

1 TOWN OF GEORGIA CONFLICT OF INTEREST & ETHICS POLICY

2 Revised ~~March 12, 2018~~

3 CONFLICT OF INTEREST & ETHICS POLICY

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

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

20 A. DEFINITIONS

21 The following words shall have the following meanings:

- 22 1. "Business Associate" is a partner or other person with whom an individual has
23 ongoing or recurring business transactions.
- 24 2. "Conflict of Interest" is a situation where a public official, employee or volunteer is
25 directed by two or more competing interests, one of which is the public interest
26 and the other is a private/personal interest.
- 27 3. "Ethics" are a set of rules that guide behavior.
- 28 4. "Financial Interest" is defined as any of the following:
 - 29 A self-proprietor, partner, business associate, shareholder (holding at least five
30 percent of the outstanding shares of any class of shares), director, or managerial
31 employee of an organization who has a matter for review before a public body.
 - 32 A self-proprietor, partner, business associate, shareholder (holding at least five
33 percent of the outstanding shares of any class of shares), director, or managerial
34 employee of a competitor to a business that has a matter for review before a
35 public body.
 - 36 An applicant or property owner who has a matter for review before a public body.

37 An adjoining landowner to a property owner that has a matter for review before
38 the Planning Commission or ~~Zoning Board of Adjustment~~ Development Review
39 Board (DRB).

Commented [KG1]: Changed to reflect current title of the board.

40 5. "Immediate Family" is spouses, civil union partners, children, stepchildren,
41 parents, step- parents, brothers, sisters, grandparents, aunts, uncles, nephews,
42 nieces, sons-in-law, daughters-in-law, fathers-in-law, mothers-in-law, brothers
43 and sisters-in-law, and any dependents or other persons living in the employee's
44 household.

Commented [KG2]: Added for continued inclusion

45 6. "Material" is of real importance or great consequence, substantial, requiring
46 serious consideration by reason of having a bearing on the outcome of an
47 unsettled matter.

48 7. "Official Act or Action" is any legislative, administrative, appointive, or
49 discretionary act of any public official, employee or volunteer of the Town (in
50 his/her official capacity), or of any agency, board, committee or commission
51 thereof.

52 8. "Private/Personal Interest" is something that is of direct or indirect material or
53 financial benefit accruing to an individual or a member of the individual's
54 immediate family.

55 9. "Public Interest" is the interest of the community as a whole conferred generally
56 upon all members of the public.

57 10. "Recusal" is stepping aside from public office or duty during discussion and vote
58 when a conflict of interest exists.

59 B. CONFLICT OF INTEREST

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

62 1. Acceptance of Gifts and Favors. A public official, employee or volunteer shall not
63 accept anything of economic value, such as money, service, gift, loan, promise,
64 gratuity, or favor from any person, business or organization involved in a contract
65 or transaction with the Town, such that the item accepted could be considered as
66 payment for a special act or treatment. This provision shall not apply to:

67 a) Attendance at a hosted meal when it is provided in conjunction with a
68 meeting directly related to the conduct of Town business, or where official
69 attendance by the public official, employee or volunteer as a Town
70 representative is appropriate;

71 b) An award publicly presented in recognition of public service;

72 c) Occasional, non-pecuniary gifts of insignificant value.

73 2. Appointment of Immediate Family Member or Business Associate. A public
74 official or employee shall not participate in the appointment, vote for appointment,
75 or discussion of any appointment of an immediate family member or business
76 associate, to any Town office or position. A public official or employee shall not

- 77 use his/her position, directly or indirectly, to affect the employment status of an
78 immediate family member or business associate.
- 79 3. Supervision of Immediate Family Members. A public official, employee or
80 volunteer shall not supervise, hire, appoint, evaluate, or discipline the work or
81 employment status of an immediate family member or the affairs of the
82 organizational unit in which the immediate family member is employed.
- 83 4. Prior Knowledge of Property Purchases. A public official, employee or volunteer
84 shall not receive or have any financial interest in any sale to the Town of any
85 property when such financial interest was received with prior knowledge that the
86 Town intended to purchase said property.
- 87 5. Contractual Arrangements. A public official, employee or volunteer shall not
88 influence the Town's selection of, or its conduct of business with, a person,
89 organization or business having business with the Town if the public official,
90 employee, or a member of the official, or employee's immediate family, has a
91 financial interest in or with the person, organization or business. The public
92 official, employee or volunteer shall not participate in the discussion, negotiation,
93 or vote on contracts in which the official, employee or volunteer firefighter, or a
94 member of the official, employee's or volunteer firefighter's immediate family, has
95 a private financial interest and performs in regard to such a contract some
96 function requiring the exercise of discretion on behalf of the Town.
- 97 6. Financial Interest. A public official, employee or volunteer shall not participate in
98 any public business before a public body which affects his/her financial interest.
99 Public business shall mean participating in the award of a contract, seeking or
100 opposing a permit from a public body on which the official, employee or volunteer
101 sits as the authority to grant or deny such permit, soliciting employment from the
102 Town, or otherwise requesting some status, right, or benefit from the Town that
103 has financial value. This shall not include supporting or opposing the passage of
104 a legislative measure unless such measure relates substantially to the public
105 official or employee's private/personal interest rather than to the public interest.
- 106 7. Representation of Private Party. A public official, employee or volunteer shall not
107 represent a private party in any matter before any Town public body. Nothing in
108 this section shall prohibit a public official, employee or volunteer from
109 representing his/her own interests before any Town public body. In such cases,
110 the public official, employee or volunteer shall act only in his/her individual
111 capacity and not also in any official capacity on behalf of the Town.
- 112 8. Use of Confidential Information. A public official, employee or volunteer shall not,
113 without authorization, disclose or use confidential information acquired in the
114 course of official duties. A public official, employee or volunteer shall not use any
115 confidential information acquired in the course of official duties to further his/her
116 personal interest.
- 117 9. Unusual Relationships. Whenever a public official, employee or volunteer has
118 special or unusual (beyond being casual or reasonably common) relationship
119 with a party to an official action of the public body on which the official, employee
120 or volunteer sits, the official, employee or volunteer shall disclose the relationship

121 and the body may advise as to whether the official, employee or volunteer should
122 recuse him/herself in accordance with this policy.

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

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

127 In any quasi-judicial matter (e.g., matter involving the issuance of a permit or approval),
128 or the award of a contract, before a Town Board, Commission or Committee, a public
129 official, employee or volunteer sitting on such Board, Commission or Committee, shall
130 not, outside of that Board, Commission or Committee, communicate with or accept a
131 communication from a person for which there are reasonable grounds for believing to be
132 a party to the matter being considered, if such communication is designed to influence
133 the official, or employee's action on that matter. If such communication should occur, the
134 public official, employee or volunteer shall disclose it at an open meeting of the Board,
135 Commission or Committee prior to its consideration of the matter.

136 D. INAPPROPRIATE USE OF PUBLIC POSITION

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

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

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

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

150 E. DUAL EMPLOYMENT & INCOMPATIBILITY OF OFFICES

151 No Town employee or elected official will be hired, appointed, or elected to
152 simultaneously fill more than one Town-employed position (full-time or part-time).

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

156 A ~~Town Selectman~~ member of the Selectboard shall not serve as a member of the Town
157 Planning Commission or ~~Zoning Board of Adjustment~~ Development Review Board (DRB).

158 A member of the Town Planning Commission shall not serve as a member of the ~~Town~~
159 Zoning Board of Adjustment Development Review Board (DRB).

Commented [KG3]: Title changed to be inclusive of additions below.

Commented [KG4]: This addition is a reflection of the group's feelings. We believe that no person should hold more than one position, elected, appointed, hired, etc. simultaneously.

Commented [KG5]: Changed to reflect the current title of the department.

Commented [KG6]: Changed to reflect gender neutrality.

Commented [KG7]: Changed to reflect the current title of the board.

160 A member of the ~~Town Zoning Board of Adjustment~~ Development Review Board (DRB)
161 shall not serve as a member of the Town Planning Commission.

162 A ~~Town Selectman~~ member of the Selectboard, Planning Commissioner, or member of
163 the ~~Zoning Board of Adjustment~~ Development Review Board (DRB) shall not be an
164 employee of the Town of Georgia.

165 No person shall be elected, appointed, or volunteer as the chair or vice chair of more
166 than one Selectboard, board, committee, commission, or other town organization.

167 Qualification or Disqualification of Election Officials shall reflect that as set forth in 17
168 V.S.A., Section 2456.

Commented [KG8]: This section was added to continue limitation of folks holding more than one position.

Commented [KG9]: This section of statute was added for clarity over who may or may not be qualified to serve as an Election Official

169 F. FAIR AND EQUAL TREATMENT

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

173 2. No public official, employee or volunteer shall request, use, or permit to be used,
174 any publicly- owned or publicly-supported property, vehicle, equipment, labor, or
175 service for the personal convenience or the private advantage of him/herself or
176 any other person. This rule shall not be deemed to prohibit a public official,
177 employee or volunteer from requesting, using or permitting the use of such
178 publicly-owned property, vehicle, equipment, or material which is provided as a
179 matter of stated policy for the use of Town public officials, employee or volunteer
180 in the conduct of official Town business.

181 3. No public official, employee or volunteer shall discriminate on the basis of ~~race,~~
182 ~~color, religion, national origin, or sex.~~ race, color, religion, sex, sexual orientation,
183 age, national origin, citizenship, ancestry, place of birth, disability, military or
184 veteran status, gender identity, health coverage status, HIV status, genetic
185 information, crime victim status, pregnancy or pregnancy-related condition or any
186 other category protected under local, state or federal law.

Commented [KG10]: This list has been expanded for greater inclusivity.

187 G. DISCLOSURE AND RECUSAL PROCEDURES

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

191 1. The public official, employee or volunteer involved shall disclose to the relevant
192 Board, Commission or Committee, in an open public meeting, the nature of the
193 conflict of interest, and prior to any consideration of the matter by said Board,
194 Commission or Committee.
195 2. Following such disclosure, such public official, employee or volunteer shall leave
196 the room and shall not participate in any consideration, discussion or vote on the
197 matter before the Board, Commission or Committee. If the official, employee or
198 volunteer wishes to address the issue at an open public meeting, the official,
199 employee or volunteer may re-enter the room as a member of the public and
200 participate as a member of the public. During deliberation and vote on the matter,
201 the official, employee or volunteer shall not be present. The official, employee or
202 volunteer may attend executive session to discuss the matter at the invitation of

203 the Board, Commission or Committee, if such attendance complies with the
204 statutory requirements of the Open Meeting Law.

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

210 The foregoing shall not be construed as prohibiting the official, employee or volunteer
211 from testifying as to factual matters at a hearing of the Selectboard, Planning
212 Commission, ~~Zoning Board of Adjustment~~ Development Review Board (DRB), or any
213 other committee.

214 H. COMPLAINT OF ETHICS VIOLATION

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

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

224 I. RE-AFFIRMATION OF ETHICS POLICY

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

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

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

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

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

Commented [KG11]: The removal of "Full-Time" is meant to be more inclusive of employees who are not full-time.

Commented [KG12]: Should "Volunteers" be added to this?

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

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

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

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

- 256 1. The Chair of the Town of Georgia Selectboard may meet informally with the
257 public officer to discuss the possible conflict of interest violation. This shall not
258 take place in situations where the chair and public officer together constitute a
259 quorum of a public body.
- 260 2. The Town of Georgia Selectboard may meet to discuss the conduct of the public
261 officer. Executive session may be used for such discussion in accordance with 1
262 V.S.A. Section 313(a)(4). The public officer may request that this meeting occur
263 in public. If appropriate, the Town of Georgia Selectboard may admonish the
264 offending public officer in private.
- 265 3. The Town of Georgia Selectboard may admonish the offending public officer at
266 an open public meeting and reflect this action in the minutes of the meeting. The
267 public officer shall be given the opportunity to respond to the admonishment.
- 268 4. Upon majority vote in an open meeting, the Town of Georgia Selectboard may
269 request (but not order) that the offending public officer resign from his/her office.

270 L. ENFORCEMENT AGAINST APPOINTED OFFICERS.

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

274 M. EXCEPTION.

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

280

281

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283 N. EFFECTIVE DATE.

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

286 Signatures:

287 _____

288 Date of Revision:

289

Commented [KG13]: Add a line for each member of the board, and "term end" with a date to be completed line next to each signature line