

1 Introduced by the Committee on Government Operations and Military Affairs

2 Date:

3 Subject: Municipal and County Government

4 Statement of purpose of bill as introduced: This bill proposes to create a
5 uniform Municipal Code of Ethics. This bill will also repeal redundant
6 municipal ethics law and require municipal officers currently in office to
7 complete initial ethics training.

8 An act relating to creating a uniform Municipal Code of Ethics

9 It is hereby enacted by the General Assembly of the State of Vermont:

10 * * * Repeal of Redundant Ethics Law * * *

11 Sec. 1. REPEAL

12 24 V.S.A. § 1984 (conflict of interest prohibition) is repealed.

13 Sec. 2. 24 V.S.A. § 2291 is amended to read:

14 § 2291. ENUMERATION OF POWERS

15 For the purpose of promoting the public health, safety, welfare, and
16 convenience, a town, city, or incorporated village shall have the following
17 powers:

18 * * *

19 (20) ~~To establish a conflict of interest policy to apply to all elected and~~
20 ~~appointed officials of the town, city, or incorporated village or ethical conduct~~

1 ~~policies to apply to all elected and appointed officials and employees of the~~
2 ~~municipality, or both. [Repealed.]~~

3 * * *

4 * * * Creation of Municipal Code of Ethics * * *

5 Sec. 3. 24 V.S.A. chapter 60 is added to read:

6 CHAPTER 60. MUNICIPAL CODE OF ETHICS

7 § 1991. DEFINITIONS

8 As used in this chapter:

9 (1) “Candidate” and “candidate’s committee” have the same meanings
10 as in 17 V.S.A. § 2901.

11 (2) “Commission” means the State Ethics Commission established
12 under 3 V.S.A. chapter 31, subchapter 3.

13 (3) “Confidential information” means information that is exempt from
14 public inspection and copying under 1 V.S.A. § 315 et seq. or is otherwise
15 designated by law as confidential.

16 (4) “Conflict of interest” means a direct or indirect interest of a
17 municipal officer or such an interest, known to the officer, of a member of the
18 officer’s immediate family or household, or of a business associate, in the
19 outcome of a particular matter pending before the officer or the officer’s public
20 body, or that is in conflict with the proper discharge of the officer’s duties.

1 “Conflict of interest” does not include any interest that is not greater than that
2 of other individuals generally affected by the outcome of a matter.

3 (5) “Domestic partner” means an individual in an enduring domestic
4 relationship of a spousal nature with the municipal officer or the public
5 servant, provided the individual and municipal officer or public servant:

6 (A) have shared a residence for at least six consecutive months;

7 (B) are at least 18 years of age;

8 (C) are not married to or considered a domestic partner of another
9 individual;

10 (D) are not related by blood closer than would bar marriage under
11 State law; and

12 (E) have agreed between themselves to be responsible for each
13 other’s welfare.

14 (6) “Immediate family” means an individual’s spouse, domestic partner,
15 or civil union partner; child or foster child; sibling; parent; or such relations by
16 marriage or by civil union or domestic partnership; or an individual claimed as
17 a dependent for federal income tax purposes.

18 (7) “Legislative body” means the selectboard in the case of a town, the
19 mayor, alderpersons, and city council members in the case of a city, the
20 president and trustees in the case of an incorporated village, and the supervisor
21 in the case of an unorganized town or gore.

1 (8) “Municipal employee” means an individual performing services for
2 or holding an office, position, employment, or membership in any
3 municipality, whether by election, appointment, contract of hire, or
4 engagement, whether serving with or without compensation, on a full-time,
5 regular, part-time, temporary, intermittent, permanent, or consultant basis.

6 (9) “Municipal officer” or “officer” means any individual who holds the
7 position of, exercises the function of, or executes the authority of any position
8 in or on behalf of any municipality, including:

9 (A) any member of a public body, meaning any legislative body or
10 quasijudicial body of a municipality, including any board, council,
11 commission, committee, or any like group of a municipality; and

12 (B) any other elected or appointed member of a municipal
13 government.

14 (10) “Municipality” has the same meaning as 1 V.S.A. § 126, but does
15 not include town or incorporated school districts.

16 (11) “Retaliate” or “retaliation” means:

17 (A) the discharge, suspension, reprimand, demotion, denial of
18 promotion, imposition of a performance warning period, involuntary transfer
19 or reassignment, or adverse employment action; or

1 (B) the use of official authority or position to deny, deprive, or
2 interfere with any right or privilege otherwise available to an individual under
3 the law.

4 § 1992. CONFLICTS OF INTEREST

5 (a) Duty to avoid conflicts of interest. In the municipal officer’s official
6 capacity, the officer shall avoid any conflict of interest or the appearance of a
7 conflict of interest. The appearance of a conflict shall be determined from the
8 perspective of a reasonable individual with knowledge of the relevant facts.

9 (b) Recusal.

10 (1) If a municipal officer is confronted with a conflict of interest or the
11 appearance of one, the officer shall immediately recuse themselves from the
12 matter, except as otherwise provided in subdivisions (2) and (5) of this
13 subsection, and not take further action on the matter or participate in any way
14 or act to influence a decision regarding the matter. The officer shall make a
15 public statement explaining the officer’s recusal.

16 (2) Notwithstanding subdivision (1) of this subsection, an officer may
17 continue to act in a matter involving the officer’s conflict of interest or
18 appearance of a conflict of interest if the officer first:

19 (A) determines there is good cause for the officer to proceed,
20 meaning:

21 (i) the conflict is amorphous, intangible, or otherwise speculative;

1 (ii) the officer cannot legally or practically delegate the matter; or
2 (iii) the action to be taken by the officer is purely ministerial and
3 does not involve substantive decision-making; and

4 (B) the officer submits a written nonrecusal statement to the
5 legislative body of the town, city, or village regarding the nature of the conflict
6 that shall:

7 (i) include a description of the matter requiring action;

8 (ii) include a description of the nature of the potential conflict or
9 actual conflict of interest;

10 (iii) include an explanation of why good cause exists so that the
11 public servant can take action in the matter fairly, objectively, and in the public
12 interest;

13 (iv) be written in plain language and with sufficient detail so that
14 the matter may be understood by the public; and

15 (v) be signed by the municipal officer.

16 (3) If an official’s conflict of interest or the appearance of a conflict of
17 interest concerns an official act or actions that take place outside a public
18 meeting, the officer’s nonrecusal statement shall be filed with the clerk of the
19 town, city, or village and be available to the public for the duration of the
20 officer’s service plus a minimum of five years.

1 (4) If an official’s conflict of interest is related to an official municipal
2 act or actions considered at a public meeting, the official’s nonrecusal
3 statement shall be filed as part of the minutes of the meeting of the public body
4 in which the municipal officer serves.

5 (5) If, at a meeting of a public body, an officer becomes aware of a
6 conflict of interest or the appearance of a conflict of interest for the officer and
7 the officer determines there is good cause to proceed, the officer may proceed
8 with the matter after announcing and fully stating the conflict on the record.

9 The officer shall submit a written nonrecusal statement pursuant to subdivision
10 (2) of this subsection within 24 hours after the start of the meeting. The
11 meeting minutes shall be subsequently amended to reflect the submitted
12 written nonrecusal statement.

13 (6) An officer may request either guidance or an advisory opinion from
14 the State Ethics Commission in making an initial determination whether a
15 conflict of interest or the appearance of a conflict exists, or whether there
16 exists good cause for an officer to proceed with conflict.

17 (c) Authority to inquire about conflicts of interest. If a municipal officer is
18 a member of a public body, the other members of that body shall have the
19 authority to inquire of the officer about any possible conflict of interest or any
20 appearance of a conflict of interest and to recommend that the member recuse
21 themselves from the matter.

1 (d) Voidable legislative body action. If a member of a legislative body
2 does not disclose a known conflict of interest but nonetheless participates in a
3 vote on the matter, the vote of a body is voidable.

4 (e) Confidential information. Nothing in this section shall require a
5 municipal officer to disclose confidential information or information that is
6 otherwise privileged under law.

7 § 1993. PROHIBITED CONDUCT

8 (a) Directing unethical conduct. A municipal officer shall not direct any
9 individual to act in a manner that would:

10 (1) benefit a municipal officer in a manner related to the officer’s
11 conflict of interest;

12 (2) create a conflict of interest or the appearance of a conflict of interest
13 for the officer or for the directed individual; or

14 (3) otherwise violate the Municipal Code of Ethics as described in this
15 chapter.

16 (b) Preferential treatment. A municipal officer shall act impartially and not
17 show favor or prejudice to any person in the course of conducting official
18 business. An officer shall not give, or represent an ability to give, preference
19 or special treatment to any person because of the person’s wealth, position, or
20 status or because of a person’s personal relationship with the officer, unless
21 otherwise permitted or required by State or Federal law.

1 (c) Misuse of position. A municipal officer shall not use the officer’s
2 official position for the personal or financial gain of the officer, a member of
3 the officer’s immediate family or household, or the officer’s business
4 associate.

5 (d) Misuse of information. A municipal officer shall not use nonpublic or
6 confidential information acquired during the course of official business for
7 personal or financial gain of the officer or for the personal or financial gain of
8 a member of the officer’s immediate family or household or of an officer’s
9 business associate.

10 (e) Misuse of government resources. A municipal officer shall not make
11 use of a town’s, city’s, or village’s materials, funds, property, personnel,
12 facilities, or equipment, or permit another person to do so, for any purpose
13 other than for official business unless the use is expressly permitted or required
14 by State law; ordinance; or a written agency, departmental, or institutional
15 policy or rule. An officer shall not engage in or direct another person to
16 engage in work other than the performance of official duties during working
17 hours, except as permitted or required by law or a written agency,
18 departmental, or institutional policy or rule.

19 (f) Gifts.

20 (1) No person shall offer or give to a municipal officer or candidate, or
21 the officer’s or candidate’s immediate family, anything of value, including a

1 gift, loan, political contribution, reward, or promise of future employment
2 based on any understanding that the vote, official action, or judgment of the
3 municipal officer or candidate would be, or had been, influenced thereby.

4 (2) A municipal officer or candidate shall not solicit or accept anything
5 of value, including a gift, loan, political contribution, reward, or promise of
6 future employment based on any understanding that the vote, official action, or
7 judgment of the municipal officer or candidate would be or had been
8 influenced thereby.

9 (3) Nothing in subdivision (1) or (2) of this subsection shall be
10 construed to apply to any campaign contribution that is lawfully made to a
11 candidate or candidate’s committee pursuant to 17 V.S.A. chapter 61 or to
12 permit any activity otherwise prohibited by 13 V.S.A. chapter 21.

13 (g) Unauthorized commitments. A municipal officer shall not make
14 unauthorized commitments or promises of any kind purporting to bind the
15 government of a town, city, or village, unless otherwise permitted by law.

16 (h) Benefit from contracts. A municipal officer shall not benefit from any
17 contract executed by the officer’s town, city, or village in the officer’s official
18 business, but not including any benefit that is not greater than that of other
19 individuals generally affected by the contract.

1 § 1994. EMPLOYMENT RESTRICTIONS

2 (a) Outside employment. A municipal officer shall not seek, accept, or
3 engage in outside employment or activities that are inconsistent, incompatible,
4 or in conflict with the municipal officer’s official duties.

5 (b) Post-government employment.

6 (1) After leaving a municipal officer position, a former municipal officer
7 shall not knowingly, with the intent to advocate for an outcome of an
8 investigation, application, ruling, license, contract, claim, rulemaking, charge,
9 arrest, or quasi-judicial or judicial proceeding, communicate with or appear
10 before the legislative body of the town, city, or village for which the officer
11 served, or before any board or commission of that town, city, or village, on
12 matters involving specific parties, in which the officer participated personally
13 and substantially while holding the position, and in which that town, city, or
14 village is a party or has a direct and substantial interest.

15 (2) For one year after leaving office, a former member of a legislative
16 body may not, for compensation, appear before the legislative body to
17 advocate for anyone other than the town, city, or village for which the officer
18 served, concerning any matter in which that town, city, or village has a direct
19 and substantial interest.

20 (c) Confidential information. No current or former municipal officer shall
21 knowingly, or with reason to know, accept employment or engage in any

1 business or professional activity that will require them to disclose confidential
2 information that they have gained in their official business.

3 § 1995. ETHICS TRAINING

4 (a) Initial ethics training. Within 120 days after a municipal officer is
5 elected or appointed, the officer shall complete an ethics training, the total
6 hours of which shall be determined by the State Ethics Commission. The
7 officer, the officer’s employer, or another individual designated by the town,
8 city, or village shall document the officer’s completed ethics training.

9 (b) Continuing ethics training. Upon completing initial ethics training, a
10 municipal officer shall complete additional ethics trainings, the total hours of
11 which will be determined by the State Ethics Commission, every three years.

12 (c) Approval of training. Ethics trainings shall be approved by the State
13 Ethics Commission and be conducted by the State Ethics Commission; the
14 town, city, or village; or a third party approved in advance by the State Ethics
15 Commission. The State Ethics Commission may approve trainings that are in-
16 person, online, and synchronous or asynchronous.

17 (d) State Ethics Commission liaisons. Each town, city, and village, acting
18 through its legislative body, shall designate a senior-level employee as its
19 liaison to the State Ethics Commission. The town, city, or village shall notify
20 the Commission in writing of any newly designated employee within 30 days
21 after such change. The Commission shall disseminate information to the

1 designated liaisons and conduct educational seminars for designated liaisons
2 on a regular basis on a schedule to be determined by the Commission, in
3 consultation with the town, city, or village.

4 § 1996. ENFORCEMENT AND REMEDIES

5 Each town, city, or village shall:

6 (1) ensure that the Municipal Code of Ethics is posted on the town’s,
7 city’s, or village’s website or, if no such website exists, ensure that a copy of
8 the Municipal Code of Ethics is received by all municipal officers and is made
9 available to the public upon request;

10 (2) maintain a record of municipal officers who have received ethics
11 training pursuant to section 1995 of this title;

12 (3) designate a municipal officer or body to receive complaints alleging
13 violations of the Municipal Code of Ethics;

14 (4) where appropriate or necessary, investigate complaints that allege
15 violations of the Municipal Code of Ethics;

16 (5) maintain a record of received complaints and the disposition of each
17 complaint for the duration of the municipal officer’s service plus a minimum
18 of five years; and

19 (6) upon request of the State Ethics Commission, promptly provide the
20 State Ethics Commission with a summary of complaints received by the town,
21 city, or village, and the outcome of each complaint.

1 § 1997. WHISTLEBLOWER PROTECTION

2 (a) Protected disclosure. Consistent with 3 V.S.A. §§ 971–978, any
3 municipal officer, municipal employee, or any other individual shall be free to
4 disclose, in good faith and with candor, any waste, fraud, abuse of authority,
5 violations of law, or violations of this or other applicable codes regarding
6 ethical conduct, to any relevant public body, including the municipality’s
7 legislative body and the State Ethics Commission, without fear of reprisal,
8 intimidation, or retaliation.

9 (b) Antiwhistleblower policies. A municipal officer, legislative body, or
10 public body shall not make, adopt, or enforce any policy or practice preventing
11 the disclosure of waste, fraud, abuse of authority, violations of law, or
12 violations of this or other applicable codes regarding ethical conduct.

13 (c) Civil action.

14 (1) To avail themselves of any remedies under this section, an individual
15 must have:

16 (A) at the time of discovering the violation, then disclosed in writing
17 to the relevant public body of the violation; and

18 (B) in that disclosure, clearly alleged the conduct constituting waste,
19 fraud, abuse of authority, or violations of law, or violations of this or other
20 applicable codes regarding ethical conduct.

1 (2) An individual who has been the object of retaliation in violation of
2 this section may bring a civil action against the municipality and the municipal
3 officer in the civil division of the Superior Court for relief within one year after
4 discovering the retaliation, or within three years after the retaliation, whichever
5 is earlier.

6 (3) An individual who brings a claim in the civil division of the Superior
7 Court may be awarded the following remedies:

8 (A) appropriate injunction relief;

9 (B) reinstatement of the employee to the same position, seniority, and
10 work location held prior to the retaliatory action;

11 (C) back pay, lost wages, benefits, and other remuneration;

12 (D) other compensatory damages;

13 (E) reasonable costs and attorney’s fees; and

14 (F) punitive damages not more than \$5,000.00.

15 § 1998. MUNICIPAL CHARTERS; SUPPLEMENTAL ETHICS POLICIES

16 (a) To the extent any provisions of this chapter conflict with the provisions
17 of any municipal charter listed in Title 24 Appendix, the provisions of this
18 chapter shall prevail.

19 (b) A town, city, or village, may adopt, pursuant to chapter 59 of this title,
20 additional ethics or personnel policies, provided that these are not in conflict
21 with the provisions of this chapter.

1 * * * Initial Ethics Training for In-Office Municipal Officers * * *

2 Sec. 4. INITIAL ETHICS TRAINING FOR IN-OFFICE MUNICIPAL
3 OFFICERS

4 On or before May 1, 2025, all municipal officers shall complete two hours
5 of ethics training, which may be in person or online, as approved by the State
6 Ethics Commission, unless they have otherwise completed two hours of ethics
7 training pursuant to 24 V.S.A § 1995 (ethics training). The training shall
8 include information on the State’s Open Meeting Law and the State’s Public
9 Records Act and be approved by the Secretary of State. The officer, the
10 officer’s employer, or another individual designated by the town, city, or
11 village shall document the officer’s completed ethics training.

12 * * * Effective Date * * *

13 Sec. 5. EFFECTIVE DATE

14 This act shall take effect on January 1, 2025.