

## **Appendix B - Town of Williston Conflict of Interest Ordinance**

### **1. AUTHORITY**

This civil ordinance is adopted pursuant to 24 V.S.A. § 2081 (20) and Chapter 59.

### **2. POLICY STATEMENT**

Accepting a position as a public official carries with it the acceptance of trust that the official will work to further the public interest. Maintaining that 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 should adhere:

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

### **3. STANDARDS OF CONDUCT**

No elected or appointed official of the Town, whether or not s/he is compensated for his/her service by the Town, shall directly or indirectly (ie. by others on his/her behalf or at his/her request or suggestion):

- 3.1. engage in any private business, transaction or employment, or have any significant financial interest therein, which is incompatible or in conflict with the proper and impartial discharge of his/her duties on behalf of the Town. A "significant financial interest" is any direct or indirect benefit to the decision-maker other than the interest that would accrue to him or her as a taxpayer or resident;
- 3.2. represent any private party before the public body on which the official sits or over which the official has appointment or budgetary powers;
- 3.3. disclose without authorization or use to further a personal interest, confidential information acquired in the course of official duties.
- 3.4. grant or influence the granting of any special consideration, advantage or favor, to any person, group, firm or corporation, beyond that which is the general practice to grant or make available to the public at large;
- 3.5. with the exception of occasional, non-pecuniary gifts, accept anything of economic value such as money, service, gift, loan, gratuity, favor or promise thereof for the purpose and intent of which is to influence any such official of the Town in the exercise of his/her official judgment, power or authority;
- 3.6. make personal use of staff, vehicles, equipment, materials or property of the Town except in the course of his/her official duties or as duly authorized by the proper Town Officer, Board or

- Commission;
- 3.7. participate in the appointment, vote for appointment, or discussion of any appointment of an immediate family member or business associate, or use his/her position, directly or indirectly, to effect the employment status of an immediate family member or business associate to any Town office or position, paid or unpaid; or
  - 3.8. receive or have any financial interest in any sale to the Town of any real estate when such financial interest was received under circumstances which would lead a reasonable person to expect that the Town intended to purchase, condemn or lease said real estate.

#### 4. EX-PARTE COMMUNICATIONS: BOARDS, COMMISSIONS AND COMMITTEES

In any quasi-judicial matter (e.g. personnel hearings, road layouts and discontinuance's condemnation proceedings, hearings held under interim zoning rules, and matters involving the issuance of a permit or approval), or the award of a contract, before a Town Board, Commission or Committee, a public official 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's action on that matter. If such communication should occur, the public official shall disclose it at an open meeting of the Board, Commission or Committee prior to its consideration of the matter.

#### 5. DISCLOSURE AND RECUSAL PROCEDURES

Whenever a matter comes before a Board, Commission or Committee, as to which any conflict of interest standard, as described in Section 2 of this Ordinance, applies to one of its members, the following provisions shall apply:

- 5.1. The public official involved shall disclose to the relevant Board, Commission or Committee, in an open public meeting, the nature of the conflict of interest, prior to any consideration of the matter by said Board, Commission or Committee.
- 5.2. Following such disclosure, such public official shall not participate in any consideration, discussion or vote on the matter before the Board, Commission or Committee. If the official wishes to address the issue at an open public meeting, the official may participate as a member of the public. During deliberation and vote on the matter, the official shall not be present. The official may attend an 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.
- 5.3. The public official 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.
- 5.4. The foregoing shall not be construed as prohibiting the official from testifying as to factual matters at a hearing of the Selectboard, Planning Commission, Development Review Board, or any other Committee.

#### 6. HOW TO SUBMIT A COMPLAINT OF ETHICS VIOLATION

- 6.1. A person, who believes that an appointed public official of the Town has violated any portion of this Ordinance, may send or deliver a signed, written complaint, signed under penalty of false statement to the Clerk of the Board of Civil Authority. 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 Clerk shall forward the complaint to the person alleged to have committed the violation, the Chair of the Board of Civil Authority, and the Chair of the Board with appointing authority over the position held by that person.

- 6.2. A person, who believes that an elected public official of the Town has violated any portion of this Ordinance, may send or deliver a signed, written complaint to the Chair of the Board upon which the elected official sits. 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 Board Chair shall forward the complaint to the person alleged to have committed the violation.

## 7. INVESTIGATING COMPLAINTS

- 7.1. Upon receipt of a formal complaint, the Board of Civil Authority (BCA) shall appoint a five-person Committee from among its members, which shall conduct a preliminary investigation to determine if the complaint alleges sufficient acts to constitute a violation.
- 7.2. If the Board of Civil Authority Committee makes a finding of no violation, the complaint and the record of its investigation shall remain confidential, except upon the request of the respondent. No BCA Committee member or staff member shall disclose to any third party any information learned from the investigation, including knowledge of the existence of a complaint, which the disclosing party would not otherwise have known. The BCA shall inform the complainant and the respondent of its finding by registered or certified mail not later than three business days after termination of the hearing or investigation.
- 7.3. If the BCA Committee determines the complaint alleges sufficient acts, then within thirty (29) days after so determining, the BCA Committee shall fix a date for the commencement of the hearing on the allegations. The hearing date regarding the complaint shall not be more than sixty (60) days after the filing of the complaint.
- 7.4. In the conduct of its investigation of an alleged violation of this ordinance, the BCA Committee shall have the power to hold hearings, administer oaths, examine witnesses, receive oral and documentary evidence, subpoena witnesses, and require the production for examination by the BCA Committee of any books and papers which the BCA Committee deems relevant in any matter under investigation or in question. In the exercise of such powers, the BCA Committee may use the services of the municipal police, who shall provide the same upon the BCA Committee's request.
- 7.5. The respondent shall have the right to appear and to be represented by legal counsel and to examine and cross-examine witnesses.
- 7.6. The BCA Committee shall make no finding that there is a violation of any provision of the Ordinance except upon the concurring vote of at least four of its members.
- 7.7. Any hearing conducted by the BCA Committee shall be governed by the administrative rules of evidence.

## 8. ENFORCEMENT AND PENALTIES

After a finding of violation, The BCA Committee may take one or more actions in response to a violation of this Ordinance:

- 8.1. Reconsideration - Ask any appointed board or commission or appointed official to reconsider a matter that the BCA Committee believes involved a violation of this Ordinance by any member of the board or commission or appointed official, if the law otherwise allows such reconsideration.
- 8.2. Recusal – request an appointed official to recuse himself or herself in proceedings having a direct connection to the ethic complaint.
- 8.3. Admonishment – A reminder or warning that a particular type of behavior may be or is in violation of law or this Ordinance and that if it occurs or is found to have occurred, could make an appointed

official subject to a more severe penalty.

- 8.4. Censure - Censure is a formal statement by the BCA Committee officially reprimanding an appointed official. It is a punitive action, which serves as a penalty imposed for wrongdoing, but it carries no fine or suspension of the rights of the member as a public official.
- 8.5. Restitution of any pecuniary benefits received because of the violation committed.
- 8.6. Removal or Suspension – remove or suspend any appointed member of any board or commission from their position, the BCA Committee shall not impose censure on any public official for the exercise of his or her First Amendment rights, no matter how distasteful the expression was to the BCA Committee and the Town. However, nothing herein shall be construed to prohibit the BCA Committee members from individually condemning and expressing their strong dislike of such remarks.

9. SEVERABILITY

If any section of this ordinance is held by a court of competent jurisdiction to be invalid, such finding shall not invalidate any other part of this ordinance.

10. EFFECTIVE DATE

This ordinance shall become effective 60 days after its adoption by the Williston Selectboard. If a petition is filed under 24 V.S.A. § 1973, that statute shall govern the effective date of this ordinance.

**Adopted by the Selectboard, Town of Williston, on September 18, 2006**