

CITY OF BARRE, VERMONT

CONFLICT OF INTEREST POLICY

A. Purpose.

The purpose of this policy is to ensure that the business of Barre City 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 ensure that all decisions made by municipal officials are based on the best interest of the entire community of Barre and under the authority granted in 24 V.S.A. 2291(20).

B. Application.

This policy shall apply to all regular, special and emergency meetings of public bodies of the City of Barre City.

C. Definitions.

For the purposes of this policy, the following definitions shall apply:

Conflict of interest means any of the following:

1. A direct or indirect personal or financial interest of a public officer, spouse or domestic partner of the public official, 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 the public official holds office or is employed;
2. A situation where a public officer has publicly displayed a prejudgment of the merits of an individual, group, or quasi-judicial proceeding. This shall not apply to a member's political views or general opinion on a given issue; and,
3. A situation where a public officer has not disclosed ex parte communications with a party in a quasi-judicial proceeding.

Emergency means an imminent threat or peril to the public health, safety or welfare.

Official act or action means any legislative, administrative or judicial act performed by any elected or appointed officer or employee while acting on behalf of the City of Barre.

Public body means any current or future advisory group, board, council, commission, or committee of the City of Barre.

Public interest means an interest of the community as a whole, conferred generally

upon all residents of the City of Barre.

Public officer or **public official** means a person elected or appointed to perform executive, administrative, legislative or quasi-judicial functions for the City of Barre.

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, the result of which is appealable by a party to a higher authority.

D. Disqualification.

1. A public officer shall not participate in any official action if the public official has a conflict of interest in the matter under consideration.

2. A public officer shall not personally, or through any member of the public official's 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 public official holds office or is employed.

3. 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 oneself from the matter.

4. Public officers shall not accept gifts or other offerings for personal gain above \$25 by virtue of their public office that are not available to the public in general.

5. Public officers shall not use City resources unavailable to the general public, including but not limited to town staff time, equipment, supplies, or facilities for private gain or personal purposes.

E. Disclosure.

In the case that a public officer has reason to believe that the public officer has a conflict of interest but would act fairly, objectively and in the public interest in spite of the conflict of interest shall, 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. Nevertheless, the person or public body which appointed that public officer retains the authority to order the public official to recuse oneself from the matter, subject to applicable law.

F. Recusal.

A public officer shall recuse oneself from any matter in which the public official has a conflict of interest, pursuant to the following:

1. Any person present may request that a public official recuse due to a conflict of interest. Such request shall not constitute a requirement that the public official recuse oneself;
2. A public officer who has recused oneself from a proceeding shall not sit with the public body, deliberate with the public body, or participate in that proceeding as a public official in any capacity;
3. If a previously unknown conflict is discovered, the public body may take evidence pertaining to the conflict and, if appropriate, adjourn to a short deliberative session to address the conflict; and
4. The council 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 council. The council may then resume the proceeding with sufficient members present.
5. The recused individual shall be invited back into the meeting by the Chairperson of the meeting upon the conclusion of discussion and/or action of the matter at hand.

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, subject to applicable law.

G. 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 Barre City Council may take progressive action to discipline an offending public officer. In the discipline of a public officer, the council shall follow these steps in order:

- A. The mayor, acting mayor or designee shall meet informally, in private, with the public officer to discuss possible conflict of interest violation.
- B. The council 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 council may admonish the offending public officer in private.

C. If the council decides that further action is warranted, the council 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 public body may request that the offending public officer resign from the public body.

H. Exception.

The recusal provisions of Article 6 shall not apply if the Barre City Council 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 5.

I. Effective Date.

This policy shall become effective immediately upon its adoption by the Barre City Council.

The foregoing Policy is hereby adopted, as amended, by the Barre City Council on February 5, 2019, and is effective as of this date until amended or repealed.

CITY OF BARRE, VERMONT CITY COUNCIL:

Lucas J. Herring, Mayor

Brandon Batham

Michael Boutin

Sue Higby

John LePage

Richard Morey

Jeffrey Tuper-Giles

Carolyn S. Dawes, City Clerk