

**TOWN OF GRAFTON**

**CODE OF CONDUCT**

**Adopted: October 6, 2014**

## **INDEX**

I. Policy Statement	Page 1
II. Definitions	Page 1
III. Conflict of Interest	Page 2-4
IV. Unilateral Communications – Public Body	Page 5
V. Incompatibility of Office	Page 6
VI. Standards of Conduct	Page 7
VII. Code Violation	Page 8
VIII. Board of Ethics	Page 8
IX. Board of Ethics – Procedure on Complaint	Page 9
X. Remedies	Page 9
XI. Applicability of Code	Page 9
XII. Severability	Page 9
XIII. Effective Date after Passage	Page 9
XIV. Distribution of Code of Ethics	Page 10

---

## CODE OF CONDUCT

### § I. POLICY STATEMENT

Public service is public trust. The affairs of government must be conducted openly, honestly and impartially, so that the public's confidence in the integrity of its municipal affairs shall be maintained. The purposes of this Code are to set forth standards of ethical conduct; to assist Elected or Appointed Public Officials in establishing policy for their conduct; and to develop and maintain a tradition of responsible and effective public service.

### § II. DEFINITIONS

As used in this section, the following words, unless a different meaning is required by the content or is specifically prescribed, shall have the following meanings:

- A. All references to "Town", unless otherwise specified, refer to the Municipality.
  - B. Public Official (hereinafter "Official") means any person, other than a Justice of the Peace, paid or unpaid, holding a position by election or appointment in the service of the Town of Grafton, including members of any board, committee, commission, or council thereof.
  - C. "Public Body" means all boards, committees, commissions, councils and any other such group elected or appointed.
  - D. "Official Act or Action" means any legislative, administrative, appointive or discretionary act of an Official of the Town or any municipal department, board, committee, commission, or council thereof.
  - E. "Independence" means actual independence or the appearance thereof.
  - F. "Recusal" means stepping aside from public office or duty during discussions and vote when a conflict of interest or lack of independence has been declared. It is required, or in the case of public meetings recommended, that the recused person leaves the room where the discussion and vote are taking place.
-

§ III. CONFLICT OF INTEREST

**Town of Grafton's Conflict of Interest Policy**

**Article 1. Authority.** Under the authority granted in 24 V.S.A. § 2291(20), the select board of the Town of Grafton 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 his or her 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 insure 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 direct or indirect personal interest of a public officer, his or her 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 he or she holds office or is employed;

2. A direct or indirect financial interest, as opposed to public interest, of a public officer, his or her 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 he or she holds office or is employed;

3. 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 views or general opinion on a given issue; and

4. A situation where a public officer has not disclosed ex parte communications with a party in a quasi-judicial proceeding.

5. **"Conflict of interest"** does not arise in the case of votes or decisions on matters in which the public officer has a personal or pecuniary interest in the outcome no greater than that of other persons generally affected by the decision, such as adopting a bylaw or setting a tax rate.

**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 judicial act performed by any elected or appointed officer while acting on behalf of the municipality.

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

**E. 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, which includes recitation of the law or regulation which forms the basis of the matter being judged, the findings of fact and conclusions of law as the basis of the 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 he or she has a conflict of interest, as defined herein, in the matter under consideration.

B. A public officer shall not personally, or through any member of his or her 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.

C. In the case of a public officer who is an appointee, the public body which appointed that public officer shall have the authority to order that officer to recuse him or herself from the matter, when the public body has found that the officer has a conflict of interest in the matter.

D. Except for gifts of food or volunteer help or with specific permission of the Selectboard for the gift, public officers shall not accept gifts or other offerings 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.

**Article 5. Disclosure.**

**A. A public officer should disclose a perceived conflict of interest**, though it does not rise to a true conflict of interest by definition herein, and if he or she believes that he or she is able to act fairly, objectively and in the public interest in spite of this perception, prior to participating in any official action on the matter disclose to the public body at a public hearing the matter under consideration, the nature of the potential conflict of interest and why he or she believes that he or she is able to act in the matter fairly, objectively and in the public interest.

**B. A public officer must disclose a conflict of interest**, as defined herein, and recuse him or herself from participating in the matter.

C. In the case of a public officer who is an elected member of a board, commission, or other body, the remaining members of that body shall have the authority to inquire of the officer about a possible conflict of interest and to suggest or recommend that the member recuse him or herself from the matter. If the member believes that he or she does not have a conflict of interest or believes that he or she is able to act fairly, objectively and in the public interest in spite of an existing conflict of interest, the member shall, prior to participating in the matter, prepare a statement describing the matter under consideration, the nature of the potential conflict of interest and why he or she believes that he or she is able to act in the matter fairly, objectively and in the public interest. The statement required by this subsection shall be signed by the officer and filed as part of the minutes of the meeting of the public body in which the officer holds office.

**Article 6. Recusal.**

A public officer shall recuse him or herself from any matter in which he or she has a conflict of interest, pursuant to the following:

1. Any person may request that a member recuse him or herself due to a conflict of interest. Such request shall not constitute a requirement that the member recuse him or herself.
2. A public officer who has recused him or herself from a proceeding shall not sit with the board, deliberate with the board, or participate in that proceeding as a board member in any capacity.
3. If a previously unknown conflict is discovered, the board may take evidence pertaining to the conflict and, if appropriate, adjourn to a short deliberative session to address the conflict.
4. The board 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.
5. In the case of a public officer who is an appointee, the public body which appointed that public officer, on a finding by the public body that the officer has a conflict of interest as defined herein, shall have the authority to order that officer to recuse him or herself from the matter, subject to applicable law.

**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 select board may take progressive action to discipline an offending public officer. In the discipline of a public officer, the board shall follow these steps in order:

- A. The chair shall meet informally, in private, with the public officer to discuss possible conflict of interest violation.
- B. The board 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 board may admonish the offending public officer in private.
- C. If the board decides that further action is warranted, the board 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 the opportunity to respond to the admonishment.
- D. Upon majority vote, the board may request that the offending public officer resign from the board.

**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 he or she has a conflict of interest shall disclose such conflict as provided in Article S.C.

**Article 9. Effective Date.** The foregoing Policy was adopted by the select board of the Town of Grafton, Vermont, the 1<sup>st</sup> day of October 2012 and is effective as of that date until amended or repealed.



**§ IV. UNILATERAL COMMUNICATIONS – PUBLIC BODY**

In any matter before a Public Body, a member should not communicate with or accept a communication from a person the Public Body has reasonable grounds for believing is a party to the matter, outside of a public hearing. The presiding officer of the Public Body may engage in such communications, if and only if, there is notice and opportunity to participate given to all parties in accord with 24.V.S.A. § 1207(a). A member should disclose any such communication at an open meeting of the Public Body prior to any consideration on the matter, and the member should recuse himself or herself, if appropriate. ✖

A "party" as used in this paragraph means a person who:

- A. Holds an interest or has an agreement to acquire an interest in a business entity or the property of a business entity which desires to enter into any agreement with the Town, where the Town's entering into the agreement depends upon the official action of the Public Body.
- B. Is associated with or has an agreement to associate with such a business entity, whether as employee, director, officer, broker, agent, contractor, subcontractor, purchaser or seller, or in any other capacity where the Town's agreement with such business entity depends upon the official action of the Public Body.
- C. Holds an interest in any property, real or personal, which is the subject of any preceding or proposed action pending before the Public Body, or any agreement or understanding to acquire such an interest.
- D. Qualifies as a "party" under 24 V.S.A. § 1201(4). Officials are forbidden from communicating with others about a pending matter, but communications to a Public Body member by citizens who are not parties to the matter are not subject to disclosure requirements.

**§ V. INCOMPATIBILITY OF OFFICE**

In accord with 17 V.S.A. § 2647, it shall be found to be a conflict of duty if a Public Official holds or exercises more than one of the following offices or positions at the same time:

- A. Any Public Official, elected or appointed, shall not be hired as an employee or consultant during that Public Official's term of office without the approval of the Select Board.
- B. An Official, or any member of the Official's immediate family, shall not perform the duties of auditor or attorney for the Town.
- C. A member of the Select Board shall not hold or exercise the office of Town Clerk/ Treasurer or Tax Assessor, or serve on any Public Body that may be established by the Town, with the exception of the Civil Board of Authority.
- D. A Planning Commissioner shall not hold or exercise the office of Town Planner or Zoning Administrator or be a member of the Development Review Board.
- E. A Development Review Board member shall not hold or exercise the office of Town Planner or Zoning Administrator or be a member of the Planning Commission.



**§ VI. STANDARDS OF CONDUCT**

Every Public Official of the Town of Grafton shall be subject to and abide by the following standards of conduct:

**A. Public Property**

An Official shall not request or permit the unauthorized use of Town owned vehicles, equipment, materials, or property for personal convenience or gain.

**B. Disclosure of Interest in Legislation**

An Official who has a financial or material interest in any legislation coming before a Public Body shall publicly disclose on the official record of the Public Body the nature and extent of any financial or material interest the Official has in such legislation.

**C. Representation Before One's Own Municipal Department**

An Official shall not receive, or enter into any agreement for, expressed or implied, compensation for services to be rendered in relation to any matter before the Town or of any municipal department over which an employee has jurisdiction or to which the employee has the power to appoint any member, officer or employee.

**D. Representation Before Any Municipal Department for a Fee**

An Official shall not receive, or enter into any agreement, expressed or implied, for compensation for services to be rendered in relation to any matter before any department of the municipality, whereby compensation is to be dependent or contingent upon any action by such municipal department with respect to such matter.

**E. Advocacy/Political Activity**

An Official shall not orally, by letter, or otherwise, solicit or be in any matter concerned in soliciting any assessment, subscription, or contribution to any political party, nor be a party to such solicitation by others while representing the Town. An Official shall not promise an appointment to any municipal position as reward for any advocacy/political activity.

**§ VII. CODE VIOLATION**

Any person who believes that a violation of any portion of this Code has occurred as a result of an Official's act or action may send or deliver a signed, written complaint to the Town Administrator, Select Board, or the Town Attorney, whichever is appropriate. The complaint shall include the name of the person alleged to have committed the violation and the specific act or acts which constitute the violation.

- if the complaint alleges a violation of a Public Official it shall be delivered to the office of the Town's Attorney.

**§ VIII. BOARD OF ETHICS ESTABLISHED**

- A. The Select Board shall head the Board of Ethics (the Board). The Board shall consist of not more than five members.
- B. The Board shall have the power to interpret the provisions of this Code and other applicable state law; investigate and report on any alleged violation(s) as provided below; summon witnesses and schedule hearings in connection with any matter under investigation or inquiry; recommend sanctions, suspension or removal.
- C. The members shall initially serve staggered terms (two or three years). The Town Administrator or Town Attorney may be an ex-officio member of the Board.
- D. A majority of the Board shall constitute a quorum. The Board shall meet as frequently as it deems necessary.
- E. Members serving on the Board shall serve without compensation, except for the Town Administrator or the Town Attorney, who shall act in an ex-officio capacity when requested by the Board.
- F. The Board has the authority to:
  1. Review complaints.
  2. Conduct hearings and fact finding at the request of the Town Attorney or the Town Administrator.
  3. Render opinions on the application of this Code.
  4. Report its findings and recommendations to the Town Attorney or the Town Administrator, depending on how the complaint/request originated.
  5. At no time shall any requests to the Board be contrary to the jurisdiction and authority provided to the Select Board or the Town Administrator by the Town Charter and as stipulated in Section VIII above.

**§ IX. BOARD OF ETHICS – PROCEDURE ON COMPLAINT**

- A. Upon receipt of a fact finding request, or in the case of an elected official, a properly filed complaint, the Board will set a meeting date as early as possible to commence the review.
- B. The Board shall conduct its meetings according to Roberts Rules of Order.
- C. The Board is required to comply with the Vermont Open Meeting Law, 1 V.S.A. § 312, et seq.
- D. Any hearings shall be conducted under the Board's rules and regulations, which shall include the following:
  - 1. oral evidence shall be taken under oath;
  - 2. the complainant and the respondent shall have the right to:
    - a. be represented by legal counsel;
    - b. present evidence; and
    - c. examine and cross-examine witnesses
- E. At the conclusion of any request for fact finding or complaint review, the Board shall determine the validity of any violation of the Code and make their recommendations as to the resolution or disposition of the case to the appropriate party, whoever was the source of the request or per Section VIII above.
- F. In the event the Board or any of its members become a party to any legal procedure, the Town will be responsible to represent the Board or any member and hold them harmless.

**§ X. REMEDIES**

As part of any decision, the Board shall make a recommendation of disciplinary action based on its findings and any relevant statutory law, regulations, or policy.

**§ XI. APPLICABILITY OF CODE**

This code shall be operative in all instances covered by its provisions except when superseded by an applicable statutory or policy provision. Should a conflict with present and/or future personnel rules and regulations occur, the more stringent shall prevail.

**§ XII. SEVERABILITY**

If any section, clause, provision, or portion of the Code of Ethics shall be held to be invalid or unconstitutional by any court, such holding shall not affect or impair any other section, clause, provision, or portion of the Code.

**§ XIII. EFFECTIVE DATE AFTER PASSAGE**

This Code shall take effect on October 6, 2014. This Code, and all amendments, shall not apply retroactively.



**§XIV. DISTRIBUTION OF CODE OF ETHICS**

The Town of Grafton shall distribute a copy of this code to every official of the Town within 30 days after the effective date of this code. Each official thereafter shall be furnished a copy before entering upon the duties of the office or employment. Each official shall sign an acknowledgement indicating they have received this code.

Approved by the Grafton Select Board on Monday, October 6, 2014.

---

---

---

---

---