

## Policies Specific to Select Board

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TOWN OF BENNINGTON  
Adopted Sept. 23, 2019

**PURPOSE.** The purpose of this Purchasing Policy is to obtain the highest quality goods and services for the Town of Bennington at the lowest possible price, to exercise financial control over the purchasing process, to clearly define authority for the purchasing function, to allow fair and equal opportunity among qualified suppliers, and to provide for increased public confidence in the procedures followed in public purchasing.

**POLICY REVIEW.** It is recommended that the Select Board review this policy every 5 years.

**CODE OF CONDUCT.**

- **Affirmative Action:** Whenever possible, qualified small, minority and women-owned businesses shall be included in the solicitation lists for bids or non-bid purchases.
  
- **Conflict of Interest:** Employees, officers and agents of the Town who are involved in the procurement and selection of bids and purchases shall make reasonable efforts to avoid real, apparent, or potential conflicts of interest. No employee, officer or agent of the Town shall participate in selection, award, or administration of a contract if a conflict of interest, real or apparent, would be involved. Such conflict would arise when:
  - The employee, officer, or agent,
  - any member of his or her immediate family,
  - his or her partner, or
  - an organization which employs, or is about to employ, any of the above, has a financial or personal interest in the firm/vendor selected for award.

An employee, officer, or agent of the Town, who is involved in the procurement and selection of a bid or purchase, and who has real or apparent conflict of interest must disclose that conflict of interest in writing to the Town Manager.

- **Gifts and Gratuities:** Employees of the Town will not solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties to sub-agreements with the intent of personal gain for that employee or future Town contracts/procurement.
  
- **Donations:** Solicitation of donations for publicly-known programs (ie: K-9, New Experience Camp, Employee Recognition, Bennington In Bloom, etc.) are allowed with permission from the Town Manager.

The Town may take disciplinary action, including dismissal, against a Town employee who fails to follow the above Code of Conduct.

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**PURCHASING AGENT.**

The Town Manager (or designee) is the primary Purchasing Agent with Full Purchasing Authority. The following employees are authorized by the Town Manager to act as Purchasing Agents with Limited Purchasing Authority. Additional authorities and restrictions are detailed in the Purchase Categories and Limits section.

|                                 |  |
|---------------------------------|--|
| Finance Director                | Facilities Director                    |
| Chief Assessor                  | Public Safety Director                 |
| Community Development Director  | Collections Director                   |
| Human Resource Director         | Planning Director/Zoning Administrator |
| Recreation Director             | Town Clerk                             |
| Public Works Director           | Assistant Town Clerk                   |
| Assistant Public Works Director | Building Inspector                     |
| Assistant Town Manager          |  |

For each purchase, Purchasing Agents are responsible for compliance with this Purchasing Policy. It shall be a violation of this Purchasing Policy to make purchases in increments for the sole purpose of avoiding the following requirements of the Purchase Categories and Limits.

**PURCHASE CATEGORIES AND LIMITS:**

**Incidental Purchases.** Employees who have been designated to act as Purchasing Agents may make purchases up to \$5,000 without prior approval, provided those purchases are for items within the approved Town budget.

**Minor Purchases.** Employees who have been designated to act as Purchasing Agents may make purchases with a value between \$5,001 and \$25,000 only with prior approval of the Town Manager, provided those purchases are for items within the approved Town budget. Whenever possible, competitive quotes from at least two vendors should be obtained.

**Major Purchases.** All purchases between \$25,001 and \$100,000 require prior approval of the Town Manager. Price and rate quotes shall be obtained and documented from at least two qualified vendors to ensure that the Town has received a fair and reasonable price.

In addition, all major purchases with a value between \$100,001 and \$250,000 require prior approval of the Town Manager and must follow the Sealed Bid Process.

**Large Purchases.** All purchases over \$250,000 require prior approval of the Town Manager, must follow a Sealed Bid Process and in addition, be advertised in appropriate local news sources.

## **PURCHASE CATEGORIES AND LIMITS (CONT.).**

**Grant Funded Purchases.** If grant funding is used for purchases that are between the federally-mandated micro-purchase threshold (set at \$10,000 in 2018) (\$2,000 in the case of construction projects subject to Davis Bacon requirements) and \$250,000 (the large purchase or simplified acquisition threshold set under federal regulations in 2018), price or rate quotes must be obtained from two or more qualified sources, be documented and follow any procurement guidance as outlined in the grant agreement. Non-federal grant funded purchases need not follow these additional requirements if buyer can definitively determine that the grant is 100% non-federally funded and that those requirements are not specified in the grant agreement.

**Contracts.** Multi-year contracts may be entered into with prior approval of the Town Manager. Additionally, the Town Manager shall notify the Select Board within 30 days of the award.

**Recurring Purchases.** If the total value of a recurring purchase of a good or service is anticipated to exceed \$100,000 during any fiscal year, the sealed bid process shall be utilized and shall specify the recurring nature of the purchase. Once a bid has been accepted, all future purchases may be made for the contract period from that bidder without necessity of additional bids or additional approval from the Town Manager.

**Non-Purchase Order Payments.** The following categories may be paid outside of the purchase approval process due to the nature of the service and in an effort to minimize clerical effort and expedite the payment process.

- o **Employee Benefits:** Benefits may be required or optional. If optional, the employee's authorization must be documented. They include such items as insurances, retirement payments, union dues, child support, donations, etc. that are deducted from employee paychecks.
- o **Utilities:** Heating Fuel, Electric, Phone, Internet, TV, etc.

**Credit Card Purchases.** This policy applies to all credit card purchases. Refer to the Credit Card policy for additional requirements.

**SEALED BID PROCESS.** The sealed bid process shall be initiated by the issuance of a Request for Bid.

- o Bids must be solicited from an adequate number of sources.
- o Sufficient time must be allowed for potential vendors to submit bids.
- o Invitation for bids will be advertised on appropriate web-based platforms and as deemed appropriate by the Town and shall include one or more of the following: letters to known contractors, posting in trade publications or on similar websites, local newspapers, or Vermont publications.
- o Will include any specifications for the bidder to properly respond.
- o All bids will be publicly opened at the time and place determined by the invitation to bid.
- o A contract will be awarded to the lowest responsive and responsible bidder that best meets the Criteria for Bid Selection as determined by the Purchasing Agent.
- o Any or all bids may be rejected by the Town.

**CRITERIA FOR BID SELECTION.** In evaluating bids, the following criteria may be considered:

1. Price.
2. Bidder's ability to perform within the specified time limits.
3. Bidder's experience and reputation, including past performance for the Town.
4. Quality of the materials and services specified in the bid.
5. Bidder's ability to meet other terms and conditions, including insurance and bond requirements.
6. Bidder's financial responsibility.
7. Bidder's availability to provide future service, maintenance, and support.
8. Nature and size of bidder.
9. Contract provisions that are acceptable to the Town.
10. Any other factors that the Town Manager determines are relevant and appropriate in connection with a given project or service.

*In addition to the above, in the case of a contract supported by grant funds, additional criteria required by a grant agreement may apply.*

#### **EXCEPTIONS.**

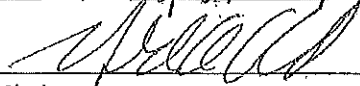
Purchase/Award Exceptions. Select Board shall be notified within 30 days of the purchase or award.

1. **Competitive Proposals.** If the award will be made on the basis of non-price related factors, a competitive proposal process shall be initiated by the issuance of a Request for Qualifications (RFQ) and/or a Request for Proposal (RFP) approved by the Town Manager that includes the factors that will be used to evaluate and compare the proposals. Bids or qualifications shall be obtained from an adequate number of qualified sources (at least two vendors) to ensure that the Town has received a fair and reasonable price.
2. **Sole Source Purchases.** If the Town Manager determines that there is only one possible source for a proposed purchase, the Town Manager may waive the bid process and authorize the purchase from the sole source.
3. **Emergency Purchases.** The Town Manager may award contracts and make purchases for the purpose of meeting the emergency without complying with the bid process. Emergency expenditures may include immediate repair or maintenance of town property, vehicles, or equipment if the delay in such repair or maintenance would endanger persons or property or result in impairment of the delivery of Town services.

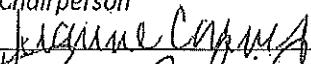
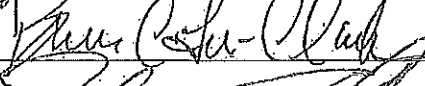
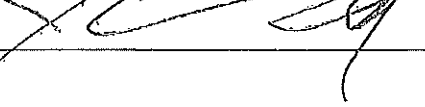
Professional Services Exception. Select Board shall be notified no later than April 30<sup>th</sup> of each year.

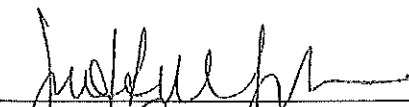

1. **Professional Services.** The bid process shall not apply to the selection of providers for services that are characterized by a high degree of professional judgment, discretion and continuity including legal, financial, auditing, engineering, and insurance services including risk management. Any contract shall not exceed one year.

The foregoing Policy is hereby adopted by the Select Board of the Town of Bennington, Vermont, this 23 day of September and is effective as of this date until amended or repealed.

  
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Chairperson

  
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## Policy to Dispose of Properties Acquired at Tax Sale

Adopted by Motion December 10, 2018

When it is in the Town's best interest to dispose of properties acquired at tax sale, the Town will set a minimum bid, publicly advertise the sale, and consider all bids that meet or exceed the minimum bid.

Should the minimum bid not be met, the Select Board may then set the property for a public auction without reserve (no minimum bid).

Any sale shall be approved by the Board at a regular or special Select Board meeting.



## Bennington Select Board Policies and Rules of Procedure

- I. PURPOSE. The Select Board of the Town of Bennington will conduct all of its meetings in accordance with the Vermont Open Meeting Law, 1 V.S.A. §§ 310-314. Meetings of the Select Board of the Town of Bennington must be open to the public at all times, except as provided in 1 V.S.A. § 313. At such meetings, the public will be afforded reasonable opportunity to give its opinion on matters considered by the Select Board so long as order is maintained. Such public comment is subject to the reasonable rules established by the Chair of the Select Board, 1 V.S.A. § 312(g).
- II. APPLICATION. This policy setting forth rules of procedure for Select Board meetings shall apply to all regular, special, and emergency meetings of the Town of Bennington Select Board.
- III. PROCEDURES.
1. The Select Board shall meet the second and fourth Monday of every month except when otherwise noted.
  2. Officers of the Select Board shall be Chair and Vice-Chair.
  3. The Chair of the Select Board, or in the Chair's absence, the Vice-Chair, shall chair all Select Board meetings. If both the Chair and the Vice-Chair are absent, a member selected by the board shall chair the meeting.
  4. The Chair shall rule on all questions of order or procedure and shall enforce these rules as required by 1 V.S.A. § 312(h).
  5. The current size of the Select Board is seven (7) members. A majority of the members of the Select Board shall constitute a quorum, a minimum of four (4) members. If a quorum of the members of the Select Board is not present at a meeting, the only action that may be considered by the Select Board is a motion to recess or adjourn the meeting.
  6. No member shall act or otherwise participate in a board matter when he or she has a real or potential conflict of interest. If a member has such a conflict as determined by himself or herself or the board, he or she shall be excused from that portion of the meeting when the subject matter where the conflict exists is deliberated.
  7. At the beginning of each Select Board meeting, there shall be fifteen (15) minutes afforded for open public participation and comment on matters that are not on the agenda. If a matter commented on during the open public comment portion of the meeting is in the opinion of the Board Chair or the Select Board more appropriately considered as a regular agenda item at a subsequent Select Board meeting the citizen will be so advised.
  8. Regular and special Board meetings shall have an agenda, with time allotted for each item of business to be considered by the Select Board. Those who wish to be added to the meeting agenda shall contact the Select Board Chair or Town Manager to request inclusion on the agenda. The Select Board Chair shall determine the final content of the agenda. The Town Manager is responsible for posting the agenda to the town website, at the town clerk's office and in at least two other designated public places in the Town at least 48 hours prior to a regular meeting and 24 hours prior to a special meeting.

9. All business shall be conducted in the same order as it appears on the agenda, except the Chair may modify the order of items to be considered and/or the time allotted by announcing the change of order as the first order of business.

10. Public comment on issues not on the agenda may be discussed during the open public comment period. Those wishing to speak will be allowed three (3) minutes, unless the Chair after consulting with the Select Board sets a different time limit. Speakers must be acknowledged by the Chair before speaking. All comments are to be directed to the board. In the event participants wish to speak during the public comment session a sign-up sheet which will advise participants of the three (3) minute comment period and being invited to the microphone may speak in the order they have signed up.

11. Public question or comment on agenda items under consideration or discussion by the Select Board shall be limited to three (3) minutes, unless the Chair after consulting with the Select Board sets a different time limit. Speakers must be acknowledged by the Chair before speaking. All comments are to be directed to the board. In the event many participants wish to speak, a sign-up sheet will be required, and participants invited to the microphone may speak in the order they have signed up.

12. Meetings may be recessed to a time and place certain.

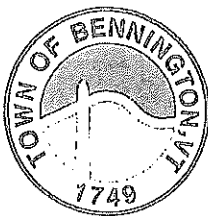
13. Minutes of the Select Board meetings shall be kept by the secretary and are matters of public record after five (5) days from the date of each meeting. The minutes shall be available for inspection by any person and also posted on the Town Website.

14. These rules shall be made available at all meetings, and procedures for public comment shall be reviewed by the Chair at the beginning of all meetings.

15. These rules may be amended by majority vote of the Select Board and may be readopted annually at the organizational meeting of the Select Board.

Adopted: May 18, 2015

Readopted: August 27, 2018



## TOWN OF BENNINGTON

### MEMORANDUM

To: All Agencies Receiving Funds and Placed in the Budget

From: Stuart A. Hurd, Town Manager

Re: Fiscal Year 2021 Budget Requests

Date: November 7, 2019

Per the Bennington Select Board, all Agencies that received funds in the current Fiscal Year 2020 and are requesting funds for the next Fiscal Year 2021 (July 1, 2020 – June 30, 2021), the following documents must be submitted to the Select Board through the Manager's Office **no later than Wednesday, November 27, 2019.**

The documents requested are:

1. A letter/report/memorandum explaining the Agency's mission, successes and failures from the previous year, the current year, and goals/expectations for the coming year. It must also contain the name, mailing address, email address (if any) and phone number of the Chair or President of the Board and the Chief Administrative Officer (Executive Director or Treasurer).
2. A copy of the Agency's budget including revenues and expenses for the previous year, the current year, and the coming year (the proposed budget upon which the request is based).
3. An explanation of how the requested funds will be used to support the Bennington community with examples from the current year.
4. A list of all revenues received from municipalities in the current year and expectations for the coming year.
5. Please be prepared to present at the Bennington Town Floor Meeting on Monday, March 2, at 7:00 P.M.


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## TOWN OF BENNINGTON

### MEMORANDUM

To: All Agencies Receiving Funds from the Town of Bennington via the Ballot

From: Stuart A. Hurd, Town Manager 

Re: Fiscal Year 2021 Budget Requests

Date: November 7, 2019

Per the Bennington Select Board, if the Agency received funds via a positive ballot vote in the current Fiscal Year 2020 and is requesting the same or less funds for the next Fiscal Year 2021 (July 1, 2020 – June 30, 2021), the following documents must be submitted to the Select Board through the Manager's Office no later than Wednesday, November 27, 2019. Those Agencies meeting this deadline with all necessary documents will be placed on the ballot without requiring a petition regardless of fund amount. Agencies are also invited to present at the March Annual Town Meeting.

The documents requested are:

1. A letter/report/memorandum explaining the Agency's mission, successes and failures from the previous year, the current year, and goals/expectations for the coming year. It must also contain the name, mailing address, email address (if any) and phone number of the Chair or President of the Board and the Chief Administrative Officer (Executive Director or Treasurer).
2. A copy of the Agency's budget including revenues and expenses for the previous year, the current year, and the coming year (the proposed budget upon which the request is based).
3. An explanation of how the requested funds will be used to support the Bennington community with examples from the current year.
4. A list of all revenues received from municipalities in the current year and expectations for the coming year.

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# **POLICY**

## **Sidewalk Café/Seating Licenses** **Adopted by the Select Board on November 14, 2016**

### **Licenses - No Permanent Improvements**

(no changes to sidewalk, no permanent installation of seats, tables, fences, etc.)

All use of the licensed area shall, at all times, be strictly in accord with the terms of the license and all laws, rules and regulations, including applicable health code(s) and liquor control laws.

The license holder shall ensure, at all times, that all users of the licensed area behave in a civil and appropriate manner so as not to annoy, harass or otherwise disturb the public or nearby property owners and/or occupants. No loud or unnecessary noises are permitted from the licensed area. The license holder is responsible for ensuring the good conduct of its patrons.

The license holder shall, at all times, maintain the licensed area in a clean and sanitary condition free from all trash or refuse. The license holder shall provide trash receptacle(s) with sufficient capacity to handle all waste generated by users of the licensed area; shall empty the trash receptacle(s) daily; and shall store the trash receptacle(s) nightly inside a building.

A clear space free from any obstructions at least 5 feet in width for the entire length of licensed area must be maintained at all times.

All tables, chairs and other furniture or equipment must be removed nightly.

License holder shall indemnify Town from all claims.

If liquor is served, the license holder must comply with all liquor control laws and obtain all applicable licenses.

License holder shall maintain liability Insurance (\$2 million liquor liability (if applicable), \$1 million premises liability).

The license may be cancelled at any time by the Town, unless a specific term is approved by Select Board. If the license has a term, the license may be terminated immediately by the Town Manager or his/her designee if the license holder fails to comply with any provision of the license.

Hours of operation shall be set by the Town Manager or his/her designee.

Licensing fees shall be determined by the Select Board and posted in a schedule of fees. Such fees may be modified by the Select Board at any time.

### **Licenses – Permanent Improvements**

(permanent modifications made to sidewalk, curbing or street and/or permanent (not removed nightly) installation of seats, tables, fences, etc.)

All use of the licensed area shall at all times be strictly in accord with the terms of the license and with all laws, rules and regulations, including applicable health code(s) and liquor control laws.

The license holder shall ensure, at all times, that all users of the licensed area behave in a civil and appropriate manner so as not to annoy, harass or otherwise disturb the public or nearby property owners and/or occupants. No loud or unnecessary noises are permitted from the licensed area. The license holder is responsible for ensuring the good conduct of its patrons.

The license holder shall, at all times, maintain the licensed area in a clean and sanitary condition free from all trash or refuse. The license holder shall provide trash receptacle(s) with sufficient capacity to handle all waste generated by users of the licensed area; shall empty the trash receptacle(s) daily; and shall store the trash receptacle(s) nightly inside a building.

A clear space free from any obstructions at least 6 feet in width for the entire length of the licensed space must be maintained at all times. A greater width may be required if determined necessary for public safety and/or convenience by Town Manager or his designee.

Modifications to sidewalk/curbs/street must be approved by Town Manager or his/her designee and Select Board.

Such modifications shall be installed at the expense of the license holder and the licensed area shall be maintained by the license holder at all times so as to protect public safety.

License holder shall indemnify Town from all claims.

If liquor is served, the license holder must comply with all liquor control laws and obtain all applicable licenses.

License holder shall maintain liability Insurance (\$2 million liquor liability (if applicable), \$1 million premises liability).

A license may be cancelled at any time by the Town, unless a specific is term is approved by Select Board. If the license has a term, the license may be terminated immediately by the Town Manager or his/her designee if the license holder fails to comply with any provision of the license.  
A license with a term may be terminated by the Town if the area licensed for use is not actively used by the license holder for any 30 day period between May 1 and October 30 of any year.

The license shall contain a provision, unless waived by the Town Manger, that upon termination of the license, the condition of the sidewalk/curbs/street shall, at the expense of the license holder, be returned to their condition prior to modification. Such provision shall be recorded in the land records and shall be a lien on the property of the license holder or landlord of the license holder.

Hours of operation shall be set by the Town Manager or his/her designee.

Licensing fees shall be determined by the Select Board and posted in a schedule of fees. Such fees may be modified by the Select Board at any time.

## **Fees**

No permanent improvements - one row of tables (tables no wider than 3 ft. table).  
– **No charge.**

No permanent improvements – more than one row of tables (less than 3 ft. in width) and/or tables wider than 3 ft. in width. - **\$300 annually.**

Permanent improvements - **\$2.00 per sq. ft. annually.**

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# Conflict of Interest Policy

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## TOWN OF BENNINGTON

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**Article 1. Authority.** Under the authority granted in 24 V.S.A. § 2291(20), the Bennington Select Board hereby adopts the following policy concerning conflicts of interest.

**Article 2. Purpose.** The purpose of this policy is to preserve the public trust in municipal officials to ensure that no public officer of the municipality will gain a personal or financial advantage from his or her work for the municipality.

**Article 3. Application.** This policy applies to all public officers as that term is defined below.

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

A "conflict of interest" does not arise for decisions on matters in which the public official has a personal or financial interest when the outcome affects all citizens equally. An example of this is the setting of a tax rate. The impact of the tax rate decision on the public is no greater than the impact on the public official.

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

C. **Ex Parte Communication** means direct or indirect communication between a member of a public body and any party, party's representative, party's counsel or any person interested in the outcome of a quasi-judicial proceeding, that occurs outside the proceeding and concerns the substance or merits of the proceeding.

D. **Official act or action** means any legislative, administrative, or quasi-judicial act performed by any public officer while acting on behalf of the municipality.

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

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



# Conflict of Interest Policy

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## TOWN OF BENNINGTON

- G. **Public officer** means a person elected or statutorily-appointed to perform executive, administrative, legislative, or quasi-judicial functions for the municipality. This term does not include any municipal employee. Employees are governed by a separate, specifically designed Conflict of Interest Policy.
- H. **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, and which results in a written decision, the result of which is appealable by a party to a higher authority.

### Article 5. Prohibited Conduct.

- 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 a cause, proceeding, application, or other matter pending before the public body in which the public officer holds office.
- C. A public officer shall not accept gifts or other offerings for personal gain by virtue of his or her public office that are not available to the public in general.
- D. A public officer shall not use resources unavailable to the general public – including but not limited to municipal staff time, equipment, supplies, or facilities – for private gain or personal purposes.

**Article 6. Disclosure.** A public officer who has reason to believe that he or she has or may have a conflict of interest in a particular matter shall, prior to participating in any official action on the matter, publicly disclose at a public meeting or public hearing that he or she has an actual or perceived conflict of interest in the matter under consideration and disclose the nature of the actual or perceived conflict of interest. Alternatively, a public officer may request that another public officer recuse him or herself from a matter due to a conflict of interest.<sup>1</sup>

**Article 7. Consideration of Recusal.** Once there has been a disclosure of an actual or perceived conflict of interest, other public officers may be afforded an opportunity to ask questions or make comments about the situation. If a previously unknown conflict is discovered during a meeting or hearing conducted by a public body of the municipality, the public body may take evidence pertaining to the conflict and, if appropriate, adjourn to an executive session to address the conflict.

### Article 8. Recusal.

- A. **Recusal of Elected Officers.** After taking the actions listed in Articles 6 and 7, an elected public officer should declare whether he or she will recuse and explain the basis for that decision. If the public officer has an actual or perceived conflict of interest but believes that he or she is able to act fairly, objectively, and in

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<sup>1</sup> Such request shall not be considered an order for the officer to recuse him or herself.

# Conflict of Interest Policy

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## TOWN OF BENNINGTON

the public interest, in spite of the conflict, he or she shall state why he or she believes that he or she is able to act in the matter fairly, objectively, and in the public interest.<sup>2</sup>

**B. Recusal of Appointed Officers.** The failure of an appointed public officer to recuse himself or herself in spite of a conflict of interest may be grounds for removal from office.<sup>3</sup>

### Article 9. Post-Recusal Procedure.

- A. A public officer who has recused himself or herself from serving on a public body in a particular proceeding shall not sit with the public body, deliberate with the public body, or participate in that proceeding as a member of the public body in any capacity, though such member may still participate as a member of the public.
- B. The public body 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 total membership of the public body. The public body may then resume the proceeding with sufficient members present.

### Article 10. Enforcement.

**A. Elected Officers; Progressive Consequences for Failure to Follow the Conflict of Interest Procedures.**

In cases where an elected public officer has engaged in any of the prohibited conduct listed in Article 5, or has not followed the conflict of interest procedures in Articles 6 through 9, the Bennington Select Board may take progressive action to discipline such elected officer as follows:

1. The chair of the Bennington Select Board may meet informally with the public officer to discuss the possible conflict of interest violation. This shall not take place in situations where the chair and the public officer together constitute a quorum of a public body.
2. The Bennington Select 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(a) (4). The public officer may request that this meeting occur in public. If appropriate, the Bennington Select Board may admonish the offending public officer in private.
3. If the Bennington Select 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.
4. Upon majority vote in an open meeting, the Bennington Select Board may request (but not order) that the offending public officer resign from his or her office.

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<sup>2</sup> Each member of an elected public body is independently elected and answers only to the voters. Therefore, unless there is a local ordinance or charter provision that states otherwise, the remaining members of the body may not force recusal. They may only express their opinion about the subject and/or privately or publicly admonish a fellow member who fails to handle conflicts appropriately.

<sup>3</sup> Certain appointed officials such as a Zoning Administrator and a Town Manager may only be removed for cause and after being afforded with procedural due process protections including notice and a reasonable opportunity to be heard.

# Conflict of Interest Policy

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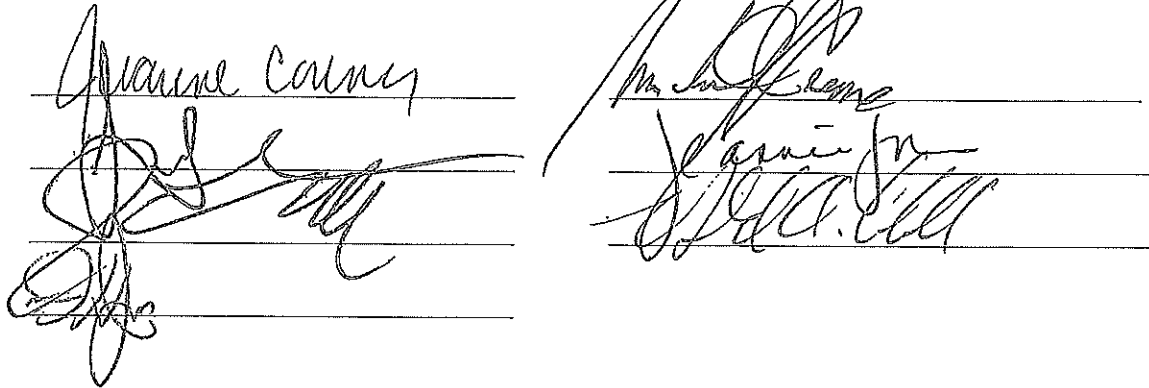
## TOWN OF BENNINGTON

**B. Appointed Officers.** The Bennington Select Board may choose to follow any of the steps articulated in Article 10A. In addition to or in lieu of any of those steps, the Board may choose to remove an appointed officer from office, subject to state law.

**Article 11. Exception.** The recusal provisions of Article 8 shall not apply if the Board determines that an emergency exists and that actions of the public body otherwise could not take place. In such a case, a public officer who has reason to believe he or she has a conflict of interest shall disclose such conflict as provided in Article 6.

**Article 12. Effective Date.** This policy shall become effective immediately upon its adoption.

Signatures:



Date:

12 Sept. 2016

## TOWN MANAGER'S POLICY ON PROCESS TO FILL DEPARTMENT HEAD POSITIONS

Chapter 4, Section 404, [m] of the Town of Bennington's Town Charter, states as follows:

*The Manager, under policies approved by the Select Board, shall have exclusive authority to appoint, fix the salaries of, suspend and remove, all officers and employees except those who are elected or who are appointed by Select Board Members. When the managership is vacant, this authority shall be exercised by the Select Board;*

The following hiring process shall be followed to facilitate Select Board knowledge and involvement in the hiring of department heads:

1. When a position becomes vacant:
  - Notify the Board with a copy of the job description, current pay level, estimated time to conduct search and closing date for applications/resume'.
  - Identify committee members if one is to be used.
  
2. After resume' review:
  - Notify Board of top candidate(s). Provide copies of resume' and time frame for interview and due diligence process.
  
3. After interview and due diligence phase:
  - Notify Board of selection, pay level, and approximate start date prior to public announcement.

Adopted By Bennington Select Board: August 26, 2013

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## Adopted by Select Board on March 25, 2013

### Select Board Policy – Requests for Changes in Zoning

It is the policy of the Select Board that:

- 1) All requests for a change in zoning shall be fully considered by the Planning Commission as part of the statutorily required Town Plan update process that occurs every five years.
- 2) The Planning Commission, at its discretion, may at any time consider requests for a zone change that occur outside of the five year Town Plan update process, and take whatever appropriate action it considers prudent, including, without limitation, taking no action or commencing the formal process to amend the Land Use Regulations. This process requires Planning Commission public hearings and Select Board public hearings. In accordance with State Statute, amendments can only be implemented after being approved by the Select Board.
- 3) Requests for a zone change made outside of the Town Plan update process that are not approved by the Planning Commission may be considered by the Select Board at its discretion. The criteria applied by the Select Board may include, without limitation, the following:
  - a) The proposed zone change complies with the overall goals and objectives articulated in the Town Plan.
  - b) The proposed zone change will result in substantial benefits to the community as a whole that outweigh the benefits of not making the change.
  - c) The change can be accomplished without unconstitutional spot zoning.
  - d) The zone change is necessary to advance a project that is not speculative in nature. Specifically, if the change is approved, the project is likely to occur prior to the next Town Plan update as evidenced by firm landowner, tenant and/or financing commitments. Written assurances that the project will be constructed as described to the Select Board shall be required. AND
  - e) The project shall result in significant grand list and/or job growth.
- 4) After considering a request for a zone change that meets the criteria established by the Select Board (including, without limitation, the criteria set forth in Section 3 above), the Select Board may, at its discretion, direct the Planning Commission to develop an amendment to the Land Use Regulations that accomplishes the requested zone change.

## Policy on Local Option Tax Revenue Expenditures

### I. Purpose:

The Select Board of the Town of Bennington recognizes the importance of community participation and discussion regarding the expenditures of any potential Local Option Tax revenue. The Select Board intends that all expenditures of the local option tax revenue shall be made in accordance with annually established Spending Guidelines. To foster and encourage community participation, and to establish these Spending Guidelines, the Select Board establishes the following:

### II. Definitions:

- A. The Local Option Tax is a 1% tax added to any of the four options approved by the voters of Town of Bennington; Sales, Rooms, Meals, and Alcohol. They are collected by the State of Vermont and 70% of the amount is remitted to the Town on a quarterly basis.
- B. Spending Guidelines are stated percentages of the Local Option Tax revenue that establish the spending priorities of the Select Board for this revenue on an annual basis.

### III. Policy:

- A. The Select Board shall hold at least two (2) public meetings prior to the development of the first draft budget in order to encourage public participation in establishing priorities for the expenditure of local option tax revenue.
- B. The Select Board shall establish the Spending Guidelines for the next tax year prior to the ballot warning deadline.
- C. The Local Option Tax revenues shall be held in reserve and may only be spent in accordance with the agreed upon annual spending guidelines for that tax year.
- D. The Select Board may, in the case of an emergency situation (e.g. Tropical Storm Irene), deviate from the annual Spending Guidelines in order to accommodate emergency expenditures.

Approved by vote of the Select Board of the Town of Bennington this 24th day of February, 2020.

Donald Campbell, Chair