

TOWN OF GEORGIA
CONFLICT OF INTEREST &
ETHICS POLICY

CONFLICT OF INTEREST & ETHICS POLICY

Accepting a position as a public official, employee or volunteer carries with it the acceptance of a public trust that the official, employee or volunteer will work to further the public interest. Maintaining the public trust is critical to the continued operation of good government. In addition, public decision-making should be open and accessible to the public at large. To preserve this public trust, there are five principles to which public officials, employees or volunteers should adhere:

- A public official, employee or volunteer should represent and work toward the public interest and not toward private/personal interests.
- A public official, employee or volunteer should accept and maintain the public trust (i.e., must preserve and enhance the public's confidence).
- A public official, employee or volunteer should exercise leadership, particularly in the form of consistently demonstrating behavior that reflects the public trust.
- A public official, employee or volunteer should recognize the proper role of all government bodies and the relationships between the various government bodies.
- A public official, employee or volunteer should always demonstrate respect for others and for other positions.

A. DEFINITIONS

The following words shall have the following meanings:

- (1) "Business Associate" is a partner or other person with whom an individual has ongoing or recurring business transactions.
- (2) "Conflict of Interest" is a situation where a public official, employee or volunteer is directed by two or more competing interests, one of which is the public interest and the other is a private/personal interest.
- (3) "Ethics" are a set of rules that guide behavior.
- (4) "Financial Interest" is defined as any of the following:

A self-proprietor, partner, business associate, shareholder (holding at least five percent of the outstanding shares of any class of shares), director, or managerial employee of an organization who has a matter for review before a public body.

A self-proprietor, partner, business associate, shareholder (holding at least five percent of the outstanding shares of any class of shares), director, or managerial employee of a competitor to a business that has a matter for review before a public body.

An applicant or property owner who has a matter for review before a public body.

An adjoining landowner to a property owner that has a matter for review before the Planning Commission or Zoning Board of Adjustment.

- (5) "Immediate Family" is spouses, civil union partners, children, stepchildren, parents, step-parents, brothers, sisters, grandparents, nephews, nieces, sons-in-law, daughters-in-law, fathers-in-law, mothers-in-law, brothers and sisters-in-law, and any dependents or other persons living in the employee's household.
- (6) "Material" is of real importance or great consequence, substantial, requiring serious consideration by reason of having a bearing on the outcome of an unsettled matter.
- (7) "Official Act or Action" is any legislative, administrative, appointive, or discretionary act of any public official, employee or volunteer of the Town (in his/her official capacity), or of any agency, board, committee or commission thereof.
- (8) "Private/Personal Interest" is something that is of direct or indirect material or financial benefit accruing to an individual or a member of the individual's immediate family.
- (9) "Public Interest" is the interest of the community as a whole conferred generally upon all members of the public.
- (10) "Recusal" is stepping aside from public office or duty during discussion and vote when a conflict of interest exists.

B. CONFLICT OF INTEREST

A public official, employee or volunteer is deemed to have a conflict of interest if he/she acts contrary to any of the following rules:

- (1) Acceptance of Gifts and Favors. A public official, employee or volunteer shall not accept anything of economic value, such as money, service, gift, loan, promise, gratuity, or favor from any person, business or organization involved in a contract or transaction with the Town, such that the item accepted could be considered as payment for a special act or treatment. This provision shall not apply to:
 - (a) Attendance at a hosted meal when it is provided in conjunction with a meeting directly related to the conduct of Town business, or where official attendance by the public official, employee or volunteer as a Town representative is appropriate;
 - (b) An award publicly presented in recognition of public service;
 - (c) Occasional, non-pecuniary gifts of insignificant value.
- (2) Appointment of Immediate Family Member or Business Associate. A public official or employee shall not participate in the appointment, vote for appointment, or discussion of any appointment of an immediate family member or business associate, to any Town office or position. A public official or employee shall not use his/her position, directly or indirectly, to affect the employment status of an immediate family member or business associate.
- (3) Supervision of Immediate Family Members. A public official, employee or volunteer shall not supervise, hire, appoint, evaluate, or discipline the work or employment status of an immediate family member or the affairs of the organizational unit in which the immediate family member is employed.

- (4) **Prior Knowledge of Property Purchases.** A public official, employee or volunteer shall not receive or have any financial interest in any sale to the Town of any property when such financial interest was received with prior knowledge that the Town intended to purchase said property.
- (5) **Contractual Arrangements.** A public official, employee or volunteer shall not influence the Town's selection of, or its conduct of business with, a person, organization or business having business with the Town if the public official, employee, or a member of the official, or employee's immediate family, has a financial interest in or with the person, organization or business. The public official, employee or volunteer shall not participate in the discussion, negotiation, or vote on contracts in which the official, employee or volunteer firefighter, or a member of the official, employee's or volunteer firefighter's immediate family, has a private financial interest and performs in regard to such a contract some function requiring the exercise of discretion on behalf of the Town.
- (6) **Financial Interest.** A public official, employee or volunteer shall not participate in any public business before a public body which affects his/her financial interest. Public business shall mean participating in the award of a contract, seeking or opposing a permit from a public body on which the official, employee or volunteer sits as the authority to grant or deny such permit, soliciting employment from the Town, or otherwise requesting some status, right, or benefit from the Town that has financial value. This shall not include supporting or opposing the passage of a legislative measure unless such measure relates substantially to the public official or employee's private/personal interest rather than to the public interest.
- (7) **Representation of Private Party.** A public official, employee or volunteer shall not represent a private party in any matter before any Town public body. Nothing in this section shall prohibit a public official, employee or volunteer from representing his/her own interests before any Town public body. In such cases, the public official, employee or volunteer shall act only in his/her individual capacity and not also in any official capacity on behalf of the Town.
- (8) **Use of Confidential Information.** A public official, employee or volunteer shall not, without authorization, disclose or use confidential information acquired in the course of official duties. A public official, employee or volunteer shall not use any confidential information acquired in the course of official duties to further his/her personal interest.
- (9) **Unusual Relationships.** Whenever a public official, employee or volunteer has special or unusual (beyond being casual or reasonably common) relationship with a party to an official action of the public body on which the official, employee or volunteer sits, the official, employee or volunteer shall disclose the relationship and the body may advise as to whether the official, employee or volunteer should recuse him/herself in accordance with this policy.

If a conflict of interest, as defined above, is determined to exist, the public official, employee or volunteer shall disclose the conflict, and recuse him or herself prior to any consideration and/or vote on the action being contemplated.

C. EX-PARTE COMMUNICATIONS: BOARDS, COMMISSIONS AND COMMITTEES

In any quasi-judicial matter (e.g., matter involving the issuance of a permit or approval), or the award of a contract, before a Town Board, Commission or Committee, a public official, employee or volunteer sitting on such Board, Commission or Committee, shall not, outside of that Board, Commission or Committee, communicate with or accept a communication from a person for which

there are reasonable grounds for believing to be a party to the matter being considered, if such communication is designed to influence the official, or employee's action on that matter. If such communication should occur, the public official, employee or volunteer shall disclose it at an open meeting of the Board, Commission or Committee prior to its consideration of the matter.

D. INAPPROPRIATE USE OF PUBLIC POSITION

A public official, employee or volunteer shall not use his/her public position to further a personal interest or the interest of an immediate family member.

A public official, employee or volunteer shall not use the powers or prestige obtained through election, appointment or employment, to influence the decision of a subordinate on a matter where the official, employee or volunteer has significant private/personal pecuniary interest.

Public officials, employees or volunteer are empowered to discharge specific statutory duties in the public interest and should not interfere with the statutory duties of others. A public official, employee or volunteer shall not attempt to influence Town staff's recommendations regarding matters in which the public official, employee or volunteer has a personal/private or financial interest.

A public official, employee or volunteer shall not use Town staff or resources to advance a personal/private or financial interest.

E. INCOMPATIBILITY OF OFFICES

Incompatible offices set forth in 17 V.S.A., Section 2647, shall not be held simultaneously by any Town public official, or employee, with the exception of a member of the Fire Department and First Response.

A Town Selectman shall not serve as a member of the Town Planning Commission or Zoning Board of Adjustment.

A member of the Town Planning Commission shall not serve as a member of the Town Zoning Board of Adjustment.

A member of the Town Zoning Board of Adjustment shall not serve as a member of the Town Planning Commission.

A Town Selectman, Planning Commissioner, or member of the Zoning Board of Adjustment shall not be an employee of the Town of Georgia.

F. FAIR AND EQUAL TREATMENT

1 No public official, employee or volunteer shall grant or make available to any person any consideration, treatment, advantage or favor beyond that which it is the general practice to grant or make available to the public at large.

2 No public official, employee or volunteer shall request, use, or permit to be used, any publicly- owned or publicly-supported property, vehicle, equipment, labor, or service for the personal convenience or the private advantage of him/herself or any other person. This rule shall not be deemed to prohibit a public official, employee or volunteer from requesting, using or permitting the use of such publicly-owned property, vehicle, equipment, or material which is provided as a

matter of stated policy for the use of Town public officials, employee or volunteer in the conduct of official Town business.

3 No public official, employee or volunteer shall discriminate on the basis of race, color, religion, national origin, or sex.

G. DISCLOSURE AND RECUSAL PROCEDURES

Whenever a matter comes before a Board, Commission or Committee, on which any of the conflict of interest situations described above shall exist, the following provisions shall apply:

(1) The public official, employee or volunteer involved shall disclose to the relevant Board, Commission or Committee, in an open public meeting, the nature of the conflict of interest, and prior to any consideration of the matter by said Board, Commission or Committee.

(2) Following such disclosure, such public official, employee or volunteer shall leave the room and shall not participate in any consideration, discussion or vote on the matter before the Board, Commission or Committee. If the official, employee or volunteer wishes to address the issue at an open public meeting, the official, employee or volunteer may re-enter the room as a member of the public and participate as a member of the public. During deliberation and vote on the matter, the official, employee or volunteer shall not be present. The official, employee or volunteer may attend executive session to discuss the matter at the invitation of the Board, Commission or Committee, if such attendance complies with the statutory requirements of the Open Meeting Law.

(3) The public official, employee or volunteer shall not, during any part of the Board, Commission, or Committee meeting pertaining to the matter requiring the disclosure, represent, advocate on behalf of, or otherwise act as the agent of the person or business entity in or with which the official has such an interest or relationship.

The foregoing shall not be construed as prohibiting the official, employee or volunteer from testifying as to factual matters at a hearing of the Selectboard, Planning Commission, Zoning Board of Adjustment, or any other committee.

H. COMPLAINT OF ETHICS VIOLATION

1 A person, who believes that an appointed public official, employee or volunteer of the Town of Georgia has violated any portion of this policy, may send or deliver a signed, written complaint to the Selectboard. The complaint shall include the name of the person alleged to have committed the violation and the specifics of the act(s) which constitute the violation. The Selectboard shall forward the complaint to the appropriate public official(s) for resolution.

2 Any complaint against an elected official shall be directed to the elected official. A person may ask an elected body to reconsider a matter that they believe involved an unethical act by an elected official.

I. RE-AFFIRMATION OF ETHICS POLICY

Selectboard: Annually at their re-organizational meeting, Selectboard shall, in a public meeting, re-affirm this Ethics Policy of the Town of Georgia. Each new Selectboard member shall sign a form acknowledging that they have received and understand the Ethics Policy.

Boards, Commissions and Committees: Upon appointment and annually at their re-organizational meetings, all boards, commissions, and committees appointed by the Selectboard shall, in a public meeting, re-affirm this Ethics Policy of the Town of Georgia. Each new board, commission or committee member shall sign a form acknowledging that they have received and understand the Ethics Policy.

Department Heads and Full-Time Employees: Upon hiring, Department Heads shall be required to distribute and review with their full-time employees a copy of this Ethics Policy and the Personnel Policies and Rules of the Town of Georgia. Each full-time employee will be required to sign a form acknowledging that he/she has received and understands this Ethics Policy and the Personnel Policies and Rules.

Elected Position: Each person seeking an elected position in the Town of Georgia shall be given a copy of this Ethics Policy of the Town of Georgia along with a petition.

Appointed Position: Each person seeking an appointed position in the Town of Georgia shall be given a copy of this Ethics Policy, of the Town of Georgia, upon submittal of a letter requesting appointment.

J. DETERMINATION OF CONFLICT BY OTHER THAN THE TOWN OFFICER.

If a question of a member's disqualification hereof is brought to the attention of any board, commission or committee by any party or person or by another board, commission or committee member, and the member does not disqualify himself/herself, the board, commission or committee shall consider the factual basis for the question and shall decide the matter by majority vote, the challenged member abstaining.

K. ENFORCEMENT AGAINST ELECTED OFFICERS; CONSEQUENCES FOR FAILURE TO FOLLOW THE CONFLICT OF INTEREST POLICY AND PROCEDURES.

In cases in which an elected public officer has engaged in any of the prohibited conduct listed in this policy, or has not followed the conflict of interest procedures as specified, the Town of Georgia may, in its discretion, take any of the following disciplinary actions against such elected officer as it deems appropriate:

1. The Chair of the Town of Georgia 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 public officer together constitute a quorum of a public body.
2. The Town of Georgia 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. Section 313(a)(4). The public officer may request that this meeting occur in public. If appropriate, the Town of Georgia Selectboard may admonish the offending public officer in private.
3. The Town of Georgia Selectboard may admonish the offending public officer at an open public meeting and reflect this action in the minutes of the meeting. The public officer shall be given the opportunity to respond to the admonishment.
4. Upon majority vote in an open meeting, the Town of Georgia Selectboard may request (but not order) that the offending public officer resign from his/her office.

L. ENFORCEMENT AGAINST APPOINTED OFFICERS.

The Town of Georgia Selectboard may choose to follow any steps articulated in Section K. In addition to or in lieu of any of those steps, the Town of Georgia Selectboard may choose to remove an appointed officer from office, subject to state law.

M. EXCEPTION.

The recusal provision of section G shall not apply if the Town of Georgia Selectboard determines that an emergency exists or that actions of a quasi-judicial public body otherwise could not take place. In such case, a public officer who has reason to believe he/she has a conflict of interest shall only be required to disclose such conflict as provided in section G.

N. EFFECTIVE DATE.

This policy as amended shall become effective immediately upon its adoption by the Town of Georgia Selectboard.

Signatures:

_____	_____
_____	_____

Date of Revision: _____

Incompatible Offices. There are a number of statutes that regulate whether a public official may hold more than one office. This chart provides an easy reference to assist you in determining whether two offices are incompatible to hold.

CHART OF INCOMPATIBLE OFFICES

Can a Person Hold Both of These Offices?	Auditor	Selectperson	School Director	Town Manager	Town Treasurer	Election Official & Candidate (Australian Ballot)	Election Official & Candidate (Not Australian Ballot)	School District Employee'	Spouse
Auditor	-	No	No	No	No	No, If Opposed	No	Yes	3
Selectperson	No	-	Yes	No	No	No	No	Yes	
School Director	No	Yes	-	No	No	No, If Opposed	No	No	
Town Manager	No	No	No	-	No	No	No	Yes	
Town Treasurer	No	No	No	No	-	No, If Opposed	No	Yes	
Town Clerk	No	Yes	Yes	No	Yes	Yes	No	Yes	
Assistant Town Clerk	No	Yes	Yes	No	Depends ²	N/A	N/A	Yes	
Town Agent	Yes	No	No	No	Yes	No, If Opposed	No	Yes	
First Constable	No	No	No	No	Yes	Yes	No	Yes	
Road Commissioner	No	Yes	Yes	No	Yes	No, If Opposed	No	Yes	
Cemetery Commissioner	Yes	Yes	Yes	No	No	No, If Opposed	No	Yes	
Trustee of Public Funds	No	Yes	Yes	No	Yes	No, If Opposed	No	Yes	
Lister	Yes	No	Yes	No	Yes	No, If Opposed	No	Yes	
Assessor	Yes	No	Yes	No	Yes	Yes	Yes	Yes	
Tax Collector, Current	No	No	No	Yes	Yes	No, If Opposed	No	Yes	
Tax Collector, Delinquent	No	No	No	Yes	Yes	No, If Opposed	No	Yes	
Trustee of Public Funds	No	Yes	Yes	No	Yes	No, If Opposed	No	Yes	
Grand Juror	Yes	Yes	Yes	No	Yes	No	No	Yes	
Inspector of Elections	Yes	Yes	Yes	No	Yes	Yes	No	Yes	
Justice of the Peace	Yes	Yes	Yes	No	Yes	Yes	No	Yes	

¹ Within same supervisory union.

² Sec 24 V.S.A. § 1622.

³ A spouse of a town clerk, town treasurer, selectperson, trustee of public funds, town manager, water commissioner, sewer system commissioner, sewer disposal commissioner, first constable, road commissioner, collector of current or delinquent taxes, or town district school director, or any person who assists any of these officers may not be an auditor. 17 V.S.A. § 2647.