

TOWN OF PITTSFORD CIVIL ORDINANCE REGULATING PUBLIC OFFICIAL CONFLICT OF INTEREST

***ARTICLE 1. Authority.** Under the authority granted in 24 V.S.A. Chapter 59 and 24 V.S.A. § 2291(20), the selectboard of Pittsford 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 municipality will be conducted in such a way that no public official of the municipality will gain a personal or pecuniary advantage from his or her work for the municipality 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:

- a. "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 adopting a bylaw or setting a tax rate.
- b. "Emergency" means an imminent threat or peril to the public health, safety or welfare.
- c. "Official act or action" means any discretionary legislative, administrative or judicial act performed by any elected or appointed officer or municipal employee while acting on behalf of the municipality.
- d. "Public body" means a municipality and its departments, boards, councils, commissions, committees or other instrumentalities.
- 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 or quasi-judicial functions for a public body.

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 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 any 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 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.

ARTICLE 5. Disclosure.

- a. 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, prepare a statement describing 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.
- b. In the case of a public officer who is an elected member of a board, commission or other body, the remaining members of that body shall have the authority to inquire of the officer about a possible conflict of interest and to suggest or recommend that the member recuse him or herself from the matter. If the member believes that he or she does not have a conflict of interest or believes that he or she is able to act fairly, objectively and in the public interest in spite of an existing conflict of interest, the member shall, prior to participating in the matter, prepare a statement describing 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.
- c. The statement required by subsections (a) and (b) above shall be signed by the officer and filed as part of the minutes of the meeting of the public body in which the officer holds office.

ARTICLE 6. Creation of an Ethics Committee.

- a. The selectboard shall solicit volunteers from among the registered voters who are willing to serve on an ethics committee for a period of one year.
- b. At a public drawing, ten names shall be drawn at random from the list of volunteers. The first five of those names shall be the regular members of the ethics committee and the remaining five names shall be alternate members of the ethics committee. The alternates shall be numbered six through ten, in the order that their names were drawn. The list of members and alternates (with their numbers) shall be filed with the town clerk along with the date they were selected and the date on which their terms shall expire.

- c. If one of the regular members cannot participate in a particular matter, the first alternate shall fill in and, if that person cannot participate, the second alternate shall fill in, and so forth through the list of alternates until a five-member panel is established to consider the matter.
- d. The members of the ethics committee shall serve without compensation for their services. The committee shall not incur any expenses in the performance of its duties without the approval of the legislative body.
- e. The municipal clerk shall serve as clerk for the ethics committee but shall not be a voting member of the committee. If the matter under consideration involves a complaint against the clerk, the chair of the board of civil authority or his/her designee shall act as clerk for the committee in that matter.
- f. The committee shall elect a chair and shall establish rules of procedure.

ARTICLE 7. Hearing before the Ethics Committee.

- a. Any resident of the municipality who believes that an officer should recuse him or herself from a matter because of a conflict of interest or that the officer should provide a disclosure statement regarding his or her conflict of interest in the matter may file a complaint with the clerk of the ethics committee.
- b. Upon receipt of the complaint, the clerk shall set a date for a hearing by the committee as soon as possible. Personal notice shall be given to each member of the committee, including each alternate, to the complainant and to the person complained about. Notice of the hearing shall be posted in at least three public places within the municipality and shall be published in the newspaper of record at least seven days prior to the hearing date.
- c. The committee shall consider the matter at a public hearing. Oral testimony shall be taken under oath. The complainant and respondent shall have a right to present evidence personally or by other witnesses, to examine and cross-examine witnesses and to be represented by counsel. The hearing shall be recorded.
- d. At the conclusion of the hearing, the committee shall go into deliberative session in order to consider all the evidence. The committee shall issue a written decision as to whether the official shall be required to recuse him or herself from the matter and state the reasons for that decision.

ARTICLE 8. Enforcement.

- a. Refusal to comply with the decision of the ethics committee shall be considered a violation of this ordinance. The legislative body or the ethics committee, acting on behalf of the municipality, may seek injunctive relief in superior court which may include, but not be limited to, an order to negate any vote or other action taken by the officer in the matter.

b. In addition to any other remedies provided by law, a public officer who violates this ordinance may be publicly censured by the ethics committee.

ARTICLE 9. 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 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 10. 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.

***ARTICLE 11. Effective Date.** This ordinance shall become effective 60 days after its adoption by the Town of Pittsford Selectboard. If a petition is filed under 24 V.S.A. § 1973, that statute shall govern the effective date of this ordinance.

Signatures:	_____ S/S _____	Thomas "Hank" Pelkey, Chairman
	_____ S/S _____	Allen Hitchcock, Vice-Chairman
	_____ S/S _____	W. Joseph Gagnon, Selectman
	_____ S/S _____	Thomas Hooker, Selectman
	_____ Absent _____	David Markowski, Selectman

Date: _____ March 21, 2007 _____