



MONTGOMERY
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**TOWN OF MONTGOMERY
POLICY ON CONFLICT OF INTEREST**

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TOWN OF MONTGOMERY

POLICY ON CONFLICT OF INTEREST

SECTION Article I. AUTHORITY

Under the authority granted in 24 V.S.A. § 2291(20) ~~24 V.S.A., Chapter 33, Section 872~~, the Town of Montgomery Selectboard hereby adopts the following policy regarding Conflicts of Interest and ethical conduct.

SECTION Article II. PURPOSE / INTENT

The purpose of this policy is to ensure that the business of this municipality will be conducted in such a way that no public officer of the municipality will gain a personal or financial advantage from their work for the municipality and so that the public trust in its officers will be preserved. It is also the intent of this policy to ensure that all decisions made by public officers are based on the best interests of the municipality. The residents of Montgomery deserve the finest municipal government possible. The Montgomery Selectboard desires to maintain the public trust by conducting all municipal operations in the most ethical and fair manner possible and recognizes that conflicts of interest will occasionally arise in the course of the conduct of municipal affairs. This policy is meant to provide ethical guidelines and standards for itself, and for all subordinate boards, commissions, agencies, committees and employees, except those who are authorized by law to and who have enacted their own guidelines.

It is the intent that to the best of their ability, all Public Officers will:

Set goals for the Town and establish policies to direct its administration in a manner which represents the entire community.

Maintain confidentiality of discussions conducted in executive session and of other privileged information.

Abide by decisions regardless of how individuals voted.

Act only as a member of the board/body and do not assume authority as an individual in matters when the board/body is not in session, unless specifically authorized by motion;

Be familiar with and observe Vermont laws related to Governmental Ethics.

Retain independent judgment and refuse to surrender that judgment to individuals or special interest groups.

Refrain from using board membership for political, personal or business profit or advancement.

Recognize conflicts of interest and act according to the provisions set fourth below

Article III. APPLICATION

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

SECTION Article IV III-DEFINITIONS/APPLICABILITY

For the Purposes of this Policy, the following definitions shall apply:

A. "Conflict of Interest " is means a personal or pecuniary interest of a public officer or his other relative (as defined in 12 V SA 61 (a) and 24 V SA 1203), 3 V.S.A. §1201 (Definitions) "Conflict of interest"

means a direct or indirect interest of a public servant or such an interest, known to the public servant, of a member of the public servant's immediate family, or of a business associate, in the outcome of a particular matter pending before the public servant or the public servant's public body, or that is in conflict with the proper discharge of the public servant'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.

~~member of the household, business associate, employer or employee, in the outcome of a cause, proceeding, application or any other matter pending before the public body in which he or she holds office or is employed. "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) who are residents of Montgomery.~~

- A. "Conflict of Interest" as a real or seeming incompatibility between a public officer'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 officer or a person or group closely tied with the officer including their spouse, household member, child, stepchild, parent, grandparent, grandchild, sibling, aunt or uncle, brother- or sister-in-law, business associate, or employer or employee in the outcome of an official act or action, or any other matter pending before the officer or before the public body in which the public officer holds office. A conflict of interest may take any of the following forms:
- i. A direct financial conflict of interest arises when a public officer acts on a matter that has a direct financial impact on that officer.
 - ii. An indirect financial conflict of interest arises when a public officer acts on a matter that has a financial impact on a person or group closely tied to the officer.
 - iii. A direct personal conflict of interest arises when a public officer acts on a matter that has a direct impact on the officer in a non-financial way but is of significant importance to the officer.
 - iv. 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 membership in some organization and a desire to help that person or organization further its own interests.
 - v. 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.
 - vi. 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.
 - vii. A "conflict of interest" **does not** arise in the case of an official act or action in which the public officer has a personal or financial interest in the outcome, such as adopting a bylaw or 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. "Public body" means any board, council, commission, or committee of the municipality.~~means the Selectboard and all other boards, councils, commissions or committees under the administrative control of the Selectboard.~~
- D. "Public Officer" means a person elected or statutorily appointed to perform executive, administrative, legislative, or quasi-judicial functions for the municipality. This term does not include municipal employees.~~means a member of the Selectboard and/or members of all other~~

~~boards, councils, commissions or committees under the administrative control of the Selectboard, elected or appointed to perform executive, administrative, legislative or quasijudicial functions as member of or for a public body.~~

- E. "Official Action " means any legislative, administrative, or quasi-judicial act performed by any public officer while acting on behalf of the municipality. This term does not apply to ministerial acts or actions wherein no discretionary judgment is exercised.~~means engaging in a vote, entering into a contract, authorizing the issuance of a permit, deliberating in connection with or rendering a written or recorded decision, conducting a criminal or disciplinary investigation, or taking any formal action in a quasi-judicial capacity in the course of a public officer's performance of the duties and responsibilities of his or her office.~~
- F. 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.
- G. 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.

~~A. Code of Conduct For Municipal Boards/Committees/Commissions~~

~~To the best of their ability all elected and appointed office holders will:~~

- ~~1. Attend all regularly scheduled meetings, and insofar as possible, review/study background materials about the issues to be considered on each agenda.~~
- ~~2. Set goals for the Town and establish policies to direct its administration.~~
- ~~3. Maintain confidentiality of discussions conducted in executive session and of other privileged information.~~
- ~~4. Abide by decisions regardless of how individuals voted.~~
- ~~5. Act only as a member of the board/body and do not assume authority as an individual in matters when the board/body is not in session, unless specifically authorized by motion;~~
- ~~6. Be familiar with and observe Vermont laws.~~
- ~~7. Listen to legal counsel and constructive criticism to protect the board and the Town from liability.~~
- ~~8. Retain independent judgment and refuse to surrender that judgment to individuals or special interest groups.~~
- ~~9. Voice opinions responsibly, maintain good relations with other board members, respect other board members' rights and opinions, and make no disparaging remarks, in or out of the board meeting, about other board members. Instead, express opinions in a professional, fair manner. Accept the responsibility to secure facts before arriving at conclusions.~~
- ~~10. Support employment of the best qualified people and the Town's role as an Equal Opportunity and Treatment employer.~~

- ~~11. Represent the entire community.~~
- ~~12. Create an environment that fosters community participation and involvement.~~
- ~~13. Refrain from using board membership for political, personal or business profit or advancement.~~
- ~~14. Recognize conflicts of interest and avoid being placed in a position of conflict of interest in hiring, letting bids, approving contracts and other financial affairs of the Town.~~

ARTICLE V. PROHIBITED CONDUCT

- A. A public officer 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 public officer shall not personally – or through any member of their household, business associate, employer or employee – represent, appear for, or 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 public officer holds office.
- C. A public officer 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 as directed in 3 V.S.A. § 1203g or successor statute(s).
- D. A public officer 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 officer 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 public officer who is a member of a public body shall not give the impression that he or she has the authority to make decisions or take actions on behalf of that body.

ARTICLE VI. DISCLOSURE

A public officer 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 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 public officer may request that another public officer recuse him or herself from a matter due to a conflict of interest, whether real or perceived.¹

Annually, Public Officers shall file a disclosure form with the Municipal Clerk with the following information:

- 1. The officer's employer or business name
- 2. If self-employed, a description of the nature of the self-employment, including the names of any clients whose principal business activities are regulated by or that have a contract with the

¹ Such request shall not be considered an order for the officer to recuse him or herself.

- municipality, provided that this information is known to the Officer or the Officer's spouse or domestic partner, and that the disclosed information is not confidential information
3. Any board, commission, or other entity that is regulated by law on which the officer serves and the officer's position on that entity
 4. the full name of the Officer's spouse or domestic partner

~~C. Disclosure~~

~~1. A public officer who has reason to believe that he or she has a conflict of interest shall recuse themselves. A public officer who has reason to believe they have an appearance of a conflict of interest but believes he or she is able to act fairly, objectively and in the public interest in spite of the appearance of conflict of interest shall, prior to taking any official action on the matter involving the conflict, disclose to other board members during an official public meeting of the board the nature of the potential appearance of conflict of interest, the action required by the board and the reason why the official believes he or she is able to take such action fairly, objectively and in the public interest in spite of the potential appearance of conflict.~~

~~2. In the event a public officer personally (or through any member of the household, business associate, employer or employee) represents, appears for or negotiates in a private capacity on behalf of any person or organization in any cause, proceeding, application or other matter pending before the public body in which the officer holds office, the public officer shall disclose his/her relationship to that public body. In such cases, the officer shall not sit with the remaining members of the public body nor be included in any deliberations other than to the extent that all applicants/members of the public are included.~~

~~3. If a public officer does not voluntarily withdraw from official action on any matter in which that public officer has or may have a conflict of interest, another member of the same public body or any interested party to the matter being heard may request that the public body consider the issue of whether that member should recuse him/herself because of conflict of interest. Upon such request the members of the public body, excluding the member with the potential conflict, shall act on the following motion. "Should _____ recuse himself/herself because of a conflict of interest or an appearance of a conflict of interest?" If a majority of those voting, vote in favor of the motion; and if the member with the potential conflict does not recuse him/herself, the chair of the public body shall refer the action of the public body to the Selectboard.~~

~~4. Progressive Consequences for Failure to Follow the Conflict of Interest Procedures. In cases where the conflict of interest procedures in this policy have not been followed, the Selectboard 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 I.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 body.~~

~~5. Violations of this ethics policy may be grounds for removal from public office, except if such removal is prohibited by law.~~

ARTICLE VII. 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 municipality, the public body shall take evidence pertaining to the conflict and, if appropriate, adjourn to an executive session to address the conflict.

ARTICLE IIX. RECUSAL

- A. **Recusal of Appointed and Elected Officers.** After taking the actions listed in Articles 6 and 7, a public officer, whether appointed or elected, shall declare whether he or she will recuse him or herself and explain the basis for that decision. If the public officer 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, in spite of the conflict, he or she shall state why he or she believes that he or she is able to act in the matter fairly, objectively, and in the public interest². Otherwise, the public officer shall recuse him or herself from the matter under consideration. A public officer that recuses him or herself may, but not must, explain the basis for that decision.
- B. **Recusal of Appointed Officers.** The failure of an appointed public officer to recuse himself or herself in spite of a conflict of interest, whether real or perceived, may be grounds for discipline or removal from office.³

B. Recusal from Official Action

~~1. A public officer shall not take any official action if he or she has a conflict of interest in a matter that could result in the officer receiving direct or indirect financial benefit.~~

~~2. In matters involving conflict of interest other than those previously set forth above, a public officer shall not take any official action on any matter in which he or she has a conflict or interest. A public officer shall not take any action on any matter in which he or she has an appearance of a conflict of interest unless in his or her own estimation, he or she is able to do so fairly, objectively and in the public interest in spite of the appearance of conflict of interest.~~

~~3. Public officers shall not offer their individual professional services to applicants while applications or matters are pending.~~

ARTICLE IX. 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.

² Each member of an elected public body is independently elected and answers only to the voters. Therefore, unless there is a local ordinance or charter provision that states otherwise, the remaining members of the body may not force recusal. They may only express their opinion about the subject and/or privately or publicly admonish a fellow member who fails to handle conflicts appropriately.

³ Certain appointed public officers such as a Zoning Administrator and members of the Development Review Board may only be removed for cause and after being afforded with procedural due process protections including notice and a reasonable opportunity to be heard.

ARTICLE X. POST RECUSAL PROCEDURE

- A. A public officer who has recused himself or herself from participating in an official act or action by a public body shall not 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 officer, 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 XI. ENFORCEMENT

- A. **Enforcement Against Elected Officers; Consequences for Failure to Follow the Conflict of 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 Articles 6 through 10, the Selectboard may, in its discretion, take any of the following disciplinary actions against such elected officer as it deems appropriate:
 - a. The chair of the Selectboard 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 Selectboard 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(a)(4). The public officer may request that this meeting occur in public. If appropriate, the Selectboard may admonish the offending public officer in private.
 - c. The Selectboard 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 in an open meeting, the Selectboard may request (but not order) that the offending public officer resign from their office.
- B. **Enforcement Against Appointed Officers.** The Selectboard may choose to follow any of the steps articulated in Article XI A. In addition to or in lieu of any of those steps, the Selectboard may choose to remove an appointed officer from office, subject to state law.

ARTICLE XII. EMERGENCY EXCEPTION

The recusal provisions of Article 8 shall not apply if the Selectboard determines that an emergency exists or that actions of a quasijudicial 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 VI.

E. Emergency

The provisions of Section IV shall not apply if the Selectboard has voted that an emergency exists and that actions of the public body or agency 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 Section IV C.

SECTION ARTICLE V-XIII. AMENDMENTS & ADOPTION

This policy may be amended by a majority vote of the legislative body at any duly warned meeting, providing the subject appears on the agenda for that meeting. This policy shall become effective immediately upon its adoption by the Selectboard.

~~SECTION~~ ARTICLE XIV VI NOTICE

1. This Policy shall be entered into the minutes of the Town records and shall be posted ~~in at least three conspicuous places in Town for a period of one month~~ to the municipal website

~~2. A reference to a place within the municipality where the full text may be examined, shall be posted also.~~

Board of Selectmen
Town of Montgomery

Charlie Hancock, Chair

Daniel Khan, Vice Chair

Mark Brouillette

Chris Dixon-Boles

Dennis Hines

Montgomery Town Clerk's Office received for record this _____

day of _____, A.D., 2026 at _____ P.M.

Attest: _____

Liz Reighley
Municipal Clerk