

Vermont Town and City Management Association VTCMA
Code of Ethics
With Guideline

(Adopted September 16, 2009)

This Code of Ethics and Guideline applies to VTCMA members who are not also members of ICMA.

The mission of VTCMA is to create excellence in local governance by developing and fostering professional local government management. To further this mission, certain principles, as enforced by the Rules of Procedure, shall govern the conduct of every member of VTCMA. A VTCMA member shall:

1. *Be dedicated to the practice of effective democratic local government by responsible elected officials and believe that professional municipal management is essential to the achievement of this objective.*
2. *Affirm the dignity and worth of the services rendered by government.*
3. *Maintain a constructive, creative, and practical attitude toward local government affairs and a deep sense of social responsibility as a trusted public servant.*

Guideline

Advice to Officials of Other Local Governments. When members advise and respond to inquiries from elected or appointed officials of local governments other than their own, they should inform the administrators or managers of those communities.

4. *Be dedicated to the highest ideals of honor and integrity in all public and personal relationships in order to merit the respect and confidence of elected officials, of other officials and employees, and of the public.*

Guidelines

Public Confidence. Members should conduct themselves so as to maintain public confidence and trust in their profession and their local government.

Impression of Influence. Members should conduct their official and personal affairs so as to give the clear impression that they cannot be improperly influenced in the performance of their official duties.

Appointment Commitment. Members who accept an appointment to a position should not fail to report for that position. This does not preclude the possibility of a member considering several offers or seeking several positions at the same time, but once a *bona fide* offer of a position has been accepted, that commitment should be honored. Oral acceptance of an employment offer is considered binding unless the employer makes fundamental changes in terms of employment.

Credentials. An application for employment should be complete and accurate as to all pertinent details of education, experience, and personal history. Members should recognize that both omissions and inaccuracies must be avoided.

Professional Respect. Members seeking a management position should show professional respect for persons formerly holding the position or for others who might be applying for the same position. Professional respect does not preclude honest differences of opinion; it does preclude attacking a person's motives or integrity in order to be appointed to a position.

Confidentiality. Members should not discuss or divulge information with anyone about pending or completed ethics cases, except as specifically authorized by the Rules of Procedure for Enforcement of the Code of Ethics adopted as part of this Code.

Seeking Employment. Members should not seek employment for a position having an incumbent administrator who has not resigned or been officially informed that his or her services are to be terminated.

- 5. Recognize that the chief function of local government at all times is to serve the best interests of all of the people.***

Guideline

Length of Service. A minimum of two years generally is considered necessary in order to render a professional service to the local government. A short tenure should be the exception rather than a recurring experience. However, under special circumstances, it may be in the best interests of the local government and the member to separate sooner. Examples of such circumstances would include refusal of the appointing authority to honor commitments concerning conditions of employment, a vote of no confidence in the member, or severe personal problems. It is the responsibility of an applicant for a position to ascertain conditions of employment. Inadequately determining terms of employment prior to arrival does not justify premature termination.

- 6. Submit policy proposals to elected officials; provide them with facts and advice on matters of policy as a basis for making decisions and setting community goals; and uphold and implement local government policies adopted by elected officials.***

Guideline

Conflicting Roles. Members who serve multiple roles—working as both city attorney and city manager for the same community, for example—should avoid participating in matters that create the appearance of a conflict of interest. They should disclose the potential conflict to the governing body so that other opinions may be solicited.

- 7. Recognize that elected representatives of the people are entitled to the credit for the establishment of local government policies; responsibility for policy execution rests with the members.***

8. ***Refrain from all political activities that undermine public confidence in professional administrators. Refrain from participation in the election of the members of the employing legislative body.***

Guidelines

Elections of the Governing Body. Members should maintain a reputation for serving equally and impartially all members of the governing body of the local government they serve as manager or administrator, regardless of party. To this end, they should not participate in the election campaign on behalf of or in opposition to candidates for the governing body.

Elections of Officials. Members should not engage in the election campaign of any candidate for mayor of the local government they serve.

Running for or Holding Elective Governmental Office. Members shall not seek, be elected to or hold any elected state, county, multi-municipal or municipal office themselves, except as provided for in the VTCMA Policy on Members Serving in Elected or Appointed Positions adopted as part of this Code. To “seek elected office” shall include but not be limited to announcing an intention to run, performing any specific legal steps necessary to be elected, seeking political endorsements or financial contributions or engaging in any other campaign activities.

Holding Other Appointed Governmental Positions: Members shall not be appointed to or hold any appointed state, county, regional, multi-municipal or municipal office themselves, except as provided for in the VTCMA Policy on Members Serving in Elected or Appointed Positions adopted as part of this Code.

Elections. Members share with their fellow citizens the right and responsibility to vote and to voice their opinion on public issues so long as those opinions are clearly articulated as being those of the individual and not of the employing municipality, do not interfere with the employee’s ability to effectively perform the individual’s duties, and are expressed on off-duty hours and not on the employing municipality’s property. However, in order to not impair their effectiveness on behalf of the local governments they serve, they shall not participate in political activities to support the candidacy of individuals running for any city, county, special district, school, state or federal offices. Specifically, they shall not endorse others as candidates, make financial contributions, sign or circulate petitions for others running for office or for ballot items, or participate in fund-raising activities for individuals seeking or holding elected office.

Elections Concerning the Council-Manager Plan. Members may assist in preparing and presenting materials that explain the council-manager form of government to the public prior to an election on the use of the plan. If assistance is requested by another community, members may respond. All activities regarding ballot issues should be conducted in a manner consistent with state statute and local regulations and in a professional manner.

Presentation of Issues. Members may assist the governing body in presenting issues

involved in referenda such as bond issues, annexations, and similar matters.

9. ***Make it a duty continually to improve the member's professional ability and to develop the competence of associates in the use of management techniques.***

Guidelines

Self-Assessment. Each member should assess his or her professional skills and abilities on a periodic basis.

Professional Development. Each member should commit at least 40 hours per year to professional development activities that are based on the practices identified by the members of VTCMA.

10. ***Keep the community informed on local government affairs; encourage communication between citizens and all local government officers; emphasize friendly and courteous service to the public; and seek to improve the quality and image of public service.***
11. ***Resist any encroachment on professional responsibilities. The member should be free to implement official policies without interference, and handle each problem without discrimination on the basis of principle and justice.***

Guideline

Information Sharing. The member should openly share information with the governing body while diligently carrying out the member's responsibilities as set forth in any relevant municipal charter or enabling legislation.

12. ***Handle all personnel matters on the basis of merit so that fairness and impartiality govern a member's decisions pertaining to appointments, pay adjustments, promotions, discipline and dismissal.***

Guideline

Equal Opportunity. Members should develop a positive program that will ensure meaningful employment opportunities for all segments of the community. All municipal programs, practices, and operations should: (1) provide equality of opportunity in employment for all persons; (2) prohibit discrimination based on race, color, religion, sex, national origin, political affiliation, disability, age, sexual orientation, HIV status, marital status or any other legally protected status; and (3) promote continuing programs of affirmative action at every level within the organization.

It should be the members' personal and professional responsibility to actively recruit and hire minorities and women to serve on professional staffs throughout their organizations.

13. ***Seek no favor; believe that personal aggrandizement or profit secured by confidential information or by misuse of public time is dishonest.***

Guidelines

Gifts. Members should not directly or indirectly solicit any gift or accept or receive any gift –whether it be money, services, loan, travel, entertainment, hospitality, promise, information or any other form if (1) it could be reasonably inferred or expected that the gift was intended to influence them in the performance of their official duties; or (2) the gift was intended to serve as a reward for any official action on their part. Members must comply with any policies regulating gifts and applying to them that are adopted by their governing bodies if more stringent than this tenet and guideline.

It is important that the prohibition of unsolicited gifts be limited to circumstances related to improper influence. In *de minimus* situations, such as meal checks, some modest maximum dollar value should be determined by the member as a guideline. The guideline is not intended to isolate members from normal social practices where gifts among friends, associates, and relatives are appropriate for certain occasions.

Investments in Conflict with Official Duties. Members should not invest or hold any investment, directly or indirectly, in any financial business, commercial, or other private transaction that creates a conflict with their official duties.

In the case of real estate, the potential use of confidential information and knowledge to further a member’s personal interest requires special consideration. This guideline recognizes that members’ official actions and decisions can be influenced if there is a conflict with personal investments. Purchases and sales that might be interpreted as speculation for quick profit ought to be avoided (see the guideline on “Confidential Information”).

Because personal investments may prejudice or may appear to influence official actions and decisions, members may, in concert with their governing body, provide for disclosure of such investments prior to accepting their position as local government administrator or prior to any official action by the governing body that may affect such investments.

Personal Relationships. Members should disclose any personal relationship to the governing body in any instance where there could be the appearance of a conflict of interest. For example, if the manager’s spouse works for a developer doing business with the local government, that fact should be disclosed.

Confidential Information. Members should not disclose to others, or use to further their personal interest, confidential information acquired by them in the course of their official duties.

Private Employment. Members should not engage in, solicit, negotiate for, or promise to accept private employment, nor should they render services for private interests or conduct private business when such employment, service, or business creates a conflict with or impairs the proper discharge of their official duties.

Teaching, lecturing, writing, or consulting are typical activities that may not involve

conflict of interest, or impair the proper discharge of official duties. Prior notification to the appointing authority is appropriate in all cases of outside employment.

Representation. Members should not represent any outside interest before any agency, whether public or private, except with the authorization of or at the direction of the appointing authority they serve.

Endorsements. Members should not endorse commercial products or services by agreeing to use their photograph, endorsement, or quotation in paid or other commercial advertisements, whether or not for compensation. Members may, however, agree to endorse the following provided they do not receive any compensation: (1) books or other publications; (2) professional development or educational services provided by nonprofit membership organizations or recognized educational institutions; (3) products and/or services in which the local government has a direct economic interest.

Members' observations, opinions, and analyses of commercial products used or tested by their local governments are appropriate and useful to the profession when included as part of professional articles and reports.

VTCMA POLICY ON MEMBERS SERVING IN ELECTED OR APPOINTED POSITIONS

Elected Positions in Employing Municipality: A VTCMA member *may not* seek election to or serve in an elected position in the member's employing municipality.

Appointed Positions in Employing Municipality: A VTCMA member *may* serve in an appointed position in the member's employing municipality *if* the position is part of the job description or the appointment is made by or disclosed to and approved by vote of the member's appointing authority.

Elected or Appointed Positions in the Municipality in which the Member Resides but is not Employed: A VTCMA member who does not reside in his or her employing municipality *may* seek election or appointment to serve in and hold an elected or appointed position in his or her municipality of residence *if* the VTCMA Ethics Committee determines that the member is in compliance with the following guidelines:

1. The elected or appointed position is not on a governing or significant policy making body (i.e., board of selectmen, city council, school board, or the equivalent).
2. The member's service in an elected or appointed position will not undermine public confidence in professional administrators.
3. The election or appointment is approved by vote of the member's appointing authority.
4. The member has informed and consulted with the manager/administrator of the municipality in his or her of residence (if any) about serving in the elected or appointed position.
5. The member acknowledges that service in an elected or appointed position requires adherence to Tenet 2 of this Code of Ethics.
6. The member does not seek political endorsements, financial contributions or engage in

campaign activities other than obtaining signatures to file a petition for addition to the ballot.

Elected or Appointed Positions in the State, County, Regional or Multi-municipal Entities: A VTCMA member may serve in appointed or elected positions, including but not limited to those on Vermont League of Cities and Towns (VLCT) boards or trusts and the Vermont Municipal Retirement System (VMERS) Board. In addition, a VTCMA member may seek election or appointment to serve in and hold an elected or appointed position in state, county, regional or multi-municipal entities if the VTCMA Ethics Committee determines that the member is in compliance with the following guidelines:

1. The position is not on a governing or significant policymaking body of the entity unless the member is elected or appointed to the position as the representative of the employing municipality or of a statewide organization representing municipalities or municipal managers and administrators.
2. The member's service in the position will not undermine public confidence in professional administrators.
3. The election or appointment is approved by vote of the member's appointing authority.
4. The member acknowledges that service in an elected or appointed position requires adherence to Tenet 2 of this Code of Ethics.
5. The member does not seek political endorsements, financial contributions or engage in campaign activities other than obtaining signatures legally required to file a petition for addition to the ballot.

Members Seeking VTCMA Ethics Committee Determination of Compliance. A VTCMA member seeking any elected or appointed governmental position allowed under this Policy must submit a letter and related documentation requesting a determination to the VTCMA Ethics Committee before seeking an elected or appointed position, and before seeking reelection or reappointment. The VTCMA Ethics Committee shall notify the member and the VTCMA Board of Directors of its determination in writing. A member may appeal a negative determination by the VTCMA Ethics Committee to the VTCMA Board of Directors.

The VTCMA Ethics Committee shall be comprised of the President, who shall serve as chair; Vice President; and Immediate Past President of the VTCMA Board of Directors. Members of the Ethics Committee shall not participate as members of the full VTCMA Board of Directors when it is hearing an appeal from a decision of the Ethics Committee. In the event that a member of the Ethics Committee or VTCMA Board of Directors is reported for a violation, that member shall be recused from all proceedings and the VTCMA Board of Directors shall appoint an at-large member to serve on the Ethics Committee or Board of Directors to hear that complaint.

**Vermont Town and City Management Association (VTCMA)
Rules of Procedures for Enforcement of the VTCMA Code of Ethics
for members who are not also members of ICMA**

- A. These rules govern the procedures for enforcing the VTCMA Code of Ethics. These rules of procedure apply specifically to members of VTCMA who are not also members of ICMA. ICMA members of VTCMA are governed by the ICMA Code of Ethics and the ICMA Committee on Professional Conduct procedures.
- B. All full members of VTCMA agree to abide by the VTCMA Code of Ethics, as indicated by their signature on the application for membership or subsequent endorsement.
- C. The purpose of these rules is to provide a reasonable process for investigating and determining whether a member has violated the VTCMA Code of Ethics, and to afford each individual member who is the subject of an investigation (the “respondent”) a full and fair opportunity to be heard throughout the process.
- D. These rules shall be carried out carefully but expeditiously in order to minimize the time during which a member may be subject to possible disciplinary action. Accordingly, time limits stated in these rules are binding, subject to extensions that may be granted for reasonable cause, upon request by the VTCMA President who serves as Ethics Committee Chair.
- E. No person may participate in any proceedings on a complaint made under these rules if that person is or may be a witness or complainant in that case, except that members of the VTCMA Board of Directors and Ethics Committee may participate in proceedings on a complaint which such member has brought forward as a member of said board or committee and in the interest of VTCMA. No person may participate if his or her participation would otherwise create, or appear to create a conflict of interest.
- F. Members of VTCMA Board of Directors and the Ethics Committee shall not discuss or divulge information with anyone outside of these committees about pending or completed ethics cases, except as specifically authorized by the Rules of Procedure for Enforcement of the VTCMA Code of Ethics.

I. Jurisdiction

- A. All members of VTCMA in active service with local government and not also members of ICMA are subject to the VTCMA Code of Ethics and are subject to sanctions for any violations thereof that occur during their membership. However, members not in active service with local government are subject to only Tenants 1 and 3 of the VTCMA Code of Ethics. A member may be subject to sanctions for a violation that continues while he or she is a member even though the conduct in question originated prior to admission to membership.
- B. If a complaint is made against a person who was a member at the time the alleged violation occurred, but who is not a member at the time the complaint is made, the complaint will be

processed under these procedures only if the former member agrees thereto in writing. In no event shall a person be readmitted to membership if there is an outstanding and unresolved complaint against him or her for conduct while formerly a member.

- C. If a respondent resigns from his or her municipal position, resigns from VTCMA or otherwise allows his or her membership in VTCMA to lapse before the conclusion of an investigation, the investigation shall continue to a conclusion but may be suspended during criminal processes or appeals.
- D. If the individual whose actions are questioned is not a member, the chair of the VTCMA Ethics Committee will notify the complainant and the individual accused of the alleged violation. Only if the local legislative body that is the appointing authority contacts the VTCMA will the President provide a written letter stating that the individual in question is not a member.

II. Responsibilities.

- A. The VTCMA Board of Directors is responsible for making the final decision on matters pertaining to the enforcement of the code, including, but not limited to sanctions for the violations thereof. No current or former member may be censured, expelled, or barred from membership without the approval of the VTCMA Board of Directors as provided in section VII.
- B. The VTCMA Ethics Committee is the committee of VTCMA responsible for assisting the VTCMA Board of Directors in implementing these rules and has the specific duties set forth hereinafter. The VTCMA Ethics Committee shall be comprised of the President, who shall serve as chair; Vice President; and Immediate Past President of the VTCMA Board of Directors. Members of the Ethics Committee shall not participate as members of the full VTCMA Board of Directors when it is hearing an appeal from a decision of the Ethics Committee.
- C. The VTCMA President, Board of Directors, and Ethics Committee are responsible for publicizing and promoting the Code of Ethics with the membership, elected officials, and the general public.

III. Sanctions.

- A. Sanctions may be imposed in accordance with these rules upon members who are found to have violated the Code. In determining the kind of sanction to be imposed, the following factors may be considered: the nature of the violations, prior violations by the same individual, the willfulness of the violation, the level of professional or public responsibility of the individual, and any other factors which bear upon the seriousness of the violation.
- B. The following sanctions may be imposed singly or in combination at the conclusion of an investigation and/or hearing under these rules:
 - 1. Private Censure.** A letter to the respondent, the complainant, the VTCMA Board of Directors' file, and a report to all active VTCMA members, without the name of the

member, municipality, etc., indicating that a member has been found to have violated the Code of Ethics, the nature of the violation, and that, if it is repeated in the future, it may be cause for more serious sanction.

2. **Public Censure.** Notification to the respondent, complainant, VTCMA Board of Directors' file, the active VTCMA membership, and the appropriate local governing body, including the name of the member, municipality, etc., indicating that the member has been found to have violated the Code of Ethics, the nature of the violation, and that, if it is repeated in the future, it may be cause for more serious sanction.
3. **Expulsion.** A revocation of the respondent's VTCMA membership privileges for a period of time.
4. **Membership Bar.** A prohibition against membership reinstatement of the respondent's membership in VTCMA.

C. Upon receiving documented evidence that a member has been found guilty after trial by a judge or jury of criminal conduct, which constitutes a violation of the VTCMA Code of Ethics and which occurred while the person was a member of VTCMA, the VTCMA President shall immediately issue a notice of suspension of membership to that person by registered mail and that person's membership shall be suspended as of the date of that notice. The VTCMA President shall advise the Ethics Committee of any such action and shall refer the case to the Ethics Committee. The Committee may commence an investigation in accordance with Part VI hereof, or it may defer proceedings until the person has exhausted all appeals or the time for appeal has expired. The suspension shall continue in effect until such time as sanctions provided under Part IV B are imposed or the case is dismissed, in accordance with these Rules.

IV. Initiation of Procedures.

- A. Proceedings against an individual for an alleged violation of the VTCMA Code of Ethics may be initiated by the President or by vote of the VTCMA Board of Directors if the President has not agreed to initiate proceedings, or upon receiving a written complaint or other written information from any source indicating that a violation may have occurred. The Ethics Committee shall be notified of all written complaints. The name of the person who initiated the complaint shall, at that person's request, remain confidential.
- B. Upon receiving such a written complaint or information, the President shall ascertain whether it is sufficiently clear and complete to initiate proceedings, and, if so, whether it alleges conduct that may be a violation of the VTCMA Code of Ethics.
 1. If the President concludes that the complaint is not sufficiently clear or complete to initiate proceedings, he or she shall seek further clarifications from the person who initiated the complaint or other source before taking further action. If the President cannot determine whether the conduct alleged, if proven, might violate the VTCMA Code of Ethics, the question shall be referred to the Ethics Committee for a ruling. No action

shall be taken with respect to a complaint or information unless the President or the Ethics Committee rules that the conduct alleged, if true, may constitute a violation of the Code.

2. If the President or the Ethics Committee concludes that the complaint is sufficiently clear and complete to initiate proceedings, and may if proven, indicate a violation of the code, a copy of the complaint or information shall be forwarded by registered mail to the respondent named in the complaint. The respondent shall be informed at that time of the tenets of the VTCMA Code of Ethics, which he or she is alleged to have violated and shall be provided with a copy of these Rules of Procedure. The President may also request that the respondent answer specific questions pertaining to the alleged violation.
3. The respondent shall be given **15 days** within which to respond in writing to the complaint or information, to provide any further information or material he or she considers relevant to the allegations, and to answer any specific questions asked by the President.
4. Upon receipt of the respondent's response is received, or upon the expiration of the 15 days, the President shall determine whether the complaint shall be dismissed or referred to the Ethics Committee for investigation.

V. Investigations

- A. Upon receiving a referral of an alleged violation of the VTCMA Code of Ethics from the President, the Ethics Committee shall commence an investigation into the allegations. However, no investigation shall be required if (1) the respondent admits to the violation in his or her initial response, or (2) the respondent has already entered a guilty plea, or has been found guilty and has exhausted all appeals, in a criminal case involving the same conduct.
- B. The Ethics Committee shall conduct the investigation in accordance with these Rules.
- C. Within 15 days of receipt of a notice to proceed with an ethics investigation, the Ethics Committee shall afford the respondent an opportunity to meet with the committee in person and may, at its discretion, afford such an opportunity to the person who initiated the complaint as well. The respondent may appear at such a meeting personally and may be accompanied by a representative. Alternatively, the respondent may appear through a representative.
- D. The Ethics Committee shall prepare and maintain notes of all meetings and interviews with the respondent, the person who initiated the complaint, and any witnesses and may request any such person to sign a statement prepared on the basis of those notes. The respondent shall be entitled to review these notes and statements, and any other documentary evidence gathered in the course of the investigation, and shall be afforded the opportunity to respond in writing thereto.
- E. The Ethics Committee shall take all reasonable steps to ascertain the facts relevant to the case, including, but not limited to, interviews with witnesses, review of the respondent's submission(s), and examination of all published material judged to be relevant and reliable.
- G. Within 45 days of the notice to proceed, the investigation shall be concluded and a written report of the Ethics Committee's proposed findings of fact shall be sent to the VTCMA

Board of Directors, the person who initiated the complaint and the respondent. Each finding shall be supported by reliable and relevant evidence that has been made available to the respondent for review. A reasonable extension may be granted by the President.

VI. Decisions

- A. The VTCMA Board of Directors, sitting without members of the Ethics Committee, shall review the Ethics Committee report promptly and determine whether the findings are supported by the evidence and whether the findings demonstrate that a violation of the VTCMA Code of Ethics has occurred.
- B. If the VTCMA Board of Directors sitting without members of the Ethics Committee determines that the proposed findings are not supported by the evidence, they may either dismiss the case (and so advise the respondent, the person who initiated the complaint and the Ethics Committee) or return it to the Ethics Committee for further investigation in accordance with these rules.
- C. If the VTCMA Board of Directors sitting without members of the Ethics Committee determines that the proposed findings are supported by the evidence, they shall determine whether the proposed findings demonstrate that a violation of the Code of Ethics has occurred. If not, they shall dismiss the case and so advise the respondent, the person who initiated the complaint, and the Ethics Committee.
- D. If the VTCMA Board of Directors sitting without members of the Ethics Committee concludes, on the basis of the Ethics Committee's report, that a violation has occurred, it shall determine the appropriate sanction(s) and determine that the Ethics Committee report be adopted as the final report. The President shall notify the respondent of the determination to adopt the Ethics Committee's report as final and to impose the specified sanction(s) for the reasons stated unless the respondent can show that the findings of fact are erroneous or that the proposed sanctions(s) should not be imposed as recommended. The respondent shall have 15 days in which to submit a written response to the President and/or to request a hearing of the VTCMA Board of Directors sitting without members of the Ethics Committee.
- E. If the respondent submits no response, the approved findings and sanction(s) shall be imposed.
- F. If the respondent makes a written submission, but does not request a hearing, the VTCMA Board of Directors sitting without members of the Ethics Committee shall review the submission and may reaffirm or revise the recommended findings and/or sanction(s) as they deem appropriate or may refer the submission to the Ethics Committee for a supplemental report. Following any such reaffirmation, revision or supplemental report, the VTCMA Board of Directors sitting without members of the Ethics Committee shall promptly consider whether to approve the proposed findings and sanction(s).
- G. If the respondent requests a hearing, the VTCMA Board of Directors sitting without members of the Ethics Committee shall hold a hearing. Hearings shall be conducted in accordance with part VII of these rules. No sanction(s) shall be imposed before the hearing is

concluded.

VII. Hearings

- A. These procedures shall govern all hearings conducted pursuant to these Rules.
- B. No VTCMA Board of Directors member sitting without members of the Ethics Committee may hear any case if his or her participation in that case would create an actual or apparent conflict of interest.
- C. Within 15 days of receiving a request for a hearing, the President shall notify the respondent by registered or certified mail that a hearing has been scheduled before the VTCMA Board of Directors sitting without members of the Ethics Committee. The hearing date shall be at least 25 days, but no more than 45 days after the date the notice is postmarked. The notice shall also state that the respondent has the following rights:
 - 1. To appear personally at the hearing;
 - 2. To be accompanied and/or represented at the hearing by an attorney or other representative;
 - 3. To review all documentary evidence, if any, against him or her in advance of the hearing;
 - 4. To cross-examine any witness who testifies against him or her at the hearing; and
 - 5. To submit documentary evidence and to present testimony, including the respondent's, in his or her defense at the hearing.
- D. The VTCMA Board of Directors sitting without members of the Ethics Committee shall not be bound by any formal rules of evidence but may accord appropriate weight to the evidence based on its relevance and reliability.
 - 1. The Ethics Committee's report shall be admissible evidence at the hearing.
 - 2. The VTCMA Board of Directors sitting without members of the Ethics Committee may not hear evidence of any alleged ethics violations by the respondent that was not the subject of the initial investigation. However, in determining sanction(s) the VTCMA Board of Directors sitting without members of the Ethics Committee shall consider any previous findings and sanctions regarding other ethics violations.
- E. At any hearing conducted under these rules, the President shall first present evidence in support of its recommended findings and sanction(s). Upon conclusion of that presentation, the respondent shall have the opportunity to present evidence in his or her defense.
- F. Within 30 working days of the conclusion of the hearing, the VTCMA Board of Directors sitting without members of the Ethics Committee shall make a determination in the case.
 - 1. The decision shall be in writing and shall include a statement of the reasons therefore. Only evidence that was put before the VTCMA Board of Directors sitting without members of the Ethics Committee may be considered as the basis for the decision.

2. The VTCMA Board of Directors sitting without members of the Ethics Committee decision may be to:
 - a. Dismiss the case
 - b. Adopt the findings and sanction(s) recommended by the Ethics Committee; or
 - c. Revise, and adopt as revised, the findings and/or sanction(s) recommended by the Ethics Committee. However, the VTCMA Board of Directors sitting without members of the Ethics Committee may not increase the sanction(s) recommended by the Ethics Committee unless new evidence, not previously available to the Ethics Committee, is disclosed at the hearing, which indicates that the respondent's violation was more serious. No sanction may be imposed for any violation that was not the subject of the initial investigation.

3. The President shall immediately send, by registered mail, a copy of the written decision of the VTCMA Board of Directors sitting without members of the Ethics Committee to the respondent; as well as a copy by first class mail to the person who initiated the complaint.

VIII. Miscellaneous

- B. The VTCMA Board of Directors is authorized to secure legal counsel and professional liability coverage to assist and protect the Ethics Committee members and VTCMA Board of Directors related to ethics cases that come before it.

- C. The VTCMA Board of Directors shall determine whether any former member who has been found in violation of a municipal managers' Code of Ethics through an ICMA, VTCMA or other state association ethics investigation shall be eligible for membership. The VTCMA Board of Directors may request the Ethics Committee to review and submit findings regarding any such previous ethics investigation.

- D. All proceedings are confidential. The President shall determine logistical and administrative considerations related to investigations. Decisions of the VTCMA Board of Directors are final and binding.

*Adopted by the VTCMA Membership
at their fall meeting, September 17, 2009*