Resolution to Adopt the Town of Proctor Conflict of Interest Policy

On this 14 day of April, 2008 the conflict of interest policy contained in this document is hereby adopted by the Town of Proctor Selectboard.

Richard Norris, Chair

Bruce Baccei

George Finch

Peter Jalbert

Michael O'Malley

Article 1. General Information

Section 1. Authority. Under the authority granted in 24 V.S.A. § 2291(20), the Selectboard of the Town of Proctor hereby adopts the following policy concerning conflicts of interest.

Section 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 official 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 municipal officials will be preserved. It is also the intent of this policy to insure that all decisions made by municipal officials are based on the best interest of the community at large.

Section 3. Definitions. For the purposes of this policy, the following definitions shall apply:

A. Conflict of interest means any of the following:

1. A direct or indirect personal interest of a public officer, his or her spouse, household member, child, stepchild, parent, grandparent, grandchild, sibling, aunt or uncle, brother or sister in law, 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;

2. A direct or indirect financial interest of a public officer, his or her spouse, household member, child, stepchild, parent, grandparent, grandchild, sibling, aunt or uncle, brother or sister in law, 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;

3. 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

4. A situation where a public officer has not disclosed ex parte communications with a party in a quasi-judicial proceeding.

B. Emergency means an imminent threat or peril to the pubic health, safety or welfare.

C. 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 municipality.

D. Public body means any board, council, commission or committee of the municipality.

E. Public interest means an interest of the community as a whole, conferred generally upon all residents of the municipality.

F. Public officer or public official means a person elected or appointed to perform executive, administrative, legislative ore quasi-judicial functions for the municipality.

G. 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 is appealable by a party to a higher authority.

Article 2. Disqualification

A. A public office 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 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 person or organization in a cause, proceeding, application or other matter pending before the public body in which the officer holds office or is employed.

C. 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.

D. Public officers shall not accept gifts or other offerings for personal gain by virtue of their public office that are not available to the public in general.

E. Public officers shall not use resources not available to the general public, including but not limited to town staff time, equipment, supplies, or facilities for private gain or personal purposes.

Article 3. Disclosure

A public officer who has reason to believe that he or she has or may have a conflict of interest but believes that he or she is able to act fairly, objectively and in the public interest in spite of the conflict of interest 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 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. Nevertheless, the person or public body which appointed that public officer retains the authority to order that officer to recuse him or herself from the matter, subject to applicable law.

Article 4. 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 member recuse him or herself due to a conflict of interest. Such request shall not constitute a requirement that the member recuse him or herself;

2. A public officer who has recused him or herself from a proceeding shall not sit with the board, deliberate with the board, or participate in that proceeding as a board member in any capacity;

3. If a previously unknown conflict is discovered, the board may take evidence pertaining to the conflict and, if appropriate, adjourn to a short deliberative session to address the conflict; and

4. The board 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 board. The board may then resume the proceeding with sufficient members present.

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 5. Enforcement; Progressive Consequences for Failure to Follow the Conflict of Interest Procedures

In cases where the conflict of interest procedures in Articles 5 and 6 have not been followed, the Selectboard may take progressive action to discipline an offending public officer. In the discipline of a public officer, the board shall follow these steps in order:

A. The chair shall meet informally, in private, with the public officer to discuss possible conflict of interest violation.

B. The board 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. § 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. Upon majority vote, the board may request that the offending public officer resign from the board.

Article 6. Exception

The recusal provisions of Article 6 shall not apply if the legislative body of the municipality determines that an emergency exists and that actions of the public body otherwise could not take place. 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.

Article 7. Effective Date

This policy shall become effective immediately upon its adoption by the Proctor Selectboard.