

Sharon Board of Selectmen
PUBLIC NOTICE NOVEMBER 7, 2005
Adoption of Ordinance

Under authority granted in 24 V.S.A. Sec. 2291(19) and 24 V.S.A. Chapter 59, on November 1, 2005, the Sharon Selectboard adopted an Ordinance entitled "Conflict of Interest Policies".

The purpose of the ordinance is to protect the public health, safety and general welfare of the citizens of the Town, and to ensure that no public official of the Town will gain a personal or pecuniary advantage from his or her work for the Town, and so that the public trust in municipal officials will be preserved.

Effective Date: Said ordinance will become effective 60 days from the date of adoption (January 1, 2006), unless the public petitions to disapprove pursuant to 24 V.S.A. Sec. 1973.

Permissive Referendum: 24 V.S.A. Sec. 1973 (a) allows an ordinance or rule adopted by a municipality to be disapproved by a vote of a majority of qualified voters of the Town at an annual or special meeting "if a valid petition is signed and submitted by not less than five percent of the qualified voters and presented to the Selectboard or Town Clerk within forty-four (44) days following the date of adoption of the ordinance (November 1, 2005).

A copy of the full text of the ordinance is attached. Inquiries regarding this ordinance may be made to the Selectmen's Office 763-8268 or to Selectmen directly as follows:

Bob Ferguson 763-8543 (eves) Bill Kitchel (763-7828 eves)
Kevin Blakeman (763-7291 eves)

TOWN OF SHARON

Ordinances of the Town of Sharon Chapter ____: Conflict of Interest

ARTICLE 1. Authority.

Under the authority granted in 24 V.S.A. Chapter 59 and 24 V.S.A. Sec. 2291(20), the Selectboard of the Town of Sharon hereby adopts the following civil ordinance concerning conflict of interest.

ARTICLE 2. Purpose.

The purpose of this ordinance is to ensure that the business of this Town will be conducted in such a way that no public official of the Town will gain a personal or pecuniary advantage from his or her work for the Town and so that the public trust in municipal officials will be preserved.

ARTICLE 3. Definitions.

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

"Conflict of Interest" means a direct personal or pecuniary interest of a public officer, his or her spouse, household member, business associate, employer or employee, in the outcome of a cause, proceeding, application or any other matter pending before the officer or before the public body in which he or she 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 pecuniary interest in the outcome no greater than that of other persons generally affected by the decision, such as setting a tax rate.

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

"Near relative" means a person within the fifth degree of consanguinity or affinity (first cousins or closer).

"Public body" means the Town and its departments, boards, councils, commissions, committees or other instrumentalities.

"Public official or officer" means a person elected or appointed to perform executive, administrative, legislative or quasi-judicial functions for a public body.

"Public interest" means the business of the Town of Sharon on behalf of the Town and its residents.

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

"Quasi-judicial capacity" means action relating to a proceeding 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.

ARTICLE 4. Disqualification.

- A. A public officer shall not participate in any official action if he or she has a conflict of interest in the matter under consideration.
- B. A public officer shall not personally or through his spouse, any member of his or her household, business associate, employer or employee represent, appear for, or negotiate in a private capacity on behalf of any such person or organization in any cause, proceeding, application or other matter pending before the officer or public body in which the public officer holds office or is employed.
- C. In the case of a public officer who is an appointee, the person or public body which appointed that public officer shall have the authority to order that officer to recuse him or herself from the matter.
- D. A public officer shall be disqualified from any proceeding or matter in which his/her impartiality might reasonably be questioned, including but not limited to instances where:
 - (a) The public officer or a near relative, household member or business associate has a personal, property or financial interest which might be substantially affected, favorably or adversely, by the decision of the officer or public body of which the town officer is a member;
 - (b) The public officer has a personal bias or prejudice toward any party; or
 - (c) The public officer has previously expressed an opinion as to the proper disposition of a specific case or controversy involving the exercise of his/her discretion in a quasi-judicial capacity.
- E. A public officer who is disqualified by virtue of a conflict of interest shall not participate in any official action pending before the officer, vote upon, participate in the discussion of, or otherwise sit as a member of any public body upon the matter from which he/she is disqualified. He or she may, however, enter an appearance as a party and be heard in all respects as a member of the public might be heard in the same proceeding or matter.

ARTICLE 5. Disclosure and Determination of Conflict.

- A. It shall be the responsibility of a public officer to disclose a potential conflict of interest at the earliest possible time prior to any discussion or action being considered.
- B. If a public officer raises a potential conflict of interest, or if a member of the public raises an objection to the participation of any public officer, the public officer or other person raising the potential conflict of interest shall state the nature of the potential or alleged conflict of interest and the public officer shall either disqualify himself or herself from further participation or if the public officer believes that he or she does not have a conflict or that the public officer is able to act fairly, objectively and in the public interest in spite of an existing conflict of interest, the public officer, prior to participating in any official action, shall prepare a written statement describing the matter under consideration, the nature of the potential or alleged conflict of interest and why the public officer believes he or she is able to act in the matter fairly, objectively and in the public interest.
- C. The written statement required by subsection B, shall be signed by the public officer and filed as part of the minutes of the meeting of the public body in which the officer holds office. If the public officer is not a member of a public body he shall file the statement with his or her superior.
- D. If a potential conflict is raised, and the public official, after complying with subsections A-C, above, elects not to disqualify himself or herself from the proceeding or matter under consideration, a member of the public, including a member of the public body, may ask the public body on which the public official is a member or is employed to consider the potential or alleged conflict of interest and vote by majority vote, the challenged member abstaining on the vote (if the official is a member of the body) whether to disqualify the public official from participating in that matter or proceeding.
- E. If the public body votes to disqualify the public official, the public official shall not participate on that matter or proceeding. The public official may, however, ask for the Selectboard to review the disqualification and the Selectboard shall hear the matter at its next regular or special board meeting. If the public body votes not to disqualify the public official, the public official may participate in the matter but a member of the public including any member of the public body upon which the public officer is a member may request a review by and ruling from the Selectboard which shall hear the matter at its next special or regular board meeting and render its decision.
- F. If a public official, member of the public, or member of the public body requests that the Selectboard consider the question of whether a public official has a conflict of interest then the written statement required by subsection B and all

statements or evidence produced before the public body shall be forwarded immediately to the Selectboard by either the clerk or chairman of the public body. The Selectboard shall hear the matter expeditiously, shall consider the facts presented by the involved parties, consider any relevant additional evidence and shall render its decision. Its decision shall be final. A full report of the issue shall be made in the minutes of the Board meeting. The matter shall be enforced pursuant to Article 6 below.

ARTICLE 6. Enforcement.

If it has been determined by the public body upon which the officer is a member that the public officer has a conflict of interest in any relevant town matter then that officer shall not participate in such matter. If any act had been taken by the public officer or public body on which he or she was a member or was employed at the time the public officer had a conflict of interest, the act by the officer or the vote by the officer sitting on the public body shall not be valid or counted if it is subsequently determined that he or she had a conflict of interest at the time of the act or vote and the issue of the conflict had been raised in a prompt manner prior to the act or vote.

ARTICLE 7. Exception.

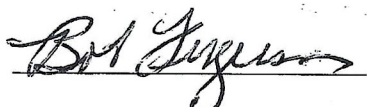
The provisions of section 4 shall not apply if the legislative body of the municipality determines that an emergency exists and that actions of the public officer or public body otherwise could not take place without the public officer's participation. In such cases a public officer who has reason to believe he or she has a conflict of interest shall disclose such conflict as provided in Article 5 and may participate in such action.

ARTICLE 8. Severability.

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

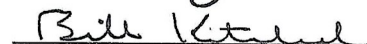
ARTICLE 9. Effective Date.

This ordinance shall become effective sixty (60) days after its adoption by the selectboard. If a petition is filed under 24 V.S.A. Sec. 1973, that statute shall govern the effective date of this ordinance.



Bob Ferguson, Chair

01-NOV-05 Date



Bill Kitchel, Vice Chair



Kevin Blakeman, Clerk