of service to the Town and annually between June 1 and August 31 thereafter. Upon completion of the review, each municipal officer shall sign a form acknowledging their receipt and understanding of the Code of Ethics, which shall be submitted to the Town Manager no later than fifteen days (15) following their review of the Code of Ethics.

Section 6: COMPLAINT OF ETHICS VIOLATION:

- (a) A person, who believes that an appointed municipal officer~~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 ~~c~~Chair of the ~~Selectboard~~legislative body if the complaint is being filed against the Town Manager. The complaint shall include the name of the municipal officer ~~person~~ alleged to have committed the violation and the specifics of the act(s) that constitute the violation. The Town Manager—~~or Selectboard~~ the ~~C~~Chair of the legislative body; if the complaint is being filed against the Town Manager—, shall forward for resolution the complaint to the appointed municipal officer~~person~~ alleged to have 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 municipal~~person~~ about whom they are complaining, they must so specify ~~that~~ in their signed complaint to the Town Manager/~~chair of the legislative body~~~~Selectboard~~ Chair and their name will be deleted from the forwarded complaint.
- (b) A person who believes that an elected municipal officer~~official~~ of the Town has violated any portion of this Policy, may send, or deliver a signed written complaint to the ~~c~~Chair of the ~~Board~~ legislative body (or the ~~V~~vice ~~C~~Chair if the ~~C~~Chair is the one considered in violation) upon which the elected official sits, or to the ~~c~~Chair of the legislative body~~Selectboard~~. The complaint shall include the name of the elected municipal officer~~person~~ alleged to have committed the

violation and the specifics of the act(s) that constitute the violation. The ~~Board~~ ~~cChair~~ (or ~~vVice cChair~~) of the legislative body 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 ~~officer-person~~ about whom they are complaining, they must so specify ~~that~~ in their signed complaint to the ~~cChair/vVice -Cchair~~ of the legislative body and their name will be deleted from the forwarded complaint.

(c) A person may ask any board or commission or elected or appointed municipal 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 67: ENFORCEMENT:

A) Enforcement Against Elected Municipal Officials~~Officers~~; Consequences for failure to follow the ~~C~~onflict of Interest ~~P~~rocedures. In cases in which an elected ~~municipalpublic~~ officer has engaged in any of the prohibited conduct listed in ~~SectionArticle~~ 3 of this Policy~~5~~, or has not followed the conflict-of-interest procedures in ~~Section 2Article 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~~ elected municipal officer to discuss the possible conflict of interest violation. This shall not take place in situations where the chair of the legislative body and the ~~public~~elected municipal officer together constitute a quorum of a public body.

b) The municipal legislative body may meet to discuss the conduct of the elected ~~municipal officers~~signatory. Executive session may be used for such discussion in accordance with 1 V.S.A. § 313(a)(4). The municipal officer ~~signatory~~ may request that this meeting occur in public. If appropriate, the municipal legislative body may admonish the offending elected municipal ~~officers~~signatory in private.

c) The municipal legislative body may admonish the offending ~~signatory~~elected municipal officer at an open meeting and ~~record~~ ~~file~~ this action in the minutes of the meeting. The ~~municipal officers~~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 municipal officersignatory resign from their office.

B) Enforcement Against Appointed Municipal Officers: In cases in which an appointed municipal officer has engaged in any of the prohibited conduct listed in Section 3 of this Policy, Tthe municipal legislative body may choose to follow any of the steps articulated in ArticleSection 96-(A). In addition to or in lieu of any of those steps, the municipal legislative body may choose to remove an appointed officer from~~ern~~ office or employment, in accordance with Vermont law.subject to state law.

This Policy was adopted by the Richmond Selectboard at its public meeting on

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