

By-Laws of the Norwich Planning Commission  
Adopted 10-12-21

I. General

The purpose, Functions, organization and procedures of this Commission shall be consistent with those established by the Vermont Legislature (VSA Title 24, Chapter 117 and appendices).

II. Duties and Powers as therein defined:

1. Prepare and recommend the Municipal Development Plan (Subchapter 5) and amendments thereto.
2. Prepare and recommend zoning, subdivision and flood hazard area by-laws (Subchapter 6) and amendments thereto.
3. Administer bylaws adopted under this chapter, except to the extent that those functions are performed by a development review board.
4. Make studies and recommendations on land development, urban renewal, transportation, economic and social development, urban beautification, historic and scenic preservation, and conservation, development and protection of natural resources.
5. Prepare and recommend codes and regulations for buildings.
6. Review and comment on Capital Budget prior to Selectboard approval.
7. Hold public meetings for discussion of any of the above recommendations and procedures.
8. Other powers granted to the Commission by VSA T.24, Ch.117, Section 4325, including requiring relevant information from other municipal officers, entering upon land to make surveys and examinations, hiring staff and consultants, participating in regional plans and programs, and in general, acting as an advisory committee to the Selectboard and the community on developments in general within and impinging on the Town of Norwich.

III. Membership.

1. This commission shall consist of between five and nine voting members as determined by the Selectboard. Members shall be appointed for four year terms by the Selectboard, each term to start on May 1<sup>st</sup> except for appointments to fill a term created by a resignation.
2. In the last year of a member's term, each member is required to notify the Chair and the Selectboard by April 1<sup>st</sup> whether the member wishes to be considered for another term,

3. At its first meeting after May 1<sup>st</sup>, the Commission shall elect a Chair, Vice-Chair, and Clerk. The Clerk may or may not be a member of the Commission. The Chair shall normally preside at all meetings, the Vice-Chair presiding in the Chair's absence. When both these officers must be absent from a meeting, the voting members present shall decide who shall preside pro tem. The Chair or the Vice-Chair of the Commission shall sign all decisions made by the Commission.

4. If the Chair, Vice-Chair, or Clerk resigns their office before the end of their term, the Commission shall elect a replacement for that office at its next regular meeting. The new officer will remain in office until the next election of officers.

5. Each year from one Town Meeting Day to the next, each voting member of the Commission is required to attend at least 60% of the scheduled meetings. If in any case this requirement is not met, the Commission shall review the situation and take appropriate action up to and even including a recommendation to the Selectboard that the member be removed for neglect of duty.

6. The Clerk shall provide each new member with copies of the Planning Commission By-laws, the Town of Norwich Conflict of Interest Policy, the Zoning and Subdivision Regulations, the current Town Plan, Title 24, Chapter 117, copies of meeting minutes for the previous six months, and any other pertinent information. If preferred by new member, an online address for these documents may be provided instead of paper copies.

7. Each year at the first meeting after Town Meeting Day, the Clerk shall read the Planning Commission By-laws to the members. This requirement may be waived by a majority vote if all members indicate that they have recently or will soon reread the by-laws.

8. The Chair shall appoint members to subcommittees and to any other committee in response to a request for representatives from the Commission. If challenged, these appointments shall be confirmed by a majority vote of members present.

#### IV. Organization of Meetings.

1. Vermont law requires that meetings of Planning Commissions be open to the public. It shall be the duty of the clerk to warn regular, special, and emergency meetings in compliance with the Vermont Open Meeting Law (See attached).

2. A special meeting of the Commission may be called at any time by the Chair, or by a majority of the voting members, and it shall be the duty of the Clerk to warn the meeting in compliance with the Open Meeting Law.

3. At each meeting, all members may contribute suggested items for the next agenda. Chair, Vice-Chair and Clerk will prepare a draft agenda based upon member input and any other

pressing business that arises following the meeting. The Clerk will furnish each voting member with the draft agenda for the next meeting together with minutes of the last meeting and any pertinent documents due for discussion at least 3 business days before the meeting.

4. As needed, the voting members present may designate one or more members to speak on behalf of the Planning Commission and its actions at public meetings, to a member of the press, or in another forum.

5. The Clerk shall post draft and approved minutes of each meeting of the Commission on the public bulletin board inside Tracy Hall. Copies of the minutes shall be available from the Clerk to anyone requesting them within five days. The Clerk shall deliver a copy of the approved minutes to the Town administrative secretary for distribution and filing with the Town Clerk.

6. Presence of a majority of the voting members of the Commission shall constitute a quorum. All decisions of the Commission shall be made in public meeting by a majority vote of the voting members. Procedural rules may be adopted by a vote of the majority of members present and voting. For the purpose of establishing a quorum for approving minutes, abstentions shall be counted with a majority vote of at least three members. If the vote is a tie, abstentions shall be counted as a vote against the motion.

7. A proposal to amend these by-laws must be included in the minutes and may not be voted on until the next regular meeting. For it to pass requires a two-thirds majority of the voting membership.

8. At the discretion of the presiding officer or at the request of any voting member at any meeting of the Commission, the proceedings shall be conducted according to the current edition of Robert's Rules of Order Newly Revised. In general, this entails:

a) main motions shall be seconded before discussion is called for. This shall apply also to motions for amendment,

b) the Chair may accept no more than two motions to amend at one time, and these shall be acted on in reverse order,

c) call for the question is not debatable but requires majority approval for the question to be voted on immediately,

d) a motion to table a matter requires a second and must be voted without discussion,

e) a motion to take a matter from the table needs a second and may not be discussed,

f) neither a motion to table or to take from the table may be repeated until after other actions have taken place,

g) a motion to close the meeting, adjourn or recess is not debatable,

h) a point of order is privileged and may be discussed before the presiding officer makes a decision, and

i) when a motion has been acted upon, a motion to reconsider it is out of order until other business has been transacted,.

However, by agreement of the voting members present, the meeting may be conducted somewhat less formally if and when this seems desirable.

Attachments:

1. Vermont Open Meeting Law - *T.1 Chapter 5, §310 - §314*
2. Town of Norwich Conflict of Interest Policy – *Revised 2/27/19*

- **Title 1 V.S.A. § 310 - §314**
- **Subchapter 2: Public Information**
- **§ 310. Definitions**

As used in this subchapter:

(1) “Business of the public body” means the public body’s governmental functions, including any matter over which the public body has supervision, control, jurisdiction, or advisory power.

(2) “Deliberations” means weighing, examining, and discussing the reasons for and against an act or decision, but expressly excludes the taking of evidence and the arguments of parties.

(3)(A) “Meeting” means a gathering of a quorum of the members of a public body for the purpose of discussing the business of the public body or for the purpose of taking action.

(B) “Meeting” shall not mean any communication, including in person or through e-mail, telephone, or teleconferencing, between members of a public body for the purpose of scheduling a meeting, organizing an agenda, or distributing materials to discuss at a meeting, provided that:

(i) no other business of the public body is discussed or conducted; and

(ii) such a communication that results in written or recorded information shall be available for inspection and copying under the Public Records Act as set forth in chapter 5, subchapter 3 of this title.

(C) “Meeting” shall not mean occasions when a quorum of a public body attends social gatherings, conventions, conferences, training programs, press conferences, media events, or otherwise gathers, provided that the public body does not discuss specific business of the public body that, at the time of the exchange, the participating members expect to be business of the public body at a later time.

(D) “Meeting” shall not mean a gathering of a quorum of a public body at a duly warned meeting of another public body, provided that the attending public body does not take action on its business.

(4) “Public body” means any board, council, or commission of the State or one or more of its political subdivisions, any board, council, or

commission of any agency, authority, or instrumentality of the State or one or more of its political subdivisions, or any committee of any of the foregoing boards, councils, or commissions, except that "public body" does not include councils or similar groups established by the Governor for the sole purpose of advising the Governor with respect to policy.

(5) "Publicly announced" means that notice is given to an editor, publisher, or news director of a newspaper or radio station serving the area of the State in which the public body has jurisdiction, and to any person who has requested under subdivision 312(c)(5) of this title to be notified of special meetings.

(6) "Quasi-judicial proceeding" means a proceeding which is:

(A) a contested case under the Vermont Administrative Procedure Act; or

(B) 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 opportunity to present evidence and to cross-examine witnesses presented by other parties, which results in a written decision, and the result of which is appealable by a party to a higher authority. (Added 1987, No. 256 (Adj. Sess.), § 1; amended 2013, No. 143 (Adj. Sess.), § 1; 2017, No. 166 (Adj. Sess.), § 1.)

- **§ 311. Declaration of public policy; short title**

(a) In enacting this subchapter, the legislature finds and declares that public commissions, boards, and councils and other public agencies in this State exist to aid in the conduct of the people's business and are accountable to them pursuant to Chapter I, Article VI of the Vermont Constitution.

(b) This subchapter may be known and cited as the Vermont Open Meeting Law. (Amended 1979, No. 151 (Adj. Sess.), § 1, eff. April 24, 1980.)

- **§ 312. Right to attend meetings of public agencies**

(a)(1) All meetings of a public body are declared to be open to the public at all times, except as provided in section 313 of this title. No resolution, rule, regulation, appointment, or formal action shall be considered binding except as taken or made at such open meeting, except as provided under subdivision 313(a)(2) of this title. A meeting of a public body is subject to the public accommodation requirements of 9 V.S.A.

chapter 139. A public body shall electronically record all public hearings held to provide a forum for public comment on a proposed rule, pursuant to 3 V.S.A. § 840. The public shall have access to copies of such electronic recordings as described in section 316 of this title.

(2) Participation in meetings through electronic or other means.

(A) As long as the requirements of this subchapter are met, one or more of the members of a public body may attend a regular, special, or emergency meeting by electronic or other means without being physically present at a designated meeting location.

(B) If one or more members attend a meeting by electronic or other means, such members may fully participate in discussing the business of the public body and voting to take an action, but any vote of the public body that is not unanimous shall be taken by roll call.

(C) Each member who attends a meeting without being physically present at a designated meeting location shall:

(i) identify himself or herself when the meeting is convened; and

(ii) be able to hear the conduct of the meeting and be heard throughout the meeting.

(D) If a quorum or more of the members of a public body attend a meeting without being physically present at a designated meeting location, the agenda required under subsection (d) of this section shall designate at least one physical location where a member of the public can attend and participate in the meeting. At least one member of the public body, or at least one staff or designee of the public body, shall be physically present at each designated meeting location.

(b)(1) Minutes shall be taken of all meetings of public bodies. The minutes shall cover all topics and motions that arise at the meeting and give a true indication of the business of the meeting. Minutes shall include at least the following minimal information:

(A) all members of the public body present;

(B) all other active participants in the meeting;

(C) all motions, proposals, and resolutions made, offered, and considered, and what disposition is made of same; and

(D) the results of any votes, with a record of the individual vote of each member if a roll call is taken.

(2) Minutes of all public meetings shall be matters of public record, shall be kept by the clerk or secretary of the public body, and shall be available for inspection by any person and for purchase of copies at cost upon request after five calendar days from the date of any meeting. Meeting minutes shall be posted no later than five calendar days from the date of the meeting to a website, if one exists, that the public body maintains or has designated as the official website of the body. Except for draft minutes that have been substituted with updated minutes, posted minutes shall not be removed from the website sooner than one year from the date of the meeting for which the minutes were taken.

(c)(1) The time and place of all regular meetings subject to this section shall be clearly designated by statute, charter, regulation, ordinance, bylaw, resolution, or other determining authority of the public body, and this information shall be available to any person upon request. The time and place of all public hearings and meetings scheduled by all Executive Branch State agencies, departments, boards, or commissions shall be available to the public as required under 3 V.S.A. § 2222(c).

(2) The time, place, and purpose of a special meeting subject to this section shall be publicly announced at least 24 hours before the meeting. Municipal public bodies shall post notices of special meetings in or near the municipal clerk's office and in at least two other designated public places in the municipality, at least 24 hours before the meeting. In addition, notice shall be given, either orally or in writing, to each member of the public body at least 24 hours before the meeting, except that a member may waive notice of a special meeting.

(3) Emergency meetings may be held without public announcement, without posting of notices, and without 24-hour notice to members, provided some public notice thereof is given as soon as possible before any such meeting. Emergency meetings may be held only when necessary to respond to an unforeseen occurrence or condition requiring immediate attention by the public body.

(4) Any adjourned meeting shall be considered a new meeting, unless the time and place for the adjourned meeting is announced before the meeting adjourns.



(5) A person may request in writing that a public body notify the person of special meetings of the public body. The request shall apply only to the calendar year in which it is made, unless made in December, in which case it shall apply also to the following year.

(d)(1) At least 48 hours prior to a regular meeting, and at least 24 hours prior to a special meeting, a meeting agenda shall be:

(A) posted to a website, if one exists, that the public body maintains or designates as the official website of the body; and

(B) in the case of a municipal public body, posted in or near the municipal office and in at least two other designated public places in the municipality.

(2) A meeting agenda shall be made available to a person prior to the meeting upon specific request.

(3)(A) Any addition to or deletion from the agenda shall be made as the first act of business at the meeting.

(B) Any other adjustment to the agenda may be made at any time during the meeting.

(e) Nothing in this section or in section 313 of this title shall be construed as extending to the Judicial Branch of the Government of Vermont or of any part of the same or to the Public Utility Commission; nor shall it extend to the deliberations of any public body in connection with a quasi-judicial proceeding; nor shall anything in this section be construed to require the making public of any proceedings, records, or acts which are specifically made confidential by the laws of the United States of America or of this State.

(f) A written decision issued by a public body in connection with a quasi-judicial proceeding need not be adopted at an open meeting if the decision will be a public record.

(g) The provisions of this subchapter shall not apply to site inspections for the purpose of assessing damage or making tax assessments or abatements, clerical work, or work assignments of staff or other personnel. Routine, day-to-day administrative matters that do not require action by the public body may be conducted outside a duly warned meeting, provided that no money is appropriated, expended, or encumbered.

(h) At an open meeting, the public shall be given a reasonable opportunity to express its opinion on matters considered by the public body during the meeting, as long as order is maintained. Public comment shall be subject to reasonable rules established by the chairperson. This subsection shall not apply to quasi-judicial proceedings.

(i) Nothing in this section shall be construed to prohibit the Parole Board from meeting at correctional facilities, with attendance at the meeting subject to rules regarding access and security established by the superintendent of the facility. (Amended 1973, No. 78, § 1, eff. April 23, 1973; 1979, No. 151 (Adj. Sess.), § 2; 1987, No. 256 (Adj. Sess.), § 2; 1997, No. 148 (Adj. Sess.), § 64, eff. April 29, 1998; 1999, No. 146 (Adj. Sess.), § 7; 2013, No. 143 (Adj. Sess.), § 2; 2015, No. 129 (Adj. Sess.), § 1, eff. May 24, 2016.)

• **§ 312a. Meetings of public bodies; state of emergency**

(a) As used in this section:

(1) “Affected public body” means a public body:

(A) whose regular meeting location is located in an area affected by a hazard; and

(B) that cannot meet in a designated physical meeting location due to a declared state of emergency pursuant to 20 V.S.A. chapter 1.

(2) “Hazard” means an “all-hazards” as defined in 20 V.S.A. § 2(1).

(b) Notwithstanding subdivisions 312(a)(2)(D) and (c)(2) of this title, during a declared state of emergency under 20 V.S.A. chapter 1:

(1) A quorum or more of an affected public body may attend a regular, special, or emergency meeting by electronic or other means without designating a physical meeting location where the public may attend.

(2) The members and staff of an affected public body shall not be required to be physically present at a designated meeting location.

(3) An affected public body of a municipality may post any meeting agenda or notice of a special meeting in two publicly accessible designated electronic locations in lieu of the two designated public places in the municipality, or in a combination of a designated electronic location and a designated public place.

(c) When an affected public body meets electronically under subsection (b) of this section, the affected public body shall:

(1) use technology that permits the attendance and participation of the public through electronic or other means;

(2) allow the public to access the meeting by telephone; and

(3) post information that enables the public to directly access and participate in meetings electronically and shall include this information in the published agenda for each meeting.

(d) Unless unusual circumstances make it impossible for them to do so, the legislative body of each municipality and each school board shall record any meetings held pursuant to this section.

(e) An affected public body of a municipality shall continue to post notices and agendas in or near the municipal clerk's office pursuant to subdivision 312(c)(2) of this title and shall provide a copy of each notice or agenda to the newspapers of general circulation for the municipality. (Added 2021, No. 157 (Adj. Sess.), § 8, eff. July 1, 2022.)

• **§ 313. Executive sessions**

(a) No public body may hold an executive session from which the public is excluded, except by the affirmative vote of two-thirds of its members present in the case of any public body of State government or of a majority of its members present in the case of any public body of a municipality or other political subdivision. A motion to go into executive session shall indicate the nature of the business of the executive session, and no other matter may be considered in the executive session. Such vote shall be taken in the course of an open meeting and the result of the vote recorded in the minutes. No formal or binding action shall be taken in executive session except for actions relating to the securing of real estate options under subdivision (2) of this subsection. Minutes of an executive session need not be taken, but if they are, the minutes shall, notwithstanding subsection 312(b) of this title, be exempt from public copying and inspection under the Public Records Act. A public body may not hold an executive session except to consider one or more of the following:

(1) after making a specific finding that premature general public knowledge would clearly place the public body or a person involved at a substantial disadvantage:

- (A) contracts;
- (B) labor relations agreements with employees;
- (C) arbitration or mediation;
- (D) grievances, other than tax grievances;
- (E) pending or probable civil litigation or a prosecution, to which the public body is or may be a party;
- (F) confidential attorney-client communications made for the purpose of providing professional legal services to the body;
- (2) the negotiating or securing of real estate purchase or lease options;
- (3) the appointment or employment or evaluation of a public officer or employee, provided that the public body shall make a final decision to hire or appoint a public officer or employee in an open meeting and shall explain the reasons for its final decision during the open meeting;
- (4) a disciplinary or dismissal action against a public officer or employee; but nothing in this subsection shall be construed to impair the right of such officer or employee to a public hearing if formal charges are brought;
- (5) a clear and imminent peril to the public safety;
- (6) records exempt from the access to public records provisions of section 316 of this title; provided, however, that discussion of the exempt record shall not itself permit an extension of the executive session to the general subject to which the record pertains;
- (7) the academic records or suspension or discipline of students;
- (8) testimony from a person in a parole proceeding conducted by the Parole Board if public disclosure of the identity of the person could result in physical or other harm to the person;
- (9) information relating to a pharmaceutical rebate or to supplemental rebate agreements, which is protected from disclosure by federal law or the terms and conditions required by the Centers for Medicare and Medicaid Services as a condition of rebate authorization under the Medicaid program, considered pursuant to 33 V.S.A. §§ 1998(f)(2) and 2002(c);

(10) security or emergency response measures, the disclosure of which could jeopardize public safety.

(b) Attendance in executive session shall be limited to members of the public body, and, in the discretion of the public body, its staff, clerical assistants and legal counsel, and persons who are subjects of the discussion or whose information is needed.

(c) The Senate and House of Representatives, in exercising the power to make their own rules conferred by Chapter II of the Vermont Constitution, shall be governed by the provisions of this section in regulating the admission of the public as provided in Chapter II, § 8 of the Constitution. (Amended 1973, No. 78, § 2, eff. April 23, 1973; 1979, No. 151 (Adj. Sess.), § 3, eff. April 24, 1980; 1987, No. 256 (Adj. Sess.), §§ 3, 4; 1997, No. 148 (Adj. Sess.), § 65, eff. April 29, 1998; 2005, No. 71, § 308a, eff. June 21, 2005; 2011, No. 59, § 7; 2013, No. 143 (Adj. Sess.), § 3; 2015, No. 23, § 1; 2017, No. 95 (Adj. Sess.), § 1, eff. April 11, 2018.)

• **§ 314. Penalty and enforcement**

(a) A person who is a member of a public body and who knowingly and intentionally violates the provisions of this subchapter, a person who knowingly and intentionally violates the provisions of this subchapter on behalf or at the behest of a public body, or a person who knowingly and intentionally participates in the wrongful exclusion of any person or persons from any meeting subject to this subchapter shall be guilty of a misdemeanor and shall be fined not more than \$500.00.

(b)(1) Prior to instituting an action under subsection (c) of this section, the Attorney General or any person aggrieved by a violation of the provisions of this subchapter shall provide the public body written notice that alleges a specific violation of this subchapter and requests a specific cure of such violation. The public body will not be liable for attorney's fees and litigation costs under subsection (d) of this section if it cures in fact a violation of this subchapter in accordance with the requirements of this subsection.

(2) Upon receipt of the written notice of alleged violation, the public body shall respond publicly to the alleged violation within 10 calendar days by:

(A) acknowledging the violation of this subchapter and stating an intent to cure the violation within 14 calendar days; or

(B) stating that the public body has determined that no violation has occurred and that no cure is necessary.

(3) Failure of a public body to respond to a written notice of alleged violation within 10 calendar days shall be treated as a denial of the violation for purposes of enforcement of the requirements of this subchapter.

(4) Within 14 calendar days after a public body acknowledges a violation under subdivision (2)(A) of this subsection, the public body shall cure the violation at an open meeting by:

(A) either ratifying, or declaring as void, any action taken at or resulting from:

(i) a meeting that was not noticed in accordance with subsection 312(c) of this title; or

(ii) a meeting that a person or the public was wrongfully excluded from attending; or

(iii) an executive session or portion thereof not authorized under subdivisions 313(a)(1)-(10) of this title; and

(B) adopting specific measures that actually prevent future violations.

(c) Following an acknowledgment or denial of a violation and, if applicable, following expiration of the 14-calendar-day cure period for public bodies acknowledging a violation, the Attorney General or any person aggrieved by a violation of the provisions of this subchapter may bring an action in the Civil Division of the Superior Court in the county in which the violation has taken place for appropriate injunctive relief or for a declaratory judgment. An action may be brought under this section no later than one year after the meeting at which the alleged violation occurred or to which the alleged violation relates. Except as to cases the court considers of greater importance, proceedings before the Civil Division of the Superior Court, as authorized by this section and appeals therefrom, take precedence on the docket over all cases and shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(d) The court shall assess against a public body found to have violated the requirements of this subchapter reasonable attorney's fees and other litigation costs reasonably incurred in any case under this

subchapter in which the complainant has substantially prevailed, unless the court finds that:

(1)(A) the public body had a reasonable basis in fact and law for its position; and

(B) the public body acted in good faith. In determining whether a public body acted in good faith, the court shall consider, among other factors, whether the public body responded to a notice of an alleged violation of this subchapter in a timely manner under subsection (b) of this section; or

(2) the public body cured the violation in accordance with subsection (b) of this section. (Amended 1979, No. 151 (Adj. Sess.), § 4, eff. April 24, 1980; 1987, No. 256 (Adj. Sess.), § 5; 2013, No. 143 (Adj. Sess.), § 4; 2015, No. 129 (Adj. Sess.), § 2, eff. May 24, 2016; 2017, No. 113 (Adj. Sess.), § 1.)



CHARTERED 1761

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## **TOWN OF NORWICH, VERMONT CONFLICT OF INTEREST POLICY**

**Article 1. Authority.** Under the authority granted in 24 VSA §2291(20), the Selectboard of the Town of Norwich hereby adopts the following policy concerning conflicts of interest applying to all elected and appointed Public Officers of the Town, including members of all Town committees and boards.

**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 Officer 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 its Public Officers and public bodies will be preserved. It is also the intent of this policy to encourage all decisions made by municipal officials to be based on the best interest of the community at large. This policy further seeks to promote transparency as the best protection against the threats posed to good governance by real and perceived conflicts of interest.

**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 significant direct personal or financial interest of a Public Officer, or of an immediate family member, business associate, employer, or employee of the official, in the discretionary outcome of a cause, proceeding, application, or any other decision pending before the official or before the agency or public body in which the official 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 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, in cases where a decision or act is not subject to the discretion of the official or the body of which he or she is a part, or where such personal or financial interest is *de minimis*;
2. 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



3. A situation where a public officer has engaged in *ex parte* communications with a party in a quasi-judicial proceeding that is before the public body to which that public officer belongs.
- B. **Emergency** means an imminent threat or peril to the public health, safety and 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 an elected or appointed officer or employee while acting on behalf of the municipality. This term does not apply to ministerial acts or actions involving no discretion.
- E. **Public body** means any board, council, commission or committee of the municipality
- F. **Public interest** means an interest of the community as a whole, conferred generally upon all residents of the municipality.
- G. **Public officer** means a person elected or appointed to perform executive, administrative, legislative or quasi-judicial functions for the municipality or appointed to a public body.
- 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, which results in a written decision, the result of which can be appealed by a party to a higher authority.
- I. **Financial interest** means a reasonably foreseeable financial effect, distinguishable from its effect on the public generally, on the Public Officer, a member of his or her immediate family, or on any of the following:
- (a) Any business entity in which the Public Officer has a direct or indirect investment.
  - (b) Any real property in which the Public Officer has a direct or indirect interest.
  - (c) Any source of income provided or promised to the Public Officer within 12 months prior to the time when the decision is made or action is taken.
  - (d) Any business entity in which the Public Officer is a director, officer, partner, trustee, or manager.
  - (e) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the Public Officer within 12 months prior to the time when the decision is made or action is taken.
- J. **Personal interest** is an outside interest that is non-financial in nature but could reasonably be considered to affect one's ability to make unbiased decisions. Personal interests are by their nature more difficult to identify, so that officials should be more aware of them in themselves and more circumspect in ascribing them to others.

**Article 4. Actions Not Permitted.**

- A. A public officer shall not participate in any discretionary official decision, action or inaction if he or she has a conflict of interest in the outcome of the action.
- B. A public officer shall not personally participate in a deliberation leading to an act or decision in which he or she has a conflict of interest.
- C. Public officers shall not accept gifts or other offerings for personal gain by virtue of their public office.
- D. Public officers shall not use for private gain or personal purposes public resources not available to the general public, including but not limited to Town staff time, equipment, supplies, or facilities.

**Article 5. Disclosure.** Candid, detailed disclosure is the single best protection against conflicts of interest. Appropriate disclosure earns the respect of the public and of fellow Public Officers. A public officer who has reason to believe that he or she has a potential conflict of interest or an appearance of such a conflict, but believes that he or she is able to act fairly, objectively and in the public interest because no actual conflict exists 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 or apparent 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. Notwithstanding the foregoing, an actual or potential conflict need not be disclosed if the affected public officer chooses to recuse him or herself from consideration of or deliberation on the matter, except for publicly announcing the reason for recusal is due to a conflict or its potential.

**Article 6. Recusal.**

- A. 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 public officer recuse him or herself due to a perceived conflict of interest. Such request shall not constitute a requirement that the public officer recuse him or herself.
  - 2. A public officer who has recused him or herself from a proceeding shall not sit with or deliberate with the affected body, or participate in that proceeding as a member of that body in any capacity.
  - 3. 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, the affected body may take evidence pertaining to the conflict and, if appropriate, adjourn to a short deliberative session to address the conflict. Executive session may be used for such discussion, in accordance with 1 VSA Section 313(4).

4. The affected body 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 body, for example due to a lack of quorum. The body may then resume the proceeding once sufficient members are present.
5. 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.

**Article 7. Quasi-Judicial Proceedings.** A higher conflict of interest standard applies in the context of quasi-judicial decision-making. Quasi-judicial decisions are rendered in situations where the rights of a particular individual are at stake (e.g., tax appeals, vicious dog hearings, land use decisions). In those situations, the affected individual has the right to receive constitutional due process, which includes the right to an impartial decision maker. If a municipal official with a conflict of interest participates in a quasi-judicial process, a court may determine that the official was not an impartial decision maker and may vacate the decision and order the matter be reconsidered without the participation of the conflicted member. See e.g. *Appeal of Janet Cote*, 257-11-02 Vtec (2003). Therefore, Public Officers should be more inclined to recuse themselves when they are participating in a quasi-judicial process.

**Article 8. Enforcement; Progressive Consequences for Failure to Follow the Town of Norwich Conflict of Interest Policy.** In cases where the conflict of interest procedures in Articles 5 and 6 have not been followed, the Selectboard may take progressive action to address possible violations of this policy. In taking these actions, the board shall follow these steps in order unless the public officer voluntarily waives any or all steps A, B, or C:

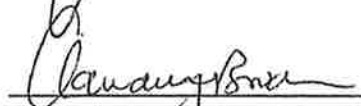
- A. The chair shall meet informally, in private, with the public officer to discuss possible conflict of interest violation, so long as such meeting would not itself constitute a quorum of the relevant public body.
- B. The Selectboard may meet to discuss the conduct of the public officer. Executive session may be used for such discussion, in accordance with 1 VSA §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. Appointed officials of the Town may be removed for cause following procedures required in 24 VSA §4323 (for the Planning Board, unless they are elected members) 24 VSA §4460 for the (Developmental Review Board), 24 VSA §4448 for the Zoning Administrator, 24 VSA §4503 (for the Conservation Commission).
- E. All other officials appointed by the Selectboard, and not covered by a contract, may be removed by majority vote of the Selectboard, or as may otherwise be dictated by statute.

**Conflict of Interest Policy**  
**Adopted May 23, 2018**

**Article 9. Effective Date.** This policy shall become effective immediately upon its adoption by the Town of Norwich Selectboard.

  
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John Pepper, Chair

  
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John Langhus

  
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Claudette Brochu, Vice-Chair

  
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Mary Layton

  
\_\_\_\_\_  
Roger Arnold

Adopted by Norwich Selectboard 4/28/10

Revised 6/23/10

Revised 7/27/11

Revised 8/23/17

Revised 5/23/18

Revised 2/27/19