

TOWN OF MAIDSTONE, VERMONT CONFLICT OF INTEREST POLICY, REV I

Article 1. Authority: Under the authority granted in 24 VSA §2291(20), the Selectboard of Maidstone 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 Town 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 public officials will be preserved. It is also the intent of this policy to ensure that all decisions made by public officials are based on the best interests of the community at large.

Article 3. Application. This policy applies to all individuals elected or statutorily-appointed to perform executive, administrative, legislative, or quasi-judicial functions of the Town of Maidstone.

Article 4. Definitions: For the purposes of this policy, the following definitions shall apply.

A. **Conflict of Interest** means a real or seeming incompatibility between a public official's private interests and their public or fiduciary interests to the municipality they serve. A conflict of interest arises when there is a direct or indirect personal or financial interest of a public official or a person or group closely tied with the official including 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 an official act or action, or any other matter pending before the official or before the public body in which that official holds office.

A conflict of interest may take any of the following forms:

1. A direct financial conflict of interest arises when a public official acts on a matter that has a direct financial impact on that official;
2. An indirect financial conflict of interest arises when a public official acts on a matter that has a financial impact on a person or group closely tied to the official;
3. A direct personal conflict of interest arises when a public official acts on a matter that has a direct impact on the official in a non-financial way, but is of significant importance to the official;
4. An indirect personal conflict of interest arises when a public official acts on a matter in which the official's judgment may be affected because of a familial or personal relationship or membership in some organization and a desire to help that person or organization further its own interests;
5. A situation where a public official has publicly displayed a prejudgment of the merits of a quasi-judicial proceeding. This shall not apply to a member's political views or general opinion on a given issue;
6. A situation where a public official has not disclosed ex parte communications related to a quasi-judicial proceeding that is before the body to which that official belongs.

A "conflict of interest" does not arise in the case of an official act or action in which the public official has a personal or financial interest in the outcome, such as in the establishment of a tax rate, that is no greater than that of other persons generally affected by the decision.

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 representative, 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 judicial act performed by any public official while acting on behalf of the municipality. 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 municipality.
- F. **Public interest** means an interest of the municipality, conferred generally upon all residents of the municipality.
- G. **Public official or public officer** means a person elected or lawfully appointed to perform executive, administrative, legislative, or quasi-judicial functions for the municipality. This term does not include municipal employees.
- H. **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, and which results in a written decision, the result of which is appealable by a party to a higher authority.

Article 5. Prohibited Conduct

- A. A public official shall not participate in any official act or action if they have a conflict of interest, whether real or perceived, in the matter under consideration.
- B. A public official shall not personally - or through any member of their household, business associate, employer, or employee - represent, appear for, or negotiate in 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 official holds office.
- C. A public official 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.
- D. A public official will not request or accept any reward, gift, or favor for taking an official act or action or advocating for or against an official act or action.
- E. A public official 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.
- F. A public official who is a member of a public body shall not give the impression that they have the authority to make decisions or take actions on behalf of that body.

Article 6. Disclosure.

A public official who, while serving on a public body, may have a conflict of interest, whether real or perceived, in a matter under consideration by that public body shall, prior to taking an official act or action or participating in any official act or action on the matter, publicly disclose at a public meeting or public hearing that they have 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 public official may request that another public official recuse themselves from a matter due to a conflict of interest, whether real or perceived. Such request shall not be considered an order for the official to recuse themselves.

Article 7. Consideration of Recusal.

Once there has been a disclosure of an actual or perceived conflict of interest, other public officials 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 municipality, the public body shall take evidence pertaining to the conflict and, if appropriate, adjourn to an executive session to address the conflict.

Article 8. Recusal

- A. **Recusal of Appointed and Elected Officials.** After taking the actions listed in Articles 6 and 7, a public official, whether appointed or elected, shall declare whether or not they will recuse themselves and explain the basis for that decision. If the public official has an actual or perceived conflict of interest but believes that they are able to act fairly, objectively, and in the public interest, in spite of 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 official shall recuse themselves from the matter under consideration. A public official that recuses themselves may, but not must, explain the basis for that decision.
- B. **Recusal of Appointed Officials.** The failure of an appointed public official to recuse themselves in spite of a conflict of interest, whether real or perceived, may be grounds for discipline or removal from office.

Article 9. Recording. The minutes of the meeting or the written decision / minutes from the meeting / hearing shall document the actions taken in Articles 6 through 8.

Article 10. Post-Recusal Procedure.

- A. A public official who has recused themselves 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 their capacity as a public official, though such member may still participate as a member of the public or private party, if applicable.
- B. The public body may adjourn the proceedings to a time, date, and place certain if, after a recusal, it may not be possible to take action through the concurrence of a majority of the total membership of the public body. The public body may then resume the proceeding with sufficient members present.

Article 11. Enforcement.

- A. **Enforcement Against Elected Officials; Consequences for Failure to Follow the Conflict of Interest Procedures.** In cases in which an elected public official has engaged in any of the prohibited conduct listed in Article 5, or has not followed the conflict of interest procedures in Articles 6 through 10, the Selectboard may take progressive action to discipline an offending public official. In the discipline of a public official, the Selectboard shall follow these steps in order:
1. The Chair of the Selectboard shall meet informally with the public official to discuss the possible conflict of interest violation. This shall not take place in situations where the Chair and the public official together constitute a quorum of a public body.
 2. The Selectboard may meet to discuss the conduct of the public official. Executive session may be used for such discussion in accordance with 1 V.S.A. § 313(a)(4). The public official may request that this meeting occur in public. If appropriate, the Selectboard may admonish the offending public official in private.
 3. The Selectboard may admonish the offending public official at an open meeting and reflect this action in the minutes of the meeting. The public official shall be given the opportunity to respond to the admonishment.
 4. Upon majority vote in an open meeting, the Selectboard may request (but not order) that the offending public official resign from their office.
- B. **Enforcement Against Appointed Officials.** The Selectboard shall follow the steps articulated in Article 11A. In addition, the Selectboard may choose to remove an appointed official from office, subject to state law.

Article 12. Exception. The recusal provisions of Article 8 shall not apply if the Selectboard determines that an emergency exists or that actions of a quasi-judicial public body otherwise could not take

Article 13. Effective Date. This policy was adopted on January 3, 2011 by the Maidstone Selectboard. This policy will be reviewed annually and updated as appropriate. Revisions/updates to this policy shall become effective immediately upon adoption by the Selectboard.

Renewed by the Selectboard on 4-1-2024.



Scott Lovell, Chairman

4-9-24

Date



Bruno McKenzie

4/4/24

Date



Brad McVetty

4-11-24

Date

**TOWN OF MAIDSTONE, VERMONT
CONFLICT OF INTEREST POLICY REV I
Policy Adoption, Revision, and Renewal History**

ORIGINAL ADOPTION DATE: January 3, 2011

REV #1 ADOPTION DATE: 5-1-2023

LATEST RENEWAL DATE: 4-1-2024

Relevant Vermont Statute(s): 24 V.S.A. § 1984 and 24 V. S.A. §2291 (20)

REV #	REVISION DATE	REVISION DESCRIPTION
REV 1	May 1, 2023	Following VLCT’s Model Policy and advice of VLCT lawyers, made the changes detailed below.**

**** REV 1 changes made to the 2011 policy, following the VLCT’s Model Policy:**

1. Changed format, using Article numbers instead of all bullets. Changed any form of him or her to the gender neutral form of “they”, on the advice of a VLCT lawyer.
 - Added “Article 3 Application. This policy applies to all individuals elected or statutorily-appointed to perform executive, administrative, legislative, or quasi-judicial functions of the Town of Maidstone.”
2. Article 4. Definitions:
 - Added the following to definition of Conflict of Interest: “A real or seeming incompatibility between a public official’s private interests and their public or fiduciary interests to the municipality they serve.”
 - Separately defined direct and indirect financial and personal conflicts of interest.
 - Added “This term does not include municipal employees” to definition of public official and public officer, in accordance with Vermont Statutes.
3. Article 5. Changed “Disqualification” to “Prohibited Conduct”.
 - Removed “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,” as VLCT counseled that this clause is not enforceable.
 - Added the following to Prohibited Conduct:
 - “A public official shall not participate in any official act or action if they have a conflict of interest, whether real or perceived, in the matter under consideration.”
 - “A public official will not request or accept any reward, gift, or favor for taking an official act or action or advocating for or against an official act or action.”
 - “A public official who is a member of a public body shall not give the impression that they have the authority to make decisions or take actions on behalf of that body.”

Conflict of Interest Policy Rev 1 History

4. Article 6. Moved the entire paragraph under “Disclosure” in the 2011 policy to Article 8 Recusal; removed this statement: “Nevertheless, the person or public body which appointed that public officer retains the authority to order that officer to recuse him or herself from the matter, subject to applicable law” on counsel from VLCT that this is not enforceable. Replaced the moved paragraph with VLCT paragraph about Disclosure.
5. Added “Article 7 Consideration of Recusal”.
6. Moved information in section entitled Recusal to Articles 6, 7, and 10, as appropriate, and replaced with Article 8 Recusal
 - Used VLCT Model Policy “(A) Recusal of Appointed and Elected Officers” and “(B) Recusal of Appointed Officers” sections
7. Added Article 9. Recording
8. Added Article 10. Post-Recusal Procedure
9. Article 11 Enforcement. Following VLCT Model, changed the format and added “(B) Enforcement Against Appointed Officers.”
10. Added to Article 13 Effective Date, “This policy will be reviewed annually and updated as appropriate. Revisions/updates to this policy shall become effective immediately upon adoption by the Selectboard.”